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WESTERN
POLITICAL HERITAGE

And when the foundation of politics is in the letter only and in custom, and knowledge is divorced from action, can we wonder, Socrates, at the miseries which there are, and always will be, in States? Any other art, built on such a foundation and thus conducted, would ruin all that it touched. Ought we not rather to wonder at the natural strength of the political bond? For States have endured all this, time out of mind, and yet some of them still remain and are not overthrown, though many of them, like ships at sea, founder from time to time, and perish and have perished and will hereafter perish, through the badness of their pilots and crews, who have the worst sort of ignorance of the highest truths—I mean to say, that they are wholly unacquainted with politics, of which, above all other sciences, they believe themselves to have acquired the most perfect knowledge.

Plato's STATESMAN *(Jowett translation)*

Take but degree away, untune that string,
And, hark! what discord follows; each thing meets
In mere oppugnancy: the bounded waters
Should lift their bosoms higher than the shores,
And make a sop of all this solid globe:
Strength should be lord of imbecility,
And the rude son should strike his father dead:
Force should be right; or rather, right and wrong—
Between whose endless jar justice resides—
Should lose their names, and so should justice too.
Then every thing includes itself in power,
Power into will, will into appetite;
And appetite, a universal wolf,
So doubly seconded with will and power,
Must make perforce a universal prey,
And last eat up himself.

Shakespeare, TROILUS AND CRESSIDA

With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.

Lincoln's SECOND INAUGURAL

WESTERN

POLITICAL HERITAGE

by

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DEDICATION

IN TOKEN PAYMENT OF A PROFOUND DEBT THIS VOLUME IS DEDICATED TO THE HARVARD TUTORS IN GOVERNMENT, AND ESPECIALLY TO ALL WHO HAVE TAUGHT GOVERNMENT I AT HARVARD FOR THE PAST TWO DECADES

PREFACE

ANY WORK containing the sheer bulk of this study of the great landmarks in Western political thought and their setting demands more than the usual apologies. For the overburdened reader of our times, flooded by the endless spate of print, is not such a volume a form of cruel and unusual punishment? Cannot our Western development of democracy and our struggle toward a constitutional world order be more briefly, more simply put?

Probably. Yet the method of "outlines" has its limits. Most of the real essence of great thinkers is squeezed out by such compression. What is left is juiceless, unflavored, and even untrue.

This book is a combination of original texts and extensive commentary. It aims to provide the reader with a real feeling for the times and the issues as well as an acquaintance with the thinkers who created our "Western political heritage." The hope of combining in one effort, even on this scale, a work that will be a sort of "one-volume library" for the mature reader and a text useful to students of the political culture of the West may be doomed to remain only a hope. The authors, looking back on the years that have gone into this collection, selection, and commentary, can only hope that the project will be as useful to others as it has been to them in concentrating on the great issues of politics.

For the reader who wishes to understand the contemporary struggle between totalitarianism (now a word in common and well-understood use) and constitutionalism, this tracing of Western origins should perform a unique service. He is not forced to rely on second-hand thoughts about the great works of this Western tradition; he may judge them firsthand in samples that are at least characteristic and reasonably extensive enough not to be mutilated. And he can always skip to suit his own interests, even though this book is all of one piece.

For the more special uses of students grappling with the same problem in "general education," principles of politics, or political theory, this book ought to have still other advantages.

The nature of the search for a work that will not be out of date soon after publication presents once more the dilemma of any study of political institutions: Is it better to describe and analyze the existing institutions and the major political systems of the world, including our

own, to compare their organizations and functions, and by induction draw such lessons from this descriptive treatment as seem possible? Or, on the other hand, should any student of government approach the problems of political organization and law in terms of *the search for the fundamental elements of all political society, treating its problems analytically as well as historically, studying the basic moral and philosophical conceptions that have run through human history*? Can the study of politics be pushed back to the roots of the age-old struggle that may be called absolutism (totalitarianism) versus constitutionalism? Or, in the old style, tyranny versus freedom?

Quite apart from the difficulty of assessing institutions that are in such a state of flux, as are many existing political systems, the question arises: Is the comparative institutional treatment in any case the best introduction to the study of politics? Many years of thought and experimentation have convinced the authors that one derives, in any case, a more fundamental grasp even of contemporary political problems by approaching the study of politics through the *lasting elements* in Western political thought and institutions.

The marked trend toward "general education" courses that deal with the historical development of political ideas and institutions that have shaped our Western culture seems to bear out this conviction. The emergence of the idea of constitutional government and the refinements in the development of that concept have been generally accepted as one of the most necessary parts of the study of the foundations of Western culture.

No doubt equally valuable lessons on many aspects of politics might be derived from the study of Eastern political thought. But the comparatively greater availability of trustworthy materials is not the only reason for choosing to emphasize the West. *The value of the free moral personality, basic to the whole philosophy of constitutional democracy, has flourished only in the soil of Western culture.* The East has put far less emphasis on *law* as a restraining force on arbitrary government, and far more on custom or religion. The institutional development of constitutional democracy has been left to the West.

Any treatment of Western experience on this level, however, demands a background of knowledge and a wide reading of sources that are very difficult to provide. The present book is an effort to fit, *selectively*, that need. More it cannot do. It is clearly impossible to give in a single volume any complete presentation of the real nature of Greek political institutions, *and* Roman law, *and* feudalism, *and* the emergence of the national state. To set the developments and analyses that have been included alongside the contemporary problems presented by the totalitarian clash

of communism and fascism with liberal constitutional and democratic systems is still another Herculean task. This range of institutional study, on a profound and comprehensive level, is clearly outside the scope of any single work. Moreover, to relate and analyze in detail the political ideas that have accomplished these institutional changes simply presents another difficulty in preparing a really adequate volume. And what is one to do about the philosophers whose complex systems were the matrices of political ideas—Bruno, Francis Bacon, Vico, Spinoza, Descartes, Helvetius, Kant, Schelling, Hegel—to name only a few of the many whom we must dismiss with a sentence or so instead of a treatise? The authors, from the experience of the years which have gone into this effort, realize only too well its inevitable shortcomings.

Yet experience has shown this attempt to be of more lasting value to serious students and a more fruitful approach to mature political understanding than is the purely descriptive and analytical approach. As a discipline, the study of politics in the Aristotelian sense derives its great value, as do all other educational disciplines in the humanities, from what happens to the student's *mind,* his imagination as well as his judgment. Lifting one outside one's own times, and the prejudices and preconceptions of those times, and giving some perspective on the eternally recurring problems of politics, can only come from a study of the institutions that men have shaped to meet these problems and the myths and rationalized systems of political doctrines that they have used to defend these institutions.

A book that introduces the reader to Plato and Aristotle at first hand and that provides at least a bowing acquaintance with the classics of all political thought serves to awaken and enrich the imagination and strengthen the judgment. The commentary on the readings has been kept, therefore, as short as possible, to provide only an interpretation, in the broadest outlines, of the significance of the philosophers and institutions treated. A genuine effort has been made to focus this analysis on key concepts. It purposely avoids many interesting scholarly controversies and novel interpretations in order to simplify and follow a more or less clearly marked path where agreement is not superficial. Only on a few major points of doctrine has there been any attempt to explore new ground. This is not intended to be a new history of political thought, but an *introduction* to the study both of Western thought and political institutions from useful selections, made with the idea of following the line of emphasis indicated—the development of the concept and of the institutions of constitutional democracy.

The relation of political science to the other social sciences may be treated from the narrow conception of politics as limited to strictly

political institutions, or from the broader Aristotelian basis which in fact subsumes several of the other social sciences under the study of politics and relates the whole to philosophy. It is this broad conception of politics that we have chosen. In essence, this means that the approach to the heritage of the West in political thought includes not only the study of institutions but some references to the development, at their proper historical points, of the importance of other disciplines such as economics, sociology, psychology, and even some cultural anthropology. Certainly the relationship to philosophy carries, throughout, a special emphasis on the problems of ethics. In the proper sense of the term, therefore, this study is an adventure in "general education" of the type outlined by the Harvard faculty study in this subject. It is impossible to equalize the emphasis so that full justice is done to the details that a primarily historical approach would include. Any study must be selective from the point of view of emphasis. The selectivity here has been focused on:

(A) The great outlines of political philosophic development and the moral problems which they have posed in relation to the State.

(B) The institutional contexts within which these ideas have been set, including the clash of cultures and the political forms of the State.

(C) The basic views of human nature that included both (1) the naturalistic and psychological conceptions from Sophism to Positivism and (2) the ethical analysis of man's values from Plato and Stoicism up to the restatement of modern liberal and constitutional doctrines.

All this is a far cry from the usual descriptive and comparative treatment of politics in terms only of the contemporary systems of our own day. It is at least a bow to Seeley's famous dictum, "History without politics is without fruits; and politics without history is without roots."

One departure from the usual practice will, we hope, recommend itself to the reader. A real effort has been made to suggest, in the commentary, passages from a few of the greatest works of literature that illustrate, through an art form, the political problems that are more logically presented by the theorists. There is an obvious and a growing need to integrate the study of politics with literary and historical studies. A judicious selection from the Bible, Thucydides, and Plutarch has seemed to the authors to provide at least a sample in the Readings. How much better if passages from Shakespeare, Goethe, Tolstoi, Stendhal, Dostoievski, Balzac, and Ibsen, e.g., might have been added, or from a half-dozen English novelists, of whom Disraeli would certainly be one. At least one is led on to read with more discrimination those passages of great works which so often are skipped as merely boresome, if one learns that not only philosophers, but the greatest literary artists, have wrestled

with the eternal problems of politics. Often these problems are given their most effective form in a chapter like the "Grand Inquisitor" in Dostoievski's *The Brothers Karamazov.*

It is a pity, too, to put such great emphasis, as this work necessarily does in the later periods, on the English tradition and on British and American examples. Continental theory is not given its due. The excuse must be that, within the limits of selection, the British and American thinkers and institutions seemed best suited to illustrate the growth of constitutionalism in a familiar context, and where it best succeeded.

Work on this book started while Mr. McDonald was Chief of Sections for Government I at Harvard. The selections owe much of their merit to the judicious criticism and experimentation of a long line of Government I staff instructors, quite as much as to the senior members of the Harvard Government Department who have participated in the course. This debt is acknowledged in the dedication. The list of names of the contributors really ought to include all those who, like Professor A. N. Holcombe, have sat in on Government I staff meetings for the past twenty years and who have given their time so freely to exploring and selecting the readings which have formed the nucleus of our current choice. But from this basic list we have departed by additions and subtractions of our own. No doubt many readers will disagree with the selections and their completeness. This is unavoidable, because *Western Political Heritage* is designed to serve a wide use, being adjustable to the needs of both the mature and the uninitiated reader.

The final selection and pruning of the Readings has been a joint responsibility of the authors, though the major labor of preparing the documents themselves, the introductory material, and the brief description of their significance has fallen on Mr. McDonald. Mr. Elliott undertook the interpretative essays for each chapter, with the exception of the three indicated by the initials as being primarily the work of Mr. McDonald.

The Introduction draws heavily on an essay, "The Constitution as the American Social Myth," by Elliott, in *The Constitution Reconsidered,* published by Columbia University Press, 1938, and edited by Conyers Read.

Thanks are due for especially helpful reading of major parts of the book to colleagues at Harvard, Professors Werner Jaeger, C. J. Friedrich, Samuel H. Beer, Rupert Emerson, Louis Hartz, Mason Hammond, and Robert Pfeiffer, as well as to members of the Government I staff at Harvard—Roy Macridis, Howard Jamison, Arthur Maass, Michael Pearson, Harvey Wheeler, and Allen Sindler; and to Brian A. McGrath, S.J., Henry Kissinger, and Professor Eric Voegelin for most helpful criticisms

of readings and translations, as well as essays. Professor Margaret Hastings performed the major work in translating Marsilius and Bellarmine.

The authors wish to express their especial thanks to Louise R. Olsen, who has read the entire text for corrections and has made helpful suggestions for changes in style and presentation. They also wish to express appreciation to Enola McDonald for tireless and pleasant assistance with the assembling, typing, and checking, and to Nancy Carlson for looking up and checking a great deal of biographical data and for ingenious assistance in the preparation of time charts.

It is usual, although probably unnecessary, to add that faults and errors in the manuscript are still the responsibility of the authors themselves, to the degree that they have not profited to the full from some of the suggestions made by the several helpful critics.

W.Y.E.
N.A.McD.

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INTRODUCTION

THE STUDY OF WHAT IS OFTEN CALLED *political science* raises several questions at the outset. What is the meaning of "politics," and what are its limits in relation to the other aspects of man as a social animal? Has any method proved more fruitful than others in understanding the tremendous range of forms of government, and the revolutionary changes that have taken place in those governments, e.g., in the period between the Treaty of Versailles and the final settlements after World War II?

The first question, on the nature of politics, draws as many answers as there are schools of thought about the philosophy of history, about the nature of social studies and the boundary lines between them, and about the connection between institutions and theory in general. It is possible, however, to say that students of politics have gone back through all the experience of humanity since the classic age of Greece to the wisdom of Plato and Aristotle in formulating the problems that we call political. To Aristotle, as much as to Plato, the word "politics" embraced *the whole range of human behavior that was concerned with the organization of a community under law.* The *state,* Aristotle said in the opening sentences of his book on *Politics,* was the highest of all associations since it had as its end the highest good.[1] To the word "highest," he also added the term "all embracing," or "most comprehensive"—a very natural view to a Greek.

The Greek city state represented a community that included within itself all the other communities we are accustomed to consider as separate in aims and ends from politics. It subsumed religion and economics, and, for that matter, almost any type of social organization, to the control of the state in a way that may be said to have formed a partial model for later totalitarianism. The life of the city state was both intensive and comprehensive to a degree rarely known in more modern communities.

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[1] "Every state is a community of some kind, and every community is established with a view to some good; for mankind always act in order to obtain that which they think good. But, if all communities aim at some good, the state or political community, which is the highest of all, and which embraces all the rest, aims at good in a greater degree than any other, and at the highest good." (*Politics,* Book I, Benjamin Jowett trans., Modern Library Edition, p. 51.) Compare the Ellis translation of this passage in the Readings for Chapter Four.

For that reason, the term *politics* carried with it for Aristotle a breadth of meaning which today would be given by very few writers to the term *political science*. The latter term has come to have a rather limited meaning, because of the growth of a varied associational life within the compass of the modern state that claims ends or purposes as important as those of the state itself, and often more comprehensive—for example, the ends of the Church or of international labor movements.

The study of politics can usefully be said to center on the conceptions of "the state," in order to provide a focus for the central interest of a discipline. It becomes necessary for that reason to examine what the meaning of this word is.[2] Nearly all the definitions of the state agree on a few basic points: It is a community of persons inhabiting definite territorial limits, who are organized by and for law. The government, i.e., the officials, under which the state is organized stands in relation to the whole population as a limited portion of that population which exercises an effective monopoly of force and claims for that force the character of law. The government demands obedience to its decrees or laws because these laws form a settled rule for which a duty of obedience, as well as the mere possession of force adequate to put them into effect, is claimed.

Even dictatorships feel this compulsion to act through a legal system. Rousseau in the *Social Contract* stated the nature of this eternal compulsion on government by saying:

> The strongest is never strong enough to be always the master, unless he transforms strength into right [law], and obedience into duty.[3]

The translation of the French word *droit*,[4] which means both *law* and *right*, indicates the moral character of law which is the basis for claiming obedience as a duty. Law based upon force alone, in short, can never have a compelling quality in moral terms, since the question of obedience to force is purely a question of expedience in the particular instance.

The Method of the Study of Politics

Our discussion so far of the nature of the state and its relation to the moral problems of obedience indicates the range of problems that require study and that demand an appropriate method. It is the authors' belief that no study of politics which is viewed only in behaviorist terms—that is, in terms that rule out the working of a moral conscience in humanity

[2] For a painstaking and characteristic collection of all the attacks on "the state" as a focal point for political study, see Waldo R. Browne's *Leviathan in Crisis*. However, no corrective method arises from this critical commentary.

[3] *Social Contract* (Everyman Edition), Bk. I, Ch. 3, p. 8.

[4] The word for "law" in the generic sense has this same interesting characteristic in nearly all European languages.

—will ever do justice to the fundamental problems of political organization.

Both moral philosophy and political science, therefore, have a rôle to play.

Usually, however, there is a very dangerous tendency to shift from one realm of discourse into another without being aware of the change—from fact to value without acknowledging the distinction. One of the most characteristic habits of political philosophers is to present their moral speculations, or their preconceptions and prejudices, as facts. A very careful and scientific use of the evidence that includes as far as possible all the elements of a political problem is essential as a safeguard against wishful thinking. But when facts are produced that require interpretation, and when they have been objectively interpreted, then, in order to be useful for political speculation, they need to be fitted into a philosophy of politics which has standards of good and bad and makes definite choices as to what is the ideal form of a state in a given period and a given society, as well as what forms of government may best realize this type of state.

Here one enters the discussion of the nature of the state in relation to social and economic classes within the society, and of its composition in terms of a ruling class, whether it be of one, of the few, or of the many: this step must relate a theory of political organization to actual institutions.

Characteristically, both Plato and Aristotle treated the forms of state under these well-known headings: monarchy as the government of one, aristocracy as the government of the few, and democracy as the government of the many. They allowed for the cyclical degeneration of these forms of government by the perversion of the ruling class from seeking the common good (the commonwealth) to seeking the interest of the ruling class alone: monarchy into tyranny; aristocracy into oligarchy; democracy into mob rule.

Their suggestion for preventing this degeneration, with its accompanying revolutions and social disturbances and perversions of justice, remains the classical formulation of all the problems of politics since their time.

Plato pursued the method very often used of setting up an ideal kind of state which, through education and a careful selection of its ruling class, with a social indoctrination of all its citizens, would perpetuate the perfect form of government. Utopian speculation throughout the rest of history, whether it be the utopia of Campanella, Sir Thomas More, or Harrington, or many another later writer, has followed in this Platonic tradition.

Aristotle, on the other hand, limited himself to an analysis of human

nature and of the development of states as a natural process in order to determine what types of states best survive and what conditions effect the satisfactory solution of the eternal problem of maintaining a conception of the common good in the commonwealth.

The classical formula of Aristotle was, of course, the balanced or mixed state, in which middle-class domination of the main offices of government and the broadest possible spread of property ensured the security of the state by enlisting in its support the consent of those who had a stake in the community. Along with this went suggestions on the distribution of powers and some rudimentary conception of the separation of powers.

After his time, this problem of the mechanics of limiting power came to fascinate subsequent writers on politics, so that treatises on politics very often took on the nature of the analysis of forces almost like Newtonian physics, that is, in terms of gravitational pulls to ensure political equilibrium.

Three Factors Stressed for the Study of Politics

Both metaphysics and physics, therefore, come into the conception of "nature," which every political theorist somehow relates to his conception of human nature. This conception of nature and human nature is the first factor underlying all political thinking.

The second generally may be studied as the institutions derived from these conceptions of nature and human nature—totalitarian, if human nature is thought to be fundamentally determined by environment, or weak (Sophist view), and constitutional, if human nature is thought to be capable of rational control of its environment (Stoic view). These institutions reflect as well, however, the adjustment which the theorist makes to the underlying forces of his own time, economic and environmental, as well as social.

The third element, however, can never be left out of political theory. It is the element of *what should be,* that is, ethical values. All societies have in some sense a common core of values of this order which are believed in a deep emotional way if the societies are successful in obtaining the loyalty of their citizens. In that sense, they all have an underlying element of what Plato called *mythos*—without any indication of falsity, but merely to indicate their nature as basic beliefs. Democratic beliefs, however, develop under rational criticism into constitutional structures; whereas the totalitarian beliefs ordinarily rest upon the indoctrination of blind obedience to the basic myth under an organic and hierarchical discipline.

Religious and Moral Basis of Political Myths

Ancient politics, in such light as anthropology and history can throw upon them, seem to have had an almost uniform characteristic that shows a political need to found law on morality, through a religion. The combination of king with high priest, which characterized early Greek society, recurs in various forms in most primitive stages of civilized polities. The connection between, for example, the pharaoh and the priesthood in Egypt was so intimate as to give a theocratic cast to that government. This priest-king organization may be taken as an archetypal form of primitive polity. The incorporation of the state religion in a myth served to buttress political power and to sanctify authority—for example, the mystery religions of the Greeks, their connection with local divinities, and the pharaonic embodiment of the immortality of the Egyptians in the person of the ruler (cf. the Mikado in modern Japan). Morality, as was natural in primitive social organizations, derived its basis from religio-political myths.

This primitivism reappears in theories like those of the divine right of kings in much later history. It has in our times been given a definite form comparable to that of the Roman *divus Caesar* in the leader principle—characteristic of the Fascist systems and Stalinism.

It would be a mistake to suppose, however, that any political system can escape the necessity of living upon a basic social myth. Plato's own formulation in the *Republic* was in terms of what he called a noble or a "royal" lie: men were born gold, silver, or the baser metals to correspond to the class structure of his society, though he was careful not to adopt the hereditary caste basis that would close a career to the talented. In some form, every system of government has required the rationalization of a system of fundamental beliefs of quasi-religious character into a political way of life. These beliefs themselves rest on an accepted faith, but a faith that is often subject to further rational examination, that serves in turn as a jumping-off point for subsequent doctrinal development. A political myth may, therefore, be defined as a system of socially accepted beliefs about a political way of life which can be symbolically represented, for emotional appeal, and at the same time rationally developed.

Fascism, Nazism, and Communism build a system of myths to indoctrinate the people living under their rule with a religious acceptance of the character of the régime. Statues of Stalin and Lenin dotting every village square become a new Russian iconography, along with pictures in every schoolroom and office. On this same principle, the Caesars in Rome demanded sacrifices to Caesar as *divus Caesar* in competition with

all other religions. It was essentially the refusal of the early Christians to render these sacrifices to Caesar, rather than their adherence to one obscure mystery religion among the many others that flourished in Rome, that led to their selection for martyrdom. They were not prepared to render to Caesar the things that were *not* Caesar's—that is, the worship that belonged only to God.

The lengths to which dictators go to assert their status and enforce their acceptance as semi-divine, or to set themselves up as the final spokesmen of the will of the nation, need not be stressed here. In the latter stages of Fascism, Mussolini decreed that no hymns of praise should be sung in Italy to anyone but Mussolini. The terms *Il Duce* and *Der Führer* were intended, of course, to suggest the providential and inspired character of the leaders of the nations' destinies, whose will is not accountable to any other human will, and certainly not to a divine will, except as that divine will is conveniently interpreted by the mortal leader in support of his own will.

The acute nature of the struggle between this absolutist claim and the Church's claim to spiritual authority has been sufficiently documented in recent German and Italian history so that it does not require elaboration by examples. The struggle continues where Soviet Communism has extended its rule and its system of control.

Democratic systems, too, rely upon the acceptance of popular sovereignty as an article of faith. They draw up constitutions with bills of rights stressing the individual's protection against arbitrary action. However, they are usually insistent upon "the common defense" or "the general welfare," and in wartime they do not hesitate to claim the last sacrifice from their citizens.[5]

The Social Contract as a Social Myth

A prime example of a social myth is the history of the social contract theory—and the use to which it has been put for democratic mythology. Hobbes chose as his own symbolism the figure of the *Leviathan,* "that mortal god," for a mythology of absolutism; but John Locke chose the figure of man in a state of nature (later to be translated into a "noble savage"). Locke's development of the social contract offered no richer symbolism than the notion of the commonwealth with appropriate organs (executive, legislative, and federative powers). But the concept of private property itself came to be the nearest thing to a symbol for Locke. For

[5] For contrasting views on the limits and usefulness of a theory of the state, see W. Y. Elliott, *Pragmatic Revolt in Politics,* Pts. IV-V and A. D. Lindsay, *The Modern Democratic State,* on the one hand, and C. J. Friedrich, *The New Belief in the Common Man,* on the other.

Locke's whole way of thinking of life, liberty, and property, the greatest of these was property. Rousseau pushed the symbol of the social contract into the hypostasizing of a general will, produced by a *moi commun* (state person), created in turn by man's acting together in a small community under a social contract. All these efforts represented a shift from the other-worldly religions to a secular basis of authority, but they substitute a quasi-religious myth (the social contract).

Various derivative symbols could be drawn from the primary myths imposed by these forms of social contract theory, such as, for example, in Hobbes, the sovereign as the bearer of the whole authority of society; for Locke, revolution as an answer to the usurpation of power by rulers; and for Rousseau, a sort of deification of popular will which reached its apogee in the French Revolution, though with the curious perversion—from Rousseau's point of view—of being a representative will embodied in the National Assembly. Marx took the trend toward totalitarianism in Rousseau by erecting a class myth—"the dictatorship of the proletariat," which would "force men to be free."

It is characteristic of all these approaches to the problem of authority under the social contract theory that they derive from assumptions about human nature that are treated as articles of faith, though each pretends to a scientific (which is more often like a theological) rationalization. Each is aimed at the justification of the ways of the state toward man in terms of these fundamental presuppositions as to a way of political life. For Hobbes, law and order are ends in themselves; for Locke, life, liberty, and property; for Rousseau, the harmony of a community will through which alone freedom can be understood in political society. Marx uses historical and dialectic materialism instead of the rationalism of the social contract, but the concept of freedom was linked to his own psychology of class war to create his own myth.

Institutions and Symbols

Insofar as the English constitution has been symbolized in the Crown, it has had to develop in accordance with a "theology" rather more like that of Locke than that of either Hobbes or Rousseau. The emphasis placed upon the procedural protections of civil liberty has been elevated in England into a basic element in the political myth.

Rejecting alike the divine right of kings (Bishop Filmer for the Stuarts), or the lawful nature of all sufficient power (Hobbes), and the operation of the unchecked majority principle (Rousseau), British constitutional evolution has steadily tended toward a supremacy of the House of Commons, by no means complete so long as the House of Lords and the Crown retain even their present powers. This trend emphasizes in Locke's think-

ing the legislative *majority principle* rather than those *limits* on the legislative supremacy on which he equally insists—to wit, the law of nature, the necessity for settled procedure rather than arbitrary rules (due process of law), and the protection of private property. Parliamentary supremacy has, with the broadening of the suffrage to universality among adults, tended toward a democracy limited only by its own forms and traditions.

Locke and the American Dogma

In the United States, the evolution of our social mythology has emphasized the limiting factors in Locke's doctrine rather than the majority principle, though our whole history has been something of a conflict between the two (stated in another way, in terms of Hamilton *v.* Jefferson, or Marshall *v.* Jackson, or "the Nine Old Men" *v.* F. D. Roosevelt, and so forth).

The Declaration of Independence was almost pure Locke, as has often been observed. In it the doctrine of inalienable rights was reconciled with the right of revolution. It was Jefferson's hand that shaped this application of Locke's philosophy to our revolutionary purposes, though it is significant that he mentions the pursuit of happiness rather than property in Locke's immortal trinity. He does, however, pledge our "lives" and our "fortunes" as well as our "sacred honor," and he showed throughout his own career a certain reverence for the Whig side of Locke's thought—to wit, the necessity for some stake in the community, usually land holding, as the basis of a political share in government through the suffrage.

The Constitution as the Rationalization of Our Political Beliefs

It remained for the development of the American constitutions, both in the states and in the federal government, to give a new twist to Locke's social contract theory. These documents in many instances placed limits upon the majority principle by Bills of Rights, i.e., admonitions to the legislature aimed at preventing the abuse of private rights. In several cases they went further and treated certain aspects of the constitutions as "fundamental" in Cromwell's sense. Provisions for limiting the possibility or the method of amending constitutions in these respects occurred in a few constitutions, set forth in a more formal manner—for example, New Jersey and Massachusetts.

The federal constitution gave this evolution, however, a distinctive further development through incorporating alongside the federal principle the limitation of constitutional amendment to extraordinary majorities

even as respects the rights of person and property. That is to say, the federal constitution in many cases put beyond the reach of the majority principle the rights of states as well as the rights of individuals. It erected a separation of powers much more genuine than that of Locke, and it incorporated an instrument which was to reduce the supreme legislature of Locke's thinking (and Jefferson's) to the "creature of the Constitution." That instrument was, of course, the Supreme Court of the United States, through which the doctrine of judicial review developed.

A great literature of what may be called constitutional fundamentalism naturally grows up in the teaching of civics and of other courses devoted to presenting to the people of the country the reasons for obedience to the laws and for accepting the existing constitutional system as one worthy of complete loyalty. The *saeva indignatio* with which the French Revolution pursued the enemies of the régime has been paralleled in every period of revolutionary history in order to eliminate those who did not accept the new system. The fate of the Tories in many parts of the United States, newly created from British colonies, and the Reconstruction Period after the Civil War are examples in our own history of this same sovereign intransigence in defense of the new régime.

Sophist and Stoic Theories of the State and of Human Nature

The question, of course, arises at once: Why should men obey a particular form of state, with a given form of government? And this is the question that most political theory is devoted to answering. The answers have come in various forms, but they usually fall into two classes, exclusive of variations on the anarchistic philosophy which condemns as immoral any form of organized compulsion. These two classes conveniently group the proponents of absolutism on the one side, and of constitutionalism on the other.

The first class of answers comes from the reasoning of the Greek Sophists about the nature of human nature: that man is, after all, an animal like other animals, the creature of necessity and chance, with the principal duty of surviving in a difficult environment. Nature is ruled by brute necessity. Man adjusts himself to the facts of his existence in accordance with his own instinctive drives or mechanisms, among which are fear, vanity, the will to power, and other elements of human nature of the same character.

According to this reading, obedience to government is very largely a matter of convenience or necessity. If the government is strong enough to secure law and order and to enforce its decrees, men obey with a certain willing acceptance of strong power that can bring order out of

what is usually a state of chaos. In social relations, habit is a very powerful factor, as Hume noted, in the willingness of men to obey.

The Fascist theory generally rests upon this analysis of human nature, and it has had a very long history throughout political speculation. Machiavelli and Hobbes are among its chief exponents. Their theories are merely echoed by Mussolini and Hitler. Communism has the same view of human nature (under capitalism) and sets up a dictatorship equally totalitarian in its purges and in the repressive period of re-educating men for the classless society. When human nature has been purified of all self-interest, according to Marxian theory, by the dictatorship of the proletariat, which eliminates the selfish motives of private profit and property, then and then only can *true* human nature be achieved: the state will wither away in a society of free producers because the state is no more than the creation of the repressive force of an exploiting class. It is significant that the new "orthodoxy" of Stalinism in Russia has almost dropped this utopian aspect of Marxism. Emphasis on the "withering away of the state" would contrast too dangerously with the obvious growth of state controls that become more heavyhanded with every passing year of the Politburo's dictatorship.

As a rule, the myths to support this view of human nature and of political obedience rest upon the same factors that have already been stressed. Consent is urged on the basis of the glorification of a race or a nation, or enforced on the basis of the superior power which that nation, governed by the ruling group, can exercise. Power is exerted to extend that rule until it meets other power capable of limiting it. The totalitarian power system is always "encircled" until it has destroyed or enslaved all dangerous competitors.

Such systems have no end beyond etablishing the power and vigor of the state, unless it be a biological end of spreading power and vigor through a "superior" race. In this respect the Nazi and Fascist doctrines differ from Plato's totalitarianism of the *Republic,* in that Plato would have had his state judged in terms of its embodiment of an ideal principle of justice, and ruled by "guardians" who were concerned with the realization of this purpose. It would be equally different from the Communist state insofar as Communism in a state like Russia aimed at realizing the Marxian utopia of a classless society where the state would eventually "wither away." Whether in practice the Soviet system's progress toward the withering away of the state permits a decline in totalitarian measures may be judged on other bases, as a matter of fact. Undoubtedly, however, so long as Marxist equalitarianism is professed as a goal, the Russian state can be tested by an end outside itself, and not merely by its survival and the evidence of its territorial power. But it cannot be tested by those

who have fallen under its absolute power, except in their most secret thoughts. Of late years, both equalitarianism and the withering away of the state have tended to be played down in Soviet theory. The interesting question is raised as to how the Russian system, nationalistic, pan-Slavic, and imperialistic, differs in any fundamental way, in its practice as opposed to its myth, from Fascism.

The second class of answers to the question posed above rests upon a fundamental analysis of human nature generally attributed to the Stoics in Greece and Rome, rather than to the Sophists, and later to the fusing of Hebraic and Stoic thought that went into the making of Christianity.

This theory, differing from Plato's idealism in its emphasis on the universality of human reason, rests upon the acceptance of man as possessing a character different from that of animals, and partaking in some measure of an eternal soul. Within every human being, according to this theory of human nature, there is the possibility of reflecting something of the divine and of perfecting in a rational, social organization the realization of that divine harmony. Plato's formulation of this theory, which may be called in general terms *idealism,* resulted in a small, aristocratically *organized state, all-powerful in its control over the individual, but* rigidly adhering to the principles of justice that he felt to be implicit in a divine order of harmony. Democratic theories, on the other hand, have appealed to the same nature of the soul to assert the expression of the ultimate rights of the individual as a moral person; and to claim legitimacy only for a state which organized its powers to that end. This principle can be bounded neither by the confines of the city and state nor by those of the nation. Where Plato emphasizes a concept of absolute justice as the basis of the state, the democratic state must achieve justice through the play of freedom and equality—never an absolute justice.

The Part of Philosophy and of Ethics in Politics

The constitution of such a state must rest upon the free sharing of its basic moral values and the support of democratic methods by the great bulk of its citizens. The study of *the ideal state* and the range of political thinking about this problem of justifying the form of government which *ought* to be obeyed, constitute the greater part of the range of political philosophy. The social contract theory has been one of the most persistent methods of explaining why people should obey laws and under what conditions. It implies moral consent by individuals through a *voluntary* collective contract to form the basis of law and the state.

This philosophical approach, therefore, generally turns upon answering the moral question of what *should be,* as well as of what actually *is.* Sometimes the assertion is made that the distinction between science and

philosophy rests on political science's concern only with fact, that is, what *is*, or *has been*, or *will be*, rather than with the question of value, or what *should be* The latter question is left to philosophy, and particularly to moral philosophy

This is a very convenient distinction, but it hardly holds true Aristotle, in particular, was concerned quite as much with what *should be* as with what *was* (or *is*) He was, if one uses the definitions in the ways suggested above, both a scientist and a philosopher It is really impossible to be an adequate philosopher without taking into account the facts drawn from empirical verification and relevance to experience, on which speculations as to what should be are grounded Otherwise philosophical speculations become utopian In a quite literal sense, they concern themselves with a "never never land' or with an impossible realm of unreality

Plato is often accused of being utopian because of the extreme views of human nature on which he grounded his *Republic*, and in some measure he is He wrote, however, many other dialogues on politics, including the *Gorgias*, the *Protagoras*, the *Apology*, the *Crito*, the *Statesman*, and the *Laws*, all of which in varying degrees made their peace with the facts as he saw them, and attempted to describe an ideal in the terms of a possible set of institutions Dialogues like the *Timaeus*, the *Critias*, the *Symposium*, and the *Theaetetus* attempted to ground his ideal speculations in an eternal reality, or to relate them to his basic concept of the myth In this sense they are continuations of his political dialogues

The realm of political thought must embrace a discussion of what *is*, in the sense of the given facts of institutions, climate, environment, human nature (insofar as it is the product of heredity) and many other factors It must equally, however, take into account the purposive character of man as what Aristotle called an ethical being, a *political animal*, that is, a community building animal The purposes that men shape in terms of their ability to choose between alternatives, and to compare the results of previous experience with desired goals come into play in any real political situation Aristotle combined this *purposive* or teleological approach with a scientific estimate of all the given facts in political science It was for that reason that his exhaustive studies of Greek institutions and the constitutions of various city states, as well as other forms of government, lent such reality to his speculations, and that his work on *Politics* has been the classical textbook for all serious students since his time

Our examination of later theories, as has been implied, will not be limited either to ethics, or to mechanics The effort to set thinkers in the context of their times is accompanied by selecting both those parts of their theories which rest on assumptions of the unchanging aspects of human nature, and on the process of history—i e, the relation of hum-

nature to nature. Finally, each statement of political purposes has to be judged, as it was by Aristotle and Plato, in terms of its contribution to the eternal search for eternal verities—the nature of justice, of the "good life," and of the state that best permits men to follow those ends. Whether it be liberalism, Marxism, Fascism, or the mixed polity of modern constitutionalism, these questions will continue to arise so long as men have freedom to raise them. If once lost, how may that freedom be recovered?

The concluding chapters of this work, and in particular the last chapters on constitutional democracy and the problems of international organization, have had to be unduly expanded for the simple reason that the search for classic statements of modern and contemporary theory has presented insoluble difficulties. There can hardly be the same perspective and the same range of agreement on contemporary statements as on those landmarks that have been passed through the hands of generations of scholars for critical commentary and evaluation. The limited textual readings have, therefore, made necessary a somewhat more extensive presentation of the many currents of modern doctrine and an effort to sum up their meaning and value. In times in which the world is so clearly ranged into two camps, it has been the authors' judgment that our fundamental emphasis on the conflict between the concept of human rights and government under law and the totalitarian modern form of absolutism could better be brought out in the analytical text than by any attempt at putting in comprehensive selections from a great many contemporary authors.

It is our hope that the reader who follows in this text the development of the struggle between constitutionalism and totalitarianism from its early beginnings in Greece may achieve some real perspective on the crisis of Western civilization in our own time. Whether this crisis is to mean tragedy or the winning of a new age of freedom for the human spirit will depend, it may be, not only on understanding its causes and the deep roots of the conflict, but also on the strengthening of faith in our own political principles of freedom. From the combination of clearer understanding and stronger faith must come the moral conviction with which the conflict for our world is faced.

(... *W.Y.E.*)

CHART I: EARLY EMPIRES, 1500-323 B.C.

AUTHORS	GREECE AND ROME	EGYPT AND PALESTINE	ASIA
1500 B.C.	1500 Cretan civilization spreads to Greece.	c. 2000-1225 Patriarchs of Genesis are early legendary heroes: Abraham, Jacob, Joseph.	2000-1200 India: Aryans pushing back Dravidian and Austro-Asiatic Munda peoples.
		1580-1090 Egyptian Empire. 18th Dynasty (1580-1350) drives out semitic Hyksos. Conquers *Palestine, Syria, and Phoenicia.*	1850 on—Assyria independent, expanding.
			1475-1275 Kingdom of Mittani disappears after Assyrian invasion, 1275.
			c. 1400 Zenith of Hittite kingdom.
	c. 1300 Aegean peoples invade Greece.	1300 Hebrew clans enter Canaan.	
		1292-25 Ramses II fights Hittites to restore waning Empire. Recovers S. Palestine.	
		1270 Joseph tribes in Egypt enslaved.	
1250 B.C.			
Moses c. 1225-c. 1200		1225-15 Egyptian Merneptah quells rebels in Palestine, repels Libyans, Aegeans.	
	1200-774 Phoenician city states at zenith.	c. 1225-1200 Moses leads tribes from Egypt.	
		1200-1028 Tribes live among Canaanites. No central government. Worship Jehovah.	c. 1200 Aegean peoples overrun Hittites.
	c. 1184 Troy sacked by Aegean peoples.		c. 1200-800 Indian Aryans worship nature gods similar to those in Greece. Patriarchal society, agrarian economy.
		c. 1150-c. 130 Old Testament written.	
Saul reign c. 1028-c. 1013			1146-1123 Babylonian Nebuchadnezzar I defeats Elamites. Routed by Assyrians.
		1090-712 Civil wars in Egypt.	
David reign c. 1013-c. 973		1028-13 Saul defeats Philistines. Made king.	
		1013-973 David unites Judah and Israel.	1000-770 China: Western Chou dynasty gains control of feudatories. Agrarian economy.
	1000 Terramare people in Italy and Sicily.		
1000 B.C.			
Solomon 973-933		933 Israel and Judah divide after Solomon.	933-624 Assyria reaches Mediterranean Sea.
	c. 900 Etruscans first appear in Italy.		

	900-600 Monarchies in Greece replaced by aristocracies. Colonization encouraged. Greeks spread to Asia Minor, S. Italy.		
	814 Carthage founded by Phoenicians.	800 Ethiopian conquest of Egypt.	800-550 Caste system develops in India.
	753 Rome founded (legendary date). Early government: king with senate.		770-256 China: Eastern Chou dynasty—country divided among warring princes.
750 B.C.			
		745-605 Assyrian Empire. Controls east Mediterranean, west Asia. Civil Wars 625-05.	
		740-701 Isaiah, Hebrew prophet.	
	650-500 Greek tyrants develop strong city states. Lyric poetry, philosophy flourish.	671-652 Assyrians control Egypt.	
		668-625 Ashurbanipal assembles library of cuneiform tablets at Nineveh in Assyria.	
		650-585 Jeremiah, Hebrew prophet.	625-538 Media leagues with Babylonia to carve out neo-Babylonian Empire.
Lycurgus 9th century		550-330 Persian Empire: from Indus to Mediterranean, from Caucasus to Indian Ocean.	612 Babylonians destroy Assyrian Nineveh.
Solon c. 639-559		525 Persia conquers Egypt.	c. 551 Confucius born in China.
		521-485 Darius I divides Empire into 20 satrapies; builds roads; joins Nile, Red Sea.	550-530 Cyrus the Great builds Persia.
	509 Founding of Roman Republic.		550-321 Petty states develop in India.
500 B.C.			
	499 Greek-Persian Wars begin.		c. 500 Buddhism founded in India.
Thucydides c. 471-c. 400	495-429 Age of Pericles: Athens' greatness.	485-465 Xerxes I defeated by Greeks.	
Socrates 469-399	480 Carthage at height. Controls west.		
	460-404 Peloponnesian Wars.		
Plato c. 427-347	450 Twelve Tables of Roman Law.		
	390 Rome sacked by Gauls, rebuilt.		
Aristotle 384-322	336-323 Alexandrian Empire. Policy of fusing Greek and Asiatic cultures.	336-323 Alexandrian Empire.	336-323 Alexandrian Empire.
322 B.C.			

ONE

The Dawn of Political Consciousness

IN A WORK THAT ATTEMPTS TO TRACE the development of the heritage of Western political thought in its setting of political institutions, a natural question arises: Why has the West been chosen, rather than the East and the Middle East? In the latter civilizations we have a recorded history of developed cultures and a wide variety of political experimentation that runs back in some cases to two or three thousand years before Christ. The forms of political institutions that might be studied in the development of politics of India or China or Egypt or even in Sumer (early Babylonia) would offer a very wide range of political experimentation, accompanied in many instances by developed political thought. Why, then, choose the West?

The answer must be that it is in the West that the whole development of the idea of *constitutional* government, with its emphasis upon the rights of individuals and the moral responsibility of the citizen as a person, has achieved mature form in highly developed civilizations. The West alone has complete continuity with our own systems and problems today. There have no doubt been instances in ancient Eastern and Middle Eastern political development where similar moral problems have been posed. Hindu political theory in particular has certainly stressed some conception of justice of a mature and important moral order. China developed not only in Confucian doctrine, but in the subtle philosophies of Taoism and Buddhism, ethical attitudes toward the problems of human society, including political society, widely different from those of the West. There is no denying the relevance of these moral attitudes to the problems that present themselves in all political evolution. But the East is so much the land of custom as the basis of law, and of social or religious authority rather than law based on the consent of the individual, that its institutions have little relevance to the development of our main theme: constitutional democracy. It may be said with some assurance that the classical evolution of constitutional government in its eternal struggle with dictatorship and totalitarianism is a product of the West.

Pre-Greek Western Political Development

In the civilizations of the Middle East for which we have historical documentation, only those of the Hebrews and the Sumerians carry the germs of the problems that are later on to be crucial in Western political thought.

Professor Speiser, in tracing the Semitic contributions, makes a special point of the Sumerian civilization and its basic legacy to the dynamic civilizations of the Middle East. This consists, in his opinion, in "... a social order based on the rights of the individual, embodied in a free economy, and protected by the supreme authority of the law. The law applies to ruler and subjects alike. The king is no more than a 'great man'—for this is the meaning of the Sumerian word in question—who may become the administrator of a vast empire but even then remains the servant, not the source, of the law and is responsible to the gods for its enactment. The law is the constitution which guides the ruler and safeguards the subjects. It is an instrument for the protection of the individual and a solid barrier to absolute power." [1]

Although this is a somewhat idealistic view of the Sumerian civilization, which archaeologists now trace back to a fairly developed form as far as three to four thousand years before Christ, yet the conception of *the law* as a fundamental embodiment of moral principles was strongly developed, particularly in the Hebraic and the Sumerian-Babylonian civilizations. There is much dispute about the origins of writing and the methods of identifying private property for private transactions through personal seals (contracts). But, apart from the recording hieroglyphs of the Egyptians (3000 B.C.), the probable introduction of writing as a social instrument occurred first in the Sumerian civilization, perhaps as a by-product of this individualistic conception of property and, as early as the beginning of the second millennium B.C., in a form sufficiently flexible to make any desired type of record. Alphabetic writing is generally associated with its Sinaitic invention in the beginning of the second millennium B.C., its spread in the Syria-Palestine area, and its later transfer to the Phoenicians, the Greeks, and the Egyptians. Along with this critical development of the early culture of these regions went a development both in mathematics and, at a later time, in astronomy, which originated practical science. Laws could be codified, by this device of writing, into "the Law."

Of this rich legacy the Old Testament has been chosen in the text to illustrate a type of political evolution which was in some respects general in this development of primitive societies, but unique in its religious in-

[1] E. A. Speiser, *The United States and the Near East*, p. 29.

spiration. The tribal Jahveh gradually transcends the bounds of a local patron of a particular community or state and comes to be a universal father for all nations. This created a kinship for all men; its expression in the New Testament can be summed up in the term often used by Christ to describe Himself as "The Son of Man."

Before considering the legacy of the Old Testament to political institutions, at least some of its connections should be traced back to the great Nile civilization, whose history was so intimately interwoven with that of Palestine. There the evolution of kingship traced the pattern of absolutism. The king (pharaoh) was not only absolute ruler, and more than any Caesar *legibus solutus,* that is, above the law and not bound by any law; he was a mortal god and the embodiment of the hopes of eternal life for his whole people. To this embodiment of unlimited power and the identification of religion and politics in the pharaoh, the pyramids bear a lasting and impressive witness. The priests and the soldiery of Egypt were the great buttresses of his power over the mere producers—slaves and peasants and craftsmen.

Perhaps it is not too much to find in the setting of Egypt, with its highly developed technical and engineering civilization aimed at controlling the yearly Nile overflow, an important cause of the difference in the political systems and the religions of the two contiguous areas. The slavery of the children of Israel in Egypt and the antithesis that is drawn in the Old Testament in dramatic form by the flight from Egypt of the chosen people are symbolic of this clash of values: Egypt stood for fleshpots, grandeur, kingly might, and slavery; Israel stood for a people under spiritual discipline, a people whose greatness lay only in its prophets, free under God. Egypt represents the great, complex, bureaucratic empire. Democracy could not develop in an area where political control was so complicated and difficult. It had to operate only where administration was very limited and where even policy problems were very simple, as they were in the small city state.

Egyptian civilization, highly developed as it was on the scientific and administrative sides, therefore, never transcended the political ideas of the great king and the great empire. The religions of Egypt (aside from the brief period in which Akhenaton, who was called the heretic king, tried to introduce a more universal religion in the worship of the spirit of creation, symbolized by the sun) centered upon the worship of Amon and the religious mysteries of dark gods. It is true that the worship of Osiris indicated a belief in a future life, but there was little in the worship of Amon, previous to the short-lived attempt to substitute a more universal conception of truth and goodness in the worship of Aton, which can be

called morally elevating. Like Baal and Astaroth, Amon was the god of power, and power alone.

Unhappily, the reforms of Egypt in its spiritual life were short-lived, because the priests rapidly gained the upper hand and deposed the audacious Akhenaton. The Egyptian empire had survived the incursions of the Hyksos forces, apparently a conglomeration of Indo-European and Semitic peoples who had pushed into Egypt from Syria and the Middle East. It had extended its sway at the time of the great conquerors, following Thutmose III, over a great part of the Middle East. But now it fell into a period of decline. It revived, once again, however, under Ramses the Great, sufficiently to control considerable portions of what had previously been won by Thutmose III.

The Hittites and the Philistines, with whom the Children of Israel were in such perpetual struggle, were warlike and aggressive peoples who gradually threw off the control of the Egyptians. It was during this period of the breakup of the Egyptian rule that the Hebrew kingdom rose to its peak of importance. It was never more than a rather small power, however, in relation to the rising power of Babylonia and later of Assyria.

The battles fought by the Hebrews with their neighbors were on a petty scale in comparison with previous battles waged at Megiddo (modern Armageddon), in which Thutmose III had triumphed against a coalition of his Asiatic foes in 1479 B.C., or the battle of Kadesh, in which Ramses the Great had won the doubtful victory over the Hittites that was followed by the treaty between Ramses and Hattusilis in 1272 B.C. But to the tribes of Israel, their own smaller battles meant survival itself. Their kings had to become "mighty men of war."

The period of the Judges of Israel, who combined the functions of priest and law-speaker, may be said to run from about 1200 B.C. to 1050 B.C. Modern historical criticism, on what is at best scanty evidence, is inclined to put Joshua, the hero of the attack on Jericho, at an earlier period (1400 B.C.) and Moses 200 years later, contrary to the chronology of the Old Testament. It was not, however, until the time of Saul that the ruler and judge becomes also the war-leader and the king with power to unite and protect all the tribes as a nation. And so we have the prophet Samuel anointing Saul, a great warrior, to rule as king over Israel.

A similar development takes place in the aggregation of tribes into small kingdoms in Greece and later in Italy, particularly in the development of Rome. (The city state proper comes much later in Greek development.) It was probably David and his son Solomon who consolidated the position of Jerusalem as the capital of the kingdom of the Hebrews.

But how were kings to be chosen, and how limited? The days of selection by the prophets and the days of religious control gave way under the impact of war and the growth of royal power to the usual mixture of hereditary succession and palace revolutions. Popular resistance became more effective than prophetic remonstrance.[2]

A typical instance of the troubled character of the dynastic succession may be seen in the history of the destruction of Saul and his son, Jonathan, on the battle of the plain of Esdraelon at Mt. Gilboa. At that time David himself was in exile and a vassal to the Philistines. Partly perhaps because of his earlier marriage to Saul's daughter and a succession of what were, to say the least, fortuitous deaths of those who might have stood between him and the throne, David emerged as the only contender for the throne of the little state. It is in this light that one may view the journey of the elders of Israel to Hebron, far in the south of Judah, which resulted in the anointing of David as "King of Israel and Judah."

The succession of Solomon to the throne after the death of David is even more revealing of the processes by which kingship passed. At David's deathbed, the only witnesses were Solomon's mother, Bath Sheba, and the prophet, Nathan. Solomon assumed the throne—but not without the murder of all the other aspirants. In this fashion (which might be a sort of a prototype of the methods pursued in the Italian dynasties of Machiavelli's period) began the reign of Solomon, which, in spite of its inauspicious omens, turned out to be long and peaceful. Solomon firmly planted on the Hebrews a commercial importance in the world of his day. He launched Israel on a brief career toward empire—on a small scale.

If to the mines of Laurium have been attributed a great part of the development of Athenian civilization, and to the mines of Mt. Sinai some of the wealth that went into the making of Egypt, Solomon's mines in Edom, particularly the copper mines, added greatly to the strength of his reign. We are told that he was one of the great horse traders of the day, dealing extensively in horses brought to Egypt and sold from northern countries. His small vessels went to Ophir and returned with gold, monkeys, spices, and even peacocks. Solomon was a great builder. Though he was not himself given to military ventures, he strengthened the defenses of his realm; at Megiddo, for instance, he had developed a strategic post that could stable about 500 horses. He is remembered chiefly, however, for the building of the temple to Jahveh, which becomes known in later history as the Temple of Solomon. Modern critics, again, are

[2] The very earliest religious transformation of the sacrificial king, treated by Sir James Frazer in *The Golden Bough*, has been developed with poetic freedom by Robert Graves in *The White Goddess*. But this is so primitive a type of kingship that it antedates what can properly be called *political* organization.

inclined to think that in the time of Solomon, Jahveh was still merely the head of the Hebrew pantheon, and not the single god of later Hebrew traditions.[3]

The unity of Israel, however, was far from being established even by the good works of Solomon. His sixteen-year-old son, Reheboam, proved unacceptable to the northern tribes of Israel. Their spokesman put their case by saying, "Your father made the yoke grievous upon us, and made grievous the securing of the food for his table; now therefore lighten it upon us, and we will serve you." [4] This attempt by the king's subjects to impose an early form of contract upon him infuriated the youth. His boast has gone down in subsequent history, "My little finger is thicker than my father's loins.... My father chastised you with whips, but I will chastise you with scorpions." [5] But it was a vain boast. The northern tribes withdrew, as the plebes in Rome later threatened to secede by withdrawing to the Aventine: "No portion have we in David, and we have none inheritance in the son of Jesse! Every man to your tents, O Israel!" [6]

In 935 B.C. Jereboam became king of Israel, though he had been an exile in Egypt. This initiated the perpetual warfare between Judah and Israel, brought to an end temporarily by the accession of a new line of kings in 885 B.C. through Omri, who established his capital at Samaria. It was Omri's son, Ahab, who brought in as his wife the notorious Jezebel, daughter of the Baal-worshiping king of the Zidonians, who sowed such confusion in Israel. The curse put upon Jezebel by the prophet Elijah was fulfilled by Jehu, the senior general of the army, who had really been put on the throne of Israel by the wishes of Elisha and the priests faithful to Jahveh. Jehu slew the son of Ahab, Jehoram, and threw his body into Naboth's vineyard, which Jezebel had imperiously pre-empted for her own use earlier. It was Jehu, too, who had Jezebel thrown from her window and ordered that her trampled body be left to feed the dogs, thereby fulfilling Elijah's prophecy.

These bloody dynastic struggles and the falling away of the people of Israel from the worship of Jahveh led Isaiah to prophesy their overthrow by the Assyrians, who would serve as the "rod" of Jahveh's anger. However, he also predicted the overthrow of Assyria and the subsequent survival of the Hebrews as a nation. Both prophecies were realized. Nebuchadnezzar, in 586 B.C., completely subdued the stiff-necked Hebrews,

[3] See, for a condensed summary, Robert M. Engberg's *The Dawn of Civilization*, p. 208, *et seq.*, and the selection on "Early Empires of Africa and Asia," by Robert H. Pfeiffer, in W. L. Langer's *Encyclopedia of World History*.

[4] II Chron. 10:10; cf. I Kings 12:4.

[5] II Chron. 10:11; cf. I Kings 12:10-14.

[6] II Chron. 10:16. Covenants were a great part of the Jewish tradition and the basis for protecting rights. There were several covenants of the Chosen People, even with God!

and took away the people as captives. It was probably during this exile that the Hebrew people developed the more spiritual concepts of Judaism that formed the real and lasting legacy of the Old Testament.

The Assyrians, who now came to rule all Asia Minor, were descended from a Semitic people whose god had been Ashur. In the twenty-fourth century B.C., they were governed by Sargon of Akkad, whose birth and exposure in the bulrushes and subsequent rescue by a high-born lady strongly suggest the legend of Moses. Later, Hammurabi, in the eighteenth century B.C., led the Assyrians when they were brought under the control of the Babylonian civilization. It was not until about 1100 B.C. that the first Tiglath Pileser led the Assyrians to invade the Mediterranean area, sweeping aside the Aramean peoples, whose city of Damascus had theretofore been a bulwark against such incursions. The Aramaic merchants had spread through the Middle East and as far as Persia, India, and China. It was their language that was adopted by the Hebrews at the time of Jesus. An alliance between these Arameans and the Hebrews had permitted them to defeat the Assyrians at the battle of Karkara in 854 B.C.

Tiglath Pileser III, however, in 746-728 B.C., restored the advances of Assyria by conquering Babylon and reducing the Medes as well. A new Sargon came to the throne (722-705 B.C.), and founded a capital at Khorsabad (Sargonburg). Although it was ephemeral, since the capital was moved to Nineveh by his son, it was one of the more imposing capitals of antiquity and covered an area a mile square. Sennacherib defeated the Egyptians, and, under the rule of his son, the Assyrians conquered Egypt from Memphis northward and incorporated it into the Assyrian system.

Concurrent with the destruction of Israel as a separate kingdom begins the great period of the struggles between empires, which was like the subsequent struggles between the empires that overran Attic Greece. The Chaldeans, after a successful revolt against the Assyrians, pushed on to defeat the Egyptians in northern Egypt. The leader of the Babylonians, Nebuchadnezzar, has already been mentioned as having captured Jerusalem and having destroyed the temple. Under this dynasty the great progress was made that launched the modern study of astronomy. Plato shows how much the Greeks came under this influence, which they pushed on from practical ends to pure science.

But the Chaldeans, in turn, were overthrown by the Persians under Cyrus the Great in 539 B.C. With the great Persian empire we complete the link between the ancient world and the history of Greece, to which we turn for a fuller treatment in the next chapter.

The description that Xenophon, in the *Anabasis* and the *Cyropaideia*, has left us of the kingdom of the Persians and the respectful treatment that historians have always given their kingdom are not undeserved.

Cyrus played an important part in releasing the Hebrews from exile and sending them back to their old kingdom. Thus he freed a people who had been chastened by exile and who had developed the mature religious system that has come down to us through the Old Testament. His son, Cambyses, carried the power of Persia from Asia into Egypt, which he annexed. Ironically, the refusal of the Phoenicians to use their ships, and the swallowing up of his land force by a sand storm, as it made its painful way across the desert land of Egypt, saved the city of Carthage from falling in the wake of Egypt.

Though Greeks exaggerated, it is still strange that the forces which the Persian emperors could put into the field did not conquer Greece, as the Assyrians had conquered Palestine. In the battle of Marathon, 490 B.C., the strategy of Miltiades, the Athenian commander, routed the Persians and saved Greece. It was saved once more by the great victory of Salamis in 479 B.C. and by the succeeding battle of Plataea, in which for once the Greek states succeeded in forming a real, though passing, military alliance. The civilization of Greece went from primitive kingship of the type shown in the *Iliad* and the *Odyssey* into the city state. But it remained for a Greek whom many Greeks would have called a barbarian, namely Alexander the Great, to spread Greece into a really large-scale empire.

Thereafter, the supremacy of the Athenian fleet and the weakened state of the Persian kingdom sufficed to keep Persia out of Greece until Alexander brought Greek arms to conquer Persia, as if in revenge, in 333 B.C.

From this period forward the clash of the great empires spreads first Hellenism and then Roman influence through the Mediterranean world. So we again take up the history of political thought and institutions with Greece and Rome.

In summary, it may be said that the earliest civilizations show the period in which the king is first of all a tribal judge and law-speaker, guiding the destinies of his small gentilic group more in the guise of priest than of a general. The second stage is that of the war-leader, who becomes a king. The succession to his throne can never be secure in terms of heredity alone, for each war-leader must prove his mettle by the protection of his people or by conquest. Peoples are still on the move, or struggling with those who are. Organization is still mainly tribal, and gentilic bonds of kinship are more basic than those of the territory or city. The third stage is the clash of large-scale organizations in which elaborate administrative as well as military institutions are developed that lead city states on to become empires. Against these the small city state with a surrounding territory is ultimately helpless. Bureaucracy and

empire triumph by sheer numbers and power. The fate of the single city state is produced by the ruthless logic of military survival. The fourth stage is the clash of these great empires. Some of them survived for several hundred years—Rome, for example, lasted through a period similar to the lifetime of some of the Egyptian dynasties.

This brief note on the dawn of political consciousness in the civilization that shaped the heritage of the West would not be complete without at least a mention of the emergence of the empires of Central Asia, originating with the Scythian-Parthian civilization which had stopped the expansion of Rome. These warlike horsemen, who were the precursors of the Mongol invaders—the Tatars under Genghis Khan—swept all before them. So Rome's final overthrow came at the hands of the Ostrogoths, who were, in turn, pushed out of their territory by fugitives from the Parthian hordes on the move westward.

The Zoroastrian religion of the Parthians, which revived the old Persian gods and their worship of fire, appears to have had less influence on the crusading success of the Parthians than did their high mobility, which depended upon the complete mastery of the horse and the camel. It was perhaps fortunate for Europe that these Iranian conquerors did not have the driving religious zeal for proselyting that was later displayed by the Mohammedans. Like the Mongolians or Huns of a later period, they swept over parts of Europe like a scourge. But the waves receded and left Europe to work out its own destiny.[7]

Religion, evolving from primitive animism and the tribal totems and taboos into solar religions such as characterized the Indo-European peoples, appears to have had common characteristics among peoples as diverse as the Egyptians, the Persians, and the Hindoos. But as a state religion, it differed from country to country, or civilization to civilization, according to the genius of the races and their physical settings. Hermann Schneider, in his suggestive and authoritative tracing of historic cultures,[8] sees in the Persian successor religions of Zoroaster the highest logical development of the idea of a universal deity of wisdom and spirit (Mazda-Ahura or "Insight Leader," "Wise Spirit"). But he finds the roots in the Median religion, influenced by Babylonian astronomy. Both the Jewish religion and Greek Platonism, and subsequently Christianity through both, were profoundly influenced by this Persian religion. Stoicism spreads its influence to Rome and Roman law a century or more before the birth of Christ.

(... *W.Y.E.*)

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[7] For the best extensive treatment, see William Montgomery McGovern, *The Early Empires of Central Asia.*

[8] *History of World Civilization,* 2 vols., London, 1931. Translated from the German original of 1927 by Margaret M. Green.

READINGS

THE selections in this chapter are designed to give some idea of political activity and consciousness in antiquity. They are not designed to give an historical account of how man became conscious of government. The particular selections were chosen because they are important to the Western world and indicate a kind of continuity of development from the two most important sources of our political ideas; namely, the Hebraic-Christian tradition and the ideas and institutions of ancient Greece.

How accurate, historically, is the Biblical account of the tribes of Israel, it is not possible to say. But the steps of political development as recorded in the Bible are not unlike similar steps known to have existed among other peoples. In most societies there comes a time when the people demand a written statement of the law, and the law is more revered if it is ascribed to the deity and promulgated by the highest official. Frequently the highest official is a combination of priest and ruler, as was Moses; but the particular code of laws handed down by God (Jehovah) through Moses has a profound significance for us beyond its being simply another example of a rather well-known political process. The actual laws set down by Moses form much of the ethical foundation upon which all Western governments since the decline of Rome have been built. Most of the "thou-shalt-not's" of the Ten Commandments are also "thou-shalt-not's" of modern governments.

If the Mosaic laws and their proclamation are marks of a political consciousness that comes only after a long historical development on the part of any people, they are no more so than is the demand of the Israelites for a king to fight their battles. Part of the prestige of any ruler comes from the reverence of the people for the source from which he secures his office. In the modern world, rulers who can demonstrate that they hold their office from the people have the highest prestige. The people are regarded as the dispensers of the offices. In Biblical times, and long after, the most revered source of political authority was God. The priestly caste were the arbiters and often the real rulers of early societies. Thus it is that Saul is selected by God's making his will known through Samuel. And when Saul fails, it is God who selects David. In the evolution of any political society out of primitive practices, the change from rule by medicine men, priests, and judges to rule by a king represents an advancement.

To the student of government and political ideas, however, there is still more of interest in the simple tale related in the Bible. The things that God says a king will do to oppress the people need little modernizing to

sound like the things many people say of modern rulers and bureaucrats. The tenacity with which we hold to some ideas can be understood only if we realize how long they have been a part of our intellectual heritage.

The other great source of our political inheritance is Greece. Little is known about the earliest times in Greece, and in the periods about which we have more complete historical information, the Greeks of Athens and Sparta were already an advanced people. There is little of what could be called very precise information concerning the rôle of Solon in Athens and even less concerning Lycurgus in Sparta. But it does seem clear from later references to them that both were great lawgivers to their respective cities. They were, in fact or belief, the great originators of governmental systems whose practices and values outlasted their own lives. Their names and their times were appealed to long after they had passed from the immediate scene. They were among the earliest "Founding Fathers."

One of the important influences on the great Greek philosophers, Plato and Aristotle, was their knowledge of differences between Athens and Sparta. Thus it is interesting to note in the following accounts the difference in the substance of the fundamental laws that Solon gave to Athens and those that Lycurgus gave to Sparta.

For well over a thousand years much of the information concerning ancient Greeks and Romans has been obtained from Plutarch's *Parallel Lives.* In this great work of research and imagination Plutarch gives a sketch of the life of a great Greek and then follows it by the life of a comparable Roman. The author was Greek-born and Greek-educated, but he lived and probably taught at Rome. He won the favor of both Trajan and Hadrian, and the latter made him procurator of Greece. He became a priest of the Pythian Apollo.

Besides giving reasonable information about early political consciousness in Greece, Plutarch's great work has exercised an indirect influence by providing the basis for such dramatic works as Shakespeare's *Coriolanus, Julius Caesar,* and *Antony and Cleopatra.*

Moses died around 1200 B.C.; Saul was crowned about 1025. Lycurgus lived in the ninth century, and Solon from 638 to 559. Plutarch lived in the early years of imperial Rome, probably from A.D. 46 to 120.

Moses: Lawgiver of Israel

The political development of Israel, as it is recorded in the Bible, is not unlike the political development of other primitive peoples. ¶ The priest, Moses, transmits the law from God to the people The law is recorded on tablets of stone, faintly suggesting the idea of codification The Levites are designated custodians and expounders of the law—a priestly class The age-old problem of obedience is suggested by the many exhortations to obedience and the numerous threats to those who violate the law. The idea of settling a nation on a definite land area is suggested, as is the concept of racial exclusiveness ¶ In addition to the process of political development recorded here, the content of the law itself is of special interest to all people whose thinking has been influenced by the Hebraic Christian tradition ¶ The following selections are taken from Chapters 5 through 30 of the Book of Deuteronomy, in the King James Version

AND MOSES CALLED ALL ISRAEL, AND SAID unto them, Hear, O Israel, the statutes and judgments which I speak in your ears this day, that ye may learn them, and keep, and do them

[THE LAW]

2 The Lord our God made a covenant with us in Horeb

3 The Lord made not this covenant with our fathers but with us, even us, who are all of us here alive this day

4 The Lord talked with you face to face in the mount out of the midst of the fire,

5 (I stood between the Lord and you at that time, to shew you the word of the Lord for ye were afraid by reason of the fire, and went not up into the mount,) saying,

6 ¶ I am the Lord thy God, which brought thee out of the land of Egypt, from the house of bondage

7 Thou shalt have none other gods before me

8 Thou shalt not make thee any graven image, or any likeness of any thing that is in heaven above, or that is in the earth beneath, or that is in the waters beneath the earth.

9 Thou shalt not bow down thyself unto them, nor serve them for I the Lord thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me,

10 And shewing mercy unto thousands of them that love me and keep my commandments

11 Thou shalt not take the name of the Lord thy God in vain for the Lord will not hold him guiltless that taketh his name in vain

12 Keep the sabbath day to sanctify it, as the Lord thy God hath commanded thee

13 Six days thou shalt labour, and do all thy work

14 But the seventh day is the sabbath of the Lord thy God in it thou shalt not do any work, thou, nor thy son, nor thy daughter, nor thy manservant, nor thy maidservant, nor thine ox, nor thine ass, nor any of thy cattle, nor thy stranger that is within thy gates, that thy manservant and thy maidservant may rest as well as thou

15 And remember that thou wast a servant in the land of Egypt, and that the Lord thy God brought thee out thence through a mighty hand and by a stretched

out arm therefore the Lord thy God commanded thee to keep the sabbath day

16 ¶ Honour thy father and thy mother, as the Lord thy God hath commanded thee, that thy days may be prolonged, and that it may go well with thee, in the land which the Lord thy God giveth thee

17 Thou shalt not kill

18 Neither shalt thou commit adultery

19 Neither shalt thou steal

20 Neither shalt thou bear false witness against thy neighbour

21 Neither shalt thou desire thy neighbour's wife, neither shalt thou covet thy neighbour's house his field or his manservant, or his maidservant, his ox, or his ass, or any thing that is thy neighbour's

22 ¶ These words the Lord spake unto all your assembly in the mount out of the midst of the fire, of the cloud, and of the thick darkness, with a great voice and he added no more And he wrote them in two tables of stone, and delivered them unto me

23 And it came to pass, when ye heard the voice out of the midst of the darkness, (for the mountain did burn with fire) that ye came near unto me, even all the heads of your tribes, and your elders,

24 And ye said, Behold, the Lord our God hath shewed us his glory and his greatness, and we have heard his voice out of the midst of the fire we have seen this day that God doth talk with man, and he liveth

25 Now therefore why should we die? for this great fire will consume us if we hear the voice of the Lord our God any more, then we shall die

26 For who is there of all flesh, that hath heard the voice of the living God speaking out of the midst of the fire, as we have, and lived?

27 Go thou near, and hear all that the Lord our God shall say and speak thou unto us all that the Lord our God shall speak unto thee, and we will hear it, and do it

28 And the Lord heard the voice of your words, when ye spake unto me; and the Lord said unto me, I have heard the voice of the words of this people, which they have spoken unto thee they have well said all that they have spoken

29 O that there were such an heart in them, that they would fear me, and keep all my commandments always, that it might be well with them, and with their children for ever!

30 Go say to them, Get you into your tents again

31 But as for thee, stand thou here by me, and I will speak unto thee all the commandments, and the statutes, and the judgments, which thou shalt teach them, that they may do them in the land which I give them to possess it

32 Ye shall observe to do therefore as the Lord your God hath commanded you ye shall not turn aside to the right hand or to the left

33 Ye shall walk in all the ways which the Lord your God hath commanded you, that ye may live, and that it may be well with you and that ye may prolong your days in the land which ye shall possess

CHAPTER 6

Now these are the commandments, the statutes, and the judgments, which the Lord your God commanded to teach you, that ye might do them in the land whither ye go to possess it

2 That thou mightest fear the Lord thy God to keep all his statutes and his commandments, which I command thee, thou, and thy son, and thy son's son, all the days of thy life, and that thy days may be prolonged

3 ¶ Hear therefore, O Israel, and observe to do it, that it may be well with thee and that ye may increase mightily, as the Lord God of thy fathers hath promised thee, in the land that floweth with milk and honey

4 Hear, O Israel. The Lord our God is one Lord

5 And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might

6 And these words, which I command thee this day, shall be in thine heart:

7 And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up.

8 And thou shalt bind them for a sign upon thine hand, and they shall be as frontlets between thine eyes.

9 And thou shalt write them upon the posts of thy house, and on thy gates.

10 And it shall be, when the Lord thy God shall have brought thee into the land which he sware unto thy fathers, to Abraham, to Isaac, and to Jacob, to give thee great and goodly cities, which thou buildedst not,

11 And houses full of all good things, which thou filledst not, and wells digged, which thou diggedst not, vineyards and olive trees, which thou plantedst not; when thou shalt have eaten and be full;

12 Then beware lest thou forget the Lord, which brought thee forth out of the land of Egypt, from the house of bondage.

13 Thou shalt fear the Lord thy God, and serve him, and shalt swear by his name.

14 Ye shall not go after other gods, of the gods of the people which are round about you;

15 (For the Lord thy God is a jealous God among you) lest the anger of the Lord thy God be kindled against thee, and destroy thee from off the face of the earth.

16 ¶ Ye shall not tempt the Lord your God, as ye tempted him in Massah.

17 Ye shall diligently keep the commandments of the Lord your God, and his testimonies, and his statutes, which he hath commanded thee.

18 And thou shalt do that which is right and good in the sight of the Lord: that it may be well with thee, and that thou mayest go in and possess the good land which the Lord sware unto thy fathers,

19 To cast out all thine enemies from before thee, as the Lord hath spoken.

20 And when thy son asketh thee in time to come, saying, What mean the testimonies, and the statutes, and the judgments, which the Lord our God hath commanded you?

21 Then thou shalt say unto thy son, We were Pharaoh's bondmen in Egypt; and the Lord brought us out of Egypt with a mighty hand:

22 And the Lord shewed signs and wonders, great and sore, upon Egypt, upon Pharaoh, and upon all his household, before our eyes:

23 And he brought us out from thence, that he might bring us in, to give us the land which he sware unto our fathers.

24 And the Lord commanded us to do all these statutes, to fear the Lord our God, for our good always, that he might preserve us alive, as it is at this day.

25 And it shall be our righteousness, if we observe to do all these commandments before the Lord our God, as he hath commanded us.

. . . . .

CHAPTER 10

At that time the Lord said unto me, Hew thee two tables of stone like unto the first, and come up unto me into the mount, and make thee an ark of wood.

2 And I will write on the tables the words that were in the first tables which thou brakest, and thou shalt put them in the ark.

3 And I made an ark of shittim wood, and hewed two tables of stone like unto the first, and went up into the mount, having the two tables in mine hand.

4 And he wrote on the tables, according to the first writing, the ten commandments, which the Lord spake unto you in the mount out of the midst of the fire in the day of the assembly: and the Lord gave them unto me.

5 And I turned myself and came down from the mount, and put the tables in the ark which I had made; and there may be, as the Lord commanded me.

6 ¶ And the children of Israel took their journey from Beeroth of the children of

Jaakan to Mosera: there Aaron died, and there he was buried: and Eleazar his son ministered in the priest's office in his stead.

7 From thence they journeyed unto Gudgodah; and from Gudgodah to Jotbath, a land of rivers of waters.

[The Priestly Class]

8 ¶ At that time the Lord separated the tribe of Levi, to bear the ark of the covenant of the Lord, to stand before the Lord to minister unto him, and to bless in his name, unto this day.

9 Wherefore Levi hath no part nor inheritance with his brethren; the Lord is his inheritance, according as the Lord thy God promised him.

10 And I stayed in the mount, according to the first time, forty days and forty nights; and the Lord hearkened unto me at that time also, and the Lord would not destroy thee.

. . . . .

CHAPTER 15

[Privilege and Responsibility]

At the end of every seven years thou shalt make a release.

2 And this is the manner of the release: Every creditor that lendeth ought unto his neighbour shall release it; he shall not exact it of his neighbour, or of his brother; because it is called the Lord's release.

3 Of a foreigner thou mayest exact it again: but that which is thine with thy brother thine hand shall release;

4 Save when there shall be no poor among you; for the Lord shall greatly bless thee in the land which the Lord thy God giveth thee for an inheritance to possess it:

5 Only if thou carefully hearken unto the voice of the Lord thy God, to observe to do all these commandments which I command thee this day.

6 For the Lord thy God blesseth thee, as he promised thee: and thou shalt lend unto many nations, but thou shalt not borrow; and thou shalt reign over many nations, but they shall not reign over thee.

7 ¶ If there be among you a poor man of one of thy brethren within any of thy gates in thy land which the Lord thy God giveth thee, thou shalt not harden thine heart, nor shut thine hand from thy poor brother:

8 But thou shalt open thine hand wide unto him, and shalt surely lend him sufficient for his need, in that which he wanteth.

9 Beware that there be not a thought in thy wicked heart, saying, The seventh year, the year of release, is at hand; and thine eye be evil against thy poor brother, and thou givest him nought; and he cry unto the Lord against thee, and it be sin unto thee.

10 Thou shalt surely give him, and thine heart shall not be grieved when thou givest unto him: because that for this thing the Lord thy God shall bless thee in all thy works, and in all that thou puttest thine hand unto.

11 For the poor shall never cease out of the land: therefore I command thee, saying, Thou shalt open thine hand wide unto thy brother, to thy poor, and to thy needy, in thy land.

12 ¶ And if thy brother, an Hebrew man, or an Hebrew woman, be sold unto thee, and serve thee six years; then in the seventh year thou shalt let him go free from thee.

13 And when thou sendest him out free from thee, thou shalt not let him go away empty:

14 Thou shalt furnish him liberally out of thy flock, and out of thy floor, and out of thy winepress: of that wherewith the Lord thy God hath blessed thee thou shalt give unto him.

15 And thou shalt remember that thou wast a bondman in the land of Egypt, and the Lord thy God redeemed thee: therefore I command thee this thing to day.

16 And it shall be, if he say unto thee, I will not go away from thee; because he loveth thee and thine house, because he is well with thee;

17 Then thou shalt take an aul, and thrust it through his ear unto the door, and he shall be thy servant for ever. And also unto thy maidservant thou shalt do likewise.

18 It shall not seem hard unto thee, when thou sendest him away free from thee; for he hath been worth a double hired servant to thee, in serving thee six years: and the Lord thy God shall bless thee in all that thou doest.

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CHAPTER 16

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[JUST JUDGES]

18 ¶ Judges and officers shalt thou make thee in all thy gates, which the Lord thy God giveth thee, throughout thy tribes: and they shall judge the people with just judgment.

19 Thou shalt not wrest judgment; thou shalt not respect persons, neither take a gift: for a gift doth blind the eyes of the wise, and pervert the words of the righteous.

20 That which is altogether just shalt thou follow, that thou mayest live, and inherit the land which the Lord thy God giveth thee.

21 ¶ Thou shalt not plant thee a grove of any trees near unto the altar of the Lord thy God, which thou shalt make thee.

22 Neither shalt thou set thee up any image; which the Lord thy God hateth.

CHAPTER 17

Thou shalt not sacrifice unto the Lord thy God any bullock, or sheep, wherein is blemish, or any evilfavouredness: for that is an abomination unto the Lord thy God.

2 ¶ If there be found among you, within any of thy gates which the Lord thy God giveth thee, man or woman, that hath wrought wickedness in the sight of the Lord thy God, in transgressing his covenant,

3 And hath gone and served other gods, and worshipped them, either the sun, or moon, or any of the host of heaven, which I have not commanded;

4 And it be told thee, and thou hast heard of it, and enquired diligently, and, behold, it be true, and the thing certain, that such abomination is wrought in Israel:

5 Then shalt thou bring forth that man or that woman, which have committed that wicked thing, unto thy gates, even that man or that woman, and shalt stone them with stones, till they die.

[DUE PROCESS OF LAW]

6 At the mouth of two witnesses, or three witnesses, shall he that is worthy of death be put to death; but at the mouth of one witness he shall not be put to death.

7 The hands of the witnesses shall be first upon him to put him to death, and afterward the hands of all the people. So thou shalt put the evil away from among you.

8 ¶ If there arise a matter too hard for thee in judgment, between blood and blood, between plea and plea, and between stroke and stroke, being matters of controversy within thy gates: then shalt thou arise, and get thee up into the place which the Lord thy God shall choose;

9 And thou shalt come unto the priests the Levites, and unto the judge that shall be in those days, and enquire; and they shall shew thee the sentence of judgment:

10 And thou shalt do according to the sentence, which they of that place which the Lord shall choose shall shew thee; and thou shalt observe to do according to all that they inform thee:

11 According to the sentence of the law which they shall teach thee, and according to the judgment which they shall tell thee, thou shalt do: thou shalt not decline from the sentence which they shall shew thee, to the right hand, nor to the left.

12 And the man that will do presumptuously, and will not hearken unto the priest that standeth to minister there

before the Lord thy God, or unto the judge, even that man shall die and thou shalt put away the evil from Israel

13 And all the people shall hear, and fear, and do no more presumptuously.

[Future Kings]

14 ¶ When thou art come unto the land which the Lord thy God giveth thee, and shalt possess it, and shalt dwell therein, and shalt say, I will set a king over me, like as all the nations that are about me,

15 Thou shalt in any wise set him king over thee, whom the Lord thy God shall choose one from among thy brethren shalt thou set king over thee thou mayest not set a stranger over thee, which is not thy brother

16 But he shall not multiply horses to himself, nor cause the people to return to Egypt, to the end that he should multiply horses forasmuch as the Lord hath said unto you, Ye shall henceforth return no more that way

17 Neither shall he multiply wives to himself, that his heart turn not away neither shall he greatly multiply to him self silver and gold

18 And it shall be, when he sitteth upon the throne of his kingdom, that he shall write him a copy of this law in a book out of that which is before the priests the Levites

19 And it shall be with him, and he shall read therein all the days of his life that he may learn to fear the Lord his God, to keep all the words of this law and these statutes, to do them

20 That his heart be not lifted up above his brethren, and that he turn not aside from the commandment, to the right hand, or to the left to the end that he may prolong his days in his kingdom, he, and his children, in the midst of Israel.

CHAPTER 18

[Support of Priests]

The priests the Levites, and all the tribe of Levi, shall have no part nor inheritance with Israel: they shall eat the offerings of the Lord made by fire, and his inheritance

2 Therefore shall they have no inheritance among their brethren: the Lord is their inheritance, as he hath said unto them

3 ¶ And this shall be the priest's due from the people, from them that offer a sacrifice, whether it be ox or sheep; and they shall give unto the priest the shoulder, and the two cheeks, and the maw.

4 The firstfruit also of thy corn, of thy wine, and of thine oil, and the first of the fleece of thy sheep, shalt thou give him

5 For the Lord thy God hath chosen him out of all thy tribes, to stand to minister in the name of the Lord, him and his sons for ever.

6 ¶ And if a Levite come from any of thy gates out of all Israel, where he sojourned, and come with all the desire of his mind unto the place which the Lord shall choose,

7 Then he shall minister in the name of the Lord his God, as all his brethren the Levites do, which stand there before the Lord

8 They shall have like portions to eat, beside that which cometh of the sale of his patrimony

[Forbidden Rites]

9 ¶ When thou art come into the land which the Lord thy God giveth thee, thou shalt not learn to do after the abominations of those nations.

10 There shall not be found among you any one that maketh his son or his daughter to pass through the fire, or that useth divination, or an observer of times, or an enchanter, or a witch.

11 Or a charmer, or a consulter with familiar spirits, or a wizard, or a necromancer.

12 For all that do these things are an abomination unto the Lord: and because of these abominations the Lord thy God doth drive them out from before thee.

13 Thou shalt be perfect with the Lord thy God.

14 For these nations, which thou shalt possess, hearkened unto observers of times, and unto diviners: but as for thee, the Lord thy God hath not suffered thee so to do.

[A Prophet]

15 ¶ The Lord thy God will raise up unto thee a Prophet from the midst of thee, of thy brethren, like unto me; unto him ye shall hearken;

16 According to all that thou desiredst of the Lord thy God in Horeb in the day of the assembly, saying, Let me not hear again the voice of the Lord my God, neither let me see this great fire any more, that I die not.

17 And the Lord said unto me, They have well spoken that which they have spoken.

18 I will raise them up a Prophet from among their brethren, like unto thee, and will put my words in his mouth; and he shall speak unto them all that I shall command him.

19 And it shall come to pass, that whosoever will not hearken unto my words which he shall speak in my name, I will require it of him.

20 But the prophet, which shall presume to speak a word in my name, which I have not commanded him to speak, or that shall speak in the name of other gods, even that prophet shall die.

21 And if thou say in thine heart, How shall we know the word which the Lord hath not spoken?

22 When a prophet speaketh in the name of the Lord, if the thing follow not, nor come to pass, that is the thing which the Lord hath not spoken, but the prophet hath spoken it presumptuously: thou shalt not be afraid of him.

CHAPTER 19

[Cities of Refuge]

When the Lord thy God hath cut off the nations, whose land the Lord thy God giveth thee, and thou succeedest them, and dwellest in their cities, and in their houses;

2 Thou shalt separate three cities for thee in the midst of thy land, which the Lord thy God giveth thee to possess it.

3 Thou shalt prepare thee a way, and divide the coasts of thy land, which the Lord thy God giveth thee to inherit, into three parts, that every slayer may flee thither.

4 ¶ And this is the case of the slayer, which shall flee thither, that he may live: Whoso killeth his neighbour ignorantly, whom he hated not in time past;

5 As when a man goeth into the wood with his neighbour to hew wood, and his hand fetcheth a stroke with the axe to cut down the tree, and the head slippeth from the helve, and lighteth upon his neighbour, that he die; he shall flee unto one of those cities, and live:

6 Lest the avenger of the blood pursue the slayer, while his heart is hot, and overtake him, because the way is long, and slay him; whereas he was not worthy of death, inasmuch as he hated him not in time past.

7 Wherefore I command thee, saying, Thou shalt separate three cities for thee.

8 And if the Lord thy God enlarge thy coast, as he hath sworn unto thy fathers, and give thee all the land which he promised to give unto thy fathers;

9 If thou shalt keep all these commandments to do them, which I command thee this day, to love the Lord thy God, and to walk ever in his ways; then shalt thou add three cities more for thee, beside these three:

10 That innocent blood be not shed in thy land, which the Lord thy God giveth thee for an inheritance, and so blood be upon thee.

11 ¶ But if any man hate his neighbour, and lie in wait for him, and rise up against him, and smite him mortally that he die, and fleeth into one of these cities:

12 Then the elders of his city shall send and fetch him thence, and deliver him into the hand of the avenger of blood, that he may die.

13 Thine eye shall not pity him, but thou shalt put away the guilt of innocent blood from Israel, that it may go well with thee.

14 ¶ Thou shalt not remove thy neighbour's landmark, which they of old time have set in thine inheritance, which thou shalt inherit in the land that the Lord thy God giveth thee to possess it.

15 ¶ One witness shall not rise up against a man for any iniquity, or for any sin, in any sin that he sinneth: at the mouth of two witnesses, or at the mouth of three witnesses, shall the matter be established.

[Punishment for Perjury]

16 ¶ If a false witness rise up against any man to testify against him that which is wrong;

17 Then both the men, between whom the controversy is, shall stand before the Lord, before the priests and the judges, which shall be in those days;

18 And the judges shall make diligent inquisition: and, behold, if the witness be a false witness, and hath testified falsely against his brother;

19 Then shall ye do unto him, as he had thought to have done unto his brother: so shalt thou put the evil away from among you.

20 And those which remain shall hear, and fear, and shall henceforth commit no more any such evil among you.

21 And thine eye shall not pity; but life shall go for life, eye for eye, tooth for tooth, hand for hand, foot for foot.

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CHAPTER 30

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[A Living Law]

11 ¶ For this commandment which I command thee this day, it is not hidden from thee, neither is it far off.

12 It is not in heaven, that thou shouldest say, Who shall go up for us to heaven, and bring it unto us, that we may hear it, and do it?

13 Neither is it beyond the sea, that thou shouldest say, Who shall go over the sea for us, and bring it unto us, that we may hear it, and do it?

14 But the word is very nigh unto thee, in thy mouth, and in thy heart, that thou mayest do it.

15 ¶ See, I have set before thee this day life and good, and death and evil;

16 In that I command thee this day to love the Lord thy God, to walk in his ways, and to keep his commandments and his statutes and his judgments, that thou mayest live and multiply: and the Lord thy God shall bless thee in the land whither thou goest to possess it.

17 But if thine heart turn away, so that thou wilt not hear, but shalt be drawn away, and worship other gods, and serve them;

18 I denounce unto you this day, that ye shall surely perish, and that ye shall not prolong your days upon the land, whither thou passest over Jordan to go to possess it.

19 I call heaven and earth to record this day against you, that I have set before you life and death, blessing and cursing: therefore choose life, that both thou and thy seed may live:

20 That thou mayest love the Lord thy God, and that thou mayest obey his voice, and that thou mayest cleave unto him: for he is thy life, and the length of thy days: that thou mayest dwell in the land which the Lord sware unto thy fathers, to Abraham, to Isaac, and to Jacob, to give them.

Israel Demands a King

Having the law is not enough for the Israelites. They demand a king, after a period of being ruled by priest-judges, "that we may be like all the nations; and that our king may judge us, and go out before us, and fight our battles." ¶ The Lord, speaking through Samuel, warns the people of the injuries a king will inflict upon them, but since they are insistent Saul is chosen the first warrior-king, as is set forth in I Samuel, which is reprinted in part. David replaces Saul, and in II Samuel, Chapter 22, his conception of the relation of king to deity is poetically shown in his famous psalm of thanksgiving. ¶ The readings begin with I Samuel, Chapter 8.

AND IT CAME TO PASS, WHEN SAMUEL WAS old, that he made his sons judges over Israel.

. . . . .

3 And his sons walked not in his ways, but turned aside after lucre, and took bribes, and perverted judgment.

4 Then all the elders of Israel gathered themselves together, and came to Samuel unto Ramah,

["Give Us a King"]

5 And said unto him, Behold, thou art old, and thy sons walk not in thy ways: now make us a king to judge us like all the nations.

6 ¶ But the thing displeased Samuel, when they said, Give us a king to judge us. And Samuel prayed unto the Lord.

7 And the Lord said unto Samuel, Hearken unto the voice of the people in all that they say unto thee: for they have not rejected thee, but they have rejected me, that I should not reign over them.

8 According to all the works which they have done since the day that I brought them up out of Egypt even unto this day, wherewith they have forsaken me, and served other gods, so do they also unto thee.

9 Now therefore hearken unto their voice: howbeit yet protest solemnly unto them, and shew them the manner of the king that shall reign over them.

["Ye Shall Be His Servants"]

10 ¶ And Samuel told all the words of the Lord unto the people that asked of him a king.

11 And he said, This will be the manner of the king that shall reign over you: He will take your sons, and appoint them for himself, for his chariots, and to be his horsemen; and some shall run before his chariots.

12 And he will appoint him captains over thousands, and captains over fifties; and will set them to ear his ground, and to reap his harvest, and to make his instruments of war, and instruments of his chariots.

13 And he will take your daughters to be confectionaries, and to be cooks, and to be bakers.

14 And he will take your fields, and your vineyards, and your oliveyards, even the best of them, and give them to his servants.

15 And he will take the tenth of your seed, and of your vineyards, and give to his officers, and to his servants.

16 And he will take your menservants, and your maidservants, and your goodliest young men, and your asses, and put them to his work.

17 He will take the tenth of your sheep: and ye shall be his servants.

18 And ye shall cry out in that day because of your king which ye shall have chosen you; and the Lord will not hear you in that day.

19 ¶ Nevertheless the people refused to obey the voice of Samuel, and they said, Nay; but we will have a king over us,

20 That we also may be like all the nations, and that our king may judge us, and go out before us, and fight our battles.

21 And Samuel heard all the words of the people, and he rehearsed them in the ears of the Lord.

22 And the Lord said to Samuel, Hearken unto their voice, and make them a king. And Samuel said unto the men of Israel, Go ye every man unto his city.

CHAPTER 9

Now there was a man of Benjamin, whose name was Kish ..

2 And he had a son, whose name was Saul, a choice young man and a goodly: and there was not among the children of Israel a goodlier person than he: from his shoulders and upward he was higher than any of the people.

3 And the asses of Kish Saul's father were lost. And Kish said to Saul his son, Take now one of the servants with thee, and arise, go seek the asses.

5 And when they were come to the land of Zuph, Saul said to his servant that was with him, Come, and let us return, lest my father leave caring for the asses, and take thought for us.

6 And he said unto him, Behold now, there is in this city a man of God, and he is an honourable man; all that he saith cometh surely to pass: now let us go thither; peradventure he can shew us our way that we should go.

7 Then said Saul to his servant, But, behold, if we go, what shall we bring the man? for the bread is spent in our vessels, and there is not a present to bring to the man of God: what have we?

8 And the servant answered Saul again, and said, Behold, I have here at hand the fourth part of a shekel of silver: that will I give to the man of God, to tell us our way.

9 (Beforetime in Israel, when a man went to enquire of God, thus he spake, Come, and let us go to the seer: for he that is now called a Prophet was before time called a Seer.)

10 Then said Saul to his servant, Well said, come, let us go. So they went unto the city where the man of God was.

11 ¶ And as they went up the hill to the city, they found young maidens going out to draw water, and said unto them, Is the seer here?

12 And they answered them, and said, He is, behold, he is before you: make haste now, for he came to day to the city, for there is a sacrifice of the people to day in the high place.

13 As soon as ye be come into the city, ye shall straightway find him, before he go up to the high place to eat: for the people will not eat until he come, because he doth bless the sacrifice, and afterwards they eat that be bidden. Now therefore get you up, for about this time ye shall find him.

14 And they went up into the city: and when they were come into the city, behold, Samuel came out against them, for to go up to the high place.

[SAMUEL THE PROPHET]

15 ¶ Now the Lord had told Samuel in his ear a day before Saul came, saying,

16 To morrow about this time I will send thee a man out of the land of Benjamin, and thou shalt anoint him to be captain over my people Israel, that he may save my people out of the hand of the Philistines: for I have looked upon my people, because their cry is come unto me.

17 And when Samuel saw Saul, the Lord said unto him, Behold the man whom I spake to thee of! this same shall reign over my people.

18 Then Saul drew near to Samuel in the gate, and said, Tell me, I pray thee, where the seer's house is.

19 And Samuel answered Saul, and said, I am the seer: go up before me unto the high place; for ye shall eat with me

to day, and to morrow I will let thee go, and will tell thee all that is in thine heart

20 And as for thine asses that were lost three days ago, set not thy mind on them for they are found And on whom is all the desire of Israel? Is it not on thee, and on all thy father s house?

21 And Saul answered and said, Am not I a Benjamite, of the smallest of the tribes of Israel? and my family the least of all the families of the tribe of Benjamin? wherefore then speakest thou so to me?

. . .

25 ¶ And when they were come down from the high place into the city, Samuel communed with Saul upon the top of the house

26 And they arose early and it came to pass about the spring of the day, that Samuel called Saul to the top of the house, saying, Up, that I may send thee away And Saul arose, and they went out both of them, he and Samuel, abroad

27 And as they were going down to the end of the city, Samuel said to Saul, Bid the servant pass on before us (and he passed on,) but stand thou still a while, that I may shew thee the word of God

CHAPTER 10

[Saul Anointed]

Then Samuel took a vial of oil, and poured it upon his head, and kissed him, and said, Is it not because the Lord hath anointed thee to be captain over his inheritance?

2 When thou art departed from me to day, then thou shalt find two men by Rachel's sepulchre in the border of Benjamin at Zelzah, and they will say unto thee, The asses which thou wentest to seek are found and, lo, thy father hath left the care of the asses, and sorroweth for you, saying, What shall I do for my son?

3 Then shalt thou go on forward from thence, and thou shalt come to the plain of Tabor, and there shall meet thee three men going up to God to Bethel, one carrying three kids, and another carrying three loaves of bread, and another carrying a bottle of wine

4 And they will salute thee, and give thee two loaves of bread, which thou shalt receive of their hands

5 After that thou shalt come to the hill of God, where is the garrison of the Philistines and it shall come to pass, when thou art come thither to the city, that thou shalt meet a company of prophets coming down from the high place with a psaltery, and a tabret, and a pipe, and a harp, before them and they shall prophesy

6 And the Spirit of the Lord will come upon thee, and thou shalt prophesy with them, and shalt be turned into another man

7 And let it be, when these signs are come unto thee, that thou do as occasion serve thee, for God is with thee

8 And thou shalt go down before me to Gilgal and, behold, I will come down unto thee, to offer burnt offerings, and to sacrifice sacrifices of peace offerings seven days shalt thou tarry, till I come to thee, and shew thee what thou shalt do

[Transformation]

9 ¶ And it was so, that when he had turned his back to go from Samuel, God gave him another heart and all those signs came to pass that day

10 And when they came thither to the hill, behold, a company of prophets met him, and the Spirit of God came upon him, and he prophesied among them

11 And it came to pass, when all that knew him beforetime saw that, behold he prophesied among the prophets, then the people said one to another, What is this that is come unto the son of Kish? Is Saul also among the prophets?

12 And one of the same place answered and said, But who is their father? Therefore it became a proverb, Is Saul also among the prophets?

13 And when he had made an end of prophesying, he came to the high place.

. . . . .

17 ¶ And Samuel called the people together unto the Lord to Mizpeh;

18 And said unto the children of Israel, Thus saith the Lord God of Israel, I brought up Israel out of Egypt, and delivered you out of the hand of the Egyptians, and out of the hand of all kingdoms, and of them that oppressed you:

19 And ye have this day rejected your God, who himself saved you out of all your adversities and your tribulations; and ye have said unto him, Nay, but set a king over us. Now therefore present yourselves before the Lord by your tribes, and by your thousands.

20 And when Samuel had caused all the tribes of Israel to come near, the tribe of Benjamin was taken.

21 When he had caused the tribe of Benjamin to come near by their families, the family of Matri was taken, and Saul the son of Kish was taken: and when they sought him, he could not be found.

22 Therefore they enquired of the Lord further, if the man should yet come thither. And the Lord answered, Behold, he hath hid himself among the stuff.

23 And they ran and fetched him thence: and when he stood among the people, he was higher than any of the people from his shoulders and upward.

24 And Samuel said to all the people, See ye him whom the Lord hath chosen, that there is none like him among all the people? And all the people shouted, and said, God save the king.

25 Then Samuel told the people the manner of the kingdom, and wrote it in a book, and laid it up before the Lord. And Samuel sent all the people away, every man to his house.

26 ¶ And Saul also went home to Gibeah; and there went with him a band of men, whose hearts God had touched.

27 But the children of Belial said, How shall this man save us? And they despised him, and brought him no presents. But he held his peace.

CHAPTER 11

[The First Test]

Then Nahash the Ammonite came up, and encamped against Jabesh-gilead: and all the men of Jabesh said unto Nahash, Make a covenant with us, and we will serve thee.

2 And Nahash the Ammonite answered them, On this condition will I make a covenant with you, that I may thrust out all your right eyes, and lay it for a reproach upon all Israel.

3 And the elders of Jabesh said unto him, Give us seven days' respite, that we may send messengers unto all the coasts of Israel: and then, if there be no man to save us, we will come out to thee.

4 ¶ Then came the messengers to Gibeah of Saul, and told the tidings in the ears of the people: and all the people lifted up their voices, and wept.

5 And, behold, Saul came after the herd out of the field; and Saul said, What aileth the people that they weep? And they told him the tidings of the men of Jabesh.

6 And the Spirit of God came upon Saul when he heard those tidings, and his anger was kindled greatly.

7 And he took a yoke of oxen, and hewed them in pieces, and sent them throughout all the coasts of Israel by the hands of messengers, saying, Whosoever cometh not forth after Saul and after Samuel, so shall it be done unto his oxen. And the fear of the Lord fell on the people, and they came out with one consent.

8 And when he numbered them in Bezek, the children of Israel were three hundred thousand, and the men of Judah thirty thousand.

9 And they said unto the messengers that came, Thus shall ye say unto the men of Jabesh-gilead, To morrow, by that time

the sun be hot, ye shall have help. And the messengers came and shewed it to the men of Jabesh; and they were glad.

10 Therefore the men of Jabesh said, To morrow we will come out unto you, and ye shall do with us all that seemeth good unto you.

11 And it was so on the morrow, that Saul put the people in three companies; and they came into the midst of the host in the morning watch, and slew the Ammonites until the heat of the day: and it came to pass, that they which remained were scattered, so that two of them were not left together.

12 ¶ And the people said unto Samuel, Who is he that said, Shall Saul reign over us? bring the men, that we may put them to death.

13 And Saul said, There shall not a man be put to death this day: for to day the Lord hath wrought salvation in Israel.

14 Then said Samuel to the people, Come, and let us go to Gilgal, and renew the kingdom there.

15 And all the people went to Gilgal; and there they made Saul king before the Lord in Gilgal; and there they sacrificed sacrifices of peace offerings before the Lord; and there Saul and all the men of Israel rejoiced greatly.

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II SAMUEL, CHAPTER 22

[THE STRENGTH OF KINGS]

And David spake unto the Lord the words of this song in the day that the Lord had delivered him out of the hand of all his enemies, and out of the hand of Saul:

2 And he said, The Lord is my rock, and my fortress, and my deliverer;

3 The God of my rock; in him will I trust: he is my shield, and the horn of my salvation, my high tower, and my refuge, my saviour; thou savest me from violence.

4 I will call on the Lord, who is worthy to be praised: so shall I be saved from mine enemies.

5 When the waves of death compassed me, the floods of ungodly men made me afraid;

6 The sorrows of hell compassed me about; the snares of death prevented me;

7 In my distress I called upon the Lord, and cried to my God: and he did hear my voice out of his temple, and my cry did enter into his ears.

8 Then the earth shook and trembled; the foundations of heaven moved and shook, because he was wroth.

9 There went up a smoke out of his nostrils, and fire out of his mouth devoured: coals were kindled by it.

10 He bowed the heavens also, and came down; and darkness was under his feet.

11 And he rode upon a cherub, and did fly: and he was seen upon the wings of the wind.

12 And he made darkness pavilions round about him, dark waters, and thick clouds of the skies.

13 Through the brightness before him were coals of fire kindled.

14 The Lord thundered from heaven, and the most High uttered his voice.

15 And he sent out arrows, and scattered them; lightning, and discomfited them.

16 And the channels of the sea appeared, the foundations of the world were discovered, at the rebuking of the Lord, at the blast of the breath of his nostrils.

17 He sent from above, he took me; he drew me out of many waters;

18 He delivered me from my strong enemy, and from them that hated me: for they were too strong for me.

19 They prevented me in the day of my calamity: but the Lord was my stay.

20 He brought me forth also into a large place: he delivered me, because he delighted in me.

21 The Lord rewarded me according to my righteousness: according to the cleanness of my hands hath he recompensed me.

22 For I have kept the ways of the Lord, and have not wickedly departed from my God.

23 For all his judgments were before me: and as for his statutes, I did not depart from them.

24 I was also upright before him, and have kept myself from mine iniquity.

25 Therefore the Lord hath recompensed me according to my righteousness; according to my cleanness in his eye sight.

26 With the merciful thou wilt shew thyself merciful, and with the upright man thou wilt shew thyself upright.

27 With the pure thou wilt shew thyself pure; and with the froward thou wilt shew thyself unsavoury.

28 And the afflicted people thou wilt save: but thine eyes are upon the haughty, that thou mayest bring them down.

29 For thou art my lamp, O Lord: and the Lord will lighten my darkness.

30 For by thee I have run through a troop: by my God have I leaped over a wall.

31 As for God, his way is perfect; the word of the Lord is tried: he is a buckler to all them that trust in him.

32 For who is God, save the Lord? and who is a rock, save our God?

33 God is my strength and power: and he maketh my way perfect.

34 He maketh my feet like hinds' feet: and setteth me upon my high places.

35 He teacheth my hands to war; so that a bow of steel is broken by mine arms.

36 Thou hast also given me the shield of thy salvation: and thy gentleness hath made me great.

37 Thou hast enlarged my steps under me; so that my feet did not slip.

38 I have pursued mine enemies, and destroyed them; and turned not again until I had consumed them.

39 And I have consumed them, and wounded them, that they could not arise: yea, they are fallen under my feet.

40 For thou hast girded me with strength to battle: them that rose up against me hast thou subdued under me.

41 Thou hast also given me the necks of mine enemies, that I might destroy them that hate me.

42 They looked, but there was none to save; even unto the Lord, but he answered them not.

43 Then did I beat them as small as the dust of the earth, I did stamp them as the mire of the street, and did spread them abroad.

44 Thou also hast delivered me from the strivings of my people, thou hast kept me to be head of the heathen: a people which I knew not shall serve me.

45 Strangers shall submit themselves unto me: as soon as they hear, they shall be obedient unto me.

46 Strangers shall fade away, and they shall be afraid out of their close places.

47 The Lord liveth; and blessed be my rock; and exalted be the God of the rock of my salvation.

48 It is God that avengeth me, and that bringeth down the people under me.

49 And that bringeth me forth from mine enemies: thou also hast lifted me up on high above them that rose up against me: thou hast delivered me from the violent man.

50 Therefore I will give thanks unto thee, O Lord, among the heathen, and I will sing praises unto thy name.

51 He is the tower of salvation for his king: and sheweth mercy to his anointed, unto David, and to his seed for evermore.

. . . . .

Lycurgus: Founder of the Spartan Constitution

Sparta of ancient Greece has ever been the symbol of efficient and orderly government. The basis of these qualities is to be found in the fundamental laws which regulated the education, the arrangement of classes, the system of property, and the general organization of the state. Lycurgus, a character partly real and partly legendary, gave to Sparta the system of laws and regulations that made it famous. ¶ The following account of Lycurgus is taken from Plutarch's Lives *in the translation of John Dryden as revised by Arthur Hugh Clough.*[1]

[*Troubled by a problem of succession in Sparta, Lycurgus decided to travel. In the course of these travels he visited Crete to study its government.*]

...Among the persons there the most renowned for their learning and their wisdom in state matters was one Thales, whom Lycurgus, by importunities and assurances of friendship, persuaded to go over to Lacedæmon; where, though by his outward appearance and his own profession he seemed to be no other than a lyric poet, in reality he performed the part of one of the ablest lawgivers in the world. The very songs which he composed were exhortations to obedience and concord, and the very measure and cadence of the verse, conveying impressions of order and tranquillity, had so great an influence on the minds of the listeners, that they were insensibly softened and civilised, insomuch that they renounced their private feuds and animosities, and were reunited in a common admiration of virtue. So that it may truly be said that Thales prepared the way for the discipline introduced by Lycurgus.

From Crete he sailed to Asia, with design, as is said, to examine the difference betwixt the manners and rules of life of the Cretans, which were very sober and temperate, and those of the Ionians, a people of sumptuous and delicate habits, and so to form a judgment; just as physicians do by comparing healthy and diseased bodies. Here he had the first sight of Homer's works, in the hands, we may suppose, of the posterity of Creophylus; and, having observed that the few loose expressions and actions of ill example which are to be found in his poems were much outweighed by serious lessons of state and rules of morality, he set himself eagerly to transcribe and digest them into order, as thinking they would be of good use in his own country. They had, indeed, already obtained some slight repute among the Greeks, and scattered portions, as chance conveyed them, were in the hands of individuals; but Lycurgus first made them really known.

The Egyptians say that he took a voyage into Egypt, and that, being much taken with their way of separating the soldiery from the rest of the nation, he transferred it from them to Sparta, a removal from contact with those employed in low and mechanical occupations giving high refinement and beauty to the state. Some Greek writers also record this. But as for his voyages into Spain, Africa and the Indies, and his conferences there with the Gymnosophists, the whole relation, as far as I can find, rests on the single credit of the Spartan Aristocrates, the son of Hipparchus.

Lycurgus was much missed at Sparta, and often sent for, "for kings indeed we have," they said, "who wear the marks and assume the titles of royalty, but as for the qualities of their minds, they have nothing by which they are to be distinguished from

[1] *Plutarch's Lives*, Modern Library Edition. New York: Random House, Inc., pp. 51 *ff.*

their subjects, adding, that in him alone was the true foundation of sovereignty to be seen, a nature made to rule, and a genius to gain obedience Nor were the kings themselves averse to see him back, for they looked upon his presence as a bulwark against the insolence of the people

[Physician of the Polity]

Things being in this posture at his return, he applied himself, without loss of time, to a thorough reformation, and resolved to change the whole face of the commonwealth, for what could a few particular laws and a partial alteration avail? He must act as wise physicians do, in the case of one who labours under a complication of diseases, by force of medicines reduce and exhaust him, change his whole temperament, and then set him upon a totally new regimen of diet Having thus projected things, away he goes to Delphi to consult Apollo there, which having done, and offered his sacrifice, he returned with that renowned oracle, in which he is called beloved of God, and rather God than man that his prayers were heard, that his laws should be the best, and the commonwealth which observed them the most famous in the world Encouraged by these things he set himself to bring over to his side the leading men of Sparta, exhorting them to give him a helping hand in his great undertaking he broke it first to his particular friends, and then by degrees, gained others, and animated them all to put his design in execution When things were ripe for action, he gave orders to thirty of the principal men of Sparta to be ready armed at the market place by break of day, to the end that he might strike a terror into the opposite party Hermippus hath set down the names of twenty of the most eminent of them, but the name of him whom Lycurgus most confided in, and who was of most use to him, both in making his laws and putting them in execution was Arthmiadas Things growing to a tumult, King Charilaus, apprehending that it was a conspiracy against his person, took sanctuary in the temple of Minerva of the Brazen House, but, being soon after undeceived, and having taken an oath of them that they had no designs against him, he quitted his refuge, and himself also entered into the confederacy with them, of so gentle and flexible a disposition he was, to which Archelaus, his brother king, alluded, when, hearing him extolled for his goodness, he said, "Who can say he is anything but good? he is so even to the bad"

[The Senate]

Amongst the many changes and alterations which Lycurgus made, the first and of greatest importance was the establishment of the senate, which having a power equal to the king's in matters of great consequence, and, as Plato expresses it, allaying and qualifying the fiery genius of the royal office, gave steadiness and safety to the commonwealth For the state, which before had no firm basis to stand upon, but leaned one while towards an absolute monarchy when the kings had the upper hand, and another while towards a pure democracy, when the people had the better, found in this establishment of the senate a central weight, like ballast in a ship, which always kept things in a just equilibrium, the twenty eight always adhering to the kings so far as to resist democracy, and on the other hand, supporting the people against the establishment of absolute monarchy As for the determinate number of twenty eight, Aristotle states, that it so fell out because two of the original associates, for want of courage, fell off from the enterprise, but Sphærus assures us that there were but twenty eight of the confederates at first, perhaps there is some mystery in the number, which consists of seven multiplied by four, and is the first of perfect numbers after six, being, as that is, equal to all its parts. For my part, I believe Lycurgus

fixed upon the number of twenty-eight, that, the two kings being reckoned amongst them, they might be thirty in all. So eagerly set was he upon this establishment, that he took the trouble to obtain an oracle about it from Delphi, the Rhetra, which runs thus: "After that you have built a temple to Jupiter Helianius, and to Minerva Hellania, and after that you have *phyle'd* the people into *phyles*, and *obe'd* them into *obes*, you shall establish a council of thirty elders, the leaders included, and shall, from time to time, *apellazein* the people betwixt Babyca and Cnacion, there propound and put to the vote. The commons have the final voice and decision." By *phyles* and *obes* are meant the divisions of the people; by the *leaders*, the two kings; *apellazein*, referring to the Pythian Apollo, signifies to assemble; Babyca and Cnacion they now call Œnus; Aristotle says Cnacion is a river, and Babyca a bridge. Betwixt this Babyca and Cnacion, their assemblies were held, for they had no council-house or building to meet in. Lycurgus was of opinion that ornaments were so far from advantaging them in their counsels, that they were rather an hindrance, by diverting their attention from the business before them to statues and pictures, and roofs curiously fretted, the usual embellishments of such places amongst the other Greeks. The people then being thus assembled in the open air, it was not allowed to any one of their order to give his advice, but only either to ratify or reject what should be propounded to them by the king or senate. But because it fell out afterwards that the people, by adding or omitting words, distorted and perverted the sense of propositions, Kings Polydorus and Theopompus inserted into the Rhetra, or grand covenant, the following clause: "That if the people decide crookedly it should be lawful for the elders and leaders to dissolve;" that is to say, refuse ratification, and dismiss the people as depravers and perverters of their counsel. It passed among the people, by their management, as being equally authentic with the rest of the Rhetra, as appears by these verses of Tyrtæus,—

"These oracles they from Apollo heard,
And brought from Pytho home the perfect word:
The heaven-appointed kings, who love the land,
Shall foremost in the nation's council stand;
The elders next to them; the commons last;
Let a straight *Rhetra* among all be passed."

[Ephori]

Although Lycurgus had, in this manner, used all the qualifications possible in the constitution of his commonwealth, yet those who succeeded him found the oligarchical element still too strong and dominant, and to check its high temper and its violence, put, as Plato says, a bit in its mouth, which was the power of the ephori, established an hundred and thirty years after the death of Lycurgus. Elatus and his colleagues were the first who had this dignity conferred upon them in the reign of King Theopompus, who, when his queen upbraided him one day that he would leave the regal power to his children less than he had received it from his ancestors, said in answer, "No, greater; for it will last longer." For, indeed, their prerogative being thus reduced within reasonable bounds, the Spartan kings were at once freed from all further jealousies and consequent danger, and never experienced the calamities of their neighbours at Messene and Argos, who, by maintaining their prerogative too strictly, for want of yielding a little to the populace, lost it all.

Indeed, whosoever shall look at the sedition and misgovernment which befell these bordering nations to whom they were as near related in blood as situation, will find in them the best reason to admire the wisdom and foresight of Lycurgus. For these three states, in their first rise, were equal, or, if there were any odds, they lay on the side of the Messenians and

Argives, who, in the first allotment, were thought to have been luckier than the Spartans yet was their happiness of but small continuance, partly the tyrannical temper of their kings and partly the ungovernableness of the people quickly bringing upon them such disorders, and so complete an overthrow of all existing institutions, as clearly to show how truly divine a blessing the Spartans had had in that wise lawgiver who gave their government its happy balance and temper

[Division of Lands]

After the creation of the thirty senators, his next task, and, indeed, the most hazardous he ever undertook, was the making a new division of their lands For there was an extreme inequality amongst them, and their state was overloaded with a multitude of indigent and necessitous persons, while its whole wealth had centred upon a very few To the end, therefore, that he might expel from the state arrogance and envy, luxury and crime, and those yet more inveterate diseases of want and superfluity, he obtained of them to renounce their properties, and to consent to a new division of the land, and that they should live all together on an equal footing merit to be their only road to eminence, and the disgrace of evil, and credit of worthy acts, their one measure of difference between man and man

Upon their consent to these proposals, proceeding at once to put them into execution, he divided the country of Laconia in general into thirty thousand equal shares, and the part attached to the city of Sparta into nine thousand, these he distributed among the Spartans, as he did the others to the country citizens Some authors say that he made but six thousand lots for the citizens of Sparta, and that king Polydorus added three thousand more Others say that Polydorus doubled the number Lycurgus had made, which, according to them, was but four thousand five hundred A lot was so much as to yield, one year with another, about seventy bushels of grain for the master of the family, and twelve for his wife, with a suitable proportion of oil and wine And this he thought sufficient to keep their bodies in good health and strength, superfluities they were better without It is reported, that, as he returned from a journey shortly after the division of the lands, in harvest time, the ground being newly reaped, seeing the stacks all standing equal and alike, he smiled, and said to those about him, "Methinks all Laconia looks like one family estate just divided among a number of brothers"

[Division of Movables]

Not contented with this, he resolved to make a division of their movables too, that there might be no odious distinction or inequality left amongst them, but finding that it would be very dangerous to go about it openly, he took another course and defeated their avarice by the following stratagem he commanded that all gold and silver coin should be called in, and that only a sort of money made of iron should be current, a great weight and quantity of which was very little worth, so that to lay up twenty or thirty pounds there was required a pretty large closet, and, to remove it, nothing less than a yoke of oxen With the diffusion of this money, at once a number of vices were banished from Lacedæmon, for who would rob another of such a coin? Who would unjustly detain or take by force, or accept as a bribe, a thing which it was not easy to hide, nor a credit to have, nor indeed of any use to cut in pieces? For when it was just red hot, they quenched it in vinegar, and by that means spoilt it, and made it almost incapable of being worked

[Superfluous Arts]

In the next place, he declared an outlawry of all needless and superfluous arts, but here he might almost have spared his proclamation, for they of themselves

would have gone after the gold and silver, the money which remained being not so proper payment for curious work; for, being of iron, it was scarcely portable, neither, if they should take the means to export it, would it pass amongst the other Greeks, who ridiculed it. So there was now no more means of purchasing foreign goods and small wares; merchants sent no shiploads into Laconian ports; no rhetoric-master, no itinerate fortune-teller, no harlot-monger, or gold or silversmith, engraver, or jeweller, set foot in a country which had no money; so that luxury, deprived little by little of that which fed and fomented it, wasted to nothing and died away of itself. For the rich had no advantage here over the poor, as their wealth and abundance had no road to come abroad by but were shut up at home doing nothing. And in this way they became excellent artists in common, necessary things; bedsteads, chairs, and tables, and such like staple utensils in a family, were admirably well made there; their cup, particularly, was very much in fashion, and eagerly bought up by soldiers, as Critias reports; for its colour was such as to prevent water, drunk upon necessity and disagreeable to look at, from being noticed; and the shape of it was such that the mud stuck to the sides, so that only the purer part came to the drinker's mouth. For this, also, they had to thank their lawgiver, who, by relieving the artisans of the trouble of making useless things, set them to show their skill in giving beauty to those of daily and indispensable use.

[Common Tables]

The third and most masterly stroke of this great lawgiver, by which he struck a yet more effectual blow against luxury and the desire of riches, was the ordinance he made, that they should all eat in common, of the same bread and same meat, and of kinds that were specified, and should not spend their lives at home, laid on costly couches at splendid tables, delivering themselves up into the hands of their tradesmen and cooks, to fatten them in corners, like greedy brutes, and to ruin not their minds only but their very bodies which, enfeebled by indulgence and excess, would stand in need of long sleep, warm bathing, freedom from work, and, in a word, of as much care and attendance as if they were continually sick. It was certainly an extraordinary thing to have brought about such a result as this, but a greater yet to have taken away from wealth, as Theophrastus observes, not merely the property of being coveted, but its very nature of being wealth. For the rich, being obliged to go to the same table with the poor, could not make use of or enjoy their abundance, nor so much as please their vanity by looking at or displaying it. So that the common proverb, that Plutus, the god of riches, is blind, was nowhere in all the world literally verified but in Sparta. There, indeed, he was not only blind, but like a picture, without either life or motion. Nor were they allowed to take food at home first, and then attend the public tables, for every one had an eye upon those who did not eat and drink like the rest, and reproached them with being dainty and effeminate.

[Resistance]

This last ordinance in particular exasperated the wealthier men. They collected in a body against Lycurgus, and from ill words came to throwing stones, so that at length he was forced to run out of the market-place, and make to sanctuary to save his life; by good-hap he outran all, excepting one Alcander, a young man otherwise not ill accomplished, but hasty and violent, who came up so close to him, that when he turned to see who was so near him, he struck him upon the face with his stick, and put out one of his eyes. Lycurgus, so far from being daunted and discouraged by this accident, stopped short and showed his disfigured face and eye beat out to his countrymen; they, dismayed and ashamed at the sight, delivered

Alcander into his hands to be punished, and escorted him home, with expressions of great concern for his ill usage Lycurgus, having thanked them for their care of his person, dismissed them all, excepting only Alcander, and, taking him with him into his house, neither did nor said anything severely to him but dismissing those whose place it was bide Alcander to wait upon him at table The young man, who was of an ingenuous temper, without murmuring did as he was commanded, and being thus admitted to live with Lycurgus, he had an opportunity to observe in him, besides his gentleness and calmness of temper an extraordinary sobriety and an indefatigable industry and so, from an enemy, became one of his most zealous admirers, and told his friends and relations that Lycurgus was not that morose and ill natured man they had formerly taken him for but the one mild and gentle character of the world And thus did Lycurgus for chastisement of his fault, make of a wild and passionate young man one of the discreetest citizens of Sparta

But to return to their public repast, . They met by companies of fifteen, more or less, and each of them stood bound to bring in monthly a bushel of meal, eight gallons of wine five pounds of cheese, two pounds and a half of figs, and some very small sum of money to buy flesh or fish with Besides this, when any of them made sacrifice to the gods, they always sent a dole to the common hall and, likewise, when any of them had been a hunting he sent thither a part of the venison he had killed, for these two occasions were the only excuses allowed for supping at home The custom of eating together was observed strictly for a great while afterwards, insomuch that King Agis himself, after having vanquished the Athenians, sending for his commons at his return home, because he desired to eat privately with his queen, was refused them by the polemarchs, which refusal when he resented so much as to omit next day the sacrifice due for a war happily ended, they made him pay a fine

They used to send their children to these tables as to schools of temperance here they were instructed in state affairs by listening to experienced statesmen, here they learned to converse with pleasantry, to make jests without scurrility and take them without ill humour.

. . . . .

[Unwritten Law]

Lycurgus would never reduce his laws into writing nay there is a Rhetra expressly to forbid it For he thought that the most material points, and such as most directly tended to the public welfare being imprinted on the hearts of their youth by a good discipline, would be sure to remain, and would find a stronger security, than any compulsion would be, in the principles of action formed in them by their best lawgiver, education And as for things of lesser importance, as pecuniary contracts, and such like, the forms of which have to be changed as occasion requires, he thought it the best way to prescribe no positive rule or inviolable usage in such cases, willing that their manner and form should be altered according to the circumstances of time, and determinations of men of sound judgment Every end and object of law and enactment it was his design education should effect.

. . . . .

[Education]

In order to the good education of their youth (which, as I said before, he thought the most important and noblest work of a lawgiver), he went so far back as to take into consideration their very conception and birth, by regulating their marriages. For Aristotle is wrong in saying, that, after he had tried all ways to reduce the women to more modesty and sobriety,

he was at last forced to leave them as they were, because that in the absence of their husbands, who spent the best part of their lives in the wars, their wives, whom they were obliged to leave absolute mistresses at home, took great liberties and assumed the superiority; and were treated with overmuch respect and called by the title of lady or queen. The truth is, he took in their case, also, all the care that was possible; he ordered the maidens to exercise themselves with wrestling, running, throwing the quoit, and casting the dart, to the end that the fruit they conceived might, in strong and healthy bodies, take firmer root and find better growth, and withal that they, with this greater vigour, might be the more able to undergo the pains of child-bearing. And to the end he might take away their overgreat tenderness and fear of exposure to the air, and all acquired womanishness, he ordered that the young women should go naked in the processions, as well as the young men, and dance, too, in that condition, at certain solemn feasts, singing certain songs, whilst the young men stood around, seeing and hearing them. On these occasions they now and then made, by jests, a befitting reflection upon those who had misbehaved themselves in the wars; and again sang encomiums upon those who had done any gallant action, and by these means inspired the younger sort with an emulation of their glory. Those that were thus commended went away proud, elated, and gratified with their honour among the maidens; and those who were rallied were as sensibly touched with it as if they had been formally reprimanded; and so much the more, because the kings and the elders, as well as the rest of the city, saw and heard all that passed. Nor was there anything shameful in this nakedness of the young women: modesty attended them, and all wantonness was excluded. It taught them simplicity and a care for good health, and gave them some taste of higher feelings, admitted as they thus were to the field of noble action and glory. Hence it was natural for them to think and speak as Gorgo, for example, the wife of Leonidas, is said to have done, when some foreign lady, as it would seem, told her that the women of Lacedæmon were the only women in the world who could rule men; "With good reason," she said, "for we are the only women who bring forth men."

[MARRIAGE]

These public processions of the maidens, and their appearing naked in their exercises and dancings, were incitements to marriage, operating upon the young with the rigour and certainty, as Plato says, of love, if not of mathematics. But besides all this, to promote it yet more effectually, those who continued bachelors were in a degree disfranchised by law; for they were excluded from the sight of those public processions in which the young men and maidens danced naked, and, in winter-time, the officers compelled them to march naked themselves round the market-place, singing as they went a certain song to their own disgrace, that they justly suffered this punishment for disobeying the laws. Moreover, they were denied that respect and observance which the younger men paid their elders; and no man, for example, found fault with what was said to Dercyllidas, though so eminent a commander; upon whose approach one day, a young man, instead of rising, retained his seat, remarking, "No child of yours will make room for me."

In their marriages, the husband carried off his bride by a sort of force; nor were their brides ever small and of tender years, but in their full bloom and ripeness. After this, she who superintended the wedding comes and clips the hair of the bride close round her head, dresses her up in man's clothes, and leaves her upon a mattress in the dark; afterwards comes the bridegroom, in his everyday clothes, sober and composed, as having supped at the common table, and, entering privately into the room where the bride lies, unties her virgin zone, and takes her to himself; and, after staying some time together, he

returns composedly to his own apartment, to sleep as usual with the other young men. And so he continues to do, spending his days, and, indeed, his nights, with them, visiting his bride in fear and shame, and with circumspection, when he thought he should not be observed; she, also, on her part, using her wit to help and find favourable opportunities for their meeting, when company was out of the way. In this manner they lived a long time, insomuch that they sometimes had children by their wives before ever they saw their faces by daylight. Their interviews, being thus difficult and rare, served not only for continual exercise of their self-control, but brought them together with their bodies healthy and vigorous, and their affections fresh and lively, unsated and undulled by easy access and long continuance with each other; while their partings were always early enough to leave behind unextinguished in each of them some remaining fire of longing and mutual delight. After guarding marriage with this modesty and reserve, he was equally careful to banish empty and womanish jealousy. For this object, excluding all licentious disorders, he made it, nevertheless, honourable for men to give the use of their wives to those whom they should think fit, that so they might have children by them; ridiculing those in whose opinion such favours are so unfit for participation as to fight and shed blood and go to war about it. Lycurgus allowed a man who was advanced in years and had a young wife to recommend some virtuous and approved young man, that she might have a child by him, who might inherit the good qualities of the father, and be a son to himself. On the other side, an honest man who had love for a married woman upon account of her modesty and the well-favouredness of her children, might, without formality, beg her company of her husband, that he might raise, as it were, from this plot of good ground, worthy and well-allied children for himself. And indeed, Lycurgus was of a persuasion that children were not so much the property of their parents as of the whole commonwealth, and, therefore, would not have his citizens begot by the first-comers, but by the best men that could be found; the laws of other nations seemed to him very absurd and inconsistent, where people would be so solicitous for their dogs and horses as to exert interest and to pay money to procure fine breeding, and yet kept their wives shut up, to be made mothers only by themselves, who might be foolish, infirm, or diseased; as if it were not apparent that children of a bad breed would prove their bad qualities first upon those who kept and were rearing them, and well-born children, in like manner, their good qualities. These regulations, founded on natural and social grounds, were certainly so far from that scandalous liberty which was afterwards charged upon their women, that they knew not what adultery meant. It is told, for instance, of Geradas, a very ancient Spartan, that, being asked by a stranger what punishment their law had appointed for adulterers, he answered, "There are no adulterers in our country." "But," replied the stranger, "suppose there were?" "Then," answered he, "the offender would have to give the plaintiff a bull with a neck so long as that he might drink from the top of Taygetus of the Eurotas river below it." The man, surprised at this, said, "Why, 'tis impossible to find such a bull." Geradas smilingly replied, "'Tis as possible as to find an adulterer in Sparta." So much I had to say of their marriages.

[CHILDREN]

Nor was it in the power of the father to dispose of the child as he thought fit; he was obliged to carry it before certain triers at a place called Lesche; these were some of the elders of the tribe to which the child belonged; their business it was carefully to view the infant, and, if they found it stout and well made, they gave order for its rearing, and allotted to it one of the nine thousand shares of land

above mentioned for its maintenance, but, if they found it puny and ill-shaped, ordered it to be taken to what was called the Apothetæ, a sort of chasm under Taygetus; as thinking it neither for the good of the child itself, nor for the public interest, that it should be brought up, if it did not, from the very outset, appear made to be healthy and vigorous. Upon the same account, the women did not bathe the new-born children with water, as is the custom in all other countries, but with wine, to prove the temper and complexion of their bodies; from a notion they had that epileptic and weakly children faint and waste away upon their being thus bathed, while, on the contrary, those of a strong and vigorous habit acquire firmness and get a temper by it, like steel. There was much care and art, too, used by the nurses; they had no swaddling bands; the children grew up free and unconstrained in limb and form, and not dainty and fanciful about their food; not afraid in the dark, or of being left alone; and without peevishness, or ill-humour, or crying. Upon this account Spartan nurses were often bought up, or hired by people of other countries: and it is recorded that she who suckled Alcibiades was a Spartan; who, however, if fortunate in his nurse, was not so in his preceptor; his guardian, Pericles, as Plato tells us, chose a servant for that office called Zopyrus, no better than any common slave.

[Training]

Lycurgus was of another mind; he would not have masters bought out of the market for his young Spartans, nor such as should sell their pains; nor was it lawful, indeed, for the father himself to breed up the children after his own fancy; but as soon as they were seven years old they were to be enrolled in certain companies and classes, where they all lived under the same order and discipline, doing their exercises and taking their play together. Of these, he who showed the most conduct and courage was made captain: they had their eyes always upon him obeyed his orders, and underwent patiently whatsoever punishment he inflicted; so that the whole course of their education was one continued exercise of a ready and perfect obedience. The old men, too, were spectators of their performances, and often raised quarrels and disputes among them, to have a good opportunity of finding out their different characters, and of seeing which would be valiant, which a coward, when they should come to more dangerous encounters. Reading and writing they gave them, just enough to serve their turn; their chief care was to make them good subjects, and to teach them to endure pain and conquer in battle. To this end, as they grew in years, their discipline was proportionately increased; their heads were close-clipped, they were accustomed to go barefoot, and for the most part to play naked.

After they were twelve years old, they were no longer allowed to wear any undergarments, they had one coat to serve them a year; their bodies were hard and dry, with but little acquaintance of baths and unguents; these human indulgences they were allowed only on some few particular days in the year. They lodged together in little bands upon beds made of the rushes which grew by the banks of the river Eurotas, which they were to break off with their hands without a knife; if it were winter, they mingled some thistle-down with their rushes, which it was thought had the property of giving warmth. By the time they were come to this age there was not any of the more hopeful boys who had not a lover to bear him company. The old men, too, had an eye upon them, coming often to the grounds to hear and see them contend either in wit or strength with one another, and this as seriously and with as much concern as if they were their fathers, their tutors, or their magistrates; so that there scarcely was any time or place without some one present to put them in mind of their duty, and punish them if they had neglected it.

Besides all this, there was always one of the best and honestest men in the city appointed to undertake the charge and governance of them, he again arranged them into their several bands and set over each of them for their captain the most temperate and boldest of those they called Irens, who were usually twenty years old, two years out of the boys, and the oldest of the boys, again, were Mell Irens, as much as to say, who would shortly be men This young man, therefore, was their captain when they fought and their master at home, using them for the offices of his house, sending the eldest of them to fetch wood, and the weaker and less able to gather salads and herbs, and these they must either go without or steal, which they did by creeping into the gardens, or conveying themselves cunningly and closely into the eating houses if they were taken in the fact, they were whipped without mercy, for thieving so ill and awkwardly They stole, too, all other meat they could lay their hands on, looking out and watching all opportunities, when people were asleep or more careless than usual If they were caught, they were not only punished with whipping but hunger, too, being reduced to their ordinary allowance, which was but very slender, and so contrived on purpose, that they might set about to help themselves, and be forced to exercise their energy and address This was the principle design of their hard fare, there was another not inconsiderable, that they might grow taller, for the vital spirits, not being overburdened and oppressed by too great a quantity of nourishment, which necessarily discharges itself into thickness and breadth do, by their natural lightness, rise, and the body, giving and yielding because it is pliant, grows in height The same thing seems, also, to conduce to beauty of shape, a dry and lean habit is a better subject for nature's configuration, which the gross and over fed are too heavy to submit to properly Just as we find that women who take physic whilst they are with child, bear leaner and smaller but better-shaped and prettier children; the material they come of having been more pliable and easily moulded The reason, however, I leave others to determine

To return from whence we have digressed So seriously did the Lacedæmonian children go about their stealing that a youth, having stolen a young fox and hid it under his coat, suffered it to tear out his very bowels with its teeth and claws and died upon the place, rather than let it be seen What is practised to this very day in Lacedæmon is enough to gain credit to this story, for I myself have seen several of the youths endure whipping to death at the foot of the altar of Diana surnamed Orthia

The Iren, or under master, used to stay a little with them after supper, and one of them he bade to sing a song, to another he put a question which required an advised and deliberate answer, for example, Who was the best man in the city? What he thought of such an action of such a man? They used them thus early to pass a right judgment upon persons and things and to inform themselves of the abilities or defects of their countrymen If they had not an answer ready to the question, Who was a good or who an ill reputed citizen, they were looked upon as of a dull and careless disposition, and to have little or no sense of virtue and honour, besides this, they were to give a good reason for what they said, and in as few words and as comprehensive as might be, he hath failed of this, or answered not to the purpose, had his thumb bit by the master Sometimes the Iren did this in the presence of the old men and magistrates, that they might see whether he punished them justly and in due measure or not, and when he did amiss, they would not reprove him before the boys, but, when they were gone, he was called to an account and underwent correction, if he had run far into either of the extremes of indulgence or severity

Their lovers and favourers, too, had a share in the young boy's honour or disgrace, and there goes a story that one

of them was fined by the magistrate, because the lad whom he loved cried out effeminately as he was fighting. And though this sort of love was so approved among them, that the most virtuous matrons would make professions of it to young girls, yet rivalry did not exist, and if several men's fancies met in one person, it was rather the beginning of an intimate friendship, whilst they all jointly conspired to render the object of their affection as accomplished as possible.

They taught them, also, to speak with a natural and graceful raillery, and to comprehend much matter of thought in few words. For Lycurgus, who ordered, as we saw, that a great piece of money should be but of an inconsiderable value, on the contrary would allow no discourse to be current which did not contain in few words a great deal of useful and curious sense; children in Sparta, by a habit of long silence, came to give just and sententious answers; for, indeed, as loose and incontinent livers are seldom fathers of many children, so loose and incontinent talkers seldom originate many sensible words. King Agis, when some Athenian laughed at their short swords, and said that the jugglers on the stage swallowed them with ease, answered him, "We find them long enough to reach our enemies with;" and as their swords were short and sharp, so, it seems to me, were their sayings. They reach the point and arrest the attention of the hearers better than any. Lycurgus himself seems to have been short and sententious, if we may trust the anecdotes of him; as appears by his answer to one who by all means would set up a democracy in Lacedæmon. "Begin, friend," said he, "and set it up in your family." Another asked him why he allowed of such mean and trivial sacrifices to the gods. He replied, "That we may always have something to offer to them." Being asked what sort of martial exercises or combats he approved of, he answered, "All sorts, except that in which you stretch out your hands." Similar answers, addressed to his countrymen by letter, are ascribed to him; as, being consulted how they might best oppose an invasion of their enemies, he returned this answer, "By continuing poor, and not coveting each man to be greater than his fellow." Being consulted again whether it were requisite to enclose the city with a wall, he sent them word, "The city is well fortified which hath a wall of men instead of brick." But whether these letters are counterfeit or not is not easy to determine.

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[Training of Adults]

...Their discipline continued still after they were full-grown men. No one was allowed to live after his own fancy; but the city was a sort of camp, in which every man had his share of provisions and business set out, and looked upon himself not so much born to serve his own ends as the interest of his country. Therefore if they were commanded nothing else, they went to see the boys perform their exercises, to teach them something useful or to learn it themselves of those who knew better. And indeed one of the greatest and highest blessings Lycurgus procured his people was the abundance of leisure which proceeded from his forbidding to them the exercise of any mean and mechanical trade. Of the money-making that depends on troublesome going about and seeing people and doing business, they had no need at all in a state where wealth obtained no honour or respect. The Helots tilled their ground for them, and paid them yearly in kind the appointed quantity, without any trouble of theirs. To this purpose there goes a story of a Lacedæmonian who, happening to be at Athens when the courts were sitting, was told of a citizen that had been fined for living an idle life, and was being escorted home in much distress of mind by his condoling friends; the Lacedæmonian was much surprised at it and desired his friend to show him the man who was condemned for living like a freeman. So much beneath them did they esteem the frivolous devo-

tion of time and attention to the mechanical arts and to money-making.

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[ELECTIONS]

The senate, as I said before, consisted of those who were Lycurgus's chief aiders and assistants in his plans. The vacancies he ordered to be supplied out of the best and most deserving men past sixty years old, and we need not wonder if there was much striving for it; for what more glorious competition could there be amongst men, than one in which it was not contested who was swiftest among the swift or strongest of the strong, but who of many wise and good was wisest and best, and fittest to be intrusted for ever after, as the reward of his merits, with the supreme authority of the commonwealth, and with power over the lives, franchises, and highest interests of all his countrymen? The manner of their election was as follows: The people being called together, some selected persons were locked up in a room near the place of election, so contrived that they could neither see nor be seen, but could only hear the noise of the assembly without; for they decided this, as most other affairs of moment, by the shouts of the people. This done, the competitors were not brought in and presented all together, but one after another by lot, and passed in order through the assembly without speaking a word. Those who were locked up had writing-tables with them, in which they recorded and marked each shout by its loudness, without knowing in favour of which candidate each of them was made, but merely that they came first, second, third, and so forth. He who was found to have the most and loudest acclamations was declared senator duly elected. Upon this he had a garland set upon his head, and went in procession to all the temples to give thanks to the gods; a great number of young men followed him with applauses, and women, also, singing verses in his honour, and extolling the virtue and happiness of his life. As he went round the city in this manner, each of his relations and friends set a table before him, saying "The city honours you with this banquet;" but he, instead of accepting, passed round to the common table where he formerly used to eat, and was served as before, excepting that now he had a second allowance, which he took and put by. By the time supper was ended, the women who were of kin to him had come about the door; and he, beckoning to her whom he most esteemed, presented to her the portion he had saved, saying, that it had been a mark of esteem to him, and was so now to her; upon which she was triumphantly waited upon home by the women.

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[ISOLATION]

... He forbade them to travel abroad, and go about acquainting themselves with foreign rules of morality, the habits of ill-educated people, and different views of government. Withal he banished from Lacedæmon all strangers who would not give a very good reason for their coming thither; not because he was afraid lest they should inform themselves of and imitate his manner of government (as Thucydides says), or learn anything to their good; but rather lest they should introduce something contrary to good manners. With strange people, strange words must be admitted; these novelties produce novelties in thought; and on these follow views and feelings whose discordant character destroys the harmony of the state. He was as careful to save his city from the infection of foreign bad habits, as men usually are to prevent the introduction of a pestilence.

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[COMPLETION OF THE TASK]

When he perceived that his more important institutions had taken root in the minds of his countrymen, that custom had rendered them familiar and easy, that his

commonwealth was now grown up and able to go alone, then, as Plato somewhere tells us, the Maker of the world, when first he saw it existing and beginning its motion, felt joy, even so Lycurgus, viewing with joy and satisfaction the greatness and beauty of his political structure, now fairly at work and in motion, conceived the thought to make it immortal too, and, as far as human forecast could reach, to deliver it down unchangeable to posterity. He called an extraordinary assembly of all the people, and told them that he now thought everything reasonably well established, both for the happiness and the virtue of the state; but that there was one thing still behind, of the greatest importance, which he thought not fit to impart until he had consulted the oracle; in the meantime, his desire was that they would observe the laws without any the least alteration until his return, and then he would do as the god should direct him. They all consented readily, and bade him hasten his journey; but, before he departed, he administered an oath to the two kings, the senate, and the whole commons, to abide by and maintain the established form of polity until Lycurgus should be come back. This done, he set out for Delphi, and, having sacrificed to Apollo, asked him whether the laws he had established were good, and sufficient for a people's happiness and virtue. The oracle answered that the laws were excellent, and that the people, while it observed them, should live in the height of renown. Lycurgus took the oracle in writing, and sent it over to Sparta; and, having sacrificed the second time to Apollo, and taken leave of his friends and his son, he resolved that the Spartans should not be released from the oath they had taken, and that he would, of his own act, close his life where he was. He was now about that age in which life was still tolerable, and yet might be quitted without regret. Everything, moreover, about him was in a sufficiently prosperous condition. He therefore made an end of himself by a total abstinence from food, thinking it a statesman's duty to make his very death, if possible, an act of service to the state, and even in the end of his life to give some example of virtue and effect some useful purpose. He would, on the one hand, crown and consummate his own happiness by a death suitable to so honourable a life, and on the other hand, would secure to his countrymen the enjoyment of the advantages he had spent his life in obtaining for them, since they had solemnly sworn the maintenance of his institutions until his return. Nor was he deceived in his expectations, for the city of Lacedæmon continued the chief city of all Greece for the space of five hundred years, in strict observance of Lycurgus's laws; in all which time there was no manner of alteration made, during the reign of fourteen kings down to the time of Agis, the son of Archidamus. For the new creation of the ephori, though thought to be in favour of the people, was so far from diminishing, that it very much heightened, the aristocratical character of the government.

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[The Small State]

...It was not the design of Lycurgus that his city should govern a great many others; he thought rather that the happiness of a state, as a private man, consisted chiefly in the exercise of virtue, and in the concord of the inhabitants; his aim, therefore, in all his arrangements, was to make and keep them free-minded, self-dependent, and temperate. And therefore all those who have written well on politics, as Plato, Diogenes and Zeno, have taken Lycurgus for their model, leaving behind them, however mere projects and words; whereas Lycurgus was the author, not in writing but in reality, of a government which none else could so much as copy; and while men in general have treated the individual philosophic character as unattainable, he, by the example of a complete philosophic state, raised himself high above all other lawgivers of Greece.

Solon: Athenian Reformer

The lawgiver, or legislator, becomes a familiar concept in subsequent political speculation Solon, like Lycurgus before him, provides an example of the wise man or elder statesman who has that rarest of opportunities—the opportunity to create a system, or to make far-reaching changes in one. He is a more definitely historic character than is Lycurgus, and our record of his times and his deeds is much more adequate Solon's opportunity was not so great as that of Lycurgus, since Athens in his time was already a developed polity, and his remedies were not so drastic, they were, however, more congenial to the freedom loving Athenians As Sparta has become the symbol for militarism and the armed camp, Solon's Athens has become the symbol for art and philosophic speculation To our modern lawmakers we give the name solons, despite the fact that they are lawmakers whose function is quite different from that of their prototype ¶ The following selections from Plutarch are taken from the same source as the preceding account of Lycurgus, pages 107 ff

[*Solon tried by law to adjust the debts of the people of Athens At first, there was great resentment against him, from both the rich and poor*]

Soon, however, becoming sensible of the good that was done, they laid by their grudges, made a public sacrifice, calling it Seisacthea, and chose Solon to new model and make laws for the commonwealth, giving him the entire power over everything, their magistracies, their assemblies, courts, and councils that he should appoint the number, times of meeting, and what estate they must have that could be capable of these, and dissolve or continue any of the present constitutions, according to his pleasure

[Draco's Laws]

First, then, he repealed all Draco's laws, except those concerning homicide, because they were too severe, and the punishment too great, for death was appointed for almost all offences, insomuch that those that were convicted of idleness were to die, and those that stole a cabbage or an apple to suffer even as villains that committed sacrilege or murder So that Demades, in after time, was thought to have said very happily that Draco's laws were written not with ink but blood and he himself, being once asked why he made death the punishment of most offences, replied, Small ones deserve that, and I have no higher for the greater crimes"

[The People]

Next, Solon, being willing to continue the magistracies in the hands of the rich men, and yet receive the people into the other part of the government, took an account of the citizens estates, and those that were worth five hundred measures of fruit, dry and liquid, he placed in the first rank, calling them Pentacosiomedimni, those that could keep an horse, or were worth three hundred measures, were named Hippada Teluntes, and made the second class the Zeugitæ, that had two hundred measures, were in the third, and all the others were called Thetes, who were not admitted to any office, but could come to the assembly, and act as jurors, which at first seemed nothing, but afterwards was found an enormous privilege,

as almost every matter of dispute came before them in this latter capacity Even in the cases which he assigned to the archon's cognisance, he allowed an appeal to the courts Besides, it is said that he was obscure and ambiguous in the wording of his laws, on purpose to increase the honour of his courts, for since their differences could not be adjusted by the letter, they would have to bring all their causes to the judges, who thus were in a manner masters of the laws Of this equalisation he himself makes mention in this manner —

'Such power I give the people as might do
Abridged not what they had, now lavished new,
Those that were great in wealth and high in place
My counsel likewise kept from all disgrace
Before them both I held my shield of might,
And let not either touch the other's right'

And for the greater security of the weak commons, he gave general liberty of indicting for an act of injury, if any one was beaten, maimed, or suffered any violence, any man that would and was able might prosecute the wrong doer, intending by this to accustom the citizens, like members of the same body, to resent and be sensible of one another's injuries And there is a saying of his agreeable to his law, for, being asked what city was best modelled, That," said he, where those that are not injured try and punish the unjust as much as those that are'

When he had constituted the Areopagus of those who had been yearly archons, of which he himself was a member therefore, observing that the people, now free from their debts, were unsettled and impetuous, he formed another council of four hundred, a hundred out of each of the four tribes, which was to inspect all matters before they were propounded to the people, and to take care that nothing but what had been first examined should be brought before the general assembly The upper council, or Areopagus, he made inspectors and keepers of the laws, conceiving that the commonwealth, held by these two councils, like anchors, would be less liable to be tossed by tumults, and the people be more quiet ...

[MARRIAGE]

Amongst his other laws, one is very peculiar and surprising, which disfranchises all who stand neuter in a sedition, for it seems he would not have any one remain insensible and regardless of the public good, and securing his private affairs, glory that he has no feeling of the distempers of his country, but at once join with the good party and those that have the right upon their side, assist and venture with them, rather than keep out of harm's way and watch who would get the better It seems an absurd and foolish law which permits an heiress, if her lawful husband fail her, to take his nearest kinsman, yet some say this law was well contrived against those who, conscious of their own unfitness, yet, for the sake of the portion would match with heiresses, and make use of law to put a violence upon nature, for now, since she can quit him for whom she pleases, they would either abstain from such marriages, or continue them with disgrace, and suffer for their covetousness and designed affront, it is well done, moreover, to confine her to her husband's nearest kinsman, that the children may be of the same family Agreeable to this is the law that the bride and bridegroom shall be shut into a chamber, and eat a quince together; and that the husband of an heiress shall consort with her thrice a month, for though there be no children, yet it is an honour and due affection which an husband ought to pay to a virtuous, chaste wife, it takes off all petty differences, and will not permit their little quarrels to proceed to a rupture

In all other marriages he forbade dowries to be given, the wife was to have three suits of clothes, a little inconsiderable household stuff, and that was all; for he would not have marriages contracted for gain or an estate, but for pure love,

kind affection, and birth of children When the mother of Dionysius desired him to marry her to one of his citizens, 'Indeed," said he, 'by my tyranny I have broken my country's laws, but cannot put a violence upon those of nature by an unseasonable marriage Such disorder is never to be suffered in a commonwealth, nor such unseasonable and unloving and unperforming marriages which attain no due end or fruit, any provident governor or lawgiver might say to an old man that takes a young wife what is said to Philoctetes in the tragedy—

"Truly, in a fit state thou to marry!"

and if he find a young man with a rich and elderly wife growing fat in his place, like the partridges, remove him to a young woman of proper age And of this enough

[Limits on Speech]

Another commendable law of Solon's is that which forbids men to speak evil of the dead, for it is pious to think the deceased sacred, and just, not to meddle with those that are gone, and politic, to prevent the perpetuity of discord He likewise forbade them to speak evil of the living in the temples, the courts of justice, the public offices, or at the games, or else to pay three drachmas to the person, and two to the public For never to be able to control passion shows a weak nature and ill breeding, and always to moderate it is very hard, and to some impossible And laws must look to possibilities, if the maker designs to punish few in order to their amendment, and not many to no purpose.

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[Encourages Trade]

Observing the city to be filled with persons that flocked from all parts into Attica for security of living, and that most of the country was barren and unfruitful, and that traders at sea import nothing to those that could give them nothing in exchange he turned his citizens to trade, and made a law that no son be obliged to relieve a father who had not bred him up to any calling It is true, Lycurgus, having a city free from all strangers, and land, according to Euripides—

Large for large hosts, for twice their number much,"

and, above all, an abundance of labourers about Sparta, who should not be left idle but be kept down with continual toil and work, did well to take off his citizens from laborious and mechanical occupations, and keep them to their arms, and teach them only the art of war But Solon, fitting his laws to the state of things, and not making things to suit his laws and finding the ground scarce rich enough to maintain the husbandmen, and altogether incapable of feeding an unoccupied and leisured multitude, brought trades into credit, and ordered the Areopagites to examine how every man got his living, and chastise the idle But that law was yet more rigid which, as Heraclides Ponticus delivers declared the sons of unmarried mothers not obliged to relieve their fathers for he that avoids the honourable form of union shows that he does not take a woman for children, but for pleasure, and thus gets his just reward, and has taken away from himself every title to upbraid his children to whom he has made their very birth a scandal and reproach

[Other Laws]

Solon's laws in general about women are his strangest, for he permitted any one to kill an adulterer that found him in the act, but if any one forced a free woman, a hundred drachmas was the fine if he enticed her, twenty, except those that sell themselves openly, that is, harlots, who go openly to those that hire them He made it unlawful to sell a daughter or a sister, unless, being yet unmarried, she was found wanton Now it is irrational

to punish the same crime sometimes very severely and without remorse, and sometimes very lightly, and as it were in sport, with a trivial fine; unless there being little money then in Athens, scarcity made those mulcts the more grievous punishment. In the valuation for sacrifices, a sheep and a bushel were both estimated at a drachma; the victor in the Isthmian games was to have for reward an hundred drachmas; the conqueror in the Olympian, five hundred; he that brought a wolf, five drachmas; for a whelp, one; the former sum, as Demetrius the Phalerian asserts, was the value of an ox, the latter, of a sheep. The prices which Solon, in his sixteenth table, sets on choice victims, were naturally far greater; yet they, too, are very low in comparison of the present. The Athenians were, from the beginning, great enemies to wolves, their fields being better for pasture than corn. Some affirm their tribes did not take their names from the sons of Ion, but from the different sorts of occupation that they followed; the soldiers were called Hoplitæ, the craftsmen Ergades, and, of the remaining two, the farmers Gedeontes, and the shepherds and graziers Ægicores.

Since the country has but few rivers, lakes, or large springs, and many used wells which they had dug, there was a law made, that, where there was a public well within a *hippicon,* that is, four furlongs, all should draw at that; but when it was farther off, they should try and procure a well of their own; and if they had dug ten fathoms deep and could find no water, they had liberty to fetch a pitcherful of four gallons and a half in a day from their neighbours'; for he thought it prudent to make provision against want, but not to supply laziness. He showed skill in his orders about planting, for any one that would plant another tree was not to set it within five feet of his neighbour's field; but if a fig or an olive not within nine; for their roots spread farther, nor can they be planted near all sorts of trees without damage, for they draw away the nourishment, and in some cases are noxious by their effluvia. He that would dig a pit or a ditch was to dig it at the distance of its own depth from his neighbour's ground; and he that would raise stocks of bees was not to place them within three hundred feet of those which another had already raised.

He permitted only oil to be exported, and those that exported any other fruit, the archon was solemnly to curse, or else pay an hundred drachmas himself; and this law was written in his first table, and, therefore, let none think it incredible, as some affirm, that the exportation of figs was once unlawful, and the informer against the delinquents called a sycophant. He made a law, also, concerning hurts and injuries from beasts, in which he commands the master of any dog that bit a man to deliver him up with a log about his neck, four and a half feet long; a happy device for men's security. The law concerning naturalising strangers is of doubtful character; he permitted only those to be made free of Athens who were in perpetual exile from their own country, or came with their whole family to trade there; this he did, not to discourage strangers, but rather to invite them to a permanent participation in the privileges of the government; and, besides, he thought those would prove the more faithful citizens who had been forced from their own country, or voluntarily forsook it. The law of public entertainment (*para sitein* is his name for it) is also peculiarly Solon's; for if any man came often, or if he that was invited refused, they were punished, for he concluded that one was greedy, the other a contemner of the state.

[Written Laws]

All his laws he established for an hundred years, and wrote them on wooden tables or rollers, named axones, which might be turned round in oblong cases; some of their relics were in my time still to be seen in the Prytaneum, or common hall at Athens. These, as Aristotle states,

were called cyrbes, and there is a passage of Cratinus the comedian—

"By Solon, and by Draco, if you please,
Whose Cyrbes make the fires that parch our peas."

But some say those are properly cyrbes, which contain laws concerning sacrifices and the rites of religion, and all the others axones. The council all jointly swore to confirm the laws, and every one of the Thesmothetæ vowed for himself at the stone in the market-place, that if he broke any of the statutes, he would dedicate a golden statue, as big as himself, at Delphi.

Observing the irregularity of the months, and that the moon does not always rise and set with the sun, but often in the same day overtakes and gets before him, he ordered the day should be named the Old and New, attributing that part of it which was before the conjunction to the old moon, and the rest to the new, he being the first, it seems, that understood that verse of Homer—

"The end and the beginning of the month,"—

and the following day he called the new moon. After the twentieth he did not count by addition, but, like the moon itself in its wane, by subtraction; thus up to the thirtieth.

Now when these laws were enacted, and some came to Solon every day, to commend or dispraise them, and to advise, if possible, to leave out or put in something, and many criticised and desired him to explain, and tell the meaning of such and such a passage, he, knowing that to do it was useless, and not to do it would get him ill-will, and desirous to bring himself out of all straits, and to escape all displeasure and exceptions, it being a hard thing, as he himself says—

"In great affairs to satisfy all sides,"

as an excuse for travelling, bought a trading vessel, and, having leave for ten years' absence, departed, hoping that by that time his laws would have become familiar.

His first voyage was for Egypt, and he lived, as he himself says—

"Near Nilus' mouth, by fair Canopus' shore,"

and spent some time in study with Psenophis of Heliopolis, and Sonchis the Saite, the most learned of all the priests; from whom, as Plato says, getting knowledge of the Atlantic story, he put it into a poem, and proposed to bring it to the knowledge of the Greeks. From thence he sailed to Cyprus, where he was made much of by Philocyprus, one of the kings there, who had a small city built by Demophon, Theseus's son, near the river Clarius, in a strong situation, but incommodious and uneasy of access. Solon persuaded him, since there lay a fair plain below, to remove, and build there a pleasanter and more spacious city. And he stayed himself, and assisted in gathering inhabitants, and in fitting it both for defence and convenience of living; insomuch that many flocked to Philocyprus, and the other kings imitated the design; and, therefore, to honour Solon, he called the city Soli, which was formerly named Æpea.

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[Quarrels]

When Solon was gone, the citizens began to quarrel; Lycurgus[1] headed the Plain; Megacles, the son of Alcmæon, those to the Seaside; and Pisistratus the Hill-party, in which were the poorest people, the Thetes, and greatest enemies to the rich; insomuch that, though the city still used the new laws, yet all looked for and desired a change of government, hoping severally that the change would be better for them, and put them above the contrary faction. Affairs standing thus, Solon returned, and was reverenced by all,

[1] *Not* Lycurgus of Sparta.—Ed.

and honoured, but his old age would not permit him to be as active, and to speak in public, as formerly, yet, by privately conferring with the heads of the factions, he endeavoured to compose the differences, Pisistratus appearing the most tractable, for he was extremely smooth and engaging in his language, a great friend to the poor, and moderate in his resentments, and what nature had not given him, he had the skill to imitate, so that he was trusted more than the others being accounted a prudent and orderly man, one that loved equality, and would be an enemy to any that moved against the present settlement Thus he deceived the majority of people, but Solon quickly discovered his character, and found out his design before any one else, yet did not hate him upon this, but endeavoured to humble him, and bring him off from his ambition, and often told him and others, that if any one could banish the passion for preeminence from his mind and cure him of his desire of absolute power, none would make a more virtuous man or a more excellent citizen Thespis, at this time, beginning to act tragedies, and the thing because it was new, taking very much with the multitude though it was not yet made a matter of competition, Solon, being by nature fond of hearing and learning something new, and now, in his old age, living idly and enjoying himself, indeed, with music and with wine went to see Thespis himself, as the ancient custom was act and after the play was done, he addressed him, and asked him if he was not ashamed to tell so many lies before such a number of people, and Thespis replying that it was no harm to say or do so in play, Solon vehemently struck his staff against the ground 'Ah, said he, "if we honour and commend such play as this, we shall find it some day in our business"

[PISISTRATUS]

Now when Pisistratus, having wounded himself, was brought into the market place in a chariot, and stirred up the people, as if he had been thus treated by his opponents because of his political conduct, and a great many were enraged and cried out, Solon, coming close to him, said, This, O son of Hippocrates, is a bad copy of Homer's Ulysses, you do, to trick your countrymen, what he did to deceive his enemies 'After this, the people were eager to protect Pisistratus, and met in an assembly, where one Ariston making a motion that they should allow Pisistratus fifty clubmen for a guard to his person, Solon opposed it, and said much to the same purport as what he has left us in his poems—

> You dote upon his words and taking phrase,"

and again—

> True you are singly each a crafty soul,
> But all together make one empty fool."

But observing the poor men bent to gratify Pisistratus, and tumultuous, and the rich fearful and getting out of harm's way, he departed, saying he was wiser than some and stouter than others, wiser than those that did not understand the design, stouter than those that, though they understood it, were afraid to oppose the tyranny Now, the people, having passed the law, were not nice with Pisistratus about the number of his clubmen, but took no notice of it, though he enlisted and kept as many as he would, until he seized the Acropolis When that was done, and the city in an uproar, Megacles, with all his family, at once fled, but Solon, though he was now very old, and had none to back him, yet came into the marketplace and made a speech to the citizens, partly blaming their inadvertency and meanness of spirit, and in part urging and exhorting them not thus tamely to lose their liberty, and likewise then spoke that memorable saying, that, before, it was an easier task to stop the rising tyranny, but now the great and more glorious action to

destroy it, when it was begun already, and had gathered strength. But all being afraid to side with him, he returned home, and, taking his arms, he brought them out and laid them in the porch before his door, with these words: "I have done my part to maintain my country and my laws," and then he busied himself no more. His friends advising him to fly, he refused, but wrote poems, and thus reproached the Athenians in them:—

"If now you suffer, do not blame the Powers,
For they are good, and all the fault was ours,
All the strongholds you put into his hands,
And now his slaves must do what he commands."

And many telling him that the tyrant would take his life for this, and asking what he trusted to, that he ventured to speak so boldly, he replied, "To my old age." But Pisistratus, having got the command, so extremely courted Solon, so honoured him, obliged him, and sent to see him, that Solon gave him his advice, and approved many of his actions; for he retained most of Solon's laws, observed them himself, and compelled his friends to obey. And he himself, though already absolute ruler, being accused of murder before the Areopagus, came quietly to clear himself; but his accuser did not appear. And he added other laws, one of which is that the maimed in the wars should be maintained at the public charge....

TWO

Political Life in the Greek City State

THE EMERGENCE OF THE IDEA OF CONstitutionalism can hardly be discerned in the civilizations prior to that of Greece. There is tribal law in many civilizations. There is some protection of status and even of contract and of individual rights in Hebraic law of the period of the Judges. But there is little of democracy, in the modern sense of political rights and equality, in the ancient world. And there is almost nothing of the idea of real political liberty. Though the people are consulted, they are not the last word and they have no rights against the state.

Greek City State as Background of Political Thought of Plato and Aristotle

In Greece, constitutionalism took the form, as we shall see, on the one hand of *the conception and in some degree the practice of a political liberty*, that is, a political system in which the citizen controls his government, and on the other, of *the notion of a fundamental law which would control the exercise of power*. Aristotle, from the rich experience of Athenian democracy and his studies of many other Greek city states, emphasized the first conception, namely, the responsibility of government to the citizens through elections by lot or voting or through direct democracy. Although he speaks of the constitution as the "form" of the state and the "spirit" of the state, he was sufficiently a Greek and a realist not to think that the fundamental law was beyond revolutionary change or that it could not be altered by internal shifts in the balances of power between the classes. But he hoped by his mixed constitution for the polity to establish a balance that would maintain the fundamental law, and that would permit the realization of "the good life"—morality protected by law.

Ancient societies in other areas had developed a more rigid idea of law than that of the dynamic Greek civilization. Many of these societies were based upon codes like the Mosaic Law, or the Code of Hammurabi, or upon laws that were supposed to be unalterable in their basic nature,

like the "Laws of the Medes and the Persians." Plato had at least a hankering after such immutable laws in his own work, the *Laws*. But he, too, was sufficiently Greek to allow for changes in the basic laws of the state. These changes were to result from the perpetual examination to which the basic laws were to be subjected by comparison with other societies through the institution of the Inquisitors, as they were called, sent abroad to report on other systems. His Nocturnal Council would in the end have been able to undermine and change the entire system, because it possessed that absolute power which modern totalitarian governments have found necessary. It is the very essence of such absolute power that it can change any limitations that are self-imposed by the masters or rulers of the society. There can be no really *constitutional* or *fundamental* law in such a system.

The idea of the constitution as a fundamental law, as a safeguard of freedom, was by no means clearly set forth in Greek thought. It has presented puzzles concerning the relation between fundamental law and ordinary law-making ever since. The Athenians attempted to safeguard their constitution by making amendments to it subject to the risk of heavy fine or even the death penalty to the proposer of such a change, if his proposal did not meet with approval by the assembly or was regarded subsequently as unsound. There was also, as Lord Bryce has pointed out in his essay, "Democracies of Antiquity," [1] an attempt to differentiate between ordinary laws or decrees, which were called *psephismata,* on the one hand, and the fundamental laws organizing power in the state, which were called *nomoi.* But the idea of the necessity for extraordinary majorities or special procedure to amend the constitution cannot be said to have been highly developed in the Greek city state. The courts in Athens were strongly intermingled with legislative activities and did have some function of protecting the constitution through the ability to punish unsuccessful innovators. However, the Greek city state, when it acted through an assembly of the citizens with direct democracy, tended to place the sovereignty of the people above any sovereignty of law in much the same manner that Rousseau was later to develop in his idea of the General Will.

There is yet another aspect of modern constitutionalism in addition to the responsibility of the government to the electorate, and in addition to political liberty and democratic equality, and to the concept of a fundamental law superior to ordinary law. This addition may be called the concept of *civil liberty* centering in the protection of the rights of the individual which are safeguarded by the constitution against the gov-

[1] *Modern Democracies*, Vol. I.

ernment itself. This concept can hardly be said to have been developed in Greek thought or practice.

Plato's *Apology* of Socrates raises such a conception in terms of the moral obligation which Socrates professes: i.e., he is morally bound to follow the dictates of his own conscience, *daemonion*. But the *Apology* itself rejects any idea that there is a right *against* the state or even *against* the government; and Socrates in the subsequent dialogues of the *Crito* and the *Phaedo* accepts his death at the hands of the Athenian court as morally obligatory upon his own sense of duty. One of the most dramatic passages in all Plato's dialogues is that in which Socrates represents himself as confronted by "The Laws of Athens," who would shame him from fleeing merely to save his life by reminding him that Athens gave him that life and shaped it to what it was. Plato, in the *Laws*, goes so far as to justify the putting to death of those who preach subversive doctrines in the state, in a way that would, as many commentators have pointed out, have fully justified the Athenians in putting Socrates to death.

The political community to a Greek mind was the *source* of morality. Rights against it were in some sense a contradiction in terms. The Greek city state was not the product of any conception of individualism. The very vitality of the civilization derived from the intensity of participation in communal life that included a state religion. Studies like those of Fustel de Coulanges in *La Cité Antique*, and of the Greek religions by many authors [2] show the completely interwoven character of the political and religious aspects of Greek society. Each city state had grown from a gentilic society with a founder whose origin was more or less traced back to the gods or to a semi-divine source. The blood lines of the family were traced through a patriarchal line in which the early king combined the functions of priest, judge, and general. Although modern anthropologists have shown the organization of gentilic society was not so regular or so universal as Lewis Morgan holds in his work on *Ancient Society*, it was nevertheless true that in early Western societies and in most tribal organizations the blood ties and the religious ties were the basis of citizenship. The tribe was created by the union of the combination of intermediate units, called *phratries*, which were a sort of brotherhood of related *gentes*, whose bonds of union were common worship and the tracing of common ancestry. These phratries combined into the tribal units which formed the earliest effective *political* groups.

The "well-greaved Achaeans," of whom Homer speaks, probably became dominant in Greece by overrunning the indigenous population of

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[2] See, e.g., W. Jaeger, *Theology of the Early Greek Philosophers*, and Jane E. Harrison, *Themis*, as well as the works of Burnet, Taylor, and Farnsworth.

the Aegean and of Crete somewhere around the fourteenth century B.C.[3] The petty kingdoms that these conquerors set up, for instance, in Attica, were tribal and gentilic societies. They were ordinarily organized, as they were by Athens in the Attic region, into a loose defensive league. Struggles with neighbors, like the long rivalry of sea-girt Athens with Sparta, rimmed by the Lacedaemonian hill country, or with the Boeotian group led later by Thebes, helped to create from this very rivalry the city state of classic Greek times. The need for trading and the production of weapons gradually shaped the basis of the city state from a gentilic and tribal organization to what we now know as a demic society, from the expression *demes,* or townships, into which Athens was divided, after the time of Solon and Pisistratus, in the time of Cleisthenes. The basis of citizenship shifted to the inhabitants of a given territory, though in the time of Pericles, citizenship of both parents was still a condition for the full rights of citizenship.

Development of Sparta

Sparta, which had also grown from an organization of conquerors, was by its location less exposed to the influence of trade. The "iron money" which its legendary rulers imposed on it for currency was both a symbol of the anti-commercial character of the state, and a safeguard. Sparta developed into a civilization more like that of modern Junker Prussia, that is, feudal landlords bound together by holding down their serfs or *helots.* The organization of Sparta always reflected internal tension by the necessity for remaining perpetually armed, as much against internal revolution from the serfs or *helots,* who were the conquered older inhabitants, as against external attack. The Spartan constitution from the time of the partly legendary Lycurgus was aimed at creating a system which could meet the test of rule over a much more numerous population of serfs and, at the same time, meet all comers in the constant struggle for military supremacy among the city states that were the centers of power in the Greek world. Its two kings (hereditary) were priests and war-leaders, or chiefs.[4] The five *ephors,* who administered the state, were selected by the Senate and confirmed by the Assembly of the Spartiates (who were the full citizens). But Plato says their power was "exceedingly like that of

[3] According to H. Schneider, the German historian of world cultures, there are documents from the archives of the Hittite King Mursil (about 1330 B.C.) which speak of two powerful kings of Achaea and Lesbos, "Antaravas" and "Tavagalavas." See his *History of World Civilization,* Vol. II, p. 365.

[4] The kings retained some powers until the late fifth century. Actually the Spartan kings were subject to trial for misconduct. Cleomenes, a striking figure at the end of the sixth century B.C., was only the first of several who were so treated. By the fourth century they had become figureheads.

a tyrant." [5] The ephors, as well as the small Senate (twenty-eight, plus the two kings), which, according to Plutarch, was elected by the volume of acclaim that greeted each of the elders, all were subject to some check of a limited character by their responsibility to the Assembly. Here is a marked similarity to the description that Tacitus gives of the warlike Germans whom the Romans encountered on their marches of Gaul and beyond, who elected their leaders by the clashing of their shields. There was at least an element of mobility and of the "career open to the talented" in Sparta. The hereditary principle was reduced to a minimum in order to secure efficiency. Though a career was open to the talented, the whole of the Spartan ruling class was under the discipline of an armed camp.

This organization persisted, at least in its general outlines, from at least 757 B.C. (the earliest list of Spartan ephors) until the third century B.C., when Sparta ceased to count as an effective power after the crushing victory of the Macedonian overlords of Greece and their subsequent replacement by Rome. The fifth century saw marked improvements in organization and leadership, and the fourth saw the beginning of corruption and decline.

Athens

Athens, on the other hand, underwent many changes in its basic constitutional structure. In the pre-Solonian period the organization had already become sufficiently complex to include four tribes, which were divided into twelve phratries, governed by a king. The power of this king was gradually reduced by the nobles until the *polemarch,* or general, and the *archon,*[6] or regent, appeared to have shared a leadership somewhat like the two consuls in Rome or the early kings of Sparta, until such time as six other *archons* were added and the Senate became more or less hereditary and no longer merely synonymous with the leaders of the *gentes.* At a very early period (possibly the late seventh century B.C.) the assembly in Athens already had laws proposed to it which were formulated by the senate. Through the general participation of the citizens in politics and the civic religious festivals such as the Panathenaea, the feeling of democracy was encouraged. This tended to shape the whole citizenship into a sense of unity.

The inevitable growth of wealth through the differentiation of function in the society finally produced the *eupatridae,* or nobles, who in the early pre-Solonian days appear to have monopolized offices and controlled selections for office; the *georgi,* or peasant landlords; the *demiurgi,* who

[5] *Laws,* IV, 712d.

[6] The list of Athenian archons, according to Schneider (*op. cit.,* Vol. II, p. 363), goes back to 682 B.C.

were traders and shopkeepers. As the city grew, many inhabitants of the city came to be known as *metioeci,* or free nationals, as we would call them, who did not have voting rights, but who added importantly to the trade and the economic vitality of Athens as a city.

The pressure of the Athenian masses against the growing monopoly of the aristocracy probably helped to produce Draco's Code of about 621 B.C. This may be compared with the famous codification of the unwritten laws of Rome into the Twelve Tables, since both were aimed at producing a law that was known and certain, as opposed to the customary law interpreted by priests and aristocratic officials. Today we think of Draco's Code particularly in terms of its severity, which it remained for Solon to modify. But in its origins it was probably a concession to popular pressure.

Economics and Solon's Reforms in Athens

The mines of Laurium in Attica made a significant contribution to the growth and development of Athens as a trading center. From the time of Solon (early sixth century B.C.) on, the so-called Laurian Owls (a coin with the Owl of Athena on the face) came to be the standard currency of the Greek world. The mines, which produced both lead and silver, formed a secure source of revenue for Athens and enabled a development of commerce that outstripped many of its neighbors.

At the time of Solon a basic series of reforms was put into effect at Athens, partly economic and partly political. Metallic currency had helped to produce a concentration of wealth, particularly as its manipulation could change the whole previous debt structure. The Athenian peasants had gradually become overburdened by debt to such a degree that many were practically in servitude. Solon's sweeping annulment of these debts and the institution of a sort of "New Deal" has formed a classic model ever since for the redistribution of wealth through reform movements of an economic character in favor of the debtor classes. The lower orders of the Athenian citizenry had begun to lose out in the struggle for controlling the government as a result of the inability of the working classes to spend time in public functions. Through his reforms, Solon was able to restore partially a balance for a brief period; and thus democracy began to make encroachments on the political oligarchy that had been developed by the wealthier and aristocratic citizens.

Solon was elected as archon with extraordinary "emergency" powers to intervene in the crisis which was rapidly developing into class war in Athens. After he had reduced or abolished the old debt slavery and land mortgages, though without destroying land holdings or interest rates, he proceeded to his political reforms in the class structure. The first of these might be taken as the addition of a fourth class, below the three higher-

income groups which were the only classes that had previously had civic duties assigned to them. These income groups were to take the place of the old social classes. By spreading the suffrage and admitting this fourth class of freemen to the assembly, he broadened the basis of the state and gave an opportunity for the expression of grievances to a group that had become depressed to an almost proletarian level. He took away from the Areopagus (senate) of the aristocratic old families the sole power to frame legislation and put this power into the Council of Four Hundred, one hundred from each tribe, apparently chosen by lot; though in Solon's time still limited to the three upper groups down to the class of *zeugites* described below. The introduction of the lot into Athenian institutions was later expanded to all citizens. It is characteristic of the most extreme type of democracy, namely, that of a sampling basis without the necessity of selection by vote. The powers of the old Areopagus were limited to those of a court which could hold the magistrates to account and could limit the actions of the assembly. Alongside the Areopagus, Solon had created the most distinguishing feature of Athenian society, popular courts of judges chosen by lot from all the freemen. To these courts he gave the right to review the action of all elected officials, to appoint the magistrates, and to act as appellate courts, a duty that had previously fallen upon the archons.

Solon did not, however, attempt to destroy all distinctions of wealth; rather he tried to balance them.[7] His three upper classes, in addition to the newly enfranchised fourth class, were organized on the basis of ability to support a military organization and in terms of their wealth and contribution to the state. The first class could be called knightly, since it was able to support from its minimum per capita annual revenue of five hundred bushels the position of cavalry in military formation. This figure is equivalent to a capital value of about one talent, which in modern terms would mean an income of many thousands of dollars. The second class appears to have had a revenue of at least three hundred bushels and was also able to support its status as cavalry. The third, the *zeugitae*, with a revenue of two hundred bushels, equivalent to ownership of a yoke of oxen for cultivation, formed the *hoplites* or heavy armed troops; while the fourth and lowest class, the *thetes*, who had an annual return from land of less than a hundred and fifty bushels, or else derived their income from trade or as day laborers, were the lighter armed formations (*peltasts*) and later formed the bulk of the Athenian fleet (*naucraries*).[8]

[7] Schneider points out that thus "in principle the liberal system had been discovered for all freemen, the system of fundamental human equality, of stimulus through opportunity to rise, of a just balance between achievement and gain." (*Op cit.*, Vol. II, p. 402.)

[8] See *Plutarch's Lives*, Vol. I, p. 169, and note discrepancy with this interpretation in W. Fowler and H. Schneider, *op. cit.*

The archons could be chosen from the first class only, and the Areopagus could be chosen only from the wealthier citizens, the three-to-five-hundred-bushel men. Executive office was open only to the first three classes. But the fourth class could participate in the election of magistrates, and those over thirty in the election of assembly. This meant sharing legislative control.

Post-Solonian Reform

Solon's reforms, in some sense, furnish the rough but not exact model for the organization into four economic classes which Plato later uses in the *Laws.* Although these reforms did not settle the eternal struggle between the rich and the poor, they did permit a compromise that allowed Athens to develop and to diversify its economy. Pisistratus, leader of the peasants, or "Men of the Mountain," attacked the agrarian problem of his time by extending credit to the farmers until they could realize on their mature olive groves. He also divided some of the estates of those whom he had exiled as enemies of his regime among the peasants who owned no land.

The solution for the city proletariat was not so simple. Perhaps it was this pressure which forced Cleisthenes, a noble leader of the "Men of the Shore," to destroy the last vestiges of the old gentilic, aristocratic control of the Athenian system which had been run by the "Men of the Plains," by changing the whole basis of citizenship for both civic and military organization into *demes,* or townships. The *demes* included all the freemen within its borders and furnished an essentially self-governing unit of territory as a substitute for the old family basis of government. He purposely created ten tribes, composed of ten non-contiguous *demes,*[9] in order to undermine the aristocratic control which had persisted in the 360 clan villages of the old system. He created the Council of Five Hundred on the basis of fifty delegates from each tribe. He also tried his hand at myth-making by assigning a legendary Athenian hero as the civic symbol of each of the ten new tribes as a substitution for the old family gods.

Some students of Athenian history are inclined to view this type of reform as a return to the rather loose and democratic organization of the original gentilic society which had been supplanted by the growth of feudal aristocracy. The latter had placed an increasing reliance on wealth as the sole basis for political power. To be without wealth was to be a serf, at least to be politically disfranchised. The enlistment of all classes of Athenian society in the new polity bore fruits in the struggle against

[9] Each *deme* was made up by lot of one district in the plain, one on the coast, and one in the mountains. See Warde Fowler, *City State of the Greeks and Romans.*

the Persians in the great naval victory at Salamis and in the Athenian contribution at Plataea to the overthrow of the Persian invasions. The sailors of Salamis were *thetes* (day laborers), the lowest class of Athenian freemen. To them was due the great victory, and they claimed their political reward.

During the fifth century the popular assembly which met on the Pnyx won a complete ascendancy over the old aristocratic senate, which had met on Mars Hill (the Areopagus), the site of St. Paul's address to the Athenians. The assembly gained unlimited and sovereign power in its ability to amend the bills reported to it by the Council of Five Hundred and it eliminated all appeal from its decisions. Thus Athens achieved a direct democracy and made the assembly the supreme legislative organ.

Athenian Democracy at Flood Tide

However, since the assembly met only at limited intervals, the Council of Five Hundred remained the permanent steering and executive committee, and thus the real government of Athens. It was controlled democratically by means of the rotating position of the chairman and by the fact that the *prytanies* (committees of fifty from each tribe) acted alternatively in the name of the entire Council in the handling of business and in the preparation of the agenda. The whole Council was chosen by lot, the most democratic of all methods. Only in the election of the generals was anything like a representative election followed. For a limited citizenship, therefore, Athens achieved the extreme of democratic equality.

In order to moderate this excessive democracy, the magistracy necessarily had to handle the administrative details of government. These magistrates, too, acted as boards of ten, one for each of the administrative divisions of the ten tribes. But they had little power, since they were themselves closely supervised by the popular courts in the matter of finances, and re-election was prohibited.

Although Pericles had relegated the Areopagus to a court for trying murders and devolved its other administrative and supervisory functions on the Council, the Athenians retained the institution of the polemarch, or commander-in-chief in the field. All the ten generals, who formed the group that exercised control over foreign policy as well as military and other diplomatic matters, were elected, as has been noted, and not chosen by lot. The amusing story is told that in order to choose the polemarch the procedure was sometimes adopted of asking what general each of the ten considered best, *next to himself*! The choice in this manner fell upon an outstanding leader like Pericles. Occasionally a military genius like Alcibiades failed to achieve command in the field, with disastrous results. The jealousy of the Athenians against putting power into the

hands of any one leader did not lend itself to unified command or long-continued leadership, except in the most unusual circumstances. Even Pericles occasionally fell from favor and was submitted to fines, as he was when charges were brought against his turning over public funds to Phidias, who had made no proper accounting of them in the use of the gold ornaments for the great statue of Pallas Athena. *Ostracism,* or banishment of "dangerous" leaders, sent many great Athenians into exile, as Plutarch and Thucydides testify.

The popular courts, which were resolved into juries of 201 or more, exercised not only extensive control over the magistrates and the law itself but also the power to punish. In applying the laws the courts in a sense interpreted them and even legislated.[10] Pericles has often been criticized for instituting the system of payment for jury service. His intention was to permit the poor as well as the rich to serve. It has been a very usual contention that this money payment attracted poor urban radicals and disproportionately weighted the courts in this direction. The three great natural divisions of Athenian citizenry into the Men of the Mountain, the Men of the Plains, and the Men of the Shore, according to this interpretation, permitted the radical Men of the Mountain to run the Athenian democracy, as *La Montagne* was the head and front of the Jacobin Terror during the French Revolution. Rostovtzeff holds a different view and claims that the wealthier citizens still retained control of the court, since the two obols a day was too small a compensation to attract even the poor. And yet others have said that the fines imposed were often in the interests of the jurors, rather than in the interests of rendering impartial justice. The very name of the courts, the *heliae,* suggested that old men who loved to sit in the sun (*helios*) were the foundation of the court. Their behavior certainly suggests that they punished the rich from motives of self-interest on a philosophy like that of "share the wealth." The Athenian doctrine of equality was certainly pushed to extreme lengths. It went far toward economic as well as political equality in some of its phases. It insisted on elections by lot, direct democracy, and rotation in office. It was obviously premised on the assumption that "what touches all should be decided by all," and that politics was the art of grasping universal questions and, therefore, suitable for the general participation of the enlightened citizens of Athens.

Plato or Pericles? Whose Was the True Athens?

To Plato, of course, this challenged the basic premise that politics is an art requiring a specialized training as much as any other profession. In-

[10] See Sir Paul Vinogradoff, *Historical Jurisprudence,* Vol. II, p. 142 *et seq.,* on this point.

deed, he asserts that it requires the highest wisdom, which is possessed by only a few and the most educated, in his own sense of the word *education.* The leveling influences of Athenian democracy were castigated by Plato in some memorable passages in which he asserts that the very asses in Athens take on the character of the society and go braying about the streets in the assertion of their equality. To the great exponent of the aristocratic philosophy of government in the *Republic,* the Athenian democracy resulted in inverting all proper social relations: "... young and old are all alike...." Such an inversion produces a lack of all loyalty and obedience: "...they chafe impatiently at the least touch of authority...."[11] In the caricature he draws in Book VI of the *Republic* of an assembly meeting guided by demagogues and responding to ignorance, he flays the statesmen who pandered to the vulgar. Under any such system he is certain that his eternal truths must be supplanted by the fluctuating and unstable will of the majority, for whom the unprincipled Sophist was the natural guide and leader. He would not have allowed the possibility of the boast that Pericles had made of the Athens of the Golden Age, that "Our citizens attend to both public and private duties." To Plato, private interest under such a system would always supplant public interest. He seems to have no feeling whatever for the truth that Pericles is stating in saying that the privileges in which citizens share equally provide a freer play to individual talent and give a greater incentive to private initiative. To Plato, the city state must absorb the individual through an organic and hierarchical organization. Yet it is significant that it is to the Athens of Pericles that we look back for the glory that was Greece in terms of the prophecy of Pericles himself: "Great indeed are the symbols and witnesses of our supremacy, at which posterity, as all mankind today, will be astonished."[12]

But the spreading of political power and the abuses of the democratic position in the courts through fines upon the more wealthy citizens helped to keep alive the struggle of classes in Athens. For a time this rift was overcome by the democratic leadership of Pericles; but with his death early in the Peloponnesian War and the disastrous defeat of Athens which followed the plague and the loss of his leadership, all the old divisions reappeared. The oligarchic group in Athens called in Sparta to help reestablish their old supremacy. It required a revolution and the throwing

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11 Book VIII (Benjamin Jowett trans., Modern Library Edition), pp. 319-20.

12 Benjamin Jowett's translation of this famous quotation from Pericles' Funeral Oration reads as follows: "And we shall assuredly not be without witnesses: there are mighty monuments of our power which will make us the wonder of this and of succeeding ages...." (*Thucydides,* Benjamin Jowett trans., Vol. I, p. 120.)

out of the Thirty Tyrants to re-establish democracy and to initiate the rebuilding of the strength of Athens during the fourth century B.C.

We perhaps get a false view of leaders like Cleon, who comes down to us as an unmitigated demagogue in the attacks made on him by Thucydides, the great historian of the period. While it is true that Thucydides is perhaps the first modern historian in the sense that he attempts to avoid the credulities of Herodotus and to examine the causes of events objectively, he is, nevertheless, a determined partisan in his opposition to the excesses of Athenian democracy. He shares Plato's extreme distaste for the compromises and apparently ignoble leadership of Cleon and the vacillating character and appeasement policies, mixed with occasional rash enterprises like that against Syracuse, that did so much to undermine the strength of Athens as a power.

Athens from Democratic Imperialism to Decline

The dramatic fashion in which Thucydides shows contemporary history was never better illustrated than in the magnificent funeral oration in which he puts into the mouth of Pericles a tribute to the dead of the Peloponnesian War. (See Reading.) No better case has ever been made for the model of a free society. Yet, as Thucydides shows, during that very period Athens was ruthlessly exploiting its allies in the Athenian Confederation through the exaction of ship money that went into the Athenian treasury to be spent gloriously, it is true, on the building up of the Acropolis and the amazing statues of Phidias. The passages in which Athens refuses mercy to the conquered Melians is the baldest statement of power politics and the right of the strong. It is a classic of the imperialist spirit and shows that Athenian democracy, like that of Rome at a later date, was capable of ruthless subordination of the rights of other free peoples to its own interests. As Athenian power waned, the more exacting became her demands and the more savage the punishment inflicted on her federal "allies."

There are many parallels to Rome in the Athenian, and indeed in the development of the whole Greek city-state structure. The growth of democracy and the excesses of democracy show a similar course. But Athens was to fall through factors of power politics that were hardly the same in the decline and fall of Rome from its imperial supremacy.

We are accustomed to think of Demosthenes as the pure Athenian patriot warning against the encroachments of Macedon and attempting to arouse the decadent Athenians of his time to their danger. Perhaps this is too simple a picture. Philip of Macedon had been brought into Greece to punish the profanation of the fields sacred to Apollo at the instance of the only league that attempted to unite the Greek city states, the Delphic

Amphictyony. The divided and weak position of the individual Greek city states, in any case, made them a proper prey for the growing empires which were struggling for supremacy in the Mediterranean world. With the decline of the Macedonian supremacy, Rome supplanted Macedonia and put an end to the independence of Greece. The voice of Demosthenes had too short a range in being addressed to the Athenian assembly. He was talking, in any case, to a commercial Athens, bent on peace at almost any price, for the sake of trade. He would have needed to unite *all Greece* against the new common threat from without. But no form of wider organization was available to the city states, none of which was strong enough finally to subdue all the rest to an imperial rule. Nor could the democracies of these be extended on a wider basis without the development of the institution of representation, which would have been completely foreign to their nature. The idea of one man bearing a mandate from a whole city to legislate, not to treat, was to a Greek incomprehensible.

Greek Federalism and Its Limits

The few experiments in attempting federal leagues, such as the Achaean League, succeeded in combining for a limited period only a few minor city states, because of the insuperable difficulty of transferring the assembly of these states to a body in any common meeting place. Freeman, in his *History of Federalism,* traces the efforts of these Greek federations to work out arrangements for common defense that would enable them to survive in the period of development of great empires. Lacking a common citizenship and representative institutions that could be used to support a strong federal union and extend the range of democracy throughout all Greece, these efforts were bound to fail. The *hegemony* of a powerful state like Athens or Thebes was a much more realistic approach under Greek conditions to a defensive confederation of states. Under this system, as the name implied, leadership and dominant power rested in one head of the confederation, much as in the German confederation under the dominance of Prussia.

However, no really national principle could be developed under such a system without extending the power of a political head of the confederacy to real imperialism, which was the model followed by Macedonia and Rome. This type of empire could survive only if its institutions proved to have an acceptability to all its outlying provinces and if the military burden imposed in the extending of its boundaries against perpetual encroachments did not exhaust the resources of the dominant city or city state. Rome came nearer to fulfilling these conditions than any of the early empires, but the burden of conquest, the drain of manpower,

and the growth of luxury, with its softening effect on leaders and citizens, offered no permanency in a world constantly upset by new combinations of great military leadership and superior weapons in the hands of fresher civilizations. Whether there is a rhythm to the rise and decline of empires, as charted by Spengler and others; or whether civilizations have a sort of inner testing in periodic challenge and response, partly determined by the rise of the external and internal proletariats, as traced by Toynbee; or whether there is indeed any formula for the understanding of the rise and decline of civilizations, must remain one of the great disputed points in the understanding of human history.[13]

Greek Experience and the International Problems of Our Times

In any case, in the search for stability of principles of political organization, the Greek experience foreshadows nearly all the stock problems that were to vex later civilizations. The combination of political liberties for the masses of the citizens with adequate military power and economic resources, and the blending of the whole system so as to command the loyalty of the citizens was the puzzle for which Plato and Aristotle thought they saw a solution. The conception of a world state was naturally completely outside the range of thought of men whose geographical limits were decided by great natural barriers such as oceans, mountain ranges, and deserts. Also, not until the conquest of space by modern means of transportation could the problems of the world state emerge. But within the limited context of the geographic regions that could be linked, the rise of city states to a position of dominance shows that Greek experience has much to teach. Perhaps the lesson for our own times is in their failure to unite to preserve their civilization. Or it may be that that civilization itself could not be preserved because of its inherent faults. For Plato and Aristotle the lesson was one of self-restraint in pushing the bounds of empires through creating a self-sufficient unit that could pursue the good life with all the intensity of an Athenian civilization. The problems raised in this effort—liberty and equality, hierarchy and discipline, the nature of justice in relation to law—remain as perpetual legacies to political thought.

(*... W.Y.E.*)

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[13] See Karl R. Popper, *The Open Society and Its Enemies*, for a denial of the applicability of any form of "historicism."

READINGS

THE importance of the Athenian influence on political speculation and practice in the West is hard to overestimate. From that tiny spring flows much of the present, but, across two thousand years and more, the reality of political experience is dimmed; it is all too easy to think of Plato and Aristotle as disembodied spirits who lived in neither time nor space. The contributions of Greece, of Plato and Aristotle, are understood only when it is realized fully that they were inspired by real political events and limited in their solutions by the experience of humankind in the fourth and fifth centuries B.C. The reality of this political experience is not so clear a part of our everyday knowledge that it can be taken for granted. The nature of empires and national states is more nearly akin to our received stock of knowledge than are the experience and the political life of the city state.

Moderns have been nurtured on the idea that the state is the enemy of man and his freedom, or that it is at best a necessary evil, made necessary if not evil by the ineradicable sin in man. That it is possible to hold another view of the state must be clear to anyone who understands the Greek conception of political society, but one of the most difficult tasks for a modern student is to understand the conception of the state or political society as being the ultimate in human attainment. In short, to understand that the highest association could be the state, and that the finest life is the political life, requires effort on the part of a modern student.

The Funeral Oration of Pericles as set down by the greatest of all ancient historians, Thucydides, contains something of the practices and aspirations of the Greeks at the height of their achievement. Thucydides (471-?400 B.C.) was both soldier and historian. His great work, *History of the Peloponnesian War*, was never completed; it ends in 411 and the war ended 404. But from the time the war broke out (431) Thucydides sensed its importance and began the collection of material.

Pericles' name alone is sufficient to identify the greatest period of Athenian history. He lived from 490 to 429 B.C. In birth, education, and temperament he was ideally equipped to preside over Athenian affairs. His democracy, however, was restricted to Athens, and he failed to use Athens' dominant position in the Delian League as an instrument of democracy. In 445 B.C., a thirty-year truce was arranged between Athens and Sparta which gave Pericles the fourteen years until 431 to bring Athens to the pinnacle of its achievement.

There is something about the study of Athenian democracy that kindles

the imagination of all who are drawn toward the subject. Over the long years, the facts and the fancies so well combined by a writer like Thucydides transmit a kind of enthusiasm to modern historians. In itself this is an eloquent tribute to the inspirational value of the ascendancy of Athens. But to thoughtful students it is not enthusiasm and blind worship alone that study produces Inevitably the question must arise as to why, from such heights, Athens has fallen; and all thoughtful men search the Athenian experience for the light that it may shed on our own future course. Even as Thucydides recorded this speech of Pericles, a disintegration was setting in that will never fail to excite any but the dullest of minds. Historians since have never ceased the effort to distil some political principles from the Athenian story for use in their own time, as if they sensed the possibility of an historic parallel. Toynbee's work projects the problems of civilization on a world scale of what we know of history. Athens, however, may serve our more limited purpose.

Pericles: The Athenian Ideal of Democracy

The classic contemporary account of Athenian democracy is contained in the Funeral Oration of Pericles, in Thucydides' HISTORY OF THE PELOPONNESIAN WAR *How much of the oration is Pericles' and how much Thucydides' is not known, but the ideal of democracy stated with such eloquence necessarily becomes classic regardless of who uttered the precise words If the passage idealizes Athenian democracy more than it states the actuality, it is well to remember that only a member of a highly developed political system could have framed it The oration is no product of a primitive people Lincoln must have drawn some hints from it for his classic Gettysburg address. ¶ The following selection is from the translation by Crawley.*[1]

IN THE SAME WINTER THE ATHENIANS GAVE a funeral at the public cost to those who had first fallen in this war. It was a custom of their ancestors, and the manner of it is as follows Three days before the ceremony, the bones of the dead are laid out in a tent which has been erected, and their friends bring to their relatives such offerings as they please In the funeral procession cypress coffins are borne in cars, one for each tribe, the bones of the deceased being placed in the coffin of their tribe Among these is carried one empty bier decked for the missing, that is, for those whose bodies could not be recovered Any citizen or stranger who pleases, joins in the procession: and the female relatives are there to wail at the burial. The dead are laid in the public sepulchre in the

[1] Taken from *History of the Peloponnesian War*, by Thucydides, translated by Richard Crawley, published by E. P. Dutton & Co., Inc., New York, Everyman's Library.

Beautiful suburb of the city, in which those who fall in war are always buried; with the exception of those slain at Marathon, who for their singular and extraordinary valour were interred on the spot where they fell. After the bodies have been laid in the earth, a man chosen by the state, of approved wisdom and eminent reputation, pronounces over them an appropriate panegyric; after which all retire. Such is the manner of the burying; and throughout the whole of the war, whenever the occasion arose, the established custom was observed. Meanwhile these were the first that had fallen, and Pericles, son of Xanthippus, was chosen to pronounce their eulogium. When the proper time arrived, he advanced from the sepulchre to an elevated platform in order to be heard by as many of the crowd as possible, and spoke as follows:

. . . . .

"I shall begin with our ancestors: it is both just and proper that they should have the honour of the first mention on an occasion like the present. They dwelt in the country without break in the succession from generation to generation, and handed it down free to the present time by their valour. And if our more remote ancestors deserve praise, much more do our own fathers, who added to their inheritance the empire which we now possess, and spared no pains to be able to leave their acquisitions to us of the present generation. Lastly, there are few parts of our dominions that have not been augmented by those of us here, who are still more or less in the vigour of life; while the mother country has been furnished by us with everything that can enable her to depend on her own resources whether for war or for peace. That part of our history which tells of the military achievements which gave us our several possessions, or of the ready valour with which either we or our fathers stemmed the tide of Hellenic or foreign aggression, is a theme too familiar to my hearers for me to dilate on, and I shall therefore pass it by. But what was the road by which we reached our position, what the form of government under which our greatness grew, what the national habits out of which it sprang; these are questions which I may try to solve before I proceed to my panegyric upon these men; since I think this to be a subject upon which on the present occasion a speaker may properly dwell, and to which the whole assemblage, whether citizens or foreigners, may listen with advantage.

[The Constitution]

"Our constitution does not copy the laws of neighbouring states; we are rather a pattern to others than imitators ourselves. Its administration favours the many instead of the few; this is why it is called a democracy. If we look to the laws, they afford equal justice to all in their private differences; if no social standing, advancement in public life falls to reputation for capacity, class considerations not being allowed to interfere with merit; nor again does poverty bar the way, if a man is able to serve the state, he is not hindered by the obscurity of his condition. The freedom which we enjoy in our government extends also to our ordinary life. There, far from exercising a jealous surveillance over each other, we do not feel called upon to be angry with our neighbour for doing what he likes, or even to indulge in those injurious looks which cannot fail to be offensive, although they inflict no positive penalty. But all this ease in our private relations does not make us lawless as citizens. Against this fear is our chief safeguard, teaching us to obey the magistrates and the laws, particularly such as regard the protection of the injured, whether they are actually on the statute book, or belong to that code which, although unwritten, yet cannot be broken without acknowledged disgrace.

"Further, we provide plenty of means for the mind to refresh itself from business. We celebrate games and sacrifices all the year round, and the elegance of our

private establishments forms a daily source of pleasure and helps to banish the spleen; while the magnitude of our city draws the produce of the world into our harbour, so that to the Athenian the fruits of other countries are as familiar a luxury as those of his own.

[Source of Strength]

"If we turn to our military policy, there also we differ from our antagonists. We throw open our city to the world, and never by alien acts exclude foreigners from any opportunity of learning or observing, although the eyes of an enemy may occasionally profit by our liberality; trusting less in system and policy than to the native spirit of our citizens; while in education, where our rivals from their very cradles by a painful discipline seek after manliness, at Athens we live exactly as we please, and yet are just as ready to encounter every legitimate danger. In proof of this it may be noticed that the Lacedaemonians do not invade our country alone, but bring with them all their confederates: while we Athenians advance unsupported into the territory of a neighbour, and fighting upon a foreign soil usually vanquish with ease men who are defending their homes. Our united force was never yet encountered by any enemy, because we have at once to attend to our marine and to dispatch our citizens by land upon a hundred different services; so that, wherever they engage with some such fraction of our strength, a success against a detachment is magnified into a victory over the nation, and a defeat into a reverse suffered at the hands of our entire people. And yet if with habits not of labour but of ease, and courage not of art but of nature, we are still willing to encounter danger, we have the double advantage of escaping the experience of hardships in anticipation and of facing them in the hour of need as fearlessly as those who are never free from them.

"Nor are these the only points in which our city is worthy of admiration. We cultivate refinement without extravagance, and knowledge without effeminacy; wealth we employ more for use than for show, and place the real disgrace of poverty not in owning to the fact but in declining the struggle against it. Our public men have, besides politics, their private affairs to attend to, and our ordinary citizens, though occupied with the pursuits of industry, are still fair judges of public matters; for, unlike any other nation, regarding him who takes no part in these duties not as unambitious but as useless, we Athenians are able to judge at all events if we cannot originate, and instead of looking on discussion as a stumbling-block in the way of action, we think it an indispensable preliminary to any wise action at all. Again, in our enterprises we present the singular spectacle of daring and deliberation, each carried to its highest point, and both united in the same persons; although usually decision is the fruit of ignorance, hesitation of reflection. But the palm of courage will surely be adjudged most justly to those, who best know the difference between hardship and pleasure and yet are never tempted to shrink from danger. In generosity we are equally singular, acquiring our friends by conferring, not by receiving, favours. Yet, of course, the doer of the favour is the firmer friend of the two, in order by continued kindness to keep the recipient in his debt; while the debtor feels less keenly from the very consciousness that the return he makes will be a payment, not a free gift. And it is only the Athenians who, fearless of consequences, confer their benefits not from calculations of expediency, but in the confidence of liberality.

[Athens, School of Hellas]

"In short, I say that as a city we are the school of Hellas; while I doubt if the world can produce a man, who where he has only himself to depend upon, is equal to so many emergencies, and graced by so happy a versatility, as the Athenian. And that this is no mere boast thrown out for

the occasion, but plain matter of fact, the power of the state acquired by these habits proves. For Athens alone of her contemporaries is found when tested to be greater than her reputation, and alone gives no occasion to her assailants to blush at the antagonist by whom they have been worsted, or to her subjects to question her title by merit to rule. Rather, the admiration of the present and succeeding ages will be ours, since we have not left our power without witness, but have shown it by mighty proofs; and far from needing a Homer for our panegyrist, or other of his craft whose verses might charm for the moment only for the impression which they gave to melt at the touch of fact, we have forced every sea and land to be the highway of our daring, and everywhere, whether for evil or for good, have left imperishable monuments behind us. Such is the Athens for which these men, in the assertion of their resolve not to lose her, nobly fought and died; and well may every one of their survivors be ready to suffer in her cause.

"Indeed if I have dwelt at some length upon the character of our country, it has been to show that our stake in the struggle is not the same as theirs who have no such blessings to lose, and also that the panegyric of the men over whom I am now speaking might be by definite proofs established. That panegyric is now in a great measure complete; for the Athens that I have celebrated is only what the heroism of these and their like have made her, men whose fame, unlike that of most Hellenes, will be found to be only commensurate with their deserts. And if a test of worth be wanted, it is to be found in their closing scene, and this not only in the cases in which it set the final seal upon their merit, but also in those in which it gave the first intimation of their having any. For there is justice in the claim that steadfastness in his country's battles should be as a cloak to cover a man's other imperfections; since the good action has blotted out the bad, and his merit as a citizen more than outweighed his demerits as an individual. But none of these allowed either wealth with its prospect of future enjoyment to unnerve his spirit, or poverty with its hope of a day of freedom and riches to tempt him to shrink from danger. No, holding that vengeance upon their enemies was more to be desired than any personal blessings, and reckoning this to be the most glorious of hazards, they joyfully determined to accept the risk, to make sure of their vengeance and to let their wishes wait; and while committing to hope the uncertainty of final success, in the business before them they thought fit to act boldly and trust in themselves. Thus choosing to die resisting, rather than to live submitting, they fled only from dishonour, but met danger face to face, and after one brief moment, while at the summit of their fortune, escaped, not from their fear, but from their glory.

"So died these men as became Athenians. You, their survivors, must determine to have as unfaltering a resolution in the field, though you may pray that it may have a happier issue. And not contented with ideas derived only from words of the advantages which are bound up with the defence of your country, though these would furnish a valuable text to a speaker even before an audience so alive to them as the present, you must yourselves realize the power of Athens, and feed your eyes upon her from day to day, till love of her fills your hearts; and then when all her greatness shall break upon you, you must reflect that it was by courage, sense of duty, and a keen feeling of honour in action that men were enabled to win all this, and that no personal failure in an enterprise could make them consent to deprive their country of their valour, but they laid it at her feet as the most glorious contribution that they could offer. For this offering of their lives, made in common by them all, they each of them individually received that renown which never grows old, and for a sepulchre, not so much that in which their bones have been deposited, but that noblest of shrines wherein their glory is laid up to be eter-

nally remembered upon every occasion on which deed or story shall call for its commemoration. For heroes have the whole earth for their tomb; and in lands far from their own, where the column with its epitaph declares it, there is enshrined in every breast a record unwritten with no tablet to preserve it, except that of the heart. These take as your model, and judging happiness to be the fruit of freedom and freedom of valour, never decline the dangers of war. For it is not the miserable that would most justly be unsparing of their lives; these have nothing to hope for: it is rather they to whom continued life may bring reverses as yet unknown, and to whom a fall, if it came, would be most tremendous in its consequences. And surely, to a man of spirit, the degradation of cowardice must be immeasurably more grievous than the unfelt death which strikes him in the midst of his strength and patriotism!

"Comfort, therefore, not condolence, is what I have to offer to the parents of the dead who may be here. Numberless are the chances to which, as they know, the life of man is subject; but fortunate indeed are they who draw for their lot a death so glorious as that which has caused your mourning, and to whom life has been so exactly measured as to terminate in the happiness in which it has been passed. Still I know that this is a hard saying, especially when those are in question of whom you will constantly be reminded by seeing in the homes of others blessings of which once you also boasted: for grief is felt not so much for the want of what we have never known, as for the loss of that to which we have been long accustomed. Yet you who are still of an age to beget children must bear up in the hope of having others in their stead; not only will they help you to forget those whom you have lost, but will be to the state at once a reinforcement and a security; for never can a fair or just policy be expected of the citizen who does not, like his fellows, bring to the decision the interests and apprehensions of a father. While those of you who have passed your prime must congratulate yourselves with the thought that the best part of your life was fortunate, and that the brief span that remains will be cheered by the fame of the departed. For it is only the love of honour that never grows old; and honour it is, not gain, as some would have it, that rejoices the heart of age and helplessness.

"Turning to the sons or brothers of the dead, I see an arduous struggle before you. When a man is gone, all are wont to praise him, and should your merit be ever so transcendent, you will still find it difficult not merely to overtake, but even to approach their renown. The living have envy to contend with, while those who are no longer in our path are honoured with a goodwill into which rivalry does not enter. On the other hand, if I must say anything on the subject of female excellence to those of you who will now be in widowhood, it will be all comprised in this brief exhortation. Great will be your glory in not falling short of your natural character; and greatest will be hers who is least talked of among the men whether for good or for bad.

"My task is now finished. I have performed it to the best of my ability, and in word, at least, the requirements of the law are now satisfied. If deeds be in question, those who are here interred have received part of their honours already, and for the rest, their children will be brought up till manhood at the public expense: the state thus offers a valuable prize, as the garland of victory in this race of valour, for the reward both of those who have fallen and their survivors. And where the rewards for merit are greatest, there are found the best citizens.

"And now that you have brought to a close your lamentations for your relatives, you may depart."

THREE

Plato's Philosophy of the Ideal State and of Law

OF THE THREE BASIC FACTORS IN ANY study of political institutions and theory that, as has been indicated in the Introduction, must be taken into consideration in order to understand political development, *the first is the setting of the political theories of the state's organization in the context of the institutions of the time. The second is the theory of the relation of human nature to the nature of the world and the laws that govern the universe (e.g., the contrasting views of Sophists and Stoics). The third is the ethical and ideal type of state that the philosopher sets up to combine the first two,* i.e., institutions and human nature, in the best possible manner (*political myths and utopias*). For an example of the first, it is impossible to understand Plato and Aristotle without studying, as we have in the preceding chapter, the Greek city state and, in particular, Athens and Sparta in their age-long conflict, as well as the types of states with which both Plato and Aristotle showed some familiarity.

Plato as a Political Scientist (Constitutions)

For all that he is often treated as the father of purely ideal utopias, Plato's analysis in the *Republic* of the guardian class and its relation to the auxiliaries (the military class) and to the third order of mere producers certainly owed much to his study of the Egyptian system, as well as those of Greece and its nearer neighbors. He says himself that he learned much of his wisdom from the Egyptians. He was also clearly influenced by the political experiment of an ideal community run by the aristocratic "brotherhood" of Pythagoras at Tarentum. Plato, like every other Greek of his time, lived under the shadow of the empire of Persia. Xenophon, who also wrote of Socrates in the *Memorabilia,* had idealized the education of the great Cyrus in his *Cyropaideia.* In Plato's *Laws* the very setting of the dialogue indicates the founding of a colony on the island of Crete—not an unusual experiment in Asia Minor for a Greek city state. It was a step often aimed at the relief of population pressures, as well as at the extension of the city state's own sway.

No philosopher ever escapes thinking in terms of the institutions with which he is familiar. Plato was not ignorant of empires. Athens itself was a sea power and an empire, on a small scale only if compared with Rome or Carthage. But he preferred the small city state of the Greek civilization because of the cultural values that it embodied.[1]

No small part of Plato's thinking, too, was nostalgic of the "glorious" past of Athens, not the times of Pericles and disintegration, but the ancient past of heroic legend. *The Republic* goes back to a pre-Solonian period for the rule of an aristocracy, and of men who communed with the gods. The *Laws* would reproduce a class structure like that of Solon's reforms, and hope for a philosopher king like Lycurgus of Sparta to "found" the new constitution.

Aristotle, as we shall see, looked at the surrounding constitutions even more closely to derive his basic conceptions of the nature of politics. We have lost his great work on the descriptions of constitutions which covered those of states in Greece and elsewhere in the Mediterranean world (158 of them); but we do have (though it is no longer accepted as certainly the work of Aristotle) a fragmentary *Constitution of Athens*. It is one of the most valuable sources for understanding the workings of the city state, whether it is the work of Aristotle himself or some student.

Both Plato and Aristotle, but particularly Plato, were tremendously influenced by the superiority of the Spartan state as a military system. Their educational systems incorporated much that was Spartan in the training of youth by strict discipline that they felt was lacking in the freer, looser life of Athens. They adopted the barrack-room practice of common meals and the gymnastics that Sparta excelled in, choral dancing as well as athletic games. Plato, of course, went close to imitation of Sparta in making the military discipline a universal feature of his training, necessary even for the guardian class. But Athens itself also had a long history of military organization as the basis of the state, as we can readily discern from *Plutarch's Lives*.[2] Plato did, however, put an Athenian em-

[1] Perhaps the best study of Greek cultural values, apart from the works on politics and religion cited in the previous chapter, can be made by combining the classic view of Alfred Zimmern's *Greek Commonwealth* with the rich critical commentaries in the several works of Ernest Barker The German as well as the English literature is extensively treated in Karl R. Popper, *The Open Society and Its Enemies*, which can be usefully compared for a more elaborate cultural study with Hermann Schneider's *History of World Civilization* (sections on Greece), or Will Durant's more popular treatment in *The Life of Greece*

[2] See especially his treatment of Solon, Aristides, Themistocles, Pericles, and Thucydides But the declining importance in Athens of purely military training and organization accompanied the growing power of the *demos* (people of the lowest category in wealth and military skill).

phasis on the speculative reason as the highest function of human nature, and this led him to subordinate the end of all his training to the production of philosophic minds. His rulers were to be those whose acquaintance with the ultimate nature of reality through the Platonic concepts, sometimes called "ideas" (often translated "forms"), best enabled them to rule the state and dispense justice according to the divine harmony that governed the universe. This went beyond even the age of Pericles and Pericles' dependence on the philosopher, Anaxagoras, for counsel.

Nature (Physics and Metaphysics) and Human Nature in Politics

The second basic factor in our study of politics is to understand our political philosophers' ideas as to the relation of human nature to nature itself—what philosophers call an ultimate metaphysics—and the psychological interpretation of human behavior that fits this view. This view of human nature, of course, reflects itself in every choice of the institutions by which men are to be and can be governed.

In the Introduction, the broad division between the Stoic and Sophist ways of looking at human nature have already been related to this general philosophical position, which the Germans call *Weltanschauung*. In a profound sense, this philosophical attitude carries over into politics the ideas both of the physical nature of the universe and the relation of this group of physical laws to human behavior. Plato's thinking, once more, is perhaps the best example of an effort to relate political institutions to a conception of changed and improved human nature and to his own views about the nature of the universe and the laws that govern it. For this reason it becomes essential to study, at least in an elementary way, the philosophical setting of every political theorist, including the relation of his philosophy to the scientific conceptions ("nature") of the times. Behind Plato, as Schneider and Ernest Barker show most clearly, lie the great metaphysicians of early Greece—Pythagoras, Xenophanes, Heraclitus, and Parmenides—in whom science and philosophy were at their creative beginnings. In the case of Aristotle, it is clear that his "teleological" philosophy had in it some of the beginnings of a more experimental approach to the determination of truth than would have been carried over from Plato's idealistic absolutism. The scientific and descriptive aspects of politics were already implicit in Aristotle's differences from Plato's metaphysical approach; the same thing shows in his conception of ethics and his emphasis on his own theory of human nature. He stressed individual responsibility and showed a broader conception of the rights of human personality, including property, than is to be found in Plato.

Popper, among others, in his *Open Society and its Enemies*[3] makes the well-worn point that Plato's entire thoughts centered about the original perfect form or idea and that any change from this perfection represented degeneration. In that sense his political philosophy was always attempting to capture the divine perfection and reverse the process of change or drift which involved inevitable degeneration. It was Plato's own nephew, Speusippus, who reversed this trend and argued for an evolution from lower to higher forms and taught an ultimate oneness of perfection. Aristotle did not go so far as Speusippus in a theory of evolution toward progress. He retained Plato's idea of a final cause but defined it, as Popper notes, in terms of its *telos* or end: "The Form or essence of anything developing is identical with the purpose or end or final state towards which it develops."[4]

While Popper's analysis of Aristotle's optimism and his general low opinion of Plato and Aristotle do not in the least do justice to the entire range of either, he is on usual ground in thinking that the Platonic doctrine returns to what he calls the "closed society" as opposed to the "open society," and to a theory of totalitarian and authoritarian government. The "perfect state," however, like much of the rest of Plato's tremendous dialectical range, is not laid out on closed lines by Plato. And the emphasis on the Socratic doctrine of free moral inquiry is also part of Plato. To cram Plato even into a specially defined category called "historicism," as Popper does, is to follow the method of Procrustes.

"Nature" in the "Scientific" View of Politics

The "scientific" study of politics generally shows the origins and development of a political organization. It carries over into this type of political study some of the aspects of biology in its study of organisms. This approach has a direct bearing on the nature of human nature. It is particularly discernible in Aristotle's treatment of man as *by nature* a political animal who builds elaborate and varying types of communities, just as other animals create their less complex societies. It usually

[3] See Vol II, p 4, *et seq* This challenging work, which attacks both Plato and Aristotle for their emphasis on what is called a "closed society," is a useful statement of the case against all types of absolutism—including Marx and Hegel. It has been cited fairly often, because of its anti traditional bias, as a corrective to the usual treatments otherwise relied upon in the text In several respects the authors feel that it does less than justice to the philosophical meaning of Plato and Aristotle as developed by Werner Jaeger and by Ernest Barker, for example By equating 'historicism" with a tendency toward (1) absolutism, (2) elitism, (3) "planning," and lumping all economic planning with an anti liberal trend, some of the critical force of a very learned work tends to be dissipated if not lost See the discussion by G. C. Field, in *Philosophy*, November 1946, pp. 271 *ff.*

[4] *Ibid*

plays down the contractual or voluntary element in the nature of political behavior and tends to stress cultural heritages from the past, the economic factors in society, and the physical setting of states. Pushed to an extreme form, it results in emphasizing a deterministic view of politics, with scientific laws comparable to those of the mechanics of biology. Very often, this approach is linked with the idea that human institutions reflect the behavior of physical nature and, therefore, it tends to emphasize the current scientific views on physical nature. The relation of the earth to the rest of the solar system has been throughout human thought a basic factor in all explanations of human institutions, showing, and rightly, that all political thought is influenced by the setting of physical nature and man's conception of how the laws of this nature work with and upon his own human nature.

Utopias, Myths, and Ethical Values in Politics

The third foundation of political theory and its relations to institutions may be called the ethical factor. All philosophy is an effort to combine a study of *what is* (i.e., in political philosophy a scientific treatment of the two factors which have just been called (1) the relations of man's institutions to (2) the order of nature and particularly human nature) with what *should be*. This last factor involves stating what the philosopher believes to be the ends of human existence (moral values) in relation to the underlying principles of the universe. It can hardly escape being a religious attitude, in that it involves ultimate values by which men live. It may not, of course, be a religion of theism but may be based upon the concept of nature that underlies such philosophies as those of the Stoics and the eighteenth-century deists. But it does require that the philosopher state what he believes to be the highest form of human good in harmony with principles of ultimate reality, and arrange his political institutions to develop this ideal good (the best) through an ideal state.

Ideal states which stress entirely the moral objectives of society and attempt to work out an organization of the best possible political system are usually called utopias. Utopias in themselves do not attempt to keep closely in touch with scientific facts of political institutions and human behavior. They hold up, as examples, types of societies that aim at achieving as nearly as possible a human perfection. For that reason, they are generally associated with a poetic version of the ideal man in the ideal state, rather than with the practicable limits of existing systems and actual human nature.

It is the fashion to discount utopias as "never-never" lands. Samuel Butler called his utopia *Erewhon*, which is, of course, "nowhere," as an

anagram. It is the common characteristic of utopias to lay up a model that is more like the vision of Campanella's *City of the Sun,* or an imaginative treatment of ideal perfection like some of Plato's own treatment, in the *Critias,* of the lost Atlantis. Sir Thomas More's *Utopia* gave the name to the language, and his mythmaking effort is one that has been repeated through the whole history of human civilization, not only in works like Plato's *Republic,* but also by a hard-bitten satirist like Voltaire in his treatment of the kingdom of the Incas in *Candide,* and by moderns like Bellamy in *Looking Backwards* and H. G. Wells in *A Modern Utopia.* Utopias, even the *New Atlantis* of a realist and scientist like Francis Bacon, or the *Oceana* of James Harrington, stress the dominantly rational character of men and of their political organizations.

For that matter, all the great religions of humanity that have shaped civilizations have had as their foundation an "epic" in which the struggle of a hero, usually in some measure divine in his origin, shows what the great virtues of the race are according to that religious system. The examples are endless. They range from our own Old and New Testaments through the Greek and Roman epics, *The Odyssey* and *The Iliad,* to Finnish, Vedantic, and, for that matter, Egyptian, Sumerian, Persian, and Japanese cultures. It is a curious fact that Taoism and Confucianism united in China in suppressing the old heroic myths, except for didactic fragments. Our own American civilization is not without epic quality in its setting forth of the virtues of the great founding fathers of the republic such as Washington, Jefferson, Adams, and Hamilton, and, most of all, Abraham Lincoln. The highest excellence of these human beings determines what the values of the epic are and are portrayed by the "hero-worship," as Carlyle called it, that shapes educational systems and the whole culture of a civilization.

In this sense, there is in every civilization an underlying *mythos,* as Plato would have called it. This is not simply a "myth," in the modern meaning of a belief in something that is scientifically absurd, but rather a system of quasi-religious beliefs which people live by, and for which, at need, they will die. The arrangement of these beliefs involves symbolism, including personification of the beliefs in great heroes, and ritualistic symbols like the cross at one end of the spectrum and the swastika or the hammer and sickle at the other end.

Utopias serve the same purpose as these great myths in that they poetically portray the ideal systems that are intended to shape men's loyalties and to represent the ethical values that are always determining factors in politics. For example, even in the so-called scientific communism of Marx and Engels there is a distinctly utopian objective known as the "withering away of the state" which, in a manner of

speaking, is like the Marxian substitute for heaven. It bears even less relation than most utopian speculation to the rest of the system or to the human nature which is (scientifically considered) a part of the dialectic of Marxian materialism. It constitutes a complete and rather obvious break in what pretends to be a rigorously logical method. Nevertheless, it does offer an outlet for the religious devotion of the followers of Karl Marx: the hope of an ultimate perfection of human institutions that is entirely utopian and founded on a view of a regenerated or "saved" human nature quite like that of the philosophical anarchists or the mystics.

Plato's Socrates vs. Plato's Absolutism

It is in this light that Plato's *Republic* should be studied and understood. His philosophy in the Platonic dialogues is so various that no single work can be thought of as showing his whole point of view. In the dialogues that are mainly political in their emphasis, for example in the *Apology* of Socrates, the *Statesman,* as well as in the *Republic* and the *Laws,* the *Critias,* and the *Timaeus,* there are various facets of Plato's political philosophy. Some of these are essentially contradictory. There is no more noble defense of the freedom of the human conscience and the emphasis on moral personality of the individual as the ultimate basis of all responsible action than is to be found in the *Apology* and its companions, the *Crito* and the *Phaedo.* Part of the crusade that Plato always made against the Sophists' cynical views on moral relativism and pragmatic expediency is to be found in the *Gorgias, Symposium,* the *Protagoras,* and, for that matter, many other dialogues. From the mouth of Socrates, who is Plato's protagonist for a moral order based upon the harmony of conceptual universals, comes, in the *Apology,* the noblest exposition of the voice of conscience (the *"daemonion"*) and of individual freedom to seek truth according to the lights of a reason guided by the search for the divine harmony.

Yet this same Plato, toward the end of his long life, suggests in the *Laws* that subversive thinkers and teachers (like Socrates) who tend to undermine the foundations of the state may legitimately be put to death in defense of the higher right of the state itself! It is impossible to reconcile the absolutism of this ideal super-person, the Platonic ideal state, with the moral freedom of the individual to be found in the *Apology,* unless it be done, as Socrates himself does in accepting the hemlock, by saying that Athens had a right to put him to death since it had nurtured him and made him what he was.

It remained for a later age to develop the philosophy of individual rights protected by civil and constitutional liberties. Even in our own

times, the resolution is far from perfect. Indeed, perfection is impossible, by the very nature of the conflicts of differing ideas of rights and duties, unless one believes with Plato that there is some absolute standard, open to one man's reasoning. In the *Republic,* Plato found the most enduring vehicle for setting forth his most characteristic thinking on political ideals. He was concerned with a universal problem, the nature of justice, although he used, as all men must, the materials and institutions at hand to illustrate and symbolize his ideal system.

How much can the most ideal system escape a grounding in the political institutions with which the philosopher is familiar and in the human nature which he tacitly assumes as the basis for his speculation? The *Republic* is an excellent example of the limits of utopias as abstract and purely ideal conceptions. Plato sets about inquiring into the nature of political societies as the starting point for his efforts to define justice. In so doing, he develops inevitably the kind of solution which an Athenian of his time and temperament and philosophic views would find most ready to hand.

Plato's concept of justice is not limited to assigning the different classes of citizens their natural place in his commonwealth. His idea of justice really rests upon his interpretation of what he finds to be a physical principle (and one that Aristotle copied from him in the doctrine of "natural places"). His theory of justice in the universe, in short, explained the weight of heavy bodies by their tendency to return to or regain their natural place in the right order of nature. Similarly, air and fire rise, being heavenly bodies. This conception of the harmony of the ultimate order of nature governs Plato's eternal longing for a return to perfection. For Aristotle it furnishes the basis for a physical theory that underlies his notion of motion and allows him to apply the doctrine to sociology and eventually to the teleological approach to all forms: form is the essence which potentiality realizes. This *form* is very close to Aristotle's doctrine of the nature of the soul or idea. It is evident that this bears a close relation to Plato, though Aristotle tries to show that his is a *final cause* of change, whereas Plato's form is merely the starting point.[6]

Plato's Psychology of Human Nature

In the *Republic* Plato proceeds by *dialectic,* development by testing, through opposition. He defines concepts by asking what the *meaning* of

[6] See Aristotle's *Metaphysics,* 988b, and Popper's note, *The Open Society and Its Enemies,* Vol. I, p. 190, in which he admits that Aristotle suggests at least a theory of evolution like that advanced by Plato's nephew, Speusippus. This hardly bears out Popper's view of Aristotle as an "historicist."

virtue and courage and goodness may be. It is clear that he is thinking always in the terms of the three *natural* aspects of human psychology which were the basis of his whole theory of human nature: first, *the speculative reason as the highest of the three functions of human beings;* second, spirit or will, in the sense of courage and hardihood; and third, feeling or appetite as the lowest but most pervasive element of a human being. It is in that light that he works out the harmonious balance of his class structure to incorporate these three faculties of the human being in the respective functions of three classes of society: the guardians, the soldiery, and the mere producers. This balance fits into Plato's general theory of expert specialization and the division of labor as necessary to the just state.

It is hardly necessary to comment that this conception of Plato's puts upon nature a form which was purely the result of his own speculation and that of contemporary Greek philosophers. The division of the soul into three parts and the analysis of human nature in these terms, reason being given the logical position at the top of the hierarchy, was a very elementary type of psychological classification, natural to the somewhat mystical physics and metaphysics of Greek thought at that time. It is a poetic rather than a scientific concept.[6]

Equally, Plato is influenced at every turn by the institutions of his own time and by what he knows of the past. It is regularly stated by commentators that Plato was overwhelmed and attracted by the ascendancy of Sparta, which had in the previous generation humbled the freer Athens of Pericles by its more disciplined organization in the Peloponnesian War. But that is hardly the whole story. He obviously felt that the victory of the *demos* and the extension of their control after the Persian Wars, dating roughly from the Battle of Salamis, had undermined the true harmony of classes put forth in his principle of aristocratic rule.[7] Pericles was too much the servant of the people to be a model.

The *Republic,* therefore, while it represents as strenuous an effort as has ever been made by a philosopher to ground political institutions

[6] See Popper, *op. cit.,* especially Vol. I, notes, pp. 238-239, for a searching criticism on this point.

[7] Plato was no doubt influenced by the fact that two of his uncles had been among the Thirty Tyrants ejected by the Athenian democracy. But his love of the "noble past" was not just psychological. See on this point Popper, *op. cit.,* Vol. I, *passim.* He emphasizes Plato's wish to return to primitive tribalism and to the hill shepherds and their kings. On the other hand, see Werner Jaeger's *Paideia* for a view similar to our own. Popper calls this hankering of Plato's for the older, simpler, more primitive organization of the state "historicism," and links it tellingly with his static concept of the Ideas (or the Forms) themselves. It seems simpler and quite as just to say that Plato naturally stressed those societies which illustrated best his philosophical views of the best state.

on the nature of ultimate reality and to show them in an ideal and abstract version, reflects many elements of historical politics and, even more, Plato's own beliefs about human nature and human values. It is by no means accidental, probably, that Plato was himself an aristocrat, in the Athenian sense, and that he had a great intellectual and personal distaste for the many-headed monster of the Athenian assembly, operating with the ultimate democracy of choice by lot. The demagogy and corruption of recent Athenian history appalled Plato.[8] He was prepared to admit that even in periods of control by an oligarchy this self-serving pursuit of the interests of the ruling class rather than the common interest was bad. But his own times, which included the condemnation of Socrates by the Athenian popular court and the low point in the power of Athens among Greek cities, convinced him that mobocracy was worse.

Plato's War on Self-Interest

It is, surely, not accidental that in stating his own ideals he sought remedies to eliminate self-interest entirely from his ruling classes through the most extreme form of communism that has ever been proposed as the basis of a political organization. This communism was to be something more than the common meals and the more or less equal division of landed estates that characterized Lycurgus' Sparta. Nor was it to be a communism that extended to equality in the enjoyment of all goods, including property, by all human beings in the state, such as is the announced objective of modern communism. No more was the *end* of his state power and riches for the state alone as is the case in Fascism. But for the ruling class of the philosopher guardians and the soldiery there was to be the most absolute renunciation of private property ever enjoined, except in the strictest ascetic orders of monasticism. Even wives and children were to be in common so as to destroy the desire to perpetuate self-interest through blood lines. As for the producers themselves, who were not full citizens of Plato's state but who enjoyed its protection and had to carry out its demands for production, Plato did not think them sufficiently important to deprive them of their rights of limited property and particularly of families. They were not fit for communism, so to speak; and, since they enjoyed no political rights, they were to be treated simply as the creatures of appetite and unreason that he assumed them to be.

Spartan Elements in the Republic

The following points in which the *Republic* resembles Sparta and those in which it resembled Athens may serve as a useful summary, but

[8] On this point see W. Jaeger's magistral treatment in *Paideia, passim.*

it should be remembered that Plato's Sparta was more the Sparta of Lycurgus, which, in turn, had quite as much in common with the Athens of Solon as it did with the later Sparta of Plato's own day.

While the philosopher king figures less in the *Republic* and much more in the *Statesman* and the *Laws,* he was an integral part of Plato's thought about politics and closely corresponded to the legendary figure of Lycurgus in Sparta. The hereditary kings of Sparta have no parallel in Plato's *Republic,* since these rulers were largely leaders in war and assumed very limited functions after the development of the *ephors,* who performed from very early times most of the administrative functions of Sparta.

Plato's guardian class would have comprised the body of senators in Sparta as well as the *ephors.* It is notable, however, that even in Sparta there was, as far as we can determine, a process of election or selection rather than the kind of hierarchical method by which Plato's guardians would have recruited their own members. He gives no hint in the *Republic* of the method of original selection of this group but more or less takes it for granted that natural aristocracy would establish itself. It would certainly try to perpetuate its own régime. He admits that this is not likely in actual societies "till philosophers are kings" and at times, even in the *Republic,* he shows his own despair of such a solution.

The soldiery in the *Republic* (sometimes called the auxiliaries) would have corresponded to the body of the Spartan citizens (the Spartiates) who possessed full rights and made up the fighting strength that allowed Sparta to become at times the most powerful state in Greece. Many institutions of this Spartan citizenship are reflected in Plato, such as the common table for meals, and the equal participation of maidens with the youths in games and festivals, particularly in the choric dances characterizing Sparta. The treatment of women was, at least, somewhat like that in Sparta, though it went further in suggesting equal participation in all aspects of citizenship as far as physical strength permitted. The rigorous training and display at gymnastics was, of course, adopted largely from the Spartan system, since the Athenian training was more voluntary and less severe.

Sparta was not communistic in the sense that Plato's *Republic* would have been. Land was held not in common, but administered by separate estates in which the Spartan matron acted often very much as a feudal chatelaine would in later times; but there was at least the provision that all the estates must support the common meals and the military expenditures and that mismanagement of an estate would forfeit the rights of ownership.

The Spartan *helots,* who were like serfs rather than slaves, corre-

sponded closely to Plato's producer class. They were permitted to have private families and were encouraged to produce on the land to which they were assigned, but they had no rights comparable to those of other citizens and they could not participate in the defense of the country.[9] In fact, the most serious problem that the Spartan citizenship had was to hold down the *helots* and to prevent their revolting and dispossessing the masters. In one significant respect Plato was much more liberal than were the Spartans with the *helots*. the recruitment of the soldier class from the Republic could be from any group in which the guardians found natural excellence. In Sparta the class society was also almost completely a caste society[9] The only movement upwards was from the *helots* to the ranks of Spartan citizenship for a few whose outstanding distinction in war won this reward Otherwise an absolute bar to intermarriage or to any social interchange between the classes existed. On the other hand, the senate and the *ephors* were recruited from the mass of the full citizens of Sparta, just as Plato's guardians would have emerged from the training afforded to all his soldiery.

The *perioeci* (the few resident aliens who were inhabitants outside the rank of citizens) represent a class that is difficult to relate to the ideal state of Plato's *Republic* They were traders and freemen, liable to military service but with no rights as citizens, who existed to perform necessary functions of trade even in that highly militarized and simple economy. They formed a less numerous class in Sparta than did the *metics* in Athens, which had become a center of commercial activity from the sixth

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[9] Popper feels that Plato's system, like Sparta's, was a caste system, imposed by conquest, too In spite of the great weight of learning displayed by Popper in trying to prove that Plato advocated a complete caste system in the *Republic*, there are passages that simply contradict this view In the first place, Plato depends on *natural* leadership This is a position re emphasized in the *Laws*, where he says, "The wise shall command and lead," and 'the ignorant shall follow," not by "external compulsion" but by the "truly natural sovereignty of a law which is based on mutual consent" (*Laws*, 690 b/c) This may be a naive view of the possibilities of human nature, but it is Plato's usual one He speaks of conquest as an historical pattern, but does not propose to follow it.

On the 'career open to the talented," no matter where born, he is more specific' " for if the son of a golden or silver parent has an admixture of brass and iron, then nature orders a transposition of ranks, and the eye of the ruler must not be pitiful towards the child because he has to descend in the scale and become a husbandman or artisan, just as there may be sons of artisans who having an admixture of gold or silver in them are raised to honour, and become guardians or auxiliaries" (*Republic*, 415, 2 p 125 Modern Library Edition.)

Apparently Plato expects this choice to be made in the earlier period of education. But there is little to bear out Popper's view that Plato later changes his mind on this point He does in the celebrated passage on "the Platonic number," for the right *times* of human mating indicate that these base admixtures can only be avoided by his secret method. (*Republic*, 546, 547.)

century on. Plato viewed with suspicion all trading activities apart from the most elementary natural exchanges. He viewed any introduction of money as falsifying a true economy and launching the state on the dangerous path toward dependence on foreign trade and toward commercialism in general. He therefore makes no specific provision in the *Republic* for some necessary functions performed by the *metics* or by the Spartan *perioeci.*

Education, the Division of Labor, and the Need for a Guardian Class

It is highly significant of the relation of Plato's ideal philosophy to actual political institutions and to human psychology that he places his main emphasis on the educational system as a means to achieve his ends. This emphasis is apparent at the very outset of the dialogue from the questions that are raised concerning how a young man should be trained, under what teacher, and with what objectives.

The educational emphasis is almost as basic as Plato's fundamental assumption that to find justice for the individual it is necessary to look for it "writ large" in the state. It is also important to note that Plato starts out with an analysis of the necessity for mutual exchange and hence the division of labor in the state. The *polis,* every city state, must be made up of those who supply the basic needs of the state—farmers, weavers, artisans, shoemakers, and so forth. But these alone, says Plato, would create no more than a city fulfilling the appetites. He rejects the primacy and completeness of this economic interpretation of politics.[10] When Glaucon scornfully comments that this would be no more than a city of swine, Plato shows the need for defending the state against other states and for the maintenance of internal order. This need calls for the functioning of the soldiery (sometimes called auxiliaries). It is true that he indicates his belief that luxury produces the need for expansion of a state "at fever heat." But because that expansion appears to be inevitable in some states, soldiers are needed to defend *any* state, since a proper division of labor requires special fighters. Then he comes to his real answer of where to locate the group that will know and apply justice: it is in the guardian class which is to be educated in the primacy of

[10] Werner Jaeger in his *Paideia* says that "towards the end of the Peloponnesian War, an unknown sophist writing on the reconstruction of the state... thought that every problem—even the authority of morals and society—had an economic solution. He held that economic factors were the basis of confidence, of credit both within the state and in intercourse with nationals of other states, and that the state's inability to establish this kind of authority by its own legal powers must lead to tyranny." (Vol. II, pp. 201-202.) This is perhaps the first *economic interpretation of politics,* characteristically by a Sophist. It may have been known to Plato.

reason, i.e., abstract speculation, and which can understand the true harmony of the universe and how to apply it to human events.

The Republic as the Archetype of Ancient Society

In the course of his analysis Plato lays down a pattern which is at once the greatest of all utopias and, oddly enough, descriptive of the basic political organization by which more of humanity has been governed throughout its long history than by any other single type. It is the fashion to sneer at Plato as a dreamer. If he is a dreamer, his dream has found practical form in all governments where a consciously selected élite, self-perpetuating in character, sets the basic beliefs of the society, like a priesthood incorporating in its service, as defenders of the system, a knightly or soldierly class, and subordinating the economic life of the producers to the limits determined by the rulers. This is the simplest possible description of the main lines of the Egyptian polity from its origins until its substantial overthrow by the Roman power. It describes with some correctness (though with the difference of the historic system of an often hereditary class structure) the form of power in the ancient empires of Babylon, Assyria, Sumeria, and Persia, in which the priesthood, as advisers to the absolute type of monarch, really controlled the state. It has had widespread applications in the development of the Chinese empire, particularly in the evolution of a mandarin ruling class chosen by examination. Francis Lieber was to call all bureaucratic absolutism "mandarin government" for this reason. There is an even more direct parallel in the caste system of the Hindus, where the Brahmins were the real rulers of society, even though the Kashytryas or warlike caste, and the Sudras, or administrative class, were more rigidly held to a caste system than Plato would have thought advisable. All these castes were closed, so far as entry from other castes was concerned; whereas Plato would have had in some measure a "career open to the talented," in the Napoleonic phrase. His system of education provided for recruitment of the citizen group from the promising children of even the producer class. He did not depend, therefore, on heredity alone for establishing his élite.

On the other hand, the Indian system, like Plato's, and even more absolutely, would have subordinated the mere producers of the society and placed certain occupations completely outside the caste system in the most absolute hierarchy of social organization in human history.

Japan, building on the long history of feudal Japan, erected a thoroughly Platonic system, particularly before the Meiji Restoration. From the Meiji on, the Genro (or elder statesmen) were still like the Platonic guardians; the Samurai's successors as the knightly class of

warriors were the military classes; and the economic classes of producers were regarded as socially below the level of both the other classes. It was not until Japanese industrialism broke down the separation between the Samurai class and the leading capitalistic families (Zaibatsu) that the inner contradiction of this form of social organization forced a realignment of genuine power in Japan. It is an open question today as to whether the military clique did not, in fact, have more power even than the great families of Japan like the Mitsui and Mitsubishi, which controlled its industries. A very interesting parallel, although without so specific an organization of the guardian class, could be drawn in modern Germany in the struggle of the Junkers against the rising industrial power in Germany.

Plato and Modern Totalitarianism

Most of all, the totalitarian states of today have made some effort to follow the Platonic model, perhaps most closely in the Soviet system. The Fascist and Nazi systems could hardly have been said to have made a conscious effort to train philosopher guardians. They depended too exclusively on the personification of the régime in a single person who tended, like Caesar, to be regarded as semi-divine. The Soviet system has followed the same trend, but in its origins it certainly thought of the party élite as the philosopher guardians and recruited them in terms of setting the tone of the entire system along lines of proper Marxian orthodoxy. From these examples, it will be clear that Plato's highly idealized scheme of political organization in the *Republic* is far from being a mere "dream of the imagination," in Francis Bacon's phrase. It is a fairly close approximation of the hierarchical organization of the state whenever that rule has, as indeed it has throughout much of human history, been guided by the elder statesmen on the basis of a philosophy that was at the same time a sort of state religion.

Philosophy Reflected in the State

On the other hand, Plato's significance has not been in scientific analysis of political institutions, in spite of all that has been said to show the connections between his metaphysical ideas and historical political institutions. The great import of the *Republic* consists in its systematic development of a form of government and a system of society from abstract philosophy. The Platonic philosophy represented an extreme reaction against the relativism of the Sophists of his day and an effort to establish, through reason, absolute truth, which would be good for all times and places, because it was grounded on the ultimate nature of reality, or what Plato called τὸ ὄντως ὄν. This realm of ideal reality,

which Plato shows that human beings approach in a fragmentary way through their efforts to apprehend it, as in the famous Allegory of the Cave, is like the laws of harmony that govern the movement of the stars and whose very innermost essence may be found in numbers, with a human reflection in music. Music, therefore, becomes the real basis of all his education.

How much Plato was influenced by Pythagoras, who attempted to realize a philosophy of mathematical harmonies in the political experiment at the colony in Tarentum, is a much disputed point. It is certain that Plato did think, as he said, "when God was doing nothing else, he was geometrizing," and that the world of being and of becoming was governed by the *nous* (reason or mind, later identified with the *logos* of the neo-Platonists, or the *Word* of the Gospel of St. John). This is the creative rational spirit of the universe which works in terms of numbers, whose use by Plato for symbolic purposes are too numerous to mention. It seems very improbable that Plato was, as Jowett says, "throwing dust in his eyes, albeit stardust," when he set down variants on the perfect numbers, as in the period suitable for "divine birth" in mating for the guardian class, or the 5,040 families in his city, or that the just man is 763 times as happy as the tyrant. He, like Eupompos, found splendor in numbers. He does not, purposely, reveal all their esoteric meaning to us.

But more important than the philosophy of numbers, perhaps, was the influence of astronomy, or perhaps one should call it astrology, that the Syrian and Chaldean civilization had spread throughout Asia Minor, parts of which were apparently familiar also to the Egyptians. Plato returns to the myth of Atlantis to show where ultimate wisdom resided before it spread abroad from that perfect civilization that had been submerged.[11]

Plato set his students to geometrizing the pattern of the planets. It is also significant that many of the graduates of his academy became

[11] From the *Timaeus* and the *Critias*, which continue the conversation reported by Socrates in the *Republic*, we learn that Plato went back through his Uncle Critias, to the report of a contemporary of Solon. The old man recalls, as if from his buried memory, the marvelous story also told to Solon by the Egyptians of the city of Sais. Athens had once saved an earlier aeon of Mediterranean civilization by holding out as the last survivor—against Atlantis—that mythical civilization west of the Pillars of Hercules which the sea overwhelmed. Plato deliberately creates this myth to carry his archetypal ideas back of any known civilization to the common "Golden Age" of Greece and Egypt.

For a most original and profound analysis of this use of myth by Plato, see the forthcoming work on the *History of Political Theory in the West*, by Eric Voegelin (to be published by The Macmillan Company). This book, when it appears, may well alter greatly many of the past conceptions and landmarks in the traditional treatment of political theory, now somewhat stereotyped by the works of Dunning and Janet.

scientists. Among them may be numbered Menaechamus and Aristotle himself, although Aristotle was concerned with the whole range of philosophy as well as with the development of science. Plato's effort to find final perfection was, therefore, rooted in a metaphysics which assumes that the ultimate reality of being operates in accordance with fixed and perfect laws which the human mind approaches through a sort of *recapture* by reason. It is a "recapture" because Plato himself thought of the operation of reason, disciplined by the long training of the philosopher, as *remembering* the divine perfection from which the soul proceeded and to which the soul once more returned. The allegory of the cave is meant to show this aspect of human knowledge. This religious philosophy of the soul, which must have had a connection with the Eleusinian mysteries, is given its most poetic form in the Myth of Er toward the end of the *Republic,* and in the *Meno.*

So much for the setting of the Platonic philosophy and its components. In its application to *the problem of justice,* the conversations between Socrates and a group of his students develop the concept by the typical Socratic method. Polemarchus, for example, thinks that the essence of justice is to give to each his due. But after some examination of this simple and attractive explanation, Socrates concludes that it involves circular reasoning, since what is each man's due cannot be understood without first defining justice itself.

The Sophists' View of Justice: Might Is Right

Thrasymachus, who may be taken as the most typical exponent of the "strong man" view of justice, breaks into the discussion with a fervor that would brush all arguments aside. He makes the simple assertion that "might makes right," a position more elaborately criticized by Plato in the *Gorgias.* Justice is the right of the stronger. Socrates disposes of this argument by some characteristic subtlety that amounts to little more than pointing out the fact that right is an entirely different conception from might. Even when men have to accept the rule of the stronger, they do not feel it to be just; they ultimately overthrow it because of the strength that rises in this common rejection of force as the sole basis of law. Naturally, this is not a satisfactory answer to Thrasymachus, nor has it prevented others from following his lead in varying degrees. (We shall examine some of these others when we discuss Machiavelli and Hobbes.)

An Early Version of the Social Contract

Glaucon produces a more rational basis for the state, which owes something, at least, to the Sophists, and even more in its final develop-

ment to the position that later came to be identified with the Stoics. Justice, according to Glaucon, consists in the laws promulgated by the legitimate authority of the state. This authority, in turn, rests upon the self-interest of men. Up to this point the argument is like that of the Sophists and, later, of Hobbes. It need not differ essentially from the possession of power already advocated by Thrasymachus. But Glaucon goes beyond the theory of sovereignty as the explanation of justice. He introduces one of the earliest versions of the "social contract" theory in assuming that men agree to prefer the protection of an ordered society to the more anarchic character of relations without a society—what is later called a state of nature.[12] They therefore come together as a matter of logic, if not history, to set up a government that will give them common justice in terms of this rational agreement. This position is like the Stoic view that Locke uses to defend his conception of the social contract.

Glaucon's argument still, however, does not define the nature of justice according to Socrates, since it does not tell what the ultimate answer is to such questions as had originally been proposed by Polemarchus. What, for example, is each man's due? Should equals be given equal rights and unequals unequal rewards? What relationship do the parts have to the whole in determining who shall rule and who shall obey? Is there any answer laid up in Heaven in the nature of the Divine Laws that govern the universe that can be applied as a pattern to human society?

Government by the Élite—But How to Produce an Élite?

The answers to these questions occupy the rest of the *Republic* and involve on Plato's part some assumptions about the ultimate reality as it affects the human beings who are to be the citizens and servants of the state. He starts out with the assumption that not all men can equally discern the nature of truth. Those who are possessed of the highest reason should naturally rule those who are less gifted by nature. Again, those who have courage may not be subordinated to those who are merely the creatures of appetite and feeling. On this basis of the supremacy of the reasoning faculty over both courage and appetite, Plato erects his three-class system, rooted in a natural inequality. This inequality is born in men and must subsequently be recognized through the whole course of their training and in the organization of power in the state if justice is to be achieved. Plato, beyond the mystification of the Platonic number governing births, never shows *why* or *how* this

[12] For the question of which of the Sophists, Lycophron or Protagoras, should be credited with the earliest known version, see Popper, *op. cit.*, Vol. I, p. 223, note 46.

capacity for wisdom is created. He takes it for granted as self-evident

The philosophers will, because of their insight into the laws of the universe, be best fitted to govern those whose reason is not so highly developed. They become the guardian class of his three-class state. The spirited soldiery, which would include at some time of their lives all men in the active citizen group in the first two ruling classes, will produce only a limited number of philosophers capable of this contemplative reason, its highest development. Therefore not all soldiers go into the guardian class. The producers, who are not in the true sense active citizens of the state but rather its subjects and its passive supporters, constitute the third class—the broad economic basis of the state which permits the others the specialization of functions demanded by harmonious justice.

It will be seen that this organization of classes is by no means open to the charges that Aristotle levels against Plato of having achieved unity by reducing his citizens to an *identity* of function. There are very sharply marked functions which in the just state can be ideally realized only by the proper hierarchy in their harmonious arrangement under law. Each performs that function for which he is best suited by nature. But unity among the guardians and the soldiers does rest on something like identity of function up to the age of about fifty, when the contemplative guardians are finally selected for their duties.

There are two important points to note about this conception of a natural inequality of men. The first is that Plato would have buttressed his securing the consent of all through the teaching of what he called "royal lie" (*pseudos* is better translated "fiction") or "noble fiction," or "audacious fiction," as it has been variously translated. Presumably, the citizens of the state were to be taught by the guardians, who had achieved this role in some unexplained way, that men were brought out of the earth like the different metals, some of gold (the guardians), some of silver (the soldiery), and some of the base metals like brass and iron (the producers, i.e., the peasants, the mechanics, and other workers).

Plato and Political Myth

This first example of the conscious use of a political myth is extremely interesting for several reasons. It shows that Plato depended upon what amounted to a state religion for the consent which was to cement loyalty to this state and its constitutional morality. If this seems absurd at first glance, it should be remembered that the whole organization of the Greek city state, like that of most of the states of antiquity, was in terms of a state religion. The worship of the gods peculiar to each state incorporated through the priesthood a thorough schooling in the

political ideals and the ethical behavior appropriate to each system. It ought not to shock a modern mind, which has before it the same sort of state religion in Shintoism of Japan, or the Lenin-Stalinism of Russia, or the attempted deification of Hitler and Mussolini, in our own time, to see to what lengths political myths were carried in more primitive organizations. Nor is there apparently anything inherently unnatural in the religious acceptance of inequality as based on nature. The hereditary principle of kingship or nobility has marked the greater part of human history in the operation of most of men's political societies.

A Biology for the Ideal State?

What is, however, striking about Plato's version of this political myth which was to form the foundation of his state is the fact that he does not appeal to heredity or to a caste system to determine how nature operates in the creation of gold and silver men, or how it sets them apart from the baser metals of ordinary humanity. He assumes that excellence will generally reproduce itself, but he is perfectly willing to have his guardians discover in the lowest class of his society, as well as in the two upper classes, the children whose natures are gold or silver. It is an "open" system, recruiting itself from the talented wherever they be found. Would he have reduced those who were born of gold or silver parents to the appropriate level of the baser metals if their characters did not show the precious ingredients under the test of his educational system? The answer is yes, but the method is not made quite clear. A system for promoting and demoting without regard to the genetic and hereditary factor was never completely spelled out by Plato.

On the other hand, he does think it more likely that the breeding of the best in the state would produce the best; and it is for that reason that he advocates the peculiar system of common marriage which marked the *Republic* as the most extreme proposal of this kind. Undoubtedly, his aim in denying individual family life to his two ruling classes is to eliminate the influence of self-interest through the projection of a man's own paternity that makes his offspring in some sense like the forbidden property that Plato so distrusts. But there is also an interesting recognition by Plato that human heredity does not automatically produce the highest talents from matings, as do the matings of animals. In some sense, it is a recognition of the mystery of the human soul and the differences of endowment that cannot be planned by a studbook.

The Position of Women in Plato

Another very interesting aspect of Plato's effort to raise the level of top human talents is his treatment of women in a fashion that was

characteristically different from that of the entire East and significantly different from most of the Greek civilizations. He would have assimilated the role of women in his two upper classes to that of activities less strong but similar to those of his men. He uses the analogy of hunting dogs, in which the female is substantially like the male in functions and in purpose. This attitude was quite different from the idea of women as mere homemakers and, in general, unimportant partners, that marked most Eastern societies. This may have been the result of the influences of the Spartan conception, in which girls were trained with the youths in almost equally rigorous discipline and in which they became the free and important partners of the Spartan estate, often vested with its management in terms like those of the medieval chatelaine. If Plato thought of the intellectual development of women, to which Athens had given some prominence in unusual examples like that of Aspasia, he does not make it at all clear. The position of the *hetairai* (somewhat like a more intelligent *geisha* class) in Athenian society was important in many respects, but the *hetairai* did not enter into the ordinary life of the Athenian household or into the bringing up of its citizens. Plato's general unconcern with women and his typically Greek attitude toward the preferred society of men make his proposals all the more astonishing.

Political Education

In addition to this political myth, which was to achieve a sort of religion taught by every means at the disposal of the state and ritualistically incorporated into its whole life, Plato depended for a rational factor upon education. Indeed, the major importance of the *Republic* is often considered to lie in this system of Platonic education, in which it is possible to discern elements of both Spartan discipline and Athenian philosophy. The strict physical training of the youths to fit them for war through gymnastics and every form of athletic training was to be balanced in due turn by an esthetic training and an emphasis on training the powers of the mind. Following such education, Plato argued, there would be little need for detailed laws.[18]

The Spartan training, which led to the most rigorous hardening of the youth and which limited esthetic training to choral dancing and singing, was not enough to produce what Plato regarded as fit candidates for his guardians. Here again Plato relied upon the earlier training of youth in fictions that would shape their loyalties and imaginations. He wished to purge the errors of foolish representation of the gods, which Socrates, like Xenophanes of an earlier Greek period, had criticized in

[18] On this point see Werner Jaeger's beautifully clear exposition in the *Paideia*, Vol. II, pp. 199 *et seq.*

the *Apology* as teaching unfortunate moral lessons to the youth. But Plato does believe that myths properly edited and presented through dramatic representation are an essential part of all education.

Music was to play the major part. However, he would have no poets to rouse the passions, and none of the mixed or soft Lydian modes; they were too sentimental and sad or fit only for drinking bouts. But he would accept the more warlike Dorian and some of the inspirational airs of the Phrygian.[14] The dance, too, was to bring music into play, taking hints from the Spartan *Gymnopaedia* (the athletic dances of the Festival of the Naked Youth and the martial dances), which was taught to the youth as a sort of military exercise, and from the more elaborate *hyporchema,* which was a choral hymn or play performed by two choirs, with alternate dancing and singing.

But beyond the training of the Spartan order, Plato wished to introduce the training of the mind, which he likened to the training of physicians for the commonwealth. Significantly he thinks of society as ill, especially the society of contemporary Greece. Here it was important that a man should become a good judge; in order to be a good guardian, he should be able to distinguish wickedness from virtue. The improvement of the soul was, in short, to be as important as the improvement of the body. This plan included not only the philosophic training but the discipline of the spirit to prevent extremes of temperament and to achieve that fixity of purpose which would mark the true guardian. Plato would have tried to incorporate in his guardians the four cardinal qualities: wisdom, courage, temperance, and justice. In order to achieve wisdom, which is basic to the understanding of the rest, the guardians would be trained not in a slavish manner but in a philosophic discipline which would penetrate into the true nature of reality as the initiates were prepared for each successive level of education.

It is clear that Plato thinks of this training as having an esoteric or hidden character, a two-edged sword, not meant for the vulgar. Perhaps his view was strengthened by the way in which the Athenian people took to the satiric scoffing of Aristophanes, who had held up to ridicule even Socrates as being "suspended in a basket in the clouds."

It was in keeping with Plato's aristocratic view that he thought *only philosophers must be kings in his ideal state;* and that philosophers could be created only by an understanding of the nature of ultimate

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[14] It is interesting that the Spartans are recorded to have forbidden Timotheus to play in Sparta unless he removed strings from his lyre in order that he might not corrupt the rigidly military mode of Spartan music and the simpler seven-stringed instrument to which Terpander had been restricted. See Erich Frank, *Musik und der Griechische Geist,* and W. Jaeger, *op. cit.,* Vol. II, p. 226.

reality that would penetrate beyond the realm of appearances and discern the true forms (ideas) that shaped all things, both mortal and divine This attitude is a tribute to the supremacy of knowledge over belief and is a part of the whole Platonic emphasis, for which Socrates, of course, is the spokesman, that to *know* the truth is the path to virtue. It is the supreme emphasis upon reason. However, philosophers might point out that this reason, which is based upon the Greek *Logos,* is brought by Plato in other dialogues into an almost mystic relationship of understanding the *nous* that governs the universe.

The People as a "Great Beast"

It is interesting that Plato thinks of the populace as a great beast to be guided by the skillful hand of the philosophers, rather than pandered to by Sophists. He uses all sorts of figures, like that of the skilled navigator, who is master of the ship, or the physician, who cures the ills of the commonwealth. It is always clear that he has no patience with the rule of the many (*hoi polloi*).

> When they meet together, and the world sits down at an assembly, or in a court of law, or a theatre, or a camp, or in any other popular resort, and there is a great uproar, and they praise some things which are being said or done, and blame other things, equally exaggerating both, shouting and clapping their hands, and the echo of the rocks and the place in which they are assembled redoubles the sound of the praise or blame—at such a time will not a young man's heart, as they say, leap within him? Will any private training enable him to stand firm against the overwhelming flood of popular opinion? Or will he be carried away by the stream? Will he not have the notions of good and evil which the public in general have—he will do as they do, and as they are, such will he be?" [15]

This quotation serves to show why his scorn is reserved for democracy, which he regards as a perverted form of government, as the enemy of the good, the true, and the beautiful, and why he turns to philosophers to free him from the nightmare of popular vulgarity. Even the very asses of Athens go braying about the streets, democratically!

On the other hand, Plato is quite clear that the difficulty of achieving rule by the philosophers is extreme and that in this world such a state is unlikely. He says it is much more probable that the philosopher will shelter himself behind a wall from the dust and storms of popular passions and that human beings will remain like the prisoners of the cave who behold the sunlight and reality with eyes still dimmed and uncertain, because human beings are forced to live in a world like that of

[15] *The Republic,* Book VI (Benjamin Jowett trans., Modern Library Edition), pp. 225-226.

the cave, with their backs to the light, seeing only the shadows of reality.

It is by training in geometry and mathematics that he hopes to produce a ruling group of guardians who, when trained systematically in the dialectic by a master, can eventually pierce the falsity of appearances and think with the harmonious insight that will produce a reflection on earth of the divine harmonies.

The Cycle of Governments and the Law of Degeneration

Plato is not unaware of the dangers that beset his system or of the difficulties in erecting it. He is concerned throughout with the greatest of all dangers, namely, that the ruling class will fall away from the high ideals and training and will substitute their own self-interest for that of the public interest. The later books of the *Republic* describe the natural manner of this decline from the true state through a timocracy (government of the few for honors), to an oligarchy (of the few for wealth), to democracy (the mob for its own interests), to tyranny (the worst of all). The ideal state will thus be corrupted because, in the first place, the guardians will fail in their duties and will produce inferior rulers by ill-starred matings. The ruling class may become equally enamored of a false conception of honor which will blind them to the true nature of justice, creating what Plato called *timocracy*. The ruling class may degenerate into a mere vulgar oligarchy by becoming "avaricious," cherishing furtively a passionate regard for gold and silver. He dreads the time when they "may have private homes where they can hoard their treasure in secret and live ensconced in a nest of their own, lavish their riches on their women or whom they please."

This oligarchic plutocracy, which has resulted from private ambition, will so undermine the foundations of the state that it will be likely to degenerate, in turn, under popular pressure for sharing wealth, into a democracy, or a government of the many. The democracy, in turn, has to be corrected in due course by falling back on a dictatorship to bring some order out of the democratic chaos.

This is the first outline of that cyclical degeneration of governments that Aristotle takes up in the *Politics* with more extensive analytical comments on the strength and weakness of each form. The difficult harmony that Plato likened to the music of the great musicians, sometimes called the White Musician (God), is too limited and often too powerless in a world of ignorance and lust. In a despairing but noble passage he admits that the *Republic* may be, after all, only a "city in the soul."

Perhaps Plato's own experience, which perhaps included an effort to train a philosopher king, to put his ideal state in motion may have contributed to his disillusionment after the writing of the *Republic*. It is

said that in attempting to train the tyrant of Syracuse, Dionysius, the nephew of his friend Dion, Plato so enraged his student that he was sold into slavery for his pains. Certainly the tyrant himself was far from fulfilling the prescription for a philosopher king.[16]

The Laws *as the Second-best State*

It is certain that Plato in his later works came farther and farther away from the idea of a government of perfect men and put more emphasis upon the shaping of a constitution. His last great work, the *Laws,* is less poetic and more realistic. It goes back to a four-class structure resembling that of Solon's Athens.[17] The fundamental riddle of how to get a stabilizing structure for the state that would prevent its degeneration is, according to Plato's most mature thought, to be found in a constitutional system that would guide and shape the philosophers themselves and allow for a balanced class structure in which the citizens themselves would all take part in the deliberative function, as they did both in Athens and Sparta.

Something of a balanced state is already shaped in his idea of "mixed" powers and the share in the state that is quite like Aristotle's best possible polity—and it may well have been produced under the criticism of his great pupils as well as by the change in Plato's own times and thought. The defeat of Sparta at Leuctra by the Theban Epaminondas, and the rise of the wise Athenian general Timotheus (celebrated by Isocrates), tended to force a revision of the comparative estimates of the virtues of the two systems. One may see this change, not only in Plato, but in many of his like-minded contemporaries, e.g., in Xenophon.

There are, however, interesting remnants of Plato's hankering for a rule by philosophers and a dependence upon men instead of laws. These come out very clearly in at least three of the institutions of the *Laws.* The first of these is the habit of sending a sort of series of embassies abroad in what is often translated the "board of inquisitors" of the commonwealth that Plato now sets up as a practicable compromise with human nature. This institution indicates that the innovations in the *Laws,* derived from copying the best forms of other constitutions, will be allowed at the discretion of the governing body. Ultimately, this governing body itself is to be set up in a supreme "nocturnal" council, reminding one of the council of the Doges in Venice or Mussolini's aping of the nocturnal council in his own Fascist Grand Council, which met after midnight and continued until daybreak. Most of all, it resembles the operations of the Politburo today in Russia (the body of fourteen

[16] *Paideia* of Werner Jaeger, Vol. II, p. 99 *et seq.*

[17] See Plutarch's *Solon* in the Readings and compare Readings on the *Laws.*

men, ten full members and four alternates), which completely governs Russia under Stalin. The nocturnal council of Plato would have had the most sweeping powers to punish, like those of a modern terror (NKVD, Gestapo, and so forth), and to initiate drastic revisions in the laws themselves.

Perhaps it is the third point, however, that most clearly betrays Plato's unceasing quest for the philosopher as the ruler. At one point in the *Laws* he admits quite openly that the way to win the institution of such a system is to have the happy circumstance of an enlightened tyrant with full dictatorial powers to impose the system and get it under way. Plato is not being merely fanciful. The operation of all Greek city states and, indeed, most of those of classical antiquity, followed the pattern of a "founding father," a great legislator, such as Lycurgus was for Sparta, and Solon was for Athens and Numa Pompilius was for Rome. It was this "great man" theory of history, discernible in its clearest form in *Plutarch's Lives,* that Plato really relied upon to institute the laws which would then govern the state. Later, as we shall see, even a great rationalist like Rousseau turns to "the Legislator" in this manner to set up the conditions under which the "General Will" will be put into operation. We ourselves tend to give the founding fathers of the Constitution a rôle somewhat like that which Plato gave the "Great Legislator." Actually, many generations of customary law and slow changes probably produced a great deal of the constitution which has been attributed to a single legislator like Lycurgus.

The difficulties in Plato's thinking are the eternal problems of the relation between law and right or justice; they center around the question of whether laws in themselves can be self-perpetuating and controlling of the actions of men. They show the inadequacy of his understanding of human nature and his refusal in the *Republic* to allow for the dynamics of self-interest, an inevitable factor in politics. Beyond these problems lie the subsidiary but perhaps equally important problems of how any guardian class whose whole training is regimented and limited to faithfulness to a "party line" can develop into true philosophers.

Plato himself shows an awareness of these difficulties in the restatement of his political thought in the *Laws.* There he would allow families and private property, though under strict limitations. He would hope to fix a balance of power natural to the abilities of the societies and at the same time buttressed by a rigid constitution. But, as we have seen, he never escapes reliance upon personal discretion, which in the end always permits power to rest in the hands of a small group in the state. He can only hope that that group will remain true to the laws and to the philosophic objectives of the system.

Plato's Failure to Provide for Moral Responsibility or True Constitutionalism

This summary of Plato's own difficulties will serve to illustrate the eternal problems that confront all efforts at political organization under fundamental law. Today we call what Plato meant by *the laws* a *constitution* and hope by its operation and its general acceptance as a sort of *mythos* by all the citizens to achieve two things: (1) rules of the game that will limit the rulers and will insure both their responsibility and the obedience of the ruled, and (2) the protection of defined rights that will permit freedom to the individual within the régime of law.

Modern democracy, of course, rejects Plato's essential notion that men are unequal, at least so far as their right to participate actively in the government that they are to obey is concerned. The moral strength of a government comes from free consent and active participation by the citizens. It puts an emphasis on the protection of *individual* rights that was foreign to Plato's thought and to Greek practice. Plato detested individual self-interest and left little room for individual self-development or moral responsibility. The most that can be said either of Plato or of Aristotle in their effort to achieve a stable society was that they attempted to balance the rights of classes through participating in the share of power. They were not unaware of the truth of Lord Acton's celebrated axiom: "All power tends to corrupt and absolute power corrupts absolutely." They achieved, however, no more of the philosophy of modern constitutionalism than to emphasize the fundamental character of "the law" on which the constitution was to rest, namely, the framework of the organization of power among classes based on economic differences that were supposed to reflect differences of capacity. It was not in the nature of any Greek thinker, accustomed to seeing in the *polis* a state religion and a community whose rights admitted of no opposing individual rights, to set forth a doctrine like that of modern democratic constitutionalism.

The germ of this latter idea comes in, as we shall see, through Stoic doctrine and the marriage of that doctrine with Christian ethics, placing an emphasis on the moral and rational individual rather than on the absolute state as the starting point of all doctrines of political rights.

Plato as well as Aristotle also shows a curious blindness to the reality of the power factor in politics. The very intensity of the life of the Greek city state did not permit broadening its range of participation beyond the narrow limits of a territory immediately surrounding the city. The insistence of both Plato and Aristotle on the necessity for a small population and a self-sufficient character for the ideal state was

grounded in the moral objectives of the state which could not be shared where there was no truly common life. This will explain also the insistence of both Plato and Aristotle upon a territory only great enough to support the city and their emphasis on the dangers of becoming heavily involved in foreign trade and thus exposing the life of the city state to the fortunes of overseas adventures. It may be noted that Athens' own history had shown a decline from the zenith of its prosperity and power at the time when, after the shattering of its rule by Sparta in the Peloponnesian War, it had to assume a much more modest and self-sufficient rôle in Greek life.

Greek Failure to Transcend the City State

It is of the greatest significance that no Greek city state under the organization praised by both Plato and Aristotle could become more than the leader of a hegemony or, as it was sometimes called, a confederation of Greek city states. Equality of partnership could not be permitted in such a confederacy. They were, in modern terminology, "protected states," vassals although allies.

The only efforts at creating a genuine federation system of equals arose through a league like the Achaean League of small city states. But this league never solved the problem of how to get a common assembly, since it was unthinkable to the Greeks that representatives could be anything more than ambassadors. Assembling of whole populations for a common deliberative body, given the distances separating states in those days of the most primitive transportation, made any genuine federal state for the Greek cities impossible.

The Delphic Amphictyony was a league for religious purposes only. By a supreme irony of history, it was through this very league that Philip of Macedon was invited into Greece to punish an offender against the purely religious sentiments of the League. Like the camel who got his head into the tent, he was soon completely inside, and his great-hearted son, Alexander, completed the subordination of Greece to the rising empire of Macedon.

Macedon, in turn, gave way to a Rome hardened for world conquest by the long struggle with Carthage. The day of the independent city state gave way to that of the empires. That Greece had been able to resist the Persians so long was little short of a miracle, given the divisions that always prevented any true unity of Greece even against the "barbarians."

A different order of political organization emerged from this struggle of the empires. Rome, the City of the Seven Hills, buttressed by its engineering triumphs and its rapid expansion of Roman law and insti-

tutions, becomes dominant in the Mediterranean world. It inherits some of the legacy of Greek philosophy and institutions, but it transmits a very different political order to the world of the future.

Plato would have found some things to admire in Alexander, the student of his own student, Aristotle, as a spirited young king who spread Hellenistic culture over what is now the Near and Middle East and as far as distant India. But the idea of an empire was entirely foreign to Plato's whole conception of justice made harmonious through the intense and well-disciplined life of a small city state. He might have taken some comfort in the rationality of Stoic doctrine that we shall find later in Roman law, but he could hardly have found in any of these systems the body of guardians who were to be his philosopher kings.

(...W.Y.E.)

READINGS

IT is probably accurate to say that mature political speculation started for our Western civilization with Plato, and in many ways little speculation since Plato has been so mature and so profound. If any further proof were needed of the political maturity of Athens in the fourth and fifth centuries B.C., the very writings of Plato should furnish it. For no man, even with as powerful an imagination as Plato had, could have probed so deeply the greatest political problems of all times, unless he had grown up in the state where the problems had arisen. No more could an isolated thinker probe the very depths of philosophy, unless he was the heir to a long line of advanced philosophical speculation. Thus it should occasion no surprise to note that there was a long line of great thinkers who preceded Plato and handed much on to him. Socrates, of course, was the greatest of these. His influence was immediate, for he was Plato's teacher, and it is through Socrates that Plato speaks in his dialogues.

Plato lived in approximately the period from 428 B.C. to 348 B.C. These dates should be noted, for they show that his mature years were lived after the end of the Peloponnesian War (404 B.C.). Even in Plato's time, then, degeneration had set in and presented the same challenge to Plato's powerful mind that had already shown in the anti-democratic bias of Thucydides. The son of a distinguished Athenian family, Plato became a friend and pupil of Socrates in 407.

(The Socrates of Plato's dialogues is, of course, Plato's own projection and development of his own philosophy through the dramatized figure of his old teacher.)

After Socrates' execution in 399 B.C., Plato traveled extensively and spent some time in the court of Dionysius, tyrant of Syracuse. In 387, at the grove of Academus in Athens, he founded a school called the Academy, where he taught mathematics and philosophy until his death.

Since Plato represents the high point in a great speculative tradition, he provides a good pretext for recalling the great gap that separates primitive and advanced thought. Primitive explanations for happenings tend to be based upon some coincident happening. Thus the two happenings are assumed to have a cause-and-effect relationship. For example, if there is an eclipse of the sun and, in the following year, a crop failure, it is assumed that the eclipse caused the crop failure. Primitive societies also have medicine men and priests who read signs and predict the future on the basis of those signs. The rites performed over the entrails of animals and the reading of the future from the study of entrails are other examples. Faith, superstition, and accident are all relied upon to explain the universe and man.

Advanced thought begins to ask questions and to distinguish between the real and the apparent. It assumes that what may appear to be true through the senses or through the sayings of witch doctors may not be true. New explanations are set forth in the form of hypotheses and conjecture, and, where possible, experiments or more careful and systematic observations are sought. Socrates was known as the "gadfly" of Athens because he went about the city prodding the people with questions; this method of teaching by inquiring is still known as the Socratic method.

That there is some mysticism in Plato is not to be denied, but he does push rational inquiry to the limits of the finite human mind. Only when he has exhausted the rational method does he account for things by magic, myth, or revelation. In some fields we have not pushed speculation much beyond the point at which Plato stopped nearly twenty-five hundred years ago.

The point to be emphasized here is that a great gap existed between the thinkers of Athens in the fourth and fifth centuries and the thinkers of other peoples in the Western world or in the Near East. Realization of this point makes it possible to read Plato with double value. In the first place, his writings may be read as historical documents which light up an important historical period. In the second place, they may be read for their own content, or for their timeless value. The nature of man, of justice, of reason, of the highest good, and of a ruling class —all these questions are still objects of inquiry and thought, and even today the starting place, both historically and analytically, is what Plato had to say about them. Today we may not accept Plato's ideal of a

state ruled by knowledge, but for that matter we do not accept Christ's ideal of a world dominated by brotherly love. Yet neither ideal is less great because we reject it, and time and again over the years men have drawn strength from each ideal. The danger of totalitarianism that may lie under the mask of Plato's doctrines, however, is far greater than any dangers that could possibly arise from a doctrine of love.

The depth of Plato's speculative powers can be understood only by reading and re-reading his works In one way or another the thread of Plato runs through all future political speculation.

The *Republic*: Man and the State

The REPUBLIC *is commonly regarded as Plato's greatest work. It was composed when he was around forty years old (390 B C.), and hence reflects the perfect combination of maturity and mental vigor. The subtitle of the work, "Concerning Justice," is significant, for justice is in fact the main theme of the dialogue. And nothing will help the student of the* REPUBLIC *more to understand it than to keep constantly in mind that it is a rational conception of justice that Plato is seeking The dialogue method of presentation reaches a high point of development here, and Plato himself is speaking through the character Socrates. By providing summaries of omitted parts, an attempt has been made to keep some of the unity of the work ¶ The translation used is the third edition of that of Benjamin Jowett.*[1]

[*At the celebration of a festival in the Peiraeus, Socrates and Glaucon meet Cephalus, Polemarchus, Adeimantus, Thrasymachus, and others Socrates is persuaded to stay for the evening torch race. ¶ Cephalus, who is an old man, is drawn into discussion by Socrates on the advantages and disadvantages of old age and wealth Cephalus concludes that being able to look back upon a just and righteous life makes the greatest contribution to happiness in old age, and that wealth is important primarily as it contributes to living and completing a just life ¶ Socrates then raises the question, which he presses in another book, the* GORGIAS, *as to whether justice is simply truthfulness and paying what you owe, or something more fundamental. As the discussion of justice starts, Cephalus retires, and Polemarchus advances a legal definition of justice, which he attributes to Simonides Justice is to render every man what is his due. ¶ Socrates shows that there are times when it would be wrong to give a man what is owing to him; for example, if he were out of his senses. By discussion Socrates shows that Simonides must have meant that justice was a matter of doing good to our friends and harm to our enemies. But justice cannot be very important if it is such a negative virtue as this implies. Moreover, one may easily mistake a friend for an enemy; and to*

[1] From *The Dialogues of Plato*, translated and edited by Benjamin Jowett (Oxford University Press).

harm a person who appeared to be an enemy, when in reality he was a friend, cannot be justice Even to do good to friends who are really good and to enemies who are really evil cannot be justice, because doing harm makes a man bad, and such cannot be the work of justice At this point in the discussion Thrasymachus, the Typical Sophist, advances the contention, in a rather bellicose manner, that justice is that which is advantageous to the stronger In a state the government is the stronger, and, therefore, justice is what is in the interest of a government. But, Socrates brings out, rulers may make mistakes, which are not advantageous to the government ¶ Thrasymachus then shifts to the argument that a ruler, as ruler, is never mistaken in what is his own interest and, hence, that justice is what is in the interest of the ruler. Socrates refutes this by showing that insofar as a ruler's function and virtue are to rule well, he does so in the interest of those he rules, just as the function of a doctor, as doctor, is to heal, not to make money or to advance his own personal interest ¶ Backed into a corner, Thrasymachus attacks human nature as cowardly and ignoble and justice as mere convention and habit Men, he contends, denounce injustice because they fear injustice at the hands of others If man can "get by" with doing injustice, he will almost inevitably do it ¶ Thrasymachus then says that injustice is a virtue and justice is its opposite This Socrates refutes by showing that the virtue of any art is knowledge, and goodness and justice are based upon knowledge Injustice is based on ignorance The argument now proceeds to consider whether justice or injustice is the stronger Socrates is speaking]

[CONSEQUENCES OF JUSTICE AND INJUSTICE]

Then I will repeat the question which I asked before, in order that our examination of the relative nature of justice and injustice may be carried on regularly. A statement was made that injustice is stronger and more powerful than justice, but now justice, having been identified with wisdom and virtue, is easily shown to be stronger than injustice, if injustice is ignorance, this can no longer be questioned by any one But I want to view the matter, Thrasymachus, in a different way You would not deny that a state may be unjust and may be unjustly attempting to enslave other states, or may have already enslaved them, and may be holding many of them in subjection?

True, he replied, and I will add that the best and most perfectly unjust state will be most likely to do so

I know, I said, that such was your position, but what I would further consider is, whether this power which is possessed by the superior state can exist or be exercised without justice or only with justice

If you are right in your view, and justice is wisdom, then only with justice, but if I am right, then without justice

I am delighted, Thrasymachus to see you not only nodding assent and dissent, but making answers which are quite excellent

That is out of civility to you, he replied You are very kind, I said, and would you have the goodness also to inform me, whether you think that a state, or an army, or a band of robbers and thieves, or any other gang of evil doers could act at all if they injured one another?

No indeed, he said, they could not

But if they abstained from injuring one another, then they might act together better?

Yes

And this is because injustice creates divisions and hatreds and fighting, and justice imparts harmony and friendship is not that true, Thrasymachus?

I agree, he said, because I do not wish to quarrel with you.

How good of you, I said, but I should like to know also whether injustice, having this tendency to arouse hatred, wherever existing, among slaves or among freemen, will not make them hate one

another and set them at variance and render them incapable of common action?

Certainly.

And even if injustice be found in two only, will they not quarrel and fight, and become enemies to one another and to the just?

They will.

And suppose injustice abiding in a single person, would your wisdom say that she loses or that she retains her natural power?

Let us assume that she retains her power.

Yet is not the power which injustice exercises of such a nature that wherever she takes up her abode, whether in a city, in an army, in a family, or in any other body, that body is, to begin with, rendered incapable of united action by reason of sedition and distraction; and does it not become its own enemy and at variance with all that opposes it, and with the just? Is not this the case?

Yes, certainly.

And is not injustice equally fatal when existing in a single person; in the first place rendering him incapable of action because he is not at unity with himself, and in the second place making him an enemy to himself and the just? Is not that true, Thrasymachus?

Yes.

And O my friend, I said, surely the gods are just?

Granted that they are.

But if so, the unjust will be the enemy of the gods, and the just will be their friend?

Feast away in triumph, and take your fill of the argument; I will not oppose you, lest I should displease the company.

Well then, proceed with your answers, and let me have the remainder of my repast. For we have already shown that the just are clearly wiser and better and abler than the unjust, and that the unjust are incapable of common action; nay more, that to speak as we did of men who are evil acting at any time vigorously together, is not strictly true, for if they had been perfectly evil, they would have laid hands upon one another; but it is evident that there must have been some remnant of justice in them, which enabled them to combine; if there had not been they would have injured one another as well as their victims; they were but half-villains in their enterprises; for had they been whole villains, and utterly unjust, they would have been utterly incapable of action. That, as I believe, is the truth of the matter, and not what you said at first. But whether the just have a better and happier life than the unjust is a further question which we also proposed to consider. I think that they have, and for the reasons which I have given; but still I should like to examine further, for no light matter is at stake, nothing less than the rule of human life.

Proceed.

I will proceed by asking a question: Would you not say that a horse has some end?

I should.

And the end or use of a horse or of anything would be that which could not be accomplished, or not so well accomplished, by any other thing?

I do not understand, he said.

Let me explain: Can you see, except with the eye?

Certainly not.

Or hear, except with the ear?

No.

These then may be truly said to be the ends of these organs?

They may.

But you can cut off a vine-branch with a dagger or with a chisel, and in many other ways?

Of course.

And yet not so well as with a pruning-hook made for the purpose?

True.

May we not say that this is the end of a pruning-hook?

We may.

Then now I think you will have no difficulty in understanding my meaning when I asked the question whether the

end of anything would be that which could not be accomplished, or not so well accomplished, by any other thing?

I understand your meaning, he said, and assent.

And that to which an end is appointed has also an excellence? Need I ask again whether the eye has an end?

It has.

And has not the eye an excellence?

Yes.

And the ear has an end and an excellence also?

True.

And the same is true of all other things; they have each of them an end and a special excellence?

That is so.

Well, and can the eyes fulfil their end if they are wanting in their own proper excellence and have a defect instead?

How can they, he said, if they are blind and cannot see?

You mean to say, if they have lost their proper excellence, which is sight; but I have not arrived at that point yet. I would rather ask the question more generally, and only enquire whether the things which fulfil their ends fulfil them by their own proper excellence, and fail of fulfilling them by their own defect?

Certainly, he replied.

I might say the same of the ears; when deprived of their own proper excellence they cannot fulfil their end?

True.

And the same observation will apply to all other things?

I agree.

Well; and has not the soul an end which nothing else can fulfil? for example, to superintend and command and deliberate and the like. Are not these functions proper to the soul and can they rightly be assigned to any other?

To no other.

And is not life to be reckoned among the ends of the soul?

Assuredly, he said.

And has not the soul an excellence also?

Yes.

And can she or can she not fulfil her own ends when deprived of that excellence?

She cannot.

Then an evil soul must necessarily be an evil ruler and superintendent, and the good soul a good ruler?

Yes, necessarily.

And we have admitted that justice is the excellence of the soul, and injustice the defect of the soul?

That has been admitted.

Then the just soul and the just man will live well, and the unjust man will live ill?

That is what your argument proves.

And he who lives well is blessed and happy, and he who lives ill the reverse of happy?

Certainly.

Then the just is happy, and the unjust miserable?

So be it.

But happiness and not misery is profitable.

Of course.

Then, my blessed Thrasymachus, injustice can never be more profitable than justice.

Let this, Socrates, he said, be your entertainment at the Bendidea.

For which I am indebted to you, I said, now that you have grown gentle towards me and have left off scolding. Nevertheless, I have not been well entertained; but that was my own fault and not yours. As an epicure snatches a taste of every dish which is successively brought to table, he not having allowed himself time to enjoy the one before, so have I gone from one subject to another without having discovered what I sought at first, the nature of justice. I left that enquiry and turned away to consider whether justice is virtue and wisdom or evil and folly; and when there arose a further question about the comparative advantages of justice and injustice, I could not refrain from passing on to that. And the result of the whole discussion has been that I know nothing at all. For I know not what jus-

tice is, and therefore I am not likely to know whether it is or is not a virtue, nor can I say whether the just man is happy or unhappy.

[*Thrasymachus, having been routed in the discussion, at least to Plato's satisfaction, now leaves. But Glaucon and Adeimantus, the sensitive and aristocratic brothers of Plato, are not satisfied that Socrates has made the best possible case for the universal and timeless superiority of justice. In Book II, Glaucon undertakes to state a stronger argument in favor of injustice as the best servant of self-interest. In the early part of his discussion Glaucon gives, as "the popular opinion of the day," an embryonic version of the social contract theory:*

They say that to do injustice is, by nature, good; to suffer injustice, evil; but that the evil is greater than the good. And so when men have both done and suffered injustice and have had experience of both, not being able to avoid the one and obtain the other, they think that they had better agree among themselves to have neither; hence there arise laws and mutual covenants; and that which is ordained by law is termed by them lawful and just. This they affirm to be the origin and nature of justice;—it is a mean or compromise, between the best of all, which is to do injustice and not be punished, and the worst of all, which is to suffer injustice without the power of retaliation; and justice, being at a middle point between the two, is tolerated not as a good, but as the lesser evil and honoured by reason of the inability of men to do injustice. For no man who is worthy to be called a man would ever submit to such an agreement if he were able to resist; he would be mad if he did. Such is the received account, Socrates, of the nature and origin of justice.

We shall see later that already in the argument some of the ground has been laid for the political ideas of Thomas Hobbes, including a foreshadowing of the idea of the social contract. ¶ Adeimantus adds to the argument which holds that only the weak, the cowards, the aged, and the infirm praise justice for its own sake. Men want justice only because they are afraid that others will do injustice to them and they will be too weak to retaliate. This leads Socrates to examine the abstract nature of justice "writ large" first in the letters of the state and then in the individual. Adeimantus is speaking.]

[Justice for Its Own Sake]

On what principle, then, shall we any longer choose justice rather than the worst injustice? when, if we only unite the latter with a deceitful regard to appearances, we shall fare to our mind both with gods and men, in life and after death, as the most numerous and the highest authorities tell us. Knowing all this, Socrates, how can a man who has any superiority of mind or person or rank or wealth, be willing to honour justice; or indeed to refrain from laughing when he hears justice praised? And even if there should be some one who is able to disprove the truth of my words, and who is satisfied that justice is best, still he is not angry with the unjust, but is very ready to forgive them, because he also knows that men are not just of their own free will; unless, peradventure, there be some one whom the divinity within him may have inspired with a hatred of injustice, or who has attained knowledge of the truth—but no other man. He only blames injustice who, owing to cowardice or age or some weakness, has not the power of being unjust. And this is proved by the fact that when he obtains the power, he immediately becomes unjust as far as he can be.

The cause of all this, Socrates, was indicated by us at the beginning of the argument, when my brother and I told you how astonished we were to find that of all the professing panegyrists of justice —beginning with the ancient heroes of whom any memorial has been preserved to us, and ending with the men of our own time—no one has ever blamed injustice or praised justice except with a view to the

glories, honours, and benefits which flow from them No one has ever adequately described either in verse or prose the true essential nature of either of them abiding in the soul, and invisible to any human or divine eye or shown that of all the things of a man s soul which he has within him, justice is the greatest good, and in justice the greatest evil Had this been the universal strain, had you sought to persuade us of this from our youth upwards, we should not have been on the watch to keep one another from doing wrong, but every one would have been his own watchman, because afraid, if he did wrong, of harbouring in himself the greatest of evils I dare say that Thrasymachus and others would seriously hold the language which I have been merely repeating, and words even stronger than these about justice and injustice, grossly, as I conceive, perverting their true nature But I speak in this vehement manner, as I must frankly confess to you, because I want to hear from you the opposite side, and I would ask you to show not only the superiority which justice has over injustice, but what effect they have on the possessor of them which makes the one to be a good and the other an evil to him And please, as Glaucon requested of you, to exclude reputations for unless you take away from each of them his true reputation and add on the false, we shall say that you do not praise justice but the appearance of it we shall think that you are only exhorting us to keep injustice dark, and that you really agree with Thrasymachus in thinking that justice is another s good and the interest of the stronger, and that injustice is a man s own profit and interest, though injurious to the weaker Now as you have admitted that justice is one of that highest class of goods which are desired indeed for their results, but in a far greater degree for their own sakes—like sight or hearing or knowledge or health, or any other real and natural and not merely conventional good —I would ask you in your praise of justice to regard one point only I mean the essential good and evil which justice and injustice work in the possessors of them. Let others praise justice and censure injustice, magnifying the rewards and honours of the one and abusing the other, that is a manner of arguing which, coming from them, I am ready to tolerate, but from you who have spent your whole life in the consideration of this question, unless I hear the contrary from your own lips, I expect something better And therefore, I say, not only prove to us that justice is better than injustice, but show what they either of them do to the possessor of them, which makes the one to be a good and the other an evil, whether seen or unseen by gods and men

. . . . .

[SOCRATES' NARRATIVE]

I told them, what I really thought, that the enquiry would be of a serious nature, and would require very good eyes Seeing then, I said, that we are no great wits, I think that we had better adopt a method which I may illustrate thus, suppose that a short sighted person had been asked by some one to read small letters from a distance and it occurred to some one else that they might be found in another place which was larger and in which the letters were larger—if they were the same and he could read the larger letters first, and then proceed to the lesser—this would have been thought a rare piece of good fortune

Very true said Adeimantus, but how does the illustration apply to our enquiry?

I will tell you, I replied, justice, which is the subject of our enquiry, is, as you know, sometimes spoken of as the virtue of an individual, and sometimes as the virtue of a State

True, he replied

And is not a State larger than an individual?

It is

Then in the larger the quantity of jus

tice is likely to be larger and more easily discernible. I propose therefore that we enquire into the nature of justice and injustice, first as they appear in the State, and secondly in the individual, proceeding from the greater to the lesser and comparing them.

That, he said, is an excellent proposal.

And if we imagine the State in process of creation, we shall see the justice and injustice of the State in process of creation also.

I dare say.

When the State is completed there may be a hope that the object of our search will be more easily discovered.

Yes, far more easily.

But ought we to attempt to construct one? I said; for to do so, as I am inclined to think, will be a very serious task. Reflect therefore.

I have reflected, said Adeimantus, and am anxious that you should proceed.

[Origin of the State]

A State, I said, arises, as I conceive, out of the needs of mankind; no one is self-sufficing, but all of us have many wants. Can any other origin of a State be imagined?

There can be no other.

Then, as we have many wants, and many persons are needed to supply them, one takes a helper for one purpose and another for another; and when these partners and helpers are gathered together in one habitation the body of inhabitants is termed a State.

True, he said.

And they exchange with one another, and one gives, and another receives, under the idea that the exchange will be for their good.

Very true.

Then, I said, let us begin and create in idea a State; and yet the true creator is necessity, who is the mother of our invention.

Of course, he replied.

Now the first and greatest of necessities is food, which is the condition of life and existence.

Certainly.

The second is a dwelling, and the third clothing and the like.

True.

And now let us see how our city will be able to supply this great demand: We may suppose that one man is a husbandman, another a builder, some one else a weaver—shall we add to them a shoemaker, or perhaps some other purveyor to our bodily wants?

Quite right.

The barest notion of a State must include four or five men.

Clearly.

And how will they proceed? Will each bring the result of his labours into a common stock?—the individual husbandman, for example, producing for four, and labouring four times as long and as much as he need in the provision of food with which he supplies others as well as himself; or will he have nothing to do with others and not be at the trouble of producing for them, but provide for himself alone a fourth of the food in a fourth of the time, and in the remaining three-fourths of his time be employed in making a house or a coat or a pair of shoes, having no partnership with others, but supplying himself all his own wants?

Adeimantus thought that he should aim at producing food only and not at producing everything.

Probably, I replied, that would be the better way; and when I hear you say this, I am myself reminded that we are not all alike; there are diversities of natures among us which are adapted to different occupations.

Very true.

And will you have a work better done when the workman has many occupations, or when he has only one?

When he has only one.

Further, there can be no doubt that a work is spoilt when not done at the right time?

No doubt

For business is not disposed to wait until the doer of the business is at leisure, but the doer must follow up what he is doing, and make the business his first object

He must

And if so, we must infer that all things are produced more plentifully and easily and of a better quality when one man does one thing which is natural to him and does it at the right time, and leaves other things

Undoubtedly

Then more than four citizens will be required for the husbandman will not make his own plough or mattock or other implements of agriculture, if they are to be good for anything Neither will the builder make his tools—and he too needs many and in like manner the weaver and shoemaker

True

Then carpenters and smiths and many other artisans, will be sharers in our little State, which is already beginning to grow?

True

Yet even if we add neatherds shepherds, and other herdsmen in order that our husbandmen may have oxen to plough with and builders as well as husbandmen may have draught cattle and curriers and weavers fleeces and hides,—still our State will not be very large

That is true yet neither will it be a very small State which contains all these

Then, again, there is the situation of the city—to find a place where nothing need be imported is wellnigh impossible

Impossible

Then there must be another class of citizens who will bring the required supply from another city?

There must

But if the trader goes empty handed, having nothing which they require who would supply his need he will come back empty handed

That is certain

And therefore what they produce at home must be not only enough for themselves, but such both in quantity and quality as to accommodate those from whom their wants are supplied

Very true

Then more husbandmen and more artisans will be required?

They will

Not to mention the importers and exporters, who are called merchants?

Yes

Then we shall want merchants?

We shall

And if merchandise is to be carried over the sea, skilful sailors will also be needed, and in considerable numbers?

Yes in considerable numbers

Then, again, within the city, how will they exchange their productions? To secure such an exchange was, as you will remember, one of our principal objects when we formed them into a society and constituted a State

Clearly they will buy and sell

Then they will need a market place, and a money token for purposes of exchange

Certainly

Suppose now that a husbandman, or an artisan brings some production to market, and he comes at a time when there is no one to exchange with him,—is he to leave his calling and sit idle in the market place?

Not at all he will find people there who, seeing the want undertake the office of salesmen In well ordered states they are commonly those who are weakest in bodily strength, and therefore of little use for any other purpose, their duty is to be in the market, and to give money in exchange for goods to those who desire to sell and to take money from those who desire to buy

This want, then, creates a class of retail traders in our State Is not 'retailer' the term which is applied to those who sit in the market place engaged in buying and selling while those who wander from one city to another are called merchants?

Yes, he said

And there is another class of servants, who are intellectually hardly on the level of companionship, still they have plenty of bodily strength for labour, which ac

cordingly they sell, and are called, if I do not mistake, hirelings, hire being the name which is given to the price of their labour.

True.

Then hirelings will help to make up our population?

Yes.

And now, Adeimantus, is our State matured and perfected?

I think so.

Where, then, is justice, and where is injustice, and in what part of the State did they spring up?

Probably in the dealings of these citizens with one another. I cannot imagine that they are more likely to be found any where else.

I dare say that you are right in your suggestion, I said; we had better think the matter out, and not shrink from the enquiry.

Let us then consider, first of all, what will be their way of life, now that we have thus established them. Will they not produce corn, and wine, and clothes, and shoes, and build houses for themselves? And when they are housed, they will work, in summer, commonly, stripped and barefoot, but in winter substantially clothed and shod. They will feed on barley-meal and flour of wheat, baking and kneading them, making noble cakes and loaves; these they will serve up on a mat of reeds or on clean leaves, themselves reclining the while upon beds strewn with yew or myrtle. And they and their children will feast, drinking of the wine which they have made, wearing garlands on their heads, and hymning the praises of the gods, in happy converse with one another. And they will take care that their families do not exceed their means; having an eye to poverty or war.

But, said Glaucon, interposing, you have not given them a relish to their meal.

True, I replied, I had forgotten; of course they must have a relish—salt, and olives, and cheese, and they will boil roots and herbs such as country people prepare; for a dessert we shall give them figs, and peas, and beans; and they will roast myrtle-berries and acorns at the fire, drinking in moderation. And with such a diet they may be expected to live in peace and health to a good old age, and bequeath a similar life to their children after them.

[City of Pigs]

Yes, Socrates, he said, and if you were providing for a city of pigs, how else would you feed the beasts?

But what would you have, Glaucon? I replied.

Why, he said, you should give them the ordinary conveniences of life. People who are to be comfortable are accustomed to lie on sofas, and dine off tables, and they should have sauces and sweets in the modern style.

Yes, I said, now I understand: the question which you would have me consider is, not only how a State, but how a luxurious State is created; and possibly there is no harm in this, for in such a State we shall be more likely to see how justice and injustice originate. In my opinion the true and healthy constitution of the State is the one which I have described. But if you wish also to see a State at fever-heat, I have no objection. For I suspect that many will not be satisfied with the simpler way of life. They will be for adding sofas, and tables, and other furniture; also dainties, and perfumes, and incense, and courtesans, and cakes, all these not of one sort only, but in every variety; we must go beyond the necessaries of which I was at first speaking, such as houses, and clothes, and shoes: the arts of the painter and the embroiderer will have to be set in motion, and gold and ivory and all sorts of materials must be procured.

True, he said.

[Expansion]

Then we must enlarge our borders; for the original healthy State is no longer

sufficient Now will the city have to fill and swell with a multitude of callings which are not required by any natural want such as the whole tribe of hunters and actors of whom one large class have to do with forms and colours, another will be the votaries of music—poets and their attendant train of rhapsodists, players, dancers, contractors, also makers of divers kinds of articles, including women's dresses And we shall want more servants Will not tutors be also in request, and nurses wet and dry, tirewomen and barbers, as well as confectioners and cooks and swineherds, too, who were not needed and therefore had no place in the former edition of our State, but are needed now? They must not be forgotten and there will be animals of many other kinds if people eat them

Certainly

And living in this way we shall have much greater need of physicians than before?

Much greater

And the country which was enough to support the original inhabitants will be too small now, and not enough?

Quite true

Then a slice of our neighbours' land will be wanted by us for pasture and tillage, and they will want a slice of ours, if, like ourselves, they exceed the limit of necessity, and give themselves up to the unlimited accumulation of wealth?

That, Socrates, will be inevitable

And so we shall go to war, Glaucon Shall we not?

Most certainly, he replied

Then, without determining as yet whether war does good or harm, thus much we may affirm, that now we have discovered war to be derived from causes which are also the causes of almost all the evils in States, private as well as public

Undoubtedly

And our State must once more enlarge, and this time the enlargement will be nothing short of a whole army, which will have to go out and fight with the invaders for all that we have, as well as for the things and persons whom we were describing above.

Why? he said, are they not capable of defending themselves?

No, I said, not if we were right in the principle which was acknowledged by all of us when we were framing the State the principle, as you will remember, was that one man cannot practise many arts with success

Very true, he said

But is not war an art?

Certainly

And an art requiring as much attention as shoemaking?

Quite true

And the shoemaker was not allowed by us to be a husbandman, or a weaver, or a builder—in order that we might have our shoes well made, but to him and to every other worker was assigned one work for which he was by nature fitted, and at that he was to continue working all his life long and at no other he was not to let opportunities slip and then he would become a good workman Now nothing can be more important than that the work of a soldier should be well done But is war an art so easily acquired that a man may be a warrior who is also a husbandman or shoemaker, or other artisan although no one in the world would be a good dice or draught player who merely took up the game as a recreation, and had not from his earliest years devoted himself to this and nothing else? No tools will make a man a skilled workman, or master of defence, nor be of any use to him who has not learned how to handle them, and has never bestowed any attention upon them How then will he who takes up a shield or other implement of war become a good fighter all in a day, whether with heavy armed or any other kind of troops?

Yes, he said, the tools which would teach men their own use would be beyond price

And the higher the duties of the guardian, I said, the more time, and skill, and art, and application will be needed by him?

No doubt, he replied.

Will he not also require natural aptitude for his calling?

Certainly.

Then it will be our duty to select, if we can, natures which are fitted for the task of guarding the city?

It will.

And the selection will be no easy matter, I said; but we must be brave and do our best.

We must.

Is not the noble youth very like a well-bred dog in respect of guarding and watching?

What do you mean?

I mean that both of them ought to be quick to see, and swift to overtake the enemy when they see him; and strong too if, when they have caught him, they have to fight with him.

All these qualities, he replied, will certainly be required by them.

Well, and your guardian must be brave if he is to fight well?

Certainly.

[GUARDIANS CREATE A DILEMMA]

And is he likely to be brave who has no spirit, whether horse or dog or any other animal? Have you never observed how invincible and unconquerable is spirit and how the presence of it makes the soul of any creature to be absolutely fearless and indomitable?

I have.

Then now we have a clear notion of the bodily qualities which are required in the guardian.

True.

And also of the mental ones; his soul is to be full of spirit?

Yes.

But are not these spirited natures apt to be savage with one another, and with everybody else?

A difficulty by no means easy to overcome, he replied.

Whereas, I said, they ought to be dangerous to their enemies, and gentle to their friends; if not, they will destroy themselves without waiting for their enemies to destroy them.

True, he said.

What is to be done then? I said; how shall we find a gentle nature which has also a great spirit, for the one is the contradiction of the other?

True.

He will not be a good guardian who is wanting in either of these two qualities; and yet the combination of them appears to be impossible; and hence we must infer that to be a good guardian is impossible.

I am afraid that what you say is true, he replied.

Here feeling perplexed I began to think over what had preceded.—My friend, I said, no wonder that we are in a perplexity; for we have lost sight of the image which we had before us.

What do you mean? he said.

I mean to say that there do exist natures gifted with those opposite qualities.

And where do you find them?

Many animals, I replied, furnish examples of them; our friend the dog is a very good one: you know that well-bred dogs are perfectly gentle to their familiars and acquaintances, and the reverse to strangers.

Yes, I know.

Then there is nothing impossible or out of the order of nature in our finding a guardian who has a similar combination of qualities?

Certainly not.

Would not he who is fitted to be a guardian, besides the spirited nature, need to have the qualities of a philosopher?

I do not apprehend your meaning.

The trait of which I am speaking, I replied, may be also seen in the dog, and is remarkable in the animal.

What trait?

Why, a dog, whenever he sees a stranger, is angry; when an acquaintance, he welcomes him, although the one has never done him any harm, nor the other any good. Did this never strike you as curious?

The matter never struck me before; but I quite recognise the truth of your remark.

And surely this instinct of the dog is very charming;—your dog is a true philosopher.

Why?

Why, because he distinguishes the face of a friend and of an enemy only by the criterion of knowing and not knowing. And must not an animal be a lover of learning who determines what he likes and dislikes by the test of knowledge and ignorance?

Most assuredly.

And is not the love of learning the love of wisdom, which is philosophy?

They are the same, he replied.

And may we not say confidently of man also, that he who is likely to be gentle to his friends and acquaintances, must by nature be a lover of wisdom and knowledge?

That we may safely affirm.

Then he who is to be a really good and noble guardian of the State will require to unite in himself philosophy and spirit and swiftness and strength?

Undoubtedly.

Then we have found the desired natures; and now that we have found them, how are they to be reared and educated? Is not this an enquiry which may be expected to throw light on the greater enquiry which is our final end—How do justice and injustice grow up in States? for we do not want either to omit what is to the point or to draw out the argument to an inconvenient length.

Adeimantus thought that the enquiry would be of great service to us.

Then, I said, my dear friend, the task must not be given up, even if somewhat long.

Certainly not.

[EDUCATION]

Come then, and let us pass a leisure hour in story-telling, and our story shall be the education of our heroes.

By all means.

And what shall be their education? Can we find a better than the traditional sort?—and this has two divisions, gymnastic for the body, and music for the soul.

True.

Shall we begin education with music, and go on to gymnastic afterwards?

By all means.

And when you speak of music, do you include literature or not?

I do.

And literature may be either true or false?

Yes.

And the young should be trained in both kinds, and we begin with the false?

I do not understand your meaning, he said.

You know, I said, that we begin by telling children stories which, though not wholly destitute of truth, are in the main fictitious; and these stories are told them when they are not of an age to learn gymnastics.

Very true.

That was my meaning when I said that we must teach music before gymnastics.

Quite right, he said.

You know also that the beginning is the most important part of any work, especially in the case of a young and tender thing; for that is the time at which the character is being formed and the desired impression is more readily taken.

Quite true.

And shall we just carelessly allow children to hear any casual tales which may be devised by casual persons, and to receive into their minds ideas for the most part the very opposite of those which we should wish them to have when they are grown up?

We cannot.

Then the first thing will be to establish a censorship of the writers of fiction, and let the censors receive any tale of fiction which is good, and reject the bad; and we will desire mothers and nurses to tell their children the authorised ones only. Let them fashion the mind with such tales,

even more fondly than they mould the body with their hands; but most of those which are now in use must be discarded.

Of what tales are you speaking? he said.

You may find a model of the lesser in the greater, I said; for they are necessarily of the same type, and there is the same spirit in both of them.

Very likely, he replied; but I do not as yet know what you would term the greater.

Those, I said, which are narrated by Homer and Hesiod, and the rest of the poets, who have ever been the great story-tellers of mankind.

But which stories do you mean, he said; and what fault do you find with them?

A fault which is most serious, I said; the fault of telling a lie, and, what is more, a bad lie.

But when is this fault committed?

Whenever an erroneous representation is made of the nature of gods and heroes, —as when a painter paints a portrait not having the shadow of a likeness to the original.

Yes, he said, that sort of thing is certainly very blameable; but what are the stories which you mean?

First of all, I said, there was that greatest of all lies, in high places, which the poet told about Uranus, and which was a bad lie too,—I mean what Hesiod says that Uranus did, and how Cronus retaliated on him. The doings of Cronus, and the sufferings which in turn his son inflicted upon him, even if they were true, ought certainly not to be lightly told to young and thoughtless persons; if possible, they had better be buried in silence. But if there is an absolute necessity for their mention, a chosen few might hear them in a mystery, and they should sacrifice not a common [Eleusinian] pig, but some huge and unprocurable victim; and then the number of the hearers will be very few indeed.

Why, yes, said he, those stories are extremely objectionable.

Yes, Adeimantus, they are stories not to be repeated in our State; the young man should not be told that in committing the worst of crimes he is far from doing anything outrageous; and that even if he chastises his father when he does wrong, in whatever manner, he will only be following the example of the first and greatest among the gods.

I entirely agree with you, he said; in my opinion those stories are quite unfit to be repeated.

Neither, if we mean our future guardians to regard the habit of quarrelling among themselves as of all things the basest, should any word be said to them of the wars in heaven, and of the plots and fightings of the gods against one another, for they are not true. No, we shall never mention the battles of the giants, or let them be embroidered on garments; and we shall be silent about the innumerable other quarrels of gods and heroes with their friends and relatives. If they would only believe us we would tell them that quarrelling is unholy, and that never up to this time has there been any quarrel between citizens; this is what old men and old women should begin by telling children; and when they grow up, the poets also should be told to compose for them in a similar spirit. But the narrative of Hephaestus binding Here his mother, or how on another occasion Zeus sent him flying for taking her part when she was being beaten, and all the battles of the gods in Homer—these tales must not be admitted into our State, whether they are supposed to have an allegorical meaning or not. For a young person cannot judge what is allegorical and what is literal; anything that he receives into his mind at that age is likely to become indelible and unalterable; and therefore it is most important that the tales which the young first hear should be models of virtuous thoughts.

There you are right, he replied; but if any one asks where are such models to be found and of what tales are you speaking —how shall we answer him?

I said to him, You and I, Adeimantus, at this moment are not poets, but founders

of a State: now the founders of a State ought to know the general forms in which poets should cast their tales, and the limits which must be observed by them, but to make the tales is not their business

[*In the remainder of this book Socrates secures agreement that any stories concerning the gods must not depict them as resorting to lies and deceit Such stories would inculcate bad habits in the guardian. Even Homer must be censured for this reason ¶ In the first part of Book III, Socrates goes on to describe the main elements of education, which is his main theme, in one form or another, in all the dialogues of Plato, especially those on politics Everything in the education must conform to the central purpose of developing the reason In addition to the arts, gymnastics must be stressed, for the arts without gymnastics tend to produce softness, and gymnastics without music and the arts tend to produce hardness The best of those who emerge from this training, that is, those who most perfectly reflect the ideal combination of reason, strength, and restraint, will be rulers The body of rulers was to be a self perpetuating elite, since the selection was from above by the existing guardians The others will be auxiliaries ¶ In what follows, "the noble falsehood" is suggested as a means of assuring loyalty to the principles of the state, on the part of both the rulers and the ruled*]

[Rational Education]

Yet surely, I said, this ferocity only comes from spirit, which, if rightly educated, would give courage, but, if too much intensified, is liable to become hard and brutal.

That I quite think

On the other hand the philosopher will have the quality of gentleness And this also, when too much indulged, will turn to softness, but, if educated rightly, will be gentle and moderate.

True.

And in our opinion the guardians ought to have both these qualities?

Assuredly.

And both should be in harmony?

Beyond question

And the harmonious soul is both temperate and courageous?

Yes

And the inharmonious is cowardly and boorish?

Very true

And, when a man allows music to play upon him and to pour into his soul through the funnel of his ears those sweet and soft and melancholy airs of which we were just now speaking, and his whole life is passed in warbling and the delights of song in the first stage of the process the passion or spirit which is in him is tempered like iron, and made useful, instead of brittle and useless But, if he carries on the softening and soothing process, in the next stage he begins to melt and waste, until he has wasted away his spirit and cut out the sinews of his soul, and he becomes a feeble warrior.

Very true

If the element of spirit is naturally weak in him the change is speedily accomplished, but if he have a good deal, then the power of music weakening the spirit renders him excitable,—on the least provocation he flames up at once, and is speedily extinguished, instead of having spirit he grows irritable and passionate and is quite impracticable

Exactly

And so in gymnastics, if a man takes violent exercise and is a great feeder, and the reverse of a great student of music and philosophy, at first the high condition of his body fills him with pride and spirit, and he becomes twice the man that he was

Certainly

And what happens? if he do nothing else, and holds no converse with the Muses, does not even that intelligence which there may be in him, having no taste of any sort of learning or enquiry or thought or culture, grow feeble and dull

and blind, his mind never waking up or receiving nourishment, and his senses not being purged of their mists?

True, he said.

And he ends by becoming a hater of philosophy, uncivilized, never using the weapon of persuasion,—he is like a wild beast, all violence and fierceness, and knows no other way of dealing; and he lives in all ignorance and evil conditions, and has no sense of propriety and grace.

That is quite true, he said.

And as there are two principles of human nature, one the spirited and the other the philosophical, some God, as I should say, has given mankind two arts answering to them (and only indirectly to the soul and body), in order that these two principles (like the strings of an instrument) may be relaxed or drawn tighter until they are duly harmonized.

That appears to be the intention.

And he who mingles music with gymnastic in the fairest proportions, and best attempers them to the soul, may be rightly called the true musician and harmonist in a far higher sense than the tuner of the strings.

You are quite right, Socrates.

And such a presiding genius will be always required in our State if the government is to last.

Yes, he will be absolutely necessary.

Such, then, are our principles of nurture and education: Where would be the use of going into further details about the dances of our citizens, or about their hunting and coursing, their gymnastic and equestrian contests? For these all follow the general principle, and having found that, we shall have no difficulty in discovering them.

I dare say that there will be no difficulty.

[Rulers]

Very good, I said; then what is the next question? Must we not ask who are to be rulers and who subjects?

Certainly.

There can be no doubt that the elder must rule the younger.

Clearly.

And that the best of these must rule.

That is also clear.

Now, are not the best husbandmen those who are most devoted to husbandry?

Yes.

And as we are to have the best of guardians for our city, must they not be those who have most the character of guardians?

Yes.

And to this end they ought to be wise and efficient, and to have a special care of the State?

True.

And a man will be most likely to care about that which he loves?

To be sure.

And he will be most likely to love that which he regards as having the same interests with himself, and that of which the good or evil fortune is supposed by him at any time most to affect his own?

Very true, he replied.

Then there must be a selection. Let us note among the guardians those who in their whole life show the greatest eagerness to do what is for the good of their country, and the greatest repugnance to do what is against her interests.

Those are the right men.

And they will have to be watched at every age, in order that we may see whether they preserve their resolution, and never, under the influence either of force or enchantment, forget or cast off their sense of duty to the State.

How cast off? he said.

I will explain to you, I replied. A resolution may go out of a man's mind either with his will or against his will; with his will when he gets rid of a falsehood and learns better, against his will whenever he is deprived of a truth.

I understand, he said, the willing loss of a resolution; the meaning of the unwilling I have yet to learn.

Why, I said, do you not see that men are unwillingly deprived of good, and

willingly of evil? Is not to have lost the truth an evil and to possess the truth a good? and you would agree that to conceive things as they are is to possess the truth?

Yes he replied I agree with you in thinking that mankind are deprived of truth against their will

And is not this involuntary deprivation caused either by theft, or force, or enchantment?

Still, he replied I do not understand you

I fear that I must have been talking darkly, like the tragedians I only mean that some men are changed by persuasion and that others forget argument steals away the hearts of one class, and time of the other, and this I call theft Now you understand me?

Yes

Those again who are forced are those whom the violence of some pain or grief compels to change their opinion

I understand, he said, and you are quite right

And you would also acknowledge that the enchanted are those who change their minds either under the softer influence of pleasure, or the sterner influence of fear?

Yes, he said, everything that deceives may be said to enchant

Therefore, as I was just now saying, we must enquire who are the best guardians of their own conviction that what they think the interest of the State is to be the rule of their lives We must watch them from their youth upwards, and make them perform actions in which they are most likely to forget or to be deceived, and he who remembers and is not deceived is to be selected, and he who fails in the trial is to be rejected That will be the way?

Yes

And there should also be toils and pains and conflict prescribed for them, in which they will be made to give further proof of the same qualities

Very right, he replied

And then, I said, we must try them with enchantments—that is the third sort of test—and see what will be their behaviour like those who take colts amid noise and tumult to see if they are of a timid nature, so must we take our youth amid terrors of some kind, and again pass them into pleasures, and prove them more thoroughly than gold is proved in the furnace, that we may discover whether they are armed against all enchantments, and of a noble bearing always, good guardians of themselves and of the music which they have learned, and retaining under all circumstances a rhythmical and harmonious nature, such as will be most serviceable to the individual and to the State And he who at every age, as boy and youth and in mature life has come out of the trial victorious and pure, shall be appointed a ruler and guardian of the State he shall be honoured in life and death, and shall receive sepulture and other memorials of honour the greatest that we have to give But him who fails, we must reject I am inclined to think that this is the sort of way in which our rulers and guardians should be chosen and appointed I speak generally and not with any pretension to exactness

And speaking generally, I agree with you he said

And perhaps the word 'guardian' in the fullest sense ought to be applied to this higher class only who preserve us against foreign enemies and maintain peace among our citizens at home, that the one may not have the will, or the others the power, to harm us The young men whom we before called guardians may be more properly designated auxiliaries and supporters of the principles of the rulers

I agree with you, he said

[Indoctrination by Myth]

How then may we devise one of those needful falsehoods of which we lately spoke—just one royal lie which may deceive the rulers, if that be possible, and at any rate the rest of the city?

What sort of lie? he said.

Nothing new, I replied; only an old Phoenician tale of what has often occurred before now in other places, (as the poets say, and have made the world believe,) though not in our time, and I do not know whether such an event could ever happen again, or could now even be made probable, if it did.

How your words seem to hesitate on your lips!

You will not wonder, I replied, at my hesitation when you have heard.

Speak, he said, and fear not.

Well then, I will speak, although I really know not how to look you in the face, or in what words to utter the audacious fiction, which I propose to communicate gradually, first to the rulers, then to the soldiers, and lastly to the people. They are to be told that their youth was a dream, and the education and training which they received from us, an appearance only; in reality during all that time they were being formed and fed in the womb of the earth, where they themselves and their arms and appurtenances were manufactured; when they were completed, the earth, their mother, sent them up; and so, their country being their mother and also their nurse, they are bound to advise for her good, and to defend her against attacks, and her citizens they are to regard as children of the earth and their own brothers.

You had good reason, he said, to be ashamed of the lie which you were going to tell.

True, I replied, but there is more coming; I have only told you half. Citizens, we shall say to them in our tale, you are brothers, yet God has framed you differently. Some of you have the power of command, and in the composition of these he has mingled gold, wherefore also they have the greatest honour; others he has made of silver, to be auxiliaries; others again who are to be husbandmen and craftsmen he has composed of brass and iron; and the species will generally be preserved in the children. But as all are of the same original stock, a golden parent will sometimes have a silver son, or a silver parent a golden son. And God proclaims as a first principle to the rulers, and above all else, that there is nothing which they should so anxiously guard, or of which they are to be such good guardians, as of the purity of the race. They should observe what elements mingle in their offspring; for if the son of a golden or silver parent has an admixture of brass and iron, then nature orders a transposition of ranks, and the eye of the ruler must not be pitiful towards the child because he has to descend in the scale and become a husbandman or artisan, just as there may be sons of artisans who having an admixture of gold or silver in them are raised to honour, and become guardians or auxiliaries. For an oracle says that when a man of brass or iron guards the State, it will be destroyed. Such is the tale; is there any possibility of making our citizens believe in it?

Not in the present generation, he replied; there is no way of accomplishing this; but their sons may be made to believe in the tale, and their sons' sons, and posterity after them.

I see the difficulty, I replied; yet the fostering of such a belief will make them care more for the city and for one another. Enough, however, of the fiction, which may now fly abroad upon the wings of rumour, while we arm our earth-born heroes, and lead them forth under the command of their rulers. Let them look round and select a spot whence they can best suppress insurrection, if any prove refractory within, and also defend themselves against enemies, who like wolves may come down on the fold from without; there let them encamp, and when they have encamped, let them sacrifice to the proper Gods and prepare their dwellings.

Just so, he said.

And their dwellings must be such as will shield them against the cold of winter and the heat of summer.

I suppose that you mean houses, he replied.

Yes, I said; but they must be the houses of soldiers, and not of shop-keepers.

What is the difference? he said.

That I will endeavour to explain, I replied. To keep watch-dogs, who, from want of discipline or hunger, or some evil habit or other, would turn upon the sheep and worry them, and behave not like dogs but wolves, would be a foul and monstrous thing in a shepherd?

Truly monstrous, he said.

And therefore every care must be taken that our auxiliaries, being stronger than our citizens, may not grow to be too much for them and become savage tyrants instead of friends and allies?

Yes, great care should be taken.

And would not a really good education furnish the best safeguard?

But they are well-educated already, he replied.

I cannot be so confident, my dear Glaucon, I said: I am much more certain that they ought to be, and that true education, whatever that may be, will have the greatest tendency to civilize and humanize them in their relations to one another, and to those who are under their protection.

Very true, he replied.

And not only their education, but their habitations, and all that belongs to them, should be such as will neither impair their virtue as guardians, nor tempt them to prey upon the other citizens. Any man of sense must acknowledge that.

He must.

[Life of Guardians]

Then let us consider what will be their way of life, if they are to realize our idea of them. In the first place, none of them should have any property of his own beyond what is absolutely necessary; neither should they have a private house or store closed against any one who has a mind to enter; their provisions should be only such as are required by trained warriors, who are men of temperance and courage; they should agree to receive from the citizens a fixed rate of pay, enough to meet the expenses of the year and no more; and they will go to mess and live together like soldiers in a camp. Gold and silver we will tell them that they have from God; the diviner metal is within them, and they have therefore no need of the dross which is current among men, and ought not to pollute the divine by any such earthly admixture; for that commoner metal has been the source of many unholy deeds, but their own is undefiled. And they alone of all the citizens may not touch or handle silver or gold, or be under the same roof with them, or wear them, or drink from them. And this will be their salvation, and they will be the saviours of the State. But should they ever acquire homes or lands or moneys of their own, they will become housekeepers and husbandmen instead of guardians, enemies and tyrants instead of allies of the other citizens; hating and being hated, plotting and being plotted against, they will pass their whole life in much greater terror of internal than of external enemies, and the hour of ruin, both to themselves and to the rest of the State, will be at hand. For all which reasons may we not say that thus shall our State be ordered, and that these shall be the regulations appointed by us for our guardians concerning their houses and all other matters?

Yes, said Glaucon.

BOOK IV

Here Adeimantus interposed a question: How would you answer, Socrates, said he, if a person were to say that you are making[1] these people miserable, and that they are the cause of their own unhappiness; the city in fact belongs to them, but they are none the better for it; whereas other men acquire lands, and build large and handsome houses, and have everything handsome about them, offering sacri-

[1] Or, 'that for their own good you are making these people miserable.'

fices to the gods on their own account, and practising hospitality; moreover, as you were saying just now, they have gold and silver, and all that is usual among the favourites of fortune; but our poor citizens are no better than mercenaries who are quartered in the city and are always mounting guard?

[Happiness of the Whole]

Yes, I said; and you may add that they are only fed, and not paid in addition to their food, like other men; and therefore they cannot, if they would, take a journey of pleasure; they have no money to spend on a mistress or any other luxurious fancy, which, as the world goes, is thought to be happiness; and many other accusations of the same nature might be added.

But, said he, let us suppose all this to be included in the charge.

You mean to ask, I said, what will be our answer?

Yes.

If we proceed along the old path, my belief, I said, is that we shall find the answer. And our answer will be that, even as they are, our guardians may very likely be the happiest of men; but that our aim in founding the State was not the disproportionate happiness of any one class, but the greatest happiness of the whole; we thought that in a State which is ordered with a view to the good of the whole we should be most likely to find justice, and in the ill-ordered State injustice: and, having found them, we might then decide which of the two is the happier. At present, I take it, we are fashioning the happy State, not piecemeal, or with a view of making a few happy citizens, but as a whole; and by-and-by we will proceed to view the opposite kind of State. Suppose that we were painting a statue, and some one came up to us and said, Why do you not put the most beautiful colours on the most beautiful parts of the body—the eyes ought to be purple, but you have made them black—to him we might fairly answer, Sir, you would not surely have us beautify the eyes to such a degree that they are no longer eyes; consider rather whether, by giving this and the other features their due proportion, we make the whole beautiful. And so I say to you, do not compel us to assign the guardians a sort of happiness which will make them anything but guardians; for we too can clothe our husbandmen in royal apparel, and set crowns of gold on their heads, and bid them till the ground as much as they like, and no more. Our potters also might be allowed to repose on couches, and feast by the fireside, passing round the winecup, while their wheel is conveniently at hand, and working at pottery only as much as they like; in this way we might make every class happy—and then, as you imagine, the whole State would be happy. But do not put this idea into our heads; for, if we listen to you, the husbandman will be no longer a husbandman, the potter will cease to be a potter, and no one will have the character of any distinct class in the State. Now this is not of much consequence where the corruption of society, and pretension to be what you are not, is confined to cobblers; but when the guardians of the laws and of the government are only seemingly and not real guardians, then see how they turn the State upside down; and on the other hand they alone have the power of giving order and happiness to the State. We mean our guardians to be true saviours and not the destroyers of the State, whereas our opponent is thinking of peasants at a festival, who are enjoying a life of revelry, not of citizens who are doing their duty to the State. But, if so, we mean different things, and he is speaking of something which is not a State. And therefore we must consider whether in appointing our guardians we would look to their greatest happiness individually, or whether this principle of happiness does not rather reside in the State as a whole. But if the latter be the truth, then the guardians and auxiliaries, and all others equally with them, must be compelled or induced to do their own

work in the best way. And thus the whole State will grow up in a noble order, and the several classes will receive the proportion of happiness which nature assigns to them.

I think that you are quite right.

[WEALTH AND POVERTY CORRUPT]

I wonder whether you will agree with another remark which occurs to me.

What may that be?

There seem to be two causes of the deterioration of the arts.

What are they?

Wealth, I said, and poverty.

How do they act?

The process is as follows: When a potter becomes rich, will he, think you, any longer take the same pains with his art?

Certainly not.

He will grow more and more indolent and careless?

Very true.

And the result will be that he becomes a worse potter?

Yes; he greatly deteriorates.

But, on the other hand, if he has no money, and cannot provide himself with tools or instruments, he will not work equally well himself, nor will he teach his sons or apprentices to work equally well.

Certainly not.

Then, under the influence either of poverty or of wealth, workmen and their work are equally liable to degenerate?

That is evident.

Here, then, is a discovery of new evils, I said, against which the guardians will have to watch, or they will creep into the city unobserved.

What evils?

Wealth, I said, and poverty; the one is the parent of luxury and indolence, and the other of meanness and viciousness, and both of discontent.

[*Extreme wealth and poverty weaken and divide a state. Great wealth is not even necessary in war, for it has no relation to the quality of soldiers, and allies can be secured by promising them the loot of war. That which determines the size and strength of a state is the unity that can be maintained within it; and in the final analysis the unity will be preserved by the system of education. Therefore this system, once set up, must never be changed. Finally there must be a temple to the Gods.*]

[WHERE IS JUSTICE?]

But where, amid all this, is justice? son of Ariston, tell me where. Now that our city has been made habitable, light a candle and search, and get your brother and Polemarchus and the rest of our friends to help, and let us see where in it we can discover justice and where injustice, and in what they differ from one another, and which of them the man who would be happy should have for his portion, whether seen or unseen by gods and men.

Nonsense, said Glaucon: did you not promise to search yourself, saying that for you not to help justice in her need would be an impiety?

I do not deny that I said so; and as you remind me, I will be as good as my word; but you must join.

We will, he replied.

Well, then, I hope to make the discovery in this way: I mean to begin with the assumption that our State, if rightly ordered, is perfect.

That is most certain.

And being perfect, is therefore wise and valiant and temperate and just.

That is likewise clear.

And whichever of these qualities we find in the State, the one which is not found will be the residue?

Very good.

If there were four things, and we were searching for one of them, wherever it might be, the one sought for might be known to us from the first, and there would be no further trouble; or we might know the other three first, and then the fourth would clearly be the one left.

Very true, he said.

And is not a similar method to be pursued about the virtues, which are also four in number?

Clearly.

[Wisdom]

First among the virtues found in the State, wisdom comes into view, and in this I detect a certain peculiarity.

What is that?

The State which we have been describing is said to be wise as being good in counsel?

Very true.

And good counsel is clearly a kind of knowledge, for not by ignorance, but by knowledge, do men counsel well?

Clearly.

And the kinds of knowledge in a State are many and diverse?

Of course.

There is the knowledge of the carpenter; but is that the sort of knowledge which gives a city the title of wise and good in counsel?

Certainly not; that would only give a city the reputation of skill in carpentering.

Then a city is not to be called wise because possessing a knowledge which counsels for the best about wooden implements?

Certainly not.

Nor by reason of a knowledge which advises about brazen pots, I said, nor as possessing any other similar knowledge?

Not by reason of any of them, he said.

Nor yet by reason of a knowledge which cultivates the earth; that would give the city the name of agricultural?

Yes.

Well, I said, and is there any knowledge in our recently-founded State among any of the citizens which advises, not about any particular thing in the State, but about the whole, and considers how a State can best deal with itself and with other States?

There certainly is.

And what is this knowledge, and among whom is it found? I asked.

It is the knowledge of the guardians, he replied, and is found among those whom we were just now describing as perfect guardians.

And what is the name which the city derives from the possession of this sort of knowledge?

The name of good in counsel and truly wise.

And will there be in our city more of these true guardians or more smiths?

The smiths, he replied, will be far more numerous.

Will not the guardians be the smallest of all the classes who receive a name from the profession of some kind of knowledge?

Much the smallest.

And so by reason of the smallest part or class, and of the knowledge which resides in this presiding and ruling part of itself, the whole State, being thus constituted according to nature, will be wise; and this, which has the only knowledge worthy to be called wisdom, has been ordained by nature to be of all classes the least.

Most true.

Thus, then, I said, the nature and place in the State of one of the four virtues has somehow or other been discovered.

And, in my humble opinion, very satisfactorily discovered, he replied.

[Courage]

Again, I said, there is no difficulty in seeing the nature of courage, and in what part that quality resides which gives the name of courageous to the State.

How do you mean?

Why, I said, every one who calls any State courageous or cowardly, will be thinking of the part which fights and goes out to war on the State's behalf.

No one, he replied, would ever think of any other.

The rest of the citizens may be courageous or may be cowardly, but their courage or cowardice will not, as I conceive, have the effect of making the city either the one or the other.

Certainly not.

The city will be courageous in virtue of a portion of herself which preserves under all circumstances that opinion about the nature of things to be feared and not to be feared in which our legislator educated them; and this is what you term courage.

I should like to hear what you are saying once more, for I do not think that I perfectly understand you.

I mean that courage is a kind of salvation.

Salvation of what?

Of the opinion respecting things to be feared, what they are and of what nature, which the law implants through education; and I mean by the words 'under all circumstances' to intimate that in pleasure or in pain, or under the influence of desire or fear, a man preserves, and does not lose this opinion. Shall I give you an illustration?

If you please.

You know, I said, that dyers, when they want to dye wool for making the true sea-purple, begin by selecting their white colour first; this they prepare and dress with much care and pains, in order that the white ground may take the purple hue in full perfection. The dyeing then proceeds; and whatever is dyed in this manner becomes a fast colour, and no washing either with lyes or without them can take away the bloom. But, when the ground has not been duly prepared, you will have noticed how poor is the look either of purple or of any other colour.

Yes, he said; I know that they have a washed-out and ridiculous appearance.

Then now, I said, you will understand what our object was in selecting our soldiers, and educating them in music and gymnastic; we were contriving influences which would prepare them to take the dye of the laws in perfection, and the colour of their opinion about dangers and of every other opinion was to be indelibly fixed by their nurture and training, not to be washed away by such potent lyes as pleasure—mightier agent far in washing the soul than any soda or lye; or by sorrow, fear, and desire, the mightiest of all other solvents. And this sort of universal saving power of true opinion in conformity with law about real and false dangers I call and maintain to be courage, unless you disagree.

But I agree, he replied; for I suppose that you mean to exclude mere uninstructed courage, such as that of a wild beast or of a slave—this, in your opinion, is not the courage which the law ordains, and ought to have another name.

Most certainly.

Then I may infer courage to be such as you describe?

Why, yes, said I, you may, and if you add the words 'of a citizen,' you will not be far wrong;—hereafter, if you like, we will carry the examination further, but at present we are seeking not for courage but justice; and for the purpose of our enquiry we have said enough.

You are right, he replied.

Two virtues remain to be discovered in the State—first temperance, and then justice which is the end of our search.

Very true.

Now, can we find justice without troubling ourselves about temperance?

[TEMPERANCE]

I do not know how that can be accomplished, he said, nor do I desire that justice should be brought to light and temperance lost sight of; and therefore I wish that you would do me the favour of considering temperance first.

Certainly, I replied, I should not be justified in refusing your request.

Then consider, he said.

Yes, I replied; I will; and as far as I can at present see, the virtue of temperance has more of the nature of harmony and symphony than the preceding.

How so? he asked.

Temperance, I replied, is the ordering or controlling of certain pleasures and desires; this is curiously enough implied in the saying of 'a man being his own master;' and other traces of the same notion may be found in language.

No doubt, he said.

There is something ridiculous in the expression 'master of himself;' for the master is also the servant and the servant the master; and in all these modes of speaking the same person is denoted.

Certainly.

The meaning is, I believe, that in the human soul there is a better and also a worse principle; and when the better has the worse under control, then a man is said to be master of himself; and this is a term of praise: but when, owing to evil education or association, the better principle, which is also the smaller, is overwhelmed by the greater mass of the worse —in this case he is blamed and is called the slave of self and unprincipled.

Yes, there is reason in that.

And now, I said, look at our newly-created State, and there you will find one of these two conditions realized; for the State, as you will acknowledge, may be justly called master of itself, if the words 'temperance' and 'self-mastery' truly express the rule of the better part over the worse.

Yes, he said, I see that what you say is true.

Let me further note that the manifold and complex pleasures and desires and pains are generally found in children and women and servants, and in the freemen so called who are of the lowest and more numerous class.

Certainly, he said.

Whereas the simple and moderate desires which follow reason, and are under the guidance of mind and true opinion, are to be found only in a few, and those the best born and best educated.

Very true.

These two, as you may perceive, have a place in our State; and the meaner desires of the many are held down by the virtuous desires and wisdom of the few.

That I perceive, he said.

Then if there be any city which may be described as master of its own pleasures and desires, and master of itself, ours may claim such a designation?

Certainly, he replied.

It may also be called temperate, and for the same reasons?

Yes.

And if there be any State in which rulers and subjects will be agreed as to the question who are to rule, that again will be our State?

Undoubtedly.

And the citizens being thus agreed among themselves, in which class will temperance be found—in the rulers or in the subjects?

In both, as I should imagine, he replied.

Do you observe that we were not far wrong in our guess that temperance was a sort of harmony?

Why so?

Why, because temperance is unlike courage and wisdom, each of which resides in a part only, the one making the State wise and the other valiant; not so temperance, which extends to the whole, and runs through all the notes of the scale, and produces a harmony of the weaker and the stronger and the middle class, whether you suppose them to be stronger or weaker in wisdom or power or numbers or wealth, or anything else. Most truly then may we deem temperance to be the agreement of the naturally superior and inferior, as to the right to rule of either, both in states and individuals.

I entirely agree with you.

And so, I said, we may consider three out of the four virtues to have been discovered in our State. The last of those qualities which make a state virtuous must be justice, if we only knew what that was.

The inference is obvious.

[JUSTICE]

The time then has arrived, Glaucon, when, like huntsmen, we should surround the cover, and look sharp that justice does not steal away, and pass out of sight and escape us; for beyond a doubt she is somewhere in this country: watch therefore and strive to catch a sight of her, and if you see her first, let me know.

Would that I could! but you should regard me rather as a follower who has just eyes enough to see what you show him—that is about as much as I am good for

Offer up a prayer with me and follow

I will, but you must show me the way

Here is no path, I said, and the wood is dark and perplexing, still we must push on

Let us push on

Here I saw something Halloo! I said, I begin to perceive a track, and I believe that the quarry will not escape

Good news, he said

Truly, I said, we are stupid fellows

Why so?

Why, my good sir, at the beginning of our enquiry, ages ago, there was justice tumbling out at our feet, and we never saw her, nothing could be more ridiculous Like people who go about looking for what they have in their hands—that was the way with us—we looked not at what we were seeking but at what was far off in the distance, and therefore, I suppose, we missed her

What do you mean?

I mean to say that in reality for a long time past we have been talking of justice, and have failed to recognise her

I grow impatient at the length of your exordium

Well then, tell me, I said, whether I am right or not You remember the original principle which we were always laying down at the foundation of the State, that one man should practise one thing only, the thing to which his nature was best adapted,—now justice is this principle or a part of it

Yes, we often said that one man should do one thing only

Further, we affirmed that justice was doing one's own business, and not being a busybody, we said so again and again, and many others have said the same to us

Yes, we said so

Then to do one's own business in a certain way may be assumed to be justice. Can you tell me whence I derive this inference?

I cannot, but I should like to be told.

Because I think that this is the only virtue which remains in the State when the other virtues of temperance and courage and wisdom are abstracted, and, that this is the ultimate cause and condition of the existence of all of them, and while remaining in them is also their preservative, and we were saying that if the three were discovered by us, justice would be the fourth or remaining one

That follows of necessity

If we are asked to determine which of these four qualities by its presence contributes most to the excellence of the State, whether the agreement of rulers and subjects, or the preservation in the soldiers of the opinion which the law ordains about the true nature of dangers, or wisdom and watchfulness in the rulers, or whether this other which I am mentioning and which is found in children and women, slave and freeman, artisan, ruler, subject,—the quality, I mean, of every one doing his own work, and not being a busybody, would claim the palm—the question is not so easily answered

Certainly, he replied, there would be a difficulty in saying which.

Then the power of each individual in the State to do his own work appears to compete with the other political virtues, wisdom, temperance, courage

Yes, he said.

And the virtue which enters into his competition is justice?

Exactly.

Let us look at the question from another point of view Are not the rulers in a State those to whom you would entrust the office of determining suits at law?

Certainly

And are suits decided on any other ground but that a man may neither take what is another's, nor be deprived of what is his own?

Yes, that is their principle.

Which is a just principle?

Yes.

Then on this view also justice will be admitted to be the having and doing what

is a man's own, and belongs to him?

Very true.

Think, now, and say whether you agree with me or not. Suppose a carpenter to be doing the business of a cobbler, or a cobbler of a carpenter; and suppose them to exchange their implements or their duties, or the same person to be doing the work of both, or whatever be the change; do you think that any great harm would result to the State?

Not much.

But when the cobbler or any other man whom nature designed to be a trader, having his heart lifted up by wealth or strength or the number of his followers, or any like advantage, attempts to force his way into the class of warriors, or a warrior into that of legislators and guardians, for which he is unfitted, and either to take the implements or the duties of the other; or when one man is trader, legislator, and warrior all in one, then I think you will agree with me in saying that this interchange and this meddling of one with another is the ruin of the State.

Most true.

Seeing then, I said, that there are three distinct classes, any meddling of one with another, or the change of one into another, is the greatest harm to the State, and may be most justly termed evil-doing?

Precisely.

And the greatest degree of evil-doing to one's own city would be termed by you injustice?

Certainly.

This then is injustice; and on the other hand when the trader, the auxiliary, and the guardian each do their own business, that is justice, and will make the city just.

I agree with you.

[Application to the Individual]

We will not, I said, be over-positive as yet; but if, on trial, this conception of justice be verified in the individual as well as in the State, there will be no longer any room for doubt; if it be not verified, we must have a fresh enquiry. First let us complete the old investigation, which we began, as you remember, under the impression that, if we could previously examine justice on the larger scale, there would be less difficulty in discerning her in the individual. That larger example appeared to be the State, and accordingly we constructed as good a one as we could, knowing well that in the good State justice would be found. Let the discovery which we made be now applied to the individual—if they agree, we shall be satisfied; or, if there be a difference in the individual, we will come back to the State and have another trial of the theory. The friction of the two when rubbed together may possibly strike a light in which justice will shine forth, and the vision which is then revealed we will fix in our souls.

That will be in regular course; let us do as you say.

I proceeded to ask: When two things, a greater and less, are called by the same name, are they like or unlike in so far as they are called the same?

Like, he replied.

The just man then, if we regard the idea of justice only, will be like the just State?

He will.

And a State was thought by us to be just when the three classes in the State severally did their own business; and also thought to be temperate and valiant and wise by reason of certain other affections and qualities of these same classes?

True, he said.

And so of the individual; we may assume that he has the same three principles in his own soul which are found in the State; and he may be rightly described in the same terms, because he is affected in the same manner?

Certainly, he said.

Once more then, O my friend, we have alighted upon an easy question—whether the soul has these three principles or not?

An easy question! Nay, rather, Socrates, the proverb holds that hard is the good.

Very true, I said; and I do not think that the method which we are employing

is at all adequate to the accurate solution of this question; the true method is another and a longer one. Still we may arrive at a solution not below the level of the previous enquiry.

May we not be satisfied with that? he said;—under the circumstances, I am quite content.

I too, I replied, shall be extremely well satisfied.

Then faint not in pursuing the speculation, he said.

Must we not acknowledge, I said, that in each of us there are the same principles and habits which there are in the State; and that from the individual they pass into the State?—how else can they come there? Take the quality of passion or spirit;—it would be ridiculous to imagine that this quality, when found in States, is not derived from the individuals who are supposed to possess it, e.g. the Thracians, Scythians, and in general the northern nations; and the same may be said of the love of knowledge, which is the special characteristic of our part of the world, or of the love of money, which may, with equal truth, be attributed to the Phoenicians and Egyptians.

Exactly so, he said.

There is no difficulty in understanding this.

None whatever.

But the question is not quite so easy when we proceed to ask whether these principles are three or one; whether, that is to say, we learn with one part of our nature, are angry with another, and with a third part desire the satisfaction of our natural appetites; or whether the whole soul comes into play in each sort of action —to determine that is the difficulty.

Yes, he said; there lies the difficulty.

Then let us now try and determine whether they are the same or different.

How can we? he asked.

I replied as follows: The same thing clearly cannot act or be acted upon in the same part or in relation to the same thing at the same time, in contrary ways; and therefore whenever this contradiction occurs in things apparently the same, we know that they are really not the same, but different.

Good.

For example, I said, can the same thing be at rest and in motion at the same time in the same part?

Impossible.

Still, I said, let us have a more precise statement of terms, lest we should hereafter fall out by the way. Imagine the case of a man who is standing and also moving his hands and his head, and suppose a person to say that one and the same person is in motion and at rest at the same moment—to such a mode of speech we should object, and should rather say that one part of him is in motion while another is at rest.

Very true.

And suppose the objector to refine still further, and to draw the nice distinction that not only parts of tops, but whole tops, when they spin round with their pegs fixed on the spot, are at rest and in motion at the same time (and he may say the same of anything which revolves in the same spot), his objection would not be admitted by us, because in such cases things are not at rest and in motion in the same parts of themselves; we should rather say that they have both an axis and a circumference; and that the axis stands still, for there is no deviation from the perpendicular; and that the circumference goes round. But if, while revolving, the axis inclines either to the right or left, forwards or backwards, then in no point of view can they be at rest.

That is the correct mode of describing them, he replied.

Then none of these objections will confuse us, or incline us to believe that the same thing at the same time, in the same part or in relation to the same thing, can act or be acted upon in contrary ways.

Certainly not, according to my way of thinking.

Yet, I said, that we may not be compelled to examine all such objections, and prove at length that they are untrue, let

us assume their absurdity, and go forward on the understanding that hereafter, if this assumption turn out to be untrue, all the consequences which follow shall be withdrawn.

Yes, he said, that will be the best way.

Well, I said, would you not allow that assent and dissent, desire and aversion, attraction and repulsion, are all of them opposites, whether they are regarded as active or passive (for that makes no difference in the fact of their opposition)?

Yes, he said, they are opposites.

Well, I said, and hunger and thirst, and the desires in general, and again willing and wishing,—all these you would refer to the classes already mentioned. You would say—would you not?—that the soul of him who desires is seeking after the object of his desires; or that he is drawing to himself the thing which he wishes to possess: or again, when a person wants anything to be given him, his mind, longing for the realization of his desires, intimates his wish to have it by a nod of assent, as if he had been asked a question?

Very true.

And what would you say of unwillingness and dislike and the absence of desire; should not these be referred to the opposite class of repulsion and rejection?

Certainly.

Admitting this to be true of desire generally, let us suppose a particular class of desires, and out of these we will select hunger and thirst, as they are termed, which are the most obvious of them?

Let us take that class, he said.

The object of one is food, and of the other drink?

Yes.

And here comes the point: is not thirst the desire which the soul has of drink, and of drink only; not of drink qualified by anything else; for example, warm or cold, or much or little, or, in a word, drink of any particular sort: but if the thirst be accompanied by heat, then the desire is of cold drink; or, if accompanied by cold, then of warm drink; or, if the thirst be excessive, then the drink which is desired will be excessive; or, if not great, the quantity of drink will also be small: but thirst pure and simple will desire drink pure and simple, which is the natural satisfaction of thirst, as food is of hunger?

Yes, he said; the simple desire is, as you say, in every case of the simple object, and the qualified desire of the qualified object.

. . . . .

Then the soul of the thirsty one, in so far as he is thirsty, desires only drink; for this he yearns and tries to obtain it?

That is plain.

And if you suppose something which pulls a thirsty soul away from drink, that must be different from the thirsty principle which draws him like a beast to drink; for, as we were saying, the same thing cannot at the same time with the same part of itself act in contrary ways about the same.

Impossible.

No more than you can say that the hands of the archer push and pull the bow at the same time, but what you say is that one hand pushes and the other pulls.

Exactly so, he replied.

And might a man be thirsty, and yet unwilling to drink?

Yes, he said, it constantly happens.

And in such a case what is one to say? Would you not say that there was something in the soul bidding a man to drink, and something else forbidding him, which is other and stronger than the principle which bids him?

I should say so.

And the forbidding principle is derived from reason, and that which bids and attracts proceeds from passion and disease?

Clearly.

Then we may fairly assume that they are two, and that they differ from one another; the one with which a man reasons, we may call the rational principle of the soul, the other, with which he loves and hungers and thirsts and feels the flutterings of any other desire, may be

termed the irrational or appetitive, the ally of sundry pleasures and satisfactions?

Yes, he said, we may fairly assume them to be different

Then let us finally determine that there are two principles existing in the soul And what of passion, or spirit? Is it a third, or akin to one of the preceding?

I should be inclined to say—akin to desire

Well, I said, there is a story which I remember to have heard, and in which I put faith The story is, that Leontius, the son of Aglaion, coming up one day from the Piraeus, under the north wall on the outside, observed some dead bodies lying on the ground at the place of execution He felt a desire to see them, and also a dread and abhorrence of them, for a time he struggled and covered his eyes, but at length the desire got the better of him, and forcing them open, he ran up to the dead bodies, saying, Look, ye wretches, take your fill of the fair sight

I have heard the story myself, he said

The moral of the tale is that anger at times goes to war with desire, as though they were two distinct things

Yes, that is the meaning, he said

. . . . .

You remember that passion or spirit appeared at first sight to be a kind of desire, but now we should say quite the contrary, for in the conflict of the soul spirit is arrayed on the side of the rational principle.

Most assuredly

But a further question arises Is passion different from reason also, or only a kind of reason, in which latter case, instead of three principles in the soul, there will only be two, the rational and the concupiscent, or rather, as the State was composed of three classes, traders, auxiliaries, counsellors, so may there not be in the individual soul a third element which is passion or spirit, and when not corrupted by bad education is the natural auxiliary of reason?

Yes, he said, there must be a third.

Yes, I replied, if passion, which has already been shown to be different from desire, turn out also to be different from reason

But that is easily proved—We may observe even in young children that they are full of spirit almost as soon as they are born, whereas some of them never seem to attain to the use of reason, and most of them late enough

Excellent, I said, and you may see passion equally in brute animals, which is a further proof of the truth of what you are saying And we may once more appeal to the words of Homer, which have been already quoted by us,

> 'He smote his breast, and thus rebuked his soul,'

for in this verse Homer has clearly supposed the power which reasons about the better and worse to be different from the unreasoning anger which is rebuked by it

Very true, he said

And so, after much tossing, we have reached land, and are fairly agreed that the same principles which exist in the State exist also in the individual, and that they are three in number

Exactly

Must we not then infer that the individual is wise in the same way, and in virtue of the same quality which makes the State wise?

Certainly

Also that the same quality which constitutes courage in the State constitutes courage in the individual, and that both the State and the individual bear the same relation to all the other virtues?

Assuredly

And the individual will be acknowledged by us to be just in the same way in which the State is just?

That follows of course

We cannot but remember that the justice of the State consisted in each of the three classes doing the work of its own class?

We are not very likely to have forgotten, he said.

We must recollect that the individual in whom the several qualities of his nature do their own work will be just, and will do his own work?

Yes, he said, we must remember that too.

And ought not the rational principle, which is wise, and has the care of the whole soul, to rule, and the passionate or spirited principle to be the subject and ally?

Certainly.

And, as we were saying, the united influence of music and gymnastic will bring them into accord, nerving and sustaining the reason with noble words and lessons, and moderating and soothing and civilizing the wildness of passion by harmony and rhythm?

Quite true, he said.

And these two, thus nurtured and educated, and having learned truly to know their own functions, will rule over the concupiscent, which in each of us is the largest part of the soul and by nature most insatiable of gain; over this they will keep guard, lest, waxing great and strong with the fulness of bodily pleasures, as they are termed, the concupiscent soul, no longer confined to her own sphere, should attempt to enslave and rule those who are not her natural-born subjects, and overturn the whole life of man?

Very true, he said.

Both together will they not be the best defenders of the whole soul and the whole body against attacks from without; the one counselling, and the other fighting under his leader, and courageously executing his commands and counsels?

True.

And he is to be deemed courageous whose spirit retains in pleasure and in pain the commands of reason about what he ought or ought not to fear?

Right, he replied.

And him we call wise who has in him that little part which rules, and which proclaims these commands; that part too being supposed to have a knowledge of what is for the interest of each of the three parts and of the whole?

Assuredly.

And would you not say that he is temperate who has these same elements in friendly harmony, in whom the one ruling principle of reason, and the two subject ones of spirit and desire are equally agreed that reason ought to rule, and do not rebel?

Certainly, he said, that is the true account of temperance whether in the State or individual.

And surely, I said, we have explained again and again how and by virtue of what quality a man will be just.

That is very certain.

And is justice dimmer in the individual, and is her form different, or is she the same which we found her to be in the State?

There is no difference in my opinion, he said.

Because, if any doubt is still lingering in our minds, a few commonplace instances will satisfy us of the truth of what I am saying.

What sort of instances do you mean?

If the case is put to us, must we not admit that the just State, or the man who is trained in the principles of such a State, will be less likely than the unjust to make away with a deposit of gold or silver? Would any one deny this?

No one, he replied.

Will the just man or citizen ever be guilty of sacrilege or theft, or treachery either to his friends or to his country?

Never.

Neither will he ever break faith where there have been oaths or agreements?

Impossible.

No one will be less likely to commit adultery, or to dishonour his father and mother, or to fail in his religious duties?

No one.

And the reason is that each part of him is doing its own business, whether in ruling or being ruled?

Exactly so.

Are you satisfied then that the quality

which makes such men and such states is justice, or do you hope to discover some other?

Not I, indeed.

Then our dream has been realized; and the suspicion which we entertained at the beginning of our work of construction, that some divine power must have conducted us to a primary form of justice, has now been verified?

Yes, certainly.

And the division of labour which required the carpenter and the shoemaker and the rest of the citizens to be doing each his own business, and not another's, was a shadow of justice, and for that reason it was of use?

Clearly.

But in reality justice was such as we were describing, being concerned however, not with the outward man, but with the inward, which is the true self and concernment of man: for the just man does not permit the several elements within him to interfere with one another, or any of them to do the work of others, —he sets in order his own inner life, and is his own master and his own law, and at peace with himself; and when he has bound together the three principles within him, which may be compared to the higher, lower, and middle notes of the scale, and the intermediate intervals— when he has bound all these together, and is no longer many, but has become one entirely temperate and perfectly adjusted nature, then he proceeds to act, if he has to act, whether in a matter of property, or in the treatment of the body, or in some affair of politics or private business; always thinking and calling that which preserves and co-operates with this harmonious condition, just and good action, and the knowledge which presides over it, wisdom, and that which at any time impairs this condition, he will call unjust action, and the opinion which presides over it ignorance.

You have said the exact truth, Socrates.

Very good; and if we were to affirm that we had discovered the just man and the just State, and the nature of justice in each of them, we should not be telling a falschood?

Most certainly not.

May we say so, then?

Let us say so.

And now, I said, injustice has to be considered.

Clearly.

Must not injustice be a strife which arises among the three principles—a meddlesomeness, and interference, and rising up of a part of the soul against the whole, an assertion of unlawful authority, which is made by a rebellious subject against a true prince, of whom he is the natural vassal,—what is all this confusion and delusion but injustice, and intemperance and cowardice and ignorance, and every form of vice?

Exactly so.

And if the nature of justice and injustice be known, then the meaning of acting unjustly and being unjust, or, again, of acting justly, will also be perfectly clear?

What do you mean? he said.

Why, I said, they are like disease and health; being in the soul just what disease and health are in the body.

How so? he said.

Why, I said, that which is healthy causes health, and that which is unhealthy causes disease.

Yes.

And just actions cause justice, and unjust actions cause injustice?

That is certain.

And the creation of health is the institution of a natural order and government of one by another in the parts of the body; and the creation of disease is the production of a state of things at variance with this natural order?

True.

And is not the creation of justice the institution of a natural order and government of one by another in the parts of the soul, and the creation of injustice the production of a state of things at variance with the natural order?

[*Adeimantus here objects that it is useless to know what justice is unless we also know the means of escaping vice and in justice and acquiring virtue and justice ¶ Socrates says that it follows from the nature of justice that there is one form of virtue but four important forms of vice The form of virtue will have the same characteristic in a soul as in the constitution of a state The virtuous constitution will be one in which the best rules If one man is better than all the rest, it will be a monarchy If several are equally good, it will be an aristocracy The principle, however, will be the same ¶ Socrates is going on, in Book V, to develop the essential characteristics of a virtuous government and a virtuous individual and the corresponding vices, when he is interrupted by Polemarchus and Adeimantus, who had caught the following remark made by Socrates in Book IV "For if they are all educated and become reasonable men, they will easily understand all those matters and all other details which we now pass over—the possession of wives, and questions of marriage and the begetting of children in all these things they will see that the proverb, 'Friends' goods are common goods,' must be realized as far as possible" They want more details on this remark, and here begins the digression that lasts through Books V, VI, and VII ¶ In Book V, Socrates describes in detail the equality of sexes in the guardian class, the common possession of wives and children, and the education of children by the state, if they are qualified for the guardian class There will be no private property The whole ruling class will be a big family To the objection that the scheme is impractical Socrates answers that practicality is not important in seeing how a* PERFECT *state could be realized But it could be realized, he argues if the rulers were philosophers Glaucon says that this idea is preposterous, that no one would support philosophers as rulers The real philosopher, says Socrates, is the person who can distinguish between the real and the apparent, between the eternal and the changing, between being and becoming ¶ As Book VI opens, Adeimantus agrees that ideally philosophers should be the kind of men who would make the best ruling class, but he says that in reality they are rather useless Socrates agrees but blames society rather than philosophy In a perverse state there is little room for real philosophers The best that the few who have the essential qualities can do is to preserve those qualities*]

Those who belong to this small class have tasted how sweet and blessed a possession philosophy is and have also seen enough of the madness of the multitude and they know that no politician is honest, nor is there any champion of justice at whose side they may fight and be saved Such an one may be compared to a man who has fallen among wild beasts—he will not join the wickedness of his fellows but neither is he able singly to resist all their fierce natures, and therefore seeing that he would be of no use to the State or to his friends, and reflecting that he would have to throw away his life without doing any good either to himself or others, he holds his peace, and goes his own way He is like one who, in the storm of dust and sleet which the driving wind hurries along, retires under the shelter of a wall and seeing the rest of mankind full of wickedness he is content, if only he can live his own life and be pure from evil or unrighteousness, and depart in peace and good will, with bright hopes

Yes he said, and he will have done a great work before he departs

A great work—yes, but not the greatest, unless he find a State suitable to him, for in a State which is suitable to him, he will have a larger growth and be the saviour of his country, as well as of himself

The causes why philosophy is in such an evil name have now been sufficiently explained the injustice of the charges against her has been shown—is there anything more which you wish to say?

Nothing more on that subject, he re-

plied, but I should like to know which of the governments now existing is in your opinion the one adapted to her

Not any of them, I said, and that is precisely the accusation which I bring against them—not one of them is worthy of the philosophic nature, and hence that nature is warped and estranged—as the exotic seed which is sown in a foreign land becomes denaturalized, and is wont to be overpowered and to lose itself in the new soil, even so this growth of philosophy, instead of persisting, degenerates and receives another character But if philosophy ever finds in the State that perfection which she herself is, then will be seen that she is in truth divine, and that all other things, whether natures of men or institutions, are but human, . . .

[*Socrates goes on to develop the qualities that a real philosopher must possess He must know the Good, not simply be able to label particular acts as good or bad but to know the Form or Idea of the Good This means Good in the abstract and general This is not a Good conditioned by time, place, or particular circumstances but the very essence of that which is good under all conditions Socrates cannot describe this Good except as an image To the world of the mind it stands as the sun does to the world of the senses Something of the nature of this Good and man's progress toward knowing its abstract form is portrayed in the famous Allegory of the Cave which opens Book VII*]

And now, I said, let me show in a figure how far our nature is enlightened or unenlightened—Behold! human beings living in an underground den, which has a mouth open towards the light and reaching all along the den here they have been from their childhood, and have their legs and necks chained so that they cannot move, and can only see before them, being prevented by the chains from turning round their heads Above and behind them a fire is blazing at a distance, and between the fire and the prisoners there is a raised way, and you will see, if you look, a low wall built along the way, like the screen which marionette players have in front of them, over which they show the puppets

I see

And do you see, I said, men passing along the wall carrying all sorts of vessels, and statues and figures of animals made of wood and stone and various materials, which appear over the wall? Some of them are talking, others silent

You have shown me a strange image, and they are strange prisoners

[Shadows and Realities]

Like ourselves, I replied, and they see only their own shadows, or the shadows of one another, which the fire throws on the opposite wall of the cave?

True, he said, how could they see anything but the shadows if they were never allowed to move their heads?

And of the objects which are being carried in like manner they would only see the shadows?

Yes, he said

And if they were able to converse with one another, would they not suppose that they were naming what was actually before them?

Very true

And suppose further that the prison had an echo which came from the other side, would they not be sure to fancy when one of the passers by spoke that the voice which they heard came from the passing shadow?

No question, he replied

To them I said, the truth would be literally nothing but the shadows of the images

That is certain.

And now look again, and see what will naturally follow if the prisoners are released and disabused of their error. At first, when any of them is liberated and compelled suddenly to stand up and turn

his neck round and walk and look towards the light, he will suffer sharp pains the glare will distress him, and he will be unable to see the realities of which in his former state he had seen the shadows, and then conceive some one saying to him, that what he saw before was an illusion, but that now, when he is approaching nearer to being and his eye is turned towards more real existence, he has a clearer vision—what will be his reply? And you may further imagine that his instructor is pointing to the objects as they pass and requiring him to name them,—will he not be perplexed? Will he not fancy that the shadows which he formerly saw are truer than the objects which are now shown to him?

Far truer

And if he is compelled to look straight at the light will he not have a pain in his eyes which will make him turn away to take refuge in the objects of vision which he can see and which he will conceive to be in reality clearer than the things which are now being shown to him?

True, he said

And suppose once more, that he is reluctantly dragged up a steep and rugged ascent, and held fast until he is forced into the presence of the sun himself, is he not likely to be pained and irritated? When he approaches the light his eyes will be dazzled, and he will not be able to see anything at all of what are now called realities

Not all in a moment, he said

He will require to grow accustomed to the sight of the upper world And first he will see the shadows best, next the reflections of men and other objects in the water, and then the objects themselves, then he will gaze upon the light of the moon and the stars and the spangled heaven and he will see the sky and the stars by night better than the sun or the light of the sun by day?

Certainly

Last of all he will be able to see the sun, and not mere reflections of him in the water, but he will see him in his own proper place, and not in another, and he will contemplate him as he is

Certainly

He will then proceed to argue that this is he who gives the season and the years, and is the guardian of all that is in the visible world, and in a certain way the cause of all things which he and his fellows have been accustomed to behold?

Clearly he said, he would first see the sun and then reason about him

And when he remembered his old habitation, and the wisdom of the den and his fellow prisoners, do you not suppose that he would felicitate himself on the change, and pity them?

Certainly, he would.

And if they were in the habit of conferring honours among themselves on those who were quickest to observe the passing shadows and to remark which of them went before, and which followed after, and which were together, and who were therefore best able to draw conclusions as to the future, do you think that he would care for such honours and glories, or envy the possessors of them? Would he not say with Homer,

> Better to be the poor servant of a poor master,'

and to endure anything, rather than think as they do and live after their manner?

Yes, he said, I think that he would rather suffer anything than entertain these false notions and live in this miserable manner.

Imagine once more, I said, such an one coming suddenly out of the sun to be replaced in his old situation, would he not be certain to have his eyes full of darkness?

To be sure, he said.

And if there were a contest, and he had to compete in measuring the shadows with the prisoners who had never moved out of the den, while his sight was still weak, and before his eyes had become steady (and the time which would be needed to acquire this new habit of sight might be very considerable), would he not be ridicu-

lous? Men would say of him that up he went and down he came without his eyes; and that it was better not even to think of ascending; and if any one tried to loose another and lead him up to the light, let them only catch the offender, and they would put him to death.

No question, he said.

[INTERPRETATION]

This entire allegory, I said, you may now append, dear Glaucon, to the previous argument; the prison-house is the world of sight, the light of the fire is the sun, and you will not misapprehend me if you interpret the journey upwards to be the ascent of the soul into the intellectual world according to my poor belief, which, at your desire, I have expressed—whether rightly or wrongly God knows. But, whether true or false, my opinion is that in the world of knowledge the idea of good appears last of all, and is seen only with an effort; and, when seen, is also inferred to be the universal author of all things beautiful and right, parent of light and of the lord of light in this visible world, and the immediate source of reason and truth in the intellectual; and that this is the power upon which he who would act rationally either in public or private life must have his eye fixed.

I agree, he said, as far as I am able to understand you.

Moreover, I said, you must not wonder that those who attain to this beatific vision are unwilling to descend to human affairs; for their souls are ever hastening into the upper world where they desire to dwell; which desire of theirs is very natural, if our allegory may be trusted.

Yes, very natural.

And is there anything surprising in one who passes from divine contemplations to the evil state of man, misbehaving himself in a ridiculous manner; if, while his eyes are blinking and before he has become accustomed to the surrounding darkness, he is compelled to fight in courts of law, or in other places, about the images or the shadows of images of justice, and is endeavouring to meet the conceptions of those who have never yet seen absolute justice?

Anything but surprising, he replied.

Any one who has common sense will remember that the bewilderments of the eyes are of two kinds, and arise from two causes, either from coming out of the light or from going into the light, which is true of the mind's eye, quite as much as of the bodily eye; and he who remembers this when he sees any one whose vision is perplexed and weak, will not be too ready to laugh; he will first ask whether that soul of man has come out of the brighter life, and is unable to see because unaccustomed to the dark, or having turned from darkness to the day is dazzled by excess of light. And he will count the one happy in his condition and state of being, and he will pity the other; or, if he have a mind to laugh at the soul which comes from below into the light, there will be more reason in this than in the laugh which greets him who returns from above out of the light into the den.

That, he said, is a very just distinction.

But then, if I am right, certain professors of education must be wrong when they say that they can put a knowledge into the soul which was not there before, like sight into blind eyes.

They undoubtedly say this, he replied.

Whereas, our argument shows that the power and capacity of learning exists in the soul already; and that just as the eye was unable to turn from darkness to light without the whole body, so too the instrument of knowledge can only by the movement of the whole soul be turned from the world of becoming into that of being, and learn by degrees to endure the sight of being, and of the brightest and best of being, or in other words, of the good.

Very true.

And must there not be some art which will effect conversion in the easiest and quickest manner; not implanting the

faculty of sight, for that exists already, but has been turned in the wrong direction, and is looking away from the truth?

Yes, he said, such an art may be presumed.

And whereas the other so-called virtues of the soul seem to be akin to bodily qualities, for even when they are not originally innate they can be implanted later by habit and exercise, the virtue of wisdom more than anything else contains a divine element which always remains, and by this conversion is rendered useful and profitable; or, on the other hand, hurtful and useless. Did you never observe the narrow intelligence flashing from the keen eye of a clever rogue—how eager he is, how clearly his paltry soul sees the way to his end; he is the reverse of blind, but his keen eye-sight is forced into the service of evil, and he is mischievous in proportion to his cleverness?

Very true, he said.

But what if there had been a circumcision of such natures in the days of their youth; and they had been severed from those sensual pleasures, such as eating and drinking, which, like leaden weights, were attached to them at their birth, and which drag them down and turn the vision of their souls upon the things that are below—if, I say, they had been released from these impediments and turned in the opposite direction, the very same faculty in them would have seen the truth as keenly as they see what their eyes are turned to now.

Very likely.

Yes, I said; and there is another thing which is likely, or rather a necessary inference from what has preceded, that neither the uneducated and uninformed of the truth, nor yet those who never make an end of their education, will be able ministers of State; not the former, because they have no single aim of duty which is the rule of all their actions, private as well as public; nor the latter, because they will not act at all except upon compulsion, fancying that they are already dwelling apart in the islands of the blest.

Very true, he replied.

Then, I said, the business of us who are the founders of the State will be to compel the best minds to attain that knowledge which we have already shown to be the greatest of all—they must continue to ascend until they arrive at the good; but when they have ascended and seen enough we must not allow them to do as they do now.

What do you mean?

I mean that they remain in the upper world: but this must not be allowed; they must be made to descend again among the prisoners in the den, and partake of their labours and honours, whether they are worth having or not.

But is not this unjust? he said; ought we to give them a worse life, when they might have a better?

You have again forgotten, my friend, I said, the intention of the legislator, who did not aim at making any one class in the State happy above the rest; the happiness was to be in the whole State, and he held the citizens together by persuasion and necessity, making them benefactors of the State, and therefore benefactors of one another; to this end he created them, not to please themselves, but to be his instruments in binding up the State.

True, he said, I had forgotten.

Observe, Glaucon, that there will be no injustice in compelling our philosophers to have a care and providence of others; we shall explain to them that in other States, men of their class are not obliged to share in the toils of politics: and this is reasonable, for they grow up at their own sweet will, and the government would rather not have them. Being self-taught, they cannot be expected to show any gratitude for a culture which they have never received. But we have brought you into the world to be rulers of the hive, kings of yourselves and of the other citizens, and have educated you far better and more perfectly than they have been educated, and you are better able to share in the double duty. Wherefore each of you, when his turn comes, must

go down to the general underground abode, and get the habit of seeing in the dark. When you have acquired the habit, you will see ten thousand times better than the inhabitants of the den, and you will know what the several images are, and what they represent, because you have seen the beautiful and just and good in their truth. And thus our State which is also yours will be a reality, and not a dream only, and will be administered in a spirit unlike that of other States, in which men fight with one another about shadows only and are distracted in the struggle for power, which in their eyes is a great good. Whereas the truth is that the State in which the rulers are most reluctant to govern is always the best and most quietly governed, and the State in which they are most eager, the worst.

Quite true, he replied.

And will our pupils, when they hear this, refuse to take their turn at the toils of State, when they are allowed to spend the greater part of their time with one another in the heavenly light?

Impossible, he answered; for they are just men, and the commands which we impose upon them are just; there can be no doubt that every one of them will take office as a stern necessity, and not after the fashion of our present rulers of State.

Yes, my friend, I said; and there lies the point. You must contrive for your future rulers another and a better life than that of a ruler, and then you may have a well-ordered State; for only in the State which offers this, will they rule who are truly rich, not in silver and gold, but in virtue and wisdom, which are the true blessings of life. Whereas if they go to the administration of public affairs, poor and hungering after their own private advantage, thinking that hence they are to snatch the chief good, order there can never be; for they will be fighting about office, and the civil and domestic broils which thus arise will be the ruin of the rulers themselves and of the whole State.

Most true, he replied.

And the only life which looks down upon the life of political ambition is that of true philosophy. Do you know of any other?

Indeed, I do not, he said.

And those who govern ought not to be lovers of the task? For, if they are, there will be rival lovers, and they will fight.

No question.

Who then are those whom we shall compel to be guardians? Surely they will be the men who are wisest about affairs of State, and by whom the State is best administered, and who at the same time have other honours and another and a better life than that of politics?

They are the men, and I will choose them, he replied.

And now shall we consider in what way such guardians will be produced, and how they are to be brought from darkness to light,—as some are said to have ascended from the world below to the gods?

By all means, he replied.

The process, I said, is not the turning over of an oyster-shell, but the turning round of a soul passing from a day which is little better than night to the true day of being, that is, the ascent from below, which we affirm to be true philosophy?

[*Socrates now turns to a consideration of what studies will produce the true philosophers. Since the old music and gymnastics formed habits only, not true knowledge, it will have to be something different. This régime of study will include mathematics, which must be taught in order to train the mind to control the senses. But the highest study will be dialectic. This is pure intellect, and to understand what dialectic is, is to have knowledge.* ¶ *To develop methods of selection, Socrates completes his account of the development of an ideal state.* ¶ *In Book VIII, Socrates goes back to the point he was about to make when the digressions into the communal life of the guardians and the rôle of true philosophers as rulers started at the beginning of Book V.* ¶ *There are four types of unjust states, and each type of unjust state has as its*

counterpart an unjust individual These four types are really four stages in the degeneration of just states and just men The first stage is timocracy, the halfway stage between aristocracy and oligarchy But it has too much of the war like spirit and lacks some of the restraint of the old aristocracy It is only the first step in a process of natural degeneration and soon turns into oligarchy, the rule of wealth This is oppressive to the people, and they take over to establish a democracy Conditions become chaotic, and tyranny sets in ¶ The worst state, and also the worst individual, is the tyrannical, Socrates decides at the beginning of Book IX The tyrannical individual is the most perfectly unjust, and it is he whom Thrasymachus asserted, in Book I, to be the happiest But, because of the continual war in his own soul, he will be the unhappiest, and any state ruled by a tyrant will be equally at war with itself and hence equally unhappy To make this conclusion clear, Socrates sets up another image]

Well I said, and now having arrived at this stage of the argument, we may revert to the words which brought us hither Was not some one saying that injustice was a gain to the perfectly unjust who was reputed to be just?

Yes, that was said

Now then having determined the power and quality of justice and injustice, let us have a little conversation with him

What shall we say to him?

[The Image of the Unjust]

Let us make an image of the soul that he may have his own words presented before his eyes

Of what sort?

An ideal image of the soul like the composite creations of ancient mythology, such as the Chimera or Scylla or Cerberus, and there are many others in which two or more different natures are said to grow into one

There are said to have been such unions.

Then do you now model the form of a multitudinous, many headed monster, having a ring of heads of all manner of beasts, tame and wild, which he is able to generate and metamorphose at will

You suppose marvellous powers in the artist, but, as language is more pliable than wax or any similar substance, let there be such a model as you propose

Suppose now that you make a second form as of a lion, and a third of a man, the second smaller than the first, and the third smaller than the second

That, he said, is an easier task, and I have made them as you say

And now join them, and let the three grow into one

That has been accomplished

Next fashion the outside of them into a single image, as of a man, so that he who is not able to look within, and sees only the outer hull, may believe the beast to be a single human creature

I have done so, he said

And now, to him who maintains that it is profitable for the human creature to be unjust, and unprofitable to be just, let us reply that, if he be right, it is profitable for this creature to feast the multitudinous monster and strengthen the lion and the lion like qualities, but to starve and weaken the man, who is consequently liable to be dragged about at the mercy of either of the other two, and he is not to attempt to familiarize or harmonize them with one another—he ought rather to suffer them to fight and bite and devour one another

Certainly, he said, that is what the approver of injustice says

To him the supporter of justice makes answer that he should ever so speak and act as to give the man within him in some way or other the most complete mastery over the entire human creature He should watch over the many headed monster like a good husbandman, fostering and cultivating the gentle qualities, and preventing the wild ones from growing, he should be making the lion heart his ally, and in common care of them all should be unit-

ing the several parts with one another and with himself

Yes, he said, that is quite what the maintainer of justice will say

And so from every point of view, whether of pleasure, honour, or advantage, the approver of justice is right and speaks the truth, and the disapprover is wrong and false and ignorant?

Yes, from every point of view

Come, now, and let us gently reason with the unjust, who is not intentionally in error 'Sweet Sir, we will say to him, what think you of things esteemed noble and ignoble? Is not the noble that which subjects the beast to the man, or rather to the god in man and the ignoble that which subjects the man to the beast?' He can hardly avoid saying Yes—can he now?

Not if he has any regard for my opinion

But, if he agree so far, we may ask him to answer another question 'Then how would a man profit if he received gold and silver on the condition that he was to enslave the noblest part of him to the worst? Who can imagine that a man who sold his son or daughter into slavery for money, especially if he sold them into the hands of fierce and evil men, would be the gainer, however large might be the sum which he received? And will any one say that he is not a miserable caitiff who remorselessly sells his own divine being to that which is most godless and detestable? Eriphyle took the necklace as the price of her husband's life, but he is taking a bribe in order to compass a worse ruin'

Yes, said Glaucon, far worse—I will answer for him

Has not the intemperate been censured of old, because in him the huge multiform monster is allowed to be too much at large?

Clearly

And men are blamed for pride and bad temper when the lion and serpent element in them disproportionately grows and gains strength?

Yes

And luxury and softness are blamed, because they relax and weaken this same creature, and make a coward of him?

Very true

And is not a man reproached for flattery and meanness who subordinates the spirited animal to the unruly monster, and, for the sake of money, of which he can never have enough, habituates him in the days of his youth to be trampled in the mire, and from being a lion to become a monkey?

True, he said

And why are mean employments and manual arts a reproach? Only because they imply a natural weakness of the higher principle, the individual is unable to control the creatures within him, but has to court them and his great study is how to flatter them

Such appears to be the reason

And therefore being desirous of placing him under a rule like that of the best, we say that he ought to be the servant of the best, in whom the Divine rules, not, as Thrasymachus supposed, to the injury of the servant but because every one had better be ruled by divine wisdom dwelling within him or, if this be impossible, then by an external authority, in order that we may be all, as far as possible, under the same government, friends and equals

True, he said

And this is clearly seen to be the intention of the law, which is the ally of the whole city, and is seen also in the authority which we exercise over children, and the refusal to let them be free until we have established in them a principle analogous to the constitution of a state, and by cultivation of this higher element have set up in their hearts a guardian and ruler like our own, and when this is done they may go their ways

Yes, he said, the purpose of the law is manifest

From what point of view, then, and on what ground can we say that a man is profited by injustice or intemperance or other baseness, which will make him a worse man, even though he acquire money or power by his wickedness?

From no point of view at all.

[UNDETECTED INJUSTICE]

What shall he profit, if his injustice be undetected and unpunished? He who is undetected only gets worse, whereas he who is detected and punished has the brutal part of his nature silenced and humanized, the gentler element in him is liberated, and his whole soul is perfected and ennobled by the acquirement of justice and temperance and wisdom, more than the body ever is by receiving gifts of beauty, strength and health, in proportion as the soul is more honourable than the body

Certainly, he said

To this nobler purpose the man of understanding will devote the energies of his life And in the first place, he will honour studies which impress these qualities on his soul, and will disregard others?

Clearly, he said

In the next place, he will regulate his bodily habit and training, and so far will he be from yielding to brutal and irrational pleasures, that he will regard even health as quite a secondary matter, his first object will be not that he may be fair or strong or well, unless he is likely thereby to gain temperance but he will always desire so to attemper the body as to preserve the harmony of the soul?

Certainly he will, if he has true music in him

And in the acquisition of wealth there is a principle of order and harmony which he will also observe he will not allow himself to be dazzled by the foolish applause of the world, and heap up riches to his own infinite harm?

Certainly not, he said

[THE CITY WITHIN—THE HEAVENLY CITY]

He will look at the city which is within him, and take heed that no disorder occur in it, such as might arise either from superfluity or from want and upon this principle he will regulate his property and gain or spend according to his means

Very true

And, for the same reason, he will gladly accept and enjoy such honours as he deems likely to make him a better man, but those, whether private or public, which are likely to disorder his life, he will avoid?

Then, if that is his motive, he will not be a statesman

By the dog of Egypt, he will! in the city which is his own he certainly will, though in the land of his birth perhaps not, unless he have a divine call

I understand, you mean that he will be a ruler in the city of which we are the founders, and which exists in idea only, for I do not believe that there is such an one anywhere on earth?

In heaven, I replied, there is laid up a pattern of it, methinks, which he who desires may behold, and beholding, may set his own house in order But whether such an one exists, or ever will exist in fact, is no matter, for he will live after the manner of that city, having nothing to do with any other

I think so, he said

[*In Book X, the last book of the* REPUBLIC, *Socrates condemns art, especially poetry, as dealing with the transitory and ephemeral, whereas philosophy treats of the real and eternal ¶ Finally, in telling the myth of Er, Socrates demonstrates that justice, in addition to producing the greatest happiness in this life, yields more happiness to the soul after death He winds up with a concept of justice based upon the "City in the Soul," to which the true philosopher is faithful in life, no matter how far he may be from being or becoming king This "city" furnishes happiness, through embodying immortal virtues that survive after death*]

The *Statesman:* The Art and Science of Ruling

The STATESMAN (POLITICUS) *is attributed by most authorities to a later period of Plato's life He uses numerous analogies in his reasoning, as he did in the* REPUBLIC, *but here he concentrates not so much upon the essential natures of the state and of justice as upon the qualities of statesmanship More prominent in this dialogue are the rôle of law and the relation it bears to the ruler In large measure, Plato clings to the idea that was implicit in the concept of the guardians of the* REPUBLIC—*that an all wise and unrestricted ruler (definitely singular in the* STATESMAN) *would be preferable to a ruler operating under and through a system of laws In this dialogue Plato speaks through the character of the Stranger, who is discussing the nature of kings and priests with the young Socrates as the selection begins ¶ As was the previous selection, this one is from the Jowett translation* [1]

A MINUTE AGO I THOUGHT THEY WERE animals of every tribe, for many of them are like lions and centaurs, and many more like satyrs and such weak and shifty creatures,—Protean shapes quickly changing into one another's forms and natures and now, Socrates, I begin to see who they are.

Y. Soc Who are they? You seem to be gazing on some strange vision

Str Yes, every one looks strange when you do not know him and just now I myself fell into this mistake—at first sight, coming suddenly upon him, I did not recognize the politician and his troop

Y Soc Who is he?

Str The chief of Sophists and most accomplished of wizards, who must at any cost be separated from the true king or Statesman, if we are ever to see daylight in the present enquiry

Y Soc That is a hope not lightly to be renounced

Str Never, if I can help it, and, first, let me ask you a question

Y Soc What?

Str Is not monarchy a recognized form of government?

Y Soc Yes

Str And after monarchy, next in order comes the government of the few?

Y Soc Of course

Str Is not the third form of government the rule of the multitude, which is called by the name of democracy?

Y Soc Certainly

Str And do not these three expand in a manner into five, producing out of themselves two other names?

Y Soc What are they?

Str There is a criterion of voluntary and involuntary, poverty and riches, law and the absence of law, which men now a days apply to them, the two first they subdivide accordingly, and ascribe to monarchy two forms and two corresponding names royalty and tyranny

Y Soc Very true

Str And the government of the few they distinguish by the names of aristocracy and oligarchy

Y Soc Certainly

Str Democracy alone, whether rigidly observing the laws or not, and whether the multitude rule over the men of property with their consent or against their consent always in ordinary language has the same name

Y Soc True

Str But do you suppose that any form of government which is defined by these characteristics of the one, the few, or the

[1] From *The Dialogues of Plato,* translated and edited by Benjamin Jowett (Oxford University Press)

many, of poverty or wealth, of voluntary or compulsory submission, of written law or the absence of law, can be a right one?

Y. Soc. Why not?

Str. Reflect; and follow me.

Y. Soc. In what direction?

Str. Shall we abide by what we said at first, or shall we retract our words?

Y. Soc. To what do you refer?

Str. If I am not mistaken, we said that royal power was a science?

Y. Soc. Yes.

Str. And a science of a peculiar kind, which was selected out of the rest as having a character which is at once judicial and authoritative?

Y. Soc. Yes.

Str. And there was one kind of authority over lifeless things and another over living animals; and so we proceeded in the division step by step up to this point, not losing the idea of science, but unable as yet to determine the nature of the particular science?

Y. Soc. True.

[Political Science]

Str. Hence we are led to observe that the distinguishing principle of the State cannot be the few or many, the voluntary or involuntary, poverty or riches; but some notion of science must enter into it, if we are to be consistent with what has preceded.

Y. Soc. And we must be consistent.

Str. Well, then, in which of these various forms of States may the science of government, which is among the greatest of all sciences and most difficult to acquire, be supposed to reside? That we must discover, and then we shall see who are the false politicians who pretend to be politicians but are not, although they persuade many, and shall separate them from the wise king.

Y. Soc. That, as the argument has already intimated, will be our duty.

Str. Do you think that the multitude in a State can attain political science?

Y. Soc. Impossible.

Str. But, perhaps, in a city of a thousand men, there would be a hundred, or say fifty, who could?

Y. Soc. In that case political science would certainly be the easiest of all sciences; there could not be found in a city of that number as many really first-rate draught-players, if judged by the standard of the rest of Hellas, and there would certainly not be as many kings. For kings we may truly call those who possess royal science, whether they rule or not, as was shown in the previous argument.

Str. Thank you for reminding me; and the consequence is that any true form of government can only be supposed to be the government of one, two, or, at any rate, of a few.

Y. Soc. Certainly.

Str. And these, whether they rule with the will, or against the will, of their subjects, with written laws or without written laws, and whether they are poor or rich, and whatever be the nature of their rule, must be supposed, according to our present view, to rule on some scientific principle; just as the physician, whether he cures us against our will or with our will, and whatever be his mode of treatment,—incision, burning, or the infliction of some other pain,—whether he practises out of a book or not out of a book, and whether he be rich or poor, whether he purges or reduces in some other way, or even fattens his patients, is a physician all the same, so long as he exercises authority over them according to rules of art, if he only does them good and heals and saves them. And this we lay down to be the only proper test of the art of medicine, or of any other art of command.

Y. Soc. Quite true.

Str. Then that can be the only true form of government in which the governors are really found to possess science, and are not mere pretenders, whether they rule according to law or without law, over willing or unwilling subjects, and are rich or poor themselves—none of these things can with any propriety be included in the notion of the ruler.

Y. Soc. True

Str And whether with a view to the public good they purge the State by killing some, or exiling some, whether they reduce the size of the body corporate by sending out from the hive swarms of citizens, or, by introducing persons from without, increase it, while they act according to the rules of wisdom and justice, and use their power with a view to the general security and improvement, the city over which they rule, and which has these characteristics, may be described as the only true State All other governments are not genuine or real, but only imitations of this, and some of them are better and some of them are worse, the better are said to be well governed, but they are mere imitations like the others

Y Soc I agree, Stranger, in the greater part of what you say but as to their ruling without laws—the expression has a harsh sound.

[Laws]

Str You have been too quick for me, Socrates, I was just going to ask you whether you objected to any of my statements And now I see that we shall have to consider this notion of there being good government without laws

Y Soc Certainly

Str There can be no doubt that legislation is in a manner the business of a king, and yet the best thing of all is not that the law should rule but that a man should rule supposing him to have wisdom and royal power Do you see why this is?

Y Soc Why?

Str Because the law does not perfectly comprehend what is noblest and most just for all and therefore cannot enforce what is best The differences of men and actions, and the endless irregular movements of human things, do not admit of any universal and simple rule And no art whatsoever can lay down a rule which will last for all time

Y Soc Of course not.

Str But the law is always striving to make one,—like an obstinate and ignorant tyrant, who will not allow anything to be done contrary to his appointment, or any question to be asked—not even in sudden changes of circumstances, when something happens to be better than what he commanded for some one

Y Soc Certainly, the law treats us all precisely in the manner which you describe

Str A perfectly simple principle can never be applied to a state of things which is the reverse of simple

Y Soc True

Str Then if the law is not the perfection of right why are we compelled to make laws at all? The reason of this has next to be investigated

Y Soc Certainly

Str Let me ask, whether you have not meetings for gymnastic contests in your city, such as there are in other cities, at which men compete in running, wrestling, and the like?

Y Soc Yes, they are very common among us

Str And what are the rules which are enforced on their pupils by professional trainers or by others having similar authority? Can you remember?

Y Soc To what do you refer?

Str The training masters do not issue minute rules for individuals, or give every individual what is exactly suited to his constitution they think that they ought to go more roughly to work, and to prescribe generally the regimen which will benefit the majority

Y Soc Very true

Str And therefore they assign equal amounts of exercise to them all they send them forth together, and let them rest together from their running, wrestling or whatever the form of bodily exercise may be

Y. Soc. True

Str And now observe that the legislator who has to preside over the herd, and to enforce justice in their dealings with one another, will not be able, in enacting for

the general good, to provide exactly what is suitable for each particular case

Y Soc He cannot be expected to do so

Str He will lay down laws in a general form for the majority, roughly meeting the cases of individuals, and some of them he will deliver in writing, and others will be unwritten, and these last will be traditional customs of the country

Y Soc He will be right

Str Yes, quite right, for how can he sit at every man's side all through his life, prescribing for him the exact particulars of his duty? Who, Socrates, would be equal to such a task? No one who really had the royal science if he had been able to do this, would have imposed upon himself the restriction of a written law

Y Soc So I should infer from what has now been said

Str Or rather, my good friend, from what is going to be said

Y Soc And what is that?

Str Let us put to ourselves the case of a physician, or trainer, who is about to go into a far country, and is expecting to be a long time away from his patients—thinking that his instructions will not be remembered unless they are written down, he will leave notes of them for the use of his pupils or patients

Y Soc True

Str But what would you say, if he came back sooner than he had intended, and, owing to an unexpected change of the winds or other celestial influences, something else happened to be better for them,—would he not venture to suggest this new remedy, although not contemplated in his former prescription? Would he persist in observing the original law, neither himself giving any new commandments, nor the patient daring to do otherwise than was prescribed, under the idea that this course only was healthy and medicinal, all others noxious and heterodox? Viewed in the light of science and true art, would not all such enactments be utterly ridiculous?

Y. Soc Utterly

Str And if he who gave laws, written or unwritten, determining what was good or bad, honourable or dishonourable just or unjust, to the tribes of men who flock together in their several cities, and are governed in accordance with them, if, I say, the wise legislator were suddenly to come again, or another like to him, is he to be prohibited from changing them?—would not this prohibition be in reality quite as ridiculous as the other?

Y Soc Certainly

Str Do you know a plausible saying of the common people which is in point?

Y Soc I do not recall what you mean at the moment

Str They say that if any one knows how the ancient laws may be improved, he must first persuade his own State of the improvement, and then he may legislate, but not otherwise

Y Soc And are they not right?

Str I dare say But supposing that he does use some gentle violence for their good, what is this violence to be called? Or rather, before you answer, let me ask the same question in reference to our previous instances

Y Soc What do you mean?

Str Suppose that a skilful physician has a patient, of whatever sex or age, whom he compels against his will to do something for his good which is contrary to the written rules, what is this compulsion to be called? Would you ever dream of calling it a violation of the art, or a breach of the laws of health? Nothing could be more unjust than for the patient to whom such violence is applied, to charge the physician who practises the violence with writing skill or aggravating his disease.

Y Soc Most true

Str In the political art error is not called disease, but evil, or disgrace, or injustice

Y Soc Quite true

Str And when the citizen, contrary to law and custom, is compelled to do what is juster and better and nobler than he did before, the last and most absurd thing which he could say about such violence is that he has incurred disgrace or evil or

injustice at the hands of those who compelled him.

Y. Soc. Very true

Str And shall we say that the violence, if exercised by a rich man, is just, and if by a poor man, unjust? May not any man, rich or poor, with or without laws, with the will of the citizens or against the will of the citizens, do what is for their interest? Is not this the true principle of government, according to which the wise and good man will order the affairs of his subjects? As the pilot, by watching continually over the interests of the ship and of the crew—not by laying down rules, but by making his art a law,—preserves the lives of his fellow sailors, even so, and in the self same way, may there not be a true form of polity created by those who are able to govern in a similar spirit, and who show a strength of art which is superior to the law? Nor can wise rulers ever err while they, observing the one great rule of distributing justice to the citizens with intelligence and skill, are able to preserve them, and, as far as may be, to make them better from being worse

Y Soc No one can deny what has been now said

Str Neither, if you consider, can any one deny the other statement

Y Soc What was it?

Str We said that no great number of persons, whoever they may be, can attain political knowledge, or order a State wisely, but that the true government is to be found in a small body, or in an individual, and that other States are but imitations of this, as we said a little while ago, some for the better and some for the worse

Y Soc What do you mean? I cannot have understood your previous remark about imitations

Str And yet the mere suggestion which I hastily threw out is highly important, even if we leave the question where it is, and do not seek by the discussion of it to expose the error which prevails in this matter

Y. Soc What do you mean?

[Second Best]

Str. The idea which has to be grasped by us is not easy or familiar, but we may attempt to express it thus —Supposing the government of which I have been speaking to be the only true model, then the others must use the written laws of this—in no other way can they be saved, they will have to do what is now generally approved, although not the best thing in the world

Y Soc What is this?

Str No citizen should do anything contrary to the laws, and any infringement of them should be punished with death and the most extreme penalties, and this is very right and good when regarded as the second best thing, if you set aside the first, of which I was just now speaking Shall I explain the nature of what I call the second best?

Y Soc By all means

Str I must again have recourse to my favourite images through them, and them alone, can I describe kings and rulers

Y Soc What images?

Str The noble pilot and the wise physician, who is worth many another man—in the similitude of these let us endeavour to discover some image of the king

Y Soc What sort of an image?

Str Well, such as this —Every man will reflect that he suffers strange things at the hands of both of them, the physician saves any whom he wishes to save, and any whom he wishes to maltreat he maltreats —cutting or burning them, and at the same time requiring them to bring him payments, which are a sort of tribute, of which little or nothing is spent upon the sick man, and the greater part is consumed by him and his domestics, and the finale is that he receives money from the relations of the sick man or from some enemy of his, and puts him out of the way And the pilots of ships are guilty of numberless evil deeds of the same kind, they intentionally play false and leave you ashore when the hour of sailing ar-

rives; or they cause mishaps at sea and cast away their freight; and are guilty of other rogueries. Now suppose that we, bearing all this in mind, were to determine, after consideration, that neither of these arts shall any longer be allowed to exercise absolute control either over freemen or over slaves, but that we will summon an assembly either of all the people, or of the rich only, that anybody who likes, whatever may be his calling, or even if he have no calling, may offer an opinion either about seamanship or about diseases—whether as to the manner in which physic or surgical instruments are to be applied to the patient, or again about the vessels and the nautical implements which are required in navigation, and how to meet the dangers of winds and waves which are incidental to the voyage, how to behave when encountering pirates, and what is to be done with the old-fashioned galleys, if they have to fight with others of a similar build—and that, whatever shall be decreed by the multitude on these points, upon the advice of persons skilled or unskilled, shall be written down on triangular tablets and columns, or enacted although unwritten to be national customs; and that in all future time vessels shall be navigated and remedies administered to the patient after this fashion.

Y. Soc. What a strange notion!

Str. Suppose further, that the pilots and physicians are appointed annually, either out of the rich, or out of the whole people, and that they are elected by lot; and that after their election they navigate vessels and heal the sick according to the written rules.

Y. Soc. Worse and worse.

Str. But hear what follows:—When the year of office has expired, the pilot or physician has to come before a court of review, in which the judges are either selected from the wealthy classes or chosen by lot out of the whole people; and anybody who pleases may be their accuser, and may lay to their charge, that during the past year they have not navigated their vessels or healed their patients according to the letter of the law and the ancient customs of their ancestors; and if either of them is condemned, some of the judges must fix what he is to suffer or pay.

Y. Soc. He who is willing to take a command under such conditions, deserves to suffer any penalty.

Str. Yet once more, we shall have to enact that if any one is detected enquiring into piloting and navigation, or into health and the true nature of medicine, or about the winds, or other conditions of the atmosphere, contrary to the written rules, and has any ingenious notions about such matters, he is not to be called a pilot or physician, but a cloudy prating sophist; —further, on the ground that he is a corrupter of the young, who would persuade them to follow the art of medicine or piloting in an unlawful manner, and to exercise an arbitrary rule over their patients or ships, any one who is qualified by law may inform against him, and indict him in some court, and then if he is found to be persuading any, whether young or old, to act contrary to the written law, he is to be punished with the utmost rigour; for no one should presume to be wiser than the laws; and as touching healing and health and piloting and navigation, the nature of them is known to all, for anybody may learn the written laws and the national customs. If such were the mode of procedure, Socrates, about these sciences and about generalship, and any branch of hunting, or about painting or imitation in general, or carpentry, or any sort of handicraft, or husbandry, or planting, or if we were to see an art of rearing horses, or tending herds, or divination, or any ministerial service, or draught-playing, or any science conversant with number, whether simple or square or cube, or comprising motion,—I say, if all these things were done in this way according to written regulations, and not according to art, what would be the result?

Y. Soc. All the arts would utterly perish, and could never be recovered, because enquiry would be unlawful. And human

life, which is bad enough already, would then become utterly unendurable.

Str. But what, if while compelling all these operations to be regulated by written law, we were to appoint as the guardian of the laws some one elected by a show of hands, or by lot, and he caring nothing about the laws, were to act contrary to them from motives of interest or favour, and without knowledge,—would not this be a still worse evil than the former?

Y. Soc. Very true.

Str. To go against the laws, which are based upon long experience, and the wisdom of counsellors who have graciously recommended them and persuaded the multitude to pass them, would be a far greater and more ruinous error than any adherence to written law?

Y. Soc. Certainly.

[Strict Obedience]

Str. Therefore, as there is a danger of this, the next best thing in legislating is not to allow either the individual or the multitude to break the law in any respect whatever.

Y. Soc. True.

Str. The laws would be copies of the true particulars of action as far as they admit of being written down from the lips of those who have knowledge?

Y. Soc. Certainly they would.

Str. And, as we were saying, he who has knowledge and is a true Statesman, will do many things within his own sphere of action by his art without regard to the laws, when he is of opinion that something other than that which he has written down and enjoined to be observed during his absence would be better.

Y. Soc. Yes, we said so.

Str. And any individual or any number of men, having fixed laws, in acting contrary to them with a view to something better, would only be acting, as far as they are able, like the true Statesman?

Y. Soc. Certainly.

Str. If they had no knowledge of what they were doing, they would imitate the truth, and they would always imitate ill; but if they had knowledge, the imitation would be the perfect truth, and an imitation no longer.

Y. Soc. Quite true.

Str. And the principle that no great number of men are able to acquire a knowledge of any art has been already admitted by us.

Y. Soc. Yes, it has.

Str. Then the royal or political art, if there be such an art, will never be attained either by the wealthy or by the other mob.

Y. Soc. Impossible.

Str. Then the nearest approach which these lower forms of government can ever make to the true government of the one scientific ruler, is to do nothing contrary to their own written laws and national customs.

Y. Soc. Very good.

[Forms of Government]

Str. When the rich imitate the true form, such a government is called aristocracy; and when they are regardless of the laws, oligarchy.

Y. Soc. True.

Str. Or again, when an individual rules according to law in imitation of him who knows, we call him a king; and if he rules according to law, we give him the same name, whether he rules with opinion or with knowledge.

Y. Soc. To be sure.

Str. And when an individual truly possessing knowledge rules, his name will surely be the same—he will be called a king; and thus the five names of governments, as they are now reckoned, become one.

Y. Soc. That is true.

Str. And when an individual ruler governs neither by law nor by custom, but following in the steps of the true man of science pretends that he can only act for the best by violating the laws, while in

reality appetite and ignorance are the motives of the imitation, may not such an one be called a tyrant?

Y Soc Certainly.

Str And this we believe to be the origin of the tyrant and the king, of oligarchies and aristocracies, and democracies,—because men are offended at the one monarch, and can never be made to believe that any one can be worthy of such authority, or is able and willing in the spirit of virtue and knowledge to act justly and holily to all, they fancy that he will be a despot who will wrong and harm and slay whom he pleases of us, for if there could be such a despot as we describe, they would acknowledge that we ought to be too glad to have him, and that he alone would be the happy ruler of a true and perfect State

Y Soc To be sure

Str But then, as the State is not like a beehive, and has no natural head who is at once recognized to be the superior both in body and in mind, mankind are obliged to meet and make laws, and endeavour to approach as nearly as they can to the true form of government

Y Soc True

Str And when the foundation of politics is in the letter only and in custom, and knowledge is divorced from action, can we wonder, Socrates, at the miseries which there are, and always will be, in States? Any other art, built on such a foundation and thus conducted, would ruin all that it touched Ought we not rather to wonder at the natural strength of the political bond? For States have endured all this, time out of mind, and yet some of them still remain and are not overthrown, though many of them, like ships at sea, founder from time to time, and perish and have perished and will hereafter perish, through the badness of their pilots and crews, who have the worst sort of ignorance of the highest truths—I mean to say, that they are wholly unacquainted with politics, of which, above all other sciences, they believe themselves to have acquired the most perfect knowledge.

Y. Soc. Very true.

Laws in an Imperfect State

The following selections are taken from the LAWS, *presumably a work of Plato's old age In it the author's point of view is expressed by the Athenian Stranger In this dialogue, Plato's longest, he takes the general position that in the actual world a government of laws is probably as good as man is capable of achieving, but that it is only second best Plato's ideas in this dialogue more nearly resemble those of Aristotle than do the ideas in the* REPUBLIC ¶ *This selection, too, is from the Jowett translation.*[1] *The Athenian Stranger speaks the first lines of Book I*

TELL ME, STRANGER, IS A GOD OR SOME man supposed to be the author of your laws?

Clemias A God, Stranger, in very truth a God among us Cretans he is said to have been Zeus, but in Lacedaemon, whence our friend here comes, I believe they would say that Apollo is their lawgiver would they not, Megillus?

Megillus Certainly.

Ath And do you, Clemias, believe, as

[1] From *The Dialogues of Plato*, translated and edited by Benjamin Jowett (Oxford University Press) Selections from Books I, III, IV, V, IX, XII.

Homer tells, that every ninth year Minos went to converse with his Olympian sire, and was inspired by him to make laws for your cities?

Cle. Yes, that is our tradition; and there was Rhadamanthus, a brother of his, with whose name you are familiar; he is reputed to have been the justest of men, and we Cretans are of opinion that he earned this reputation from his righteous administration of justice when he was alive.

Ath. Yes, and a noble reputation it was, worthy of a son of Zeus. As you and Megillus have been trained in these institutions, I dare say that you will not be unwilling to give an account of your government and laws; on our way we can pass the time pleasantly in talking about them, for I am told that the distance from Cnosus to the cave and temple of Zeus is considerable; and doubtless there are shady places under the lofty trees, which will protect us from the scorching sun. Being no longer young, we may often stop to rest beneath them, and get over the whole journey without difficulty, beguiling the time by conversation.

Cle. Yes, Stranger, and if we proceed onward we shall come to groves of cypresses, which are of rare height and beauty, and there are green meadows, in which we may repose and converse.

Ath. Very good.

Cle. Very good, indeed; and still better when we see them; let us move on cheerily.

[Laws for War]

Ath. I am willing.—And first, I want to know why the law has ordained that you shall have common meals and gymnastic exercises, and wear arms.

Cle. I think, Stranger, that the aim of our institutions is easily intelligible to any one. Look at the character of our country: Crete is not like Thessaly, a large plain; and for this reason they have horsemen in Thessaly, and we have runners—the inequality of the ground in our country is more adapted to locomotion on foot; but then, if you have runners you must have light arms,—no one can carry a heavy weight when running, and bows and arrows are convenient because they are light. Now all these regulations have been made with a view to war, and the legislator appears to me to have looked to this in all his arrangements:—the common meals, if I am not mistaken, were instituted by him for a similar reason, because he saw that while they are in the field the citizens are by the nature of the case compelled to take their meals together for the sake of mutual protection. He seems to me to have thought the world foolish in not understanding that all men are always at war with one another; and if in war there ought to be common meals and certain persons regularly appointed under others to protect an army, they should be continued in peace. For what men in general term peace would be said by him to be only a name; in reality every city is in a natural state of war with every other, not indeed proclaimed by heralds, but everlasting. And if you look closely, you will find that this was the intention of the Cretan legislator; all institutions, private as well as public, were arranged by him with a view to war; in giving them he was under the impression that no possessions or institutions are of any value to him who is defeated in battle; for all the good things of the conquered pass into the hands of the conquerors.

Ath. You appear to me, Stranger, to have been thoroughly trained in the Cretan institutions, and to be well informed about them; will you tell me a little more explicitly what is the principle of government which you would lay down? You seem to imagine that a well-governed state ought to be so ordered as to conquer all other states in war: am I right in supposing this to be your meaning?

Cle. Certainly; and our Lacedaemonian friend, if I am not mistaken, will agree with me.

Meg. Why, my good friend, how could any Lacedaemonian say anything else?

. . . . .

[Laws Against Pain and Pleasure]

Ath I will try to criticize you and myself, as well as him, for the argument is a common concern Tell me,—were not first the syssitia, and secondly the gymnasia, invented by your legislator with a view to war?

Meg Yes

Ath And what comes third, and what fourth? For that, I think, is the sort of enumeration which ought to be made of the remaining parts of virtue, no matter whether you call them parts or what their name is, provided the meaning is clear

Meg Then I, or any other Lacedaemonian, would reply that hunting is third in order

Ath Let us see if we can discover what comes fourth and fifth

Meg I think that I can get as far as the fourth head, which is the frequent endurance of pain, exhibited among us Spartans in certain hand to hand fights, also in stealing with the prospect of getting a good beating, there is, too, the so called Crypteia, or secret service in which wonderful endurance is shown,—our people wander over the whole country by day and by night, and even in winter have not a shoe to their foot, and are without beds to lie upon, and have to attend upon themselves Marvellous, too, is the endurance which our citizens show in their naked exercises, contending against the violent summer heat, and there are many similar practices to speak of which in detail would be endless

Ath Excellent, O Lacedaemonian stranger But how ought we to define courage? Is it to be regarded only as a combat against fears and pains, or also against desires and pleasures, and against flatteries, which exercise such a tremendous power, that they make the hearts even of respectable citizens to melt like wax?

Meg I should say the latter.

Ath In what preceded, as you will remember, our Cnosian friend was speaking of a man or a city being inferior to themselves —Were you not, Cleinias?

Cle I was

Ath Now, which is in the truest sense inferior, the man who is overcome by pleasure or by pain?

Cle I should say the man who is overcome by pleasure, for all men deem him to be inferior in a more disgraceful sense, than the other who is overcome by pain.

Ath But surely the lawgivers of Crete and Lacedaemon have not legislated for a courage which is lame of one leg, able only to meet attacks which come from the left, but impotent against the insidious flatteries which come from the right?

Cle Able to meet both, I should say.

Ath Then let me once more ask, what institutions have you in either of your states which give a taste of pleasures, and do not avoid them any more than they avoid pains, but which set a person in the midst of them, and compel or induce him by the prospect of reward to get the better of them? Where is an ordinance about pleasure similar to that about pain to be found in your laws? Tell me what there is of this nature among you —What is there which makes your citizen equally brave against pleasure and pain, conquering what they ought to conquer, and superior to the enemies who are most dangerous and nearest home?

Meg I was able to tell you, Stranger, many laws which were directed against pain, but I do not know that I can point out any great or obvious examples of similar institutions which are concerned with pleasure, there are some lesser provisions, however, which I might mention.

Cle Neither can I show anything of that sort which is at all equally prominent in the Cretan laws.

Ath No wonder, my dear friends, and if, as is very likely, in our search after the true and good, one of us may have

to censure the laws of the others, we must not be offended, but take kindly what another says

Cle You are quite right, Athenian Stranger, and we will do as you say

Ath At our time of life, Cleinias, there should be no feeling of irritation

Cle Certainly not

Ath I will not at present determine whether he who censures the Cretan or Lacedaemonian polities is right or wrong But I believe that I can tell better than either of you what the many say about them For assuming that you have rea sonably good laws, one of the best of them will be the law forbidding any young men to enquire which of them are right or wrong but with one mouth and one voice they must all agree that the laws are all good, for they came from God, and any one who says the contrary is not *to be listened to But an old man who* remarks any defect in your laws may com municate his observation to a ruler or to an equal in years when no young man is present

Cle Exactly so, Stranger, and like a diviner, although not there at the time, you seem to me quite to have hit the meaning of the legislator, and to say what is most true

Ath As there are no young men pres ent, and the legislator has given old men free licence, there will be no impropriety in our discussing these very matters now that we are alone

Cle True And therefore you may be as free as you like in your censure of our laws, for there is no discredit in knowing what is wrong, he who receives what is said in a generous and friendly spirit will be all the better for it

Ath Very good, however, I am not going to say anything against your laws until to the best of my ability I have examined them, but I am going to raise doubts about them For you are the only people known to us, whether Greek or barbarian, whom the legislator com manded to eschew all great pleasures and amusements and never to touch them, whereas in the matter of pains or fears which we have just been discussing, he thought that they who from infancy had always avoided pains and fears and sor rows, when they were compelled to face them would run away from those who were hardened in them, and would be come their subjects Now the legislator ought to have considered that this was equally true of pleasure, he should have said to himself, that if our citizens are from their youth upward unacquainted with the greatest pleasures, and unused to endure amid the temptations of pleasure, and are not disciplined to refrain from all things evil, the sweet feeling of pleas ure will overcome them just as fear would overcome the former class, and in another, and even a worse manner, they will be the slaves of those who are able to endure amid pleasures, and have had the oppor *tunity of enjoying them, they being often* the worst of mankind One half of their souls will be a slave, the other half free and they will not be worthy to be called in the true sense men and freemen Tell me whether you assent to my words?

. . . . .

BOOK III

[WHO SHOULD RULE]

Ath And what are the principles on which men rule and obey in cities, whether great or small and similarly in families? What are they, and how many in number? Is there not one claim of authority which is always just,—that of fathers and mothers and in general of progenitors to rule over their offspring?

Cle There is

Ath Next follows the principle that the noble should rule over the ignoble and, thirdly, that the elder should rule and the younger obey?

Cle To be sure

Ath And, fourthly, that slaves should be ruled, and their masters rule?

Cle Of course.

Ath Fifthly, if I am not mistaken, comes

the principle that the stronger shall rule, and the weaker be ruled?

Cle. That is a rule not to be disobeyed.

Ath. Yes, and a rule which prevails very widely among all creatures, and is according to nature, as the Theban poet Pindar once said; and the sixth principle, and the greatest of all, is, that the wise should lead and command, and the ignorant follow and obey; and yet, O thou most wise Pindar, as I should reply to him, this surely is not contrary to nature, but according to nature, being the rule of law over willing subjects, and not a rule of compulsion.

Cle. Most true.

Ath. There is a seventh kind of rule which is awarded by lot, and is dear to the Gods and a token of good fortune: he on whom the lot falls is a ruler, and he who fails in obtaining the lot goes away and is the subject; and this we affirm to be quite just.

Cle. Certainly.

Ath. 'Then now,' as we say playfully to any of those who lightly undertake the making of laws, 'you see, legislator, the principles of government, how many they are, and that they are naturally opposed to each other. There we have discovered a fountain-head of seditions, to which you must attend. And, first, we will ask you to consider with us, how and in what respect the kings of Argos and Messene violated these our maxims, and ruined themselves and the great and famous Hellenic power of the olden time. Was it because they did not know how wisely Hesiod spoke when he said that the half is often more than the whole? His meaning was, that when to take the whole would be dangerous, and to take the half would be the safe and moderate course, then the moderate or better was more than the immoderate or worse.'

. . . . .

Ath. That if any one gives too great a power to anything, too large a sail to a vessel, too much food to the body, too much authority to the mind, and does not observe the mean, everything is overthrown, and, in the wantonness of excess runs in the one case to disorders, and in the other to injustice, which is the child of excess. I mean to say, my dear friends, that there is no soul of man, young and irresponsible, who will be able to sustain the temptation of arbitrary power—no one who will not, under such circumstances, become filled with folly, that worst of diseases, and be hated by his nearest and dearest friends: when this happens his kingdom is undermined, and all his power vanishes from him. And great legislators who know the mean should take heed of the danger. As far as we can guess at this distance of time, what happened was as follows:—

Meg. What?

[The Spartan Constitution] [1]

Ath. A God, who watched over Sparta, seeing into the future, gave you two families of kings instead of one; and thus brought you more within the limits of moderation. In the next place, some human wisdom mingled with divine power, observing that the constitution of your government was still feverish and excited, tempered your inborn strength and pride of birth with the moderation which comes of age, making the power of your twenty-eight elders equal with that of the kings in the most important matters. But your third saviour, perceiving that your government was still swelling and foaming, and desirous to impose a curb upon it, instituted the Ephors, whose power he made to resemble that of magistrates elected by lot; and by this arrangement the kingly office, being compounded of the right elements and duly moderated, was preserved, and was the means of preserving all the rest. Since, if there had been only the original legislators, Temenus, Cresphontes, and their contemporaries, as far as they were concerned not even the portion of Aristodemus would have been

[1] Book III.

preserved; for they had no proper experience in legislation, or they would surely not have imagined that oaths would moderate a youthful spirit invested with a power which might be converted into a tyranny. Now that God has instructed us what sort of government would have been or will be lasting, there is no wisdom, as I have already said, in judging after the event; there is no difficulty in learning from an example which has already occurred. But if any one could have foreseen all this at the time, and had been able to moderate the government of the three kingdoms and unite them into one, he might have saved all the excellent institutions which were then conceived; and no Persian or any other armament would have dared to attack us, or would have regarded Hellas as a power to be despised.

Cle. True.

Ath. There was small credit to us, Cleinias, in defeating them; and the discredit was, not that the conquerors did not win glorious victories both by land and sea, but what, in my opinion, brought discredit was, first of all, the circumstance that of the three cities one only fought on behalf of Hellas, and the two others were so utterly good for nothing that the one was waging a mighty war against Lacedaemon, and was thus preventing her from rendering assistance, while the city of Argos, which had the precedence at the time of the distribution, when asked to aid in repelling the barbarian, would not answer to the call, or give aid. Many things might be told about Hellas in connection with that war which are far from honourable; nor, indeed, can we rightly say that Hellas repelled the invader; for the truth is, that unless the Athenians and Lacedaemonians, acting in concert, had warded off the impending yoke, all the tribes of Hellas would have been fused in a chaos of Hellenes mingling with one another, of barbarians mingling with Hellenes, and Hellenes with barbarians; just as nations who are now subject to the Persian power, owing to unnatural separations and combinations of them, are dispersed and scattered, and live miserably. These, Cleinias and Megillus, are the reproaches which we have to make against statesmen and legislators, as they are called, past and present, if we would analyze the causes of their failure, and find out what else might have been done. We said, for instance, just now, that there ought to be no great and unmixed powers; and this was under the idea that a state ought to be free and wise and harmonious, and that a legislator ought to legislate with a view to this end. Nor is there any reason to be surprised at our continually proposing aims for the legislator which appear not to be always the same; but we should consider when we say that temperance is to be the aim, or wisdom is to be the aim, or friendship is to be the aim, that all these aims are really the same; and if so a variety in the modes of expression ought not to disturb us.

Cle. Let us resume the argument in that spirit. And now, speaking of friendship and wisdom and freedom, I wish that you would tell me at what, in your opinion, the legislator should aim.

Ath. Hear me, then: there are two mother forms of states from which the rest may be truly said to be derived; and one of them may be called monarchy and the other democracy; the Persians have the highest form of the one, and we of the other; almost all the rest, as I was saying, are variations of these. Now, if you are to have liberty and the combination of friendship with wisdom, you must have both these forms of government in a measure; the argument emphatically declares that no city can be well governed which is not made up of both. .....

[Law and Government] [2]

Ath. 'Come, legislator,' we will say to him; 'what are the conditions which you require in a state before you can organize it?' How ought he to answer this question? Shall I give his answer?

[2] Book IV.

Cle. Yes.

Ath. He will say—'Give me a state which is governed by a tyrant, and let the tyrant be young and have a good memory; let him be quick at learning, and of a courageous and noble nature; let him have that quality which, as I said before, is the inseparable companion of all the other parts of virtue, if there is to be any good in them.'

Cle. I suppose, Megillus, that this companion virtue of which the Stranger speaks, must be temperance?

Ath. Yes, Cleinias, temperance in the vulgar sense; not that which in the forced and exaggerated language of some philosophers is called prudence, but that which is the natural gift of children and animals, of whom some live continently and others incontinently, but when isolated, was, as we said, hardly worth reckoning in the catalogue of goods. I think that you must understand my meaning.

Cle. Certainly.

Ath. Then our tyrant must have this as well as the other qualities, if the state is to acquire in the best manner and in the shortest time the form of government which is most conducive to happiness; for there neither is nor ever will be a better or speedier way of establishing a polity than by a tyranny.

Cle. By what possible arguments, Stranger, can any man persuade himself of such a monstrous doctrine?

Ath. There is surely no difficulty in seeing, Cleinias, what is in accordance with the order of nature?

Cle. You would assume, as you say, a tyrant who was young, temperate, quick at learning, having a good memory, courageous, of a noble nature?

Ath. Yes; and you must add fortunate; and his good fortune must be that he is the contemporary of a great legislator, and that some happy chance brings them together. When this has been accomplished, God has done all that He ever does for a state which He desires to be eminently prosperous; He has done second best for a state in which there are two such rulers, and third best for a state in which there are three. The difficulty increases with the increase, and diminishes with the diminution of the number.

Cle. You mean to say, I suppose, that the best government is produced from a tyranny, and originates in a good lawgiver and an orderly tyrant, and that the change from such a tyranny into a perfect form of government takes place most easily; less easily when from an oligarchy; and, in the third degree, from a democracy: is not that your meaning?

Ath. Not so; I mean rather to say that the change is best made out of a tyranny; and secondly, out of a monarchy; and thirdly, out of some sort of democracy: fourth, in the capacity for improvement, comes oligarchy, which has the greatest difficulty in admitting of such a change, because the government is in the hands of a number of potentates. I am supposing that the legislator is by nature of the true sort, and that his strength is united with that of the chief men of the state; and when the ruling element is numerically small, and at the same time very strong, as in a tyranny, there the change is likely to be easiest and most rapid.

Cle. How? I do not understand.

Ath. And yet I have repeated what I am saying a good many times; but I suppose that you have never seen a city which is under a tyranny?

Cle. No, and I cannot say that I have any great desire to see one.

Ath. And yet, where there is a tyranny, you might certainly see that of which I am now speaking.

Cle. What do you mean?

Ath. I mean that you might see how, without trouble and in no very long period of time, the tyrant, if he wishes, can change the manners of a state: he has only to go in the direction of virtue or of vice, whichever he prefers, he himself indicating by his example the lines of conduct, praising and rewarding some actions and reproving others, and degrading those who disobey.

Cle. But how can we imagine that the

citizens in general will at once follow the example set to them; and how can he have this power both of persuading and of compelling them?

Ath. Let no one, my friends, persuade us that there is any quicker and easier way in which states change their laws than when the rulers lead: such changes never have, nor ever will, come to pass in any other way. The real impossibility or difficulty is of another sort, and is rarely surmounted in the course of ages; but when once it is surmounted, ten thousand or rather all blessings follow.

Cle. Of what are you speaking?

Ath. The difficulty is to find the divine love of temperate and just institutions existing in any powerful forms of government, whether in a monarchy or oligarchy of wealth or of birth. You might as well hope to reproduce the character of Nestor, who is said to have excelled all men in the power of speech, and yet more in his temperance. This, however, according to the tradition, was in the times of Troy; in our own days there is nothing of the sort; but if such an one either has or ever shall come into being, or is now among us. blessed is he and blessed are they who hear the wise words that flow from his lips. And this may be said of power in general: When the supreme power in man coincides with the greatest wisdom and temperance, then the best laws and the best constitution come into being; but in no other way. And let what I have been saying be regarded as a kind of sacred legend or oracle, and let this be our proof that, in one point of view, there may be a difficulty for a city to have good laws, but that there is another point of view in which nothing can be easier or sooner effected, granting our supposition.

Cle. How do you mean?

Ath. Let us try to amuse ourselves, old boys as we are, by moulding in words the laws which are suitable to your state.

Cle. Let us proceed without delay.

Ath. Then let us invoke God at the settlement of our state; may He hear and be propitious to us, and come and set in order the State and the laws!

Cle. May He come!

Ath. But what form of polity are we going to give the city?

Cle. Tell us what you mean a little more clearly. Do you mean some form of democracy, or oligarchy, or aristocracy, or monarchy? For we cannot suppose that you would include tyranny.

Ath. Which of you will first tell me to which of these classes his own government is to be referred?

Meg. Ought I to answer first, since I am the elder?

Cle. Perhaps you should.

Meg. And yet, Stranger, I perceive that I cannot say, without more thought, what I should call the government of Lacedaemon, for it seems to me to be like a tyranny,—the power of our Ephors is marvellously tyrannical; and sometimes it appears to me to be of all cities the most democratical; and who can reasonably deny that it is an aristocracy? We have also a monarchy which is held for life, and is said by all mankind, and not by ourselves only, to be the most ancient of all monarchies; and, therefore, when asked on a sudden, I cannot precisely say which form of government the Spartan is.

Cle. I am in the same difficulty, Megillus; for I do not feel confident that the polity of Cnosus is any of these.

Ath. The reason is, my excellent friends, that you really have polities, but the states of which we were just now speaking are merely aggregations of men dwelling in cities who are the subjects and servants of a part of their own state, and each of them is named after the dominant power; they are not polities at all. But if states are to be named after their rulers, the true state ought to be called by the name of the God who rules over wise men.

Cle. And who is this God?

Ath. May I still make use of fable to some extent, in the hope that I may be better able to answer your question: shall I?

Cle. By all means.

Ath. In the primeval world, and a long while before the cities came into being whose settlements we have described, there is said to have been in the time of Cronos a blessed rule and life, of which the best-ordered of existing states is a copy.

Cle. It will be very necessary to hear about that.

Ath. I quite agree with you; and therefore I have introduced the subject.

Cle. Most appropriately; and since the tale is to the point, you will do well in giving us the whole story.

Ath. I will do as you suggest. There is a tradition of the happy life of mankind in days when all things were spontaneous and abundant. And of this the reason is said to have been as follows:—Cronos knew what we ourselves were declaring, that no human nature invested with supreme power is able to order human affairs and not overflow with insolence and wrong. Which reflection led him to appoint not men but demigods, who are of a higher and more divine race, to be the kings and rulers of our cities; he did as we do with flocks of sheep and other tame animals. For we do not appoint oxen to be the lords of oxen, or goats of goats; but we ourselves are a superior race, and rule over them. In like manner God, in His love of mankind, placed over us the demons, who are a superior race, and they with great ease and pleasure to themselves, and no less to us, taking care of us and giving us peace and reverence and order and justice never failing, made the tribes of men happy and united. And this tradition, which is true, declares that cities of which some mortal man and not God is the ruler, have no escape from evils and toils. Still we must do all that we can to imitate the life which is said to have existed in the days of Cronos, and, as far as the principle of immortality dwells in us, to that we must hearken, both in private and public life, and regulate our cities and houses according to law, meaning by the very term 'law,' the distribution of mind. But if either a single person or an oligarchy or a democracy has a soul eager after pleasures and desires—wanting to be filled with them, yet retaining none of them, and perpetually afflicted with an endless and insatiable disorder; and this evil spirit, having first trampled the laws under foot, becomes the master either of a state or of an individual,—then, as I was saying, salvation is hopeless. And now, Cleinias, we have to consider whether you will or will not accept this tale of mine.

Cle. Certainly we will.

Ath. You are aware,—are you not?—that there are often said to be as many forms of laws as there are of governments, and of the latter we have already mentioned all those which are commonly recognized. Now you must regard this as a matter of first-rate importance. For what is to be the standard of just and unjust, is once more point at issue. Men say that the law ought not to regard either military virtue, or virtue in general, but only the interests and power and preservation of the established form of government; this is thought by them to be the best way of expressing the natural definition of justice.

Cle. How?

Ath. Justice is said by them to be the interest of the stronger.

Cle. Speak plainer.

Ath. I will:—'Surely,' they say, 'the governing power makes whatever laws have authority in any state'?

Cle. True.

Ath. 'Well,' they would add, 'and do you suppose that tyranny or democracy, or any other conquering power, does not make the continuance of the power which is possessed by them the first or principal object of their laws'?

Cle. How can they have any other?

Ath. 'And whoever transgresses these laws is punished as an evildoer by the legislator, who calls the laws just'?

Cle. Naturally.

Ath. 'This, then, is always the mode and fashion in which justice exists.'

Cle. Certainly, if they are correct in their view.

Ath. Why, yes, this is one of those false

principles of government to which we were referring.

Cle. What do you mean?

Ath. Those which we were examining when we spoke of who ought to govern whom. Did we not arrive at the conclusion that parents ought to govern their children, and the elder the younger, and the noble the ignoble? And there were many other principles, if you remember, and they were not always consistent One principle was this very principle of might, and we said that Pindar considered violence natural and justified it

Cle. Yes, I remember

Ath. Consider, then, to whom our state is to be entrusted. For there is a thing which has occurred times without number in states—

Cle. What thing?

Ath. That when there has been a contest for power, those who gain the upper hand so entirely monopolize the government, as to refuse all share to the defeated party and their descendants—they live watching one another, the ruling class being in perpetual fear that some one who has a recollection of former wrongs will come into power and rise up against them. Now, according to our view, such governments are not polities at all, nor are laws right which are passed for the good of particular classes and not for the good of the whole state States which have such laws are not polities but parties, and their notions of justice are simply unmeaning I say this, because I am going to assert that we must not entrust the government in your state to any one because he is rich, or because he possesses any other advantage, such as strength, or stature, or again birth but he who is most obedient to the laws of the state, he shall win the palm; and to him who is victorious in the first degree shall be given the highest office and chief ministry of the gods, and the second to him who bears the second palm, and on a similar principle shall all the other offices be assigned to those who come next in order And when I call the rulers servants or ministers of the law, I give them this name not for the sake of novelty, but because I certainly believe that upon such service or ministry depends the well or ill being of the state For that state in which the law is subject and has no authority, I perceive to be on the highway to ruin, but I see that the state in which the law is above the rulers, and the rulers are the inferiors of the law, has salvation and every blessing which the Gods can confer.. .

[Limits on Property] [3]

It would be well that every man should come to the colony having all things equal, but seeing that this is not possible, and one man will have greater possessions than another, for many reasons and in particular in order to preserve equality in special crises of the state, qualifications of property must be unequal, in order that offices and contributions and distributions may be proportioned to the value of each person's wealth, and not solely to the virtue of his ancestors or himself, nor yet to the strength and beauty of his person, but also to the measure of his wealth or poverty and so by a law of inequality, which will be in proportion to his wealth, he will receive honours and offices as equally as possible, and there will be no quarrels and disputes To which end there should be four different standards appointed according to the amount of property there should be a first and a second and a third and a fourth class, in which the citizens will be placed, and they will be called by these or similar names they may continue in the same rank, or pass into another in any individual case, on becoming richer from being poorer, or poorer from being richer The form of law which I should propose as the natural sequel would be as follows —In a state which is desirous of being saved from the greatest of all plagues—not faction, but rather distraction—there should exist among the citizens neither extreme pov-

[3] Book V

erty, nor, again, excess of wealth, for both are productive of both these evils Now the legislator should determine what is to be the limit of poverty or wealth Let the limit of poverty be the value of the lot, this ought to be preserved, and no ruler, nor any one else who aspires after a reputation for virtue, will allow the lot to be impaired in any case This the legislator gives as a measure, and he will permit a man to acquire double or triple, or as much as four times the amount of this But if a person have yet greater riches, whether he has found them, or they have been given to him, or he has made them in business, or has acquired by any stroke of fortune that which is in excess of the measure, if he give back the surplus to the state, and to the Gods who are the patrons of the state, he shall suffer no penalty or loss of reputation, but if he disobeys this our law, any one who likes may inform against him and receive half the value of the excess, and the delinquent shall pay a sum equal to the excess out of his own property, and the other half of the excess shall belong to the Gods And let every possession of every man, with the exception of the lot, be publicly registered before the magistrates whom the law appoints, so that all suits about money may be easy and quite simple

[Divisions of City]

The next thing to be noted is, that the city should be placed as nearly as possible in the centre of the country, we should choose a place which possesses what is suitable for a city, and this may easily be imagined and described Then we will divide the city into twelve portions, first founding temples to Hestia, to Zeus and to Athene, in a spot which we will call the Acropolis, and surround with a circular wall, making the division of the entire city and country radiate from this point The twelve portions shall be equalized by the provision that those which are of good land shall be smaller, while those of inferior quality shall be larger. The number of the lots shall be 5040, and each of them shall be divided into two, and every allotment shall be composed of two such sections, one of land near the city, the other of land which is at a distance This arrangement shall be carried out in the following manner The section which is near the city shall be added to that which is on the borders, and form one lot, and the portion which is next nearest shall be added to the portion which is next farthest, and so of the rest Moreover, in the two sections of the lots the same principle of equalization of the soil ought to be maintained, the badness and goodness shall be compensated by more and less And the legislator shall divide the citizens into twelve parts, and arrange the rest of their property, as far as possible, so as to form twelve equal parts, and there shall be a registration of all After this they shall assign twelve lots to twelve Gods, and call them by their names, and dedicate to each God their several portions, and call the tribes after them And they shall distribute the twelve divisions of the city in the same way in which they divided the country, and every man shall have two habitations, one in the centre of the country, and the other at the extremity Enough of the manner of settlement ..

Having determined that there is to be a distribution into twelve parts, let us now see in what way this may be accomplished There is no difficulty in perceiving that the twelve parts admit of the greatest number of divisions of that which they include, or in seeing the other numbers which are consequent upon them, and are produced out of them up to 5040, wherefore the law ought to order phratries and demes and villages, and also military ranks and movements, as well as coins and measures, dry and liquid, and weights, so as to be commensurable and agreeable to one another Nor should we fear the appearance of minuteness, if

the law commands that all the vessels which a man possesses should have a common measure, when we consider generally that the divisions and variations of numbers have a use in respect of all the variations of which they are susceptible, both in themselves and as measures of height and depth, and in all sounds, and in motions, as well those which proceed in a straight direction, upwards or downwards, as in those which go round and round The legislator is to consider all these things and to bid the citizens, as far as possible, not to lose sight of numerical order, for no single instrument of youthful education has such mighty power both as regards domestic economy and politics, and in the arts, as the study of arithmetic Above all, arithmetic stirs up him who is by nature sleepy and dull and makes him quick to learn, retentive, shrewd, and aided by art divine he makes progress quite beyond his natural powers All such things, if only the legislator by other laws and institutions, can banish meanness and covetousness from the souls of men, so that they can use them properly and to their own good, will be excellent and suitable instruments of education But if he cannot, he will unintentionally create in them, instead of wisdom, the habit of craft, which evil tendency may be observed in the Egyptians and Phoenicians, and many other races, through the general vulgarity of their pursuits and acquisitions, whether some unworthy legislator of theirs has been the cause, or some impediment of chance or nature For we must not fail to observe, O Megillus and Cleinias, that there is a difference in places, and that some beget better men and others worse, and we must legislate accordingly Some places are subject to strange and fatal influences by reason of diverse winds and violent heats, some by reason of waters, or, again, from the character of the food given by the earth, which not only affects the bodies of men for good or evil, but produces similar results in their souls And in all such qualities those spots excel in which there is a divine inspiration, and in which the demigods have their appointed lots, and are propitious, not adverse, to the settlers in them To all these matters the legislator if he have any sense in him, will attend as far as man can, and frame his laws accordingly And this is what you, Cleinias, must do, and to matters of this kind you must turn your mind since you are going to colonize a new country

Cleinias Your words, Athenian Stranger are excellent, and I will do as you say

. . . .

[Second Best] [4]

Concerning all this, we must make some such proclamation as the following – Mankind must have laws, and conform to them, or their life would be as bad as that of the most savage beast And the reason of this is that no man's nature is able to know what is best for human society, or knowing, always able and willing to do what is best In the first place, there is a difficulty in apprehending that the true art of politics is concerned, not with private but with public good (for public good binds together states, but private only distracts them), and that both the public and private good as well of individuals as of states is greater when the state and not the individual is first considered In the second place, although a person knows in the abstract that this is true, yet if he be possessed of absolute and irresponsible power, he will never remain firm in his principles or persist in regarding the public good as primary in the state, and the private good as secondary Human nature will be always drawing him into avarice and selfishness, avoiding pain and pursuing pleasure without any reason, and will bring these to the front obscuring the juster and better, and so working darkness in his soul will at last fill with evils both him and the whole city For if a man were born so divinely

[4] Book IX

gifted that he could naturally apprehend the truth, he would have no need of laws to rule over him; for there is no law or order which is above knowledge, nor can mind, without impiety, be deemed the subject or slave of any man, but rather the lord of all. I speak of mind, true and free, and in harmony with nature. But then there is no such mind anywhere, or at least not much; and therefore we must choose law and order, which are second best. These look at things as they exist for the most part only, and are unable to survey the whole of them. And therefore I have spoken as I have.

. . . . .

[Nocturnal Council] [5]

Ath. Were we not saying that there must be in our city a council which was to be of this sort:—The ten oldest guardians of the law, and all those who have obtained prizes of virtue, were to meet in the same assembly, and the council was also to include those who had visited foreign countries in the hope of hearing something that might be of use in the preservation of the laws, and who, having come safely home, and having been tested in these same matters, had proved themselves to be worthy to take part in the assembly;—each of the members was to select some young man of not less than thirty years of age, he himself judging in the first instance whether the young man was worthy by nature and education, and then suggesting him to the others, and if he seemed to them also to be worthy they were to adopt him; but if not, the decision at which they arrived was to be kept a secret from the citizens at large, and, more especially, from the rejected candidate. The meeting of the council was to be held early in the morning, when everybody was most at leisure from all other business, whether public or private —was not something of this sort said by us before?

Cle. True.

Ath. Then, returning to the council, I would say further, that if we let it down to be the anchor of the state, our city, having everything which is suitable to her, will preserve all that we wish to preserve.

Cle. What do you mean?

Ath. Now is the time for me to speak the truth in all earnestness.

Cle. Well said, and I hope that you will fulfil your intention.

Ath. Know, Cleinias, that everything, in all that it does, has a natural saviour, as of an animal the soul and the head are the chief saviours.

Cle. Once more, what do you mean?

Ath. The well-being of those two is obviously the preservation of every living thing.

Cle. How is that?

Ath. The soul, besides other things, contains mind, and the head, besides other things, contains sight and hearing; and the mind, mingling with the noblest of the senses, and becoming one with them, may be truly called the salvation of all.

Cle. Yes, quite so.

Ath. Yes, indeed; but with what is that intellect concerned which, mingling with the senses, is the salvation of ships in storms as well as in fair weather? In a ship, when the pilot and the sailors unite their perceptions with the piloting mind, do they not save both themselves and their craft?

Cle. Very true.

Ath. We do not want many illustrations about such matters:—What aim would the general of an army, or what aim would a physician propose to himself, if he were seeking to attain salvation?

Cle. Very good.

Ath. Does not the general aim at victory and superiority in war, and do not the physician and his assistants aim at producing health in the body?

Cle. Certainly.

Ath. And a physician who is ignorant about the body, that is to say, who knows not that which we just now called health, or a general who knows not victory, or any

[5] Book XII.

others who are ignorant of the particulars of the arts which we mentioned, cannot be said to have understanding about any of these matters

Cle They cannot.

Ath. And what would you say of the state? If a person proves to be ignorant of the aim to which the statesman should look, ought he, in the first place, to be called a ruler at all, and further, will he ever be able to preserve that of which he does not even know the aim?

Cle Impossible

Ath And therefore, if our settlement of the country is to be perfect, we ought to have some institution, which, as I was saying, will tell what is the aim of the state, and will inform us how we are to attain this, and what law or what man will advise us to that end Any state which has no such institution is likely to be devoid of mind and sense, and in all her actions will proceed by mere chance

Cle Very true

Ath In which, then, of the parts or institutions of the state is any such guard ian power to be found? Can we say

Cle I am not quite certain, Stranger but I have a suspicion that you are refer ring to the assembly which you just now said was to meet at night

Ath You understand me perfectly, Clenias, and we must assume, as the argument implies, that this council pos sesses all virtue, and the beginning of virtue is not to make mistakes by guessing many things, but to look steadily at one thing, and on this to fix all our aims

Cle Quite true

Ath Then now we shall see why there is nothing wonderful in states going astray —the reason is that their legislators have such different aims, nor is there anything wonderful in some laying down as their rule of justice that certain individuals should bear rule in the state, whether they be good or bad, and others that the citi zens should be rich, not caring whether they are the slaves of other men or not The tendency of others, again, is towards freedom, and some legislate with a view to two things at once,—they want to be at the same time free and the lords of other states, but the wisest men, as they deem themselves to be, look to all these and similar aims, and there is no one of them which they exclusively honour, and to which they would have all things look

. . . . .

[ESTABLISHMENT OF A COUNCIL]

Ath No man can be a true worshipper of the Gods who does not know these two principles—that the soul is the eldest of all things which are born and is im mortal and rules over all bodies, more over, as I have now said several times, he who has not contemplated the mind of nature which is said to exist in the stars and gone through the previous training and seen the connection of music with these things, and harmonized them all with laws and institutions, is not able to give a reason of such things as have a reason And he who is unable to acquire this in addition to the ordinary virtues of a citizen, can hardly be a good ruler of a whole state but he should be the sub ordinate of other rulers Wherefore, Clenias and Megillus, let us consider whether we may not add to all the other laws which we have discussed this further one,—that the nocturnal assembly of the magistrates, which has also shared in the whole scheme of education proposed by us, shall be a guard set according to law for the salvation of the state Shall we propose this?

Cle Certainly, my good friend, we will if the thing is in any degree possible

Ath Let us make a common effort to gain such an object, for I too will gladly share in the attempt Of these matters I have had much experience, and have often considered them, and I dare say that I shall be able to find others who will also help

Cle I agree, Stranger, that we should proceed along the road in which God is guiding us, and how we can proceed

rightly has now to be investigated and explained.

Ath. O Megillus and Cleinias, about these matters we cannot legislate further until the council is constituted; when that is done, then we will determine what authority they shall have of their own; but the explanation of how this is all to be ordered would only be given rightly in a long discourse.

Cle. What do you mean, and what new thing is this?

Ath. In the first place, a list would have to be made out of those who by their ages and studies and dispositions and habits are well fitted for the duty of a guardian. In the next place, it will not be easy for them to discover themselves what they ought to learn, or become the disciple of one who has already made the discovery. Furthermore, to write down the times at which, and during which, they ought to receive the several kinds of instruction, would be a vain thing; for the learners themselves do not know what is learned to advantage until the knowledge which is the result of learning has found a place in the soul of each. And so these details, although they could not be truly said to be secret, might be said to be incapable of being stated beforehand, because when stated they would have no meaning.

Cle. What then are we to do, Stranger, under these circumstances?

Ath. As the proverb says, the answer is no secret, but open to all of us:—We must risk the whole on the chance of throwing, as they say, thrice six or thrice ace, and I am willing to share with you the danger by stating and explaining to you my views about education and nurture, which is the question coming to the surface again. The danger is not a slight or ordinary one, and I would advise you, Cleinias, in particular, to see to the matter; for if you order rightly the city of the Magnetes, or whatever name God may give it, you will obtain the greatest glory; or at any rate you will be thought the most courageous of men in the estimation of posterity. Dear companions, if this our divine assembly can only be established, to them we will hand over the city; none of the present company of legislators, as I may call them, would hesitate about that. And the state will be perfected and become a waking reality, which a little while ago we attempted to create as a dream and in idea only, mingling together reason and mind in one image, in the hope that our citizens might be duly mingled and rightly educated; and being educated, and dwelling in the citadel of the land, might become perfect guardians, such as we have never seen in all our previous life, by reason of the saving virtue which is in them.

Meg. Dear Cleinias, after all that has been said, either we must detain the Stranger, and by supplications and in all manner of ways make him share in the foundation of the city, or we must give up the undertaking.

Cle. Very true, Megillus; and you must join with me in detaining him.

Meg. I will.

FOUR

The Nature of Political Society: Aristotle

IT IS ORDINARILY THE FASHION TO treat Aristotle, by way of contrast with Plato, as if he were the first to deal with politics in a "scientific" manner. Our discussion of Plato should have indicated that this is an inadequate view, both because Plato is attempting to discover and apply universals or *scientific laws* that govern human relations and because Aristotle himself, as much as Plato, is interested in the ultimate philosophical values, i.e., in the *ethics* of politics as well as in a scientific description of political behavior.

The *Politics* is stated to be only a continuation of the *Nicomachean Ethics* by Aristotle himself. As noted in the introduction to the selections in the Readings, the *Politics* is a strangely "hashed-up" work for so systematic a mind. The search for the ideal state, which marks the first three books, is gradually given up in the effort to find, from the study of actual states and their problems, what is the best practicable state, and how to practice statecraft for various types of governments, or constitutions. We end with maxims, wise and searching in their understanding of human nature and institutions, but with no grand design like Plato's.

Facts and Ideals

The institutions of Aristotle's time we have dealt with in the two preceding chapters. Let us turn first of all then to his philosophy of nature and of human nature. Aristotle's emphasis is much in the manner of modern physical and biological science, in that he describes facts and attempts to derive his laws of politics from those facts. Plato, although he does proceed at times inductively by starting with the facts of human behavior, generally puts his emphasis on bringing human behavior into conformity with the ideal laws that he believes do govern the universe and *should* govern human conduct.

Plato's eternal struggle with the Sophists led him to seek out the permanent and universal characteristics of human life, the essences that would remain constant throughout the whole flux of sense impressions and the changes in men's imperfect knowledge of the truth. He was,

therefore, less interested in the world of what philosophers call the *phenomenal,* or the perceived sense world of becoming, than was Aristotle. It would be wrong to say that Aristotle completely escaped from the absolute essences or universals of Plato's "Forms." The difference may be summed up by saying that Aristotle emphasized the individual instance, too. "No universal exists, apart from individuals," he says in the *Metaphysica.*[1] His fundamental approach to nature was to treat the development of all life, including human institutions, from their natural beginnings as guided by an innate end or goal, which he called the *telos.*

The simplest possible example of this approach would be in the development of the oak from the acorn, which bore in its seed the whole future outline of the noble tree. As Popper puts this doctrine, "The Form or essence of anything developing is identical with the purpose or end or final state [*telos*] towards which it develops."[2] This is, as Popper says, optimism instead of pessimism. The end is still the good, as with Plato. But instead of degeneration from perfection (Plato's view) Aristotle's world *developed toward perfection.* But the position is very close to Plato's; Aristotle was the disciple of Plato and there are very few ranges of his thought that Plato had not explored before him. It is a difference of emphasis on practicality. Aristotle finds final causes (Plato's Forms) of the world of things, *in* the things themselves, as potentiality—not *outside,* as Plato found them.

Aristotle's Ethics and Human Nature

Just as it is impossible to understand the range of Plato's thought without looking at many of the dialogues which do not deal directly with politics, so it is necessary in the study of Aristotle to look at his works on logic and metaphysics, but especially on ethics. The *Nicomachean Ethics* of Aristotle is the key to his political philosophy. It illustrates his whole philosophical approach in two ways: one, it stresses the development of an organic being in man and in society in terms of the *norm of natural fulfillment of potentiality,* which Aristotle called the *teleological* approach; two, in emphasizing this ideal end, it holds in view at every stage the *actual* conditions of human behavior and human society. It is still idealistic in its ends, but it is scientific in its means.

The result of this combination in Aristotle is a balanced philosophy which lays down the "golden mean" between the extremes as the definition of virtue. Men have a natural inclination to ideal justice. But the realization of this inclination is naturally conditioned by the existence of

[1] *Metaphysica,* p. 1040b. For citation and comment see McIlwain, *op. cit.,* p. 59.

[2] *Op. cit.,* Vol. II, p. 4. See W. D. Ross, Introduction, pp. vi ff., *Aristotle, Selections.*

other pulls and by adjustment among differing individual interests, where wisdom is not perfect in all men, or even in a few. The actual world is one of development through experience. The realization of essences is therefore a matter of the adjustment of the ideal to the particulars of real human lives and conflicts of interests.

The application of this method to politics is to work out the theory of a balanced or mixed state, held stable by the position of a powerful middle class, which also illustrates the mean between two extremes.

Obviously this application is not foreign to Plato's thinking in the *Laws,* as can be judged from the selections included in the Readings. Nevertheless, Plato's own emphasis was always upon an ideal norm rather than upon the possibilities of human beings conforming to this ideal. Aristotle starts off with the assumption that man is a political animal *by nature,* neither a beast nor a god. He is willing to make concessions to the dynamics of self-interest which lead him to conclusions on the possibilities of human nature which are very different from Plato's conclusions.

Aristotle's Divergence from Plato—Family and Property

Aristotle and Plato are agreed that the human soul is divided into the elements that Plato has already described for us. These are commonly called intellect, will, and feeling, or, in Plato's terms, "reason, spirit (or courage), and appetite." Although Aristotle would have agreed that reason is the highest and the steering faculty, in the combination of these qualities in the human being, he would have put more emphasis than Plato on the necessity for satisfying the other elements of human nature. He would not, for instance, have ruled out self-interest, as Plato tried to do in his entire scheme of political society in the *Republic.* Aristotle believed that both the family and property have a relationship to the essence of human personality. Personality expresses or projects one's own self through these institutions. He would, on the other hand, have insisted upon limits for property and upon the subordination of families to the higher organization of the state (the *polis*). His ideal formula for property is private possession but common use—to the end of encouraging generosity. Similarly, he would have stressed the fact, according to his own judgment of facts, that whoever is incapable of self-discipline of emotions and appetites, and of foresight (prudence) is by nature a slave. Aristotle would have thought of human beings on this level as instruments in the hands of those who were capable of reason and self-mastery. He finds nothing objectionable in the idea of property of this character related to the household and to the individual; although he felt that Greeks were not natural slaves. With characteristic Greek, and

especially Athenian, arrogance, he thinks of barbarians (all non-Greeks) as furnishing the natural order of slaves. This is a cultural and in some sense a racial theory of politics. Therefore, his constitutional government is, as he says, "a government of freemen and equals." But it is limited to an élite, the full citizens; it is not a universal equality.

Actually, Aristotle's view correctly describes the organization of Greek society. Citizenship in such states as Athens was limited to a minor part of the population. The citizens were usually outnumbered by the slaves, or in Sparta by the *helots,* who were like serfs bound to the land. The metics, who were the trading interests, settled mostly in the city for commercial purposes, and were neither slaves nor citizens. They occupied an intermediate position as resident aliens somewhat like Plato's "producers" class, although undoubtedly Plato's producers would have included the Spartan *helots* or the Athenian slaves as well.

It is interesting that Plato in the *Republic* does not condone slaves as property as Aristotle does. In the *Laws* Plato does lay down a natural basis for slavery, however. He feels that slaves should be commanded and not admonished, even to the degree that is employed with children. A significant distinction lies perhaps in the two attitudes: Plato seems to have thought of his third class of producers in the *Republic* (his ideal of the *just* state) as having rights over their families and property, subject only to the general control of the guardians, and not the individual mastery of owners; whereas Aristotle, starting with the family as a unit and with a theory of natural mastery, is willing to establish a personal property relationship even over human beings. Plato would have permitted the recruiting even of his guardian class from the lowest order of his society, wherever talent appeared. Aristotle appears to believe that natural slavery has some basis in heredity and does not offer to break the caste system which this slave system would have established.

But for freemen who are capable of exercising the Aristotelian virtues, the Stagirite disciple of Plato would have had a more democratic system than Plato ever achieved, even in the *Laws.* It follows from Aristotle's ideas in the *Nicomachean Ethics* that whoever is capable of exercising the balance of virtue has an equal right in at least one respect: in the deliberation of a popular assembly that accepts or rejects the laws proposed to it. This democratic participation comes later on to be called *political* liberty, i.e., the right of equal participation in the ultimate power to make laws or to elect those who do. Here, unlike Plato, Aristotle finds wisdom in numbers and in the offsetting of special interest and arbitrary power by the sharing in the ultimate political authority of accepting or rejecting the laws.

The Golden Mean and the Ideal State

Let us examine how this "golden mean," arrived at through the study of the ideal ethics, is applied by Aristotle to the constitution of the ideal state. In the first place, virtue throughout is to be the mean between extremes. Courage is, for example, not rashness or foolhardiness on the one hand, or cowardice on the other. It consists in rational balance: an estimate of the possibilities of any existing situation in order to judge what the practical limits of courageous action should be. It is very doubtful whether Aristotle in any of his thinking would have written the magnificent *Apology* of Socrates or the companion pieces of the *Crito* and the *Phaedo,* in which Plato justifies the martyrdom of Socrates for a belief. This transcendental idealism finds little echo in Aristotle. However, it finds classic expression in Greek thought through an appeal to the divine inspiration of conscience as against human laws (the reply of Antigone to the tyrant, Creon, in burying her brother, Polynices, in accordance with the laws of Zeus, against the King's decree). Aristotle is content to take human nature in terms of the virtues of the Athenian gentleman who can show liberality because he possesses property of his own; who is rational without being an unbalanced and impractical intellectualist; who is a man of courage capable of giving his life in war for the state but shrewdly calculating his chances in the political ups and downs of his time. Aristotle's view lacks perhaps the nobility of Plato's, but by the same token his whole philosophy is today called more realistic. It is grounded upon the actual behavior of human beings. It accepts the institutional setting of conduct as a necessary limit to even the most god-like character. It emphasizes the economic aspects of man's life. Even though it puts limits on property, it insists upon the necessity for property to develop character and the expression of the virtues of self-control, prudence, and foresight.

Popper, in his interesting analysis of Aristotle in the second volume of *Open Society and Its Enemies,* feels that Aristotle's interpretations of the good society were colored by his necessity for making a living as a popular teacher to a degree that had not been necessary for the wealthy Plato: Aristotle followed somewhat the profession of the Sophist rather than the high philosopher of the Platonic tradition. His students naturally came from the wealthy families of Athens. His doctrine, Popper thinks, must have had to be acceptable to them.

This is probably too simple an approach to Aristotle. He did not attempt to curry favor with his greatest student, Alexander of Macedon, and it is entirely probable that his teachings rose from his bent toward natural science (his father was a physician at the court of Alexander's

father, Philip). It is too subtle, probably, to say, as Popper does, that Aristotle can be explained in not openly recognizing the star on the horizon (Alexander's empire) because he belonged to the pro-Macedonian party in Athens and did not wish to reveal his true views. His preoccupation with the Greek city state and his idealization of contemporary Athens, even after it had fallen under the sway of Macedon,[3] are probably due to his love of things Athenian and to the balance that the Athenian polity seemed to him to represent, comparable to the balance that he found in nature as its supreme law. It was an ethical as well as a genetic approach that he applied to the development of the *polity*, or best possible constitutional state. On this interpretation the Athenian balanced state, redressed by greater emphasis on the middle class, represented the form or essence which was its *telos* or end. An empire seemed to Aristotle, probably particularly in the case of Alexander's Macedon, to depend too much on one man.

It is entirely natural, then, that Aristotle should apply these principles step by step in the development of the commonwealth from the family through unions of families into villages, then tribes, and finally into the ultimate end of the city state. He hardly seems to have sensed that a whole culture might be borne by an empire, as Hellenism was by Alexander's, to greatly extended territories. In any case, Aristotle would have still felt, and rightly, that such a culture could never approach the intense creative life of the smaller city state.

First Principle of True Politics—Ruling and Being Ruled in Turn

He believes, too, that the principle of compensation, or what he calls "reciprocal proportion," is necessary to justice.[4] "Even among freemen and equals this is a principle that must be maintained, for they cannot all rule together, but must change at the end of a year or some other

[3] Athens, as has been noted previously, had made a substantial recovery of its earlier position in wealth and commerce, but not in political importance Sparta, on the other hand, had slipped from its position in the fifth century. Isocrates and Aeschines were the political writers most characteristic of this Athens, interested more in peace and wealth than in glory

[4] See *Nicomachean Ethics*, V, 1132b, p 32

Professor C H McIlwain, in Appendix I to his *Growth of Political Thought in the West*, gives an extremely stimulating discussion of "Absolute and Particular Justice" in Aristotle. He concludes that Aristotle also thinks of a 'naturally perfect polity" on whose law "the whole of justice is based" (p 396), whereas particular justice extends to relations between individuals, and not to all those relations, and in any case to a justice based on the laws of actual states (p 397) "Similarly, such rules of justice as exist not by nature, but by the will of man, are not everywhere the same, as polities are not everywhere the same, *though there is everywhere only one naturally perfect polity.*" (*Eth. Nic.*, pp. 1134b-1135a. Cited by McIlwain, *op. cit*, p. 396)

period of time or in some order of succession." [5] Ruling and being ruled in turn, as Aristotle points out, are necessary to develop the virtues of citizenship and to create a genuine community. That would be possible only in a small unit like the city state.

False Unity and False Equality

This genuine community is not to be founded on what Aristotle regards as the false unity of having all things in common, which is a mark of Plato's governing classes and true citizens in the *Republic.* Such a unity, Aristotle feels, destroys the real basis for voluntary unity which will permit a community to express differences of functions and differences of ability at all levels. His criticisms of Plato in this respect show that he emphasizes the element that is basic to modern constitutionalism: he allows for a combination of inequality in proportion to men's achievements but he insists upon an equality of opportunity and of ultimate political participation in the final power of the making of laws.

Aristotle is often misrepresented (for instance, by Mr. Laski) as having said that the desire for equality is the most basic cause of revolutions. What he says, rather, is that the *struggle over equality—against* it as much as *for* it—is the most important cause of revolutions. He lays quite as much emphasis, that is, on the desire for inequality and on the unwillingness of individuals, who are by nature and accomplishments unequal, to accept a forced equality that would reduce them to a common level, as upon the desire for equality that would level down. He notes, interestingly enough, the effect of rapid changes in money values (that is, inflation) in its effects in this direction. In other words, to depress skilled classes and middle classes to a proletarian level may have an equally important revolutionary effect. Fascism has pointed this historical moral in our own time.

Equality (Proportional)

Aristotle's treatment of equality is among the most interesting of his contributions to the basic study of politics:

> Democracy, for example, arises out of the notion that those who are equal in any respect are equal in all respects; because men are equally free, they claim to be absolutely equal. Oligarchy is based on the notion that those who are unequal in one respect are in all respects unequal; being unequal, that is, in property, they suppose themselves to be unequal absolutely. The democrats think that as they are equal they ought to be equal in all things; while the oligarchs, under the idea that they are unequal, claim too much, which is one form of inequality. All these

[5] *Politics* (Modern Library Edition, B. Jowett tr.), Book II, 1261a, p. 82.

> forms of government have a kind of justice, but, tried by an absolute standard, they are faulty; and, therefore, both parties, whenever their share in the government does not accord with their preconceived ideas, stir up revolution.[6]
>
> Now equality is of two kinds, numerical and proportional; by the first I mean sameness or equality in number or size.[7]

By proportional equality, he means equality of ratios. He clearly indicates his own preference for proportional equality, which would not render unequals to equals, or vice versa. But he adds:

> ... men agree that justice in the abstract is proportion, but they differ in that some think that if they are equal in any respect they are equal absolutely, others that if they are unequal in any respect they should be unequal in all. Hence there are two principal forms of government, democracy and oligarchy....[8]

Stability and How to Get It

Of the democracies, he says that they appear to be "... safer and less liable to revolution than oligarchy," because of the danger in the latter "... of the oligarchs falling out among themselves and also with the people...." [9]

But since the first object of Aristotle is to avoid revolution and to insure stability for his ideal state, he wishes to combine the best elements of democracy and oligarchy in what he calls the mixed (or constitutional) state. In this state the middle class would hold the balance of power and would be sufficiently numerous to perform that function. It would have to be a constitutional state to prevent, by its maintenance of a fundamental and organizing law, any ruling class (*τὸ πολίτευμα*) from seizing the supreme and unlimited power (*τὸ κύριον*).

In putting the emphasis on stability as the chief end of the state, one ought to notice that the word "state" in our language has some implication of this end. It is from the same root as "status." To a Greek accustomed to the eternal struggle for power within the city state, the overturns (*staseis*) of class control represented the most serious enemy of that unity, which was, after all, the basis of law, as well as of the ability of the state to survive and to furnish the conditions for the "good life" which both Plato and Aristotle believe to be its true end. It was a serious challenge to the very survival of the Greek state. In the midst of civil war how could men hope to pursue the ideal good life that meant the development of a true constitutionalism? If the state had only one true end, as

[6] *Politics*, V, 1301a (Modern Library Edition, trans. Benjamin Jowett), pp. 209-210.
[7] *Ibid.*, 1301b, p. 211.
[8] *Ibid.*, 1301b, p. 211.
[9] *Ibid.*, 1302a, p. 212.

Plato thought, manifestly no parties asserting different ends could be tolerated within the state. No rights of individual difference of opinion could be permitted that would attack the basis of the state. It has been truly observed that Plato gave the best defense of the Inquisition in even so late a work as the *Laws:* the state must control thought as well as action; unity must be enforced at all costs.

Aristotle's Individualistic and Scientific View on Politics

Aristotle has a more flexible definition of the good life, since he relates it to standards freely chosen by individuals and does not lay down so definitely as Plato an absolute standard that must be imposed on all. He admits the legitimacy of different interests and different purposes, although he hopes that the community of interests and purpose contained in the commonwealth will balance the differences and permit the attaining of a truer unity than in the "identity" which he attributes to Plato.

Aristotle would agree with Plato that, in general, a state is a good state in which the ruling class rules in the common interest—that is, creates a true commonwealth. Each form of state (monarchy, oligarchy, democracy) becomes in turn perverted when the power of the ruling class is used only in the interest of that class.

The lost study of the 158 constitutions of the Greek city states, previously referred to, led Aristotle to a scientific analysis of the way in which the rulers in each type maintain their power. He strikingly anticipates the later analysis by Machiavelli of the methods by which a tyrant can hold power and prevent revolution. Indeed, he sketches on a much broader canvas the sources of revolutions and the remedies for them. But he is concerned, as Machiavelli was not (at least in the *Prince*), to go beyond the questions of the maintenance in power of a tyrant and to examine what form of government could best avoid the degeneration and perversion of the ruling class, and establish a government of law.

In this respect, he was making explicit a search that we can discover in the evolution of the constitutions of Greek city states, particularly of Athens, toward substituting a fundamental law on which the citizens could all agree for the arbitrary exercise of power by whatever ruling class happened to control. This distinction between fundamental law (*nomos* or *nomoi*) and the ordinary decrees (*psephismata*), which Lord Bryce has called attention to in his essay on Athenian democracy,[10] had an interesting illustration in the method of amending the constitution in Athens. One who proposed a change in the basic laws in the popular assembly

[10] See *Modern Democracies,* Vol. I, "Republics of Antiquity."

ran the risk of being condemned to death or of paying a heavy penalty if his amendment did not carry in the assembly. This was the method hit upon by the Athenians for drawing distinction between fundamental law and ordinary decrees and for insuring the stability of the constitution.

Greek Constitutionalism Lacking in Concept of Rights

Of course, this Greek conception of constitutionalism lacks an important element of the modern doctrine of constitutionalism in that it did not attempt to offer protection for the rights of individuals. Such a conception as a bill of rights or of a limited state was entirely foreign to the Greek idea of the city state as the all-inclusive unit of social action, combining religion, politics, and economics. Greek constitutionalism was limited, therefore, to the idea and practice of fundamental law which governed the organization of the state, particularly the setting up of *τὸ κύριον*, or the seat of power in terms of a ruling group. This group is treated as a class, though not simply as an economic class. It was on this basis that Aristotle defined and described the types of constitutions, their weaknesses and strengths. His essential conservatism toward the dynamics of change led him to recognize and warn against the rather unforeseen results that might come from seemingly small changes in the constitution. It was a mood entirely natural to an Athenian and to a student of politics of his time. The intense dynamism of the Greek city state, operated both by popular pressures and by the perpetual struggle of classes for power within and for survival and mastery of other city states without, must have been implanted in every Greek.

Military Survival Begets Training Program

The problem of survival led Aristotle, like Plato, to put great emphasis on military training and upon the self-sufficiency of the state. Aristotle is concerned with avoiding the entanglements of the commitments of foreign trade and the weakening of the state that comes through a perpetual struggle for imperial power. He locates his state under physical conditions rather more like those of Sparta than of Athens. He shared Plato's fears of the pull out of its right political orbit which would be exerted by commerce and sea power on a city that was also a great seaport.

Although he was naturally familiar with the operation of the empires of the past as well as of his own period, and was the tutor of the great conqueror, Alexander, who spread Hellenism throughout the Middle East and Egypt, it never seems to have occurred to him that the logic

of power would not permit the survival of a small independent city state like Athens.

Indeed, like Plato, he was so concerned with the problem of organizing a community in which the "good life" could be lived by the citizens on the intense and limited scale of the city state that his natural history of politics, in this respect, fell far short of resting upon a description of actual facts. Perhaps an Athenian, with the legend of the great naval victories over the Persians at Salamis and the combined successes of the Athenians and Spartans over the Persian hordes at Plataea, or the nearer feats of the ten thousand Greeks who had marched through all the Persian armies in Xenophon's *Anabasis,* thought that a special providence would continue to protect the Greek city state. However, Philip of Macedon's foot was already in the door by Aristotle's time. The *Philippics* of Demosthenes were prophetic as warnings, but they were as empty of practical results as were Cicero's later efforts to shore up the collapsing structure of the Roman republic. The logic of empire, as Alexander attempted it, was not simply rule from the rude, hardy center of Macedonia. It was no mere expansion of a city state. It was the feat primarily of a military genius, but secondarily of one who could transcend the limits even of the Greek culture which he and his generals after him spread. It was an early effort to organize conquered countries as part of a new and larger system. It was Alexander's ability to take over the Persian culture in large measure that enabled his successors to spread Greek culture easily. The ideas of Greece found a larger scope through a great Greek conqueror, in a way that lay beyond the range of values of either Plato or Aristotle.

Perhaps it was blindness of the Athenians to this *need* for larger economic and political areas to support cultural areas, that made Macedon, and after it Rome, the masters of Greece.

However, within the limits of his formula for the small city state, Aristotle packed a wisdom about political organization that has its application to any polity, large or small. He detected the inevitable trend of self-interest toward the control of government by an exploiting group or class. Unlike Plato, who thought to exorcize this basic fact of human nature by a myth and by a totalitarian education, and by a communist order among the guardians, Aristotle strove to make the necessary allowances in his best practical form of state for what he knew to be the inevitable struggle for power. It is in this light that his theory of the balanced state under middle-class rule must be appreciated. On the ethical side, he stressed the necessity for having in the majority a capacity for self-rule which would admit the recognition of sufficient equality to hold offices in turn and to accept the determination of the

majority of the deliberative assembly.[11] This participation in government, which we come later on to call political liberty, marks Aristotle as sympathetic to the main element of the democratic trend, but we must always remember that his citizenry was a very limited part of the whole community, which would include also slaves and non-citizens (*metics*).

Liberty and Self-Rule

Liberty must be expressed also in the rights of people to live as they liked, which for Aristotle could be achieved only by so balancing the state that their desires could all find expression through the state. This was at least an anticipation of the civil liberties which later development of democratic constitutionalism associate with limiting government. In some sense, his mixed state would have imposed limits on government by a balance of class powers.

It is interesting that inferentially he rejects monarchy on the grounds that the relation between the shepherd and the sheep (of which Plato is so fond) is non-political. In this respect he also points to a basic truth in democratic theory: free men must have equality *in some basic political respect* in order to achieve a healthy political relationship. It is on this basis that he found virtue in numbers and in the deliberative assembly. As one who was at least allied to the aristocratic trends, although not to the same extent as Plato, by birth and position, this physician's son was prepared to emphasize also the necessity for some elements of aristocracy in his ideal constitution.

The Ideal Polity

The institution of common tables as in Sparta suggests an equality of service among Aristotle's citizens, but it is worth while noting that these common meals could be supported only by men of property. He was quite prepared to limit wealth, and his teachings formed the basis of the medieval church's later opposition to interest on loans on the grounds that any interest on money was usury. At the same time, stable property rights and a privileged part of the community were, in Aristotle's judgment, necessary to the development of the leadership that his ideal state required. The magistrates themselves should come from the highest class of the state, and from them should come the initiation of the legislation. The judicial offices should combine some elements of the popular control through courts dealing with high crimes. At the same time, specialized judicial functions are to be aristocratic in char-

[11] "For he who would learn to command well must, as men say, first of all learn to obey." *Ibid.*, Book VII, 1333a, p. 507. For the "monarchy" of the universe, however, see *Metaphysics*, Book XII (Λ). See W. W. Jaeger, *Aristotle: Fundamentals of the History of His Development.*

acter. This ideal form of government, which is best suited to states in general, he called the *polity*, or constitutional government.

Aristotle's Definition of a Constitution

A constitution, according to Aristotle, is "... the organization of offices in a state, and determines what is to be the governing body, and what is the end of each community." [12] He goes on to note, however, that "... laws are not to be confounded with the *principles* of the constitution; they are the rules according to which the magistrates should administer the state, and proceed against offenders." [13] (Italics are the authors'.)

Aristotle makes the further interesting point that in different types of states a good citizen is not always the same as a good man. For so complete is his identification of state with the organic subordination of citizens to functions, that he denies that a good citizen (who obeys well) is the same as the virtuous man of his *Ethics*. This little excursion, given at length in the Readings from Book 3 of the *Politics*, Chapter IV, shows what casuistry Aristotle could use. But his essential point is probably sound: citizenship is ordinarily judged in terms of the ends of the particular type of state.

Then he proceeds to describe in detail the forms of oligarchies and democracies; their organization in terms of legislative and what we now call executive functions; the conditions that bring about their overthrow; how each can best be ruled; and the different combinations that have been attempted in historical examples of city states. In order to arrive at his ideal constitutional state, he lays down the basic principle of his ethics: "if the happy life is the life according to virtue lived without impediment, and that virtue is a mean, then the life which is in a mean, and in a mean attainable by every one, must be the best." [14]

The Middle-Class, Balanced State—The Best Practical State

To apply this principle to the constitution is a simple matter, since "... the same principles of virtue and vice are characteristic of cities and of constitutions; for the constitution is in a figure the life of the city." [15] In the class analysis of the composition of the state, there are, according to Aristotle, the rich, the poor, and the middle class, which of course represents the mean. He points to the difficulties in following a rational principle that exist in both the very excellent and the very poor and

[12] *Ibid.*, Book IV, 1289a, p. 170.
[13] *Ibid.*
[14] *Ibid.*, 1295a, p. 190.
[15] *Ibid.*

weak. The great, indeed, grow, as he points out, "... into violent and great criminals, the others into rogues and petty rascals." [16] For this reason, the middle class "... is least likely to shrink from rule, or to be over-ambitious for it...." [17] In this state, the legislator must, of course, include the middle class in his government for the sake of stability. The middle class must share in all the offices and compose a check on the excesses natural to rule by either of the two other classes.

A Separation of Powers?

It is often contended, and rightly, that Aristotle does not envisage a separation of powers but rather a sharing of powers by these classes. At the same time, it should be noticed that he was the first to clearly point out that, "There is, firstly, one element which deliberates about public affairs; secondly, that concerned with the magistracies—the questions being, what they should be, over what they should exercise authority, and what should be the mode of electing to them; and thirdly, that which has judicial power." [18] This is, in a sense, the first clear mention of the differentiation if not the separation of powers which is later to play such a part in political theory. And although Aristotle believes that his ideal state should be composed by having the classes share in these powers and to some extent check each other, through them, in a well-developed theory of checks and balances, it is still true that he outlines the *functional* separation of *power* in a manner that later led to the political doctrine of the separation of *powers* as a means of preventing abuse through concentrating control of all offices in one organ or person.

Aristotle, in short, anticipates the thinking of the founding fathers of the American constitution both by his system of checks and balances and by his effort to provide stability through preventing a monopoly of power in the hands of any one class or group. It is the logic of a system which, in the last analysis, has something of the relation to the "universe in balance" ideas of physics which were current in the time of Aristotle just as much as they were in the time of Newton.

We tend to forget that the first atomists were those philosophers like Democritos and Leucippus, whose systems were later given such poetic formulation in Lucretius' *De Rerum Natura*. To Aristotle, as to all Greek philosophers from the time of Anaximander and Xenophanes, science formed a matrix for his ultimate metaphysics. But it was a science, unlike Plato's, in which already some struggle and evolution were immanent. Plato looked for a recapture of the divine harmony of the universe.

[16] *Ibid.*, 1295b, p. 190.
[17] *Ibid.*, 1295b, pp. 190-1.
[18] *Ibid.*, 1297b and 1298a, p. 198.

Aristotle saw in the universe itself the counter pulls as well as the harmonies of the heavenly bodies. He tried in his application of this doctrine to politics and to human nature to establish a sort of counterbalanced state that would allow for the inevitable forces of politics, including the interests of classes. The eternal wisdom of Aristotle consists in this insight into the nature of power and the methods of imposing internal limits upon it. His failure lies in the very nature of societies: How to apply that balance to the larger community of an inter-state or international order?

Stoic Philosophy as the Origin of Rights

Greek thought of this period was far from remaining fixed in the limits assigned to it by Plato and Aristotle. The Stoic philosophy, whose development we shall trace in its influence, particularly on Rome, was not contained within the narrow limits of the city state but found in *reason* a unifying power that was immanent in all mankind and was reflected in the natural law that underlay all human laws. The Stoic movement owes much to Zeno, Democritus, and even to the earlier Xenophanes. It carried further a doctrine of moral rights based on some aspects of the teaching of Socrates, which found a still further development in the school of the *Cynics*. This school, breaking with the whole ideal of the Greek city state, preached the brotherhood of man, a sort of universalism, or at least a cosmopolitanism, in politics. The later Cynics began to attribute to God the fatherhood from which human brotherhood might be derived. These doctrines of the Stoics and Cynics were spread by the Hellenization of Alexander's empire and its successors. The doctrines were naturally more fitting to that empire than to the empire of Rome. They had their origins in the imperialistic Periclean age of Athens, but they owed much to the influence from Eastern doctrines, especially those of Zoroaster. Cynic doctrines and neo-Platonism both played a part in shaping the doctrines of Christianity when Greek and Hebrew thought were joined in that broad stream. Out of Stoic and Christian thought comes the whole modern concept of the rights of human beings based on their essential brotherhood and moral dignity.

Christianity itself was a revolution against not only Jewish tribalism, with its doctrine of a tribal God, and its tribal aggressiveness, which had been shaped into ritualistic taboos by the Pharisees, for example; it was as well an appeal to the innate good and the ultimate moral responsibility of the human soul. It was in some measure also a revolt against the Greek racism of Aristotle and the aristocratic idealism of Plato, which led in Plato, at least, naturally to hierarchy and authoritarian states in the hands of the learned men—a sort of Brahminical class. As Popper

notes,[19] Christianity made its appeal to the simple in heart and to all men: "Thou hast hid these things from the wise and prudent and hast revealed them unto the babes." The struggle between the open and the closed societies, too, had its roots in Greek thought.

(... *W.Y.E.*)

READINGS

THAT Athens should produce within one century two of the greatest thinkers of all time never fails to stir the imagination of the student of man and his society. A consideration of this simple fact is sufficient answer to those who scoff at the relevance of Athenian experience and speculation. Aristotle was born in 384 B.C. and died in 322. By the time he died, nearly one hundred years had elapsed since the end of the Peloponnesian wars. Alexander the Great had reached the height of his conquests and had been dead for a year. The greatness and independence of Athens had passed into history.

Aristotle was an Ionian of Stagira, a city of Macedonia. His father was a doctor, a fact that may account for his son's great interest in biological subjects. At the age of seventeen, Aristotle became a student of Plato at the Academy in Athens, and there he remained until Plato's death twenty years later. He then spent about eight years away from Athens, and during some of this time he became a tutor to the future Alexander the Great. At Alexander's succession, Aristotle returned to Athens and started his own school in the Lyceum, where he taught until his death. His habit of walking while teaching gave the name "peripatetic" to the school. Most of the writings of Aristotle that we have were worked out as courses at the Lyceum; some are thought to be his notes, and others the notes taken by his students.

The works of Aristotle reflect a range of interest and concrete knowledge exceeding that of Plato, but Aristotle lacked the depth and poetic imagination of his teacher. That his range of knowledge and interest was encyclopedic may be gathered from a mere listing of the fields in which he wrote: logic, physics, biology, psychology, metaphysics, morals, political philosophy, and aesthetics. As Platonic philosophy dominated early Christian thought in the West, so Aristotle contributed to later Christian thought through the interpretation by Aquinas. According to Ernest Barker, "his ideas permeated medieval thought with a completeness which has rarely been attained by a single system of ideas in any culture." W. D. Ross places him in the great Ionian tradition of physics.

[19] *Op. cit.*, Vol. II, p. 21.

One of his great compilations was of 158 constitutions of governments past and present. Of these only one, the constitution of Athens, survives. Discovered late in the last century, it is doubtful "Aristotle." His *Politics* is one of the most important books on the subject, despite the fact that it is no unified treatise but apparently a compilation of fragments or notes written at different times. To Aristotle, as to all Greek thought, the state is natural and man is a political animal. Man can reach his highest development only within the state, and the state in turn is the highest expression of man. Others of his ideas that have influenced subsequent thought are his doctrines of the mean and of the supremacy of law, his concept of citizenship, his defense of property, his strictures on usury, which were taken over directly by the medieval Church, and his idea that the essential nature of a thing is determined by its end or purpose.

While we are here concerned primarily with Aristotle's ideas on the polity, it is important to note that his influence in other fields was as great or greater. In many ways he dominated all science and scientific method until the time of Bacon and Descartes. In addition to Aquinas, his medieval disciples included Dante and Marsilius of Padua. In medieval thought he is usually referred to as "the philosopher."

From Ethics to Politics

The following excerpts from Aristotle's NICHOMACHEAN ETHICS *show how a consideration of ethics leads to an examination of the state; that politics is an extension of ethical inquiry. The understanding of this relation is the key to an understanding of much of Greek thought about the state. Also included is the idea of the "mean," which is applied politically in the* POLITICS. ¶ *These selections are taken from the translation by D. P. Chase.*[1] *At the very beginning of Book I, Aristotle defines the "Chief Good."*

EVERY ART, AND EVERY SCIENCE REDUCED to a teachable form, and in like manner every action and moral choice, aims, it is thought, at some good. for which reason a common and by no means a bad description of the Chief Good is, "that which all things aim at."

Now there plainly is a difference in the Ends proposed. for in some cases they are acts of working, and in others certain works or tangible results beyond and beside the acts of working: and where there are certain Ends beyond and beside the actions, the works are in their nature better than the acts of working. Again,

[1] Taken from *Nichomachean Ethics*, by Aristotle, translated by D P Chase, published by E P Dutton & Co., Inc., New York, Everyman's Library.

since actions and arts and sciences are many, the Ends likewise come to be many: of the healing art, for instance, health; of the ship-building art, a vessel; of the military art, victory; and of domestic management, wealth; are respectively the Ends.

And whatever of such actions, arts, or sciences range under some one faculty (as under that of horsemanship the art of making bridles, and all that are connected with the manufacture of horse-furniture in general; this itself again, and every action connected with war, under the military art; and in the same way others under others), in all such, the Ends of the master-arts are more choice-worthy than those ranging under them, because it is with a view to the former that the latter are pursued.

(And in this comparison it makes no difference whether the acts of working are themselves the Ends of the actions, or something further beside them, as is the case in the arts and sciences we have been just speaking of.)

Since then of all things which may be done there is some one End which we desire for its own sake, and with a view to which we desire everything else; and since we do not choose in all instances with a further End in view (for then men would go on without limit, and so the desire would be unsatisfied and fruitless), this plainly must be the Chief Good, *i.e.* the best thing of all.

Surely then, even with reference to actual life and conduct, the knowledge of it must have great weight; and like archers, with a mark in view, we shall be more likely to hit upon what is right: and if so, we ought to try to describe, in outline at least, what it is and of which of the sciences and faculties it is the End.

Now one would naturally suppose it to be the End of that which is most commanding and most inclusive: and to this description, πολιτική [politics] plainly answers: for this it is that determines which of the sciences should be in the communities, and which kind individuals are to learn, and what degree of proficiency is to be required. Again; we see also ranging under this the most highly esteemed faculties, such as the art military, and that of domestic management, and Rhetoric. Well, then, since this uses all the other practical sciences, and moreover lays down rules as to what men are to do, and from what to abstain, the End of this must include the Ends of the rest, and so must be *The Good* of Man. And grant that this is the same to the individual and to the community, yet surely that of the latter is plainly greater and more perfect to discover and preserve: for to do this even for a single individual were a matter for contentment; but to do it for a whole nation, and for communities generally, were more noble and godlike....

[The "Mean"] [2]

We must observe then that all excellence makes that whereof it is the excellence both to be itself in a good state and to perform its work well. The excellence of the eye, for instance, makes both the eye good and its work also: for by the excellence of the eye we see well. So too the excellence of the horse makes a horse good, and good in speed, and in carrying his rider, and standing up against the enemy. If then this is universally the case, the excellence of Man, *i.e.* Virtue, must be a state whereby Man comes to be good and whereby he will perform well his proper work. Now how this shall be it is true we have said already, but still perhaps it may throw light on the subject to see what is its characteristic nature.

In all quantity then, whether continuous or discrete, one may take the greater part, the less, or the exactly equal, and these either with reference to the thing itself, or relatively to us: and the exactly equal is a mean between excess and defect. Now by the mean of the thing, *i.e.* absolute mean, I denote that which is equidistant from either extreme (which of

[2] Book II.

course is one and the same to all), and by the mean relatively to ourselves, that which is neither too much nor too little for the particular individual. This of course is not one nor the same to all: for instance, suppose ten is too much and two too little, people take six for the absolute mean; because it exceeds the smaller sum by exactly as much as it is itself exceeded by the larger, and this mean is according to arithmetical proportion.

But the mean relatively to ourselves must not be so found; for it does not follow, supposing ten minæ is too large a quantity to eat and two too small, that the trainer will order his man six; because for the person who is to take it this also may be too much or too little: for Milo it would be too little, but for a man just commencing his athletic exercises too much: similarly too of the exercises themselves, as running or wrestling.

So then it seems every one possessed of skill avoids excess and defect, but seeks for and chooses the mean, not the absolute but the relative.

Now if all skill thus accomplishes well its work by keeping an eye on the mean, and bringing the works to this point (whence it is common enough to say of such works as are in a good state, "one cannot add to or take ought from them," under the notion of excess or defect destroying goodness but the mean state preserving it), and good artisans, as we say, work with their eye on this, and excellence, like nature, is more exact and better than any art in the world, it must have an aptitude to aim at the mean.

It is moral excellence, *i.e.* Virtue, of course which I mean, because this it is which is concerned with feelings and actions, and in these there can be excess and defect and the mean: it is possible, for instance, to feel the emotions of fear, confidence, lust, anger, compassion, and pleasure and pain generally, too much or too little, and in either case wrongly; but to feel them when we ought, on what occasions, towards whom, why, and as, we should do, is the mean, or in other words the best state, and this is the property of Virtue.

In like manner too with respect to the actions, there may be excess and defect and the mean. Now Virtue is concerned with feelings and actions, in which the excess is wrong and the defect is blamed but the mean is praised and goes right; and both these circumstances belong to Virtue. Virtue then is in a sense a mean state, since it certainly has an aptitude for aiming at the mean.

Again, one may go wrong in many different ways (because, as the Pythagoreans expressed it, evil is of the class of the infinite, good of the finite), but right only in one; and so the former is easy, the latter difficult; easy to miss the mark, but hard to hit it: and for these reasons, therefore, both the excess and defect belong to Vice, and the mean state to Virtue; for, as the poet has it,

> "Men may be bad in many ways
> But good in one alone."

Virtue then is "a state apt to exercise deliberate choice, being in the relative mean, determined by reason, and as the man of practical wisdom would determine."

It is a middle state between two faulty ones, in the way of excess on one side and of defect on the other: and it is so moreover, because the faulty states on one side fall short of, and those on the other exceed, what is right, both in the case of the feelings and the actions; but Virtue finds, and when found adopts, the mean.

And so, viewing it in respect of its essence and definition, Virtue is a mean state; but in reference to the chief good and to excellence it is the highest state possible.

But it must not be supposed that every action or every feeling is capable of subsisting in this mean state, because some there are which are so named as immediately to convey the notion of badness, as malevolence, shamelessness, envy; or, to instance in actions, adultery, theft, homicide; for all these and suchlike are

blamed because they are in themselves bad, not the having too much or too little of them.

In these then you never can go right, but must always be wrong: nor in such does the right or wrong depend on the selection of a proper person, time, or manner (take adultery for instance), but simply doing any one soever of those things is being wrong.

You might as well require that there should be determined a mean state, an excess and a defect in respect of acting unjustly, being cowardly, or giving up all control of the passions: for at this rate there will be of excess and defect a mean state; of excess, excess; and of defect, defect.

But just as of perfected self-mastery and courage there is no excess and defect, because the mean is in one point of view the highest possible state, so neither of those faulty states can you have a mean state, excess, or defect, but howsoever done they are wrong: you cannot, in short, have of excess and defect a mean state, nor of a mean state excess and defect.

. . . . .

[*The selection from Book X that follows shows clearly that for Aristotle the study of politics is a continuation of the study of ethics: a consideration of the highest good leads directly to a study of the polity. His ideas may be usefully compared to the treatment of the same theme by his master, Plato, especially in the* PROTAGORAS.]

[PRELUDE TO CONSIDERATION OF POLITY] [3]

So Happiness must be a kind of Contemplative Speculation; but since it is Man we are speaking of he will need likewise External Prosperity, because his Nature is not by itself sufficient for Speculation, but there must be health of body, and nourishment, and tendance of all kinds.

However, it must not be thought, because without external goods a man cannot enjoy high Happiness, that therefore he will require many and great goods in order to be happy: for neither Self-sufficiency, nor Action, stand in Excess, and it is quite possible to act nobly without being ruler of sea and land, since even with moderate means a man may act in accordance with Virtue.

And this may be clearly seen in that men in private stations are thought to act justly, not merely no less than men in power but even more: it will be quite enough that just so much should belong to a man as is necessary, for his life will be happy who works in accordance with Virtue.

Solon perhaps drew a fair picture of the Happy, when he said that they are men moderately supplied with external goods, and who have achieved the most noble deeds, as he thought, and who have lived with perfect self-mastery: for it is quite possible for men of moderate means to act as they ought.

Anaxagoras also seems to have conceived of the Happy man not as either rich or powerful, saying that he should not wonder if he were accounted a strange man in the judgment of the multitude: for they judge by outward circumstances of which alone they have any perception.

And thus the opinions of the Wise seem to be accordant with our account of the matter: of course such things carry some weight, but truth, in matters of moral action, is judged from facts and from actual life, for herein rests the decision. So what we should do is to examine the preceding statements by referring them to facts and to actual life, and when they harmonise with facts we may accept them, when they are at variance with them conceive of them as mere theories.

Now he that works in accordance with, and pays observance to, Pure Intellect, and tends this, seems likely to be both in the best frame of mind and dearest to the Gods: because if, as is thought, any

[3] Book X, Chapter VIII.

care is bestowed on human things by the Gods then it must be reasonable to think that they take pleasure in what is best and most akin to themselves (and this must be the Pure Intellect); and that they requite with kindness those who love and honour this most, as paying observance to what is dear to them, and as acting rightly and nobly. And it is quite obvious that the man of Science chiefly combines all these: he is therefore dearest to the Gods, and it is probable that he is at the same time most Happy.

Thus then on this view also the man of Science will be most Happy.

CHAPTER IX

Now then that we have said enough in our sketchy kind of way on these subjects; I mean, on the Virtues, and also on Friendship and Pleasure; are we to suppose that our original purpose is completed? Must we not rather acknowledge, what is commonly said, that in matters of moral action mere Speculation and Knowledge is not the real End but rather Practice: and if so, then neither in respect of Virtue is Knowledge enough; we must further strive to have and exert it, and take whatever other means there are of becoming good.

Now if talking and writing were of themselves sufficient to make men good, they would justly, as Theognis observes, have reaped numerous and great rewards, and the thing to do would be to provide them: but in point of fact, while they plainly have the power to guide and stimulate the generous among the young and to base upon true virtuous principle any noble and truly high-minded disposition, they as plainly are powerless to guide the mass of men to Virtue and goodness; because it is not their nature to be amenable to a sense of shame but only to fear; nor to abstain from what is low and mean because it is disgraceful to do it but because of the punishment attached to it: in fact, as they live at the beck and call of passion, they pursue their own proper pleasures and the means of securing them, and they avoid the contrary pains; but as for what is noble and truly pleasurable they have not an idea of it, inasmuch as they have never tasted of it.

Men such as these then what mere words can transform? No, indeed! it is either actually impossible, or a task of no mean difficulty, to alter by words what has been of old taken into men's very dispositions: and, it may be, it is a ground for contentment if with all the means and appliances for goodness in our hands we can attain to Virtue.

The formation of a virtuous character some ascribe to Nature, some to Custom, and some to Teaching. Now Nature's part, be it what it may, obviously does not rest with us; but belongs to those who in the truest sense are fortunate, by reason of certain divine agency.

Then, as for Words and Precept, they, it is to be feared, will not avail with all; but it may be necessary for the mind of the disciple to have been previously prepared for liking and disliking as he ought; just as the soil must, to nourish the seed sown. For he that lives in obedience to passion cannot hear any advice that would dissuade him, nor, if he heard, understand: now him that is thus how can one reform? In fact, generally, passion is not thought to yield to Reason but to brute force. So then there must be, to begin with, a kind of affinity to Virtue in the disposition; which must cleave to what is honourable and loathe what is disgraceful. But to get right guidance towards Virtue from the earliest youth is not easy unless one is brought up under laws of such kind; because living with self-mastery and endurance is not pleasant to the mass of men, and specially not to the young. For this reason the food, and manner of living generally, ought to be the subject of legal regulation, because things when become habitual will not be disagreeable.

Yet perhaps it is not sufficient that men while young should get right food and tendance, but, inasmuch as they will have

to practise and become accustomed to certain things even after they have attained to man's estate, we shall want laws on these points as well, and, in fine, respecting one's whole life, since the mass of men are amenable to compulsion rather than Reason, and to punishment rather than to a sense of honour.

And therefore some men hold that while lawgivers should employ the sense of honour to exhort and guide men to Virtue, under the notion that they will then obey who have been well trained in habits; they should impose chastisement and penalties on those who disobey and are of less promising nature; and the incurable expel entirely: because the good man and he who lives under a sense of honour will be obedient to reason; and the baser sort, who grasp at pleasure, will be kept in check, like beasts of burthen by pain. *Therefore also they say that the* pains should be such as are most contrary to the pleasures which are liked.

As has been said already, he who is to be good must have been brought up and habituated well, and then live accordingly under good institutions, and never do what is low and mean, either against or with his will. Now these objects can be attained only by men living in accordance with some guiding Intellect and right order, with power to back them.

As for the Paternal Rule, it possesses neither strength nor compulsory power, nor in fact does the Rule of any one man, unless he is a king or some one in like case: but the Law has power to compel, since it is a declaration emanating from Practical Wisdom and Intellect. And people feel enmity towards their fellow-men who oppose their impulses, however rightly they may do so: the Law, on the contrary, is not the object of hatred, though enforcing right rules.

The Lacedæmonian is nearly the only State in which the framer of the Constitution has made any provision, it would seem, respecting the food and manner of living of the people: in most States these points are entirely neglected, and each man lives just as he likes, ruling his wife and children Cyclops-Fashion.

Of course, the best thing would be that there should be a right Public System and that we should be able to carry it out: but, since as a public matter those points are neglected, the duty would seem to devolve upon each individual to contribute to the cause of Virtue with his own children and friends, or at least to make this his aim and purpose: and this, it would seem, from what has been said, he will be best able to do by making a Legislator of himself: since all public systems, it is plain, are formed by the instrumentality of laws and those are good which are formed by that of good laws: whether they are written or unwritten, whether they are applied to the training of one or many, will not, it seems, make any difference, just as it does not in music, *gymnastics, or any other such accomplish*ments, which are gained by practice.

For just as in Communities laws and customs prevail, so too in families the express commands of the Head, and customs also: and even more in the latter, because of blood-relationship and the benefits conferred: for there you have, to begin with, people who have affection and are naturally obedient to the authority which controls them.

Then, furthermore, Private training has advantages over Public, as in the case of the healing art: for instance, as a general rule, a man who is in a fever should keep quiet, and starve; but in a particular case, perhaps, this may not hold good; or, to take a different illustration, the boxer will not use the same way of fighting with all antagonists.

It would seem then that the individual will be most exactly attended to under Private care, because so each will be more likely to obtain what is expedient for him. Of course, whether in the art of healing, or gymnastics, or any other, a man will treat individual cases the better for being acquainted with general rules; as, "that so and so is good for all, or for men in such and such cases:" be-

cause general maxims are not only said to be but are the object-matter of sciences: still this is no reason against the possibility of a man's taking excellent care of some *one* case, though he possesses no scientific knowledge but from experience is exactly acquainted with what happens in each point; just as some people are thought to doctor themselves best though they would be wholly unable to administer relief to others. Yet it may seem to be necessary nevertheless, for one who wishes to become a real artist and well acquainted with the theory of his profession, to have recourse to general principles and ascertain all their capacities: for we have already stated that these are the object-matter of sciences.

If then it appears that we may become good through the instrumentality of laws, of course whoso wishes to make men better by a system of care and training must try to make a Legislator of himself; for to treat skilfully just any one who may be put before you is not what any ordinary person can do, but, if any one, he who has knowledge; as in the healing art, and all others which involve careful practice and skill.

Will not then our next business be to inquire from what sources, or how one may acquire this faculty of Legislation; or shall we say, that, as in similar cases, Statesmen are the people to learn from, since this faculty was thought to be a part of the Social Science? Must we not admit that the Political Science plainly does not stand on a similar footing to that of other sciences and faculties? I mean, that while in all other cases those who impart the faculties and themselves exert them are identical (physicians and painters for instance) matters of Statesmanship the Sophists profess to teach, but not one of them practises it, that being left to those actually engaged in it: and these might really very well be thought to do it by some singular knack and by mere practice rather than by any intellectual process: for they neither write nor speak on these matters (though it might be more to their credit than composing speeches for the courts or the assembly), nor again have they made Statesmen of their own sons or their friends.

One can hardly suppose but that they would have done so if they could, seeing that they could have bequeathed no more precious legacy to their communities, nor would they have preferred, for themselves or their dearest friends, the possession of any faculty rather than this.

Practice, however, seems to contribute no little to its acquisition; merely breathing the atmosphere of politics would never have made Statesmen of them, and therefore we may conclude that they who would acquire a knowledge of Statesmanship must have in addition practice.

But of the Sophists they who profess to teach it are plainly a long way off from doing so: in fact, they have no knowledge at all of its nature and objects; if they had, they would never have put it on the same footing with Rhetoric or even on a lower: neither would they have conceived it to be "an easy matter to legislate by simply collecting such laws as are famous because of course one could select the best," as though the selection were not a matter of skill, and the judging aright a very great matter, as in Music: for they alone, who have practical knowledge of a thing, can judge the performances rightly or understand with what means and in what way they are accomplished, and what harmonises with what: the unlearned must be content with being able to discover whether the result is good or bad, as in painting.

Now laws may be called the performances or tangible results of Political Science; how then can a man acquire from these the faculty of Legislation, or choose the best? We do not see men made physicians by compilations: and yet in these treatises men endeavour to give not only the cases but also how they may be cured, and the proper treatment in each case, dividing the various bodily habits. Well, these are thought to be useful to professional men, but to the unprofes-

sional useless. In like manner it may be that collections of laws and Constitutions would be exceedingly useful to such as are able to speculate on them, and judge what is well, and what ill, and what kind of things fit in with what others: but they who without this qualification should go through such matters cannot have right judgment, unless they have it by instinct, though they may become more intelligent in such matters.

Since then those who have preceded us have left uninvestigated the subject of Legislation, it will be better perhaps for us to investigate it ourselves, and, in fact, the whole subject of Polity that thus what we may call Human Philosophy may be completed as far as in us lies.

First then, let us endeavour to get whatever fragments of good there may be in the statements of our predecessors; next, from the Polities we have collected, ascertain what kind of things preserve or destroy Communities, and what, particular Constitutions; and the cause why some are well and others ill managed, for after such inquiry, we shall be the better able to take a concentrated view as to what kind of Constitution is best, what kind of regulations are best for each, and what laws and customs.

To this let us now proceed.

The Ideal, Actual, and Possible in Politics

In presenting the selections from the POLITICS, *the authors have attempted to summarize omitted chapters and books, in order to provide the student with a quick reference to Aristotle's treatment of omitted topics.* POLITICS *is not a single unified treatise, and no arranging and editing will make it one. There is disagreement among the experts as to the best arrangement of the books. The one followed here is the traditional one. The selection is taken from the translation by William Ellis,*[1] *beginning with a dissertation on Political Society in the first lines of Book I, Chapter I.*

AS WE SEE THAT EVERY CITY IS A SOCIETY, and every society is established for some good purpose; for an apparent good is the spring of all human actions; it is evident that this is the principle upon which they are every one founded, and this is more especially true of that which has for its object the best possible, and is itself the most excellent, and comprehends all the rest. Now this is called a city, and the society thereof a political society; for those who think that the principles of a political, a regal, a family, and a herile government are the same are mistaken, while they suppose that each of these differ in the numbers to whom their power extends, but not in their constitution: so that with them a herile government is one composed of a very few, a domestic of more, a civil and a regal of still more, as if there was no difference between a large family and a small city, or that a regal government and a political one are the same, only that in the one a single person is continually at the head of public affairs; in the other, that each member of the state has in his turn a share in the government, and is at one time a magistrate, at another a private person, according to the rules of political

[1] Taken from *Politics,* by Aristotle, translated by William Ellis, published by E. P. Dutton & Co., Inc., New York, Everyman's Library.

science. But now this is not true, as will be evident to any one who will consider this question in the most approved method. As, in an inquiry into every other subject, it is necessary to separate the different parts of which it is compounded, till we arrive at their first elements, which are the most minute parts thereof; so by the same proceeding we shall acquire a knowledge of the primary parts of a city and see wherein they differ from each other, and whether the rules of art will give us any assistance in examining into each of these things which are mentioned.

CHAPTER II

[Principle of Ruling]

Now if in this particular science any one would attend to its original seeds, and their first shoot, he would then as in others have the subject perfectly before him; and perceive, in the first place, that it is requisite that those should be joined together whose species cannot exist without each other, as the male and the female, for the business of propagation; and this not through choice, but by that natural impulse which acts both upon plants and animals also, for the purpose of their leaving behind them others like themselves. It is also from natural causes that some beings command and others obey, that each may obtain their mutual safety; for a being who is endowed with a mind capable of reflection and forethought is by nature the superior and governor, whereas he whose excellence is merely corporeal is formed to be a slave; whence it follows that the different state of master and slave is equally advantageous to both. But there is a natural difference between a female and a slave: for nature is not like the artists who make the Delphic swords for the use of the poor, but for every particular purpose she has her separate instruments, and thus her ends are most complete, for whatsoever is employed on one subject only, brings that one to much greater perfection than when employed on many; and yet among the barbarians, a female and a slave are upon a level in the community, the reason for which is, that amongst them there are none qualified by nature to govern, therefore their society can be nothing but between slaves of different sexes. For which reason the poets say, it is proper for the Greeks to govern the barbarians, as if a barbarian and a slave were by nature one.

Now of these two societies the domestic is the first, and Hesiod is right when he says, "First a house, then a wife, then an ox for the plough," for the poor man has always an ox before a household slave. That society then which nature has established for daily support is the domestic, and those who compose it are called by Charondas ὁμοσίπυοι, and by Epimenides the Cretan ὁμόκαπνοι; but the society of many families, which was first instituted for their lasting, mutual advantage, is called a village, and a village is most naturally composed of the descendants of one family, whom some persons call ὁμογάλακτες, the children and the children's children thereof: for which reason cities were originally governed by kings, as the barbarian states now are, which are composed of those who had before submitted to kingly government; for every family is governed by the elder, as are the branches thereof, on account of their relationship thereunto, which is what Homer says, "Each one ruled his wife and child;" and in this scattered manner they formerly lived. And the opinion which universally prevails, that the gods themselves are subject to kingly government, arises from hence, that all men formerly were, and many are so now; and as they imagined themselves to be made in the likeness of the gods, so they supposed their manner of life must needs be the same.

And when many villages so entirely join themselves together as in every respect to form but one society, that society is a city, and contains in itself, if I may so speak, the end and perfection of govern-

ment: first founded that we might live, but continued that we may live happily. For which reason every city must be allowed to be the work of nature, if we admit that the original society between male and female is; for to this as their end all subordinate societies tend, and the end of everything is the nature of it. For what every being is in its most perfect state, that certainly is the nature of that being, whether it be a man, a horse, or a house: besides, whatsoever produces the final cause and the end which we desire, must be best; but a government complete in itself is that final cause and what is best. Hence it is evident that a city is a natural production, and that man is naturally a political animal, and that whosoever is naturally and not accidentally unfit for society, must be either inferior or superior to man: thus the man in Homer, who is reviled for being "without society, without law, without family." Such a one must naturally be of a quarrelsome disposition, and as solitary as the birds. The gift of speech also evidently proves that man is a more social animal than the bees, or any of the herding cattle: for nature, as we say, does nothing in vain, and man is the only animal who enjoys it. Voice indeed, as being the token of pleasure and pain, is imparted to others also, and thus much their nature is capable of, to perceive pleasure and pain, and to impart these sensations to others; but it is by speech that we are enabled to express what is useful for us, and what is hurtful, and of course what is just and what is unjust: for in this particular man differs from other animals, that he alone has a perception of good and evil, of just and unjust, and it is a participation of these common sentiments which forms a family and a city.

Besides, the notion of a city naturally precedes that of a family or an individual, for the whole must necessarily be prior to the parts; for if you take away the whole man, you cannot say a foot or a hand remains, unless by equivocation, as supposing a hand of stone to be made, but that would only be a dead one; but everything is understood to be this or that by its energic qualities and powers, so that when these no longer remain, neither can that be said to be the same, but something of the same name. That a city then precedes an individual is plain, for if an individual is not in himself sufficient to compose a perfect government, he is to a city as other parts are to a whole; but he that is incapable of society, or so complete in himself as not to want it, makes no part of a city, as a beast or a god. There is then in all persons a natural impetus to associate with each other in this manner, and he who first founded civil society was the cause of the greatest good; for as by the completion of it man is the most excellent of all living beings, so without law and justice he would be the worst of all, for nothing is so difficult to subdue as injustice in arms: but these arms man is born with, namely, prudence and valour, which he may apply to the most opposite purposes, for he who abuses them will be the most wicked, the most cruel, the most lustful, and most gluttonous being imaginable; for justice is a political virtue, by the rules of it the state is regulated, and these rules are the criterion of what is right.

[*Chapter III deals with the elements of the household. The principal relations are those of master and slave, husband and wife, and parent and child. The matter of providing what is necessary for the household will be considered separately.* ¶ *Chapter IV treats of the nature of property and the slave as property. Slaves are like other property because they are an instrument of their master.*]

CHAPTER V

[NATURAL SLAVERY]

But whether any person is such by nature, and whether it is advantageous and just for any one to be a slave or no, or whether

all slavery is contrary to nature, shall be considered hereafter; not that it is difficult to determine it upon general principles, or to understand it from matters of fact; for that some should govern, and others be governed, is not only necessary but useful, and from the hour of their birth some are marked out for those purposes, and others for the other, and there are many species of both sorts. And the better those are who are governed the better also is the government, as for instance of man, rather than the brute creation: for the more excellent the materials are with which the work is finished, the more excellent certainly is the work; and wherever there is a governor and a governed, there certainly is some work produced; for whatsoever is composed of many parts, which jointly become one, whether conjunct or separate, evidently show the marks of governing and governed; and this is true of every living thing in all nature; nay, even in some things which partake not of life, as in music; but this probably would be a disquisition too foreign to our present purpose.

Every living thing in the first place is composed of soul and body, of these the one is by nature the governor, the other the governed; now if we would know what is natural, we ought to search for it in those subjects in which nature appears most perfect, and not in those which are corrupted; we should therefore examine into a man who is most perfectly formed both in soul and body, in whom this is evident, for in the depraved and vicious the body seems to rule rather than the soul, on account of their being corrupt and contrary to nature.

We may then, as we affirm, perceive in an animal the first principles of herile and political government; for the soul governs the body as the master governs his slave; the mind governs the appetite with a political or a kingly power, which shows that it is both natural and advantageous that the body should be governed by the soul, and the pathetic part by the mind, and that part which is possessed of reason; but to have no ruling power, or an improper one, is hurtful to all; and this holds true not only of man, but of other animals also, for tame animals are naturally better than wild ones, and it is advantageous that both should be under subjection to man; for this is productive of their common safety: so is it naturally with the male and the female; the one is superior, the other inferior; the one governs, the other is governed; and the same rule must necessarily hold good with respect to all mankind.

Those men therefore who are as much inferior to others as the body is to the soul, are to be thus disposed of, as the proper use of them is their bodies, in which their excellence consists; and if what I have said be true, they are slaves by nature, and it is advantageous to them to be always under government. He then is by nature formed a slave who is qualified to become the chattel of another person, and on that account is so, and who has just reason enough to know that there is such a faculty, without being indued with the use of it; for other animals have no perception of reason, but are entirely guided by appetite, and indeed they vary very little in their use from each other; for the advantage which we receive, both from slaves and tame animals, arises from their bodily strength administering to our necessities; for it is the intention of nature to make the bodies of slaves and freemen different from each other, that the one should be robust for their necessary purposes, the others erect, useless indeed for what slaves are employed in, but fit for civil life, which is divided into the duties of war and peace; though these rules do not always take place, for slaves have sometimes the bodies of freemen, sometimes the souls; if then it is evident that if some bodies are as much more excellent than others as the statues of the gods excel the human form, every one will allow that the inferior ought to be slaves to the superior; and

if this is true with respect to the body, it is still juster to determine in the same manner, when we consider the soul; though it is not so easy to perceive the beauty of the soul as it is of the body. Since then some men are slaves by nature, and others are freemen, it is clear that where slavery is advantageous to any one, then it is just to make him a slave.

[*Chapter VI asserts that the superiority of some men over others justifies natural slavery. Natural slavery is distinguished from slavery that rests merely on law or force. Chapter VII outlines the function of slaves, and Chapter VIII begins the discussion of property. Some property is given by nature. One form of the acquisition of property is part of the household administration, that is, acquiring food and other necessities, and there is a limit to such acquisition.*]

CHAPTER IX

[Use and Exchange Value]

There is also another species of acquisition which they particularly call pecuniary, and with great propriety; and by this indeed it seems that there are no bounds to riches and wealth. Now many persons suppose, from their near relation to each other, that this is one and the same with that we have just mentioned, but it is not the same as that, though not very different; one of these is natural, the other is not, but rather owing to some art and skill; we will enter into a particular examination of this subject.

The uses of every possession are two, both dependent upon the thing itself, but not in the same manner, the one supposing an inseparable connection with it, the other not; as a shoe, for instance, which may be either worn, or exchanged for something else, both these are the uses of the shoe; for he who exchanges a shoe with some man who wants one, for money or provisions, uses the shoe as a shoe, but not according to the original intention, for shoes were not at first made to be exchanged. The same thing holds true of all other possessions; for barter, in general, had its original beginning in nature, some men having a surplus, others too little of what was necessary for them: hence it is evident, that the selling provisions for money is not according to the natural use of things; for they were obliged to use barter for those things which they wanted; but it is plain that barter could have no place in the first, that is to say, in family society; but must have begun when the number of those who composed the community was enlarged: for the first of these had all things in common; but when they came to be separated they were obliged to exchange with each other many different things which both parties wanted. Which custom of barter is still preserved amongst many barbarous nations, who procure one necessary with another, but never sell anything; as giving and receiving wine for corn and the like.

This sort of barter is not contradictory to nature, nor is it any species of money-getting; but is necessary in procuring that subsistence which is so consonant thereunto. But this barter introduced the use of money, as might be expected; for a convenient place from whence to import what you wanted, or to export what you had a surplus of, being often at a great distance, money necessarily made its way into commerce; for it is not everything which is naturally most useful that is easiest of carriage; for which reason they invented something to exchange with each other which they should mutually give and take, that being really valuable itself, should have the additional advantage of being of easy conveyance, for the purposes of life, as iron and silver, or anything else of the same nature: and this at first passed in value simply according to its weight or size; but in process of time it had a certain stamp, to save the trouble of weighing, which stamp expressed its value.

Money then being established as the

necessary medium of exchange, another species of money-getting soon took place, namely, by buying and selling, at probably first in a simple manner, afterwards with more skill and experience, where and how the greatest profits might be made. For which reason the art of money-getting seems to be chiefly conversant about trade, and the business of it to be able to tell where the greatest profits can be made, being the means of procuring abundance of wealth and possessions: and thus wealth is very often supposed to consist in the quantity of money which any one possesses, as this is the medium by which all trade is conducted and a fortune made, others again regard it as of no value, as being of none by nature, but arbitrarily made so by compact; so that if those who use it should alter their sentiments, it would be worth nothing, as being of no service for any necessary purpose. Besides, he who abounds in money often wants necessary food; and it is impossible to say that any person is in good circumstances when with all his possessions he may perish with hunger. Like Midas in the fable, who from his insatiable wish had everything he touched turned into gold. For which reason others endeavour to procure other riches and other property, and rightly, for there are other riches and property in nature; and these are the proper objects of economy: while trade only procures money, not by all means, but by the exchange of it, and for that purpose it is this which it is chiefly employed about, for money is the first principle and the end of trade; nor are there any bounds to be set to what is thereby acquired.

Thus also there are no limits to the art of medicine, with respect to the health which it attempts to procure; the same also is true of all other arts; no line can be drawn to terminate their bounds, the several professors of them being desirous to extend them as far as possible. (But still the means to be employed for that purpose are limited; and these are the limits beyond which the art cannot proceed.) Thus in the art of acquiring riches there are no limits, for the object of that is money and possessions; but economy has a boundary, though this has not: for acquiring riches is not the business of that, for which reason it should seem that some boundary should be set to riches, though we see the contrary to this is what is practised; for all those who get riches add to their money without end; the cause of which is the near connection of these two arts with each other, which sometimes occasions the one to change employments with the other, as getting of money is their common object: for economy requires the possession of wealth, but not on its own account but with another view, to purchase things necessary therewith; but the other procures it merely to increase it: so that some persons are confirmed in their belief, that this is the proper object of economy, and think that for this purpose money should be saved and hoarded up without end; the reason for which disposition is, that they are intent upon living, but not upon living well; and this desire being boundless in its extent, the means which they aim at for that purpose are boundless also; and those who propose to live well, often confine that to the enjoyment of the pleasures of sense; so that as this also seems to depend upon what a man has, all their care is to get money, and hence arises the other cause for this art; for as this enjoyment is excessive in its degree, they endeavour to procure means proportionate to supply it; and if they cannot do this merely by the art of dealing in money, they will endeavour to do it by other ways, and apply all their powers to a purpose they were not by nature intended for. Thus, for instance, courage was intended to inspire fortitude, not to get money by; neither is this the end of the soldier's or the physician's art, but victory and health. But such persons make everything subservient to money-getting, as if this was the only end; and to the end everything ought to refer.

We have now considered that art of

money getting which is not necessary, and have seen in what manner we became in want of it, and also that which is necessary, which is different from it, for that economy which is natural, and whose object is to provide food, is not like this unlimited in its extent, but has its bounds

[*Chapter X says that there is a sense in which the head of a household and the ruler of a city each is responsible for the general material well being of his family or people, but they are not responsible for details The chapter concludes as follows*]

[USURY]

Now money making, as we say, being twofold, it may be applied to two purposes, the service of the house or retail trade of which the first is necessary and commendable, the other justly censurable, for it has not its origin in nature, but by it men gain from each other, for usury is most reasonably detested, as it is increasing our fortune by money itself, and not employing it for the purpose it was originally intended, namely exchange

And this is the explanation of the name (τοκος), which means the breeding of money For as offspring resemble their parents, so usury is money bred of money Whence of all forms of money making it is most against nature

[*Chapter XI discusses the practical aspects of the art of money making and production Aristotle's views on usury may be more readily understood in the light of the high interest rates that prevailed in Athens at the time Twelve per cent was regarded as a normal rate In Chapter XII, Aristotle studies marriage and the part that children take in the household system He distinguishes between the rule of a master over a family and the rule of a governor Chapter XIII stresses the non economic aspects of managing a household and the importance of moral goodness*

¶ *The first four chapters of Book II provide a rather detailed criticism of Plato's scheme of communism as outlined in Book V of the* REPUBLIC *The gist of Aristotle's criticism is that Plato strives for unity through uniformity and does not sufficiently recognize the existence of differences between people and between their contributions to the life of the state. Individual interest, Aristotle maintains, is necessary to self development and personality The community of wives, he believes, will produce disunity, and the plans for permitting children of the lower class to enter the guardian class he thinks unworkable*]

CHAPTER V

[ON PLATO'S PROPERTY]

We proceed next to consider in what manner property should be regulated in a state which is formed after the most perfect mode of government, whether it should be common or not, for this may be considered as a separate question from what had been determined concerning wives and children, I mean, whether it is better that these should be held separate, as they now everywhere are, or that not only possessions but also the usufruct of them should be in common, or that the soil should have a particular owner, but that the produce should be brought together and used as one common stock, as some nations at present do, or on the contrary should the soil be common, and should it also be cultivated in common, while the produce is divided amongst the individuals for their particular use, which is said to be practiced by some barbarians, or shall both the soil and the fruit be common? When the business of the husbandman devolves not on the citizen, the matter is much easier settled but when those labour together who have a common right of possession, this may occasion several difficulties for there may not be an equal proportion between their labour and what they consume, and those who labour hard

and have but a small proportion of the produce, will certainly complain of those who take a large share of it and do but little for that. Upon the whole, as a community between man and man so entire as to include everything possible, and thus to have all things that man can possess in common, is very difficult, so is it particularly so with respect to property; and this is evident from that community which takes place between those who go out to settle a colony; for they frequently have disputes with each other upon the most common occasions, and come to blows upon trifles: we find, too, that we oftenest correct those slaves who are generally employed in the common offices of the family: a community of property then has these and other inconveniences attending it.

But the manner of life which is now established, more particularly when embellished with good morals and a system of equal laws, is far superior to it, for it will have the advantage of both; by both I mean properties being common, and divided also; for in some respects it ought to be in a manner common, but upon the whole private: for every man's attention being employed on his own particular concerns, will prevent mutual complaints against each other; nay, by this means industry will be increased, as each person will labour to improve his own private property; and it will then be, that from a principle of virtue they will mutually perform good offices to each other, according to the proverb, "All things are common amongst friends;" and in some cities there are traces of this custom to be seen, so that it is not impracticable, and particularly in those which are best governed; some things are by this means in a manner common, and others might be so; for there, every person enjoying his own private property, some things he assists his friend with, others are considered as in common; as in Lacedæmon, where they use each other's slaves, as if they were, so to speak, their own, as they do their horses and dogs, or even any provision they may want in a journey.

[Private Property and Common Use]

It is evident then that it is best to have property private, but to make the use of it common; but how the citizens are to be brought to it is the particular business of the legislator. And also with respect to pleasure, it is unspeakable how advantageous it is, that a man should think he has something which he may call his own; for it is by no means to no purpose, that each person should have an affection for himself, for that is natural, and yet to be a self-lover is justly censured; for we mean by that, not one that simply loves himself, but one that loves himself more than he ought; in like manner we blame a money-lover, and yet both money and self is what all men love. Besides, it is very pleasing to us to oblige and assist our friends and companions, as well as those whom we are connected with by the rights of hospitality; and this cannot be done without the establishment of private property, which cannot take place with those who make a city too much one; besides, they prevent every opportunity of exercising two principal virtues, modesty and liberality. Modesty with respect to the female sex, for this virtue requires you to abstain from her who is another's; liberality, which depends upon private property, for without that no one can appear liberal, or do any generous action; for liberality consists in imparting to others what is our own.

[Vices of Mankind]

This system of polity does indeed recommend itself by its good appearance and specious pretences to humanity; and when first proposed to any one, must give him great pleasure, as he will conclude it to be a wonderful bond of friendship, connecting all to all; particularly when any one censures the evils which are now to

be found in society, as arising from properties not being common, I mean the disputes which happen between man and man, upon their different contracts with each other; those judgments which are passed in court in consequence of fraud, and perjury, and flattering the rich, none of which arise from properties being private, but from the vices of mankind. Besides, those who live in one general community, and have all things in common, oftener dispute with each other than those who have their property separate; from the very small number indeed of those who have their property in common, compared with those where it is appropriated, the instances of their quarrels are but few. It is also but right to mention, not only the inconveniences they are preserved from who live in a communion of goods, but also the advantages they are deprived of; for when the whole comes to be considered, this manner of life will be found impracticable.

[The Limit of Unity]

We must suppose, then, that Socrates's mistake arose from the principle he set out with being false; we admit, indeed, that both a family and a city ought to be one in some particulars, but not entirely; for there is a point beyond which if a city proceeds in reducing itself to one, it will be no longer a city.

There is also another point at which it will still continue to be a city, but it will approach so near to not being one, that it will be worse than none; as if any one should reduce the voices of those who sing in concert to one, or a verse to a foot. But the people ought to be made one, and a community, as I have already said, by education; as property at Lacedæmon, and their public tables at Crete, were made common by their legislators. But yet, whosoever shall introduce any education, and think thereby to make his city excellent and respectable, will be absurd, while he expects to form it by such regulations, and not by manners, philosophy, and laws. And whoever would establish a government upon a community of goods, ought to know that he should consult the experience of many years, which would plainly enough inform him whether such a scheme is useful; for almost all things have already been found out, but some have been neglected, and others which have been known have not been put in practice. But this would be most evident, if any one could see such a government really established: for it would be impossible to frame such a city without dividing and separating it into its distinct parts, as public tables, wards, and tribes; so that here the laws will do nothing more than forbid the military to engage in agriculture, which is what the Lacedæmonians are at present endeavouring to do.

[Husbandman]

Nor has Socrates told us (nor is it easy to say) what plan of government should be pursued with respect to the individuals in the state where there is a community of goods established; for though the majority of his citizens will in general consist of a multitude of persons of different occupations, of those he has determined nothing; whether the property of the husbandman ought to be in common, or whether each person should have his share to himself; and also, whether their wives and children ought to be in common: for if all things are to be alike common to all, where will be the difference between them and the military, or what would they get by submitting to their government? And upon what principles would they do it, unless they should establish the wise practice of the Cretans? For they, allowing everything else to their slaves, forbid them only gymnastic exercises and the use of arms. And if they are not, but these should be in the same situation with respect to their property which they are in other cities, what sort of a community will there be? In one city there must of

necessity be two, and those contrary to each other, for he makes the military the guardians of the state, and the husbandman, artisans, and others, citizens, and all those quarrels, accusations, and things of the like sort, which he says are the bane of other cities, will be found in his also notwithstanding Socrates says they will not want many laws in consequence of their education, but such only as may be necessary for regulating the streets, the markets, and the like, while at the same time it is the education of the military only that he has taken any care of Besides, he makes the husbandmen masters of property upon paying a tribute, but this would be likely to make them far more troublesome and high spirited than the Helots, the Penestiæ, or the slaves which others employ nor has he ever determined whether it is necessary to give any attention to them in these particulars, nor thought of what is connected therewith, their polity, their education, their laws, besides, it is of no little consequence, nor is it easy to determine, how these should be framed so as to preserve the community of the military Besides, if he makes the wives common, while the property continues separate, who shall manage the domestic concerns with the same care which the man bestows upon his fields? Nor will the inconvenience be remedied by making property as well as wives common and it is absurd to draw a comparison from the brute creation, and say, that the same principle should regulate the connection of a man and a woman which regulates theirs amongst whom there is no family association.

[MAGISTRATES]

It is also very hazardous to settle the magistracy as Socrates has done, for he would have persons of the same rank always in office, which becomes the cause of sedition even amongst those who are of no account, but more particularly amongst those who are of a courageous and warlike disposition, it is indeed evidently necessary that he should frame his community in this manner, for that golden particle which God has mixed up in the soul of man flies not from one to the other, but always continues with the same, for he says, that some of our species have gold, and others silver, blended in their composition from the moment of their birth but those who are to be husbandmen and artists, brass and iron, besides, though he deprives the military of happiness, he says, that the legislator ought to make all the citizens happy, but it is impossible that the whole city can be happy, without all, or the greater, or some part of it be happy For happiness is not like that numerical equality which arises from certain numbers when added together, although neither of them may separately contain it for happiness cannot be thus added together, but must exist in individual, as some properties belong every integral and if the military are not happy who else are so? for the artisans are not, nor the multitude of those who are employed in inferior offices The state which Socrates has described has all these defects, and others which are not of less consequence.

[Chapters VI to XII include a criticism of Plato's LAWS *and its provision for property and population (VI), of a plan by Phaleas of Chalcedon for the equalization of property (VII), of Hippodamus of Miletus, who advocated dividing the state into three classes and having corresponding divisions of the territory and the laws of the state (VIII). In Chapter VIII, Aristotle also urges caution in change ¶ Beginning with Chapter IX and through the remainder of Book II, Aristotle examines some actual states First, Sparta (IX), which he criticizes especially, as had Plato, for its emphasis upon military strength; then, the Cretan constitution (X), which he compares on several points with that of Sparta. He next turns to the constitution of Carthage (XI), which he also compares with Sparta. He finds that*

Carthage attaches too much importance to wealth. In Chapter XII, Aristotle discusses the work of legislators, especially Solon, Draco, and Pittacus.]

BOOK III CHAPTER I

[Citizens]

Every one who inquires into the nature of government, and what are its different forms, should make this almost his first question, What is a city? For upon this there is a dispute: for some persons say the city did this or that, while others say, not the city, but the oligarchy, or the tyranny. We see that the city is the only object which both the politician and legislator have in view in all they do: but government is a certain ordering of those who inhabit a city. As a city is a collective thing, and, like other wholes, composed of many parts, it is evident our first inquiry must be, what a citizen is: for a city is a certain number of citizens. So that we must consider whom we ought to call citizen, and who is one; for this is often doubtful: for every one will not allow that this character is applicable to the same person; for that man who would be a citizen in a republic would very often not be one in an oligarchy. We do not include in this inquiry many of those who acquire this appellation out of the ordinary way, as honorary persons, for instance, but those only who have a natural right to it.

[A Complete Citizen]

Now it is not residence which constitutes a man a citizen; for in this sojourners and slaves are upon an equality with him; nor will it be sufficient for this purpose, that you have the privilege of the laws, and may plead or be impleaded, for this all those of different nations, between whom there is a mutual agreement for that purpose, are allowed; although it very often happens, that sojourners have not a perfect right therein without the protection of a patron, to whom they are obliged to apply, which shows that their share in the community is incomplete. In like manner, with respect to boys who are not yet enrolled, or old men who are past war, we admit that they are in some respects citizens, but not completely so, but with some exceptions, for these are not yet arrived to years of maturity, and those are past service; nor is there any difference between them. But what we mean is sufficiently intelligible and clear we want a complete citizen, one in whom there is no deficiency to be corrected to make him so. As to those who are banished, or infamous, there may be the same objections made and the same answer given. There is nothing that more characterises a complete citizen than having a share in the judicial and executive part of the government.

[Those Eligible for Office]

With respect to offices, some are fixed to a particular time, so that no person is, on any account, permitted to fill them twice; or else not till some certain period has intervened; others are not fixed, as a juryman's, and a member of the general assembly: but probably some one may say these are not offices, nor have the citizens in these capacities any share in the government; though surely it is ridiculous to say that those who have the principal power in the state bear no office in it. But this objection is of no weight, for it is only a dispute about words; as there is no general term which can be applied both to the office of a juryman and a member of the assembly. For the sake of distinction, suppose we call it an indeterminate office: but I lay it down as a maxim, that those are citizens who could exercise it. Such then is the description of a citizen who comes nearest to what all those who are called citizens are. Every one also should know, that of the component parts of those things which differ from each other in species, after

the first or second remove, those which follow have either nothing at all or very little common to each.

Now we see that governments differ from each other in their form, and that some of them are defective, others as excellent as possible: for it is evident, that those which have many deficiencies and degeneracies in them must be far inferior to those which are without such faults. What I mean by degeneracies will be hereafter explained. Hence it is clear that the office of a citizen must differ as governments do from each other: for which reason he who is called a citizen has, in a democracy, every privilege which that station supposes. In other forms of government he may enjoy them; but not necessarily: for in some states the people have no power; nor have they any general assembly, but a few select men.

[Citizen and City]

The trial also of different causes is allotted to different persons; as at Lacedæmon all disputes concerning contracts are brought before some of the ephori: the senate are the judges in cases of murder, and so on; some being to be heard by one magistrate, others by another: and thus at Carthage certain magistrates determine all causes. But our former description of a citizen will admit of correction; for in some governments the office of a juryman and a member of the general assembly is not an indeterminate one; but there are particular persons appointed for these purposes, some or all of the citizens being appointed jurymen or members of the general assembly, and this either for all causes and all public business whatsoever, or else for some particular one: and this may be sufficient to show what a citizen is; for he who has a right to a share in the judicial and executive part of government in any city, him we call a citizen of that place; and a city, in one word, is a collective body of such persons sufficient in themselves to all the purposes of life.

[Chapter II studies the relationship between birth and citizenship and the status of those upon whom rights of citizenship are conferred as a result of some upheaval such as revolution. In Chapter III Aristotle seeks to locate the seat of responsibility in the polity. The following selection starts in the midst of the inquiry.]

[Changes in the City]

...This, too, is a matter of inquiry, whether we shall say that a city is the same while it is inhabited by the same race of men, though some of them are perpetually dying, other coming into the world, as we say that a river or a fountain is the same, though the waters are continually changing; or when a revolution takes place shall we say the men are the same, but the city is different: for if a city is a community, it is a community of citizens; but if the mode of government should alter, and become of another sort, it would seem a necessary consequence that the city is not the same; as we regard the tragic chorus as different from the comic, though it may probably consist of the same performers: thus every other community or composition is said to be different if the species of composition is different; as in music the same hands produce different harmony, as the Doric and Phrygian. If this is true, it is evident, that when we speak of a city as being the same we refer to the government there established; and this, whether it is called by the same name or any other, or inhabited by the same men or different. But whether or no it is right to dissolve the community when the constitution is altered is another question.

CHAPTER IV

[Good Man and Good Citizen]

After what has been said, it follows that we should consider whether the same virtues which constitute a good man make

a valuable citizen, or different; and if a particular inquiry is necessary for this matter we must first give a general description of the virtues of a good citizen; for as a sailor is one of those who make up a community, so is a citizen, although the province of one sailor may be different from another's (for one is a rower, another a steersman, a third a boatswain, and so on, each having their several appointments), it is evident that the most accurate description of any one good sailor must refer to his peculiar abilities, yet there are some things in which the same description may be applied to the whole crew, as the safety of the ship is the common business of all of them, for this is the general centre of all their cares: so also with respect to citizens, although they may in a few particulars be very different, yet there is one care common to them all, the safety of the community, for the community of the citizens composes the state; for which reason the virtue of a citizen has necessarily a reference to the state. But if there are different sorts of governments, it is evident that those actions which constitute the virtue of an excellent citizen in one community will not constitute it in another; wherefore the virtue of such a one cannot be perfect: but we say, a man is good when his virtues are perfect; from whence it follows, that an excellent citizen does not possess that virtue which constitutes a good man. Those who are any ways doubtful concerning this question may be convinced of the truth of it by examining into the best formed states: for, if it is impossible that a city should consist entirely of excellent citizens (while it is necessary that every one should do well in his calling, in which consists his excellence, as it is impossible that all citizens should have the same qualifications) it is impossible that the virtue of a citizen and a good man should be the same; for all should possess the virtue of an excellent citizen: for from hence necessarily arises the perfection of the city: but that every one should possess the virtue of a good man is impossible, without all the citizens in a well-regulated state were necessarily virtuous. Besides, as a city is composed of dissimilar parts, as an animal is of life and body; the soul of reason and appetite; a family of a man and his wife; property of a master and a slave; in the same manner, as a city is composed of all these and many other very different parts, it necessarily follows that the virtue of all the citizens cannot be the same; as the business of him who leads the band is different from the other dancers. From all which proofs it is evident that the virtues of a citizen cannot be one and the same. But do we never find those virtues united which constitute a good man and excellent citizen? For we say, such a one is an excellent magistrate and a prudent and good man; but prudence is a necessary qualification for all those who engage in public affairs. Nay, some persons affirm that the education of those who are intended to command should, from the beginning, be different from other citizens, as the children of kings are generally instructed in riding and warlike exercises; and thus Euripides says:

> "...No thowy arts
> Be mine, but teach me what the state requires."

As if those who are to rule were to have an education peculiar to themselves. But if we allow, that the virtues of a good man and a good magistrate may be the same, and a citizen is one who obeys the magistrate, it follows that the virtue of the one cannot in general be the same as the virtue of the other, although it may be true of some particular citizen; for the virtue of the magistrate must be different from the virtue of the citizen. For which reason Jason declared that was he deprived of his kingdom he should pine away with regret, as not knowing how to live a private man. But it is a great recommendation to know how to command as well as to obey; and to do both these things well is the virtue of an accomplished citizen. If then the virtue of a

good man consists only in being able to command, but the virtue of a good citizen renders him equally fit for the one as well as the other, the commendation of both of them is not the same. It appears, then, that both he who commands and he who obeys should each of them learn their separate business: but that the citizen should be master of and take part in both these, as any one may easily perceive; in a family government there is no occasion for the master to know how to perform the necessary offices, but rather to enjoy the labour of others; for to do the other is a servile part. I mean by the other, the common family business of the slave.

[Nature of Polity]

...But there is a government of another sort, in which men govern those who are their equals in rank, and freemen, which we call a political government, in which men learn to command by first submitting to obey, as a good general of horse, or a commander-in-chief, must acquire a knowledge of their duty by having been long under the command of another, and the like in every appointment in the army: for well is it said, no one knows how to command who has not himself been under command of another. The virtues of those are indeed different, but a good citizen must necessarily be endowed with them; he ought also to know in what manner freemen ought to govern, as well as be governed: and this, too, is the duty of a good man. And if the temperance and justice of him who commands is different from his who, though a freeman, is under command, it is evident that the virtues of a good citizen cannot be the same as justice, for instance, but must be of a different species in these two different situations, as the temperance and courage of a man and a woman are different from each other; for a man would appear a coward who had only that courage which would be graceful in a woman, and a woman would be thought a talker who should take as large a part in the conversation as would become a man of consequence.

The domestic employments of each of them are also different; it is the man's business to acquire subsistence, the woman's to take care of it. But direction and knowledge of public affairs is a virtue peculiar to those who govern, while all others seem to be equally requisite for both parties; but with this the governed have no concern, it is theirs to entertain just notions: they indeed are like flute-makers, while those who govern are the musicians who play on them. And this much to show whether the virtue of a good man and an excellent citizen is the same, or if it is different, and also how far it is the same, and how far different.

CHAPTER V

[Admission to Citizenship]

But with respect to citizens there is a doubt remaining, whether those only are truly so who are allowed to share in the government, or whether the mechanics also are to be considered as such? for if those who are not permitted to rule are to be reckoned among them, it is impossible that the virtue of all the citizens should be the same, for these also are citizens; and if none of them are admitted to be citizens, where shall they be ranked? For they are neither sojourners nor foreigners; or shall we say that there will no inconvenience arise from their not being citizens, as they are neither slaves nor freedmen: for this is certainly true, that all those are not citizens who are necessary to the existence of a city, as boys are not citizens in the same manner that men are, for those are perfectly so, the others under some conditions; for they are citizens, though imperfect ones: for in former times among some people the mechanics were either slaves or foreigners, for which reason many of them are so now: and indeed the best regulated states will not permit a mechanic to be a citizen; but if it be allowed them, we cannot then at-

tribute the virtue we have described to every citizen or freeman, but to those only who are disengaged from servile offices. Now those who are employed by one person in them are slaves; those who do them for money are mechanics and hired servants: hence it is evident on the least reflection what is their situation, for what I have said is fully explained by appearances. Since the number of communities is very great, it follows necessarily that there will be many different sorts of citizens, particularly of those who are governed by others, so that in one state it may be necessary to admit mechanics and hired servants to be citizens, but in others it may be impossible; as particularly in an aristocracy, where honours are bestowed on virtue and dignity: for it is impossible for one who lives the life of a mechanic or hired servant to acquire the practice of virtue. In an oligarchy also hired servants are not admitted to be citizens; because there a man's right to bear any office is regulated by his fortune; but mechanics are, for many citizens are very rich.

There was a law at Thebes that no one could have a share in the government till he had been ten years out of trade. In many states the law invites strangers to accept the freedom of the city; and in some democracies the son of a free-woman is himself free. The same is also observed in many others with respect to natural children; but it is through want of citizens regularly born that they admit such: for these laws are always made in consequence of a scarcity of inhabitants; so, as their numbers increase, they first deprive the children of a male or female slave of this privilege, next the child of a free-woman, and last of all they will admit none but those whose fathers and mothers were both free.

That there are many sorts of citizens, and that he may be said to be as completely who shares the honours of the state, is evident from what has been already said. Thus Achilles, in Homer, complains of Agamemnon's treating him like an unhonoured stranger; for a stranger or sojourner is one who does not partake of the honours of the state: and whenever the right to the freedom of the city is kept obscure, it is for the sake of the inhabitants. From what has been said it is plain whether the virtue of a good man and an excellent citizen is the same or different: and we find that in some states it is the same, in others not; and also that this is not true of each citizen, but of those only who take the lead, or are capable of taking the lead, in public affairs, either alone or in conjunction with others.

CHAPTER VI

[GOVERNMENTS RIGHTLY ESTABLISHED]

Having established these points, we proceed next to consider whether one form of government only should be established, or more than one; and if more, how many, and of what sort, and what are the differences between them. The form of government is the ordering and regulating of the city, and all the offices in it, particularly those wherein the supreme power is lodged; and this power is always possessed by the administration; but the administration itself is that particular form of government which is established in any state: thus in a democracy the supreme power is lodged in the whole people; on the contrary, in an oligarchy it is in the hands of a few. We say then, that the form of government in these states is different, and we shall find the same thing hold good in others. Let us first determine for whose sake a city is established, and point out the different species of rule which man may submit to in social life.

I have already mentioned in my treatise on the management of a family, and the power of the master, that man is an animal naturally formed for society, and that therefore, when he does not want any foreign assistance, he will of his own accord desire to live with others; not but that mutual advantage induces them to it, as far as it enables each person to live

more agreeably; and this is indeed the great object not only to all in general, but also to each individual: but it is not merely matter of choice, but they join in society also, even that they may be able to live, which probably is not without some share of merit, and they also support civil society, even for the sake of preserving life, without they are grievously overwhelmed with the miseries of it: for it is very evident that men will endure many calamities for the sake of living, as being something naturally sweet and desirable.

It is easy to point out the different modes of government, and we have already settled them in our exoteric discourses. The power of the master, though by nature equally serviceable, both to the master and to the slave, yet nevertheless has for its object the benefit of the master, while the benefit of the slave arises accidentally; for if the slave is destroyed, the power of the master is at an end: but the authority which a man has over his wife, and children, and his family, which we call domestic government, is either for the benefit of those who are under subjection, or else for the common benefit of the whole: but its particular object is the benefit of the governed, as we see in other arts; in physic, for instance, and the gymnastic exercises, wherein, if any benefit arise to the master, it is accidental; for nothing forbids the master of the exercises from sometimes being himself one of those who exercises, as the steersman is always one of the sailors; but both the master of the exercises and the steersman consider the good of those who are under their government. Whatever good may happen to the steersman when he is a sailor, or to the master of the exercises when he himself makes one at the games, is not intentional, or the object of their power; thus in all political governments which are established to preserve and defend the equality of the citizens it is held right to rule by turns. Formerly, as was natural, every one expected that each of his fellow-citizens should in his turn serve the public, and thus administer to his private good, as he himself when in office had done for others; but now every one is desirous of being continually in power, that he may enjoy the advantage which he makes of public business and being in office; as if places were a never-failing remedy for every complaint, and were on that account so eagerly sought after.

It is evident, then, that all those governments which have a common good in view are rightly established and strictly just, but those who have in view only the good of the rulers are all founded on wrong principles, and are widely different from what a government ought to be, for they are tyranny over slaves, whereas a city is a community of freemen.

CHAPTER VII

[KINDS OF GOVERNMENT]

Having established these particulars, we come to consider next the different number of governments which there are, and what they are; and first, what are their excellencies: for when we have determined this, their defects will be evident enough.

It is evident that every form of government or administration, for the words are of the same import, must contain a supreme power over the whole state, and this supreme power must necessarily be in the hands of one person, or a few, or many; and when either of these apply their power for the common good, such states are well governed; but when the interest of the one, the few, or the many who enjoy this power is alone consulted, then ill; for you must either affirm that those who make up the community are not citizens, or else let these share in the advantages of government. We usually call a state which is governed by one person for the common good, a kingdom; one that is governed by more than one, but by a few only, an aristocracy; either because the government is in the hands of the most worthy citizens, or because it is the best form for the city and its in-

habitants. When the citizens at large govern for the public good, it is called a state; which is also a common name for all other governments, and these distinctions are consonant to reason; for it will not be difficult to find one person, or a very few, of very distinguished abilities, but almost impossible to meet with the majority of a people eminent for every virtue; but if there is one common to a whole nation it is valour; for this is created and supported by numbers: for which reason in such a state the profession of arms will always have the greatest share in the government.

Now the corruptions attending each of these governments are these; a kingdom may degenerate into a tyranny, an aristocracy into an oligarchy, and a state into a democracy. Now a tyranny is a monarchy where the good of one man only is the object of government, an oligarchy considers only the rich, and a democracy only the poor; but neither of them have a common good in view.

CHAPTER VIII

[Oligarchy and Democracy]

It will be necessary to enlarge a little more upon the nature of each of these states, which is not without some difficulty, for he who would enter into a philosophical inquiry into the principles of them, and not content himself with a superficial view of their outward conduct, must pass over and omit nothing, but explain the true spirit of each of them. A tyranny then is, as has been said, a monarchy, where one person has an absolute and despotic power over the whole community and every member therein: an oligarchy, where the supreme power of the state is lodged with the rich: a democracy, on the contrary, is where those have it who are worth little or nothing. But the first difficulty that arises from the distinctions which we have laid down is this, should it happen that the majority of the inhabitants who possess the power of the state (for this is a democracy) should be rich, the question is, how does this agree with what we have said? The same difficulty occurs, should it ever happen that the poor compose a smaller part of the people than the rich, but from their superior abilities acquire the supreme power; for this is what they call an oligarchy: it should seem then that our definition of the different states was not correct: nay, moreover, could any one suppose that the majority of the people were poor, and the minority rich, and then describe the state in this manner, that an oligarchy was a government in which the rich, being few in number, possessed the supreme power, and that a democracy was a state in which the poor, being many in number, possessed it, still there will be another difficulty; for what name shall we give to those states we have been describing? I mean, that in which the greater number are rich, and that in which the lesser number are poor (where each of these possess the supreme power), if there are no other states than those we have described.

It seems therefore evident to reason, that whether the supreme power is vested in the hands of many or few may be a matter of accident; but that it is clear enough, that when it is in the hands of the few, it will be a government of the rich; when in the hands of the many, it will be a government of the poor; since in all countries there are many poor and few rich: it is not therefore the cause that has been already assigned (namely, the number of people in power) that makes the difference between the two governments; but an oligarchy and democracy differ in this from each other, in the poverty of those who govern in the one, and the riches of those who govern in the other; for when the government is in the hands of the rich, be they few or be they more, it is an oligarchy; when it is in the hands of the poor, it is a democracy: but, as we have already said, the one will be always few, the other numerous, but both will enjoy liberty; and from the claims of wealth and liberty will arise continual

disputes with each other for the lead in public affairs.

CHAPTER IX

[The Real Purpose of a City]

Let us first determine what are the proper limits of an oligarchy and a democracy, and what is just in each of these states; for all men have some natural inclination to justice; but they proceed therein only to a certain degree; nor can they universally point out what is absolutely just; as, for instance, what is equal appears just, and is so; but not to all; only among those who are equals: and what is unequal appears just, and is so; but not to all, only amongst those who are unequals; which circumstance some people neglect, and therefore judge ill; the reason for which is, they judge for themselves, and every one almost is the worst judge in his own cause. Since then justice has reference to persons, the same distinctions must be made with respect to persons which are made with respect to things, in the manner that I have already described in my *Ethics*.

As to the equality of the things, these they agree in; but their dispute is concerning the equality of the persons, and chiefly for the reason above assigned; because they judge ill in their own cause; and also because each party thinks, that if they admit what is right in some particulars, they have done justice on the whole: thus, for instance, if some persons are unequal in riches, they suppose them unequal in the whole; or, on the contrary, if they are equal in liberty, they suppose them equal in the whole: but what is absolutely just they omit; for if civil society was founded for the sake of preserving and increasing property, every one's right in the city would be equal to his fortune; and then the reasoning of those who insist upon an oligarchy would be valid; for it would not be right that he who contributed one mina should have an equal share in the hundred along with him who brought in all the rest, either of the original money or what was afterwards acquired.

Nor was civil society founded merely to preserve the lives of its members; but that they might live well: for otherwise a state might be composed of slaves, or the animal creation: but this is not so; for these have no share in the happiness of it; nor do they live after their own choice; nor is it an alliance mutually to defend each other from injuries, or for a commercial intercourse: for then the Tyrrhenians and Carthaginians, and all other nations between whom treaties of commerce subsist, would be citizens of one city; for they have articles to regulate their exports and imports, and engagements for mutual protection, and alliances for mutual defence; but yet they have not all the same magistrates established among them, but they are different among the different people; nor does the one take any care, that the morals of the other should be as they ought, or that none of those who have entered into the common agreements should be unjust, or in any degree vicious, only that they do not injure any member of the confederacy. But whosoever endeavours to establish wholesome laws in a state, attends to the virtues and the vices of each individual who composes it; from whence it is evident, that the first care of him who would found a city, truly deserving that name, and not nominally so, must be to have his citizens virtuous; for otherwise it is merely an alliance for self-defence; differing from those of the same cast which are made between different people only in place: for law is an agreement and a pledge, as the sophist Lycophron says, between the citizens of their intending to do justice to each other, though not sufficient to make all the citizens just and good: and that this is fact is evident, for could any one bring different places together, as, for instance, enclose Megara and Corinth in a wall, yet they would not be one city, not even if the inhabitants intermarried with each other, though this inter-community

contributes much to make a place one city. Besides, could we suppose a set of people to live separate from each other, but within such a distance as would admit of an intercourse, and that there were laws subsisting between each party, to prevent their injuring one another in their mutual dealings, supposing one a carpenter, another a husbandman, shoemaker, and the like, and that their numbers were ten thousand, still all that they would have together in common would be a tariff for trade, or an alliance for mutual defence, but not the same city. And why? Not because their mutual intercourse is not near enough, for even if persons so situated should come to one place, and every one should live in his own house as in his native city, and there should be alliances subsisting between each party to mutually assist and prevent any injury being done to the other, still they would not be admitted to be a city by those who think correctly, if they preserved the same customs when they were together as when they were separate.

It is evident, then, that a city is not a community of place; nor established for the sake of mutual safety or traffic with each other; but that these things are the necessary consequences of a city, although they may all exist where there is no city: but a city is a society of people joining together with their families and their children to live agreeably for the sake of having their lives as happy and as independent as possible: and for this purpose it is necessary that they should live in one place and intermarry with each other: hence in all cities there are family-meetings, clubs, sacrifices, and public entertainments to promote friendship; for a love of sociability is friendship itself; so that the end then for which a city is established is, that the inhabitants of it may live happy, and these things are conducive to that end: for it is a community of families and villages for the sake of a perfect independent life; that is, as we have already said, for the sake of living well and happily. It is not therefore founded for the purpose of men's merely living together, but for their living as men ought; for which reason those who contribute most to this end deserve to have greater power in the city than those who are their equals in family and freedom, but their inferiors in civil virtue, or those who excel them in wealth but are below them in worth. It is evident from what has been said, that in all disputes upon government each party says something that is just.

[*The general subject matter of Chapters X and XI is who should rule. The question divides itself in several ways: What class? Should a person, a group, or law be sovereign? If a group, who should compose the group—the rich, the well-born, or the masses? Also discussed is the question of whether different groups or classes should perform different functions in the state.*]

CHAPTER XII

[EQUALITY FOR EQUALS]

Since in every art and science the end aimed at is always good, so particularly in this, which is the most excellent of all, the founding of civil society, the good wherein aimed at is justice; for it is this which is for the benefit of all. Now, it is the common opinion, that justice is a certain equality; and in this point all the philosophers are agreed when they treat of morals: for they say what is just, and to whom; and that equals ought to receive equal: but we should know how we are to determine what things are equal and what unequal; and in this there is some difficulty, which calls for the philosophy of the politician. Some persons will probably say, that the employments of the state ought to be given according to every particular excellence of each citizen, if there is no other difference between them and the rest of the community, but they are in every respect else alike: for justice attributes different things to persons differing from each other in their character, according to their respective merits. But

if this is admitted to be true, complexion, or height, or any such advantage will be a claim for a greater share of the public rights. But that this is evidently absurd is clear from other arts and sciences; for with respect to musicians who play on the flute together, the best flute is not given to him who is of the best family, for he will play never the better for that, but the best instrument ought to be given to him who is the best artist.

If what is now said does not make this clear, we will explain it still further: if there should be any one, a very excellent player on the flute, but very deficient in family and beauty, though each of them are more valuable endowments than a skill in music, and excel this art in a higher degree than that player excels others, yet the best flutes ought to be given to him; for the superiority in beauty and fortune should have a reference to the business in hand; but these have none. Moreover, according to this reasoning, every possible excellence might come in comparison with every other; for if bodily strength might dispute the point with riches or liberty, even any bodily strength might do it; so that if one person excelled in size more than another did in virtue, and his size was to qualify him to take place of the other's virtue, everything must then admit of a comparison with each other; for if such a size is greater than virtue by so much, it is evident another must be equal to it: but, since this is impossible, it is plain that it would be contrary to common sense to dispute a right to any office in the state from every superiority whatsoever: for if one person is slow and the other swift, neither is the one better qualified nor the other worse on that account, though in the gymnastic races a difference in these particulars would gain the prize; but a pretension to the offices of the state should be founded on a superiority in those qualifications which are useful to it: for which reason those of family, independency, and fortune, with great propriety, contend with each other for them; for these are the fit persons to fill them: for a city can no more consist of all poor men than it can of all slaves. But if such persons are requisite, it is evident that those also who are just and valiant are equally so; for without justice and valour no state can be supported, the former being necessary for its existence, the latter for its happiness.

CHAPTER XIII

[Disputes Over Who Should Rule]

It seems, then, requisite for the establishment of a state, that all, or at least many of these particulars should be well canvassed and inquired into; and that virtue and education may most justly claim the right of being considered as the necessary means of making the citizens happy, as we have already said. As those who are equal in one particular are not therefore equal in all, and those who are unequal in one particular are not therefore unequal in all, it follows that all those governments which are established upon a principle which supposes they are, are erroneous.

We have already said, that all the members of the community will dispute with each other for the offices of the state; and in some particulars justly, but not so in general; the rich, for instance, because they have the greatest landed property, and the ultimate right to the soil is vested in the community; and also because their fidelity is in general most to be depended on. The freemen and men of family will dispute the point with each other, as nearly on an equality; for these latter have a right to a higher regard as citizens than obscure persons, for honourable descent is everywhere of great esteem: nor is it an improper conclusion, that the descendants of men of worth will be men of worth themselves; for noble birth is the fountain of virtue to men of family: for the same reason also we justly say, that virtue has a right to put in her pretensions. Justice, for instance, is a

virtue, and so necessary to society, that all others must yield her the precedence.

Let us now see what the many have to urge on their side against the few; and they may say, that if, when collectively taken, they are compared with them, they are stronger, richer, and better than they are. But should it ever happen that all these should inhabit the same city, I mean the good, the rich, the noble, as well as the many, such as usually make up the community, I ask, will there then be any reason to dispute concerning who shall govern, or will there not? For in every community which we have mentioned there is no dispute where the supreme power should be placed; for as these differ from each other, so do those in whom that is placed; for in one state the rich enjoy it, in others the meritorious, and thus each according to their separate manners. Let us however consider what is to be done when all these happen at the same time to inhabit the same city. If the virtuous should be very few in number, how then shall we act? Shall we prefer the virtuous on account of their abilities, if they are capable of governing the city? Or should they be so many as almost entirely to compose the state?

There is also a doubt concerning the pretensions of all those who claim the honours of government: for those who found them either on fortune or family have nothing which they can justly say in their defence; since it is evident upon their principle, that if any one person can be found richer than all the rest, the right of governing all these will be justly vested in this one person. In the same manner, one man who is of the best family will claim it from those who dispute the point upon family merit: and probably in an aristocracy the same dispute might arise on the score of virtue, if there is one man better than all the other men of worth who are in the same community; it seems just, by the same reasoning, that he should enjoy the supreme power. And upon this principle also, while the many suppose they ought to have the supreme command, as being more powerful than the few, if one or more than one, though a small number, should be found stronger than themselves, these ought rather to have it than they.

All these things seem to make it plain, that none of these principles are justly founded on which these persons would establish their right to the supreme power; and that all men whatsoever ought to obey them: for with respect to those who claim it as due to their virtue or their fortune, they might have justly some objection to make; for nothing hinders but that it may sometimes happen, that the many may be better or richer than the few, not as individuals, but in their collective capacity.

As to the doubt which some persons have proposed and objected, we may answer it in this manner; it is this, whether a legislator, who would establish the most perfect system of laws, should calculate them for the use of the better part of the citizens, or the many, in the circumstances we have already mentioned? The rectitude of anything consists in its equality; that therefore which is equally right will be advantageous to the whole state, and to every member of it in common.

Now, in general, a citizen is one who both shares in the government and also in his turn submits to be governed; their condition, it is true, is different in different states: the best is that in which a man is enabled to choose and to persevere in a course of virtue during his whole life, both in his public and private state. But should there be one person, or a very few, eminent for an uncommon degree of virtue, though not enough to make up a civil state, so that the virtue of the many, or their political abilities, should be too inferior to come in comparison with theirs, if more than one; or if but one, with his only; such are not to be considered as part of the city; for it would be doing them injustice to rate them on a level with those who are so far their inferiors in virtue and political abilities, that they appear to them like a god amongst men.

From whence it is evident, that a system of laws must be calculated for those who are equal to each other in nature and power. Such men, therefore, are not the object of law; for they are themselves a law: and it would be ridiculous in any one to endeavour to include them in the penalties of a law: for probably they might say what Antisthenes tells us the lions did to the hares when they demanded to be admitted to an equal share with them in the government. And it is on this account that democratic states have established the ostracism; for an equality seems the principal object of their government. For which reason they compel all those who are very eminent for their power, their fortune, their friendships, or any other cause which may give them too great weight in the government, to submit to the ostracism, and leave the city for a stated time; as the fabulous histories relate the Argonauts served Hercules, for they refused to take him with them in the ship *Argo* on account of his superior valour. For which reason those who hate a tyranny and find fault with the advice which Periander gave to Thrasybulus, must not think there was nothing to be said in its defence; for the story goes, that Periander said nothing to the messenger in answer to the business he was consulted about, but striking off those ears of corn which were higher than the rest, reduced the whole crop to a level; so that the messenger, without knowing the cause of what was done, related the fact to Thrasybulus, who understood by it that he must take off all the principal men in the city.

Nor is this serviceable to tyrants only; nor is it tyrants only who do it; for the same thing is practised both in oligarchies and democracies: for the ostracism has in a manner nearly the same power, by restraining and banishing those who are too great; and what is done in one city is done also by those who have the supreme power in separate states; as the Athenians with respect to the Samians, the Chians, and the Lesbians; for when they suddenly acquired the superiority over all Greece, they brought the other states into subjection, contrary to the treaties which subsisted between them. The King of Persia also very often reduces the Medes and Babylonians when they assume upon their former power: and this is a principle which all governments whatsoever keep in their eye; even those which are best administered, as well as those which are not, do it; these for the sake of private utility, the others for the public good.

The same thing is to be perceived in the other arts and sciences; for a painter would not represent an animal with a foot disproportionally large, though he had drawn it remarkably beautiful; nor would the shipwright make the prow or any other part of the vessel larger than it ought to be; nor will the master of the band permit any who sings louder and better than the rest to sing in concert with them. There is therefore no reason that a monarch should not act in agreement with free states, to support his own power, if they do the same thing for the benefit of their respective communities; upon which account when there is any acknowledged difference in the power of the citizens, the reason upon which the ostracism is founded will be politically just; but it is better for the legislator so to establish his state at the beginning as not to want this remedy: but if in course of time such an inconvenience should arise, to endeavour to amend it by some such correction. Not that this was the use it was put to: for many did not regard the benefit of their respective communities, but made the ostracism a weapon in the hand of sedition.

It is evident, then, that in corrupt governments it is partly just and useful to the individual, though probably it is as clear that it is not entirely just: for in a well-governed state there may be great doubts about the use of it, not on account of the pre-eminence which one may have in strength, riches, or connection: but when the pre-eminence is virtue, what then is to be done? for it seems not right

to turn out and banish such a one, neither does it seem right to govern him, for that would be like desiring to share the power with Jupiter and to govern him nothing then remains but what indeed seems natural, and that is for all persons quietly to submit to the government of those who are thus eminently virtuous, and let them be perpetually kings in the separate states

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[*In Chapters XIV and XV Aristotle begins a discussion of monarchy and its various forms He then goes on to the problem of personal rule as opposed to the rule of law He favors the rule of law, but since law cannot speak in all details, should a single person or a group apply the law to particular cases?*]

CHAPTER XV

[Virtue of Popular Assemblies]

Their general assemblies, act as judges and counsellors, where all their determinations are upon particular cases For one individual, be he who he will, will be found, upon comparison, inferior to a whole people taken collectively but this is what a city is, as a public entertainment is better than one man s portion for this reason the multitude judge of many things better than any one single person They are also less liable to corruption from their numbers, as water is from its quantity besides, the judgment of an individual must necessarily be perverted if he is overcome by anger or any other passion, but it would be hard indeed if the whole community should be misled by anger Moreover, let the people be free, and they will do nothing but in conformity to the law, except only in those cases which the law cannot speak to But though what I am going to propose may not easily be met with, yet if the majority of the state should happen to be good men, should they prefer one uncorrupt governor or many equally good, is it not evident that they should choose the many? But there may be divisions among these which cannot happen when there is but one In answer to this it may be replied that all their souls will be as much animated with virtue as this one man s

If then a government of many, and all of them good men, compose an aristocracy, and the government of one a kingly power, it is evident that the people should rather choose the first than the last, and this whether the state is powerful or not, if many such persons so alike can be met with and for this reason probable it was, that the first governments were generally monarchies, because it was difficult to find a number of persons eminently virtuous, more particularly as the world was then divided into small communities, besides, kings were appointed in return for the benefits they had conferred on mankind, but such actions are peculiar to good men but when many persons equal in virtue appeared at the time, they brooked not a superiority, but sought after an equality and established a free state, but after this, when they degenerated, they made a property of the public, which probably gave rise to oligarchies, for they made wealth meritorious, and the honours of government were reserved for the rich and these afterwards turned to tyrannies, and these in their turn gave rise to democracies, for the power of the tyrants continually decreasing, on account of their rapacious avarice, the people grew powerful enough to frame and establish democracies and as cities after that happened to increase, probably it was not easy for them to be under any other government than a democracy But if any person prefers a kingly government in a state, what is to be done with the king's children? Is the family also to reign? But should they have such children as some persons usually have, it will be very detrimental It may be said, that then the king who has it in his power will never permit such children to succeed to his kingdom But it is not easy to trust to that, for it

is very hard and requires greater virtue than is to be met with in human nature. There is also a doubt concerning the power with which a king should be entrusted: whether he should be allowed force sufficient to compel those who do not choose to be obedient to the laws, and how he is to support his government; for if he is to govern according to law and do nothing of his own will which is contrary thereunto, at the same time it will be necessary to protect that power with which he guards the law. This matter however may not be very difficult to determine; for he ought to have a proper power, and such a one is that which will be sufficient to make the king superior to any one person or even a large part of the community, but inferior to the whole, as the ancients always appointed guards for that person whom they created æsumnetes or tyrant; and some one advised the Syracusians, when Dionysius asked for guards, to allow him such.

CHAPTER XVI

[Superiority and Nature of Law]

We will next consider the absolute monarch that we have just mentioned, who does everything according to his own will: for a king governing under the direction of laws which he is obliged to follow does not of himself create any particular species of government, as we have already said: for in every state whatsoever, either aristocracy or democracy, it is easy to appoint a general for life; and there are many who entrust the administration of affairs to one person only; such is the government at Dyrrachium, and nearly the same at Opus. As for an absolute monarchy as it is called, that is to say, when the whole state is wholly subject to the will of one person, namely the king, it seems to many that it is unnatural that one man should have the entire rule over his fellow-citizens when the state consists of equals: for nature requires that the same right and the same rank should necessarily take place amongst all those who are equal by nature: for as it would be hurtful to the body for those who are of different constitutions to observe the same regimen, either of diet or clothing, so is it with respect to the honours of the state as hurtful, that those who are equal in merit should be unequal in rank; for which reason it is as much a man's duty to submit to command as to assume it, and this also by rotation; for this is law, for order is law; and it is more proper that law should govern than any one of the citizens: upon the same principle, if it is advantageous to place the supreme power in some particular persons, they should be appointed to be only guardians, and the servants of the laws, for the supreme power must be placed somewhere; but they say, that it is unjust that where all are equal one person should continually enjoy it.

But it seems unlikely that man should be able to adjust that which the law cannot determine; it may be replied, that the law having laid down the best rules possible, leaves the adjustment and application of particulars to the discretion of the magistrate; besides, it allows anything to be altered which experience proves may be better established. Moreover, he who would place the supreme power in mind, would place it in God and the laws; but he who entrusts man with it, gives it to a wild beast, for such his appetites sometimes make him; for passion influences those who are in power, even the very best of men: for which reason law is reason without desire. The instance taken from the arts seems fallacious: wherein it is said to be wrong for a sick person to apply for a remedy to books, but that it would be far more eligible to employ those who are skilful in physic; for these do nothing contrary to reason from motives of friendship, but earn their money by curing the sick, whereas those who have the management of public affairs do many things through hatred or favour. And, as a proof of what we have advanced, it may be observed, that whenever

a sick person suspects that his physician has been persuaded by his enemies to be guilty of any foul practice to him in his profession, he then rather chooses to apply to books for his cure: and not only this, but even physicians themselves when they are ill call in other physicians: and those who teach others the gymnastic exercises, exercise with those of the same profession, as being incapable from self-partiality to form a proper judgment of what concerns themselves.

From whence it is evident, that those who seek for what is just, seek for a mean; now law is a mean. Moreover, the moral law is far superior and conversant with far superior objects than the written law; for the supreme magistrate is safer to be trusted to than the one, though he is inferior to the other. But as it is impossible that one person should have an eye to everything himself, it will be necessary that the supreme magistrate should employ several subordinate ones under him: why then should not this be done at first, instead of appointing one person in this manner? Besides, if, according to what has been already said, the man of worth is on that account fit to govern, two men of worth are certainly better than one: as, for instance, in Homer: "Let two together go:" and also Agamemnon's wish; "Were ten such faithful counsel mine!" Not but that there are even now some particular magistrates invested with supreme power to decide, as judges, those things which the law cannot, as being one of those cases which comes not properly under its jurisdiction; for of those which can there is no doubt: since then laws comprehend some things, but not all, it is necessary to enquire and consider which of the two is preferable, that the best man or the best law should govern; for to reduce every subject which can come under the deliberation of man into a law is impossible.

No one then denies, that it is necessary that there should be some person to decide those cases which cannot come under the cognisance of a written law: but we say, that it is better to have many than one; for though every one who decides according to the principles of the law decides justly; yet surely it seems absurd to suppose, that one person can see better with two eyes, and hear better with two ears, or do better with two hands and two feet, than many can do with many: for we see that absolute monarchs now furnish themselves with many eyes and ears and hands and feet; for they entrust those who are friends to them and their government with part of their power; for if they are not friends to the monarch, they will not do what he chooses; but if they are friends to him, they are friends also to his government: but a friend is an equal and like his friend: if then he thinks that such should govern, he thinks that his equal also should govern. These are nearly the objections which are usually made to a kingly power.

[*In Chapters XVII and XVIII, Aristotle points out that an absolute monarchy should exist only where one person is so superior to all the rest that his rule cannot be questioned. But such a situation is rare, and Aristotle elsewhere says that such a state is nonpolitical, since the relation is that of a shepherd to sheep and not of a man to men. Chapter XVIII is a transitional chapter that raises the question of how a good constitution should be brought into being.* ¶ *In general, Book IV deals with actual constitutions. The first ten chapters contain an analysis of various forms of government. There is a good form, "polity," and the perversion of this ideal takes three forms: democracy, oligarchy, and tyranny. Chapter III explains that the constitution of a state is an arrangement of its offices and the distribution of the offices among the classes in the state. Subsequent chapters discuss five varieties of democracy, four varieties of oligarchy, and three varieties of aristocracy. Chapters VIII and IX treat of "polity," which seems to be that state which can successfully blend together the rich and the poor.*]

CHAPTER XI

[The Best Possible (Practicable) State]

We proceed now to inquire what form of government and what manner of life is best for communities in general, not adapting it to that superior virtue which is above the reach of the vulgar, or that education which every advantage of nature and fortune only can furnish, nor to those imaginary plans which may be formed at pleasure, but to that mode of life which the greater part of mankind can attain to, and that government which most cities may establish for as to those aristocracies which we have now mentioned, they are either too perfect for a state to support, or one so nearly alike to that state we are now going to inquire into, that we shall treat of them both as one.

The opinions which we form upon these subjects must depend upon one common principle: for if what I have said in my treatise on Morals is true, a happy life must arise from an uninterrupted course of virtue and if virtue consists in a certain medium, the middle life must certainly be the happiest, which medium is attainable by every one The boundaries of virtue and vice in the state must also necessarily be the same as in a private person, for the form of government is the life of the city In every city the people are divided into three sorts, the very rich, the very poor, and those who are between them If this is universally admitted, that the mean is best, it is evident that even in point of fortune mediocrity is to be preferred, for that state is most submissive to reason, for those who are very handsome, or very strong, or very noble, or very rich, or, on the contrary, those who are very poor, or very weak, or very mean, with difficulty obey it, for the one are capricious and greatly flagitious, the other rascally and mean, the crimes of each arising from their different excesses: nor will they go through the different offices of the state; which is detrimental to it: besides, those who excel in strength, in riches, or friends, or the like, neither know how nor are willing to submit to command: and this begins at home when they are boys, for there they are brought up too delicately to be accustomed to obey their preceptors as for the very poor, their general and excessive want of what the rich enjoy reduces them to a state too mean. so that the one know not how to command, but to be commanded as slaves, the others know not how to submit to any command, nor to command themselves but with despotic power.

A city composed of such men must therefore consist of slaves and masters, not freemen, where one party must hate, and the other despise, where there could be no possibility of friendship or political community for community supposes affection, for we do not even on the road associate with our enemies It is also the genius of a city to be composed as much as possible of equals, which will be most so when the inhabitants are in the middle state from whence it follows, that that city must be best framed which is composed of those whom we say are naturally its proper members It is men of this station also who will be best assured of safety and protection, for they will neither covet what belongs to others, as the poor do, nor will others covet what is theirs, as the poor do what belongs to the rich, and thus, without plotting against any one, or having any one plot against them, they will live free from danger for which reason Phocylides wisely wishes for the middle state, as being most productive of happiness It is plain, then, that the most perfect political community must be amongst those who are in the middle rank, and those states are best instituted wherein these are a larger and more respectable part, if possible, than both the other; or, if that cannot be, at least than either of them separate; so that being thrown into the balance it may prevent either scale from preponderating

[The Middle State]

It is therefore the greatest happiness which the citizens can enjoy to possess a moderate and convenient fortune; for when some possess too much, and others nothing at all, the government must either be in the hands of the meanest rabble or else a pure oligarchy; or, from the excesses of both, a tyranny; for this arises from the head-strong democracy or an oligarchy, but very seldom when the members of the community are nearly on an equality with each other. We will assign a reason for this when we come to treat of the alterations which different states are likely to undergo. The middle state is therefore best, as being least liable to those seditions and insurrections which disturb the community; and for the same reason extensive governments are least liable to these inconveniences; for there those in a middle state are very numerous, whereas in small ones it is easy to pass to the two extremes, so as hardly to have any in a medium remaining, but the one half rich, the other poor: and from the same principle it is that democracies are more firmly established and of longer continuance than oligarchies; but even in those when there is a want of a proper number of men of middling fortune, the poor extend their power too far, abuses arise, and the government is soon at an end.

We ought to consider as a proof of what I now advance, that the best lawgivers themselves were those in the middle rank of life, amongst whom was Solon, as is evident from his poems, and Lycurgus, for he was not a king, and Charondas, and indeed most others. What has been said will show us why of so many free states some have changed to democracies, others to oligarchies: for whenever the number of those in the middle state has been too small, those who were the more numerous, whether the rich or the poor, always overpowered them, and assumed to themselves the administration of public affairs; from hence arose either a democracy or an oligarchy. Moreover, when in consequence of their disputes and quarrels with each other, either the rich get the better of the poor, or the poor of the rich, neither of them will establish a free state; but, as the record of their victory, one which inclines to their own principles, and form either a democracy or an oligarchy.

Those who made conquests in Greece, having all of them an eye to the respective forms of government in their own cities, established either democracies or oligarchies, not considering what was serviceable to the state, but what was similar to their own; for which reason a government has never been established where the supreme power has been placed amongst those of the middling rank, or very seldom; and, amongst a few, one man only of those who have yet been conquerors has been persuaded to give the preference to this order of men: it is indeed an established custom with the inhabitants of most cities not to desire an equality, but either to aspire to govern, or when they are conquered, to submit.

Thus we have shown what the best state is, and why. It will not be difficult to perceive of the many states which there are, for we have seen that there are various forms both of democracies and oligarchies, to which we should give the first place, to which the second, and in the same manner the next also; and to observe what are the particular excellences and defects of each, after we have first described the best possible; for that must be the best which is nearest to this, that worst which is most distant from the medium, without any one has a particular plan of his own which he judges by. I mean by this, that it may happen, that although one form of government may be better than another, yet there is no reason to prevent another from being preferable thereunto in particular circumstances and for particular purposes.

CHAPTER XII

[The Middle Class as Arbiters]

After what has been said, it follows that we should now show what particular form

of government is most suitable for particular persons; first laying this down as a general maxim, that that party which desires to support the actual administration of the state ought always to be superior to that which would alter it. Every city is made up of quality and quantity: by quality I mean liberty, riches, education, and family, and by quantity its relative populousness: now it may happen that quality may exist in one of those parts of which the city is composed, and quantity in another; thus the number of the ignoble may be greater than the number of those of family, the number of the poor than that of the rich; but not so that the quantity of the one shall overbalance the quality of the other; those must be properly adjusted to each other; for where the number of the poor exceeds the proportion we have mentioned, there a democracy will rise up, and if the husbandry should have more power than others, it will be a democracy of husbandmen; and the democracy will be a particular species according to that class of men which may happen to be most numerous: thus, should these be the husbandmen, it will be of these, and the best; if of mechanics and those who hire themselves out, the worst possible: in the same manner it may be of any other set between these two. But when the rich and the noble prevail more by their quality than they are deficient in quantity, there an oligarchy ensues; and this oligarchy may be of different species, according to the nature of the prevailing party.

Every legislator in framing his constitution ought to have a particular regard to those in the middle rank of life; and if he intends an oligarchy, these should be the object of his laws; if a democracy, to these they should be entrusted; and whenever their number exceeds that of the two others, or at least one of them, they give stability to the constitution; for there is no fear that the rich and the poor should agree to conspire together against them, for neither of these will choose to serve the other. If any one would choose to fix the administration on the widest basis, he will find none preferable to this; for to rule by turns is what the rich and the poor will not submit to, on account of their hatred to each other. It is, moreover, allowed that an arbitrator is the most proper person for both parties to trust to; now this arbitrator is the middle rank.

Those who would establish aristocratical governments are mistaken not only in giving too much power to the rich, but also in deceiving the common people; for at last, instead of an imaginary good, they must feel a real evil, for the encroachments of the rich are more destructive to the state than those of the poor.

[*Chapter XIII is largely a digression on special practices in democracies and oligarchies, with some shrewd observations on military factors.*]

CHAPTER XIV

[Organs of Government]

We will now proceed to make some general reflections upon the governments next in order, and also to consider each of them in particular; beginning with those principles which appertain to each: now there are three things in all states which a careful legislator ought well to consider, which are of great consequence to all, and which properly attended to the state must necessarily be happy; and according to the variation of which the one will differ from the other. The first of these is the public assembly; the second the officers of the state, that is, who they ought to be, and with what power they should be entrusted, and in what manner they should be appointed; the third, the judicial department.

Now it is the proper business of the public assembly to determine concerning war and peace, making or breaking off alliances, to enact laws, to sentence to death, banishment, or confiscation of goods, and to call the magistrates to account for their behaviour when in office. Now these powers must necessarily be en-

trusted to the citizens in general, or all of them to some; either to one magistrate or more; or some to one, and some to another, or some to all, but others to some: to entrust all to all is in the spirit of a democracy, for the people aim at equality.

There are many methods of delegating these powers to the citizens at large, one of which is to let them execute them by turn, and not altogether, as was done by Tellecles, the Milesian, in his state. In others the supreme council is composed of the different magistrates, and they succeed to the offices of the community by proper divisions of tribes, wards, and other very small proportions, till every one in his turn goes through them: nor does the whole community ever meet together without it is when new laws are enacted, or some national affair is debated, or to hear what the magistrates have to propose to them. Another method is for the people to meet in a collective body, but only for the purpose of holding the comitia, making laws, determining concerning war or peace, and inquiring into the conduct of their magistrates, while the remaining part of the public business is conducted by the magistrates, who have their separate departments, and are chosen out of the whole community either by vote or ballot. Another method is for the people in general to meet for the choice of the magistrates, and to examine into their conduct; and also to deliberate concerning war and alliances, and to leave other things to the magistrates, whoever happen to be chosen, whose particular employments are such as necessarily require persons well skilled therein. A fourth method is for every person to deliberate upon every subject in public assembly, where the magistrates can determine nothing of themselves, and have only the privilege of giving their opinions first; and this is the method of the most pure democracy, which is analogous to the proceedings in a dynastic oligarchy and a tyrannic monarchy.

These, then, are the methods in which public business is conducted in a democracy. When the power is in the hands of part of the community only, it is an oligarchy, and this also admits of different customs; for whenever the officers of the state are chosen out of those who have a moderate fortune, and these from that circumstance are many, and when they depart not from that line which the law has laid down, but carefully follow it, and when all within the census are eligible, certainly it is then an oligarchy, but founded on true principles of government from its moderation. When the people in general do not partake of the deliberative power, but certain persons chosen for that purpose, who govern according to law; this also, like the first, is an oligarchy. When those who have the deliberative power elect each other, and the son succeeds to the father, and when they can supersede the laws, such a government is of necessity a strict oligarchy. When some persons determine on one thing, and others on another, as war and peace, and when all inquire into the conduct of their magistrates, and other things are left to different officers, elected either by vote or lot, then the government is an aristocracy or a free state. When some are chosen by vote and others by lot, and these either from the people in general, or from a certain number elected for that purpose, or if both the votes and the lots are open to all, such a state is partly an aristocracy, partly a free government itself. These are the different methods in which the deliberative power is vested in different states, all of whom follow some regulation here laid down.

It is advantageous to a democracy, in the present sense of the word, by which I mean a state wherein the people at large have a supreme power, even over the laws, to hold frequent public assemblies; and it will be best in this particular to imitate the example of oligarchies in their courts of justice; for they fine those who are appointed to try causes if they do not attend, so should they reward the poor for coming to the public assemblies: and

their counsels will be best when all advise with each other, the citizens with the nobles, the nobles with the citizens. It is also advisable when the council is to be composed of part of the citizens, to elect, either by vote or lot, an equal number of both ranks. It is also proper, if the common people in the state are very numerous, either not to pay every one for his attendance, but such a number only as will make them equal to the nobles, or to reject many of them by lot.

In an oligarchy they should either call up some of the common people to the council, or else establish a court, as is done in some other states, whom they call preadvisers or guardians of the laws, whose business should be to propose first what they should afterwards enact. By this means the people would have a place in the administration of public affairs, without having it in their power to occasion any disorder in the government. Moreover, the people may be allowed to have a vote in whatever bill is proposed, but may not themselves propose anything contrary thereto; or they may give their advice, while the power of determining may be with the magistrates only. It is also necessary to follow a contrary practice to what is established in democracies, for the people should be allowed the power of pardoning, but not of condemning, for the cause should be referred back again to the magistrates: whereas the contrary takes place in republics; for the power of pardoning is with the few, but not of condemning, which is always referred to the people at large. And thus we determine concerning the deliberative power in any state, and in whose hands it shall be.

[*Chapters XV and XVI deal with magistracy and the judicial element.*]

BOOK V CHAPTER I

[CAUSES OF SEDITION]

We have now gone through those particulars we proposed to speak of; it remains that we next consider from what causes and how alterations in government arise, and of what nature they are, and to what the destruction of each state is owing; and also to what form any form of polity is most likely to shift into, and what are the means to be used for the general preservation of governments, as well as what are applicable to any particular state; and also of the remedies which are to be applied either to all in general, or to any one considered separately, when they are in a state of corruption: and here we ought first to lay down this principle, that there are many governments, all of which approve of what is just and what is analogically equal; and yet have failed from attaining thereunto, as we have already mentioned; thus democracies have arisen from supposing that those who are equal in one thing are so in every other circumstance; as, because they are equal in liberty, they are equal in everything else; and oligarchies, from supposing that those who are unequal in one thing are unequal in all; that when men are so in point of fortune, that inequality extends to everything else. Hence it follows, that those who in some respects are equal with others think it right to endeavour to partake of an equality with them in everything; and those who are superior to others endeavour to get still more; and it is this *more* which is the inequality: thus most states, though they have some notion of what is just, yet are almost totally wrong; and, upon this account, when either party has not that share in the administration which answers to his expectations, he becomes seditious: but those who of all others have the greatest right to be so are the last that are; namely, those who excel in virtue; for they alone can be called generally superior. There are, too, some persons of distinguished families who, because they are so, disdain to be on an equality with others, for those esteem themselves noble who boast of their ancestors' merit and fortune: these, to speak truth, are the origin and foun-

tain from whence seditions arise. The alterations which men may propose to make in governments are two; for either they may change the state already established into some other, as when they propose to erect an oligarchy where there is a democracy; or a democracy, or free state, where there is an oligarchy, or an aristocracy from these, or those from that; or else, when they have no objection to the established government, which they like very well, but choose to have the sole management in it themselves; either in the hands of a few or one only. They will also raise commotions concerning the degree in which they would have the established power; as if, for instance, the government is an oligarchy, to have it more purely so, and in the same manner if it is a democracy, or else to have it less so; and, in like manner, whatever may be the nature of the government, either to extend or contract its powers; or else to make some alterations in some parts of it; as to establish or abolish a particular magistracy, as some persons say Lysander endeavoured to abolish the kingly power in Sparta; and Pausanias that of the ephori. Thus in Epidamnus there was an alteration in one part of the constitution, for instead of the philarchi they established a senate. It is also necessary for all the magistrates at Athens to attend in the court of the Heliæa when any new magistrate is created: the power of the archon also in that state partakes of the nature of an oligarchy: inequality is always the occasion of sedition, but not when those who are unequal are treated in a different manner correspondent to that inequality. Thus kingly power is unequal when exercised over equals. Upon the whole, those who aim after an equality are the cause of seditions. Equality is twofold, either in number or value. Equality in number is when two things contain the same parts or the same quantity; equality in value is by proportion, as two exceeds one, and three two by the same number; thus by proportion four exceeds two, and two one in the same degree, for two is the same part of four that one is of two; that is to say, half. Now, all agree in what is absolutely and simply just; but, as we have already said, they dispute concerning proportionate value; for some persons, if they are equal in one respect, think themselves equal in all; others, if they are superior in one thing, think they may claim the superiority in all; from whence chiefly arise two sorts of governments, a democracy and an oligarchy; for nobility and virtue are to be found only amongst a few; the contrary amongst the many; there being in no place a hundred of the first to be met with, but enough of the last everywhere. But to establish a government entirely upon either of these qualities is wrong, and this the example of those so established makes evident, for none of them have been stable; and for this reason, that it is impossible that whatever is wrong at the first and in its principles should not at last meet with a bad end: for which reason in some things an equality of numbers ought to take place, in others an equality in value. However, a democracy is safer and less liable to sedition than an oligarchy; for in this latter it may arise from two causes, for either the few in power may conspire against each other or against the people; but in a democracy only one; namely, against the few who aim at exclusive power; but there is no instance worth speaking of, of a sedition of the people against themselves. Moreover, a government composed of men of moderate fortunes comes much nearer to a democracy than an oligarchy, and is the safest of all such states.

CHAPTER II

Since we are inquiring into the causes of seditions and revolutions in governments, we must begin entirely with the first principles from whence they arise. Now these, so to speak, are nearly three in number; which we must first distinguish in general from each other, and endeavour to show in what situation people are who begin a sedition; and for what causes; and

thirdly, what are the beginnings of political troubles and mutual quarrels with each other. Now that cause which of all others most universally inclines men to desire to bring about a change in government is that which I have already mentioned; for those who aim at equality will be ever ready for sedition, if they see those whom they esteem their equals possess more than they do, as well as those also who are not content with equality but aim at superiority, if they think that while they deserve more than, they have only equal with, or less than, their inferiors. Now, what they aim at may be either just or unjust; just, when those who are inferior are seditious, that they may be equal; unjust, when those who are equal are so, that they may be superior. These, then, are the situations in which men will be seditious: the causes for which they will be so are profit and honour; and their contrary: for, to avoid dishonour or loss of fortune by mulcts, either on their own account or their friends, they will raise a commotion in the state. The original causes which dispose men to the things which I have mentioned are, taken in one manner, seven in number, in another they are more; two of which are the same with those that have been already mentioned: but influencing in a different manner; for profit and honour sharpen men against each other; not to get the possession of them for themselves (which was what I just now supposed), but when they see others, some justly, others unjustly, engrossing them. The other causes are haughtiness, fear, eminence, contempt, disproportionate increase in some part of the state. There are also other things which in a different manner will occasion revolutions in governments; as election intrigues, neglect, want of numbers, a too great dissimilarity of circumstances.

[*Chapters III through X deal with the causes and signs of internal difficulties which lead to revolution. Different types of constitutions undergo different types of change. Aristotle suggests how to assure stability under each type of constitution. In the part of Chapter XI that follows, Aristotle gives advice on how to preserve a tyranny—advice not unlike that given by Machiavelli nearly a millennium later.*]

[Preservation of Tyranny]

... Tyrannies are preserved two ways most opposite to each other, one of which is when the power is delegated from one to the other, and in this manner many tyrants govern in their states. Report says that Periander founded many of these. There are also many of them to be met with amongst the Persians. What has been already mentioned is as conducive as anything can be to preserve a tyranny; namely, to keep down those who are of an aspiring disposition, to take off those who will not submit, to allow no public meals, no clubs, no education, nothing at all, but to guard against everything that gives rise to high spirits or mutual confidence; nor to suffer the learned meetings of those who are at leisure to hold conversation with each other; and to endeavour by every means possible to keep all the people strangers to each other; for knowledge increases mutual confidence; and to oblige all strangers to appear in public, and to live near the city-gate, that all their actions may be sufficiently seen; for those who are kept like slaves seldom entertain any noble thoughts: in short, to imitate everything which the Persians and barbarians do, for they all contribute to support slavery; and to endeavour to know what every one who is under their power does and says; and for this purpose to employ spies: such were those women whom the Syracusians called ποταγωγίδες [spies]. Hiero also used to send out listeners wherever there was any meeting or conversation; for the people dare not speak with freedom for fear of such persons; and if any one does, there is the less chance of its being concealed; and to endeavour that the whole community should mutually accuse and come to blows with each other, friend with friend, the commons with the nobles, and the rich with each other.

[Poverty]

It is also advantageous for a tyranny that all those who are under it should be oppressed with poverty, that they may not be able to compose a guard, and that, being employed in procuring their daily bread, they may have no leisure to conspire against their tyrants The Pyramids of Egypt are a proof of this, and the votive edifices of the Cyposelidæ and the temple of Jupiter Olympus, built by the Pisistratidæ and the works of Polycrates at Samos for all these produced one end, the keeping the people poor It is necessary also to multiply taxes, as at Syracuse, where Dionysius in the space of five years collected all the private property of his subjects into his own coffers

[War]

A tyrant also should endeavour to engage his subjects in a war, that they may have employment and continually depend upon their general A king is preserved by his friends, but a tyrant is of all persons the man who can place no confidence in friends, as every one has it in his desire and these chiefly in their power to destroy him All these things also which are done in an extreme democracy should be done in a tyranny, as permitting great licentiousness to the women in the house, that they may reveal their husbands' secrets, and showing great indulgence to slaves also for the same reason for slaves and women conspire not against tyrants but when they are treated with kindness, both of them are abettors of tyrants, and extreme democracies also, and the people too in such a state desire to be despotic For which reason flatterers are in repute in both these the demagogue in the democracy, for he is the proper flatterer of the people among tyrants, he who will servilely adapt himself to their humours, for this is the business of flatterers And for this reason tyrants always love the worst of wretches, for they rejoice in being flattered, which no man of a liberal spirit will submit to, for they love the virtuous, but flatter none Bad men too are fit for bad purposes, like to like," as the proverb says A tyrant also should show no favour to a man of worth or a freeman, for he should think, that no one deserved to be thought these but himself, for he who supports his dignity, and is a friend to freedom, encroaches upon the superiority and the despotism of the tyrant such men, therefore they naturally hate, as destructive to their government A tyrant also should rather admit strangers to his table and familiarity than citizens, as these are his enemies, but the others have no design against him

These and such like are the supports of a tyranny for it comprehends whatsoever is wicked But all these things may be comprehended in three divisions, for there are three objects which a tyranny has in view, one of which is, that the citizens should be of poor abject dispositions, for such men never propose to conspire against any one The second is, that they should have no confidence in each other, for while they have not this, the tyrant is safe enough from destruction For which reason they are always at enmity with those of merit, as hurtful to their government not only as they scorn to be governed despotically, but also because they can rely upon each other's fidelity and others can rely upon theirs, and because they will not inform against their associates, nor any one else The third is, that they shall be totally without the means of doing anything, for no one undertakes what is impossible for him to perform so that without power a tyranny can never be destroyed These, then, are the three objects which the inclinations of tyrants desire to see accomplished, for all their tyrannical plans tend to promote one of these three ends, that their people may neither have mutual confidence, power nor spirit

This, then, is one of the two methods of preserving tyrannies the other proceeds in a way quite contrary to what has been already described, and which may

be discerned from considering to what the destruction of a kingdom is owing; for as one cause of that is, making the government approach near to a tyranny, so the safety of a tyranny consists in making the government nearly kingly; preserving only one thing, namely power, that not only the willing, but the unwilling also, must be obliged to submit; for if this is once lost, *the tyranny is at an end.* This, then, as the foundation, must be preserved: in other particulars carefully do and affect to seem like a king; first appear to pay a great attention to what belongs to the public; nor make such profuse presents as will offend the people; while they are to supply the money out of the hard labour of their own hands, and see it given in profusion to mistresses, foreigners, and fiddlers; keeping an exact account both of what you receive and pay; which is a practice some tyrants do actually follow, by which means they seem rather fathers of families than tyrants: nor need you ever fear the want of money while you have the supreme power of the state in your own hands. It is also much better for those tyrants who quit their kingdom to do this than to leave behind them money they have hoarded up; for their regents will be much less desirous of making innovations, and they are more to be dreaded by absent tyrants than the citizens; for such of them as he suspects he takes with him, but these regents must be left behind. He should also endeavour to appear to collect such taxes and require such services as the exigencies of the state demand, that whenever they are wanted they may be ready in time of war; and particularly to take care that he appear to collect and keep them not as his own property, but the public's.

His appearance also should not be severe, but respectable, so that he should inspire those who approach him with veneration and not fear; but this will not be easily accomplished if he is despised. If, therefore, he will not take the pains to acquire any other, he ought to endeavour to be a man of political abilities, and to fix that opinion of himself in the judgment of his subjects. He should also take care not to appear to be guilty of the least offense against modesty, nor to suffer it in those under him: nor to permit the women of his family to treat others haughtily; for the haughtiness of women has been the ruin of many tyrants. With respect to the pleasures of sense, he ought to do directly contrary to the practice of some tyrants at present; for they do not only continually indulge themselves in them for many days together, but they seem also to desire to have other witnesses of it, that they may wonder at their happiness; whereas he ought really to be moderate in these, and, if not, to appear to others to avoid them; for it is not the sober man who is exposed either to plots or contempt, but the drunkard; not the early riser, but the sluggard. His conduct in general should also be contrary to what is reported of former tyrants; for he ought to improve and adorn his city, so as to seem a guardian and not a tyrant; and, moreover, always to seem particularly attentive to the worship of the gods; for from persons of such a character men entertain less fears of suffering anything illegal while they suppose that he who governs them is religious and reverences the gods; and they will be less inclined to raise insinuations against such a one, as being peculiarly under their protection: but this must be so done as to give no occasion for any suspicion of hypocrisy.

He should also take care to show such respect to men of merit in every particular, that they should not think they could be treated with greater distinction by their fellow-citizens in a free state. He should also let all honours flow immediately from himself, but every censure from his subordinate officers and judges. It is also a common protection of all monarchies not to make one person too great, or, certainly, not many; for they will support each other: but, if it is necessary to entrust any large powers to one person, to take care that it is not one of an ardent spirit; for this disposition is upon every oppor-

tunity most ready for a revolution and, if it should seem necessary to deprive any one of his power, to do it by degrees, and not reduce him all at once

It is also necessary to abstain from all kinds of insolence, more particularly from corporal punishment, which you must be most cautious never to exercise over those who have a delicate sense of honour, for, as those who love money are touched to the quick when anything affects their property, so are men of honour and principle when they receive any disgrace therefore, either never employ personal punishment, or, if you do, let it be only in the manner in which a father would correct his son, and not with contempt and, upon the whole, make amends for any seeming disgrace by bestowing greater honours But of all persons who are most likely to entertain designs against the person of a tyrant, those are chiefly to be feared and guarded against who regard as nothing the loss of their own lives, so that they can but accomplish their purpose be very careful therefore of those who either think themselves affronted, or those who are dear to them, for those who are excited by anger to revenge regard as nothing their own persons for, as Heraclitus says, it is dangerous to fight with an angry man who will purchase with his life the thing he aims at

As all cities are composed of two sorts of persons, the rich and the poor, it is necessary that both these should find equal protection from him who governs them, and that the one party should not have it in their power to injure the other, but that the tyrant should attach to himself that party which is the most powerful, which, if he does, he will have no occasion either to make his slaves free, or to deprive citizens of their arms, for the strength of either of the parties added to his own forces will render him superior to any conspiracy—It would be superfluous to go through all particulars, for the rule of conduct which the tyrant ought to pursue is evident enough, and that is, to affect to appear not the tyrant, but the king the guardian of those he governs, not their plunderer, but their protector and to affect the middle rank in life, not one superior to all others he should, therefore, associate his nobles with him and soothe his people, for his government will not only be necessarily more honourable and worthy of imitation, as it will be over men of worth, and not abject wretches who perpetually both hate and fear him, but it will be also more durable Let him also frame his life so that his manners may be consentaneous to virtue, or at least let half of them be so, that he may not be altogether wicked, but only so in part

[*Chapter XII ends this book. In it Aristotle comments on tyrannies and criticizes Plato's mathematical explanation of change and degeneration, based on an esoteric and probably Pythagorean theory of numbers ¶ Book VI of the* POLITICS *treats of ways of building states, especially democracies and oligarchies, with special reference to making them more stable In general, Aristotle advocates a policy of moderation in all respects In all of this there is a great deal of detail, some interesting and some dated ¶ In general, Book VII is concerned with the good life and the rôle played by ideals, laws, and education In many ways Book VII is a particularly close link to the* NICHOMACHEAN ETHICS *In the course of his treatment, Aristotle considers all the environmental factors which influence a state· territory, physical planning, qualities of the population, and social structure The educational prescriptions are detailed, and it is interesting to compare them with those of Plato ¶ Book VIII continues the subject of education but is mostly directed to the training of youth Throughout this book, as in much of Aristotle, there is a running commentary on the practices of various states in history as well as contemporary Like Plato, Aristotle favors some elements of Spartan discipline, but he appreciates the free Athenian virtues more than had his master The* POLITICS *ends abruptly, as do so many of its various parts*]

AUTHORS	ROME	EASTERN MEDITERRANEAN	ASIA
300 BC	367 Licinio Sextian Laws plebians eligible to consulship praetor equal in rank to consul created to head Roman judiciary	323 Alexandrian Empire divided by generals	322 Civil War splits Alexandrian Empire.
		323 30 Ptolemies in Egypt	321 184 North India united under Maurya Dynasty Emperor rules, with privy council
	287 Lex Hortensia plebs win legal equality with patricians law passed by *concilium plebis* binding on all Romans		312 64 Seleucid Empire in West Asia
			c 274 c 236 Asoka s Empire embraces ⅔ Indian peninsula Brahmanism vs Buddhism
			249 Parthia founded Mithridates I (171 138) builds empire including West Asia, India
	264 146 Punic Wars destroy Carthage Rome expands control of West Mediterranean	215 146 Macedonian Wars win Greece for Rome	
Polybius 201 120			230 221 Conquest of China by Ch In Golden age of Chinese philosophy
			202 BC 9 AD West Han dynasty in China advances culture knowledge reform
			c 184 c 72 Sunga Dynasty rules India Religious art flourishes, sculpture
	134 111 Reforms of the Gracchi		
	107 100 Marius consul Military reform		
Cicero 106 43	91 88 Civil War Italian provinces revolt		100 BC 100 AD Hinduism spreads in India
	82 Dictator Sulla rebuilds Senate s power		
	60 53 First triumvirate Caesar consul		
	58 51 Roman conquest of Gaul		
	54 Roman invasion of Britain		88 64 Mithridatic Wars drive Parthia back to Crimea Expand Rome s eastern empire
	49 Caesar defies Senate crosses Rubicon		
	49 44 Caesar absolute ruler of Rome		
	31 Battle of Actium marks Empire s start	31 Roman Empire absorbs E Mediterranean	
1 AD	31 BC—192 AD Early Empire King replacing Senate in power Conquest abroad	1 BC 33 AD Jesus Christ in Palestine	
St Paul d 67?	Early emperors Augustus (31 BC 14 AD), Nero (54 68 AD) Rome burns, 64	c 33 Crucifixion of Christ	
St Peter d 67?	Marcus Aurelius (161 180)	46 59 Paul's journeys spread Christianity	
		66 70 Revolt in Judea from misgovernment violently suppressed by Rome Judea divided	
Plutarch 46? c 120	Greek influence in culture Stoicism		
	Great literature Virgil (70 19 BC) Horace (65 8 BC), Ovid (43 BC 17 AD) Livy (59 BC 17 AD) Seneca (1 65 AD) Tacitus (55 118? AD)		
			c 105 Paper developed in China
	77 84 Conquest of Britain		113 117 Parthian Wars Rome reaches Tigris

	131 Hadrian orders Praetor's Edict codified. Imperial edict only source of new law.	132-135 Jews denationalized after revolt.	120-395 Dynasty of western satraps in India.
		150-300 Growing persecution of Christians. Church organization developing despite it.	
	192-284 Government collapsing from economic weakness, frontier pressures. Military absorbing civil administration. Intellectual life ceases. Roman law reaches height; Gaius lays groundwork for Justinian; Ulpian, author of Legal Treatises; Papinian; Paul.		220 Division of China for four centuries. 226-651 New Persian Empire. Zoroastrianism. 241-561 Wars between Persia and Rome.
	284-527 Roman Empire: east and west.	284-527 Roman Empire of the East.	
	284-305 Diocletian, oriental despot.		
300 A.D.			
	306-337 Constantine reunites empire.		c. 320-535 Gupta Dynasty unites N. India. Golden age of classical Sanskrit. Science.
	330 Capital moved to Constantinople.	330 Roman capital moved to Constantinople.	
St. Augustine 354-430	379-395 Theodosius the Great unites empire.	379-395 Theodosius the Great. Eastern Roman emperor unites Empire briefly.	
	390 Western church emerging from imperial domination. Center of intellectual life.		
	Church fathers: Ambrose (340-397) Jerome (340-420) Augustine (354-430)		400 Persian power at zenith. 400 Japanese and Koreans imitate Chinese.
	407 Rome evacuates Britain.		
	410-455 Rome sacked by barbarians.		
Justinian 483-565	419-507 Visigoths in Spain, under Rome.		
	429-534 Vandal kingdom in Africa.		
	481-752 Frankish kingdom, built by Clovis.		
	489-526 Theodoric the Hun rules Rome.	527-1453 Byzantine Empire. Justinian reunites empire briefly, codifies Roman law.	
	568-774 Lombards occupy Italy, join Church.		
	590-604 Pope Gregory the Great assumes temporal power; founds papal absolutism.		570-632 Mohammed, the prophet, in Arabia. c. 589 Reunion of China. Buddhism strong.
600 A.D.			

FIVE

The Heritage of Roman Law

THE INTENSE LIFE OF THE CITY STATE of Greece has been produced within some limits of variation in other periods: in the Renaissance cities of Italy, and in the life of the German city states such as those which formed the Hanseatic League. In New England the town meeting came to represent the most real democracy and a close community life. In few of these experiments, even in the city states which we know of in other areas of the world, such as India and China, do we find the intensity of religious and cultural life cementing the community and dominating all its social and economic aspects that was found in the Greek city state. The earliest New England communities had something of this character of the theocratic state, as was proved by the expulsion of hardy dissenters like Roger Williams and Mrs. Anne Hutchinson from Massachusetts Bay Colony to form newer settlements of their own in Rhode Island and Connecticut. Calvin's Geneva, certainly Zwingli at Zurich, might stand the comparison. It was probably to that Geneva which had been his own birthplace that Rousseau's imagination turned in the *Contrat Social* for the perfect example of direct democracy, which he, like the Greeks, felt must be limited to a community capable of hearing the voice of a single orator.

The Development from City State to Empire: Rome's Contribution to Western Civilization

It has often been remarked that under Aristotle's very eyes, and, indeed, in the shaping and victorious hands of his most celebrated pupil, Alexander of Macedon, a great empire was rising to power. Two of Aristotle's lost works, one *On Monarchy* and the other *On Colonization,* may well have dealt with the imperial problem. But in the light of his other works, he probably still dealt with it as the imperialism of the city state. Empires, not unknown to Aristotle and Plato, were most painfully forced in upon the imagination of generation after generation of Greeks. Xenophon's study of the Persian Empire in the *Anabasis* remains a classic, and it is certain that both Plato and Aristotle were well

acquainted with other Mediterranean empires, including the nascent power of Carthage, of Rome, and the remains of ancient Egypt. The Greek word, *hegemony*, however, well summed up the extent to which a Greek state could lead an imperial existence it meant rule by dominant leadership and ability to protect rather than by centralizing control or complete subordination The state-cities which were part of the Athenian Confederacy were left their own rights of citizenship and their own laws. There was no common citizenship, no representation of their interests in Athens. Something more than the tribute of "ship money" paid for protection was involved in imperial subordination, however. As W. S. Ferguson showed in his study of *Ancient Imperialism*, Athens could impose policies and even governors on recalcitrant members of the confederacy.

The point of the common doctrine of Plato and Aristotle, however, was that they distrusted the whole nature of empire and wished to limit political organization to a small and compact and, as far as possible, self sufficient state, large enough only to defend its borders and to insure the security of its people To go beyond these limits was to engage the destinies of the city with the fortunes of others and to tie them to economic objectives They were true "isolationists," both economically and politically.[1]

It was the tragedy of Greece that this small and self-sufficient city life never found a means of organization capable of defending itself against its more powerful neighbors. The irony of Philip of Macedon's entry into Greece through posing as a champion of the sacred rights of the Delphic Amphictyony against one of its members shows the weakness of the slender bonds of confederation which united the Greek states. There were, it is true, hegemonies like the Theban, and even at some periods the Spartan and Athenian hegemonies, which consisted in the subordination of weak allies to the political leadership of a powerful Greek city state. There were even leagues such as the Achaean and the Aetolian, which survived for a considerable period, in spite of the limited numbers of men they could put into the field.[2] But the Greek city state, like modern nationalism, and perhaps for the same reason of preoccu-

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[1] See C H. McIlwain's comment on the superior insight of Isocrates, who urges Athens in the *Panegyricus* to a unification of Greece against the Persians (*Growth of Political Thought in the West*, p 97) McIlwain also notes that though Aristotle in Book IV of the *Politics*, Ch VII, states " 'if the Greeks were united in a single polity, they would be capable of universal empire,' but," says McIlwain, "the whole tone of his treatise seems to prove that this unification is for him impossible if not undesirable" To Aristotle's pupil, Alexander, it seemed possible and desirable.

[2] See E. A. Freeman's *History of Federalism* These Leagues come in the Hellenistic period.

pation with its own sovereign rights and interests, failed to survive against the mass organization of the warring empires surrounding it.

The brief but far-flung empire of Alexander and his successors left substantial remnants well into the days when Rome came to dominate the whole of the Mediterranean area and to carry the eagles of the S.P.Q.R. as far as the Scythian and Thracian borders and up to the farthest marches of Gaul, and even to the outlying island of Britain. Rome, as the survivor of the Mediterranean cockpit of expanding empires, dominates the modern imagination as the most successful ancient example of empire, though in point of fact its duration was less extended than that of several other empires of antiquity, including the Egyptian, and its conquests considerably less vast than those of Genghis Khan and the Golden Horde.[3]

The Legacy of Rome

The legacy of Rome to the Western world has been so immediate and so direct in its transference to our own civilization that it is natural for Roman institutions to receive a disproportionate emphasis in Western thought. Greece had contributed the ideas of rational discussion and active citizenship with equal political privileges to the growth of constitutional democratic thought. Liberty meant the making of law by equals. But there was little in Greek thought to protect the individual in his legal rights against arbitrary government. Aristotle had thought out, and Greek practice to some degree incorporated, the idea of a state whose constitutional stability was achieved by a mixed government, a division of offices, and a balancing of classes. This aspect of checks and balances was not entirely lacking in Greek states. But it remained for Rome to incorporate a basic protection of individual rights into law and to achieve what the Greek Polybius recognized as the stability of checks and balances, with some real separation of powers. But along with the idea of legal rights went an insistence on the *duty* of citizens to a point of sacrifice almost Spartan in character.

As Rome shifted to a world empire in the centuries following the Augustan principate and the birth of Christ, the ideals of unity and order begat concepts of universal law and even cosmopolitanism—i.e., rights of men as men everywhere, independent of city states or empires. Rome the city became less important than its empire, indeed the servant of its empire, ruled by leaders of the peoples whom its legions had subdued.

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[3] For a comprehensive and clear study of the general political conditions of the time, especially on the nature of monarchy and imperialism, see W. S. Ferguson's *Ancient Imperialism*, and also his article in *Cambridge Ancient History*, Vol. VII, Ch. 1, "The Leading Ideas of the New Period."

It is difficult to overestimate the value of Rome as a model in all the great externals of civilization—engineering, public health, methods of administration, good roads and communications, and, especially, the legal institutions that bound together the whole of the far-flung conquests of Rome into a single functioning system. Above all, Roman emphasis on *law* brings into the development of political thought the idea of individual *rights* and of constitutional balance.

The Rights of Roman Citizens

It would be a mistake to think of Roman citizenship, even after the days of Caracalla (A.D. 212), when it was extended and broadcast through the whole empire, as carrying with it equal privileges in terms of political power. The city of Rome (even after the capital was shifted to Ravenna) remained to the end the nuclear core and the very heart of the whole imperial system. The population of Rome, and particularly its aristocratic and senatorial families, exercised during the later Republic a weight quite different from that of its dominions, much as would be the case of the population of modern Britain *vis-à-vis* the whole dependent empire, which still survives in the Crown colonies (even after the loss of India) and in the British protectorates and "spheres of influence." Under the Emperors, pressure tended to take the form of riots and revolts, though the latter were effective generally only with the help of the legions. There was never at any stage of Rome's existence any representative character in its law-making assemblies. The consent of the governed outside Rome was taken for granted, and the political privileges of citizenship were narrowly circumscribed.

On the other hand, the negative protection afforded to the diverse populations coming under the empire's control, so far as their legal rights to protection of life and property were concerned, was quite a real element in aiding in the extension of the Roman system over the greater part of the then acknowledged "civilized world." St. Paul, in his speech to the men of Athens on Mars Hill, speaks with the assurance of one who is a member of a larger community and perhaps a more culturally important one than that even of ancient Athens. And when he is imprisoned, he claims with the same assurance the rights of a Roman subject. Through the development of the procedures of Roman law and the liberalizing influence of Greek and Stoic doctrine, two or more centuries before the advent of Christianity, the protection of slaves, of women, and of minors and wards was accorded the greatest development known to the ancient world. For the first time something which in an embryonic form was like our modern notion of constitutional rights of individuals resting on "due process of law" begins to emerge. In addition,

the stern virtue of duty was recognized by Stoic doctrine as a corollary of rights. The net effect, accentuated by later Christianity, was to put less emphasis on the necessity for an especially educated ruling class (Plato and Aristotle) and more on Seneca's estimate that the community could best be served by the wisdom of the good (virtuous) man. Wisdom alone ceases to make virtue and becomes in some Stoic thought, subordinate to virtue—a note very acceptable to the later Church fathers.[4]

Yet to Rome might well be applied the motto: "Expand or perish." The dynamics of its empire were both military and economic. Conquest may originally have come first and profits followed. But money, luxury and power went together. Rome had to reach afield for slaves and riches to build the magnificence of its forums and its baths and great public buildings. To do so, it had also to develop a set of colonizing institutions, not least of which was its system of law. Roman law, by the very nature of its imperial task among differing systems and peoples, had to have an all-embracing core of universal doctrine suitable for world citizenship. Stoicism met this need by a universalist view of law and of human rights.

In tracing the evolution of this system of law and its importance to our own institutions, it is perhaps worth while to sketch out a few of the turning points in the development of the Roman polity itself, for Roman *public* law, which dealt with the organization of the state, furnished all the world with a model.

Development of Roman Polity and Law

The shadowy origins of the founding of Rome, like those that we have previously remarked in the stories of the founding of Sparta and of Athens, generally attribute the date 753 B.C. to the founding of the city by Romulus. Virgil's *Aeneid* traces the usual honorific descent of the founding Aeneas, fleeing from Troy to Lavinium, from the gods. The Lupercal she-wolf suckling the twins Romulus and Remus became a part of the legend. To disentangle fact from legend in any historical account of Roman origins is relatively impossible; but it seems certain that the tribes which dominated the seven hills of Rome and which carried off the Sabine women were governed in the usual way by kings or chiefs who combined many of the functions of priesthood, as did the early Greek kings. Our sources are scanty and often uncritical—e.g., the *Lives* of Plutarch or of Cornelius Nepos, or the history of Titus Livius. But we must look for the meaning of these myths in order to understand the true nature of ancient politics, as Fustel de Coulanges and others

[4] See G. H. Sabine, *A History of Political Thought*, p. 176, and compare Cicero's view, *De Legibus* (tr. of C. W. Keyes), *Laws* III, XX, 48, 517. See also the excellent introduction to Cicero's *Commonwealth*, by G. H. Sabine and S. B. Smith.

have shown.[5] Numa Pompilius (drawing his wisdom from the nymph Egeria) and later kings (drawing theirs from the sacred Sibylline writings) play the same sort of rôle that the kings who consulted the Delphic shrine of Apollo played in Greek antiquity.

The Twelve Tables

Rome, however, really comes into our ken with the development of the limitations on the princely power, which, in some measure, parallels the evolution of the Greek states from tyranny to a mixed aristocracy and then to the conquest of power by the people, the *demos*, the Roman *populus*. The Twelve Tables, 451-450 B.C., represent something parallel not to Moses' handing down the Ten Commandments from Mt. Sinai, but rather to the formulation of Draco's code for Athens, more than a century earlier. They do show, at least, a reduction of customary law to a form known and established, one that protected the rights of the nobles and the people through settled rules to which all might appeal.[6] No doubt, the Twelve Tables have been overemphasized in their importance in this way, much as the Magna Carta was in England by some later scholarship. Skeptical criticism, has, indeed, advanced theories as revolutionary in their implications as that of Edouard Lambert, whose extreme view is that the Twelve Tables are very largely a creation of Sextus Aelius Paetus (190 B.C.), who succeeded in foisting them off on posterity in much the same way as romantic scholarship has created myths in our own time.

The probability is, however, that the Twelve Tables do represent a distinct development roughly parallel to the pre-Periclean Age in Athens: they have a significance like that of the earlier struggle in Athens, from Solon's time on, to get a secure law protecting all who lived within the jurisdiction of the city. In Rome, as elsewhere, the development of law went through the usual phases, which Sir Henry Maine has, perhaps a little artificially, divided into three parts.[7]

The first stage is customary law in unwritten form, the product of primitive "law speakers" who were generally the rulers of the society or the priesthood assisting them. This is the period of royal decrees like

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[5] See once more W. S. Ferguson, *Cambridge Ancient History*, Vol. VII, *loc. cit.*, and de Coulanges, *The Ancient City*.

[6] Pomponius, a jurist of the time of Hadrian, says that the Twelve Tables were based on laws obtained by the Romans from Greek cities, and even gives a contemporary view that they were first suggested by Hermodorus, an Ephesian exile in Italy, "Digest 1, 2, 2, 4," cited by C. H. McIlwain, *Growth of Political Thought in the West*, p. 102.

[7] As noted later, these stages are not strictly exclusive in terms of the *time* of legal development.

those of Numa Pompilius, with priestly interpretations of auguries and omens.

The second development is the law of the interpreting magistrates, often aided by jurisconsults or commentators, including the development of legal fictions in which the customary law is stretched to cover new conditions. Judges and jurisconsults become innovators. This development occurs at all stages of the law, probably, but its results are striking in the development of Roman law under the impact of the *praetor's* innovations through the *jus gentium*.

The third phase of the law is the mature or legislative phase, which is reached when edicts, either of the prince or of the magistrates ratified by various assemblies, come into play. This is the law-making phase, where law is purposely shaped to fit new conditions and to adjust conflicts of interest in the light of a common interest or the commonweal (*res publica*). Under the Caesars it once more becomes merely a matter of royal decrees.

In the earlier form of Roman law as legislation, the period which develops under the Republic, law (*lex*) is an edict of the magistrates ratified by various *comitiae*. It is *law* only after ratification by the *populus*, including the patricians.[8] It is extremely difficult to determine at what stages the *comitia tributa*, the *centuriata*, became, in effect, the dominant legislative body.[9] But it is certain that the ratification of laws by the Senate and by the *plebs* (the common people)—the latter in the form of a *plebiscitum*—was the regular form of procedure for law-making around 300 B.C.

Constitutional Development

The growing power of the plebs can be traced in successive enactments. It represents something of the same sort of constitutional story that can be traced out in the history of England by the reform acts and the various constitutional changes which led to the parliamentary supremacy of the House of Commons. As early as 445 B.C., shortly after the Twelve Tables, the *Lex Canuleia* granted the right of plebeians to marry patricians. The *leges Liciniae Sextiae* (367 B.C.) dealt with the law of offices (*ius honorarium*) by which the plebs became eligible even to the consulate itself. A few decades later the Law of Publius Philo (339 B.C.) opened to

[8] *Institutions*, 1, 1, *et seq.*

[9] It is certain that voting took place in the early republic through the *comitiae tributa*, as well as through the *comitiae centuriata*. In the latter, groups of one hundred, each having one vote, were divided according to wealth so that of the 193 such *comitiae*, 98 were controlled by the *equites* (knights or big landholders and property owners). (Cf. Solon's class structure for Athens.) The Senate was the dominant organ of the Republic and entirely in the hands of the clans of patricians, in the early stages. Later it was opened up to wealth. Plebeians were made eligible from 367 onwards.

plebeians the censorship, a very important office, considering the use to which it was put by such stout Romans as Cato. This law also forced the Senate to assent to the proposals of the magistrates *prior* to their being put to the *plebiscitum* of the popular assemblies, which, in effect, gave the veto power to the plebs. In this way the people were left as the final organ to accept or reject a law, and the burden of proposing laws was placed on the Senate, thus giving rise to the celebrated formula of Polybius, which later came down to us through Harrington and other advocates of a mixed state: "The Senate proposing, the people resolving, and the magistrates executing the law."

The Tribunes of the people had possessed a veto power, also, from the days of the Early Republic. But though the *concilium plebis* had been able to act by plebiscites, the Lex Hortensia (287 B.C.) extended the power to the whole *populus*.

The *Lex Ogulnia* opened up priestly offices, one of the last refuges of the aristocracy, to the plebs, and the *Lex Hortensia* (287 B.C.) substantially completed the evolution by broadening the bases of the law to a protection of all on equal terms and also by giving the enactments of the plebs the full force of a *Lex*. The *Lex Aquilia* (286 B.C.) assisted this trend by the substantial extension of the protection afforded to *all citizens* against damages to property. From this time forth the plebs' power, through the tribunes and a new initiative in moving laws, became the developing part of Roman public law.[10]

The publication of the procedural forms of the law, *legis actiones*, by Gnaeus Flavius (300 B.C.), opened up one of the sacred mysteries through making the law a written instrument capable of being known and appealed to by all citizens. Tiberius Coruncanius (250 B.C.) in a way completes the opening up of the law to public criticism by an elaborate publication and by divorcing it from the priestly offices and the esoteric tradition which had accompanied them.

To sum up, these were "reform acts," not only in bringing people into control of the law-making function by broadening their powers and democratizing consent, but also in changing the nature of law from decree and custom to statutory enactment, with the people taking the initiative.

Polybius on the Roman Constitution

Polybius, as the sections given in the Readings will indicate, covered something of the same ground that Aristotle had already explored in

[10] This triumph has sometimes been compared to the recognition in the Parliament Act of 1911 of the general supremacy of the British House of Commons over the Lords. But it was even more sweeping in the Roman instance.

the footsteps of Plato, in treating the six-fold classification of constitutions in their proper and their degenerate forms. He added, however, the idea of the determinism of cyclical decay.

Polybius, a lieutenant-general of cavalry of the Achaean League, was a hostage in Rome. The institutions of the great city which he came to admire are described with the insight of a Greek. His work is one of the most interesting sources for a knowledge of the contemporary Roman system (*circa* 200 B.C.). He adds hardly anything to Aristotle in his theoretical work, in which he agrees with the classifications of forms of states. He calls an "ochlocrasy" the mobocracy of extreme democracy, but he believes that a properly balanced democracy most nearly conformed to the practical ideal polity. Although, according to his deterministic theory of cyclical flowering and decay (rather like Spengler and a more absolute law than Plato's or Aristotle's), Carthage, Sparta, and Rome could be bolstered up only for a time against their inevitable fate, still the best constitution helped arrest the decline, as Lycurgus' did for Sparta. Rome, he admired most of all for combining, as the best form of state should, the elements of kingship, aristocracy and democracy.[11]

Polybius' formula for the Roman government emphasized the strong executive power of the two consuls, who controlled all matters of administration and the war powers; the aristocratic Senate held the purse strings and the power of initiation of legislation. The popular assemblies were the "sole fountain of honor and punishment." He felt that the strength of this mixed constitution lay in the balancing of the political powers which were separated in these three organs so that they were "accurately adjusted and in exact equilibrium." How little mere mechanical stability through checks and balances was capable of limiting the play of revolutionary forces and the change of the Roman constitution to the one-man rule of the Caesars, the events of the next two centuries were to show.

Cicero and Constitutionalism

Cicero, who represents the most considerable systematic political thinker of the Roman period, adds a Stoic emphasis to the ideas of Plato. Though the titles of his works *De Re Publica* and *De Legibus* are obviously taken from Plato's *Republic* and *The Laws*, his concept of justice differs in that he emphasizes consent or at least consensus as the basis of law. A commonwealth, he insists, is first of all a people (*populus*)—but "not just any coming together of men, but an assemblage (or association) brought together by agreement as to the basis for law (right) and by a

[11] For Mommsen's characteristic and testy comment, see his *History of Rome*. (Rev. Wm. P. Dickson's translation.)

community of interest." [12] This is an explicit recognition of the constitutional morality of an agreed-upon legal system.

Cicero stands in relation to Greek thought somewhat as Jefferson does in relation to Locke later on. There is little that is original; rather, he shows a skillful application of the best fruits of Stoicism to the Roman tradition of devoted public service, resting on the universal social and political truths that had been expounded by the Greeks. The essential legal equality of the individual members of a community is his major point of emphasis. Liberty and equality go hand in hand in Cicero's view: "No state except one in which the people have supreme power provides a habitation for liberty, than which surely nothing can be sweeter. But if liberty is not equally enjoyed by all the citizens, it is not liberty at all." (See Readings (text) from *De Re Publica.*)

Like all thinkers in an era of rapidly moving social forces and revolutionary overturn, Cicero looks wistfully back to the checks and balances of a mixed constitution, just as Plato had yearned for the days once more of Solon in Athens. It is this that leads him to repeat some of Polybius' observations on the cyclical decay of governments and to emphasize the same remedies as Polybius had set forth. Although he accepts the Stoic doctrines of universal natural law and reason, he tends more to the moral requirements of a *minimum* equality, which would permit some bow to Plato and Aristotle in terms of a proportionate equality based also on merit.

It is in recognition, however, of the basic sense of right (law and justice) and the community of interest (utility) as the foundation of the state that Cicero's major contribution lies. This combination of ethical obligation and natural interest—i.e., that the state has the duty of recognizing and protecting the mutual obligation of the corporate life of the people was later to be emphasized by Johannes Althusius. Natural law as a check on the abuses of positive law was to be emphasized later by Locke. Cicero himself sums up this combination by saying that "the function of the magistrate is to govern and to give commands which are just and beneficial and in conformity with the law. For as the laws govern the magistrate, so the magistrate governs the people, and it may be truly said that the magistrate is a speaking law, and the law a silent magistrate." [13] This was Cicero's method of resolving the dilemma between laws and men, so that the result could be called a government of laws as well as of men.

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[12] *De Re Publica,* I, 25. This translation of *consensu juris* seems preferable to Mc Ilwain's "consent to law." Cf. his treatment of this passage in *Growth of Political Thought in the West,* p. 107 and note.

[13] *Laws,* III, 1, 2.

The idea of the state bound by laws, therefore, and the notion of individual rights against the state or the government introduces a new note into political theory different from anything that has been explicit in Greek thought.

Cicero advances us in political philosophy beyond the unformed premises of Greek thought so far as the individual's *consent* is concerned, just as Roman law brings in the element of individual rights. We are on the road toward that statement of the problem of political morality that is later to be developed by the social compact theory.

But Cicero, for all his philosophy and eloquence, went down in the political struggle with Julius Caius Caesar. The times "were out of joint." The great empire demanded a military leader and a strong ruler, not a philosopher. Cicero's wisdom lives, but the brutal facts swept away his preachments in his own times.

From Democracy to Caesarism

Under what is sometimes called the later Republic (200 B.C. to 43 B.C.), which runs from the time of Polybius to the death of Cicero, the trend toward democracy was increased, and eventually transformed into the Caesarism that took over from a debased democracy.

The old patrician class based on clan and family began to give way to a nobility whose primary claim is wealth, though a bow to heredity was made by asserting a claim to some ancestor who had once held the office of consul.

A plutocracy, enriched by imperial spoils, began to control all the farm lands in a way that was later threatened in England by the Enclosure Movement. Those plebeians who had not risen in the world to wealth and position, tended to become proletarianized, and the losses of manpower in the exhausting wars against Carthage were made up by slaves and by planting serfs on the great estates (*latifundia*). The displaced farmers came to Rome to add to the city's proletariat, while disastrous taxation and misgovernment became too often the lot of the provinces. The revolutions of the Gracchi and Marius and Sulla were social—the Gracchi more socialist and Sulla more conservative. But the latter and other champions of the Senate eventually gave way to Pompey, who restored the tribune and the Assembly to their powers. Julius Caesar comes into power, not only as the conqueror of Gaul, but as a reforming dictator, whose defeat of Pompey opens the way to a better administration of the provinces and the partial extension of Roman citizenship to some of them. Julius Caesar increased the Senate from Sulla's six hundred members to more than one thousand; but he dominated it after packing it. He went on to agrarian reforms, which his assassination cut short.

Augustus Caesar built upon the combined powers that had been collected by his immediate predecessors: the *"imperium pro consuli,"* was added to powers of the tribune of the people (*tribuni plebis*) and of the *pontifex maximus*. Augustus wished to maintain many of the old forms and professed a respect for the *auctoritas* (voluntary obedience to wise men), particularly of the jurists. He brought the Senate under control but shared with it many administrative functions, such as appointment, finance, and provincial administration. He ruled Rome as Henry VIII later ruled England, with the appearance of law but the reality of power.

Augustus aimed not only at monarchial power. As Emperor, he sought to obtain, in his imperial edicts, a legislative effect (*constitutio principis*) borrowed from republican magisterial edicts (*ius honorarium*). He used his imperial initiative freely, but he consulted the Senate, and retained the forms of magistracy and the law of the jurisconsults.

Stoic Influence on Roman Law (Ius Naturae)

But judicial interpretation alongside this evolution of legislative power operated concurrently toward legislative reform. Even in the Early Republic the impact of Stoic doctrine, Greek in origin but widely accepted in Rome, began to be felt in the Roman system. The story has often been told, and never more persuasively (though perhaps not quite accurately) than by Sir Henry Maine (*Ancient Law*, Chs. I-V), of the impact of this doctrine with its idea of a law of nature (*ius naturae* or *ius naturale*) on Roman law (*ius civile*) through the introduction of the conception of equity (*aequitas*) in the law of the tribes (*ius gentium*).

The so-called *ius gentium* was not at all a system of international law; that would have been properly translated as the *ius inter gentes*. A system of international law was, indeed, developing in Rome to govern the public relations between states. But the *ius gentium* was merely the steady and annually revised clarification of a collection of laws made by the *praetor peregrinus* (created in 247 B.C.) to deal with the tribes immediately in contact with Rome. Their common customs and some of Rome's own legal customs were included as they applied.[14] The two chief *praetors* of the Roman system were the *praetor urbanus* and the *praetor peregrinus*.

The *praetor urbanus* dealt with the civil law affecting all the imme-

[14] See the criticism of Puchta (and, by inference, of Sir Henry Maine) on excluding the laws of Rome itself by Karlowa, *Romische Rechtsgeschichte*, Vol. I, p. 456, and C. H. McIlwain's supporting comments in *Growth of Political Thought in the West*, p. 105 and note. The main point that Karlowa makes is that the *ius gentium* early included the local laws of Rome, as well as those of the tribes around Rome.

diate citizens of Rome (*ius civile*). His colleague, the *praetor peregrinus*, enjoyed a considerably greater freedom in issuing his edicts in this period, for he had the widest range of choice in selecting and adjusting customs which were more or less common to the tribes with whom he dealt, probably including Roman local laws. The annual edict which summed up the *ius honorarium* (or law of offices) through a re-enactment of the law previously enforced (*edictum translaticium*) enabled the *praetor* to introduce new additions to the law. It seems clear that the *peregrine praetor*, through enjoying much greater latitude of choice, soon began to work out improvements in the legal system with much greater freedom than his colleague, the *urban praetor*.

How much effect the Stoic conception of a law immanent in all human society through the common element of reason present in all mankind and shown by common customs had in this evolution of the *ius gentium*, it is difficult to determine. But it seems fairly certain that the atmosphere of Stoic thought influenced many of the changes freely introduced into the *ius gentium* by the *praetor peregrinus*. It certainly provided a vehicle for philosophical reform and expansion, timely because of Rome's expansion from city state to an expanding empire, in need of rationalism and universality for its laws and not averse to *legal* equality.

Equity and Equality Before the Law

The conception of equity (*aequitas*) came in this way to have a reforming effect upon the system of Roman law of much the same sort that equity procedure was to introduce into English law. English equity came through the development of a separate procedure followed in cases that arose in the jurisdiction of the Lord Chancellor as the Keeper of the King's Conscience, especially where the state itself was involved in England. *Aequitas* meant equity, not equality, at this stage. Gilbert and Sullivan's operetta *Iolanthe* shows a pretty "Ward in Chancery" tunefully being married off to a deserving but unapproved candidate, in spite of the Lord Chancellor, who is administering the trust for the Crown. But equity procedure allowed for a more flexible concept of justice than ordinary courts could administer. Even today a Master in Chancery can get a very substantial justice done in a fashion impossible to the ordinary courts and with a minimum of judicial machinery.

The impact of equity procedure has been alleged by those who praise the common-law tradition to have had a liberalizing effect on the whole of our legal system inherited from its English background. Unfortunately, even equity procedure tends to harden into the rigidities of precedents and gradually becomes as fixed and cumbersome as the common law. Legislation has to be brought in to aid in reforming judge-made laws.

Similarly, the impact of the peregrine praetor's development of more liberal conceptions under the *ius gentium* had a liberalizing effect on the whole of Roman law. Today its effects can be seen in the most unexpected places. The peculiar protections worked out under Roman law to safeguard the rights of even the most humble were reflected in the superior position of the slaves in Louisiana, because the Roman legal system had been inherited by the state of Louisiana through its Spanish and French origins.

A. J. Carlyle, in his lectures and his great work on *The History of Medieval Political Theory in the West,* emphasized this Stoic conception of the innate equality of men as the great contribution of Roman law, and the turning point of Western thought. This is the real break with classical Greek theory, which was always philosophically partial to natural inequality.[15]

There is no doubt that Rome generalized the Stoic concept which eventually came to conceive equality and legal rights of all on an equal basis. But it may well be emphasized at the same time that it was from Greece that Stoic philosophy came, and that behind the idea of Stoic rationalism and egalitarianism lay a long development of Greek practice and theory in the equality of citizenship, limited though that was to a part and not the whole of those who dwelt within the city state. It was no doubt the breakup of the city state that permitted the individual to be treated no longer as a functioning part of the organic whole of the *polis.* The universalism of Stoic thought, with its emphasis upon the individual as an entity in himself and of man as a human being possessed of qualities similar to those of other men, profoundly suited the Roman ideal of citizenship as opposed to the Greek. The broader grounds of a world empire protecting the rights of all its subjects and eventually granting them citizenship under Caracalla permitted an extension beyond Athens' conception of equality limited to the select group of citizens. Roman subjects in this respect were equal—before the law—though in some respects they were levelled down as citizens—i.e., all subjects of the Emperor. But in spite of exceptions in late law that definitely treated the upper class (*honestiores*) on a different basis from the lower (*humiliores*), the idea of equality before the law had taken root in Rome from the Stoic offshoots.

Sabine puts it well: "The ideal of free citizenship was transformed to meet a situation in which the holding of public office and the performance of political function played a negligible part, and yet the ideal did not wholly vanish, for it persisted as the conception of a legal

[15] See *History of Medieval Political Theory in the West,* by R. W. and A. J. Carlyle, Vol. I, especially pp. 8-10.

status and a body of rights in which the individual could claim the protection of the state." [16]

Effects of Stoic Philosophy on Private Law

The triumph in Roman thought of the Hellenistic school of Stoicism founded by Zeno in 300 B.C. shows clearly both in the legal system and in the philosophy of Cicero. In the legal system this broad humanitarianism gave a moral justification to the expansion of Rome through the superiority of its law. Panaetius and the jurists laid the groundwork for a broadening of the conception of *aequitas* in the civil law of Rome, so that the *ius gentium* is sometimes regarded as an instrument for innovation rather than as the source of Stoic influence, as Sir Henry Maine thought. The idea of the common rationality and equality of mankind underlay a worldwide state and a universal law. The supreme and unchangeable natural law was a common possession of all men through reason, and it bound both rulers and ruled. It provided a criterion for positive law against which the customary law of cities might be tested and modified, giving full play to the reformist character of *aequitas*.

In the hands of a theorist like Panaetius, this universal law was not the property of wise men alone, as Plato and the early Stoics might have thought. Insofar as all men possessed reason, a minimum of rights must be protected by the state to maintain human dignity. The old *ius civile*, with its primitive forms like the *mancipatio* (formal purchase and sale) and *stipulatio* (contract involving payment), gives way to a legal procedure for adapting law to changing circumstances through interpretation by means of *responsa*. These interpretations were really opinions by those learned in the law, often ex-magistrates themselves, and then by the secular jurists acting as legal advisors to clients or to the magistrates. These learned jurists by their advice permitted flexibility and liberalization similar to that which English law has achieved by the broadening of the common law through judicial interpretations.

Forms and Instruments of Law

Even before the time of the Empire, the changes in ordinary law were accomplished mainly by the practors. Public law had been forced to operate through the clumsy system of legislation through the *Comitiae* and through plebiscites. The praetors, through the *edictum repentinum* and the *edictum translaticum*, had for two centuries prior to the Empire already modified profoundly the private law of Rome. With the coming of the Empire to supplant the old popular assemblies, this also became

[16] *Op. cit.*, pp. 144-5.

true for legislative change in private law. Later, in Hadrian's time (A.D. 125), *edictum perpetuum* was published by each praetor at the beginning of the yearly term to make clear the principles on which he would decide civil cases. Generally, the praetors accepted the principles from their predecessors, so that this *edictum perpetuum* established in the course of time some fixed principles of law. Although the praetor had in theory no legislative power, his formula afforded the judge who applied it the basis for his judgments. So praetor-made law could, in fact, repeal, supplement, or correct the *ius civile* as effectively as legislation.

Imperial Codification of the Law and Its Impact on Western Europe

The early emperors used the *senatus consulta* (advice of the senate) formula for imperial legislation; but they showed the greatest respect for the principles of law announced by the jurists. Ordinarily, they transformed very little in the great body of Roman civil law and the rights conferred by it. The later codification of this entire system by Justinian thus incorporated many of the principles that had been developed from foreign law under the Hellenistic influence introduced in the development of equity in Roman law, from about 150 B.C. onward. The Justinian Code, which dates from about A.D. 550, has its subsequent reappearance in the rediscovery of Roman law by the scholars of the University of Bologna in the twelfth century A.D. From this source it spread through Canon law to the newly developing national states, where the centralizing monarchs relied very heavily on the formulae of the Roman law to set up the legal structure of their own systems.

Today Rome is recognized as having given shape to Western legal systems, even after the downfall of the great bulk of its imperial structure, through the inheritance that it gave, first, to the Holy Roman Empire, later through the Church and its Canon law to the Middle Ages, and still later through the revival of Roman law and its expansion to the whole Continent from the Twelfth century onward through those clerks and clerical advisers from the monastic orders who shaped the earliest foundations of law in all the countries of continental Europe and, in lesser degree, in England. Its conquest of the entirety of Western Europe and most of Central Europe was very nearly complete by the nineteenth century.

The work of the jurisconsults in Rome became a primary source in the later codification of laws when the Caesars, from Augustus onward, began to act through edicts rather than through the method of consulting the popular assemblies which was characteristic of the Republic.

Augustus, it is true, and two or three of his immediate successors, fol-

lowed the practice of giving their legislative acts the form of a consultation of the Senate (*senatus consulta*), but this practice was soon dispensed with, and the simple executive decree became the uniform practice. By the time of Hadrian (A.D. 125), the praetor's annual edict had been hardened into an *edictum perpetuum*, and the Caesar issued decrees freely through the legal bureaucracy and the magistrates without any embarrassment of consultative machinery.

At the same time, the well-established traditions of the Roman law acted as a restraining influence and as a protection for Roman subjects wherever they resided within the Empire. It was this, perhaps, which led Dr. Johnson to remark, as Boswell alleges that he once did, that it was no more true to say that Rome "spread upon the world," than to say that "the world spread upon Rome." Roman security and Roman law were the two great cementing bonds which held the Empire together.

In the latter days of the Empire, when Eastern influence was becoming more and more marked, an even greater impact from Hellenistic ideas of law was felt. Rome, like modern Britain, began to permit the survival of local laws, in the tolerant fashion of Greek cosmopolitan doctrines. It is questionable, however, whether the codification of Justinian (A.D. 525), which represents the full maturity of the Roman legal system, did not derive its elements substantially in their entirety from the long range of precedents, and from the writings of the jurisconsults who had come to occupy a position almost like that of the Supreme Court in the United States. The codifiers, in some instances, were instructed to rely upon the work of such commentators as Papinian as the authentic source of the true law. The Code itself reflects early Institutes, particularly those of Gaius.

Great as were the architectural and engineering triumphs of Rome, and its communications system and administrative achievements, nothing bears truer witness to the grandeur that was Rome than the complex structure of law which the Justinian Code represents to us. Its legacy through the channels of all European administrative law and through the almost universal acceptance of Roman law maxims as the basis not only of continental systems, but also of those derived from them, such as the Latin-American systems, show how permanent and how well grounded were the civil law maxims created in the thousand years of legal evolution between the time of the Twelve Tables and the final overthrow of Rome as an empire.

Christian Doctrine and the Political Theory of the Middle Ages

By the time of the Emperor Constantine, Christian doctrine had won an almost miraculous foothold in the Roman Empire, which had so

bitterly persecuted it in the first centuries after Christ. It had spread not only to the Mediterranean world but, through its hardy prophets and saints, into the Germanic tribes in the West and into Britain and Ireland. Not less striking was its expansion to the East through the Catholicism of the Eastern Empire, centering in Constantinople.

The effects of Christian doctrine, however, were to have their main impact in the Middle Ages, after the destruction of the Roman Empire. It is no doubt an oversimplification of Stoic doctrine, with its various emphases, to ascribe so much of the development of the idea of equality to it. Neither Roman practice nor Stoic philosophy reached the fundamental basis for a doctrine of equality and liberty. It was in Christian doctrine that the spiritual nature of man found the supreme affirmation of an equality of men as brothers, all possessed of souls equal in the sight of God. The classic quotations from St. Paul given in the Readings lay the grounds for a claim by every human being to this ultimate equality as souls: "For as the body is one, and hath many members, and all the members of that one body, being many, are one body; so also is Christ. For by one Spirit are we all baptized into one body, whether we be Jews or Gentiles, whether we be bond or free; and have been all made to drink into one Spirit."

The appeal to this higher law of the brotherhood of man in Christ was to set up a different order from the legal order of the state, to which an appeal for human perfection might always be made. The organization of a universal church embodying these principles set up a power that consistently attempted to impose moral ideals as well as limitations upon the power of the state. From this innate character of Christian doctrine come three aspects of political thought and institutions that are basic to the development of constitutionalism:

The first is the moral ultimacy of the individual person through his possession of a soul, equal in the sight of God. This is the basis of all the subsequent doctrines of human rights prior to the development of the Natural Law school of rights.

The second is an internal struggle in the doctrine itself between a theory of passive obedience, which finds support in many of the quotations given in the Readings from the New Testament, and a counter-doctrine of the right of resistance to immoral and, therefore, unlawful authority that eventuates in a doctrine of tyrannicide and even the right of revolution.

The third is the basic underlying conception of constitutional restraints on the power of government that rests upon the idea of a law higher than that of the government and limiting the operation of the state. Christian doctrine, embodied in the church, established, as we

shall see in subsequent chapters, the doctrine of "Two Swords." The puzzle that it presented was whether moral restraints could be more effectively embodied in a church separated from the state, or whether the church should itself guide and control the state and limit rulers in all matters fundamental to its moral and religious doctrines.

The medieval monarchs had, in short, a check from an outside source of moral authority. This check laid the grounds for the important evolution of limitation of the state by moral law in the subsequent growth of constitutionalism. Locke is secularizing this medieval religious law. The American constitutional systems, state and federal, embody Locke's version, though they separate church and state and do not appeal to a theological but to a "natural" basis for human rights.

(... *W.Y.E.*)

READINGS

ABOUT the time when Lycurgus was creating the Spartan constitution, a new city was being founded in the West. Located on and among seven hills midway down the western coast of the Italian peninsula, it was called Rome. According to legend, the city was founded by Romulus, after whom it was named, and his twin brother Remus in 753 B.C.; but there is evidence of settlement in the region long before, and the Sabine people, from whom (again according to legend) the early Romans seized their women, was one of many tribes around the country dominated by the Seven Hills of Rome.

When it left its first records, Rome was a monarchy, but little is known of this early period. Around 509 B.C. the monarch Tarquinius Superbus, presumably a most tyrannical ruler, was expelled, and a republican form of government came into existence which lasted for nearly five hundred years. In this period Rome expanded by conquest and colonization until most of the Western world came under her sway. Internally Rome went through a most tortuous development, which finally ended in the downfall of the republican form of government and the rise of one man rule: *Caesarism.*

It is not easy to explain why one city should rise to such power and eminence. The expansion, however, took place over a long period of time, during which there were reverses and defeats as well as victories and successes. For this reason a detailed consideration of the expansion is extremely difficult to follow. But in main outline the development is fairly clear. By about 265 B.C., after long struggle, Rome had extended its rule over the whole of the Italian peninsula. Its great rival across the Mediterranean, Carthage, was decisively defeated by 202, and, after one

more attempted come-back, was completely destroyed in 146. In about the same period, the Romans had turned their attention eastward and conquered Greece and most of the territory around the eastern Mediterranean. They also pushed west to conquer Spain, and north to invade and partially conquer Gaul and Britain. This great record of conquest meant that Rome was at war a great deal of the time, and that it had to devise a method for governing its conquered territories. These two tasks of conquering and ruling placed an enormous burden upon Rome itself.

At no time were the internal fortunes of Rome unaffected by its external affairs. In general, the internal problem was one of keeping enough unity in Rome and the expanding empire so that there would be sufficient strength to continue the conquests and to consolidate the gains. That the long struggle between the plebs and the patricians was so indecisive was probably due to the requirement for the unity necessary for war. Like the record of conquest, the details of internal fortunes are overwhelming, but in broad outline they are fairly clear.

After the expulsion of the Tarquins, the plebs or lower classes demanded a greater share in the rule, and after a secession to the Aventine they were granted a tribunate around 494. This office increased in power and number of holders until it could veto acts, and the power of the plebs developed so that what they adopted had the force of law and was binding upon all people. Because the plebs demanded also that the law be written down, the task of codification was begun in 451, and resulted in the Twelve Tables.

The patricians or nobles were great land owners, and one of the great desires of the plebs was to secure land. The reforms of the Gracchus brothers between 133 and 122 undermined the power of the Senate, the stronghold of the patrician. After a setback, a strong consul, Marius, pushed the reforms farther and also reorganized the army by making it predominantly professional. Sulla, a rival who espoused the cause of the Senate and the patricians, then gained power, and thereafter the real ruler of Rome tended to be the man who was able to command the army. With the influence and authority of the Senate undermined, there was no restraint from that source. Likewise, the popular party had no effective power against a popular commander of the army. This unbalance paved the way for Caesar, and finally the victories of Octavian (Augustus) ended the Republic and started the course of imperial development. The line of emperors runs with a fair degree of continuity until the time of Constantine the Great (A.D. 306-337), when a new capital was built in the East, named Constantinople, and thereafter the Empire was split, to have only momentary unity in the years since. The Western

empire went down under barbarian invasions in the fifth century, and the Eastern survived in some fashion until the fifteenth.

In many ways the lives and the writings of the men presented in this chapter are intimately connected with the events just recited.

At one stage in the Roman conquest of Greece, the invaders took a thousand hostages from Greece to Rome to guarantee that the Achaean League would remain neutral in the battles between the rest of Greece and Rome. Among these hostages was Polybius. He was born around 201 B.C. in Arcadia and lived until about 120 B.C., achieving his importance in Greece as a lieutenant-general of cavalry for the Achaean League. In the seventeen years between 168 and 151 he lived in Rome. After the end of Greek independence, Polybius was sent by Scipio to help organize local government and to explain the Roman system of government in all Greece south of Thessaly. He is remembered, of course, for his famous *Histories,* which covered the period from the Hannibalic war to the defeat of Carthage. Originally the work was in forty volumes, of which only five remain intact. Of others there are only fragments. It is probably because he was a foreigner to Rome that he saw more clearly than most Romans the real virtue of its constitutional system. He discovered this virtue in the mixed government which gave stability—a characteristic that was bound to appeal to a Greek when he contemplated the history of his own land.

In the final years of the Roman republic no name is more prominently identified with the efforts to save the old, to maintain law and dignity, and to put the Empire on a firm basis than that of Marcus Tullius Cicero. His years almost span the period of the final struggle. Born in 106 B.C., of the equestrian class, he was educated at Rome, Athens, and Rhodes. He held several important government posts, including that of consul in 63. His fame, aside from his writings, rests upon his opposition to Caesar, whom he survived by one year. He died at the hands of the agents of Octavian and Mark Antony. Caught in the throes of an irreconcilable struggle, he shared in his later years the fate of all who try to preserve a moderate or middle way after the issue in a struggle has been finally joined. He was branded weak and inconstant, a failure as a politician and man of action. As a writer he is one of Rome's best.

Cicero's writings tell much of Roman life, and his orations are unexcelled specimens of Latin prose. He was a philosopher of importance in a city that produced few philosophers. As a Stoic, his emphasis upon the universe coincided nicely with the well-nigh universal dominion of Rome. In a land that substituted political action and invention for political speculation, the writings of Cicero, especially *De Re Publica* and *De Legibus,* take on special interest. As a great lawyer living in a land with a

great legal tradition, his words are of interest to any people interested in law. As we look back from his works, they offer interesting comparison with Plato and Aristotle. If we look forward, they anticipate the reception of Christianity in the West. Cicero, like Plato and Aristotle before him, wrote in a time of profound change. And, like his more illustrious predecessors, his dislike for the direction of the change drove him back to a consideration of first principles.

Of the authors of the remaining selections in this chapter, none was a Roman, one was never in Rome, and all lived in the days of the Empire. Together, however, they represent the most enduring contribution of Rome to the Western world. In one instance, Christianity, Rome became the medium through which a great heritage was spread. In the other, law, Rome was both creator and agent.

There is no need, or should be none, to recount the biographical facts of Jesus of Nazareth. All of the West celebrates Christmas and Easter, and the ceremonies of both depict the main events in his life. We need only recall that Pontius Pilate was a Roman governor to understand that Rome and Christianity made early contact. Moreover, it was in Roman territory and during Roman imperial effectiveness that Christ set forth the system of Christian ethics. It was within the confines of the Empire that Saul of Tarsus began and ended his great ministry in behalf of a militant Christianity. Since the time when Christianity began to spread over the West, political philosophers could, or can, neglect its content and the story of its development only at the risk of inexcusable superficiality.

Unlike Christianity and Greek philosophy, Roman law cannot be identified with a few well-known names. Ironically, the man chosen here, and the natural one to choose, was not a lawyer nor did he live in Rome. He was, in fact, the last effective emperor, but he ruled from the East, from Constantinople. But this is typical; a great body of law is never the work of one man. Rather it is the careful and systematic work of many men extending over a long period of time. During all the turbulence of Roman development, a legal system was emerging that was truly systematic and hence had a continuity that seems uncharacteristic of Rome. Between the Republic and the Empire many bonds were snapped; but the development of law was almost unbroken, and the form, as distinct from the substance, was scarcely disturbed.

The Roman legal system was preserved for posterity by the act of the last emperor, Justinian, who effectively ruled East and West. Born in A.D. 483 in Illyricum, probably of Slavonic barbarian parents, he worked closely with his uncle, Emperor Justin I, and succeeded him to the throne in 527. Under his directions, Tribonian and a group of lawyers

produced *Corpus Juris Civilis* Thus, in one last great consolidation, the Roman legal system was passed on to the future Justinian died in 565, but during his rule he tried to reconcile Greek and Roman Christianity, and he did much to stamp out heresy In him are drawn together much of what was to dominate all politics for the next thousand years: the secular and the sacerdotal, the law of man and the law of God

Polybius: The Mixed Constitution

In the following selection, Polybius, an alien in Rome, analyzes the Roman constitution as he knew it He propounds a theory of the cyclical degeneration of states not unlike that set forth earlier by his more illustrious countrymen Like all Westerners, he drew upon Greek experience and Greek thought He finds the key to Rome's successful government in the mixing of the classes in their control over the government, and this presentation remains something of a classic for its clarity and grasp That he lacked the profundity of Plato and the omniscience of Aristotle is readily seen Nevertheless, his ideas are not without importance for future developments of thought Moreover, they give something of a picture of Rome as set down by a contemporary and a participant ¶ The selections presented here are from the fragmentary Book VI as translated by Evelyn Schuckburgh,[1] beginning with Chapter 3

OF THE GREEK REPUBLICS, WHICH HAVE again and again risen to greatness and fallen into insignificance, it is not difficult to speak, whether we recount their past history or venture an opinion on their future For to report what is already known is an easy task, nor is it hard to guess what is to come from our knowledge of what has been But in regard to the Romans it is neither an easy matter to describe their present state, owing to the complexity of their constitution, nor to speak with confidence of their future, from our inadequate acquaintance with their peculiar institutions in the past whether affecting their public or their private life It will require then no ordinary attention and study to get a clear and comprehensive conception of the distinctive features of this constitution

[KINDS OF GOVERNMENT]

Now, it is undoubtedly the case that most of those who profess to give us authoritative instruction on this subject distinguish three kinds of constitutions, which they designate *kingship, aristocracy, democracy* But in my opinion the question might fairly be put to them, whether they name these as being the *only* ones, or as the *best* In either case I think they are wrong For it is plain that we must regard as the *best* constitution that which partakes of all these three elements And this is no mere assertion, but has been proved by the example of Lycurgus, who was the first to construct a constitution—that of Sparta—on this principle Nor can we admit that these are the *only* forms for

[1] Polybius, *Histories* translated by Evelyn Schuckburgh New York By permission of The Macmillan Company publishers

we have had before now examples of absolute and tyrannical forms of government, which, while differing as widely as possible from kingship, yet appear to have some points of resemblance to it; on which account all absolute rulers falsely assume and use, as far as they can, the title of king. Again there have been many instances of oligarchical governments having in appearance some analogy to aristocracies, which are, if I may say so, as different from them as it is possible to be. The same also holds good about democracy.

4. I will illustrate the truth of what I say. We cannot hold every absolute government to be a kingship, but only that which is accepted voluntarily, and is directed by an appeal to reason rather than to fear and force. Nor again is every oligarchy to be regarded as an aristocracy; the latter exists only where the power is wielded by the justest and wisest men selected on their merits. Similarly, it is not enough to constitute a democracy that the whole crowd of citizens should have the right to do whatever they wish or propose. But where reverence to the gods, succour of parents, respect to elders, obedience to laws, are traditional and habitual, in such communities, if the will of the majority prevail, we may speak of the form of government as a democracy. So then we enumerate six forms of government,—the three commonly spoken of which I have just mentioned, and three more allied forms, I mean *despotism, oligarchy* and *mob-rule*. The first of these arises without artificial aid and in the natural order of events. Next to this, and produced from it by the aid of art and adjustment, comes *kingship;* which degenerating into the evil form allied to it, by which I mean *tyranny*, both are once more destroyed and *aristocracy* produced. Again the latter being in the course of nature perverted to *oligarchy*, and the people passionately avenging the unjust acts of their rulers, *democracy* comes into existence; which again by its violence and contempt of law becomes sheer *mob-rule*. No clearer proof of the truth of what I say could be obtained than by a careful observation of the natural origin, genesis, and decadence of these several forms of government. For it is only by seeing distinctly how each of them is produced that a distinct view can also be obtained of its growth, zenith, and decadence, and the time, circumstance, and place in which each of these may be expected to recur. This method I have assumed to be especially applicable to the Roman constitution, because its origin and growth have from the first followed natural causes.

. . . . .

[Roman Constitution]

11. I have given an account of the constitution of Lycurgus, I will now endeavour to describe that of Rome at the period of their disastrous defeat at Cannae.

. . . . .

As for the Roman constitution, it had three elements, each of them possessing sovereign powers: and their respective share of power in the whole state had been regulated with such a scrupulous regard to equality and equilibrium, that no one could say for certain, not even a native, whether the constitution as a whole were an aristocracy or democracy or despotism. And no wonder: for if we confine our observation to the power of the Consuls we should be inclined to regard it as despotic; if on that of the Senate, as aristocratic; and if finally one looks at the power possessed by the people it would seem a clear case of a democracy. What the exact powers of these several parts were, and still, with slight modifications, are, I will now state.

[Consuls]

12. The Consuls, before leading out the legions, remain in Rome and are supreme masters of the administration. All

other magistrates, except the Tribunes, are under them and take their orders. They introduce foreign ambassadors to the Senate; bring matters requiring deliberation before it; and see to the execution of its decrees. If, again, there are any matters of state which require the authorisation of the people, it is their business to see to them, to summon the popular meetings, to bring the proposals before them, and to carry out the decrees of the majority. In the preparations for war also, and in a word in the entire administration of a campaign, they have all but absolute power. It is competent to them to impose on the allies such levies as they think good, to appoint the Military Tribunes, to make up the roll for soldiers and select those that are suitable. Besides they have absolute power of inflicting punishment on all who are under their command while on active service: and they have authority to expend as much of the public money as they choose, being accompanied by a quaestor who is entirely at their orders. A survey of these powers would in fact justify our describing the constitution as despotic,—a clear case of royal government. Nor will it affect the truth of my description, if any of the institutions I have described are changed in our time, or in that of our posterity: and the same remarks apply to what follows.

[Senate]

13. The Senate has first of all the control of the treasury, and regulates the receipts and disbursements alike. For the Quaestors cannot issue any public money for the various departments of the state without a decree of the Senate, except for the service of the Consuls. The Senate controls also what is by far the largest and most important expenditure, that, namely, which is made by the censors every *lustrum* for the repair or construction of public buildings; this money cannot be obtained by the censors except by the grant of the Senate. Similarly all crimes committed in Italy requiring a public investigation, such as treason, conspiracy, poisoning, or wilful murder, are in the hands of the Senate. Besides, if any individual or state among the Italian allies requires a controversy to be settled, a penalty to be assessed, help or protection to be afforded,—all this is the province of the Senate. Or again, outside Italy, if it is necessary to send an embassy to reconcile warring communities, or to remind them of their duty, or sometimes to impose requisitions upon them, or to receive their submission, or finally to proclaim war against them,—this too is the business of the Senate. In like manner the reception to be given to foreign ambassadors in Rome, and the answers to be returned to them, are decided by the Senate. With such business the people have nothing to do. Consequently, if one were staying at Rome when the Consuls were not in town, one would imagine the constitution to be a complete aristocracy: and this has been the idea entertained by many Greeks, and by many kings as well, from the fact that nearly all the business they had with Rome was settled by the Senate.

[People]

14. After this one would naturally be inclined to ask what part is left for the people in the constitution, when the Senate has these various functions, especially the control of the receipts and expenditure of the exchequer; and when the Consuls, again, have absolute power over the details of military preparation, and an absolute authority in the field? There is, however, a part left the people, and it is a most important one. For the people is the sole fountain of honour and of punishment; and it is by these two things and these alone that dynasties and constitutions and, in a word, human society are held together: for where the distinction between them is not sharply drawn both in theory and practice, there no undertaking can be properly administered,—as indeed we might expect when good and bad

are held in exactly the same honour. The people then are the only court to decide matters of life and death; and even in cases where the penalty is money, if the sum to be assessed is sufficiently serious, and especially when the accused have held the higher magistracies. And in regard to this arrangement there is one point deserving especial commendation and record. Men who are on trial for their lives at Rome, while sentence is in process of being voted,—if even only one of the tribes whose votes are needed to ratify the sentence has not voted,—have the privilege at Rome of openly departing and condemning themselves to a voluntary exile. Such men are safe at Naples or Praeneste or at Tibur, and at other towns with which this arrangement has been duly ratified on oath.

Again, it is the people who bestow offices on the deserving, which are the most honourable rewards of virtue. It has also the absolute power of passing or repealing laws; and, most important of all, it is the people who deliberate on the question of peace or war. And when provisional terms are made for alliance, suspension of hostilities, or treaties, it is the people who ratify them or the reverse.

These considerations again would lead one to say that the chief power in the state was the people's, and that the constitution was a democracy.

[Checks and Balances]

15. Such, then, is the distribution of power between the several parts of the state. I must now show how each of these several parts can, when they choose, oppose or support each other.

The Consul, then, when he has started on an expedition with the powers I have described, is to all appearance absolute in the administration of the business in hand; still he has need of the support both of people and Senate, and, without them, is quite unable to bring the matter to a successful conclusion. For it is plain that he must have supplies sent to his legions from time to time; but without a decree of the Senate they can be supplied neither with corn, nor clothes, nor pay, so that all the plans of a commander must be futile, if the Senate is resolved either to shrink from danger or hamper his plans. And again, whether a Consul shall bring any undertaking to a conclusion or no depends entirely upon the Senate: for it has absolute authority at the end of a year to send another Consul to supersede him, or to continue the existing one in his command. Again, even to the successes of the generals the Senate has the power to add distinction and glory, and on the other hand to obscure their merits and lower their credit. For these high achievements are brought in tangible form before the eyes of the citizens by what are called "triumphs." But these triumphs the commanders cannot celebrate with proper pomp, or in some cases celebrate at all, unless the Senate concurs and grants the necessary money. As for the people, the Consuls are pre-eminently obliged to court their favour, however distant from home may be the field of their operations; for it is the people, as I have said before, that ratifies, or refuses to ratify, terms of peace and treaties; but most of all because when laying down their office they have to give an account of their administration before it. Therefore in no case is it safe for the Consuls to neglect either the Senate or the good-will of the people.

16. As for the Senate, which possesses the immense power I have described, in the first place it is obliged in public affairs to take the multitude into account, and respect the wishes of the people; and it cannot put into execution the penalty for offences against the republic, which are punishable with death, unless the people first ratify its decrees. Similarly even in matters which directly affect the senators,—for instance, in the case of a law diminishing the Senate's traditional authority, or depriving senators of certain dignities and offices, or even actually cutting down their property,—even in such

cases the people have the sole power of passing or rejecting the law. But most important of all is the fact that, if the Tribunes interpose their veto, the Senate not only are unable to pass a decree, but cannot even hold a meeting at all, whether formal or informal. Now, the Tribunes are always bound to carry out the decree of the people, and above all things to have regard to their wishes: therefore, for all these reasons the Senate stands in awe of the multitude, and cannot neglect the feelings of the people.

17. In like manner the people on its part is far from being independent of the Senate, and is bound to take its wishes into account both collectively and individually. For contracts, too numerous to count, are given out by the censors in all parts of Italy for the repairs or construction of public buildings; there is also the collection of revenue from many rivers, harbours, gardens, mines, and land—everything, in a word, that comes under the control of the Roman government: and in all these the people at large are engaged; so that there is scarcely a man, so to speak, who is not interested either as a contractor or as being employed in the works. For some purchase the contracts from the censors for themselves; and others go partners with them; while others again go security for these contractors, or actually pledge their property to the treasury for them. Now over all these transactions the Senate has absolute control. It can grant an extension of time; and in case of unforeseen accident can relieve the contractors from a portion of their obligation, or release them from it altogether, if they are absolutely unable to fulfil it. And there are many details in which the Senate can inflict great hardships, or, on the other hand, grant great indulgences to the contractors: for in every case the appeal is to it. But the most important point of all is that the judges are taken from its members in the majority of trials, whether public or private, in which the charges are heavy. Consequently, all citizens are much at its mercy; and being alarmed at the uncertainty as to when they may need its aid, are cautious about resisting or actively opposing its will. And for a similar reason men do not rashly resist the wishes of the Consuls, because one and all may become subject to their absolute authority on a campaign.

18. The result of this power of the several estates for mutual help or harm is a union sufficiently firm for all emergencies, and a constitution than which it is impossible to find a better. For whenever any danger from without compels them to unite and work together, the strength which is developed by the State is so extraordinary, that everything required is unfailingly carried out by the eager rivalry shown by all classes to devote their whole minds to the need of the hour, and to secure that any determination come to should not fail for want of promptitude; while each individual works, privately and publicly alike, for the accomplishment of the business in hand. Accordingly, the peculiar constitution of the State makes it irresistible, and certain of obtaining whatever it determines to attempt. Nay, even when these external alarms are past, and the people are enjoying their good fortune and the fruits of their victories, and, as usually happens, growing corrupted by flattery and idleness, show a tendency to violence and arrogance,—it is in these circumstances, more than ever, that the constitution is seen to possess within itself the power of correcting abuses. For when any one of the three classes becomes puffed up, and manifests an inclination to be contentious and unduly encroaching, the mutual interdependency of all the three, and the possibility of the pretensions of any one being checked and thwarted by the others, must plainly check this tendency: and so the proper equilibrium is maintained by the impulsiveness of the one part being checked by its fear of the other....

Cicero: Equality Before Universal Law

Cicero's DE RE PUBLICA, *as the title suggests, is patterned after Plato's* REPUBLIC *and is in dialogue form Cicero completed the work between 55 and 51 B C , while he was withdrawn from public life It is no doubt the most complete statement of political thought by a Stoic Unfortunately, we have today only fragments of the complete work, and these were discovered as recently as 1822 in the Vatican library What is extant today is probably about one third of the complete work In the selection that follows there is an emphasis upon universality and equality that is a sharp break with Plato and Aristotle One should remember in reading this selection that Cicero was profoundly disturbed by the turbulence of affairs in Rome and about the place of the Empire in the scheme of things The translators are George H. Sabine and Stanley B Smith* [1] *Most of the translators' footnotes have been omitted*

[*In the dialogue that follows Cicero himself speaks as Scipio Africanus*]

BOOK I

["OUR HOME"]

XIII *Laelius* What, I ask, were you doing, or what was the discussion which we interrupted?

Philus Scipio had asked me what I thought about the fact that two suns have certainly been seen

Laelius Really now, Philus! Have we already settled the problems that may affect our private and public life, that we are investigating what goes on in the sky?

Philus Why, do you not think that our private life is affected by the knowledge of what is done and what happens in our home? And our home is not a structure of four walls, but is this entire universe, which the gods have given us as a habitation and as a country, to be shared in common with them [2] Surely, if we remain in ignorance of these cosmic problems, we must remain ignorant of many important matters For my part, I take delight in the knowledge and study of natural phenomena, as indeed you do yourself, Laelius, in common with all men who love wisdom.

. .

[STOICISM]

XVII *Scipio* What, I ask, can a man think glorious in human life, who has contemplated these realms of the gods? What can he regard as enduring, who has learned the nature of eternity? What meaning can fame have for him who has seen how small is the earth, even the whole of it, and especially that portion inhabited by man, and how insignificant is that part of the habitable globe to which we are limited? For we are unknown to most races, even though we hope that our renown will fly and wander far and wide.

Lands buildings, herds, and a countless store of gold and silver are generally ac

[1] Marcus Tullius Cicero, *On The Commonwealth*, translated with notes and introduction by George Holland Sabine and Stanley Barney Smith By permission of The Ohio State University Press, Columbus, Ohio, 1929

[2] This sentence is attributed by von Arnim to the Stoic Chrysippus, see *Stoicorum veterum fragmenta*, 3 (1923), fr 338

counted the goods of life. But how fortunate should we judge the man who rejects this view and refuses to call such objects good, because to him their enjoyment appears trifling, their use insignificant, and their ownership uncertain, and because he realizes that often the most debased of men have these possessions beyond all measure! Only such a man may truly claim all things as his own, not by a title derived from the law of the Quirites, but by virtue of the right which inheres in wisdom; not because of a formal contract under the civil law, but by virtue of that general law of nature which forbids that anything should belong to any one, except to a man who knows how to use and employ it wisely. Such a man considers our military commands and civil magistracies among necessary, not among desirable things, to be undertaken only as a public duty, not to be sought for the sake of glory and reward. Such a man, finally, can make the same assertion about himself that, according to Cato, my grandfather Africanus used to make, that he never accomplished more than when doing nothing, and that he was never less lonely than when he was alone.

Who can really believe that, when Dionysius by employing every device wrested freedom from his subjects, he accomplished more than his fellow-citizen Archimedes, when the latter, though apparently idle, constructed the sphere you have just described? Who would not agree, moreover, that a man who does not meet in the crowds of the forum a single congenial acquaintance is more lonely than one who either communes alone with himself, or who is, in a sense, present in an assembly of the learned, because he delights himself with their discoveries and writings? Who can think anyone richer than the man who lacks nothing that nature truly requires; or mightier than the man who accomplishes all his aims; or happier than the man who has been freed from every disturbance of soul; or more firmly established in fortune's favor than the man whose possessions are such that he can, as the proverb says, bear them with him even from shipwreck? What military command, what magistracy, what kingly prerogative excels the power of him who looks down upon the world, who thinks that everything in it is human and inferior to wisdom, and who therefore reflects only upon eternal and divine truths?[3] Such a man is persuaded that, although others may be called human, only those are really so who have been refined by the truly humane arts.

. . . . .

[REPUBLIC (COMMONWEALTH)—"THE PEOPLE'S AFFAIR"]

XXV. *Scipio:* The commonwealth, then, is the people's affair; and the people is not every group of men, associated in any manner, but is the coming together of a considerable number of men who are united by a common agreement about law and rights and by the desire to participate in mutual advantages. The original cause of this coming together is not so much weakness as a kind of social instinct natural to man. For the human kind is not solitary, nor do its members live lives of isolated roving; but it is so constituted that, even if it possessed the greatest plenty of material comforts, [it would nevertheless be impelled by its nature to live in social groups .....]

. . . . .

XXVI. *Scipio:* ..... [These gregarious impulses] are, so to speak, the seeds [of social virtues]; nor can any other source be found for the remaining virtues or, indeed, for the commonwealth itself. Such groups, therefore, brought into being for the reason I have mentioned, first

[3] The passage beginning "Who can think anyone richer" and running to "eternal and divine truths" is regarded by von Arnim as a paraphrase of the Stoic Chrysippus; see *Stoicorum veterum fragmenta*, 3 (1923), fr 600.

settled themselves in a fixed abode that they might have dwellings. And when they had fortified this abode, either by taking advantage of the natural features of the land or by building artificial works, they called such a group of buildings, with the places set aside for shrines and for common use, either a town or a city. Consequently, every people, which is a number of men united in the way I have explained, every state, which is an organization of the people, every commonwealth, which, as I have said, is the people's affair, needs to be ruled by some sort of deliberating authority in order that it may endure. This authority, in the first place, must always be relative to the peculiar grounds which have brought the particular state into being. It must, in the second place, be delegated either to a single man, or to certain selected persons, or it must be retained by all the members of the group.

. . . . .

[Equality and Law]

XXXI. *Scipio:* ..... and every state varies according to the character and inclination of its sovereign.[4] Consequently, no state except one in which the people have supreme power provides a habitation for liberty, than which surely nothing can be sweeter. But if liberty is not equally enjoyed by all the citizens, it is not liberty at all. And yet, how can all citizens have an equal share in liberty —I pass over the citizens in a monarchy, for there, of course, the subjection of the people is neither concealed nor questionable—but even in those states in which all men are nominally free? They do, of course, cast their votes; they elect the civil and military officials; their suffrages are solicited for purposes of election and legislation. Nevertheless, the powers which they bestow they would have to bestow, even against their will; and they do not possess the powers which others seek to obtain from them. For they have no share in military commands, or in advisory councils, or in special jury panels. These offices are in fact reserved to men of ancient family or to men of wealth. But in a free people, as at Rhodes or at Athens, there is no citizen who [is not eligible to all the offices of state].....

XXXII. *Scipio:* [The advocates of democracy] affirm that, [when] one man or a few men become wealthier and more powerful than the other citizens, their pride and arrogance give rise [to special privileges], because the inactive and the weak give way and submit to the pretensions of the rich. So long, however, as the people actually retain their power, these thinkers hold that no form of government is better, more liberal, or more prosperous, since the people have control over legislation, the administration of justice, the making of war and peace, the concluding of treaties, and over the civil status and property of each individual citizen.[5] This, according to their view, is the only form of government which can properly be called a commonwealth, that is, the people's affair; and therefore, while there are many instances where the people's affair is freed from the yoke of kings and patricians, there is none of a free people's demanding a king or an aristocratic form of government. They assert, moreover, that it is not right for democracy in general to be condemned because an uncontrolled populace has defects; that, so long as a people is har-

[4] With this compare Aristotle's statement that a constitution is an arrangement of magistracies, especially the highest (*Politics*, 1278 b 9 ff.). Following the question put by Laelius at the end of the preceding chapter, Scipio states the arguments in favor of each of the unmixed kinds of state, beginning with democracy.

[5] See Polybius: 6. 14. 3 ff., where the author, in enumerating the democratic elements of the tripartite Roman constitution, mentions among the powers of the people those here described as characteristic of democracy.

monious and subordinates everything to its safety and freedom, there is no form of government less subject to revolution or more stable and that the kind of state in which harmony is most easily attained is one in which the interests of all the citizens are the same Dissension, as they hold, arises from diversity of interests, whenever the well being of some is contrary to the well being of others Consequently, when the government was in the hands of aristocrats the form of the state has never remained stable Still less has this been the case with monarchies, for, in Ennius' words,

> In a kingdom there is no sacred fellowship or trust

Since, then, law is the bond that holds political society together, and since equality of rights is a part of law, by what principle of right can an association of citizens be held together, when the status of these citizens is not equal For if it is not thought desirable that property should be equally distributed and if the natural capacities of all men cannot possibly be equal, yet certainly all who are citizens of the same commonwealth ought to enjoy equal rights in their mutual relations What, indeed, is a state if it is not an association of citizens united by law?[6]

BOOK III

XXXI *Scipio* to restore Who therefore, could have called the government of Agrigentum the people's affair, that is, a commonwealth at the time when all were oppressed by the cruelty of a single man, when there was no common bond of law, and when there was no agreement regarding what is right and no social union such as constitutes a people? This same condition existed at Syracuse It was a famous city, called by Timaeus at once the greatest of Greek cities and the most beautiful city in the world Its citadel deserved to be visited by travelers, and its harbors extended to the very center of the city and bathed the walls of the houses Nevertheless, [neither these wonders nor] its broad streets, its porticoes, its temples, and its walls, availed in any way to make it a commonwealth so long as Dionysius was its master For there was nothing that was the people's affair, and the people themselves were the possession of a single man Hence, where there is a tyrant we must not say, as I said yesterday, that there is a perverted commonwealth, but, as reason now obliges us to conclude, that there is clearly no commonwealth at all

XXXII *Laelius* You state your case plainly, for I see now where the argument leads

Scipio You see likewise, then, that a government which is altogether in the hands of an oligarchy cannot properly be called a commonwealth

Laelius I concur fully in that conclusion

Scipio And you are certainly right What, I ask, was the affair of the Athenians when, at the close of their great war with Sparta, the city was ruled by the Thirty Tyrants in utter defiance of law? Did the ancient renown of the state, or the celebrated beauty of the city its theater, its gymnasia, its porticoes, its splendid propylaea, its citadel, the marvelous creations of Phidias, or its magnificent harbor at Piraeus—did all these make it a commonwealth?

Laelius By no means, for there was no affair of the people

Scipio Again, what was the case at Rome, when the decemvirs, in that notorious third year, allowed no appeal to the people from their decisions, because there was then no such thing as liberty?

Laelius There was no affair of the people, on the contrary, the people took steps to recover their affair.

[6] Since a lacuna immediately follows the word *civium*, it is impossible to tell whether the sentence ends with that word and indeed *civium* may belong to the following sentence which has been lost

[Democracy]

XXXIII. *Scipio:* I come now to the third kind of state [the democracy], in which there will perhaps appear to be certain difficulties for our theory. When it is said that all public acts are accomplished through the people and that everything falls within the people's power, when the masses inflict punishment on whomsoever they choose, and when they plunder, seize, keep, or squander whatever they wish—can you deny, Laelius, that there is then a commonwealth? For, surely, then everything belongs to the people, and we have defined the commonwealth as the people's affair.

Laelius: As a matter of fact, there is no form of state to which I should sooner deny the name of commonwealth than to one which is wholly in the hands of the masses. For if we decided that Syracuse was not a commonwealth, and that Agrigentum and Athens were not commonwealths when they were subject to tyrants, and that Rome was not a commonwealth when it was subject to the decemvirs, I do not see why the word commonwealth is any more appropriate for a city enslaved by a mob. For in the first place, as I see the matter, a people does not exist unless, as you have excellently defined it, Scipio, the group is held together by a common agreement about law and right. But the mob that you describe is as tyrannous as if it were a single usurper; in one respect it is even worse, for there is nothing more odious than this monster which apes the appearance and usurps the name of a people. When the law[7] places the control of a madman's property in the hands of his relatives, because already his ....., it is not reasonable that....

(The four inside leaves of the forty-first quaternion are missing)

XXXIV. *Scipio:* [The same reasons] which we used in the case of the monarchy may be given to show why [the aristocracy] is a commonwealth, or an affair of the people.

Spurius Mummius: The argument is even much stronger. For the king, since he is an individual, is much more like a master. But that form of government in which many good men control public affairs cannot be surpassed. But still I prefer even monarchy to democracy, since this third form of commonwealth, which you have still to treat, is the most defective of all.

XXXV. *Scipio:* I am aware, Spurius, of your rooted dislike of the popular form of government. And although it can be regarded more favorably than you are wont to regard it, still I agree that of the three [unmixed] forms of government none is less worthy of approval. However, I do not agree with you that aristocrats are better than a king. For if it is wisdom that governs the commonwealth, what difference does it make whether this wisdom is found in one man or in several? But we are deceived by a certain fallacy in this mode of argument. For when aristocracy is called a government by the best men, it seems as if no other government can be better. For how can anything be supposed to be better than the best? On the other hand, when we speak of a king, the idea of an unjust king, no less than that of a just one, presents itself to our minds. But the unjust king does not enter into the question when we are investigating royal government as such. If you will consider Romulus or Pompilius or Tullus as the typical king, you will perhaps not think so ill of monarchy.

Mummius: What merit, then, do you leave to the popular form of government?

Scipio: Well, Spurius, I ask you: Do you not think that there is a commonwealth at Rhodes, where you and I were not long ago?

Mummius: I do indeed think that they have a commonwealth—and one not at all to be despised.

Scipio: Quite right. But, if you remember, all the citizens were successively

[7] The law referred to is the Twelve Tables.

commoners and senators They followed a regular plan of rotation by which they determined in what months they should serve as commoners and in what months they should act as senators Moreover, in both cases they received pay for their attendance, and both in the theater and in the senate house they all passed equally upon questions of life and death and upon all other matters The power and competence of the senate were equal to the power of the masses

[*At the end of* DE RE PUBLICA *Cicero relates a dream somewhat after the fashion of the vision of Er at the end of Plato's* REPUBLIC *There is a higher reward for deeds well done on earth, Cicero argues It is a reward in the home of the immortal souls The dream is related by Cicero speaking as Scipio Scipio the Younger is in Africa serving under Manilius He meets King Masinissa, an old friend and ally of Scipio the Elder In the course of the evening Masinissa talks much of Scipio's grandfather Scipio has the dream after this talk As the dream opens, Scipio the Elder appears and points out places on earth such as Carthage and Rome He indicates the nature of the special rewards that are held out to those who serve their country well "For the supreme god who rules the entire universe finds nothing, at least among earthly objects, more pleasing than the societies and groups of men united by law and right, which are called states" The account of the dream, in part, follows*]

BOOK VI

XV. As soon as I mastered my tears and regained the power of speech, I said, "O father most excellent and holy, since true life is here, as Africanus tells me, why, I ask you, do I linger upon earth? Why may I not hasten to you?" "That may not be," he replied, "for, until God, to whom belongs this whole world before your eyes, shall free you from the body's prison, you may not enter this place For the human race was born subject to the condition that they should guard the sphere which you see in the center of the heavens and which is called the earth To them souls were given, drawn from those eternal fires which you name constellations and stars These heavenly bodies are round like spheres They are quickened by divine intelligences and complete their cycles and rotations with wonderful swiftness For this reason, Publius, you and all loyal men must retain the soul in its fleshly prison, and unless he who has bestowed the soul upon you so commands, you must not abandon human life, lest you seem to have deserted the earthly tasks imposed by God

XVI "But even as your grandfather here before you, even as I who begot you, so do you, Scipio, cultivate justice and loyalty, which is a noble spirit when shown towards parents and kindred, but noblest when shown towards your country Such a life is the way to heaven and to the company of those whose life on earth is done and who, released from the body, inhabit the region which you behold and which, after the Greeks, you name the Milky Way"

The place was a glittering circle that shone with exceeding brilliance in the midst of fiery stars As I gazed down from it all other objects seemed dazzling and wonderful There were stars which we have never seen from this earth of ours, and all of them had magnitudes such as we have never supposed to exist The smallest of them was situated most remote from the heaven [of the fixed stars] and nearest to the earth, and shone with borrowed light Moreover, the stars greatly surpassed the earth in size, and now the earth itself appeared so small that I felt ashamed of our empire, by which we cover a point, as it were, upon its surface

XVII Since I was observing the earth more intently than aught else, Africanus said, "How long, I ask you, will your thoughts be fixed upon the earth? Do you

not perceive the heavenly spaces into which you have come? The universe is formed of nine circles or spheres, as we should more properly call them.

. . . . .

XVIII. When I recovered from the astonishment with which I was gazing upon this spectacle, I asked, "What is this mighty yet delightful sound which fills my ears?" "That," he replied, "is the melody produced by the swift movement of the spheres themselves. It is blended from notes of different pitch, and while the intervals between them are unequal, their differences are marked with exact proportions, and by a blending of high with low notes various concordant effects are harmoniously achieved. Motions so vast cannot sweep on in silence. It is natural, furthermore, for one extremity to have a low pitch while the opposite has a high pitch. Accordingly, the heaven's outermost sphere, which carries the stars and which revolves more rapidly, moves with a high and lively tone. On the other hand, the lowest pitch is the moon's, which is the innermost of the spheres. For the earth, which is the ninth planet, [does not produce any tone, since it] remains motionless and abides in one place, occupying the center of the universe. The eight [other] cycles, however—two of which [Mercury and Venus] move with the same velocity—produce seven notes of different pitch, and the number seven is, in a sense, the bond which holds the entire universe together. This method of creating harmony scholars have imitated in vocal and instrumental music, and have thus won for themselves a return to this place, even as other men have done who, blessed with pre-eminent ability, have devoted their lives on earth to studying the ways of heaven. The sound which we hear has filled and deafened man's ears, since no sense is more easily blunted than hearing. Thus, the people who live near what are called the cataracts of the Nile, where the river sweeps down from high mountains, have lost the power of hearing because of the roar of waters, and similarly the sound caused by the swift revolution of the whole universe is so overwhelming that human ears are insensible to it. In the same way, you cannot gaze directly at the sun; its rays overcome your sight and vision."

XIX. Though I was filled with awe at the celestial harmonies, I kept turning my eyes constantly towards the earth. "I see," said Africanus, "that you still contemplate the abode and home of man. If the earth appears insignificant to you—as indeed it is—ever lift up your eyes to these heavenly realms and despise the concerns of men. For what fame can you win among men or what renown worthy of your striving? You perceive that the earth is peopled only in scattered and restricted regions, and that even within the patches where men live—if I may use the word patches—there are interspersed great tracts of desert. You see not only that the inhabitants are so dissevered that nothing can be interchanged, but also that some live in the same longitude with you but in the opposite latitude, some in the same latitude but in the opposite longitude, and some are even diametrically on the opposite side of the earth. From such as these assuredly you can hope for no renown.

XX. "You perceive, moreover, that the earth is also adorned and encircled with what we may call girdles. Two of these zones are exactly opposite to one another and, lying beneath the very poles of the heavens, are congealed with ice. On the other hand, the middle zone, which is the largest, is parched by the sun's heat. Two are habitable, and of these the southern zone, in which the inhabitants are your antipodes, touches you not at all. There remains, then, the northern zone in which you dwell. Consider how small a portion of it concerns you. For all the territory which you possess is narrow from north to south and, while broader from east to west, is in fact only a small island surrounded by the body of water which

you on earth call either the Atlantic, or the Great Sea, or Oceanus But though you call it great, you see how insignificant it is!

XXII [What matters human fame], especially when [we consider that], even of the men who can hear our name, there is not one who can remember the events of a single year? For while men loosely define a year as the time necessary for a revolution of the sun—that is, of a single star—in reality a year can truly be said to have completed its course only when all the stars have returned to the original positions whence they set out, and when after a long interval they have brought back the same arrangement throughout the whole heavens[8] In this cosmic year I do not dare to say how many generations of men are included Once, when the soul of Romulus entered these heavenly regions, men thought that the sun disappeared and was blotted out Only when the sun has again passed into eclipse in the same region of the sky and at the same time, and when all the planets and stars have likewise returned to their original positions are you to understand that a year has passed Of this year be assured that the twentieth part has not yet revolved

XXIII And as the world which is in part mortal, is stirred to motion by God Himself, who lives forever, so the frail body is quickened by an immortal soul

XXV "For whatever possesses the power of ceaseless movement is eternal On the other hand, whatever imparts movement to other things and is itself set in motion by external objects must end its life when its movement ends Accordingly, only that which moves with self originating motion never ceases to be moved, because it is never abandoned by itself and it is, moreover, the source and beginning of motion for all other things that move Beginning has no source since all things arise from beginning while beginning itself can spring only from itself For that which took its beginning from something else could not be a beginning If, then beginning is never born neither does it ever die For beginning, if destroyed, will never itself receive new life from another source, nor will it create anything else from itself since all things must arise from a beginning Thus, it follows that the beginning of movement is derived from that which moves with self originating motion and which can neither be born nor die Otherwise, the whole heaven and the universe would collapse and stand still and would never receive any impulse by which they might again be stirred to motion

XXVI 'Since, therefore, it is clear that whatever is self moving is eternal, who will deny that this power has been given to soul? For everything that is stirred to movement by external forces is lifeless but whatever possesses life is moved by an inner and inherent impulse And this impulse is the very essence and power of soul If, then, soul be the only thing which is self moving, assuredly it is not created but is eternal Train it in the noblest ways! Now the noblest concerns of the soul have to do with the security of your country, and the soul which is employed and disciplined in such pursuits will fly more speedily to this abode, its natural home This journey it will make the swifter, if it looks abroad, while still imprisoned in the flesh, and if, by meditating upon that which lies beyond it, it divorces itself as far as may be from the body For the souls of men who have

[8] The conception of the great or cosmic year probably originated with the Pythagoreans, from whom it was borrowed by Plato (*Timaeus*, 39 d) The latter fixes the period arbitrarily at ten thousand years Tacitus states (*dial de orat* 16) that Cicero in some work said that the great year contains 12 954 ordinary years here he makes it not less than 11 740 years See Cic *de n d* 2 20 51 ff, with Mayor's commentary Stobaeus *ecl* 1 264 Zeller *Phil d Griech* 1 1 (1923), p 535 2 1 (1922), p 811 Eng trans, *Pre Socratics* 1 (1881), pp 458 ff, *Plato and the older Academy* (1888), p 382

surrendered themselves to carnal delights, who have made themselves as it were slaves of the passions, and who have been prompted by lust to violate the laws of gods and men, wander about near the earth itself, after their escape from the body, and do not return hither until they have been driven about for many ages."

He departed; I awoke from sleep.

Cicero: Stoic Influence on Law

Where there is an important legal tradition, much political speculation is bound also to be legal speculation. Such was the case in Rome. Cicero was a prominent lawyer and a student and disciple of Stoic philosophy. He thus brings together the two and gives Roman law a Stoic base. He does this in a work entitled DE LEGIBUS *("of Laws") which, it will be noted, was also the name of a work by Plato. This work does not portray Roman law as it was but as it might have been. The emphasis is upon reason, nature, equality, and universality. Locke was an intellectual lineal descendant from Cicero, and since Locke's influence on American political thought is great there is a very special sense in which we can count Cicero as a founding father. The following selections are from parts of Book I and II.*[1] *(In the dialogue that follows, Cicero is designated as M.)*

M. And you are wise, for you must understand that in no other kind of discussion can one bring out so clearly what Nature's gifts to man are, what a wealth of most excellent possessions the human mind enjoys, what the purpose is, to strive after and accomplish which we have been born and placed in this world, what it is that unites men, and what natural fellowship there is among them. For it is only after all these things have been made clear that the origin of Law and Justice can be discovered.

A. Then you do not think that the science of law is to be derived from the praetor's edict, as the majority do now, or from the Twelve Tables, as people used to think, but from the deepest mysteries of philosophy?

M. Quite right; for in our present conversation, Pomponius, we are not trying to learn how to protect ourselves legally, or how to answer clients' questions. Such problems may be important, and in fact they are; for in former times many eminent men made a specialty of their solution, and at present one person performs this duty with the greatest authority and skill. But in our present investigation we intend to cover the whole range of universal Justice and Law in such a way that our own civil law, as it is called, will be confined to a small and narrow corner. For we must explain the nature of Justice, and this must be sought for in the nature of man; we must also consider the laws by which States ought to be governed; then we must deal with the enactments and decrees of nations which are already formulated and put in writing; and among these the civil law, as it is called, of the Roman people will not fail to find a place.

[1] Reprinted by permission of the publishers from Cicero, *De Re Publica* and *De Legibus* (Loeb Classical Library) Clinton W. Keyes (translator). Cambridge, Mass.: Harvard University Press, 1928.

VI. *Q.* You probe deep, and seek, as you should, the very fountain head, to find what we are after, brother. And those who teach the civil law in any other way are teaching not so much the path of justice as of litigation.

M. There you are mistaken, Quintus, for it is rather ignorance of the law than knowledge of it that leads to litigation. But that will come later; now let us investigate the origins of Justice.

[Law Prior to State]

Well then, the most learned men have determined to begin with Law, and it would seem that they are right, if, according to their definition, Law is the highest reason, implanted in Nature, which commands what ought to be done and forbids the opposite. This reason, when firmly fixed and fully developed in the human mind, is Law. And so they believe that Law is intelligence whose natural function it is to command right conduct and forbid wrongdoing. They think that this quality has derived its name in Greek from the idea of granting to every man his own, and in our language I believe it has been named from the idea of choosing. For as they have attributed the idea of fairness to the word law, so we have given it that of selection, though both ideas properly belong to Law. Now if this is correct, as I think it to be in general, then the origin of Justice is to be found in Law, for Law is a natural force; it is the mind and reason of the intelligent man, the standard by which Justice and Injustice are measured. But since our whole discussion has to do with the reasoning of the populace, it will sometimes be necessary to speak in the popular manner, and give the name of law to that which in written form decrees whatever it wishes, either by command or prohibition. For such is the crowd's definition of law. But in determining what Justice is, let us begin with that supreme Law which had its origin ages before any written law existed or any State had been established.

Q. Indeed that will be preferable and more suitable to the character of the conversation we have begun.

M. Well, then, shall we seek the origin of Justice itself at its fountain head? For when that is discovered we shall undoubtedly have a standard by which the things we are seeking may be tested.

Q. I think that is certainly what we must do.

A. Put me down also as agreeing with your brother's opinion.

M. Since, then, we must retain and preserve that constitution of the State which Scipio proved to be the best in the six books devoted to the subject, and all our laws must be fitted to that type of State, and since we must also inculcate good morals, and not prescribe everything in writing, I shall seek the root of Justice in Nature, under whose guidance our whole discussion must be conducted.

A. Quite right. Surely with her as our guide, it will be impossible for us to go astray.

VII. *M.* Do you grant us, then, Pomponius (for I am aware of what Quintus thinks), that it is by the might of the immortal gods, or by their nature, reason, power, mind, will, or any other term which may make my meaning clearer, that all Nature is governed? For if you do not admit it, we must begin our argument with this problem before taking up anything else.

[Reason as Law]

M. I will not make the argument long. Your admission leads us to this: that animal which we call man, endowed with foresight and quick intelligence, complex, keen, possessing memory, full of reason and prudence, has been given a certain distinguished status by the supreme God who created him, for he is the only one among so many different kinds and varie-

ties of living beings who has a share in reason and thought, while all the rest are deprived of it. But what is more divine, I will not say in man only, but in all heaven and earth, than reason? And reason, when it is full grown and perfected, is rightly called wisdom. Therefore, since there is nothing better than reason, and since it exists both in man and God, the first common possession of man and God is reason. But those who have reason in common must also have right reason in common. And since right reason is Law, we must believe that men have Law also in common with the gods. Further, those who share Law must also share Justice; and those who share these are to be regarded as members of the same commonwealth. If indeed they obey the same authorities and powers, this is true in a far greater degree; but as a matter of fact they do obey this celestial system, the divine mind, and the God of transcendent power. Hence we must now conceive of this whole universe as one commonwealth of which both gods and men are members.

. . . . .

X. *A.* Ye immortal gods, how far back you go to find the origins of Justice! And you discourse so eloquently that I not only have no desire to hasten on to the consideration of the civil law, concerning which I was expecting you to speak, but I should have no objection to your spending even the entire day on your present topic; for the matters which you have taken up, no doubt, merely as preparatory to another subject, are of greater import than the subject itself to which they form an introduction.

[EQUALITY]

M. The points which are now being briefly touched upon are certainly important; but out of all the material of the philosophers' discussions, surely there comes nothing more valuable than the full realization that we are born for Justice, and that right is based, not upon men's opinions, but upon Nature. This fact will immediately be plain if you once get a clear conception of man's fellowship and union with his fellow-men. For no single thing is so like another, so exactly its counterpart, as all of us are to one another. Nay, if bad habits and false beliefs did not twist the weaker minds and turn them in whatever direction they are inclined, no one would be so like his own self as all men would be like all others. And so, however, we may define man, a single definition will apply to all. This is a sufficient proof that there is no difference in kind between man and man; for if there were, one definition could not be applicable to all men; and indeed reason, which alone raises us above the level of the beasts and enables us to draw inferences, to prove and disprove, to discuss and solve problems, and to come to conclusions, is certainly common to us all, and, though varying in what it learns, at least in the capacity to learn it is invariable. For the same things are invariably perceived by the senses, and those things which stimulate the senses, stimulate them in the same way in all men; and those rudimentary beginnings of intelligence to which I have referred, which are imprinted on our minds, are imprinted on all minds alike; and speech, the mind's interpreter, though differing in the choice of words, agrees in the sentiments expressed. In fact, there is no human being of any race who, if he finds a guide, cannot attain to virtue.

XI. The similarity of the human race is clearly marked in its evil tendencies as well as in its goodness. For pleasure also attracts all men; and even though it is an enticement to vice, yet it has some likeness to what is naturally good. For it delights us by its lightness and agreeableness; and for this reason, by an error of thought, it is embraced as something wholesome. It is through a similar misconception that we shun death as though it were a dissolution of nature, and cling

to life because it keeps us in the sphere in which we were born; and that we look upon pain as one of the greatest of evils, not only because of its cruelty, but also because it seems to lead to the destruction of nature. In the same way, on account of the similarity between moral worth and renown, those who are publicly honoured are considered happy, while those who do not attain fame are thought miserable. Troubles, joys, desires, and fears haunt the minds of all men without distinction, and even if different men have different beliefs, that does not prove, for example, that it is not the same quality of superstition that besets those races which worship dogs and cats as gods, as that which torments other races. But what nation does not love courtesy, kindliness, gratitude, and remembrance of favours bestowed? What people does not hate and despise the haughty, the wicked, the cruel, and the ungrateful? Inasmuch as these considerations prove to us that the whole human race is bound together in unity, it follows, finally, that knowledge of the principles of right living is what makes men better.

. . . . .

[Natural Goodness]

XII. *M.* The next point, then, is that we are so constituted by Nature as to share the sense of Justice with one another and to pass it on to all men. And in this whole discussion I want it understood that what I shall call Nature is [that which is implanted in us by Nature]; that, however, the corruption caused by bad habits is so great that the sparks of fire, so to speak, which Nature has kindled in us are extinguished by this corruption, and the vices which are their opposites spring up and are established. But if the judgments of men were in agreement with Nature, so that, as the poet says, they considered "nothing alien to them which concerns mankind," then Justice would be equally observed by all. For those creatures who have received the gift of reason from Nature have also received right reason, and therefore they have also received the gift of Law, which is right reason applied to command and prohibition. And if they have received Law, they have received Justice also. Now all men have received reason; therefore all men have received Justice. Consequently Socrates was right when he cursed, as he often did, the man who first separated utility from Justice; for this separation, he complained, is the source of all mischief. For what gave rise to Pythagoras' famous words about friendship? . . . From this it is clear that, when a wise man shows toward another endowed with equal virtue the kind of benevolence which is so widely diffused among men, that will then have come to pass which, unbelievable as it seems to some, is after all the inevitable result—namely, that he loves himself no whit more than he loves another. For what difference can there be among things which are all equal? But if the least distinction should be made in friendship, then the very name of friendship would perish forthwith; for its essence is such that, as soon as either friend prefers anything for himself, friendship ceases to exist.

Now all this is really a preface to what remains to be said in our discussion, and its purpose is to make it more easily understood that Justice is inherent in Nature. After I have said a few words more on this topic, I shall go on to the civil law, the subject which gives rise to all this discourse.

XIII. *Q.* You certainly need to say very little more on that head, for from what you have already said, Atticus is convinced, and certainly I am, that Nature is the source of Justice.

A. How can I help being convinced, when it has just been proved to us, first, that we have been provided and equipped with what we may call the gifts of the gods; next, that there is only one principle by which men may live with one another, and that this is the same for all, and

possessed equally by all, and, finally that all men are bound together by a certain natural feeling of kindliness and good will and also by a partnership in Justice? Now that we have admitted the truth of these conclusions and rightly, I think, how can we separate Law and Justice from Nature?

[Justice and Customs]

XV [*M.*] But the most foolish notion of all is the belief that everything is just which is found in the customs or laws of nations. Would that be true, even if these laws had been enacted by tyrants? If the well known Thirty had desired to enact a set of laws at Athens or if the Athenians without exception were delighted by the tyrants' laws, that would not entitle such laws to be regarded as just would it? No more, in my opinion, should that law be considered just which a Roman interrex proposed, to the effect that a dictator might put to death with impunity any citizen he wished, even without a trial. For Justice is one, it binds all human society and is based on one Law, which is right reason applied to command and prohibition. Whoever knows not this Law, whether it has been recorded in writing anywhere or not, is without Justice.

But if Justice is conformity to written laws and national customs, and if, as the same persons claim, everything is to be tested by the standard of utility, then any one who thinks it will be profitable to him will, if he is able, disregard and violate the laws. It follows that Justice does not exist at all, if it does not exist in Nature, and if that form of it which is based on utility can be overthrown by that very utility itself. And if Nature is not to be considered the foundation of Justice, that will mean the destruction [of the virtues on which human society depends]. For where then will there be a place for generosity, or love of country, or loyalty, or the inclination to be of service to others or to show gratitude for favours received? For these virtues originate in our natural inclination to love our fellow men, and this is the foundation of Justice. Otherwise not merely consideration for men but also rites and pious observances in honour of the gods are done away with, for I think that these ought to be maintained, not through fear, but on account of the close relationship which exists between man and God. XVI But if the principles of Justice were founded on the decrees of peoples, the edicts of princes, or the decisions of judges, then Justice would sanction robbery and adultery and forgery of wills, in case these acts were approved by the votes or decrees of the populace. But if so great a power belongs to the decisions and decrees of fools that the laws of Nature can be changed by their votes, then why do they not ordain that what is bad and baneful shall be considered good and salutary? Or if a law can make Justice out of Injustice, can it not also make good out of bad? But in fact we can perceive the difference between good laws and bad by referring them to no other standard than Nature, indeed, it is not merely Justice and Injustice which are distinguished by Nature but also and without exception things which are honourable and dishonourable. For since an intelligence common to us all makes things known to us and formulates them in our minds, honourable actions are ascribed by us to virtue and dishonourable actions to vice, and only a madman would conclude that these judgments are matters of opinion, and not fixed by Nature.

BOOK II

[Natural and Man made Law]

II *M.* Well then, I find that it has been the opinion of the wisest men that Law is not a product of human thought, nor is it any enactment of peoples, but something eternal which rules the whole universe by its wisdom in command and prohibition. Thus they have been accustomed to say that Law is the primal and ultimate mind of God, whose reason directs all things either by

compulsion or restraint. Wherefore that Law which the gods have given to the human race has been justly praised; for it is the reason and mind of a wise lawgiver applied to command and prohibition.

. . . . .

V. ... *M.* And if a State lacks Law, must it for that reason be considered no State at all?

Q. It cannot be denied.

M. Then Law must necessarily be considered one of the greatest goods.

Q. I agree with you entirely.

M. What of the many deadly, the many pestilential statutes which nations put in force? These no more deserve to be called laws than the rules a band of robbers might pass in their assembly. For if ignorant and unskilful men have prescribed deadly poisons instead of healing drugs, these cannot possibly be called physicians' prescriptions; neither in a nation can a statute of any sort be called a law, even though the nation, in spite of its being a ruinous regulation, has accepted it. Therefore Law is the distinction between things just and unjust, made in agreement with that primal and most ancient of all things, Nature; and in conformity to Nature's standard are framed those human laws which inflict punishment upon the wicked but defend and protect the good.

VII. [*M.*] ... Indeed, what is more true than that no one ought to be so foolishly proud as to think that, though reason and intellect exist in himself, they do not exist in the heavens and the universe, or that those things which can hardly be understood by the highest reasoning powers of the human intellect are guided by no reason at all? In truth, the man that is not driven to gratitude by the orderly courses of the stars, the regular alternation of day and night, the gentle progress of the seasons, and the produce of the earth brought forth for our sustenance—how can such an one be accounted a man at all? And since all things that possess reason stand above those things which are without reason, and since it would be sacrilege to say that anything stands above universal Nature, we must admit that reason is inherent in Nature. Who will deny that such beliefs are useful when he remembers how often oaths are used to confirm agreements, how important to our well-being is the sanctity of treaties, how many persons are deterred from crime by the fear of divine punishment, and how sacred an association of citizens becomes when the immortal gods are made members of it, either as judges or as witnesses?

There you have the proem to the law; for that is the name given to it by Plato.

Ethical Teachings of Christ

The main features of the system of Christian ethics might seem to be so well known that it would be useless to reprint them in a book on political thought. But the assumption here is that while we live by such a system we do not now go back to the source so often as we once did. Moreover, in a predominantly secular world we need to have Christian teachings set right into our study of political thought. Without close attention to them, much of later political thought must be unintelligible. ¶ *The whole theory of democratic equality can find little support in scientific measurements or theories grounded on biological survival, either for individuals or nations. The Stoic doctrine of equality and universality, derived from the Law of Nature, and the Cynic*

doctrine of individualism and cosmopolitanism, required to be supplemented by a deeper, and, in a proper sense, a dogmatic doctrine of equality. That came from the Christian concept of the brotherhood of man, the community in Christ, in which all shared a kinship with the divine—so far as men might by obedience to God's will claim their heritage as children of God. Man's universal possession of an immortal and perfectible soul lent a new reach to the claims of democracy. The doctrine of Christian love transcends both stoicism and humanism. ¶ *The selections that follow are from the Gospel according to St. Matthew (Chapters 5-7), including the Sermon on the Mount. This is the King James version.*

AND SEEING THE MULTITUDES, HE WENT up into a mountain: and when he was set, his disciples came unto him:

2 And he opened his mouth, and taught them, saying,

3 Blessed are the poor in spirit: for theirs is the kingdom of heaven.

4 Blessed are they that mourn: for they shall be comforted.

5 Blessed are the meek: for they shall inherit the earth.

6 Blessed are they which do hunger and thirst after righteousness: for they shall be filled.

7 Blessed are the merciful: for they shall obtain mercy.

8 Blessed are the pure in heart: for they shall see God.

9 Blessed are the peacemakers: for they shall be called the children of God.

10 Blessed are they which are persecuted for righteousness' sake: for theirs is the kingdom of heaven.

11 Blessed are ye, when men shall revile you, and persecute you, and shall say all manner of evil against you falsely, for my sake.

12 Rejoice, and be exceeding glad: for great is your reward in heaven: for so persecuted they the prophets which were before you.

13 ¶ Ye are the salt of the earth: but if the salt have lost his savour, wherewith shall it be salted? it is thenceforth good for nothing, but to be cast out, and to be trodden under foot of men.

14 Ye are the light of the world. A city that is set on an hill cannot be hid.

15 Neither do men light a candle, and put it under a bushel, but on a candlestick; and it giveth light unto all that are in the house.

16 Let your light so shine before men, that they may see your good works, and glorify your Father which is in heaven.

17 ¶ Think not that I am come to destroy the law, or the prophets: I am not come to destroy, but to fulfil.

18 For verily I say unto you, Till heaven and earth pass, one jot or one tittle shall in no wise pass from the law, till all be fulfilled.

19 Whosoever therefore shall break one of these least commandments, and shall teach men so, he shall be called the least in the kingdom of heaven: but whosoever shall do and teach them, the same shall be called great in the kingdom of heaven.

20 For I say unto you, That except your righteousness shall exceed the righteousness of the scribes and Pharisees, ye shall in no case enter into the kingdom of heaven.

21 ¶ Ye have heard that it was said by them of old time, Thou shalt not kill; and whosoever shall kill shall be in danger of the judgment:

22 But I say unto you, That whosoever is angry with his brother without a cause shall be in danger of the judgment: and whosoever shall say to his brother, Raca, shall be in danger of the council: but whosoever shall say, Thou fool, shall be in danger of hell fire.

23 Therefore if thou bring thy gift to

the altar, and there rememberest that thy brother hath ought against thee,

24 Leave there thy gift before the altar, and go thy way, first be reconciled to thy brother, and then come and offer thy gift

25 Agree with thine adversary quickly, whilst thou art in the way with him, lest at any time the adversary deliver thee to the judge, and the judge deliver thee to the officer and thou be cast into prison

26 Verily I say unto thee, Thou shalt by no means come out thence, till thou hast paid the uttermost farthing

27 ¶ Ye have heard that it was said by them of old time Thou shalt not commit adultery

28 But I say unto you That whosoever looketh on a woman to lust after her hath committed adultery with her already in his heart

29 And if thy right eye offend thee, pluck it out and cast it from thee for it is profitable for thee that one of thy members should perish and not that thy whole body should be cast into hell

30 And if thy right hand offend thee, cut it off, and cast it from thee for it is profitable for thee that one of thy members should perish, and not that thy whole body should be cast into hell

31 It hath been said Whosoever shall put away his wife let him give her a writing of divorcement

32 But I say unto you That whosoever shall put away his wife, saving for the cause of fornication, causeth her to commit adultery and whosoever shall marry her that is divorced committeth adultery

33 ¶ Again, ye have heard that it hath been said by them of old time, Thou shalt not forswear thyself, but shalt perform unto the Lord thine oaths

34 But I say unto you Swear not at all neither by heaven, for it is God s throne

35 Nor by the earth for it is his foot stool neither by Jerusalem, for it is the city of the great King

36 Neither shalt thou swear by thy head, because thou canst not make one hair white or black

37 But let your communication be, Yea, yea, Nay, nay for whatsoever is more than these cometh of evil

38 ¶ Ye have heard that it hath been said, An eye for an eye, and a tooth for a tooth

39 But I say unto you, That ye resist not evil but whosoever shall smite thee on thy right cheek, turn to him the other also

40 And if any man will sue thee at the law and take away thy coat, let him have thy cloke also

41 And whosoever shall compel thee to go a mile go with him twain

42 Give to him that asketh thee, and from him that would borrow of thee turn not thou away

43 ¶ Ye have heard that it hath been said Thou shalt love thy neighbour, and hate thine enemy

44 But I say unto you Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you

45 That ye may be the children of your Father which is in heaven for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust

46 For if ye love them which love you, what reward have ye? do not even the publicans the same?

47 And if ye salute your brethren only what do ye more than others? do not even the publicans so?

48 Be ye therefore perfect, even as your Father which is in heaven is perfect

CHAPTER 6

Take heed that ye do not your alms before men, to be seen of them otherwise ye have no reward of your Father which is in heaven

2 Therefore when thou doest thine alms, do not sound a trumpet before thee, as the hypocrites do in the synagogues and in the streets, that they may have glory of men Verily I say unto you, They have their reward

3 But when thou doest alms, let not thy left hand know what thy right hand doeth

4 That thine alms may be in secret and thy Father which seeth in secret himself shall reward thee openly

5 ¶ And when thou prayest, thou shalt not be as the hypocrites are for they love to pray standing in the synagogues and in the corners of the streets, that they may be seen of men Verily I say unto you, They have their reward

6 But thou, when thou prayest enter into thy closet, and when thou hast shut thy door pray to thy Father which is in secret and thy Father which seeth in secret shall reward thee openly

7 But when ye pray use not vain repetitions as the heathen do for they think that they shall be heard for their much speaking

8 Be not ye therefore like unto them for your Father knoweth what things ye have need of, before ye ask him

9 After this manner therefore pray ye Our Father which art in heaven, Hallowed be thy name

10 Thy kingdom come Thy will be done in earth, as it is in heaven

11 Give us this day our daily bread

12 And forgive us our debts, as we forgive our debtors

13 And lead us not into temptation, but deliver us from evil For thine is the kingdom, and the power, and the glory, for ever Amen

14 For if ye forgive men their trespasses, your heavenly Father will also forgive you

15 But if ye forgive not men their trespasses, neither will your Father forgive your trespasses

16 ¶ Moreover when ye fast, be not, as the hypocrites, of a sad countenance for they disfigure their faces that they may appear unto men to fast Verily I say unto you, They have their reward

17 But thou, when thou fastest, anoint thine head, and wash thy face,

18 That thou appear not unto men to fast, but unto thy Father which is in secret and thy Father, which seeth in secret, shall reward thee openly.

19 ¶ Lay not up for yourselves treasures upon earth, where moth and rust doth corrupt, and where thieves break through and steal

20 But lay up for yourselves treasures in heaven, where neither moth nor rust doth corrupt, and where thieves do not break through nor steal

21 For where your treasure is, there will your heart be also

22 The light of the body is the eye if therefore thine eye be single, thy whole body shall be full of light

23 But if thine eye be evil, thy whole body shall be full of darkness If therefore the light that is in thee be darkness, how great is that darkness!

24 ¶ No man can serve two masters for either he will hate the one, and love the other, or else he will hold to the one, and despise the other Ye cannot serve God and mammon

25 Therefore I say unto you, Take no thought for your life, what ye shall eat, or what ye shall drink, nor yet for your body, what ye shall put on Is not the life more than meat, and the body than raiment?

26 Behold the fowls of the air for they sow not, neither do they reap, nor gather into barns, yet your heavenly Father feedeth them Are ye not much better than they?

27 Which of you by taking thought can add one cubit unto his stature?

28 And why take ye thought for raiment? Consider the lilies of the field, how they grow, they toil not, neither do they spin

29 And yet I say unto you, That even Solomon in all his glory was not arrayed like one of these

30 Wherefore, if God so clothe the grass of the field, which to day is, and to morrow is cast into the oven, shall he not much more clothe you, O ye of little faith?

31 Therefore take no thought, saying, What shall we eat? or, What shall we drink? or, Wherewithal shall we be clothed?

32 (For after all these things do the Gentiles seek) for your heavenly Father

knoweth that ye have need of all these things

33 But seek ye first the kingdom of God, and his righteousness and all these things shall be added unto you

34 Take therefore no thought for the morrow for the morrow shall take thought for the things of itself Sufficient unto the day is the evil thereof

CHAPTER 7

Judge not that ye be not judged

2 For with what judgment ye judge ye shall be judged and with what measure ye mete it shall be measured to you again

3 And why beholdest thou the mote that is in thy brother s eye but considerest not the beam that is in thine own eye?

4 Or how wilt thou say to thy brother, Let me pull out the mote out of thine eye and, behold a beam is in thine own eye?

5 Thou hypocrite first cast out the beam out of thine own eye and then shalt thou see clearly to cast out the mote out of thy brother s eye

6 ¶ Give not that which is holy unto the dogs, neither cast ye your pearls before swine, lest they trample them under their feet, and turn again and rend you

7 ¶ Ask, and it shall be given you seek, and ye shall find knock and it shall be opened unto you

8 For every one that asketh receiveth, and he that seeketh findeth and to him that knocketh it shall be opened

9 Or what man is there of you whom if his son ask bread will he give him a stone?

10 Or if he ask a fish, will he give him a serpent?

11 If ye then, being evil, know how to give good gifts unto your children, how much more shall your Father which is in heaven give good things to them that ask him?

12 Therefore all things whatsoever ye would that men should do to you, do ye even so to them for this is the law and the prophets

13 ¶ Enter ye in at the strait gate: for wide is the gate, and broad is the way, that leadeth to destruction, and many there be which go in thereat

14 Because strait is the gate, and narrow is the way which leadeth unto life and few there be that find it

15 ¶ Beware of false prophets, which come to you in sheep's clothing but inwardly they are ravening wolves

16 Ye shall know them by their fruits Do men gather grapes of thorns, or figs of thistles?

17 Even so every good tree bringeth forth good fruit, but a corrupt tree bringeth forth evil fruit

18 A good tree cannot bring forth evil fruit, neither can a corrupt tree bring forth good fruit

19 Every tree that bringeth not forth good fruit is hewn down, and cast into the fire

20 Wherefore by their fruits ye shall know them

21 ¶ Not every one that saith unto me, Lord Lord, shall enter into the kingdom of heaven but he that doeth the will of my Father which is in heaven

22 Many will say to me in that day, Lord, Lord have we not prophesied in thy name? and in thy name have cast out devils? and in thy name done many wonderful works?

23 And then will I profess unto them, I never knew you depart from me, ye that work iniquity

24 ¶ Therefore whosoever heareth these sayings of mine, and doeth them, I will liken him unto a wise man, which built his house upon a rock

25 And the rain descended, and the floods came, and the winds blew, and beat upon that house, and it fell not for it was founded upon a rock

26 And every one that heareth these sayings of mine, and doeth them not, shall be likened unto a foolish man, which built his house upon the sand

27 And the rain descended, and the floods came, and the winds blew, and beat upon that house, and it fell and great was the fall of it.

28 And it came to pass, when Jesus had ended these sayings, the people were astonished at his doctrine:

29 For he taught them as one having authority, and not as the scribes.

CHAPTER 10

[Militant Christianity]

17 But beware of men: for they will deliver you up to the councils, and they will scourge you in their synagogues;

18 And ye shall be brought before governors and kings for my sake, for a testimony against them and the Gentiles.

19 But when they deliver you up, take no thought how or what ye shall speak: for it shall be given you in that same hour what ye shall speak.

20 For it is not ye that speak, but the Spirit of your Father which speaketh in you.

21 And the brother shall deliver up the brother to death, and the father the child: and the children shall rise up against their parents, and cause them to be put to death.

22 And ye shall be hated of all men for my name's sake: but he that endureth to the end shall be saved.

23 But when they persecute you in this city, flee ye into another: for verily I say unto you, Ye shall not have gone over the cities of Israel, till the Son of man be come.

24 The disciple is not above his master, nor the servant above his lord.

25 It is enough for the disciple that he be as his master, and the servant as his lord. If they have called the master of the house Beelzebub, how much more shall they call them of his household?

26 Fear them not therefore: for there is nothing covered, that shall not be revealed; and hid, that shall not be known.

27 What I tell you in darkness, that speak ye in light: and what ye hear in the ear, that preach ye upon the housetops.

28 And fear not them which kill the body, but are not able to kill the soul: but rather fear him which is able to destroy both soul and body in hell.

29 Are not two sparrows sold for a farthing? and one of them shall not fall on the ground without your Father.

30 But the very hairs of your head are all numbered.

31 Fear ye not therefore, ye are of more value than many sparrows.

32 Whosoever therefore shall confess me before men, him will I confess also before my Father which is in heaven.

33 But whosoever shall deny me before men, him will I also deny before my Father which is in heaven.

34 Think not that I am come to send peace on earth: I came not to send peace, but a sword.

35 For I am come to set a man at variance against his father, and the daughter against her mother, and the daughter in law against her mother in law.

36 And a man's foes shall be they of his own household.

37 He that loveth father or mother more than me is not worthy of me: and he that loveth son or daughter more than me is not worthy of me.

38 And he that taketh not his cross, and followeth after me is not worthy of me.

39 He that findeth his life shall lose it: and he that loseth his life for my sake shall find it.

40 ¶ He that receiveth you receiveth me, and he that receiveth me receiveth him that sent me.

41 He that receiveth a prophet in the name of a prophet shall receive a prophet's reward; and he that receiveth a righteous man in the name of a righteous man shall receive a righteous man's reward.

42 And whosoever shall give to drink unto one of these little ones a cup of cold water only in the name of a disciple, verily I say unto you, he shall in no wise lose his reward.

In the accounts given us by the Four Gospels, Christ did not elaborate a complete system of living This task was left to those who followed him, and of those followers no other was so important as Paul He was a convert, and he had the zeal of a convert His duty it was to explain the meaning of Christ and his teachings and he had to carry on this ministry in a real world, where opposition was strong Thus Paul's interpretations and adjustments give his writings great political importance for the future ¶ Note in all these selections from Christian sources the frequent similarities to Stoic thought These similarities have led scholars with historical perspective to speak of Christianity as the confluence of the two great streams of Hellenic and Hebraic thought

THE ACTS CHAPTER 17

[PAUL AT ATHENS]

Now when they had passed through Amphipolis and Apollonia, they came to Thessalonica, where was a synagogue of the Jews

2 And Paul, as his manner was, went in unto them, and three sabbath days reasoned with them out of the scriptures

3 Opening and alleging that Christ must needs have suffered, and risen again from the dead, and that this Jesus, whom I preach unto you, is Christ

4 And some of them believed and consorted with Paul and Silas and of the devout Greeks a great multitude, and of the chief women not a few

5 ¶ But the Jews which believed not, moved with envy, took unto them certain lewd fellows of the baser sort, and gathered a company, and set all the city on an uproar, and assaulted the house of Jason, and sought to bring them out to the people

6 And when they found them not, they drew Jason and certain brethren unto the rulers of the city, crying These that have turned the world upside down are come hither also,

7 Whom Jason hath received and these all do contrary to the decrees of Cæsar, saying that there is another king, one Jesus.

8 And they troubled the people and the rulers of the city, when they heard these things

9 And when they had taken security of Jason and of the other they let them go

10 ¶ And the brethren immediately sent away Paul and Silas by night unto Berea who coming thither went into the synagogue of the Jews

11 These were more noble than those in Thessalonica, in that they received the word with all readiness of mind and searched the scriptures daily, whether those things were so

12 Therefore many of them believed, also of honourable women which were Greeks and of men, not a few

13 But when the Jews of Thessalonica had knowledge that the word of God was preached of Paul at Berea they came thither also, and stirred up the people

14 And then immediately the brethren sent away Paul to go as it were to the sea but Silas and Timotheus abode there still

15 And they that conducted Paul brought him unto Athens and receiving a commandment unto Silas and Timotheus for to come to him with all speed they departed

16 ¶ Now while Paul waited for them at Athens, his spirit was stirred in him, when he saw the city wholly given to idolatry

17 Therefore disputed he in the synagogue with the Jews, and with the devout

persons, and in the market daily with them that met with him.

18 Then certain philosophers of the Epicureans, and of the Stoics, encountered him. And some said, What will this babbler say? other some, He seemeth to be a setter forth of strange gods: because he preached unto them Jesus, and the resurrection.

19 And they took him, and brought him unto Areopagus, saying, May we know what this new doctrine, whereof thou speakest, is?

20 For thou bringest certain strange things to our ears: we would know therefore what these things mean.

21 (For all the Athenians and strangers which were there spent their time in nothing else, but either to tell, or to hear some new thing.)

22 ¶ Then Paul stood in the midst of Mars' hill, and said, Ye men of Athens, I perceive that in all things ye are too superstitious.

23 For as I passed by, and beheld your devotions, I found an altar with this inscription, TO THE UNKNOWN GOD. Whom therefore ye ignorantly worship, him declare I unto you.

24 God that made the world and all things therein, seeing that he is Lord of heaven and earth, dwelleth not in temples made with hands;

25 Neither is worshipped with men's hands, as though he needed any thing, seeing he giveth to all life, and breath, and all things;

26 And hath made of one blood all nations of men for to dwell on all the face of the earth, and hath determined the times before appointed, and the bounds of their habitation;

27 That they should seek the Lord, if haply they might feel after him, and find him, though he be not far from every one of us:

28 For in him we live, and move, and have our being; as certain also of your own poets have said, For we are also his offspring.

29 Forasmuch then as we are the offspring of God, we ought not to think that the Godhead is like unto gold, or silver, or stone, graven by art and man's device.

30 And the times of this ignorance God winked at; but now commandeth all men every where to repent:

31 Because he hath appointed a day, in the which he will judge the world in righteousness by that man whom he hath ordained; whereof he hath given assurance unto all men, in that he hath raised him from the dead.

32 ¶ And when they heard of the resurrection of the dead, some mocked: and others said, We will hear thee again of this matter.

33 So Paul departed from among them.

34 Howbeit certain men clave unto him, and believed: among the which was Dionysius the Areopagite, and a woman named Damaris, and others with them.

I CORINTHIANS: CHAPTER 12

[UNITY AND DIVERSITY]

Now concerning spiritual gifts, brethren, I would not have you ignorant.

2 Ye know that ye were Gentiles, carried away unto these dumb idols, even as ye were led.

3 Wherefore I give you to understand, that no man speaking by the Spirit of God calleth Jesus accursed: and that no man can say that Jesus is the Lord, but by the Holy Ghost.

4 Now there are diversities of gifts, but the same Spirit.

5 And there are differences of administrations, but the same Lord.

6 And there are diversities of operations, but it is the same God which worketh all in all.

7 But the manifestation of the Spirit is given to every man to profit withal.

8 For to one is given by the Spirit the word of wisdom; to another the word of knowledge by the same Spirit·

9 To another faith by the same Spirit; to another the gifts of healing by the same Spirit;

10 To another the working of miracles; to another prophecy; to another discerning of spirits; to another divers kinds of tongues; to another the interpretation of tongues:

11 But all these worketh that one and the selfsame Spirit, dividing to every man severally as he will.

12 For as the body is one, and hath many members, and all the members of that one body, being many, are one body: so also is Christ.

13 For by one Spirit are we all baptized into one body, whether we be Jews or Gentiles, whether we be bond or free; and have been all made to drink into one Spirit.

14 For the body is not one member, but many.

15 If the foot shall say, Because I am not the hand, I am not of the body; is it therefore not of the body?

16 And if the ear shall say, Because I am not the eye, I am not of the body; is it therefore not of the body?

17 If the whole body were an eye, where were the hearing? If the whole were hearing, where were the smelling?

18 But now hath God set the members every one of them in the body, as it hath pleased him.

19 And if they were all one member, where were the body?

20 But now are they many members, yet but one body.

21 And the eye cannot say unto the hand, I have no need of thee: nor again the head to the feet, I have no need of you.

22 Nay, much more those members of the body, which seem to be more feeble, are necessary:

23 And those members of the body, which we think to be less honourable, upon these we bestow more abundant honour; and our uncomely parts have more abundant comeliness.

24 For our comely parts have no need: but God hath tempered the body together, having given more abundant honour to that part which lacked:

25 That there should be no schism in the body; but that the members should have the same care one for another.

26 And whether one member suffer, all the members suffer with it; or one member be honoured, all the members rejoice with it.

27 Now ye are the body of Christ, and members in particular.

28 And God hath set some in the church, first apostles, secondarily prophets, thirdly teachers, after that miracles, then gifts of healings, helps, governments, diversities of tongues.

29 Are all apostles? are all prophets? are all teachers? are all workers of miracles?

30 Have all the gifts of healing? do all speak with tongues? do all interpret?

31 But covet earnestly the best gifts: and yet shew I unto you a more excellent way.

CHAPTER 13

[CHARITY]

Though I speak with the tongues of men and of angels, and have not charity, I am become as sounding brass, or a tinkling cymbal.

2 And though I have the gift of prophecy, and understand all mysteries, and all knowledge; and though I have all faith, so that I could remove mountains, and have not charity, I am nothing.

3 And though I bestow all my goods to feed the poor, and though I give my body to be burned, and have not charity, it profiteth me nothing.

4 Charity suffereth long, and is kind; charity envieth not; charity vaunteth not itself, is not puffed up,

5 Doth not behave itself unseemly, seeketh not her own, is not easily provoked, thinketh no evil;

6 Rejoiceth not in iniquity, but rejoiceth in the truth;

7 Beareth all things, believeth all things, hopeth all things, endureth all things

8 Charity never faileth but whether there be prophecies, they shall fail, whether there be tongues, they shall cease, whether there be knowledge, it shall vanish away

9 For we know in part, and we prophesy in part

10 But when that which is perfect is come, then that which is in part shall be done away

11 When I was a child, I spake as a child, I understood as a child, I thought as a child but when I became a man, I put away childish things

12 For now we see through a glass, darkly, but then face to face now I know in part, but then shall I know even as also I am known

13 And now abideth faith, hope, charity, these three, but the greatest of these is charity

PAUL'S EPISTLE TO THE GALATIANS

CHAPTER 3

["THERE IS NEITHER JEW NOR GREEK"]

23 But before faith came, we were kept under the law, shut up unto the faith which should afterwards be revealed

24 Wherefore the law was our schoolmaster to bring us unto Christ, that we might be justified by faith.

25 But after that faith is come, we are no longer under a schoolmaster

26 For ye are all the children of God by faith in Christ Jesus

27 For as many of you as have been baptized into Christ have put on Christ

28 There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female for ye are all one in Christ Jesus

29 And if ye be Christ's, then are ye Abraham's seed, and heirs according to the promise.

The Codification of Roman Law

The CORPUS JURIS CIVILIS *consists of four books The* CODEX *is a collection and revision of the imperial laws from the time of Hadrian The* DIGEST OR PANDECTS *is a revision, abridgment, and rearrangement of the classical jurists The* INSTITUTES OF JUSTINIAN *is a handbook for students And the* NOVELLAE *are statutes adopted after the Code was compiled The following selection is taken from the opening of the* INSTITUTES *The author classifies the law and defines justice as the concept developed in Roman law.*[1]

BOOK I TITLE I

OF JUSTICE AND LAW

Justice is the set and constant purpose which gives to every man his due Jurisprudence is the knowledge of things divine and human, the science of the just and the unjust

Having laid down these general definitions, and our object being the exposition of the law of the Roman people, we think that the most advantageous plan will be to commence with an easy and simple path, and then to proceed to details with a most careful and scrupulous exactness of interpretation Otherwise, if we begin by burdening the student's memory, as yet weak and untrained, with a multitude and variety of matters, one of two things will happen either we shall cause him wholly to desert the study

[1] From *The Institutes of Justinian*, 5th edition, translated by J B Moyle, Book I, Titles 1, 2, 3 Oxford Clarendon Press 1913

of law, or else we shall bring him at last, after great labour, and often, too, distrustful of his own powers (the commonest cause, among the young of ill success), to a point which he might have reached earlier, without such labour and confident in himself, had he been led along a smoother path

The precepts of the law are these to live honestly, to injure no one, and to give every man his due The study of law consists of two branches, law public, and law private The former relates to the welfare of the Roman State, the latter to the advantage of the Individual citizen Of private law then we may say that it is of threefold origin, being collected from the precepts of nature, from those of the law of nations, or from those of the civil law of Rome

TITLE II

Of the Law of Nature, the Law of Nations, and the Civil Law

The law of nature is that which she has taught all animals, a law not peculiar to the human race, but shared by all living creatures, whether denizens of the air, the dry land, or the sea Hence comes the union of male and female, which we call marriage hence the procreation and rearing of children, for this is a law by the knowledge of which we see even the lower animals are distinguished The civil law of Rome, and the law of all nations, differ from each other thus The laws of every people governed by statutes and customs are partly peculiar to itself, partly common to all mankind Those rules which a state enacts for its own members are peculiar to itself, and are called civil law those rules prescribed by natural reason for all men are observed by all peoples alike, and are called the law of nations. Thus the laws of the Roman people are partly peculiar to itself, partly common to all nations, a distinction of which we shall take notice as occasion offers Civil law takes its name from the state wherein it binds; for instance, the civil law of Athens, it being quite correct to speak thus of the enactments of Solon or Draco So too we call the law observed by the Roman people the civil law of the Romans, or the law of the Quirites, the law, that is to say which they observe, the Romans being called Quirites after Quirinus Whenever we speak, however, of civil law, without any qualification, we mean our own, exactly as, when 'the poet' is spoken of, without addition or qualification, the Greeks understand the great Homer, and we understand Vergil But the law of nations is common to the whole human race, for nations have settled certain things for themselves as occasion and the necessities of human life required For instance, wars arose, and then followed captivity and slavery, which are contrary to the law of nature, for by the law of nature all men from the beginning were born free The law of nations again is the source of almost all contracts, for instance, sale, hire, partnership, deposit, loan for consumption, and very many others

Our law is partly written, partly unwritten, as among the Greeks The written law consists of statutes, plebiscites, senatusconsults, enactments of the Emperors, edicts of the magistrates, and answers of those learned in the law A statute is an enactment of the Roman people, which it used to make on the motion of a senatorial magistrate, as for instance a consul A plebiscite is an enactment of the commonalty, such as was made on the motion of one of their own magistrates, as a tribune The commonalty differs from the people as a species from its genus, for 'the people' includes the whole aggregate of citizens, among them patricians and senators, while the term commonalty' embraces only such citizens as are not patricians or senators After the passing, however, of the statute called the lex Hortensia, plebiscites acquired for the first time the force of statutes. A senatusconsult is a command

and ordinance of the senate, for when the Roman people had been so increased that it was difficult to assemble it together for the purpose of enacting statutes, it seemed right that the senate should be consulted instead of the people. Again, what the Emperor determines has the force of a statute, the people having conferred on him all their authority and power by the *lex regia*, which was passed concerning his office and authority. Consequently, whatever the Emperor settles by rescript, or decides in his judicial capacity, or ordains by edicts, is clearly a statute: and these are what are called constitutions. Some of these of course are personal, and not to be followed as precedents, since this is not the Emperor's will; for a favour bestowed on individual merit, or a penalty inflicted for individual wrongdoing, or relief given without a precedent, do not go beyond the particular person: though others are general, and bind all beyond a doubt. The edicts of the praetors too have no small legal authority, and these we are used to call the *ius honorarium*, because those who occupy posts of honour in the state, in other words the magistrates, have given authority to this branch of law. The curile aediles also used to issue an edict relating to certain matters, which forms part of the *ius honorarium*. The answers of those learned in the law are the opinions and views of persons authorized to determine and expound the law; for it was of old provided that certain persons should publicly interpret the laws, who were called jurisconsults, and whom the Emperor privileged to give formal answers. If they were unanimous the judge was forbidden by imperial constitution to depart from their opinion, so great was its authority. The unwritten law is that which usage has approved: for ancient customs, when approved by consent of those who follow them, are like statute. And this division of the civil law into two kinds seems not inappropriate, for it appears to have originated in the institutions of two states, namely Athens and Lacedaemon; it having been usual in the latter to commit to memory what was observed as law, while the Athenians observed only what they had made permanent in written statutes.

But the laws of nature, which are observed by all nations alike, are established, as it were, by divine providence, and remain ever fixed and immutable: but the municipal laws of each individual state are subject to frequent change, either by the tacit consent of the people, or by the subsequent enactment of another statute.

The whole of the law which we observe relates either to persons, or to things, or to actions. And first let us speak of persons: for it is useless to know the law without knowing the persons for whose sake it was established.

TITLE III

OF THE LAW OF PERSONS

In the law of persons, then, the first division is into free men and slaves. Freedom, from which men are called free, is a man's natural power of doing what he pleases, so far as he is not prevented by force or law: slavery is an institution of the law of nations, against nature subjecting one man to the dominion of another. The name 'slave' is derived from the practice of generals to order the preservation and sale of captives, instead of killing them; hence they are also called *mancipia*, because they are taken from the enemy by the strong hand. Slaves are either born so, their mothers being slaves themselves; or they become so, and this either by the law of nations, that is to say by capture in war, or by the civil law, as when a free man, over twenty years of age, collusively allows himself to be sold in order that he may share the purchase money. The condition of all slaves is one and the same: in the conditions of free men there are many distinctions; to begin with, they are either free born, or made free.

AUTHORS	EUROPE	EASTERN MEDITERRANEAN	ASIA
600 [St Augustine 354 430]			570 632 Mohammed founds new religion 600 900 Central Asiatic nomads raid India, keep back Moslems until 10th century 611 22 Persians advance Take Mesopotamia, Asia Minor, Egypt Besiege Constantinople 627 Persians defeated by Romans at Nineveh 632 738 Arabs push east, south Take Persia, Syria, North Africa, Egypt, Spain Reign of Mamun (813 33) height of Arab culture
	711 1031 Moslem conquest of Spain		700 800 Chinese religious zeal replaced by intellectual study Schools established
		755 1014 Byzantine Wars with Bulgars	
	787 925 Norsemen invade Britain		
	800 Charlemagne becomes Emperor of Rome		794 1145 Heian period in Japan marks shift to own culture Fujiwara family dominates
800	814 987 Carolingian Empire disintegrates Beginnings of feudalism on the continent	9th cen Bulgarian invasions create empire between Franks and Byzantines	
	c 867 Church declines in temporal power 871 99 Alfred the Great divides Britain with Danes, patronizes learning	867 1054 Greek, Roman Churches grow apart	
	910 Abbey of Cluny founded—Church reform 919 1024 Saxons rule Germany		
	936 73 Saxon Otto the Great revives Holy Roman Empire, crowned by Pope, 962	10th, 11th cen Byzantine culture reaches height Constantinople economic, art center	960 1279 Sung Dynasty in China introduces modernism, humanism Art flourishes

1000			
	1066 Norman conquest of Britain		
	1075 1122 Investiture struggle in Church		
	1105 94 Normans in S Italy, Sicily	1096 1270 Crusades Feudal knights fight infidel, plunder eastern Mediterranean	
John of Salisbury c 1115 1180	1138 1268 Holy Roman Empire reaches peak with Hohenstaufen kings—Frederick I		12th cen Religious orders at war in India
	1198 1216 Pope Innocent III revives Church		1185 1333 Feudal Kamakura Period in Japan
	Growing conflict between Church, Emperor		1190 1305 Mongols carve out empire in central, east Asia Kublai Khan 1259 94
1200			
Magna Carta (Br) 1215	1226 70 Golden Age medieval France—Louis IX	1204 Constantinople falls to Crusaders, marks collapse of Byzantine Empire	
St Thomas Aquinas 1225 74	1237 40 Mongol invasion of Europe		1254 1324 Marco Polo tells Europe of Asia
	1291 Swiss Confederation formed	1290 1326 Osman I founds Ottoman Empire	1258 Mongols capture Baghdad Arab capital
Boniface VIII ?1235 1303	1295 British Model Parliament	Builds empire at expense of Byzantines	1290 1340 Trade grows between Europe, Asia
	14th cen Hanseatic League develops		
	1300 Italy dividing into city states Florence, Milan, Naples Venice, Papal States		
	1305 1378 Babylonian Captivity of Church		
Dante 1265 1321	1314 Scots win independence at Bannockburn		14th cen Nestorian Christians in China.
	1314 1377 *Bartolus of Sassoferrato jurist*		
Marsilius of Padua	1320 1384 John Wycliffe, church reformer		
	1336 Start 100 Yrs War—Britain vs France		
1270 1342	c 1340 1400 Chaucer popularizes English		1336 92 Civil War in Japan virtual anarchy
	1348 50 Great Plague sweeps Europe		
	Late 14th cen Serfdom declines Nationalism, anti papism, social unrest spread		
	1356 Golden Bull—HRE a federation		
	1358 Peasants' Revolt in France		
	1381 Peasants' Revolt in England	1372 Turks take Bulgaria, Thrace, Greece	1368 1644 Ming Dynasty in China Drive back Mongols, centralize government
1400	1387 1417 Great schism in Church		

SIX

The Two Swords

ONE OF THE UNIQUE CHARACTERISTICS of modern Western political society is the separation of Church and State. To the inhabitants of the Western world this separation seems so natural that we are apt to think of it as the normal relation between religion and politics and, in turn, that the identification of the two is abnormal. The truth is that the separation as we know it is confined to the Western world and here only in the modern period. Thus the situation in the West is actually a divergence from the norm; the more universal practice is a fusion of religion and politics. Students attach varying degrees of importance to the institutional separation of religion and politics in the West, but there is widespread agreement that the separation on the one hand and the mingling and rivalry of political government and Church on the other have had a profound influence in giving to our political system much of its unique quality. Certainly this separation provides much of the foundation for modern constitutionalism.

Any understanding of Western political society and ideas demands some notion of why religion and politics bear such a unique relationship to each other.[1] There are two explanations. One is the nature of Christianity itself, for Christianity has virtually monopolized religion in the West since the time of Constantine the Great. The second is the institutional history of the Catholic Church and of the Roman Empire. Separately, neither the Christian doctrine nor the peculiar historical development of the Western part of the old Roman Empire will explain the relationships of religion and politics as we know them today. Together, however, the doctrine and history will do much to make clear some of our heritage of political ideas. The Middle Ages were not important for creating new political theory. But an adequate understanding of later theory is directly dependent upon a knowledge of the events and ideas of the Middle Ages.

We shall first take a brief look at the historical development of the

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[1] See Otto von Gierke, *The Development of Political Theory*. Translated by Bernard Freyd (New York, 1939), pp. 69-90.

Church and Empire as institutions.[2] This great evolution took place over the long period between the birth of Christ and the rise of national states. The effective spread of Christianity began with the ministry of St. Paul. From the time of Paul and his martyrdom in Rome until the reign of Constantine the Great (sole ruler 324-327), Christianity spread upon the Roman Empire. An illegal sect, subjected to vigorous persecution, and in competition with official religions, Christianity still managed to grow and gain strength. Finally, in the reign of Constantine the Great, Christianity was made the official religion of the Empire and the way seemed clear for a fusion of a new imperial religion and old imperial politics. Other events, however, in the reign of Constantine prevented this development from taking place.

By Constantine's time, the center of gravity in the Roman Empire had shifted from west to east. Partly in recognition of this shift the Emperor founded a new imperial capital on the Bosphorus and called it Constantinople. This movement from the Roman west to the Byzantine east marked the beginning of the break up of the Roman Empire. The mere fact that the new capital was in the East, where the frontier pressures were especially intense, tended to loosen the Emperor's control in the West, where Rome remained the center of affairs. The lapse of effective government in the West occurred at the very time when strong government was badly needed to give protection against internal disorder and barbarian invasions from the north.

Simultaneous with this breaking up of the old empire into eastern and western halves and with the incessant barbarian invasions of each, began the development of a great and relatively independent Church system.

The exact beginnings of the Church are not entirely clear. Soon, however, parishes were grouped together into dioceses, and the bishops, who presided over the dioceses, became the key administrative and spiritual figures in the Church. Augustine and Ambrose are examples of early and famous Church bishops. At first, the bishops were more or less equal. Christianity had no strong, institutional, unifying force other than the doctrine and the occasional councils called by the emperor. In the natural course of events, however, certain bishops emerged who wielded great influence on Church doctrine and administration. Again, Ambrose and Augustine furnish classic examples. These famous bishops, however, never furnished a genuine headship for the Church. Rather, leadership began to center around whoever happened to be the bishop of Rome. The reasons for the emergence of the bishop of Rome to a superior place in the Church hierarchy are to be found in the greatness of Rome itself

[2] For further reading on this whole topic, there could be no better starting place than Lord Bryce's *The Holy Roman Empire* (London, 1904).

and in the fact that Peter and Paul had been in Rome. The power of the Keys (Matthew 16:17-19) was also much stressed in the Middle Ages, e.g., at the Synod of Whitby in 664. The bishop of Rome, who came finally to be recognized as the single head of the Church, was later called pope (Latin *papa*).

(The pope, by his unification of Church control and, by comparison with the weak imperial system, his establishment of a fairly effective administrative system, grew to independent strength. A strong pope like Gregory the Great (590-604) actually functioned somewhat as an emperor in the West.[3] He repelled invaders and kept a semblance of order. Thus the governing vacuum left at Rome by the ineffectiveness of most Eastern emperors furnished a good soil for the growth of an independent religious establishment.)

Why No Merger of Church and State in West?

The rise of an independent Church in the West, in contrast to a state-controlled Church in the East, raises the question of why an imperial theocracy with civil and religious rule merged in the pope did not develop in the West. There are four reasons why such a development did not take place. In the first place, a strong tradition of civil rule existed in Rome which was a force of resistance to any complete taking over of civil rule by the Church.

In the second place, there were long periods in which weak popes ruled at Rome. If, for a couple of hundred years, there had been an unbroken line of popes of the same calibre as Gregory the Great, a theocracy might well have developed in the West. As it was, between Gregory the Great and Gregory VII (1073-1085) strong popes were the exception rather than the rule.

The third reason why the Church did not usurp political rule is to be found in the development of strong leadership among the Germanic tribes to the north. This leadership developed among the Franks, the most settled of the tribes. The Franks, like most other tribes, came to accept the Roman brand of Christianity, as distinguished from the Eastern religion, and to ally themselves with the pope against Eastern emperors and against tribes that threatened Rome. (Pepin in 752 gave territory to the pope; this territory gave the Church its first and most direct claim to temporal rule. The culmination of this mutual dependence of pope and Germanic king came when Charles the Great (Charlemagne) received the

[3] See A. J. Carlyle's discussion of Gregory the Great as "Vicar of God" in *A History of Medieval Political Theory in the West*, by R. W. and A. J. Carlyle, Vol. I, Ch. 13. London.

Roman imperial crown from the hands of Pope Leo III on Christmas day, 800. The net effect of this coronation was to create a new imperial system in the West. Later it was called the Holy Roman Empire. Thus, instead of developing a theocracy, the conflicts between the new Roman emperors and the pope and later between the pope and national monarchs forged the State-Church relationship of the West.)

The final reason for the failure of the Church to establish a complete government is to be found in the Christian doctrine itself. With its strong emphasis upon life in the next world and upon the ethical teachings of Christ, it tended to emphasize the spiritual side of man. Despite the fact that the Church frequently went far in asserting complete control over man in the interests of ministering to his spiritual side, it tended to draw back from the more distasteful tasks of civil rule.

From the time of Charlemagne on, the influence of Eastern emperors in Western affairs was negligible and Charlemagne's successors, with rare exceptions, were unable to furnish effective rule. For one thing, no orderly system of succession was developed, and Charlemagne's reasonably well-unified empire was divided in fact, if not in title, by the Treaty of Verdun (843), among his three grandsons. Of equal importance in keeping the new Germanic emperors weak, was the fact that before a person could become emperor he had first to be elected a German king and then to secure papal blessings and approval by the Roman people. Having made the compromises and concessions necessary to gain these approvals, an emperor retained little genuine authority. In fact, the system of succession was so unsatisfactory that for long periods there was no emperor.

The Church, like the Empire, had its ups and downs. It, too, was a long time in developing a satisfactory method of succession. Moreover, it had a continuous struggle to achieve the effective supremacy of the pope over the outlying bishops. As the bishops became embroiled in the politics of the rising feudal kings, who were on their way to becoming national monarchs, and in the intricacies of the feudal system, matters became more difficult. After Charlemagne there were increasing controversies between the pope and the emperor, for their jurisdictions were territorially coterminous, the pope in the spiritual realm and the emperor in the temporal. At a crucial moment in the uneasy accommodation between an ineffective Church and an equally ineffective Empire, a movement for Church reform which had its genesis in the Abbey of Cluny began to spread. Gregory VII, who had been trained at Cluny, became pope in 1073 and was able to strengthen the Church with reforms. But there was no such imperial reform and by the close of the eleventh century the Church became the dominant force in society. As if to symbolize

this dominance, the Church, in alliance with monarchs, launched the Crusades.

The supremacy of the Church, however, was a short-lived one, for national monarchs rose to challenge it. The monarchs were able to acquire independent power because the Empire was weak, because the Church would not and could not give complete government, and because monarchs were gradually able to subdue their feudal rivals. When the Church entered into conflict with national monarchs it had a more formidable adversary than weak emperors had ever been, and the Church itself was in a state of collapse, with no Gregory VII to lead it.

The significant thing that happened in the West was that a religious establishment grew to independent power and was able to constitute itself as a rival to government. When national monarchs became effective, the Church engaged them on points where political rule interfered with Christian teachings and with the institutional development of the Church.

The Empire, unlike the Church, needed no new ideas for its justification. The Holy Roman Empire conceived of itself as the true continuator of the old Roman Empire and how could an institution so old and venerable need further explanation? It is true that the advent of Christianity added a new potentially independent power, but this was easily reconciled by citing Paul's statement that the powers that be are ordained of God. The Empire made a more uncomfortable adjustment to the idea of a Christian community with two administrative departments, the temporal and spiritual, both ordained of God. And it made a still more uncomfortable adjustment to the idea that the emperor held his office, not directly from God, but from God through the pope. Nevertheless, the new phenomenon and the new ideas were on the Church side and to these we must now turn.

Political Implications of Christian Doctrine

The newest and most important element in Western political thought and practice was the Christian doctrine itself. The seeds of disloyalty to an absolute earthly ruler are inherent in Christianity. From its Hebraic roots comes the idea of a single, personal God who is unseeable and unknowable in any complete sense. This God is more powerful than all men and all nature and He is a jealous and exclusive God who will permit no competition on earth or in heaven. Through Moses, as we have seen, He handed down a code of laws which were not of this world and did not depend for their validity upon man's adoption or approval of them. To this fundamental notion of God, Christianity added a code of ethics. The core of this code was a doctrine of universal brotherly love and mercy. It also added the personal and tangible appearance of God's only Son, who

promulgated the ethical revisions of Judaism, and lived a life which measured up to the perfection of the ethical system. Christ's highest and final act was to sacrifice himself for mankind. The Christian emphasis upon universality corresponded with the universality of Stoic philosophy and was in contrast with the tendency toward racial and national exclusiveness of its Hebraic antecedents. Christ died and thus sacrificed himself in order to redeem all mankind. (In rising from the dead and ascending into heaven he made graphic the relationship between this world and the next.)

The emphases upon love and mercy in the Christian tradition are justifiable, especially when compared with the Old Testament teachings of fear. Nevertheless, it should not be forgotten that Christianity too is militant and absolute in its values. If this latter point is underemphasized, it is impossible to account for the dynamic quality of the Christian Church as it developed in the West.

(Christianity thus became a universal religion in which national boundaries and earthly differences of color, race, and class were only ephemeral differences in the eyes of God. Such a religion involves a higher loyalty than any earthly or human loyalty a man may have. What if the law of God comes into conflict with the law of the political ruler? Should man obey man or God? Christ suggested the formula for this problem when he said to render unto Caesar the things that are Caesar's and unto God the things that are God's, but less divine beings were never quite able to make the formula work. Nevertheless, we have here *the suggestion of two realms or two jurisdictions that can exist side by side without conflict.*) Paul exhibited the skill of an adroit politician when he dealt with this problem: his statement that the powers that be are ordained of God not only justified political absolutism in the hands of a pope like Gregory the Great, but many times since it has clothed absolutism with God's sanction. When, however, the powers that be were in controversy with Church officials, scripture could be cited that man must obey God rather than man.

As supra-national and super-natural as the essential Christian teachings were, taken by themselves they would not have been sufficient to challenge and curb Caesar. With any body of teachings, two elements must be balanced. The one is the teachings themselves, and the other is the interpretation and application of those teachings. Where the function of interpreting and applying Christ's teachings remained finally in the hands of governmental officials, God meant, for practical purposes, what the rulers said He meant, in a particular case. In effect, this is what happened to Christianity in the East and in some places in the West. For the most part, however, those who interpreted the word in the West were members

of the Church, and hence they constituted a group whose first loyalty was to a strong spiritual institution, the Church. They were not wholly controlled by the rulers of the State. This is the reason for conflicts and for the clashes between Church and State which have characterized political development from the time of Christ and the spread of Christianity upon the old Roman Empire. It was, indeed, this separate institutionalization of Christian doctrine that made it so effective, and, in a sense, disruptive, in political terms, for other elements in the Christian teachings tended to have precisely the opposite effect. One of these was the emphasis upon humility as a virtue and upon the relative insignificance of life on this earth as compared with the glory of life in the next. Such emphasis can and has led to the use of Christian doctrine to justify obedience to all sorts of tyranny. It is often combined with extreme claims for Christian pacifism.

Spiritual Equality and Mortal Frailty

It is a grave mistake to think of Christianity in the West as always being in opposition to temporal rule. In tracing its political impact, we always emphasize the opposition elements, because Christianity's primary importance came through its opposition. Nevertheless, it often served to strengthen the hand of civil rulers, who in turn aided the Church.

The one element of Christian doctrine that made possible an accommodation between a spiritual and temporal institution in the same territory was the idea that all men are essentially equal in value in the eyes of God and that each man is dualistic in nature; that is, he has a body that is mortal and a soul that is immortal. When man is through with his life on this earth his soul departs from the body and passes on to eternal reward or punishment; the body returns to the physical elements from which it was compounded. Whether, however, the soul goes into perpetual bliss or damnation depends upon one's self-stewardship on earth and upon God's grace. With man thus divided into a mortal and immortal part, it was natural, once the Church became a going concern, to conceive of the Church and State as being two administrative departments in the same territorial realm—theoretically, in the world. The primary concern of the civil rule was the earthly and physical side of man, and the special province of the Church was man's soul and his preparation for the life to come. As long, however, as what man does with his body on this earth has some part to play in his preparation for life hereafter, the seeds of the conflict between the spiritual and temporal administrations are inherent in this rather pragmatic doctrine. If a man is a mystical combination of mortality and immortality, with the immortal part freed upon death, there can be little doubt that an agency concerned with the eternal soul

is the more important. The claim to ultimate Church supremacy in case of conflict was implicit in the dualistic assumption.

This theory of the two rules under which each man lives was known as the "two swords." The sword symbolized rulership. The source of all power was God, and God gave the emperor one sword to rule man and the pope another to rule his soul. In the earlier stages of this theory of the "two swords" both emperor and pope received their authority directly from God. The claim for papal superiority, however, was in the theory, even in its earliest formulation.) Pope Gelasius I in 494, in a letter to Emperor Anastasius, said:

> In order to convince the emperor of the impropriety of his conduct, he addresses him in the following terms: "August emperor, this world is [principally] governed by two powers,—by bishops, and by kings; of these, the responsibility of the priests is the weightier, since they have to render an account to God even for kings themselves. You know, my dear son, that though your dignity exalts you above other men, you devoutly bow your head to the bishops who are charged with the administration of holy things; you address yourself to them to be conducted in the ways of salvation; and in all that regards the reception and the administration of the sacraments, you acknowledge that far from having any power to command, you are bound to obey them. You know that in all such concerns you depend on their judgment, and that you have no right to subject them to your will. *For if the ministers of religion obey your laws in all that belongs to the temporal order, because they know that you have received your power from above,* with what affection ought not you to obey those who are charged with the dispensation of our august mysteries?" [4]

(Another feature, implicit in the whole Hebraic-Christian doctrine, was that sin, or more precisely the temptation to sin, is the outgrowth of man's bodily wants and passions. This idea, when developed with the idea of "two swords," leads directly to the theory that the temporal rule is associated with sin, and that if there were no sin there would be no need for the second sword.) This is not to say that the temporal rule was sinful in itself, but that it was committed to deal with the base elements in man's nature. What a far cry from the Platonic and Aristotelian conception of political society as man's highest achievement! The association of sin and the state in the Middle Ages has left an indelible stamp on all subsequent political thought in the West.

[4] This quotation, from a letter from Pope Gelasius to the Emperor Anastasius, is taken from the first volume of *Library of Translations from Select Foreign Literature, The Power of the Pope during the Middle Ages,* by M. Gosselin (tr. by The Rev. Matthew Kelly), pp. 183-184. Note that the translator omitted the word "principally," footnote on p. 184: *"Duo sunt, Imperator auguste, quibus principaliter mundus hic regitur, auctoritas sacra pontificum, et regalis potestas...."* The authors are indebted to Brian A. McGrath, S.J., for this point.

From what we have suggested above, it is easy to see the basis for the Church's claim to supremacy over the temporal rule, and we need not be surprised to find the pope claiming that although the temporal sword is ordained of God, it is actually conferred by God through the pope. From this claim it is not far to the claim that the pope can depose emperors and kings and that all Church officials are subject only to the law of the Church, canon law, as interpreted and applied by the Holy See. This claim created conflicts in allegiance within the Empire and later in nations.

The seeds of the conflict between State and Church were inherent in the writings of St. Paul and St. Augustine once there was a separate institutional development of Christianity. Augustine did not anticipate the struggle, but the mere fact that he could write a great work on the City of God suggested another city of man and earth which was of a lower order. He suggests that Christian teachings could and should be used as a measure by which to judge the earthly city, as when he discusses states without justice and calls them bands of robbers which divide up the loot, and when he admits that pagan states were the people's affair only in a restricted sense. His emphasis upon the otherworldly, however, made it seem relatively unimportant.

Two Swords and Constitutionalism

The full institutional development of the clash between the two swords can be seen in the last two selections in the Readings for this chapter. Boniface VIII made the most extreme papal claim to the Church supremacy, although his claim fell short of that made by extreme spokesmen for the Church such as Egidius Romanus and James of Viterbo.[5] The latter two found papal supremacy not alone in the Christian doctrine but also in the natural order of the universe. Throughout most of the great controversy the supporters of the imperial and monarchical position were simply on the defensive. The dynamic lay with the Church. Gradually the rediscovery of Roman law and the new arguments for secular supremacy that could be drawn from it caused the imperial supporters to move on to an offensive against the Church claims. The *Defensor Pacis* of Marsilius of Padua was one of the first and best of the counterattacks. His attack led him to make a surprisingly modern statement of the source of political authority, and this he carried right over to a proposal for Church government that anticipated the separation of Church and State as we know it today.

The unity of Christendom under the two swords was always more of a dream than an actuality, but what unity there was after the thirteenth century was twice broken up.

[5] See C. H. McIlwain, *The Growth of Political Thought in the West* (New York, 1932), pp. 248-262.

The rising national monarchs were not the only factor in the eventual disruption of medieval Christian unity. Corruption within the Church itself made it an easy prey. The "Babylonian Captivity" and the "Great Schism" simply reflected a weakness which, when combined with the revival of secular learning in the Renaissance and theological and reform controversies within the Church, led to the Protestant Reformation and the end of the unity of Christendom. The legacy of the Middle Ages, so far as the spiritual and secular struggle is concerned, was to give to all subsequent political thought in the West a problem revolving around a religious establishment which stood partly inside and partly outside the political state. On the institutional side it provided the foundation for a system of partially self-sufficient churches which claimed to be the custodians of an authority higher than any earthly authority—an institution not only partly higher than the State but different from the State and not derived from it. These elements of detachment and higher law are integral parts of modern constitutionalism which arose out of the medieval development of Western Christianity.

This higher law of the Church embodied the concept of the duty of the citizen to live by it, hence to putting on him the burden of ultimate moral responsibility—moral personality. Archbishop Hincmar of Reims, as early as the ninth century, reminded all Christian believers that in spite of necessary defence "by earthly laws or by human customs... at the day of Judgment they will be judged not by Roman or Salic or Gundobadian law, but divine apostolic law." [6] This law bound rulers as well as ruled. The medieval monarch, therefore, had an institutionalized moral check on his power. This, too, contributes to the basic doctrines and development of constitutionalism—government limited and directed by a moral law. That the check was often flouted is true. But it remained nevertheless as an ideal, and acted as a very real brake on the absolutism of rulers.

(... *N.A.McD.*)

READINGS

BECAUSE of its nature, and because it was a foreign religion, Christianity could not be assimilated by the Roman Empire. Nor could it, for the same reasons, take over the political rule of the Empire. Given this situation, the subsequent development is not hard to predict. From the time that Christianity began to thrive in Rome and the Empire, down to the present day,

[6] Quoted by A. J. and Richard Carlyle, *op. cit.*, Vol. I, p. 277.

Western states have had the problem of the "two swords." As the Empire became weak because of division and incompetence, the Church became relatively stronger. And since neither recognized a determinate common superior, clashes were bound to occur. In the course of these clashes there were violence and force aplenty. But of more importance for the student of political thought were the arguments that developed concerning the relations between political rule and religious rule. Can a state tolerate a belief and an institution in its midst which acknowledges a higher loyalty than one to the ruler? That is the great question for which Western man has sought an answer for nearly two thousand years.

This whole controversy may be said to have originated on the day Paul, the Jew of Tarsus, came to Rome in his ministry to the gentiles. The story of Paul's life and conversion is told in "Acts" of the *New Testament*. At first a persecutor of Christians, he had a vision, while on the road to Damascus, which converted him to Christ's teachings and made of him a great crusader for those teachings. In the course of his ministry within the Empire of Rome, he had many instances of contact with the political officials. His pronouncements on these relations were used time and again, in the centuries that followed, to support first one side and then the other —and occasionally both sides at the same time. Paul was probably a martyr to his religious beliefs in Rome around 67 A.D.

From the time Paul appeared on the scene in Rome until the conversion of Constantine, Christianity was an outlaw religion that somehow prospered and gained new converts. Leadership developed, as it must for such a movement, and not long after the legalization of Christianity there appeared writings and speculations of great maturity. The names of Ambrose, Jerome, Gregory the Great, and Augustine have always loomed large in church literature. Aurelius Augustinus, later to be Saint Augustine, was born in Togasto, south of Carthage, in A.D. 354. His father was a devout Christian, probably of Roman blood. Augustine was educated in Carthage, where he abandoned religion and led a profligate life, probably typical of the time. In 376 he went to Rome to teach rhetoric and there was converted to Manicheism (a combination of Christianity and Zoroastrianism, with emphasis on asceticism). Later, in Milan, he studied Plato. At first he became a neo-platonist, but on Easter day 387 he was converted to Christianity by St. Ambrose. He returned to Africa, became Bishop of Hippo, and died there during the siege of the Vandals in 430.

His best known works are *Confessions* (*c.* 400), a guide to the inner life, and a beautifully written apology for the Christian convert. *The City of God* (*De Civitate Dei*) pictures Christianity, a new spiritual empire, on the ruins of Rome. He also wrote *De Trinitate*, a systematization of Christian doctrine. He believed in original sin, and the need for God's

grace as the first step toward salvation. Although Augustine did not anticipate the nature of the future struggle between Church and State, the very title of his work *The City of God* implies the existence of another city which is not of God. In the history of Christian thought he is important for joining the Platonic and Christian streams of thought. In political thought he is important for an understanding of the Christian conception of political society.

In the course of the long period of struggle between the emperor and pope there are very few treatises dealing with the general question of relation between the "two swords." [1] The controversy produced more wars and adjustments than it did theory. Historically, the conflict pushed on to new intensities. Here it is possible to give only some of the final statements that preceded the great schism, the struggle over the control of the Church, and the Protestant Reformation.

The most extreme official Church position was announced by Pope Boniface VIII. Born as Benedetto Gaetani in 1235, he became head of the Church in 1294. His main conflict was not with an emperor but with a king—Philip IV of France. In a papal bull, *Clericis laicos* (1296), he laid down the principle that laymen may not tax clerics. The conflict deepened. An army sent into Italy by Philip captured Boniface. He was rescued, but died within a month, in 1303. The Pope was a great authority on canon law but his pontificate marked a further decline in the medieval papacy.

The best statement of what might almost be called a secular view of the Church was made by Marsilius of Padua, who allied himself with Louis IV of Bavaria in his struggle with Pope John XXII. Marsilius was born in Padua in 1270. He studied in Paris and became rector of the University in 1311. In collaboration with John of Jandun, he wrote *Defensor Pacis* ("Defender of Peace"). Within a year after its appearance the two authors were excommunicated by the Pope. Louis took Marsilius and John with him to Rome, where Louis was crowned Emperor of Rome, not by the Pope, but by those who claimed to be delegates of the people. They saw John XXII deposed and a mendicant friar given his throne after the sham of a popular election. Marsilius was made archbishop of Rome after serving as vicar of Rome. He died in 1342, but his influence on both the conciliar controversy and the Reformation was considerable.

[1] See note, p. 387, on recent interest in the position of John of Paris in his *Tractatus de Potestate Regia et Papali.*

As the relations between the secular and spiritual became more delicately balanced, men searched the scriptures to find support for their side of the argument They did not search in vain But for better or for worse they did not find the answer there, because the scriptures were not clear. Contradictions and double meanings permitted reasonable men to disagree. The principal scriptural passages were in the gospel and in the sayings of St Paul. Some of the more important of the quotations, which will be used in later parts of the book, follow One must not read Paul without realizing that his was something of a politician's task—he had to strike a balance between compromising away all his principles on the one hand, and running the risk of causing Christianity to be wiped out on the other. The following selections from the Bible are separated from the ones in the preceding chapter and included here because they contain some of the more famous statements so widely used in the great controversy between spiritual and temporal authority The selections are from the King James Version

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ST. MATTHEW. CHAPTER 16

[To Bind and Loose]

13 ¶ When Jesus came into the coasts of Cæsarea Philippi, he asked his disciples, saying, Whom do men say that I the Son of man am?

14 And they said, Some say that thou art John the Baptist some, Elias; and others, Jeremias, or one of the prophets.

15 He saith unto them, But whom say ye that I am?

16 And Simon Peter answered and said, Thou art the Christ, the Son of the living God

17 And Jesus answered and said unto him, Blessed art thou, Simon Barjona. for flesh and blood hath not revealed it unto thee, but my Father which is in heaven

18 And I say also unto thee, That thou art Peter, and upon this rock I will build my church, and the gates of hell shall not prevail against it.

19 And I will give unto thee the keys of the kingdom of heaven: and whatsoever thou shalt bind on earth shall be bound in heaven: and whatsoever thou shalt loose on earth shall be loosed in heaven

20 Then charged he his disciples that they should tell no man that he was Jesus the Christ

. . . . .

CHAPTER 22

["Render unto Caesar"]

15 ¶ Then went the Pharisees, and took counsel how they might entangle him in his talk.

16 And they sent out unto him their disciples with the Herodians, saying Master, we know that thou art true, and teachest the way of God in truth, neither carest thou for any man. for thou regardest not the person of men.

17 Tell us therefore, What thinkest thou? Is it lawful to give tribute unto Cæsar, or not?

18 But Jesus perceived their wickedness, and said, Why tempt ye me, ye hypocrites?

19 Shew me the tribute money And they brought unto him a penny

20 And he saith unto them, Whose is this image and superscription?

21 They say unto him, Cæsar's Then saith he unto them, Render therefore unto Cæsar the things which are Cæsar's, and unto God the things that are God s

22 When they had heard these words, they marvelled, and left him, and went their way

ST JOHN CHAPTER 21

["Feed My Sheep"]

15 ¶So when they had dined, Jesus saith to Simon Peter, Simon, son of Jonas, lovest thou me more than these? He saith unto him, Yea, Lord, thou knowest that I love thee He saith unto him, Feed my lambs

16 He saith to him again the second time, Simon, son of Jonas, lovest thou me? He saith unto him, Yea Lord thou knowest that I love thee He saith unto him, Feed my sheep

17 He saith unto him the third time, Simon, son of Jonas, lovest thou me? Peter was grieved because he said unto him the third time, Lovest thou me? And he said unto him, Lord, thou knowest all things, thou knowest that I love thee Jesus saith unto him, Feed my sheep

the earth for it is not fit that he should live

23 And as they cried out, and cast off their clothes and threw dust into the air,

24 The chief captain commanded him to be brought into the castle, and bade that he should be examined by scourging, that he might know wherefore they cried so against him

25 And as they bound him with thongs, Paul said unto the centurion that stood by Is it lawful for you to scourge a man that is a Roman and uncondemned?

26 When the centurion heard that, he went and told the chief captain, saying, Take heed what thou doest for this man is a Roman

27 Then the chief captain came, and said unto him Tell me, art thou a Roman? He said Yea

28 And the chief captain answered, With a great sum obtained I this freedom And Paul said But I was free born

29 Then straightway they departed from him which should have examined him and the chief captain also was afraid after he knew that he was a Roman, and because he had bound him

30 On the morrow, because he would have known the certainty wherefore he was accused of the Jews, he loosed him from his bands, and commanded the chief priests and all their council to appear, and brought Paul down, and set him before them

THE ACTS CHAPTER 22

[*Paul has journeyed to Jerusalem and is telling of the manner of his conversion and his appointment to go among the Gentiles*]

["But I Was Free Born"]

22 And they gave him audience unto this word, and then lifted up their voices, and said, Away with such a fellow from

THE EPISTLE OF PAUL TO THE ROMANS CHAPTER 13

[*Paul is interpreting the Christian doctrine to the Romans*]

["The Powers That Be"]

Let every soul be subject unto the higher powers For there is no power but of God the powers that be are ordained of God

2 Whosoever therefore resisteth the power, resisteth the ordinance of God and they that resist shall receive to themselves damnation

3 For rulers are not a terror to good works, but to the evil Wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same

4 For he is the minister of God to thee for good But if thou do that which is evil, be afraid, for he beareth not the sword in vain for he is the minister of God, a revenger to execute wrath upon him that doeth evil

5 Wherefore ye must needs be subject, not only for wrath, but also for conscience sake

6 For this cause pay ye tribute also, for they are God's ministers, attending continually upon this very thing

7 Render therefore to all their dues tribute to whom tribute is due, custom to whom custom fear to whom fear, honour to whom honour

8 Owe no man any thing, but to love one another for he that loveth another hath fulfilled the law

. . . .

THE EPISTLE OF PAUL TO TITUS CHAPTER 3

Put them in mind to be subject to principalities and powers, to obey magistrates, to be ready to every good work,

2 To speak evil of no man, to be no brawlers, but gentle, shewing all meekness unto all men.

Augustine: The City of Heaven and the City of Earth

St Augustine was spurred by the charges that Christianity was responsible for the sad days that had come upon Rome In part, he wrote THE CITY OF GOD *to show that Christianity was not the cause of the decline, but rather it was the absence of Christian virtues that had weakened the once mighty empire But what more could sin ridden man expect when the real city was in heaven? Plato's ideal* polis *was not of this earth ¶ The following selections deal with Augustine's conception of justice in the state and the only kind of justice that Cicero could have talked about when discussing the pagan Rome of his time* [1]

BOOK IV CHAPTER 4

[HOW LIKE KINGDOMS WITHOUT JUSTICE ARE TO ROBBERIES]

Justice being taken away, then, what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men it is ruled by the authority of a prince, it is knit together by the pact of the confederacy the booty is divided by the law agreed on If, by the admittance of abandoned men, this evil increases to such a degree that it holds places, fixes abodes, takes possession of cities, and subdues peoples, it assumes the more plainly the name of a kingdom, because the reality is now manifestly conferred on it, not by the removal of covetousness, but by the addition of impunity. Indeed, that was an apt and true reply which was given to

[1] From *A Select Library of the Nicene and Post Nicene Fathers of the Christian Church*, edited by Philip Schaff, Vol II, *St Augustine's City of God and Christian Doctrine* (Buffalo, 1887) Courtesy Charles Scribner's Sons, New York From Books IV and XIX, in part

Alexander the Great by a pirate who had been seized. For when that king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, "What thou meanest by seizing the whole earth; but because I do it with a petty ship, I am called a robber, whilst thou who dost it with a great fleet art styled emperor."

BOOK XIX: CHAPTER 13

[Natural Goodness]

The peace of the body then consists in the duly proportioned arrangement of its parts. The peace of the irrational soul is the harmonious repose of the appetites, and that of the rational soul the harmony of knowledge and action. The peace of body and soul is the well-ordered and harmonious life and health of the living creature. Peace between man and God is the well-ordered obedience of faith to eternal law. Peace between man and man is well-ordered concord. Domestic peace is the well-ordered concord between those of the family who rule and those who obey. Civil peace is a similar concord among the citizens. The peace of the celestial city is the perfectly ordered and harmonious enjoyment of God, and of one another in God. The peace of all things is the tranquillity of order. Order is the distribution which allots things equal and unequal, each to its own place. And hence, though the miserable, in so far as they are such, do certainly not enjoy peace, but are severed from that tranquillity of order in which there is no disturbance, nevertheless, inasmuch as they are deservedly and justly miserable, they are by their very misery connected with order. They are not, indeed, conjoined with the blessed, but they are disjoined from them by the law of order. And though they are disquieted, their circumstances are notwithstanding adjusted to them, and consequently they have some tranquillity of order, and therefore some peace. But they are wretched because, although not wholly miserable, they are not in that place where any mixture of misery is impossible. They would, however, be more wretched if they had not that peace which arises from being in harmony with the natural order of things. When they suffer, their peace is in so far disturbed; but their peace continues in so far as they do not suffer, and in so far as their nature continues to exist. As, then, there may be life without pain, while there cannot be pain without some kind of life, so there may be peace without war, but there cannot be war without some kind of peace, because war supposes the existence of some natures to wage it, and these natures cannot exist without peace of one kind or other.

And therefore there is a nature in which evil does not or even cannot exist; but there cannot be a nature in which there is no good. Hence not even the nature of the devil himself is evil, in so far as it is nature, but it was made evil by being perverted. Thus he did not abide in the truth, but could not escape the judgment of the Truth; he did not abide in the tranquillity of order, but did not therefore escape the power of the Ordainer. The good imparted by God to his nature did not screen him from the justice of God by which order was preserved in his punishment; neither did God punish the good which He had created, but the evil which the devil had committed. God did not take back all He had imparted to his nature, but something He took and something He left, that there might remain enough to be sensible of the loss of what was taken. And this very sensibility to pain is evidence of the good which has been taken away and the good which has been left. For, were nothing good left, there could be no pain on account of the good which had been lost. For he who sins is still worse if he rejoices in his loss of righteousness.

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CHAPTER 14

[Peace of the Rational Soul]

The whole use, then of things temporal has a reference to this result of earthly peace in the earthly community, while in the city of God it is connected with eternal peace And therefore, if we were irrational animals, we should desire nothing beyond the proper arrangement of the parts of the body and the satisfaction of the appetites,—nothing, therefore, but bodily comfort and abundance of pleasures, that the peace of the body might contribute to the peace of the soul For if bodily peace be awanting a bar is put to the peace even of the irrational soul, since it cannot obtain the gratification of its appetites And these two together help out the mutual peace of soul and body the peace of harmonious life and health For as animals, by shunning pain, show that they love bodily peace, and, by pursuing pleasure to gratify their appetites, show that they love peace of soul, so their shrinking from death is a sufficient indication of their intense love of that peace which binds soul and body in close alliance But, as man has a rational soul, he subordinates all this which he has in common with the beasts to the peace of his rational soul, that his intellect may have free play and may regulate his actions, and that he may thus enjoy the well ordered harmony of knowledge and action which constitutes, as we have said, the peace of the rational soul And for this purpose he must desire to be neither molested by pain, nor disturbed by desire, nor extinguished by death, that he may arrive at some useful knowledge by which he may regulate his life and manners But, owing to the liability of the human mind to fall into mistakes, this very pursuit of knowledge may be a snare to him unless he has a divine Master, whom he may obey without misgiving, and who may at the same time give him such help as to preserve his own freedom. And because, so long as he is in this mortal body, he is a stranger to God, he walks by faith, not by sight, and he therefore refers all peace, bodily or spiritual or both, to that peace which mortal man has with the immortal God, so that he exhibits the well ordered obedience of faith to eternal law But as this divine Master inculcates two precepts,—the love of God and the love of our neighbor,—and as in these precepts a man finds three things he has to love,—God, himself, and his neighbor,—and that he who loves God loves himself thereby, it follows that he must endeavor to get his neighbor to love God, since he is ordered to love his neighbor as himself He ought to make this endeavor in behalf of his wife, his children, his household, all within his reach, even as he would wish his neighbor to do the same for him if he needed it, and consequently he will be at peace, or in well ordered concord, with all men, as far as in him lies And this is the order of this concord, that a man, in the first place injure no one and, in the second, do good to every one he can reach

CHAPTER 15

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[Servitude and Sin]

And beyond question it is a happier thing to be the slave of a man than of a lust, for even this very lust of ruling to mention no others, lays waste men's hearts with the most ruthless dominion Moreover, when men are subjected to one another in a peaceful order, the lowly position does as much good to the servant as the proud position does harm to the master But by nature, as God first created us, no one is the slave either of man or of sin This servitude is, however, penal, and is appointed by that law which enjoins the preservation of the natural order and forbids its disturbance; for if nothing had been done in violation of that law, there would have been nothing to restrain by penal servitude And therefore the apostle admonishes slaves to be subject to

their masters, and to serve them heartily and with good-will, so that, if they cannot be freed by their masters, they may themselves make their slavery in some sort free, by serving not in crafty fear, but in faithful love, until all unrighteousness pass away, and all principality and every human power be brought to nothing, and God be all in all.

CHAPTER 16

[Harmony of Household and Civic Rule]

And therefore, although our righteous fathers had slaves, and administered their domestic affairs so as to distinguish between the condition of slaves and the heirship of sons in regard to the blessings of this life, yet in regard to the worship of God, in whom we hope for eternal blessings, they took an equally loving oversight of all the members of their household. And this is so much in accordance with the natural order, that the head of the household was called *paterfamilias;* and this name has been so generally accepted, that even those whose rule is unrighteous are glad to apply it to themselves. But those who are true fathers of their households desire and endeavor that all the members of their household, equally with their own children, should worship and win God, and should come to that heavenly home in which the duty of ruling men is no longer necessary, because the duty of caring for their everlasting happiness has also ceased; but, until they reach that home, masters ought to feel their position of authority a greater burden than servants their service. And if any member of the family interrupts the domestic peace by disobedience, he is corrected either by word or blow, or some kind of just and legitimate punishment, such as society permits, that he may himself be the better for it, and be readjusted to the family harmony from which he had dislocated himself. For as it is not benevolent to give a man help at the expense of some greater benefit he might receive, so it is not innocent to spare a man at the risk of his falling into graver sin. To be innocent, we must not only do harm to no man, but also restrain him from sin or punish his sin, so that either the man himself who is punished may profit by his experience, or others be warned by his example. Since, then, the house ought to be the beginning or element of the city, and every beginning bears reference to some end of its own kind, and every element to the integrity of the whole of which it is an element, it follows plainly enough that domestic peace has a relation to civic peace,—in other words, that the well-ordered concord of domestic obedience and domestic rule has a relation to the well-ordered concord of civic obedience and civic rule. And therefore it follows, further, that the father of the family ought to frame his domestic rule in accordance with the law of the city, so that the household may be in harmony with the civic order.

CHAPTER 17

[Sojourn on Earth]

But the families which do not live by faith seek their peace in the earthly advantages of this life; while the families which live by faith look for those eternal blessings which are promised, and use as pilgrims such advantages of time and of earth as do not fascinate and divert them from God, but rather aid them to endure with greater ease, and to keep down the number of those burdens of the corruptible body which weigh upon the soul. Thus the things necessary for this mortal life are used by both kinds of men and families alike, but each has its own peculiar and widely different aim in using them. The earthly city, which does not live by faith, seeks an earthly peace, and the end it proposes, in the well-ordered concord of civic obedience and rule, is the combination of men's wills to attain the things which are helpful to this life. The heavenly city, or rather the

part of it which sojourns on earth and lives by faith, makes use of this peace only because it must, until this mortal condition which necessitates it shall pass away. Consequently, so long as it lives like a captive and a stranger in the earthly city, though it has already received the promise of redemption, and the gift of the Spirit as the earnest of it, it makes no scruple to obey the laws of the earthly city, whereby the things necessary for the maintenance of this mortal life are administered; and thus, as this life is common to both cities, so there is a harmony between them in regard to what belongs to it. But, as the earthly city has had some philosophers whose doctrine is condemned by the divine teaching, and who, being deceived either by their own conjectures or by demons, supposed that many gods must be invited to take an interest in human affairs, and assigned to each a separate function and a separate department,—to one the body, to another the soul; and in the body itself, to one the head, to another the neck, and each of the other members to one of the gods; and in like manner, in the soul, to one god the natural capacity was assigned, to another education, to another anger, to another lust; and so the various affairs of life were assigned,—cattle to one, corn to another, wine to another, oil to another, the woods to another, money to another, navigation to another, wars and victories to another, marriages to another, births and fecundity to another, and other things to other gods: and as the celestial city, on the other hand, knew that one God only was to be worshipped, and that to Him alone was due that service which the Greeks call λατρεια, and which can be given only to a god, it has come to pass that the two cities could not have common laws of religion, and that the heavenly city has been compelled in this matter to dissent, and to become obnoxious to those who think differently, and to stand the brunt of their anger and hatred and persecutions, except in so far as the minds of their enemies have been alarmed by the multitude of the Christians and quelled by the manifest protection of God accorded to them. This heavenly city, then, while it sojourns on earth, calls citizens out of all nations, and gathers together a society of pilgrims of all languages, not scrupling about diversities in the manners, laws, and institutions whereby earthly peace is secured and maintained, but recognizing that, however various these are, they all tend to one and the same end of earthly peace. It therefore is so far from rescinding and abolishing these diversities, that it even preserves and adopts them, so long only as no hindrance to the worship of the one, supreme and true God is thus introduced. Even the heavenly city, therefore, while in its state of pilgrimage, avails itself of the peace of earth, and, so far as it can without injuring faith and godliness, desires and maintains a common agreement among men regarding the acquisition of the necessaries of life, and makes this earthly peace bear upon the peace of heaven; for this alone can be truly called and esteemed the peace of the reasonable creatures, consisting as it does in the perfectly ordered and harmonious enjoyment of God and of one another in God. When we shall have reached that peace, this mortal life shall give place to one that is eternal, and our body shall be no more this animal body which by its corruption weighs down the soul, but a spiritual body feeling no want, and in all its members subjected to the will. In its pilgrim state the heavenly city possesses this peace by faith; and by this faith it lives righteously when it refers to the attainment of that peace every good action towards God and man; for the life of the city is a social life.

CHAPTER 21

[JUSTICE IN THE STATE]

This, then, is the place where I should fulfill the promise gave in the second book of this work. and explain, as briefly and

clearly as possible, that if we are to accept the definitions laid down by Scipio in Cicero's *De Republica*, there never was a Roman republic; for he briefly defines a republic as the weal of the people. And if this definition be true, there never was a Roman republic, for the people's weal was never attained among the Romans. For the people, according to his definition, is an assemblage associated by a common acknowledgment of right and by a community of interests. And what he means by a common acknowledgment of right he explains at large, showing that a republic cannot be administered without justice. Where, therefore, there is no true justice there can be no right. For that which is done by right is justly done, and what is unjustly done cannot be done by right. For the unjust inventions of men are neither to be considered nor poken of as rights; for even they themselves say that right is that which flows rom the fountain of justice, and deny the definition which is commonly given by those who misconceive the matter, that right is that which is useful to the stronger party. Thus, where there is not true justice there can be no assemblage of men associated by a common acknowledgment of right, and therefore there can be no people, as defined by Scipio or Cicero; and if no people, then no weal of the people, but only of some promiscuous multitude unworthy of the name of people. Consequently, if the republic is the weal of the people, and there is no people if it be not associated by a common acknowledgment of right, and if there is no right where there is no justice, then most certainly it follows that there is no republic where there is no justice. Further, justice is that virtue which gives every one his due. Where, then, is the justice of man, when he deserts the true God and yields himself to impure demons? Is this to give every one his due? Or is he who keeps back a piece of ground from the purchaser, and gives it to a man who has no right to it, unjust, while he who keeps back himself from the God who made him, and serves wicked spirits, is just?

This same book, *De Republica*, advocates the cause of justice against injustice with great force and keenness. The pleading for injustice against justice was first heard, and it was asserted that without injustice a republic could neither increase nor even subsist, for it was laid down as an absolutely unassailable position that it is unjust for some men to rule and some to serve; and yet the imperial city to which the republic belongs cannot rule her provinces without having recourse to this injustice. It was replied in behalf of justice, that this ruling of the provinces is just, because servitude may be advantageous to the provincials, and is so when rightly administered,—that is to say, when lawless men are prevented from doing harm. And further, as they became worse and worse so long as they were free, they will improve by subjection. To confirm this reasoning, there is added an eminent example drawn from nature: for "why," it is asked, "does God rule man, the soul the body, the reason the passions and other vicious parts of the soul?" This example leaves no doubt that, to some, servitude is useful; and, indeed, to serve God is useful to all. And it is when the soul serves God that it exercises a right control over the body; and in the soul itself the reason must be subject to God if it is to govern as it ought the passions and other vices. Hence, when a man does not serve God, what justice can we ascribe to him, since in this case his soul cannot exercise a just control over the body, nor his reason over his vices? And if there is no justice in such an individual, certainly there can be none in a community composed of such persons. Here, therefore, there is not that common acknowledgment of right which makes an assemblage of men a people whose affairs we call a republic. And why need I speak of the advantageousness, the common participation in which, according to the definition, makes a people?

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CHAPTER 24

[Republic and True Justice]

But if we discard this definition of a people, and, assuming another, say that a people is an assemblage of reasonable beings bound together by a common agreement as to the objects of their love, then, in order to discover the character of any people, we have only to observe what they love. Yet whatever it loves, if only it is an assemblage of reasonable beings and not of beasts, and is bound together by an agreement as to the objects of love, it is reasonably called a people; and it will be a superior people in proportion as it is bound together by higher interests, inferior in proportion as it is bound together by lower. According to this definition of ours, the Roman people is a people, and its weal is without doubt a commonwealth or republic. But what its tastes were in its early and subsequent days, and how it declined into sanguinary seditions and then to social and civil wars, and so burst asunder or rotted off the bond of concord in which the health of a people consists, history shows, and in the preceding books I have related at large. And yet I would not on this account say either that it was not a people, or that its administration was not a republic, so long as there remains an assemblage of reasonable beings bound together by a common agreement as to the objects of love. But what I say of this people and of this republic I must be understood to think and say of the Athenians or any Greek state, of the Egyptians, of the early Assyrian Babylon, and of every other nation, great or small, which had a public government. For, in general, the city of the ungodly, which did not obey the command of God that it should offer no sacrifice save to Him alone, and which, therefore, could not give to the soul its proper command over the body, nor to the reason its just authority over the vices, is void of true justice.

CHAPTER 25

[Virtuous Religion]

For though the soul may seem to rule the body admirably, and the reason the vices, if the soul and reason do not themselves obey God, as God has commanded them to serve Him, they have no proper authority over the body and the vices. For what kind of mistress of the body and the vices can that mind be which is ignorant of the true God, and which, instead of being subject to His authority, is prostituted to the corrupting influences of the most vicious demons? It is for this reason that the virtues which it seems to itself to possess, and by which it restrains the body and the vices that it may obtain and keep what it desires, are rather vices than virtues so long as there is no reference to God in the matter. For although some suppose that virtues which have a reference only to themselves, and are desired only on their own account, are yet true and genuine virtues, the fact is that even then they are inflated with pride, and are therefore to be reckoned vices rather than virtues. For as that which gives life to the flesh is not derived from flesh, but is above it, so that which gives blessed life to man is not derived from man, but is something above him; and what I say of man is true of every celestial power and virtue whatsoever.

Boniface VIII: Subjects of The Roman Pontiff

The text of the papal bull UNAM SANCTAM *makes the most sweeping claim for the power of the pope Had the pope had the power Boniface claimed for him, he would not have had to make the claim What he is saying is that the pope ought to have this power This document is not important for the newness of the claim it makes, but for an example of one way in which political thought grows, a way that is inextricably interwoven with the growth of political institutions—from claim to counter-claim, and from counter claim to a further claim, until the extreme is reached ¶ The bull was issued in 1302 on November 14, and was directed at Philip the Fair of France*[1]

WE ARE COMPELLED, OUR FAITH URGING us, *to believe and to hold*—and we do firmly believe and simply confess—that there is one holy catholic and apostolic church, outside of which there is neither salvation nor remission of sins, her Spouse proclaiming it in the canticles "My dove, my undefiled is but one, she is the choice one of her that bare her," which represents one mystic body, of which body the head is Christ, but of Christ, God In this church there is one Lord, one faith and one baptism There was one ark of Noah, indeed, at the time of the flood, symbolizing one church and this being finished in one cubit had, namely, one Noah as helmsman and commander And, with the exception of this ark, all things existing upon the earth were, as we read, destroyed This church, moreover, we venerate as the only one, the Lord saying through His prophet "Deliver my soul from the sword, my darling from the power of the dog" He prayed at the same time for His soul—that is, for Himself the Head—and for His body,—which body, namely, He called the one and only church on account of the unity of the faith promised, of the sacraments, and of the love of the church She is that seamless garment of the Lord which was not cut but which fell by lot Therefore of this one and only church there is one body and one head—not two heads as if it were a monster—Christ, namely, and the vicar of Christ, St Peter, and the successor of Peter For the Lord Himself said to Peter, Feed my sheep, My sheep, He said, using a general term, and not designating these or those particular sheep, from which it is plain that He committed to him all His sheep. If, then, the Greeks or others say that they were not committed to the care of Peter and his successors, they necessarily confess that they are not of the sheep of Christ, for the Lord says, in John, that there is one fold, one shepherd and one only We are told by the word of the gospel that in this His fold there are two swords,—a spiritual, namely, and a temporal For when the apostles said "Behold here are two swords"—when, namely, the apostles were speaking in the church—the Lord did not reply that this was too much, but enough Surely he who denies that the temporal sword is in the power of Peter wrongly interprets the word of the Lord when He says 'Put up thy sword in its scabbard" Both swords, the spiritual and the material, therefore, are in the power of the church, the one, indeed, to be wielded for the church, the other by the church, the one by the hand of the priest, the other by the hand of kings and knights, but at the will and suffer

[1] From Ernest F Henderson, editor, *Select Historical Documents of The Middle Ages* (London G Bell and Sons, Ltd, 1921.)

ance of the priest. One sword, moreover, ought to be under the other, and the temporal authority to be subjected to the spiritual. For when the apostle says "there is no power but of God, and the powers that are of God are ordained," they would not be ordained unless sword were under sword and the lesser one, as it were, were led by the other to great deeds. For according to St. Dionysius the law of divinity is to lead the lowest through the intermediate to the highest things. Not therefore, according to the law of the universe, are all things reduced to order equally and immediately; but the lowest through the intermediate, the intermediate through the higher. But that the spiritual exceeds any earthly power in dignity and nobility we ought the more openly to confess the more spiritual things excel temporal ones. This also is made plain to our eyes from the giving of tithes, and the benediction and the sanctification; from the acceptation of this same power, from the control over those same things. For, the truth bearing witness, the spiritual power has to establish the earthly power, and to judge it if it be not good. Thus concerning the church and the ecclesiastical power is verified the prophecy of Jeremiah: "See, I have this day set thee over the nations and over the kingdoms," and the other things which follow. Therefore if the earthly power err it shall be judged by the spiritual power; but if the lesser spiritual power err, by the greater. But if the greatest, it can be judged by God alone, not by man, the apostle bearing witness. A spiritual man judges all things, but he himself is judged by no one. This authority, moreover, even though it is given to man and exercised through man, is not human but rather divine, being given by divine lips to Peter and founded on a rock for him and his successors through Christ himself whom he has confessed; the Lord himself saying to Peter: "Whatsoever thou shall bind," etc. Whoever, therefore, resists this power thus ordained believe, like the Manichean, that there are two beginnings. This we consider false and heretical, since by the testimony of Moses, not "in the beginnings," but "in the beginning" God created the Heavens and the earth. Indeed we declare, announce and define, that it is altogether necessary to salvation for every human creature to be subject to the Roman pontiff. The Lateran, Nov. 14, in our 8th year. As a perpetual memorial of this matter.

Marsilius: The Sources of Authority

DEFENSOR PACIS is one of the most amazing of all medieval documents It seems to anticipate so much of the modern period and hence to stand at the very beginning of our own era It holds that government power derives from the people, and that the emperor is only a delegate possessing the executive power The conception of the Church and the pope is no less revolutionary for the time in which it was written Much of it sounds like some modern Protestant views of the Church and the clergy Book I of DEFENSOR PACIS is generally thought to be the combined work of Marsilius and John of Jandun, Book II is attributed to Marsilius himself The translation is from the Latin text edited by C W Previte Orton [1]

BOOK I

[LAW]

[*As an introduction* [2] *to his discussion of law in civil society, Marsilius distinguishes four different uses of the term law, as follows*

(1) *A natural and sensitive inclination to any action or feeling This is the sense in which the Apostle Paul used it when he said "I see a different law in my members warring against the law of my mind"* [3]

(2) *A prototype existing in the mind from which particular objects may be modeled This is the sense in which it is used in Ezekiel XLIII Behold this is the law of the house, and these are the measures of the altar'* [4]

(3) *A body of revelation from God providing a guide to rewards and punishments in the future life Part of the Mosaic law and the Evangels in their entirety are this kind of law In this sense, sects such as the Mohammedans and Persians have law, although only the Mosaic law and the Christian Evangels contain true revelation*

(4) *The science or doctrine or universal judgment as to what is just and right in civil affairs and what is opposed to this*

This last is law in the common and also the correct sense Marsilius then proceeds to define this kind of law more explicitly, as follows]

CHAPTER X

4 And in this sense law may be considered under two heads On the one hand, it may be considered as that which by its very nature indicates what is just and unjust advantageous or harmful, and in this sense it is called the science or doctrine of law On the other hand, it may be considered as coercive precept based on this body of principle and enforceable through the distribution of reward and punishment in this world, or as what is done by authority of such a precept Law is most appropriately called and it truly is this coercive precept This assumption Aristotle makes in *Ethics* v, cap 8,[5] when he says 'The law either has coercive force or it is empty words without wisdom or intelligence,' *words* or speech,

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1 Translated for this book from *Defensor Pacis of Marsilius of Padua* by permission of Cambridge University Press Cambridge, 1928

2 *Defensor Pacis* I, x, 3

3 *Romans* VII 23 Quotations are from the King James version of the Bible

4 *Ezekiel* XLIII 12 13

5 *Ethics*, x, 10 (Latin translation of Aquinas *Opera*, v fo 140v)

therefore, *without wisdom or intelligence*[6] in the political sense, that is In other words, what is meant by law is regulation concerning what is just and suitable in civil affairs and what is opposed to this, made with political wisdom and *having coercive power*[6] Law, in other words, is that on which is based a precept which everyone is bound to obey, or what is done by authority of such a precept

CHAPTER XII

[The Effective Cause of Law]

1 Next we propose to speak of the effective cause of law, which we can make clear by demonstration I do not intend here to give attention to what can be instituted directly by the word or work of God or which already exists, as for example the Mosaic law, of whose institution we have spoken above Nor do I intend to deal with those precepts to be found in God's law on which may be based civil acts regulating affairs in this world I shall give attention only to the institution of law and authority which proceed directly from the decision of the human mind

2 To begin with, law taken in a non-spiritual sense, that is as the science of what is right and just in civil affairs, can be discovered by each individual citizen, although the quest for law can more fittingly be undertaken and carried out by study of those who have leisure, men older and more experienced in practical affairs, who are called "wise", than by the consideration of artisans who in order to get the necessaries of life need to attend to their work Indeed, since recognition and discovery of what is just and fitting and their opposites is not law according to its fundamental and appropriate definition as the standard for human civil statutes, unless from that observation a coercive precept shall have been derived, or unless law shall have been enacted on the basis of this precept by him by whose authority transgressors ought to be and can be restrained and who also has the authority to enact such a precept and to bind such transgressors Therefore we should next inquire who is this legislator or maker of law

3 We declare according to the truth and the view of Aristotle, *Politics* III cap 6,[7] that the legislator or efficient first and fundamental cause of law is the people or the whole body of citizens, or their weightier part [*aut eius valentiorem partem*], by their election or will declared in a general gathering of the citizens by express word commanding or determining what should be done or not done about civil actions of men under pain of temporal punishment I say weightier part taking into consideration both the quantity and the quality of persons in the community over which the law is enacted Either the whole body of citizens, or its weightier part acting itself directly shall do this or shall commit the power to some one or to several to do it The one (or several) to whom such power is committed is not and cannot be the legislator excepting only for the purpose and periods designated according to the authority of the original legislator, and no other, whatever ceremonies or solemnities may be performed which are not demanded by the electors or which, although all to the good, do not affect the validity of the election I say, furthermore, that the same authority should undertake all expansion, elimination, total alteration, interpretation, and suspension of laws, according as time, place, and other circumstances make such changes fitting and conformable to the common good By this same authority laws ought to be promulgated or proclaimed after their institution, lest any delinquent, either citizen or stranger, be excused for ignorance of them.

[6] Italics are used in Professor Previté Orton's text

[7] *Politics* III, 11 (Susemihl 189*ff*, esp 1967)

4 A citizen, I say, following Aristotle, *Politics* Book III, Chapters 1, 3, and 7,[8] is one who participates in the civil community with authority either advisory or judicial according to his rank By this description boys slaves aliens and women are excluded from citizenship, although in different ways For sons of citizens are potential citizens lacking full power only on account of age The weightier part of the citizens must pay heed to the established custom of states and determine this according to the view of Aristotle, *Politics* VI, cap 2[9]

5 Having thus defined citizen and the weightier number of the citizens, we return to our original purpose, that is to demonstrate that human legislative authority belongs only to the whole body of citizens or its weightier part What this is we shall first attempt to show For the original authority to enact and institute human laws belongs only to that organ from which the best laws emerge And this is the whole body of citizens or its weightier part which represents the whole For it is neither easy nor possible for all people to be of one accord because the nature of some is blind or discordant with general sentiment through malice or individual ignorance But the common agreement of the community ought not to be impeded or prevented by reason of such irrational disapproval or opposition The authority to adopt or institute laws, therefore, belongs only to the whole body of the citizens or their weightier part

The first proposition[10] of this demonstration is almost self evident I shall, however, prove the second proposition, that is that the best law is enacted only by deliberation and decision of the whole body of the people, supposing with Aristotle, *Politics* III, cap 7, that that law is best which is enacted in conformity with the common good of the citizens Wherefore he says "Right (in law that is)[11] is what conforms to the advantage of the state and the common good of the citizens"[12] Thus I maintain that right is best determined only by the whole body of the citizens or their weightier part which may be substituted for the whole, since the true common good will be more certainly judged and the common advantage more diligently attended to when the whole body of citizens applies its intelligence and good will A numerical majority[13] can more readily than any of its parts detect a flaw in a law that is being enacted, because the whole body is greater in force and virtue than any one of its parts Moreover, the common interest is better attended to by the whole multitude since no one knowingly hurts himself In the whole multitude anyone can consider whether a law proposed favors the interests of one or a few rather than others or the community, and can protest against it And this he would not do if law were made by one or a certain few, attending to their own interests rather than the common good

6 To go back to the principal conclusion, to wit that the authority to enact laws belongs only to him through whom they can best be enacted and most honestly enforced This is only the whole body of citizens Theirs, therefore, is the authority to legislate A law is useless unless it is obeyed Whence Aristotle *Politics*, IV, cap 6[14] "It is not good disposition of laws to pass laws well and not to obey them" Also in VI, cap 5[15] Nothing is accomplished by adopting views of justice and not enforcing them" To continue with proof of the second

[8] *Politics* III, 1, 3, 13, cf also III, 11 (Susemihl, 151 *ff*, 169 *ff*, 199 *ff*)

[9] *Politics* VII, 3 4 (Susemihl, 462 *ff*)

[10] The first proposition, according to Previte Orton's note, is the need for *optimae leges* in the first place

[11] Words in parenthesis interpolated by Marsilius

[12] *Politics* III, 13 (Susemihl, 207)

[13] The Latin is *maior pluralitas*

[14] *Politics* VI, 8 (Susemihl, 408).

[15] VII, 8 (Susemihl, 488)

proposition· since each citizen obeys best that law which he seems to have imposed upon himself, that law is best which is enacted by the deliberation and the decision of the whole multitude of citizens The first proposition of this syllogism appears almost axiomatic since the state is a community of free men [16] This would not be the case if anyone or a few citizens enacted law by their own authority over the whole body of the citizens for thus those legislating would be despots over the others and therefore the rest of the citizens, the greater part that is would endure such a law, no matter how good as a nuisance, or not at all and holding the law in contempt, would protest, and not having been called to pass the law would in no way observe it On the other hand every citizen will easily observe and endure a law be it ever so useless which has been passed by deliberation and consent of the whole multitude because he himself has established it, and therefore cannot protest against it but must rather bear it with equanimity The second proposition of the first syllogism I prove from the other thus Since the power of enforcing laws is his only who has coercive power against transgressors and this is the whole body of citizens or its weightier part, therefore it alone has the authority to legislate

7 More on the principal point, thus Since the nature of law is such that from its just institution the greatest part of the citizens derive benefit in this life, and in its corrupt institution lurks danger to all, it ought to be instituted only by the whole body of citizens Therefore its institution belongs to the whole body of the citizens Most of this demonstration is almost self evident Men come together in civil communities to seek advantage and a full life and to avoid the opposite Those things therefore, which touch the advantage and disadvantage of all ought to be known and heard by all, so that they may seek their advantage and repel the opposite Laws are of this nature, as we have assumed in another place In laws rightly established a great part of the well being of humanity consists, under unjust laws there is servitude and oppression and unbearable misery of citizens, from which, in the end, the dissolution of the state follows

8 Either the authority to legislate belongs only to the whole body of citizens, as we have said, or it belongs to a particular man or to a few, but it cannot belong to one alone because, owing to ignorance or malice, or both, he can make bad law, looking more to his private interest than to the common interest In this case he would be a tyrant For the same reason it does not belong to the few for they also can sin in making law as stated above, looking to their private interest rather than to the common interest and this is illustrated in oligarchies The power to legislate, therefore, belongs to the whole body of citizens or their weightier part, whose principle of operation is completely otherwise and different For all the citizens ought to be measured by law according to a just proportion, and no one knowingly injures himself or wishes injustice for himself and therefore all or most want law adapted to the common good of the citizens

9 Through the same process of demonstration with only minor changes, it can be shown that approval of laws, their interpretation, suspension, and the other things mentioned in part 3 of this chapter belong only to the authority of the sole legislator The same view should be accepted concerning everything which is established by election He who has the original authority of election or one to whom he shall have conceded this right of election shall also have the authority to approve and disapprove For otherwise the part would be greater than the whole, or at least equal to it, if by that authority which was set up by the whole, the latter could be dissolved ...

[16] *Politics* III, 6 (Susemihl, 177)

BOOK II

[THE CHURCH]

[Marsilius prefaces his discussion of the true and appropriate meaning of the word ecclesia *with a description of other uses of the word, as follows·*[17]

¶ 1 As a congregation of people under one government This meaning, he says, was used among the Greeks ¶ 2 As the temple or house in which God is wor shiped by his worshipers gathered to gether. This meaning was the accepted one among the Latins ¶ 3 As all the priests or bishops, deacons, and other ministers who serve the church according to the previous meaning of the term In modern times, he says, the term has come to be applied especially to the clergy of the metropolitan church of Rome ¶ He then goes on to give the true meaning in

CHAPTER II

3 According to another meaning of the word and the most true and appropriate one in view of the original use of the word and the intent of the first users, although it is not common in modern usage, the name church is applied to the whole body of the faithful believing in and calling upon the name of Christ, and this means all parts of this whole body in whatever community they may be and even in the home And this was the first application of this word and the accustomed use among the apostles and in the primitive Church, whence the Apostle, in I Corinthians, 1, said "Unto the church of God which is at Corinth, to them that are sanctified in Christ Jesus called to be saints, with all that [in every place][18] call upon the name of Jesus Christ our Lord"[19] And, according to the gloss of Ambrose 'sanctified by baptism, and this in Christ Jesus" And in accord with this intent the Apostle speaks in Acts 20 to the priests[20] of Ephesus when he says "Take heed therefore unto yourselves and to all the flock over which the Holy Ghost has made you bishops[21] to feed the Church of God which he hath purchased with his own blood" And for this reason the members of the Church, according to the truest and most appropriate designation, are and should be called all the faithful in Christ, as well clerics as laymen, because Christ saved and redeemed all with his blood

CHAPTER IV

[NATURE OF JUDGMENT]

1 On the converse side we wish consequently to cite the truths of Holy Scripture expressly enjoining and advising, both in the literal and the mystical sense, according to the interpretation of the saints and the exposition of other approved doctors of the Christian faith, that neither the Roman bishop, called Pope, nor any other bishop or priest or deacon has or ought to have governmental authority or judgment or coercive jurisdiction over any cleric or layman, governor, community, college, or any other individual person of whatever condition By coercive jurisdiction is to be understood what we said it meant according to the third definition of judge or judgment in Chapter II of this book[22]

[17] *Def Pac* II, 11, 2

[18] Not in the King James version.

[19] I Cor I 2

[20] Latin word *presbyteros*, translated *elders* in King James version

[21] Latin word *episcopos*, translated *overseers* in King James version

[22] In II 111, 8, Marsilius gives three definitions to the terms *judex* and *judicium* They are as follows (1) A judge is an expert in a particular field of learning, and a judgment is the opinion of an expert (2) In a narrower sense, the term judge means an advocate or lawyer, one qualified to plead or judge This, according to Professor Previte Orton, is a well known Italian usage (3) A judge is also a ruler who has both the authority to determine what is just and in accordance with law and custom and the power to enforce his decisions.

CHAPTER V

9. The words and manifest example of the work of Saint Paul, the Apostle, confirm this. For, of him we may read in Acts XXV [23] that, refusing the coercive judgment of the priests, he openly said: "I appeal unto Caesar"; and, on the other hand: "I stand at Caesar's judgment seat, where I ought to be judged." The interlinear gloss says: "since here is the place of judgment." Therefore, refusing the judgment of the priests, he admitted himself to be subject to the jurisdiction of Caesar. But it is not to be thought that the Apostle spoke falsely in saying "There I ought to be judged," that is, before Caesar, and out of fear of death, as appears in Acts XXI,[24] when he said: "for I am ready not to be bound only but also to die in Jerusalem in the name of Our Lord Jesus Christ."... Moreover no bishop nor pope can have coercive jurisdiction in this world over any priest or layman unless this is granted to him by a human legislator, in whose power it always remains to revoke this if any reasonable cause arises. The full power of determining such a reasonable course is designated to belong to the same legislator, especially in the community of the faithful.

That Christ, then, abdicated every kind of governmental authority or any sort of coercive jurisdiction in the world and that by counsel and precept he forbade it to his apostles and their successors, bishops or priests, and that he willed that he himself and those same apostles should submit to the coercive jurisdiction of the princes of the world, and that he and also his apostles, especially Peter and Paul, taught both by their deeds and their words that this should be observed, we believe to be demonstrated by the truths of the evangels, eternal evidence, with the interpretations and expositions of the saints and other approved doctors of the Christian faith.

[23] Acts XXV: 10 and 11.

[24] Acts XXI: 13.

CHAPTER VI

[JUDGMENT OF EXCOMMUNICATION]

12. With reference to the foregoing, in order to discover to whom belongs the power of excommunication and in what manner it may be exercised, it is necessary to point out that in excommunication the culprit is condemned to punishment which affects his state in the future world .... Also a severe punishment is inflicted on him affecting his state in this present life, in that he is publicly defamed and excluded from the society of others. He is deprived both of civil communion and freedom of action. And, although the infliction of the first penalty, in the case where it is unworthily inflicted on him who is cast down, cannot injuriously affect his state in the future world, since God does not always follow the judgment of the church (that is, of the priests) when they judge anyone unjustly (which has been sufficiently demonstrated above) nonetheless anyone thus cast down unjustly is gravely injured by the priest with regard to his status in this world, since he is considered infamous [*Quasi defamatus*] and deprived of all civil association. And for this reason, it should be said that, although the voice and act of the priest is required to promulgate such a judgment, nevertheless no single priest, nor even any college of them, can give coercive judgment for excommunicating and absolution. But to stand as this judge who has the power to call the culprit and to examine, to judge, and absolve him, or to condemn him thus to be publicly defamed or to be cut off from association with the faithful, belongs to the whole body of the faithful in that community in which anyone ought to be adjudged to such judgment, or to that which is superior to it,[25] or a general

[25] According to Professor Previté-Orton, Marsilius here refers to the "local autonomous territory and the suzerain state. Thus a Paduan could be excommunicated by the *universitas fidelium* of the city of Padua, or

council. Indeed the examination of the crime, if it is something for which the penalty is excommunication, ought to be made by such a judge after there shall have been held a college of priests or the most expert of them, the number to be determined according to the accepted laws or customs For indeed, priests by their judgment (in the sense of expert opinion) ought to judge or ascertain the crimes for which, according to Evangelical law, a man should be cut out of the society of the faithful lest he infect others, just as a doctor or a college of doctors ought to give their opinion concerning a bodily ailment, owing to which a man should, lest he infect others (as, for example, if he is a leper) be separated from the society of others And on the other hand, the crime ought to be of a sort which can be proved by certain testimony For this reason, just as the power to deliver judgment or to set up a judge with coercive power to expel lepers does not belong to any doctor or any college of doctors whatsoever, but only to the whole body of faithful citizens or their weightier part likewise it does not belong to any priest alone or to any college of priests whatsoever to deliver a judgment or to set up a judge who has coercive power to determine who shall be expelled for disease of the soul as a recognized crime And if the accused is convicted by the witnesses and the crime is such that he ought to be excommunicated, and this is the only case where he ought to stand judgment of a college of priests or their wiser part, then he ought to be warned of his sentence by the aforesaid judge, and execution ought to be made of the sentence, not only by command of the judge but also by voice of the priest, inasmuch as it touches the accused with regard to his status in the world to come

by that of the Empire of which Padua formed a part, or finally by a General Council conforming to Marsilius' definition of such." (*Def. Pac.* 169, note 1.)

CHAPTER VII

4 ... Likewise in the same manner, the doctor of souls, that is, the priest judges and exhorts concerning those things which lead to eternal health of the soul or eternal death or temporal punishment that relates to status in the world to come. For this purpose, nonetheless, he cannot and ought not in this world to be able to cut anyone off by coercive judgment....

CHAPTER X

[JUDGMENT AGAINST HERETICS]

8 Judgment against heretics, schismatics, or any other sort of infidel and the power to restrain them and exact from them penalties or temporal punishments and of applying them to the culprit or the community, belongs only to the ruler by authority of the human legislator, and not to any priest or bishop whatsoever because their sin is against Divine Law That which is ordained to mankind in and for his condition in this present world is law, but not in its fundamental meaning of regulation having coercive force over anyone in this world ... For sinners are not thus restrained in offices of state nor punished on account of them unless something else intervenes, for example, the word or command of the legislator or of human law. For if sins are not thus forbidden by human law, those who commit them can by no means be punished.

CHAPTER XXVIII

[HEAD OF THE CHURCH]

27. In answer to the argument that the church is without a head and that Christ did not leave it in the best possible situation if he left it without a head in his absence, we can nevertheless say according to the Apostle, as above, that Christ always remained the head of the Church

and all the apostles and ministers of the church and the rest of its members, as clearly appears in Ephesians IV and in many other places.... And this Christ himself manifestly meant in the last book of Matthew, when he said:[26] "And lo, I am with you always, even unto the end of the world."... For the clergy of the city of Rome, or any other city, are not ever in Holy Scripture or in life raised above the other college of the clergy of the university of Paris. For this reason, in leaving the institution of such a head of the church to the faithful, as we have said in Chapter xii, parts 8 and 9, Christ made for it the best possible provision (so far as human arguments can determine it). In keeping with this arrangement, the apostles happened to institute Peter as the head of the church....

[26] Matthew XXVIII, 20.

SEVEN

Government in the Middle Ages

THE MIDDLE AGES, TAKEN AS A WHOLE, were more significant for the development of new institutions than they were for the development of new ideas. It is, however, impossible fully to understand the great outpouring of essentially new political thought that came in the seventeenth and eighteenth centuries without understanding how much of that thought was precipitated by the reality of medieval institutions which had outlived their usefulness. Machiavelli and Hobbes both make much more sense when one understands what they were protesting against. They stood at the beginning of a modern age that could not be fully born until a part of the former age had been destroyed. The political contribution, then, of the Middle Ages, especially the early period, was essentially an institutional one and we need to give passing attention to some of these institutional peculiarities and the ideas associated with them. One of the greatest, the Church, we have already had occasion to observe in the preceding chapter. Here we must deal with feudalism, the law, monarchy, and Dante's ideal of a universal emperor.

Feudalism

The feudal system, in its primitive form, began early in the Western Empire, some time before Charlemagne, probably. Experts are not in full agreement about whether the dominant characteristics of the system came from Roman or Germanic antecedents.[1] For our purposes this question is not especially important. As the system developed and spread over Europe and England, it incorporated many diverse elements and like all great institutions, feudalism was not invented, but grew. The period of its growth and development was about four hundred years. Since one of the main characteristics of feudalism is localism and decentralization, it becomes apparent why, although we call it a system, it is so hard to describe. No descriptive statement about feudal society can be made to which there are not a large number of exceptions. Nevertheless, as it

[1] For a brief discussion of this point see Ephraim Emerton, *An Introduction To The Study Of The Middle Ages* (New York, 1916), pp. 242 *ff.*

reached its highest development, certain characteristics did stand out and can be stated, with due caution.

The best way to acquire an understanding of what is unfamiliar is to compare it with what is familiar. The main characteristic of modern government is the direct relation of each citizen to his government. This relation is manifest in our equality before the law and in "one man, one vote." One's legal relation to government is determined by the simple fact that one exists and was born or naturalized within certain territorial boundaries. One's relation to one's employer is essentially contractual in nature and is personal and private. Governmental employees are hired and fired in about the same manner as a private employer hires and fires his employees. Land and other property are owned outright and the owner is free to do as he pleases with his property so long as he does not make it a menace to other people. It is against these simple and obvious facts about modern political society that the nature of feudalism becomes clear.

We have seen that after the rule of Charlemagne the emperors were never effective in the day-to-day business of governing throughout the Western Empire. Among the various tribes, and later among the embryonic nations, kings as centers of real governing power were not much more effective. In short, most of the people of Europe had no well-developed central government. The monarchy, instead of being an institutionalized administering office, was really more of a position of personal leadership or simply an empty title. The failure properly to distinguish between public and private often led to the idea that the king owned his realm, much as a modern farmer owns his farm.[2] Without a well-developed system of administration, the king could not rule his realm. This failure to rule had two results. By gifts from kings and by conquest, strong men within a realm acquired great holdings of land. In the absence of a medium of exchange such as modern money, the great quantities of available land played something of the role of money and great landlords helped administer the realm. Then, as land fell into the hands of strong men, these lands were in a sense alienated from the king, in practice if not in theory.[3] There were also, of course, small land-owners who had a freehold in their land.

In the absence of effective central government, one of the foremost problems of all persons was how to secure protection. The problem of pro-

[2] An elaboration of tenure may be found in Sir Frederick Pollock and Frederic William Maitland, *History of English Law*, Vol. I (Cambridge, 1911), pp. 232-240.

[3] See Sir Paul Vinogradoff, "Foundations of Society (Origins of Feudalism)" in *Cambridge Medieval History*, Vol. II (New York, 1913), pp. 651-653; and Charles Seignobos, *The Feudal Régime*, translated by Earl W. Dow (New York, 1926), pp. 84-87. For a somewhat different emphasis, see Edward Jenks, *The State and the Nation* (New York, 1919).

tection is always a serious one—almost the first function of government. In a period as unsettled as the Middle Ages people will secure protection just as they will secure an equally elemental commodity such as food. The feudal system grew up out of the mutual dependence of landowners and freemen.

The common citizen or small landowner needed protection, justice, and government that governed. The greater landholder needed people to fight in his armies, to supply his armies and his household. There were two ways in which a great landowner, or lord, as he was called, could get men for his armies and get his work done. One was to hire people to perform these tasks and pay them in money or its equivalent in goods. In fact, this was often done, but in the Middle Ages the practice was frowned upon. Those who worked for money came to constitute a lower class. The other way was for a lord to assign the use of some of his land to a man who would in return agree to deliver certain quantities of produce, to spend a certain number of days in his lord's army, and to pay certain ceremonial respects to his lord on stated occasions. The vassal, or person who took up the land on this basis, received in return protection and a court of justice from the lord. A grant of land of this nature was known as a fief. It was quite different from either modern ownership or rental. The lord invested the vassal with the fief. The vassal became the lord's man, payed homage to him, and took an oath of fealty to his lord. As time went on, elaborate ceremonies developed around investiture and homage. The net tendency of the feudal system, in political terms, was that a man received his system of government with his fief and from his lord, and not from his king.

As the feudal system developed, it became more and more rigid. Fiefs at first were revocable at the will of the lord. In the ninth century they were becoming hereditary and gradually they became contractual in nature as the highly personal nature of the relation changed to an impersonal one. A principle of hereditary succession, however, which divided a fief equally among heirs would have a tendency to break up holdings into tiny and ineffective parcels. In recognition of this danger the system of primogeniture came into existence, under which an entire fief, or the larger part of it, went to the eldest son.

Once the feudal relation gained some acceptance, it developed very rapidly. Small landowners would offer their land to a lord on the condition that they receive it back as a fief. In the beginning, fiefs always involved land, but with the tendency to consider most matters private and few public the idea of property in offices and franchises grew and government officials held fiefs in their jobs. By meeting the lord's conditions for the grant they were in a position to exact as much from the public job as they could.

As the system came to encompass more and more of Europe, the lords were faced with problems of holding their property together, of incessant warfare between lords, and of the centralizing tendencies of the monarch.

One of the main factors in reducing a lord's control over his holdings was in the fiefs granted to the Church, and the Church was deeply involved in feudal relations. Individuals die, but institutions never. Grants made to the Church were likely to be removed from the control of the lord and the king forever. The great investiture controversy between Henry IV and Gregory VII arose over the failure properly to distinguish the clear right of a lord to invest a vassal and the claim of the pope to confer the spiritual authority on a bishop. Was a bishop primarily a vassal or a Church official?

A flight of the imagination may help us in understanding the wars between lords. If the army of the United States were the private army of the President and were used mainly to protect his own property, great corporations and property owners would have a problem of protecting their holdings and their employees. If each company recruited and outfitted its own private army, the most natural thing in the world would be for these rival armies to fight each other and for the company with the best army to enforce its will by its superior force. If the first allegiance of an employee were to his employer, and if both employer and employee had only a nominal and secondary loyalty to their government, the situation would in some respects be similar to that which prevailed under feudalism. Eventually the main occupation became fighting. Out of this fighting grew the social cleavages which still mark much of European society.[4] The lord tended to draw especially close to himself those who had horses and who could command. The latter, together with the lord, came to constitute the nobility. Foot soldiers, those who furnished supplies, and those who worked for wages made up the commoners.

In the classical stage of feudalism the king often had nothing more than a title. He might have vassals as powerful or more powerful than himself. He had only the first loyalty of his immediate vassals and not of all his subjects. He was limited in the number of troops he could muster by the direct holdings of land he had. There was no method by which he could levy taxes on all subjects, for he was supposed to finance whatever government he provided out of his personal income. Earlier in England, in fact with the Norman invasion, and later on the Continent, kings were able to undermine the powerful lords, and, by allying themselves with freemen and residents of cities, to establish supremacy. In England, the reign of Henry VIII marked the final supremacy of a strong central government. Although the seventeenth century saw a shift there from royal to parlia-

[4] See Seignobos, *op. cit.*, pp. 36-45, and Jenks, *op. cit.*

mentary supremacy, the authority of a strong central government was never afterwards seriously questioned. In Magna Carta, a typical feudal document, is recorded one stage of a struggle between a king and the powerful feudal lords in his realm. The subsequent importance of Magna Carta in providing arguments for limiting kings and then governments of any kind whatsoever could not have been foreseen at the time the barons met King John at Runnymede. It does, however, show, among other things, the continuity in constitutional development from the Middle Ages to the present.

Feudal Origins of Representation

Like so many modern institutions of government, the representative government originated in the Middle Ages was, in its early stages, intimately related in practice and principle to feudalism. Germanic tribes elected their chiefs and the chief consulted leading members in return. The Holy Roman Emperor was somewhat elective both as emperor and as king; and constant fighting, justice, and general administration required consultation by chiefs, great lords, and kings with their vassals and officials. The consultative group, known by many names, was essentially a council. As feudal courts developed for the dispensation of justice they became composed of the vassals of a particular lord, thus creating a somewhat regularized assemblage of a lord's chief vassals. As a court these vassals could even judge a dispute between one vassal and his lord and thus came to form a body with some independent power. The duties and powers of the councils were not sharply defined, nor was there any substantial use of separate councils for separate types of tasks, e.g., as between judging, advising on policy, and declaring (not making) law. With the representative principle firmly established by the practices and customary law of the Middle Ages, it remained for the modern period, led by England, to add in practice and theory the separation of policy-advising from judging; the authority of the parliament to petition for, to assent to, and finally to make laws; the right of the commoners to participate in and finally to dominate the work of parliament as the supreme representative and lawmaking body.[5]

When the king needed money or additional and extraordinary supplies more than he needed advice, he had to get it voluntarily from his vassals,

[5] There is a vast literature on the development of the representative principle, the growth of the lawmaking function, and the achievement of legislative supremacy. The basic works for England are Wm. Stubbs, *The Constitutional History of England*, 3 Vols. (Oxford, 1873); and its modification by C. H. McIlwain, *The High Court of Parliament and its Supremacy* (New Haven, Conn., 1910). For a strongly emphasized statement of the contribution of the monastic orders, especially the Dominicans, see H. J. Ford, *Representative Government* (New York, 1924), Part I, Ch. IX.

for one of the most rigid features of the feudal system was that a man was bound only for the obligations that attached to his fief. If the king or lord was to get more it was because he could persuade his vassals that their interests were common interests. As additional help grew more urgent, the king came to call in not only his vassals who were lords but also the representatives of the towns and the commoners. The fact that the mother of parliaments, in Westminster, still sits in two houses, one consisting of all the nobles and some of the bishops in the realm and the other of representatives of the commoners, gives some idea of the continuity of the representative principle.

The great change that took place between the Middle Ages and the modern era was the development of a central and supreme government, a sovereign, to whom each person in the realm owed allegiance, and the consequent collapse of a system where an individual's rights, duties, and social position were dependent upon his fief. Working for hire, which had been somewhat disgraceful in the Middle Ages, came to be the standard method for effecting relations between employer and employee. Sir Henry Maine characterized the change from static to progressive societies as one from status to contract.[7]

Medieval Kingship

In dealing with feudalism we have had occasion to refer several times to the king. We have scarcely mentioned the emperor, and for good reason. An emperor was an emperor only if he was king first, and his role in the feudal system was an outgrowth of his kingship. The great controversy between Gregory VII and Henry IV involved Henry as a German king who claimed the right to invest bishops in his realm. The whole question of the rights of a Holy Roman emperor in kingdoms other than his own was a particularly pertinent problem after kings became strong and the emperor weak, but an explanation was not hard to find, because the kings simply claimed to be emperors in their own land and no emperor was strong enough to challenge the kings in the later Middle Ages.

The title, king, or monarch, is used so freely in discussing the Middle Ages that we must be careful to note the differences between a medieval monarch and a modern one. Just as the relation between private and public affairs, including law, was never clear in the Middle Ages, so too the relation between the king as a person and the office of the king was

[6] For an interesting critical discussion of the origin of representation see E. M. Sait, *Political Institutions: A Preface* (New York, 1938), Chapter XX.

[7] Sir Henry Maine, *Ancient Law* (London, 1887) p. 170. See F. W. Maitland's introduction to Otto Gierke, *Political Theories of the Middle Ages* (Cambridge, 1927), for other changes. Maine meant, of course, a personal contract, as distinguished from a feudal contract completely involved with the fief.

never clear. In general, however, since the great stress in the Middle Ages was upon personal relations as distinguished from governmental relations, we find the same stress upon the king as a person. This is all the more natural when we remember that kings did not have a great impersonal administrative machine as a modern ruler does. Monarchy tended to take on the form of a personal trust, and one took an essentially feudal and personal oath to one's monarch. All writers, probably including Aquinas,[8] agreed in the best medieval fashion that there was no higher form of government than that of a good monarch, a monarch who bore a kind of *noblesse oblige* to his subjects, a father, a head, a ruler of the parts of the realm. The power of the king was personal and indefinite as long as he did not abuse it.

Now there are two ways of controlling a ruler. One is to limit what he can do by imposing and enforcing constitutional limitations. The most highly developed form of this sort of limitation is to be found in the United Kingdom, where the king can do little wrong because he can do little. The other method of limiting a ruler is to fire him when you do not like what he does. This is what the American people can do with their president every four years. The first type of limitation existed in the Middle Ages; the feudal system and especially customary law imposed limits on the king. These controls, however, were not institutionalized and could be broken in emergencies. The situation was such that the legitimacy of a king depended in a large measure upon whether he was a good king, and that is a question about which people are never in agreement.[9] When religion and politics are as thoroughly mixed as they were in the Middle Ages, disagreement is likely to be frequent and bitter. Nothing so well exemplifies the medieval conception of kingship as does John of Salisbury's lavish praise of a good king and his doctrine of tyrannicide for getting rid of a bad one. The Middle Ages were able to devise no better way of getting rid of a bad ruler than giving a citizen the right to kill the ruler by genteel means, unless the citizen were bound by an oath of fealty to him. To be sure, a vassal could renounce his oath and even make war on his lord for violations of the terms of the fief, and a vassal's peers could judge between the lord and the vassal. The effectiveness of these remedies was anything but certain. In many places in the modern world, people have done little better. How to change or judge rulers peacefully has been one of the most persistent of political problems.

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[8] There is doubt about Aquinas. See Readings and discussion by C. H. McIlwain in *The Growth of Political Thought in the West* (New York, 1932), pp. 331-333.

[9] C. H. McIlwain, *op. cit.*, pp. 319-324.

The fifth chapter of this book ended with a brief excerpt from the *Institutes of Justinian.* The codification of law which was the last great achievement of the empire of the Caesars was submerged in the turmoil of the early Middle Ages. With its rediscovery in the twelfth century, there was a settling down over Europe, and in such times people turn to law. The Church, out of necessity and design, had developed its own canon law, and Roman law furnished a basis upon which emperors and kings could develop a common system of civil law.[10] The reception of Roman law created much legal and political confusion. In the period of the Roman republic, as we have seen, the people were the source of political authority and of the civil law. By the time of the great codifications the famous phrase, *"quod principi placuit, legis habet vigorem"* (what pleases the prince has the force of law), was widely accepted. In the Middle Ages law was custom, and the source of political authority was an endless confusion of God, pope, community, and customary law. One of the main political results of the rediscovery of Roman law was the argument for a lawmaking absolute monarch and, through Roman-influenced canon law, for an absolute pope. Boniface VIII, as we have seen, was a great canon lawyer.

Any discussion of law raises the questions of its source and its classification. Here again we have to be careful not to read our modern ideas back into the Middle Ages. Our first thought about law is the enactment of a bill by a legislative assembly. In the Middle Ages, especially before the rediscovery of Roman law, there was no idea that law could be made by man. He could only find law and apply it. Man-made law for Aquinas, for example, was more like a modern application of a law to a situation than it was like a modern legislative enactment.

Importance of Natural Law

The Middle Ages in its idealized form was an orderly universe, with all things fitting into a harmonious hierarchy crowned by God. By taking Roman law, the natural law of the Stoics, and God's law, Aquinas, the great synthesizer, erected a harmonious classification of law from human law at the bottom to divine law at the top. For Aquinas, as for the Stoics, the State did not make law but was made out of law. Law, except human law, which was more like an administrative decree, was an external regulative force somewhat like the law that regulates the motion of the planets. Through his reason man knew the natural law, which was the great regulator.

Natural law was extremely important in subsequent thought. It existed

[10] See Pollock and Maitland, *op. cit.*, Vol. I, pp. 111-135, for good discussion of the contribution of Roman and canon law to English law.

independent of man but could be known only by man and his reason. Unlike the law of God, it was not written down. It stood part way between the human and the divine, and as such it became a kind of measure of man's conduct, but by man's interpretation of it was not so rigid as was the Mosaic law. The whole idea of a higher law which man can find by reason rather than revelation has had a most profound influence on the development of Western constitutionalism. Our constitution is often said to embody natural law, which stands above our purely positive or man-made laws. Moreover, this idea of natural law was radically converted to modern practical use in the hands of John Locke; and Locke borrowed heavily from Richard Hooker, a man who stood midway between the medieval and the modern idea. The legal thought as well as the legal institutions of Western civilization all bear the stamp of medieval developments.[11] The stamp is different between England and the Anglo-American legal system on the one hand, and continental legal systems on the other, but it is ever present.

If our legal institutions were marked by their emergence from the Middle Ages, the same thing can be said of our knowledge of Greek philosophy. Augustine had drawn heavily on Plato, and then came the dark period. In the twelfth century, ancient Greece was again discovered, but this time the central figure was Aristotle. The Christian doctrine developed independently for nearly a millennium, then it suddenly found itself face to face with a great philosopher who knew neither Jew nor Christian. Could there be any reconciliation between the pagan Aristotle and the successors of St. Peter? The great task of synthesis produced a man equal to the task in the person of St. Thomas Aquinas. He undertook no less a task than the reconciliation of all knowledge, even to the superhuman task of reconciling reason and faith or science and miracles. When the modern age dawns, Greek philosophy and Christian religion do not emerge as great protagonists in a struggle for control over man's mind but as a great and comprehensive religious philosophy. The method that Aquinas used, and something of the topics with which he dealt, are evident in the Readings that follow. Even a casual reading will convey some notion of the enormous influence of Aristotle.

Aquinas thought that he had arranged the universe and the universe of knowledge into a nice, harmonious whole with neat gradations from bottom to top. If the world corresponded to books, the completion of his *Summa* would have brought the world near to a harmonious perfection. For reasons, however, that we have seen, the very world which Aquinas was putting in order was breaking up around him. In a few centuries the ideal of unity and universal harmony was replaced not only by the reality,

[11] Sait, *op. cit.*, Chapters XI and XII.

but by some theoretical recognition of the causes, of particularism, diversity, and disharmony. In seeking an escape from this real world of disunity which had in fact also existed in the Middle Ages, the great innovators in modern politics, Machiavelli and Hobbes, look to strong national monarchs rather than to the other-worldly Church for deliverance, if not salvation.

Aquinas, like most good churchmen, dreamed of a unity on earth under the benign influence of a pope and an order of lesser secular and spiritual officials. Others had the same ideal but envisioned the head as being a renascent Roman emperor. The most eloquent spokesman for the latter ideal was Dante, the great Italian poet. But for Dante as for Aquinas the ideal was beyond realization even as it was expressed, and Lord Bryce, the great historian of the Holy Roman Empire, says that Dante, rather than writing the prophecy of a new age, wrote the epitaph for a dead one.[12]

The medieval ideal was a universal, harmonious, co-operative society with only a minimum of government. But Aquinas would not have found this incompatible with laws, e.g. on just prices and against usury. Law to him had an "educative" value, even though he was enough a medievalist to place ethics as the source of law. The whole scheme depended upon Christian co-operation and ethics and the proper hierarchical arrangement of all the parts. The ideal, no doubt as far from realization then as now, persists. Even for the Marxists, the lamb will lie down with the lion when economic wants are fulfilled, as by an act of faith they must automatically be when classes and private property have been suppressed, according to Marxist dogma. It is from the Middle Ages that we inherit ideals, ideas, and institutions which help us to understand and criticize our own era.

Nor were the laws and customs which this period of feudalism developed entirely at the mercy of the ruler. *Quod principi placet, legis habet vigorem* ("What pleases the prince has the force of law") was a gross overstatement of fact, when taken over from its Roman and imperial context and applied to this period. Edward Jenks, in *Law and Politics of the Middle Ages,* illustrates the range and authority of these folk-laws and their binding power. For a long period the common law of England and Magna Carta definitely helped to establish limits to absolutism. And even so hardy a defender of monarchical power and sovereignty as Jean Bodin, in the sixteenth century, still held that the Salic law of succession, which he regarded as a fundamental law (one of the *leges imperii*), stood *above* the monarch. It was truly a *necessary constitutional* law, limiting the king as the source of law. Its violation would destroy the legitimacy of kingship, and with it the whole logic of sovereignty.

[12] Lord Bryce, *The Holy Roman Empire* (London, Edition of 1904), p. 276.

Customary law, therefore, played a role that comes down to us from this period, as one of the powerful sources of constitutionalism. One can understand the British constitution (or our own) better if this heritage from the feudal period is not forgotten.

No generalization about the Middle Ages can be accurate. This is as true of government in the Middle Ages as it is of any other aspect of that great and perplexing period. For one thing, what we refer to casually as the Middle Ages covered an extremely long period of time—a period nearly twice as long as the modern period to date. In all ages there are powerful and conflicting forces affecting the destiny of man, but in the Middle Ages these forces were exceptionally strong. Notably lacking in this network of conflicts was an over-all control and direction. This was especially true of the early part of the middle period. Merely to list the greatest of the contending and conflicting forces is to suggest the most valid generalization about the period: the high civilization of Rome and the barbarism of the Germanic tribes; Christianity, tribal religious rites, Roman gods, eastern religions and eastern and western varieties of Christianity; Roman law and Germanic customary law; the traditions of Germanic kings and of Roman emperors; Greek philosophy, stoic philosophy and Christian theology; extreme worldliness and extreme otherworldliness; chivalry and savagery; spiritual crusades and commerce; town and country; individual and community. Nor should one overlook the emphasis on the individual, class and community; regularity and irregularity; and system and chaos. Government, not in all Christendom but in national states, came finally to impose some orderliness on these many forces which often interacted so capriciously. But in turn, modern government itself has been profoundly influenced by the very forces which fermented in the middle period.

(...*N.A.McD.*)

READINGS

In one way or another most thought of the Middle Ages can be related to the growth of Christianity and the struggle of the "two swords." Nevertheless, ideas existed which are not so directly related; hence they are entitled to separate consideration. Basic to these ideas was the institution of feudalism and the rediscovery of the classical philosophy and Roman law.

The main political ideas can be listed: an organic conception of political society, in which an analogy is drawn between a biological organism and society; medieval constitutionalism, in which all people, even the ruler, are limited by law, religion, and custom; the superiority of monarchy as a form of government but with emphasis upon the obligations of a good monarch; and finally, the great emphasis upon the medieval ideal of unity. Implicit in many of these ideas is the assumption of the feudal relationship which tends so to intermingle public and private relationships that they are at last indistinguishable, and man seems to be caught up in a series of intricate relationships that are truly organic in their nature and complexity.

No fully satisfactory selection of writings can be made to represent the diversity of medieval thought. The middle period did not produce great speculation on worldly matters such as government *qua* government. Scholars and thinkers were either Church scholars and thinkers or men of action. The selections included here try simply to give a brief insight into some leading ideas and, of equal importance, to convey something of the flavor of medieval writing and method. Through English from medieval Latin this is hard to do, but the attempt must be made if we are to understand fully the modern political heritage. The medieval conception of law and the nature of customary law is especially difficult to convey by the use of medieval works. There were no great treatises on law and the philosophy of law. In our time the main sources of knowledge of law in the Middle Ages have come from careful studies of the law in action, from actual rules and their application. The investigation of law and legal institutions in the period has provided a fruitful and extremely important field of research. Edward Jenks (1861-1939), English legal scholar, devoted much of his energies to careful work on the early history of law and its relation to politics, and wrote brilliantly about his findings.

One of the few writers of the period who wrote a book on government as such was John of Salisbury, an English scholastic philosopher. He was born around 1115. John studied in Paris under Abelard. He acquired a special familiarity with the classics and was influenced by Cicero and

Plato. Between 1148 and 1159 he spent a great deal of time at the papal court in Rome and with the Archbishop of Canterbury. After the Council of Clarendon in 1164 (Constitutions of Clarendon set forth the relation between king and clergy and aimed to put king at head of the English Church), John left England. He lived at Rheims, and from there tried to reconcile Becket and the King of England. In 1170 he returned to England and was with Becket when the murderers entered the Cathedral. He became Bishop of Chartres in 1176, attended the Third Lateran Council in 1179, and died in 1180. His main political work, *Policraticus* (usually translated *Statesman's Book*), is famous for its clear exposition of the organic nature of human society, and for its doctrine of tyrannicide. The feudal influence is made clear by John's reservation that it is not proper to kill a tyrant if you are bound to him by an oath of fealty. John, as most thinkers before and after his time, had no method of peacefully getting rid of a bad ruler.

One phase of the particularism noted above may be seen in Magna Carta or the Great Charter of Liberties which was granted to the English by their King John. John did not prepare the charter, but had it wrung from him by his barons; still a note on his life is pertinent. King of England from 1199 to 1216, he was a son of Henry II and succeeded to the throne after the death of his brother Richard I. He became involved in a controversy with the Pope over the election of Stephen Langton as Archbishop of Canterbury and was finally deposed in a papal bull (1212). But in the following year John and the Pope made a peace under which John gave England to the Pope and received it back as a fief. He invaded France but was defeated. Upon his return he was met by the barons, who exacted from him the document known as Magna Carta. He appealed after granting the charter, to the Pope, whereupon the Pope annulled it. John imported mercenaries to fight the barons but died in the course of the battle.

Not only is the charter itself a feudal document in a most genuine sense, but the series of events attending its being granted are feudal and medieval. The deposing of a king by the Pope, the granting of a realm by fief, the growing national sentiment, and the appeal to old customs and liberties rather than to abstract principles of natural law, all are typical of the period. Perhaps no single document does so much to demonstrate the continuity of history even when the break seems to be sharpest. Magna Carta is feudal, but it is also modern. In many ways it symbolizes much of what we inherit from the Middle Ages.

By almost any standard, the greatest figure of the later Middle Ages was Thomas Aquinas. Born in 1225 near Naples, of a ruling family, he studied in Monte Cassino and Naples and then entered the Dominican Order of

Friar Preachers around 1243. Later he studied in Paris under Albertus Magnus. He gained fame as a teacher and taught in Rome and Paris. His great achievement was the synthesis of Aristotelian philosophy and Christianity through the method of scholasticism. The method reached its most perfect development in his *Summa Theologica* (1267-1273). Thomas was canonized in 1323 and is one of the principal saints of the Roman Catholic Church. In the encyclical *Aeterni Patris* (1879), Pope Leo XIII declared his system to be the official philosophy of the Church.

Aquinas was not a direct participant in the pope-emperor controversy, though it is clear which side he would have been on had he been forced into it. The ironical thing about the great work of Aquinas is that he had scarcely produced his magnificent synthesis, which brought the ancient classics into harmony with Christian teachings, when the medieval unity began to dissolve into the particularism of national state and national church.

It remained for one of the greatest poets of all time to set down the medieval ideal of unity, universality, and peace. But, as Lord Bryce says, the ideal was in fact an epitaph. Dante Alighieri was born in Florence in 1265. He himself was influenced by the new particularism: he was the first great poet to write in Italian as distinguished from Latin. Dante participated in the public life of his native Florence and at one time held an embassy to Rome. But he was caught in the cross-currents of faction and was banished by one wing of the Guelfs (the party that opposed German interference in Italy). The rest of his life was spent in exile, wandering through Italy. In an age when there is much talk about the relation between art and politics, the whole work of Dante becomes of contemporary interest, for his most famous work, *Divine Comedy,* is artistic, philosophical, and political. Perhaps only the artist could have caught such a vision of possibilities in one God, one world, and one government when faced with the reality of what now seem to many to have been many gods, many worlds, and little or no government. Dante died at Ravenna in 1321.

It is sufficient commentary on history to note here that the chapter that contains the writings of Aquinas and Dante is followed by two chapters, one on the Reformation and the other on the secular national state of the Renaissance, and that the two cover almost identical periods of time.

Jenks: Sources of Law

Law and government are not the same, but they are inevitably and closely related. In no age is it possible to understand one without understanding the other, and at no time was this more true than during the Middle Ages. The concept "law" always embodies such ideas as certainty, predictability, regularity, and righteousness or justice but what actually constitutes "the law" changes from time to time and from place to place. Likewise, methods of modifying the law, of creating, or promulgating, and of applying it change, and it is in the modifying, creating and promulgating that law and government meet. The modern idea is a government that makes and applies law; the medieval idea was natural and customary law that regulated and limited all, including government itself. In many ways what we have come to call modern constitutional government is a government effectively limited, among other things by law, but a government that escapes strangulation by outmoded and rigid rules, through its ability to change the law. In short, modern constitutionalism embodies a fusion of medieval and modern legal concepts. Thus to any study of the modern constitutional state some understanding of law in the Middle Ages becomes an essential.[1]

CHAPTER I

[Sources of Law]

The contents of legal systems may be complex and voluminous, but the idea of Law is comparatively simple. Despite all criticism, Austin's main position is unassailable, regarded as a summary of existing facts. What the State wills, that, and that alone, can the individual be compelled to obey.

But this fact, suggestive as it is, loses half its value, unless it is regarded in its true historical perspective, as the final outcome of a long unconscious process, fraught with infinite moment to the human race. For, as we go back upon the history of Law, we very soon reach a point at which the Austinian theory is helpless to explain the facts. Here is a "source" of law, an authority which, for some reason or another, great masses of men feel themselves bound to follow, not because they choose, but because they must. And yet it certainly is not a command of the State, direct or indirect. Upon critical examination, it may turn out to be the work of a mere private composer. Why do men obey it? Further back again, we find a purely impersonal document, compiled, no one exactly knows how, or by whom; and yet it is the controlling force which shapes the daily conduct of men. They do not even consider the possibility of disregarding it. It is not the work of the State, it may not even be recognized by the State, there may be no State to recognize it. Yet the essential ideas of Law, the evident ancestors of our modern juristic notions, are clearly there.

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[What Is Law?]

There are two roads by which we might attempt to arrive at a solution of the question—What have men thought of

[1] From *Law and Politics in the Middle Ages*, by Edward Jenks (London, William Clowes and Sons, Ltd., 1912), Chapter I in part.

Law in times gone by? In all ages which have had any literary expression, men have written and spoken of Law. Plato and Aristotle, Ulpian and Gaius, Vico and Montesquieu, Hobbes and Locke, have speculated on Law, and contributed to the formation of human thought upon the subject. By a careful comparison of their writings, we might trace the literary history of the idea of Law; and no thinking man could deny that these writings have profoundly, if indirectly, influenced human conduct. But there is grave danger in such a course. The great thinker is, by his very nature, apart from his fellow men. His ideas are not the common thought of his time; they are far more likely to be the common thought of a future time. And yet Law is essentially a thing for common men; it is the rule of the camp, the market-place, the shop, and the field. If we want to know what Law was, not what it ought to have been, we must take another road, and look, not at the books of the philosophers, but at the codes of the practitioners, at the rules which (to return to our former point) men felt themselves bound to obey, not because they thought them wise, or good, or pleasant, but because they could not help themselves.

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The epoch in which the states of Western Europe are now living, has a history and a unity of its own, and is peculiarly suitable as material for the study we are about to undertake. It is our own epoch, we know more about it than we know of any other, it appeals more powerfully to us than any other, we have inherited its traditions, we breathe its ideas. Dispute as we may about the details, we know that the Roman Empire fell as a political power, that the sceptre of Western Europe passed from the Roman to the Teuton. That the influence of Rome long overshadowed the new forces which took her place, may be readily admitted; the Teuton did not begin to write history on a clean sheet. But the child who starts by copying his letters, in time proceeds to make letters of his own; and if Clovis and his successors were fond of wearing the cast off clothes of the Cæsars, they none the less set a new fashion of wearing them. Nowhere is this truth more abundantly clear than in the history of Teutonic law. Alongside of the elaborate system which generations of Roman jurists had expounded, and Imperial legislators fashioned into shape, there grew up, under totally different circumstances, a group of kindred Teutonic laws, at first utterly incoherent, gradually assuming order and system. It is in these that we trace the growth of the idea of Law.

The oldest monuments of Teutonic legal history have received the name of *Leges Barbarorum*. But the title is apt to be misleading. Even in the Frank kingdoms, where the conscious imitation of Rome was strongest, there is at first no attempt at legislation in the modern sense. Beyond doubt the *Leges* were, in most cases, the work of kings, to the extent that they were drawn up by royal direction, and published under royal auspices. Quite possibly, too, the kings who collected them took the opportunity of modifying certain details during the process. But the notion of the king, *i.e.* the State, as the source of legislation, is yet far distant. Several of these codes profess to give their own account of the way in which they were drawn up; and, in spite of all the criticism which has been directed against the more extravagant pretensions of the so-called historical school, there can be little doubt that these accounts contain a large element of truth. The famous *Lex Salica*, the custumal of the race which became overlords of half Western Europe, contains a prologue which, though doubtless of later date than the first redaction of the custumal itself, is yet of great antiquity, and which describes the collection of the *origines causarum* by four chosen men (whose names and districts are given)

after lengthy discussions with the *judices*, or presidents of the local assemblies. The first Burgundian code (early sixth century), known as the *Lex Gundobada*, describes itself as a "definition," and is confirmed by the seals of thirty-one counts. The oldest code of the Alamanni, no longer extant in a complete form, is known by the suggestive title of *Pactus* or Agreement; while the extant edition, dating from the early years of the eighth century, professes to have been drawn up by the king, with the aid of thirty-three bishops, thirty-four dukes, seventy-two counts, and a great multitude of people. The Anglo-Saxon kings describe themselves as "setting" (*âsettan*), "fastening" (*gefæstnode*), or "securing" (*getrymede*) their laws. Owing to the scantiness of external evidence, it is impossible to assert with confidence the precise character of the process adopted in the earliest times. But a curious story preserved by the Saxon annalist Widukind shows that, even in the tenth century, and under so powerful a monarch as Otto the Great, Law was regarded as a truth to be discovered, not as a command to be imposed.

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By far the most important of these codes are directly connected with migrations and conquests. The Teutonic settlements west of the Rhine were the first to produce compilations of Teutonic law, and it may be, and indeed is, often asserted, that this fact is due to the example of the Code of Theodosius, the great monument of Roman jurisprudence which confronted the invaders of the Empire. But the real epoch of law-producing activity coincides closely with the conquering careers of Charles Martel, Pepin the Short, and Charles the Great. During this period are produced the Laws of the Alamanni, the Bavarians, the Frisians, the Thuringians, and the Saxons. In England, the Anglo-Saxon migrations give rise to a scanty crop of laws; but the real activity comes with the conquests by the Danes. On the other hand, in Scandinavia, of all Teutonic countries the most isolated, the oldest extant code dates from the end of the twelfth century or the beginning of the thirteenth. The fact is an illustration of the great principle, that mixture or, at least, contact of races is essential to progress. The discovery of differences is needed to stimulate thought and produce coherence Resistance and attack are alike provocative of definition. The conqueror wishes to enforce his customs upon his new subjects. He must needs explain what they are. The conquered demand the retention of their ancient practices. They are compelled to formulate their claims. So it is when Charles the Great conquers Western Europe. So it is again when William conquers the English, when the English conquer India, when Napoleon conquers Germany.

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The second stage in the history of Teutonic Law is, apparently, very modern in character. It looks like positive political legislation, as we understand it at the present day. The Capitularies of the Karolingian House, and of the Beneventine Princes, the statutes and edicts of the Lombard kings and dukes, and even some of the Dooms of the Anglo-Saxon kings, are alleged to be examples of this kind. But here we come upon one of the great sources of error in medieval history. The Frank Empire, in both its stages, was, in a very important sense, a sham Empire. It aimed at reproducing the elaborate and highly organized machinery of the Roman State. Just as a party of savages will disport themselves in the garments of a shipwrecked crew, so the Merowingian and Karolingian kings and officials decked themselves with the titles, the prerogatives, the documents, of the Imperial State. No doubt the wisest of them, such as Charles the Great, had a deliberate policy in so doing. But the majority seem to have been swayed simply

by vanity, or ambition, or admiration. Their punishment was the downfall of the Frank Empire, but they might have been consoled for their failure, could they have looked forward a thousand years, and seen their pretensions gravely accepted by learned historians on the faith of documents pillaged from the Imperial chancery, which they scattered abroad without understanding their contents The Frank Empire was, from first to last, a great anachronism With a genuine civilization equal in degree to that of their kindred in Britain and Scandinavia, the Germans of continental Europe found themselves called upon to live up to the elaborate civilization of the Roman Empire They broke down under the strain, and their breakdown is the first great tragedy in modern history, the parent of many tragedies to follow Those who doubt the possibility of such an explanation, may be referred to the "Parliaments" and "Cabinets" of Samoa, and to the "Polynesian Empire"

Now one of the most splendid prerogatives of the Roman Emperor was his power of legislation Quite naturally, his imitators, the Frankish kings and emperors, strove to exercise it Hence the *Capitula*, or royal and imperial edicts, which, at any rate for some time, no doubt played a great part in the history of Teutonic law The difficult questions connected with them have been acutely discussed by competent critics, who are not by any means unanimous But one or two results seem clear.

The *Capitula* are distinguishable from the *Leges* They emanate directly from royal authority, they deal with less important matters, they have, probably, a less permanent effect In the pure type of Capitulary, the *Capitula per se scribenda*, there is no pretence of collecting the law from the mouth of the people Many of them are mere directions to royal officials.

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[Law and Politics]

And now, if we are asked the question —Did men during those tenth and eleventh centuries live without Law?—the answer we must give is, that they mostly did, and that evil were the results In the far south-west, where the Visigothic settlers had been crushed out of existence between the Saracens and the provincials, in Acquitaine, Gascony, Navarre, and Provence, the old Roman Law had remained the every day law of the people This is the country of the Langue d'Oc, the later *pays de droit écrit* But elsewhere, the old Empire of Charles the Great had become a country of what the Germans call *Sonderrecht*, each little district had its own special law For this was just the epoch of feudalism and the political unit was no longer the clan, or the people, but the fief, the district under the control of a *seigneur*, or lord Of the place of feudalism in political history, we shall have to speak when we deal with the State, here we are concerned only with its influence on notions of Law

The feudal *seigneur* derived his powers from two sources On the one hand, he represented a little bit of the imperial authority of Charles the Great, which had so to speak, set up for itself This is the true *droit seigneurial* On the other hand, he had become, not merely lord, but proprietor of his district, and, in this character, he exercised *droit foncier* He might claim seigneurial rights over land in which he had ceased to have property, and he might be merely proprietor of land of which another was *seigneur*, although in this case he was hardly a feudal lord. Again, his claims as *seigneur* might be more or less extensive, he might be duke, count, baron, or simply *seigneur justicier*. He might claim High, Middle, or Low Justice. But the principle in any case was, that he administered the law of the fief, not the law of the land, or the king, or the people. If there is a dispute as to what this law is, we must go, as

Boutillier tells us, to the *greffe*, or register of the court of the fief If this is silent on the point, we must call the men of the fief together, and hold an *enquête par tourbe*, an enquiry by the multitude

. . . .

So, too, the peculiar character of the Fief led up to the famous, but much misunderstood doctrine, of *judicium per pares*, "judgement by peers The personal nature of the tie between lord and man forbade the hypothesis that any general rules would cover the terms of relationship Therefore, the vassal demanded to be tried by the special law of his fief The contractual character of the feudal bond enabled him to refuse to leave himself entirely at the mercy of the lord as sole judge Besides, the question might be between a vassal and the lord himself, and the lord could hardly be judge in his own cause So the principle was firmly established, that the feudal court, at least in the case of freemen is a court in which the lord is merely president, and the *pares*, or *homage i e* the men of the same fief, are judges These are totally different in character from the modern jury, with which they are often confused The modern jury takes its law from the judge and finds the truth of the facts The *pares* declared the law, *i e* the rule of the fief, and left the facts to be settled by some formal process Trial by jury gives, in fact, where it is successful, the death blow to trial by peers

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[Church and Law]

In the early days of the Frank dominion, the churches lived under Roman Law For one thing, the Christian Emperors had legislated freely on ecclesiastical matters, long before the Teutons were converted to Christianity, and the Merowingians could hardly venture to meddle with the organization of that mighty power which had destroyed their ancient gods and done so much to give them the victory over their enemies For another, the churches were corporations, juristic persons, and it took the Teutonic mind a long time to grasp the highly complex notion of a corporation No doubt, the individual mass priest of Frankish times lived under his folk law, but the great foundations of regular clergy, which sprang up so thickly under the fostering care of the orthodox Franks, could find little in the *Leges Barbarorum* to meet their case

As time went on, however, new influences manifested themselves The disappearance of the Emperors from Rome, the schism between Eastern and Western Christianity, left the Popes in a commanding position with regard to the Western Church They stepped into the place of the Roman Emperor, and issued Decretals which the clergy considered as binding in ecclesiastical matters From the earliest times, also, General Councils of the Church had met, and had legislated on matters of faith and discipline Towards the end of the fifth century, a collection of these decrees and resolutions was made by Dionysius Exiguus, and was regarded as of great authority in Church matters Neither did the Church disdain the help of the secular arm, especially in such delicate matters as tithes and patronage, in which the lay mind might require the use of carnal weapons The alliance between the earlier Karolingians and the Papal See is marked by the appearance of ecclesiastical Capitula, many of them founded on Conciliar resolutions, in which, although the Frank emperor maintains the royal claims, the Church gets it pretty much her own way. Similar documents are found amongst the Anglo Saxon law, and even the Scandinavian codes have their *kirkiubolkæi*, or Church Books. But ecclesiastical legislation becomes more and more independent as time goes on A great stimulus is given by the work of the forger who calls himself Isidorus Mercator, which appears in

the ninth century; and which incorporates with the work of Dionysius Exiguus some sixty so-called Decretals of more than doubtful authenticity. Three centuries later, the great work of Gratian of Bologna, the *Decretum Gratiani*, though obviously the work of a private expounder, was received as an authoritative statement of ecclesiastical law. Later still, in the year 1234, come the Five Books of Gregory IX., in 1298 the "Sext," or sixth book, of Boniface VIII., in 1317 the Decretals of Clement V., the "Clementines." By this time, the Church has grown strong enough to repudiate the system which was its foster mother. Roman Law, after all, is the work of laymen; and by this time the Church has become a sacred caste, and will acknowledge no secular authority. Alexander III. forbids the regular clergy to leave their cloisters to hear lectures on "the laws" and physic. In 1219 comes the Bull *Super Speculam*, in which Honorius extends the prohibition to all beneficed clerks. This is not the place in which to discuss the difficult question of the border line between the provinces of Canon and secular law. It is sufficient to say that, from the ninth century to the close of the Middle Ages, not the most autocratic monarch of Western Europe, not the most secular of lawyers, would have dreamed of denying the binding force, within its proper sphere, of the Canon Law. It had its own tribunals, its own practitioners, its own procedure; it was a very real and active force in men's lives. And yet, it would puzzle an Austinian jurist to bring it within his definition of Law. The State did not make it; the State did not enforce it.

[Law and Commerce]

The case of the Law Merchant is equally instructive. Trade and commerce, almost extinct in the Dark Ages which followed the downfall of the Karolingian Empire, revived with the better conditions of the eleventh century, and were stimulated into sudden activity by the Crusades. The new transactions to which they gave rise were beyond the horizon of the law of the Fief and the old folk-law of the market. Gradually, the usages of merchants hardened into a cosmopolitan law, often at positive variance with the principles of local law, but none the less acquiesced in for mercantile transactions, and enforced by tribunals of commanding eminence and world-wide reputation, such as the courts of the Hanseatic League, and the *Parloir aux Bourgeois* at Paris. Occasionally, some special rule of the Law Merchant receives official sanction from king or *seigneur*. But, for the most part, the Law Merchant is obeyed, no one knows why. It is simply one of several authorities of different origin, which may, and in fact do, come into conflict at many points. The need of a reconciling influence is obvious. In the thirteenth century the Teutonic world is still awaiting the solution of the all-important question—What is Law? It is the glory of England that she, of all the countries of Teutonic Europe, was the first to furnish that solution.

John of Salisbury: Feudal Relationships

That web of relationships which we call feudal is demonstrated by the following selections from the POLICRATICUS *of John of Salisbury The monarch is the head and the clergy the soul of society The only conceivable type of legitimate government is a monarchy, but the monarch holds an office of trust The whole relation is organic and not contractual in the modern sense. In addition to being monarchical, government must be based upon the true religion, a king who despoils the religion is no king at all, but a tyrant, unless one is bound to him by an oath of fealty The latter may sound like a contract but there is no enforcing the reciprocal obligation of the king, a condition essential to a genuine contract Note also the use that John makes of Roman law The following selection is from* POLICRATICUS, *Books VI and VIII.*[1]

BOOK VI

CHAPTER XXV

[MEDIEVAL ORGANIC AND CONTRACTUAL THEORY]

For myself, I am satisfied and persuaded that loyal shoulders should uphold the power of the ruler, and not only do I submit to his power patiently, but with pleasure, so long as it is exercised in subjection to God and follows His ordinances But on the other hand if it resists and opposes the divine commandments, and wishes to make me share in its war against God then with unrestrained voice I answer back that God must be preferred before any man on earth Therefore inferiors should cleave and cohere to their superiors, and all the limbs should be in subjection to the head, but always and only on condition that religion is kept inviolate We read that Socrates framed a polity for a commonwealth and laid down precepts therefor which are said to flow from the purity of wisdom as from a natural fountain And this one thing he emphasized above all else, that the more humble elements of the commonwealth should receive proportionately greater care and attention from those in higher station as part of their public duty Read diligently again the "Instruction of Trajan, and you will find these things discussed there at large

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[LÈSE MAJESTÉ]

The acts are many which constitute the crime of lèse majesté, as for example if one conceives the death of the prince or magistrates, or has borne arms against his country, or, forsaking his prince, has deserted in a public war, or has incited or solicited the people to rebel against the commonwealth or if by the act or criminal intent of any, the enemies of the people and commonwealth are aided with supplies, armor, weapons, money, or any thing else whatsoever, or if, from being friends, they are turned into enemies of the commonwealth, or if by the criminal intent or act of any, it comes to pass that pledges or money are given against the commonwealth, or the people of a foreign country are perverted from their obedience to the commonwealth,

[1] John of Salisbury, *The Statesman's Book of John of Salisbury*, translated by John Dickinson from the text of C J Webb (Oxford University Press) By permission Appleton Century Crofts, New York

likewise he commits the crime who effects the escape of one who after confessing his guilt in court has on this account been thrown into chains, and many other acts of this nature, which it would be too long or impossible to enumerate

But because the formula of fidelity or fealty ought herein above all else to be kept, there is language in the oath from which we can most conveniently learn a few of the acts which are not permitted For a thing which is the opposite of something that is necessary is impossible, and by the same process of reasoning a thing which ought to be done is contradicted only by something that is not permitted The formula of fealty then exacts the things which are inserted therein as being the necessary elements of loyalty and expresses the latter by the words 'sound" 'safe," "honorable' 'advantageous," "easy," "possible If therefore, we are bound by fealty to anyone, we must not harm his soundness of body or take from him the military resources upon which his safety depends or presume to commit any act whereby his honor or advantage is diminished neither is it lawful that which is easy for him should be made difficult, or that which is possible impossible Besides one who holds a benefice from him whose liege man he is, owes to him aid and counsel in his undertakings, from which fact it is clearer than the sun how much is owed to the God of all, if so much is owed even to those to whom we are bound only by fealty

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BOOK VIII

CHAPTER XX

[TYRANNICIDE]

That by the authority of the divine page it is a lawful and glorious act to slay public tyrants, provided that the slayer is not bound by fealty to the tyrant, or does not for some other reason sacrifice justice and honor thereby

. . .

The earliest tyrant whom the divine page brings before us is Nembroth, the mighty hunter before the Lord (who is also called Ninus in some histories, although this does not agree with the proper reckoning of dates), and I have already said above that he was a reprobate For verily he desired to be lord in his own right and not under God, and it was in his time that the attempt to raise a tower to Heaven was made by frail mortality, destined in their blindness to be overthrown and scattered in confusion Let us, therefore, advance to him who was set over the people by the divine choice, which deserted him when he gave himself up to a wicked desire of ruling rather than of reigning and in the end he was so utterly overthrown that in the anguish of his suffering he was compelled to put an end to himself For a right and wholesome assumption of the royal office is of no avail, or only of very little, if the later life of the ruler is at variance therewith, nor does a judge look wholly to the origin of things, but makes his judgment to depend upon their outcome and ending

The well known narrative of the Books of Kings and Chronicles shows, according to the authority of Jerome, that Israel was oppressed by tyrants from the beginning and that Judah had none but wicked kings save only David Josiah and Ezechiah Yet I can easily believe that Solomon and perhaps some of the others in Judah recovered when God recalled them to the true way And I will be readily persuaded that tyrants instead of legitimate princes were rightly deserved by a stiffnecked and stubborn people who always resisted the Holy Spirit, and by their gentile abominations provoked to wrath not Moyses only, the servant of the law, but God Himself, the Lord of the law For tyrants are demanded, introduced, and raised to power by sin, and are excluded, blotted out, and destroyed by repentance. And even before the time of their kings, as the Book of Judges relates, the children of Israel were time without

number in bondage to tyrants, being visited with affliction on many different occasions in accordance with the dispensation of God, and then often, when they cried aloud to the Lord, they were delivered. And when the allotted time of their punishment was fulfilled, they were allowed to cast off the yoke from their necks by the slaughter of their tyrants; nor is blame attached to any of those by whose valor a penitent and humbled people was thus set free, but their memory is preserved in affection by posterity as servants of the Lord.

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Magna Carta: Feudal Charter and Modern Symbol

That we owe much of our conception of civil liberties to the Middle Ages is made clear by a careful study of Magna Carta ("The Great Charter of Liberties"). It was not so much that King John had perpetrated abuses greater than his predecessors as it was that he continued abuses and alienated classes that normally stood with the king against the barons. The charter was imposed upon him as a means of restoring ancient laws and customs, many of which were strictly feudal in nature. The charter proclaimed no new liberties. In form and content it is essentially a feudal document, though some provisions dealt with liberties of towns and freemen. ¶ In general, old liberties were granted to medieval classes, and in the centuries that followed these liberties and rights were extended to all subjects. But the extension was a matter of more than 500 years. ¶ John affixed the Great Seal to the document at Runnymede on June 15, 1215. It had no continuous history of enforcement, and John himself proceeded to break its provisions soon after it was made.[1] *But it became a symbol of broader liberties for later struggles.*

JOHN, BY THE GRACE OF GOD, KING OF England, lord of Ireland, duke of Normandy and Aquitaine, count of Anjou, to the archbishops, bishops, abbots, earls, barons, justiciars, foresters, sheriffs, reeves, servants, and all bailiffs and his faithful people greeting. Know that by the suggestion of God and for the good of our soul and those of all our predecessors and of our heirs, to the honor of God and the exaltation of holy church, and the improvement of our kingdom, by the advice of our venerable fathers Stephen, archbishop of Canterbury, primate of all England and Cardinal of the Holy Roman Church, Henry, archbishop of Dublin, William of London, Peter of Winchester, Joscelyn of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, and Benedict of Rochester, bishops; of Master Pandulf, subdeacon and member of the household of the lord Pope, of Brother Aymeric, master of the Knights of the Temple in England; and of the noblemen William Marshall, earl of Pembroke, William, earl of Salisbury, William, earl [of] Warren, William, earl of Arundel, Alan of Galloway, constable of Scotland, Warren Fitz-Gerald, Peter Fitz-

[1] Text from G. B. Adams and H. Morse Stephens, *Select Documents of English Constitutional History*, 1939. By permission of The Macmillan Company, publishers.

Herbert, Hubert de Burgh, seneschal of Poitou, Hugh de Nevil, Matthew Fitz-Herbert, Thomas Bassett, Alan Bassett, Philip d'Albini, Robert de Ropesle, John Marshall, John Fitz Hugh and others of our faithful

1 In the first place we have granted to God, and by this our present charter confirmed, for us and our heirs forever, that the English church shall be free, and shall hold its rights entire and its liberties uninjured, and we will that it thus be observed, which is shown by this, that the freedom of elections, which is considered to be most important and especially necessary to the English church, we, of our pure and spontaneous will, granted, and by our charter confirmed, before the contest between us and our barons had arisen, and obtained a confirmation of it by the lord Pope Innocent III., which we will observe and which we will shall be observed in good faith by our heirs forever

We have granted moreover to all free men of our kingdom for us and our heirs forever all the liberties written below, to be had and holden by themselves and their heirs from us and our heirs

2 If any of our earls or barons, or others holding from us in chief by military service shall have died, and when he has died his heirs shall be of full age and owe relief, he shall have his inheritance by the ancient relief, that is to say, the heir or heirs of an earl for the whole barony of an earl a hundred pounds, the heir or heirs of a baron for a whole barony a hundred pounds, the heir or heirs of a knight, for a whole knight's fee, a hundred shillings at most, and who owes less let him give less according to the ancient custom of fiefs

3 If moreover the heir of any one of such shall be under age, and shall be in wardship, when he comes of age he shall have his inheritance without relief and without a fine

4. The custodian of the land of such a minor heir shall not take from the land of the heir any except reasonable products, reasonable customary payments, and reasonable services, and this without destruction or waste of men or of property, and if we shall have committed the custody of the land of any such a one to the sheriff or to any other who is to be responsible to us for its proceeds, and that man shall have caused destruction or waste from his custody we will recover damages from him, and the land shall be committed to two legal and discreet men of that fief, who shall be responsible for its proceeds to us or to him to whom we have assigned them, and if we shall have given or sold to any one the custody of any such land, and he has caused destruction or waste there, he shall lose that custody, and it shall be handed over to two legal and discreet men of that fief who shall be in like manner responsible to us as is said above

5 The custodian moreover, so long as he shall have the custody of the land, must keep up the houses, parks, warrens, fish ponds, mills and other things pertaining to the land, from the proceeds of the land itself, and he must return to the heir, when he has come to full age, all his land, furnished with ploughs and implements of husbandry according as the time of wainage requires and as the proceeds of the land are able reasonably to sustain

6 Heirs shall be married without disparity, so nevertheless that before the marriage is contracted, it shall be announced to the relatives by blood of the heir himself

7 A widow, after the death of her husband shall have her marriage portion and her inheritance immediately and without obstruction, nor shall she give anything for her dowry or for her marriage portion, or for her inheritance which inheritance her husband and she held on the day of the death of her husband, and she may remain in the house of her husband for forty days after his death, within which time her dowry shall be assigned to her.

8 No widow shall be compelled to marry so long as she prefers to live with-

out a husband, provided she gives security that she will not marry without our consent, if she holds from us, or without the consent of her lord from whom she holds, if she holds from another.

9. Neither we nor our bailiffs will seise any land or rent, for any debt, so long as the chattels of the debtor are sufficient for the payment of the debt; nor shall the pledges of a debtor be distrained so long as the principal debtor himself has enough for the payment of the debt; and if the principal debtor fails in the payment of the debt, not having the wherewithal to pay it, the pledges shall be responsible for the debt; and if they wish, they shall have the lands and the rents of the debtor until they shall have been satisfied for the debt which they have before paid for him, unless the principal debtor shall have shown himself to be quit in that respect towards those pledges.

10. If any one has taken anything from the Jews, by way of a loan, more or less, and dies before that debt is paid, the debt shall not draw interest so long as the heir is under age, from whomsoever he holds; and if that debt falls into our hands, we will take nothing except the chattel contained in the agreement.

11. And if any one dies leaving a debt owing to the Jews, his wife shall have her dowry, and shall pay nothing of that debt; and if there remain minor children of the dead man, necessaries shall be provided for them corresponding to the holding of the dead man; and from the remainder shall be paid the debt, saving the service of the lords. In the same way debts are to be treated which are owed to others than the Jews.

12. No scutage or aid shall be imposed in our kingdom except by the common council of our kingdom, except for the ransoming of our body, for the making of our oldest son a knight, and for once marrying our oldest daughter, and for these purposes it shall be only a reasonable aid; in the same way it shall be done concerning the aids of the city of London.

13. And the city of London shall have all its ancient liberties and free customs, as well by land as by water. Moreover, we will and grant that all other cities and boroughs and villages and ports shall have all their liberties and free customs.

14. And for holding a common council of the kingdom concerning the assessment of an aid otherwise than in the three cases mentioned above, or concerning the assessment of a scutage we shall cause to be summoned the archbishops, bishops, abbots, earls, and greater barons by our letters individually; and besides we shall cause to be summoned generally, by our sheriffs and bailiffs all those who hold from us in chief, for a certain day, that is at the end of forty days at least, and for a certain place; and in all the letters of that summons, we will express the cause of the *summons*, and when the summons has thus been given the business shall proceed on the appointed day, on the advice of those who shall be present, even if not all of those who were summoned have come.

15. We will not grant to any one, moreover, that he shall take an aid from his free men, except for ransoming his body, for making his oldest son a knight, and for once marrying his oldest daughter; and for these purposes only a reasonable aid shall be taken.

16. No one shall be compelled to perform any greater service for a knight's fee, or for any other free tenement than is owed from it.

17. The common pleas shall not follow our court, but shall be held in some certain place.

18. The recognition of *novel disseisin, more d'ancestor,* and *darrein presentment* shall be held only in their own counties and in this manner: we, or if we are outside of the kingdom our principal justiciar, will send two justiciars through each county four times a year, who with four knights of each county, elected by the county, shall hold in the county, and on the day and in the place of the county court, the aforesaid assizes of the county.

19. And if the aforesaid assizes cannot be held within the day of the county court, a sufficient number of knights and free holders shall remain from those who were present at the county court on that day to give the judgments, according as the business is more or less

20 A free man shall not be fined for a small offence, except in proportion to the measure of the offence, and for a great offence he shall be fined in proportion to the magnitude of the offence saving his freehold and a merchant in the same way, saving his merchandise, and the villain shall be fined in the same way, saving his wainage if he shall be at our mercy and none of the above fines shall be imposed except by the oaths of honest men of the neighborhood

21 Earls and barons shall only be fined by their peers, and only in proportion to their offence

22 A clergyman shall be fined, like those before mentioned, only in proportion to his lay holding and not according to the extent of his ecclesiastical benefice

23 No vill or man shall be compelled to make bridges over the rivers except those which ought to do it of old and rightfully

24 No sheriff, constable, coroners, or other bailiffs of ours shall hold pleas of our crown

25 All counties, hundreds, wapentakes, and trithings shall be at the ancient rents and without any increase, excepting our demesne manors

26 If any person holding a lay fief from us shall die, and our sheriff or bailiff shall show our letters patent of our summons concerning a debt which the deceased owed to us, it shall be lawful for our sheriff or bailiff to attach and levy on the chattels of the deceased found on his lay fief, to the value of that debt, in the view of legal men, so nevertheless that nothing be removed thence until the clear debt to us shall be paid, and the remainder shall be left to the executors for the fulfilment of the will of the deceased, and if nothing is owed to us by him, all the chattels shall go to the deceased, saving to his wife and children their reasonable shares

27 If any free man dies intestate, his chattels shall be distributed by the hands of his near relatives and friends, under the oversight of the church, saving to each one the debts which the deceased owed to him

28 No constable or other bailiff of ours shall take any one's grain or other chattels, without immediately paying for them in money, unless he is able to obtain a postponement at the good will of the seller

29 No constable shall require any knight to give money in place of his ward of a castle if he is willing to furnish that ward in his own person or through another honest man, if he himself is not able to do it for a reasonable cause, and if we shall lead or send him into the army he shall be free from ward in proportion to the amount of time during which he has been in the army through us

30 No sheriff or bailiff of ours or any one else shall take horses or wagons of any free man for carrying purposes except on the permission of that free man

31 Neither we nor our bailiffs will take the wood of another man for castles, or for anything else which we are doing except by the permission of him to whom the wood belongs

32 We will not hold the lands of those convicted of a felony for more than a year and a day, after which the lands shall be returned to the lords of the fiefs

33 All the fish weirs in the Thames and the Medway, and throughout all England shall be done away with, except those on the coast

34 The writ which is called *præcipe* shall not be given for the future to any one concerning any tenement by which a free man can lose his court

35 There shall be one measure of wine throughout our whole kingdom, and one measure of ale, and one measure of grain, that is the London quarter, and one width of dyed cloth and of russets and of hal

bergets, that is two ells within the selvages; of weights, moreover it shall be as of measures.

36. Nothing shall henceforth be given or taken for a writ of inquisition concerning life or limbs, but it shall be given freely and not denied.

37. If any one holds from us by fee farm or by socage or by burgage, and from another he holds land by military service, we will not have the guardianship of the heir or of his land which is of the fief of another, on account of that fee farm, or socage, or burgage; nor will we have the custody of that fee farm, or socage, or burgage, unless that fee farm itself owes military service. We will not have the guardianship of the heir or of the land of any one, which he holds from another by military service on account of any petty serjeanty which he holds from us by the service of paying to us knives or arrows, or things of that kind.

38. No bailiff for the future shall put any one to his law on his simple affirmation, without credible witnesses brought for this purpose.

39. No free man shall be taken or imprisoned or dispossessed, or outlawed, or banished, or in any way destroyed, nor will we go upon him, nor send upon him, except by the legal judgment of his peers or by the law of the land.

40. To no one will we sell, to no one will we deny, or delay right or justice.

41. All merchants shall be safe and secure in going out from England and coming into England and in remaining and going through England, as well by land as by water, for buying and selling, free from all evil tolls, by the ancient and rightful customs, except in time of war, and if they are of a land at war with us; and if such are found in our land at the beginning of war, they shall be attached without injury to their bodies or goods, until it shall be known from us or from our principal justiciar in what way the merchants of our land are treated who shall be then found in the country which is at war with us; and if ours are safe there, the others shall be safe in our land.

42. It is allowed henceforth to any one to go out from our kingdom, and to return, safely and securely, by land and by water, saving their fidelity to us, except in time of war for some short time, for the common good of the kingdom; excepting persons imprisoned and outlawed according to the law of the realm, and people of a land at war with us, and merchants, of whom it shall be done as is before said.

43. If any one holds from any escheat, as from the honor of Wallingford, or Nottingham, or Boulogne, or Lancaster, or from other escheats which are in our hands and are baronies, and he dies, his heir shall not give any other relief, nor do to us any other service than he would do to the baron, if that barony was in the hands of the baron; and we will hold it in the same way as the baron held it.

44. Men who dwell outside the forest shall not henceforth come before our justiciars of the forest, on common summons, unless they are in a plea of, or pledges for any person or persons who are arrested on account of the forest.

45. We will not make justiciars, constables, sheriffs or bailiffs except of such as know the law of the realm and are well inclined to observe it.

46. All barons who have founded abbeys for which they have charters of kings of England, or ancient tenure, shall have their custody when they have become vacant, as they ought to have.

47. All forests which have been afforested in our time shall be disafforested immediately; and so it shall be concerning river banks which in our time have been fenced in.

48. All the bad customs concerning forests and warrens and concerning foresters and warreners, sheriffs and their servants, river banks and their guardians shall be inquired into immediately in each county by twelve sworn knights of the same county, who shall be elected by the honest men of the same county, and within forty

days after the inquisition has been made, they shall be entirely destroyed by them, never to be restored, provided that we be first informed of it, or our justiciar, if we are not in England

49 We will give back immediately all hostages and charters which have been liberated to us by Englishmen as security for peace or for faithful service

50 We will remove absolutely from their bailiwicks the relatives of Gerard de Athyes, so that for the future they shall have no bailiwick in England, Engelard de Cygony, Andrew, Peter and Gyon de Chancelles, Gyon de Cygony, Geoffrey de Martin and his brothers, Philip Mark and his brothers, and Geoffrey his nephew and their whole retinue

51 And immediately after the re establishment of peace we will remove from the kingdom all foreign born sol diers, cross bow men, serjeants, and mer cenaries who have come with horses and arms for the injury of the realm

52 If any one shall have been dispos sessed or removed by us without legal judgment of his peers from his lands, castles, franchises or his right we will restore them to him immediately and if contention arises about this, then it shall be done according to the judgment of the twenty five barons of whom mention is made below concerning the security of the peace Concerning all those things, however, from which any one has been removed or of which he has been deprived without legal judgment of his peers by King Henry our father, or by King Richard our brother, which we have in our hand, or which others hold, and which it is our duty to guarantee, we shall have respite till the usual term of crusaders, excepting those things about which the suit has been begun or the in quisition made by our writ before our assumption of the cross, when, however, we shall return from our journey or if by chance we desist from the journey, we will immediately show full justice in re gard to them

53. We shall, moreover, have the same respite and in the same manner about showing justice in regard to the forests which are to be disafforested or to re main forests, which Henry our father or Richard our brother made into forests, and concerning the custody of lands which are in the fief of another, custody of which we have until now had on ac count of a fief which any one has held from us by military service, and concern ing the abbeys which have been founded in fiefs of others than ourselves, in which the lord of the fee has asserted for himself a right, and when we return or if we should desist from our journey we will immediately show full justice to those complaining in regard to them

54 No one shall be seised nor impris oned on the appeal of a woman concern ing the death of any one except her husband

55 All fines which have been imposed unjustly and against the law of the land and all penalties imposed unjustly and against the law of the land are altogether excused, or will be on the judgment of the twenty five barons of whom mention is made below in connection with the security of the peace, or on the judgment of the majority of them, along with the aforesaid Stephen, archbishop of Canter bury if he is able to be present, and others whom he may wish to call for this purpose along with him And if he should not be able to be present, nevertheless the business shall go on without him, provided that if any one or more of the aforesaid twenty five barons are in a simi lar suit they should be removed as far as this particular judgment goes, and others who shall be chosen and put upon oath, by the remainder of the twenty five shall be substituted for them for this purpose

56 If we have dispossessed or removed any Welshmen from their lands, or fran chises, or other things, without legal judgment of their peers, in England, or in Wales, they shall be immediately re-turned to them, and if a dispute shall have arisen over this, then it shall be

settled in the borderland by judgment of their peers, concerning holdings of England according to the law of England, concerning holdings of Wales according to the law of Wales, and concerning holdings of the borderland according to the law of the borderland. The Welsh shall do the same to us and ours.

57. Concerning all those things, however, from which any one of the Welsh shall have been removed or dispossessed without legal judgment of his peers, by King Henry our father, or King Richard our brother, which we hold in our hands, or which others hold, and we are bound to warrant to them, we shall have respite till the usual period of crusaders, those being excepted about which suit was begun or inquisition made by our command before our assumption of the cross. When, however, we shall return or if by chance we shall desist from our journey, we will show full justice to them immediately, according to the laws of the Welsh and the aforesaid parts.

58. We will give back the son of Lewellyn immediately, and all the hostages from Wales and the charters which had been liberated to us as a security for peace.

59. We will act toward Alexander, king of the Scots, concerning the return of his sisters and his hostages, and concerning his franchises and his right, according to the manner in which we shall act toward our other barons of England, unless it ought to be otherwise by the charters which we hold from William his father, formerly king of the Scots, and this shall be by the judgment of his peers in our court.

60. Moreover, all those customs and franchises mentioned above which we have conceded in our kingdom, and which are to be fulfilled, as far as pertains to us, in respect to our men; all men of our kingdom as well clergy as laymen, shall observe as far as pertains to them, in respect to their men.

61. Since, moreover, for the sake of God, and for the improvement of our kingdom, and for the better quieting of the hostility sprung up lately between us and our barons, we have made all these concessions; wishing them to enjoy these in a complete and firm stability forever, we make and concede to them the security described below; that is to say, that they shall elect twenty-five barons of the kingdom, whom they will, who ought with all their power to observe, hold, and cause to be observed, the peace and liberties which we have conceded to them, and by this our present charter confirmed to them; in this manner, that if we or our justiciar, or our bailiffs, or any one of our servants shall have done wrong in any way toward any one, or shall have transgressed any of the articles of peace or security; and the wrong shall have been shown to four barons of the aforesaid twenty-five barons, let those four barons come to us or to our justiciar, if we are out of the kingdom, laying before us the transgression, and let them ask that we cause that transgression to be corrected without delay. And if we shall not have corrected the transgression or, if we shall be out of the kingdom, if our justiciar shall not have corrected it within a period of forty days, counting from the time in which it has been shown to us or to our justiciar, if we are out of the kingdom; the aforesaid four barons shall refer the matter to the remainder of the twenty-five barons, and let these twenty-five barons with the whole community of the country distress and injure us in every way they can; that is to say by the seizure of our castles, lands, possessions, and in such other ways as they can until it shall have been corrected according to their judgment, saving our person and that of our queen, and those of our children; and when the correction has been made, let them devote themselves to us as they did before. And let whoever in the country wishes take an oath that in all the above-mentioned measures he will obey the orders of the aforesaid twenty-five barons, and that he will injure us as far as he is able with them, and we give

permission to swear publicly and freely to each one who wishes to swear, and no one will we ever forbid to swear. All those, moreover, in the country who of themselves and their own will are unwilling to take an oath to the twenty-five barons as to distressing and injuring us along with them, we will compel to take the oath by our mandate, as before said. And if any one of the twenty-five barons shall have died or departed from the land or shall in any other way be prevented from taking the above-mentioned action, let the remainder of the aforesaid twenty-five barons choose another in his place, according to their judgment, who shall take an oath in the same way as the others. In all those things, moreover, which are committed to those five and twenty barons to carry out, if perhaps the twenty-five are present, and some disagreement arises among them about something, or if any of them when they have been summoned are not willing or are not able to be present, let that be considered valid and firm which the greater part of those who are present arrange or command, just as if the whole twenty-five had agreed in this; and let the aforesaid twenty-five swear that they will observe faithfully all the things which are said above, and with all their ability cause them to be observed. And we will obtain nothing from any one, either by ourselves or by another by which any of these concessions and liberties shall be revoked or diminished; and if any such thing shall have been obtained, let it be invalid and void, and we will never use it by ourselves or by another.

62. And all ill-will, grudges, and anger sprung up between us and our men, clergy and laymen, from the time of the dispute, we have fully renounced and pardoned to all. Moreover, all transgressions committed on account of this dispute, from Easter in the sixteenth year of our reign till the restoration of peace, we have fully remitted to all, clergy and laymen, and as far as pertains to us, fully pardoned. And moreover we have caused to be made for them testimonial letters-patent of lord Stephen, archbishop of Canterbury, lord Henry, archbishop of Dublin, and of the aforesaid bishops and of Master Pandulf, in respect to that security and the concessions named above.

63. Wherefore we will and firmly command that the Church of England shall be free, and that the men in our kingdom shall have and hold all the aforesaid liberties, rights and concessions, well and peacefully, freely and quietly, fully and completely, for themselves and their heirs, from us and our heirs, in all things and places, forever, as before said. It has been sworn, moreover, as well on our part as on the part of the barons, that all these things spoken of above shall be observed in good faith and without any evil intent. Witness the above named and many others. Given by our hand in the meadow which is called Runnymede, between Windsor and Staines, on the fifteenth day of June, in the seventeenth year of our reign.

St. Thomas Aquinas: Scholasticism, Theology, and Politics

Toward the close of the Middle Ages, Aquinas united in one work the two great intellectual traditions that have shaped our civilization—the Greek classical and the Hebraic Christian He shaped the discipline of scholasticism that marks Roman Catholic thought into our own time and that influenced the development of the entire Western world The part that bears directly upon government in the modern sense is small, for his contribution to political speculation was more by the method of indirectness than directness The old questions of law and justice are given a new treatment, the ideal of a king is handled after the fashion of the time, perhaps with more emphasis upon the rôle of the people In DE REGIMINE PRINCIPUM, *Thomas deals more directly with government, but the work is not entirely his and there is nothing new in it The part on usury is included because it makes so clear the direct influence of Aristotle Note the method here especially, for it is classic scholasticism The headings make clear the part of the* SUMMA *from which the selections were taken* [1]

QUESTION 58

OF JUSTICE

FIRST ARTICLE

WHETHER JUSTICE IS FITTINGLY DEFINED AS BEING THE PERPETUAL AND CONSTANT WILL TO RENDER TO EACH ONE HIS RIGHT?

We proceed thus to the First Article—

Objection 1 It seems that lawyers have unfittingly defined justice as being *the perpetual and constant will to render to each one his right* For, according to the Philosopher (*Ethic* v), justice is a habit which makes a man *capable of doing what is just, and of being just in action and in intention* Now *will* denotes a power, or also an act Therefore justice is unfittingly defined as being a will

Obj 2 Further, Rectitude of the will is not the will, else if the will were its own rectitude, it would follow that no will is unrighteous Yet, according to Anselm (*De Veritate* xiii), justice is rectitude Therefore justice is not the will

Obj 3 Further, No will is perpetual save God's If therefore justice is a perpetual will, in God alone will there be justice

Obj 4 Further, Whatever is perpetual is constant, since it is unchangeable Therefore it is needless in defining justice, to say that it is both *perpetual* and *constant*

Obj 5 Further, It belongs to the sovereign to give each one his right Therefore, if justice gives each one his right, it follows that it is in none but the sovereign which is absurd

Obj 6 Further, Augustine says (*De Moribus Eccl* xv) that *justice is love serving God alone* Therefore it does not render to each one his right

I answer that, The aforesaid definition of justice is fitting if understood aright For since every virtue is a habit that is the principle of a good act, a virtue must needs be defined by means of the good act bearing on the matter proper to that virtue Now the proper matter of justice consists of those things that belong to our intercourse with other men, as shall

[1] From *The Summa Theologica* of Saint Thomas Aquinas, literally translated by Fathers of the English Dominican Province By permission of Benziger Brothers, Inc, New York, and Burns Oates & Washbourne Ltd, London The selections are from Volume II of the New York edition.

be shown further on (A 2) Hence the act of justice in relation to its proper matter and object is indicated in the words· *Rendering to each one his right,* since, as Isidore says (*Etym* x), *a man is said to be just because he respects the rights of others*

Now in order that an act bearing upon any matter whatever be virtuous, it requires to be voluntary, stable, and firm, because the Philosopher says (*Ethic* ii) that in order for an act to be virtuous it needs first of all to be done *knowingly*, secondly to be done *by choice*, and *for a due end*, thirdly to be done *immovably* Now the first of these is included in the second, since *what is done through ignorance is involuntary* (*Ethic* iii) Hence the definition of justice mentions first the *will*, in order to show that the act of justice must be voluntary, and mention is made afterwards of its constancy and perpetuity in order to indicate the firmness of the act

Accordingly, this is a complete definition of justice save that the act is mentioned instead of the habit which takes its species from that act because habit implies relation to act And if anyone would reduce it to the proper form of a definition, he might say that *justice is a habit whereby a man renders to each one his due by a constant and perpetual will* and this is about the same definition as that given by the Philosopher (*Ethic* v) who says that *justice is a habit whereby a man is said to be capable of doing just actions in accordance with his choice*

Reply Obj 1 Will here denotes the act, not the power and it is customary among writers to define habits by their acts thus Augustine says (*Tract in Joan* lxxix) that *faith is to believe what one sees not*

Reply Obj 2 Justice is the same as rectitude, not essentially but causally, for it is a habit which rectifies the deed and the will

Reply Obj 3 The will may be called perpetual in two ways First on the part of the will's act which endures for ever, and thus God's will alone is perpetual Secondly on the part of the subject, because, to wit, a man wills to do a certain thing always, and this is a necessary condition of justice For it does not satisfy the conditions of justice that one wish to observe justice in some particular matter for the time being, because one could scarcely find a man willing to act unjustly in every case, and it is requisite that one should have the will to observe justice at all times and in all cases

Reply Obj 4 Since *perpetual* does not imply perpetuity of the act of the will it is not superfluous to add *constant* for while the *perpetual will* denotes the purpose of observing justice always, *constant* signifies a firm perseverance in this purpose

Reply Obj 5 A judge renders to each one what belongs to him, by way of command and direction, because a judge is the *personification of justice*, and *the sovereign is its guardian* (*Ethic* v) On the other hand, the subjects render to each one what belongs to him, by way of execution

Reply Obj 6 Just as love of God includes love of our neighbour, as stated above (Q XXV, A 1), so too the service of God includes rendering to each one his due

. . .

Twelfth Article

Whether justice stands foremost among all moral virtues?

We proceed thus to the Twelfth Article —

Objection 1 It seems that justice does not stand foremost among all the moral virtues Because it belongs to justice to render to each one what is his, whereas it belongs to liberality to give of one's own, and this is more virtuous Therefore liberality is a greater virtue than justice

Obj 2 Further, Nothing is adorned by a less excellent thing than itself Now magnanimity is the ornament both of justice and of all the virtues, according to *Ethic* iv Therefore magnanimity is more excellent than justice.

Obj 3 Further, Virtue is about that which is difficult and good, as stated in *Ethic* II But fortitude is about more difficult things than justice is, since it is about dangers of death according to *Ethic* III Therefore fortitude is more excellent than justice

On the contrary, Tully says (*De Offic* I) *Justice is the most resplendent of the virtues, and gives its name to a good man*

I answer that, If we speak of legal justice it is evident that it stands foremost among all the moral virtues, for as much as the common good transcends the individual good of one person In this sense the Philosopher declares (*Ethic* V) that *the most excellent of the virtues would seem to be justice, and more glorious than the star of eve or dawn* But, even if we speak of particular justice, it excels the other moral virtues for two reasons The first reason may be taken from the subject, because justice is in the more excellent part of the soul viz the rational appetite or will whereas the other moral virtues are in the sensitive appetite whereunto appertain the passions which are the matter of the other moral virtues The second reason is taken from the object, because the other virtues are commendable in respect of the sole good of the virtuous person himself, whereas justice is praiseworthy in respect of the virtuous person being well disposed towards another so that justice is something of the good of another person, as stated in *Ethic* V Hence the Philosopher says (*Rhet* I) *The greatest virtues must needs be those which are most profitable to other persons, since virtue is a faculty of doing good to others For this reason the greatest honours are accorded the brave and the just, since bravery is useful to others in warfare, and justice is useful to others both in warfare and in time of peace*

Reply Obj 1 Although the liberal man gives of his own, yet he does so in so far as he takes into consideration the good of his own virtue, while the just man gives to another what is his, through consideration of the common good Moreover justice is observed towards all, whereas liberality cannot extend to all Again liberality which gives of a man's own is based on justice, whereby one renders to each man what is his

Reply Obj 2 When magnanimity is added to justice it increases the latter's goodness and yet without justice it would not even be a virtue

Reply Obj 3 Although fortitude is about the most difficult things, it is not about the best, for it is only useful in warfare, whereas justice is useful both in war and in peace, as stated above.

QUESTION 60

WRITTEN LAW

FIFTH ARTICLE

WHETHER WE SHOULD ALWAYS JUDGE ACCORDING TO THE WRITTEN LAW?

We proceed thus to the Fifth Article —

Objection 1 It seems that we ought not always to judge according to the written law For we ought always to avoid judging unjustly But written laws sometimes contain injustice, according to Isa X 1 *Wo to them that make wicked laws, and when they write, write injustice* Therefore we ought not always to judge according to the written law

Obj 2 Further, Judgment has to be formed about individual happenings But no written law can cover each and every individual happening, as the Philosopher declares (*Ethic* V) Therefore it seems that we are not always bound to judge according to the written law

Obj 3 Further, A law is written in order that the lawgiver's intention may be made clear But it happens sometimes that even if the lawgiver himself were present he would judge otherwise Therefore we ought not always to judge according to the written law

On the contrary, Augustine says (*De Vera Relig* XXXI) *In these earthly laws, though men judge about them when they are making them, when once they are established and passed, the judges*

may judge no longer of them, but according to them

I answer that, As stated above (A 1), judgment is nothing else but a decision or determination of what is just Now a thing becomes just in two ways first by the very nature of the case and this is called *natural right* secondly by some agreement between men, and this is called *positive right,* as stated above (Q LVII, A 2) Now laws are written for the purpose of manifesting both these rights, but in different ways For the written law does indeed contain natural right but it does not establish it, for the latter derives its force not from the law but from nature whereas the written law both contains positive right, and establishes it by giving it force of authority

Hence it is necessary to judge according to the written law else judgment would fall short either of the natural or of the positive right

Reply Obj 1 Just as the written law does not give force to the natural right so neither can it diminish or annul its force, because neither can man's will change nature Hence if the written law contains anything contrary to the natural right, it is unjust and has no binding force For positive right has no place except where it matters not according to the natural right whether a thing be done in one way or in another as stated above (Q LVII A 2, *ad* 2) Wherefore such documents are to be called, not laws, but rather corruptions of law, as stated above (I II, Q XCV, A 2) and consequently judgment should not be delivered according to them

Reply Obj 2 Even as unjust laws by their very nature are, either always or for the most part, contrary to the natural right, so too laws that are rightly established, fail in some cases, when if they were observed they would be contrary to the natural right Wherefore in such cases judgment should be delivered, not according to the letter of the law, but according to equity which the lawgiver has in view Hence the Jurist says (Dig I iii) *By no reason of law, or favour of equity, is it allowable for us to interpret harshly, and render burdensome, those useful measures which have been enacted for the welfare of man* In such cases even the lawgiver himself would decide otherwise, and if he had foreseen the case, he might have provided for it by law This suffices for the *Reply* to the *Third Objection*

Sixth Article

Whether judgment is rendered perverse by being usurped?

We proceed thus to the Sixth Article –

Objection 1 It seems that judgment is not rendered perverse by being usurped For justice is rectitude in matters of action Now truth is not impaired, no matter who tells it, but it may suffer from the person who ought to accept it Therefore again justice loses nothing, no matter who declares what is just, and this is what is meant by judgment

Obj 2 Further, It belongs to judgment to punish sins Now it is related to the praise of some that they punished sins without having authority over those whom they punished, such as Moses in slaying the Egyptian (Exod ii 12) and Phinees the son of Eleazar in slaying Zambri the son of Salu (Num xxv 7 14), and *it was reputed to him unto justice* (Ps cv 31) Therefore usurpation of judgment pertains not to injustice

Obj 3 Further, Spiritual power is distinct from temporal Now prelates having spiritual power sometimes interfere in matters concerning the secular power Therefore usurped judgment is not unlawful

Obj 4 Further, Even as the judge requires authority in order to judge aright, so also does he need justice and knowledge, as shown above (A 2) But a judgment is not described as unjust, if he who judges lacks the habit of justice or the knowledge of the law Neither therefore is it always unjust to judge by usurpation, i e without authority

On the contrary, It is written (Rom

xiv. 4): *Who art thou that judgest another man's servant?*

I answer that, Since judgment should be pronounced according to the written law, as stated above (A. 5), he that pronounces judgment, interprets, in a way, the letter of the law, by applying it to some particular case. Now since it belongs to the same authority to interpret and to make a law, just as a law cannot be made save by public authority, so neither can a judgment be pronounced except by public authority, which extends over those who are subject to the community. Wherefore even as it would be unjust for one man to force another to observe a law that was not approved by public authority, so too it is unjust, if a man compels another to submit to a judgment that is pronounced by other than the public authority.

Reply Obj. 1. When the truth is declared there is no obligation to accept it, and each one is free to receive it or not, as he wishes. On the other hand judgment implies an obligation, wherefore it is unjust for anyone to be judged by one who has no public authority.

Reply Obj. 2. Moses seems to have slain the Egyptian by authority received as it were, by divine inspiration; this seems to follow from Acts vii. 24, 25, where it is said that *striking the Egyptian... he thought that his brethren understood that God by his hand would save Israel* (Vulg.—*them*). Or it may be replied that Moses slew the Egyptian in order to defend the man who was unjustly attacked, without himself exceeding the limits of a blameless defence. Wherefore Ambrose says (*De Offic.* i.) that *whoever does not ward off a blow from a fellow man when he can, is as much in fault as the striker;* and he quotes the example of Moses. Again we may reply with Augustine (*Qq. Exod.* ii.: *Contra Faust.* xxii.) that just as *the soil gives proof of its fertility by producing useless herbs before the useful seeds have grown, so this deed of Moses was sinful although it gave a sign of great fertility,* in so far, to wit, as it was a sign of the power whereby he was to deliver his people. With regard to Phinees the reply is that *he did this out of zeal for* God by Divine inspiration; or because though not as yet high-priest, he was nevertheless the high-priest's son, and this judgment was his concern as of the other judges, to whom this was commanded.

Reply Obj. 3. The secular power is subject to the spiritual, even as the body is subject to the soul, according to Gregory Nazianzen (*Orat.* xvii.). Consequently the judgment is not usurped if the spiritual authority interferes in those temporal matters that are subject to the spiritual authority or which have been committed to the spiritual by the temporal authority.

Reply Obj. 4. The habits of knowledge and justice are perfections of the individual, and consequently their absence does not make a judgment to be usurped, as in the absence of public authority which gives a judgment its coercive force.

QUESTION 66

PROPERTY

SECOND ARTICLE

WHETHER IT IS LAWFUL FOR A MAN TO POSSESS A THING AS HIS OWN?

We proceed thus to the Second Article:—

Objection 1. It seems that it is unlawful for a man to possess a thing as his own. For whatever is contrary to the natural law is unlawful. Now according to the natural law all things are common property: and the possession of property is contrary to this community of goods. Therefore it is unlawful for any man to appropriate any external thing to himself.

Obj. 2. Further, Basil in expounding the words of the rich man, says: *The rich who deem as their own property the common goods they have seized upon, are like to those who by going beforehand to the play prevent others from coming, and appropriate to themselves what is intended for common use.* Now it would be unlawful to prevent others from obtaining possession of common goods. Therefore it is unlawful to appropriate

to oneself what belongs to the community.

Obj. 3. Further, Ambrose says (*Serm.* lxiv., *de temp.*): *Let no man call his own that which is common property*: and by *common* he means external things, as is clear from the context. Therefore it seems unlawful for a man to appropriate an external thing to himself.

On the contrary, Augustine says (*De Hæres.* xl.): *The 'Apostolici' are those who with extreme arrogance have given themselves that name, because they do not admit into their communion persons who are married or possess anything of their own, such as both monks and clerics who in considerable number are to be found in the Catholic Church.* Now the reason why these people are heretics was because, severing themselves from the Church, they think that those who enjoy the use of the above things, which they themselves lack, have no hope of salvation. Therefore it is erroneous to maintain that it is unlawful for a man to possess property.

I answer that, Two things are competent to man in respect of exterior things. One is the power to procure and dispense them, and in this regard it is lawful for man to possess property. Moreover this is necessary to human life for three reasons. First because every man is more careful to procure what is for himself alone than that which is common to many or to all: since each one would shirk the labour and leave to another that which concerns the community, as happens where there is a great number of servants. Secondly, because human affairs are conducted in more orderly fashion if each man is charged with taking care of some particular thing himself, whereas there would be confusion if everyone had to look after any one thing indeterminately. Thirdly, because a more peaceful state is ensured to man if each one is contented with his own. Hence it is to be observed that quarrels arise more frequently where there is no division of the things possessed.

The second thing that is competent to man with regard to external things is their use. In this respect man ought to possess external things, not as his own, but as common, so that, to wit, he is ready to communicate them to others in their need. Hence the Apostle says (1 Tim. vi. 17, 18): *Charge the rich of this world... to give easily, to communicate to others,* etc.

Reply Obj. 1. Community of goods is ascribed to the natural law, not that the natural law dictates that all things should be possessed in common, and that nothing should be possessed as one's own: but because the division of possessions is not according to the natural law, but rather arose from human agreement which belongs to positive law, as stated above (Q. LVII., AA. 2, 3). Hence the ownership of possessions is not contrary to the natural law, but an addition thereto devised by human reason.

Reply Obj. 2. A man would not act unlawfully if by going beforehand to the play he prepared the way for others: but he acts unlawfully if by so doing he hinders others from going. In like manner a rich man does not act unlawfully if he anticipates someone in taking possession of something which at first was common property, and gives others a share: but he sins if he excludes others indiscriminately from using it. Hence Basil says (*ibid.*): *Why are you rich while another is poor, unless it be that you may have the merit of a good stewardship, and he the reward of patience?*

Reply Obj. 3. When Ambrose says: *Let no man call his own that which is common,* he is speaking of ownership as regards use, wherefore he adds: *To spend more than enough is to take by violence.*

. . . . .

QUESTION 78
[THE SIN OF USURY]

FIRST ARTICLE
WHETHER IT IS A SIN TO TAKE USURY FOR MONEY LENT?

We proceed thus to the First Article:—

Objection 1. It seems that it is not a

sin to take usury for money lent. For no man sins through following the example of Christ. But Our Lord said of Himself (Luke xix. 23): *At My coming I might have exacted it,* i.e. the money lent, *with usury.* Therefore it is not a sin to take usury for lending money.

Obj. 2. Further, According to Ps. xviii. 8, *The law of the Lord is unspotted,* because, to wit, it forbids sin. Now usury of a kind is allowed in the Divine law, according to Deut. xxiii. 19, 20: *Thou shalt not fenerate to thy brother money, nor corn, nor any other thing, but to the stranger:* nay more, it is even promised as a reward for the observance of the Law, according to Deut. xxviii. 12: *Thou shalt fenerate* * *to many nations, and shalt not borrow of any one.* Therefore it is not a sin to take usury.

Obj. 3. Further, In human affairs justice is determined by civil laws. Now civil law allows usury to be taken. Therefore it seems to be lawful.

Obj. 4. Further, The counsels are not binding under sin. But, among other counsels we find (Luke vi. 35): *Lend, hoping for nothing thereby.* Therefore it is not a sin to take usury.

Obj. 5. Further, It does not seem to be in itself sinful to accept a price for doing what one is not bound to do. But one who has money is not bound in every case to lend it to his neighbour. Therefore it is lawful for him sometimes to accept a price for lending it.

Obj. 6. Further, Silver made into coins does not differ specifically from silver made into a vessel. But it is lawful to accept a price for the loan of a silver vessel. Therefore it is also lawful to accept a price for the loan of a silver coin. Therefore usury is not in itself a sin.

Obj. 7. Further, Anyone may lawfully accept a thing which its owner freely gives him. Now he who accepts the loan, freely gives the usury. Therefore he who lends may lawfully take the usury.

On the contrary, It is written (Exod. xxii. 25): *If thou lend money to any of thy people that is poor, that dwelleth with thee, thou shalt not be hard upon them as an extortioner, nor oppress them with usuries.*

I answer that, To take usury for money lent is unjust in itself, because this is to sell what does not exist, and this evidently leads to inequality which is contrary to justice.

In order to make this evident, we must observe that there are certain things the use of which consists in their consumption: thus we consume wine when we use it for drink, and we consume wheat when we use it for food. Wherefore in suchlike things the use of the thing must not be reckoned apart from the thing itself, and whoever is granted the use of the thing, is granted the thing itself; and for this reason, to lend things of this kind is to transfer the ownership. Accordingly if a man wanted to sell wine separately from the use of the wine, he would be selling the same thing twice, or he would be selling what does not exist, wherefore he would evidently commit a sin of injustice. In like manner he commits an injustice who lends wine or wheat, and asks for double payment, viz. one, the return of the thing in equal measure, the other, the price of the use, which is called usury.

On the other hand there are things the use of which does not consist in their consumption: thus to use a house is to dwell in it, not to destroy it. Wherefore in such things both may be granted: for instance, one man may hand over to another the ownership of his house while reserving to himself the use of it for a time, or vice versa, he may grant the use of the house, while retaining the ownership. For this reason a man may lawfully make a charge for the use of his house, and, besides this, revendicate the house from the person to whom he has granted its use, as happens in renting and letting a house.

Now money, according to the Philosopher (*Ethic.* v.: *Polit.* i.) was invented

* *Fæneraberis,—Thou shalt lend upon usury.* The Douay version has simply *lend.* The objection lays stress on the word *fæneraberis:* hence the necessity of rendering it by *fenerate.*

chiefly for the purpose of exchange and consequently the proper and principal use of money is its consumption or alienation whereby it is sunk in exchange Hence it is by its very nature unlawful to take payment for the use of money lent, which payment is known as usury and just as a man is bound to restore other ill gotten goods so is he bound to restore the money which he has taken in usury.

Reply Obj 1 In this passage usury must be taken figuratively for the increase of spiritual goods which God exacts from us, for He wishes us ever to advance in the goods which we receive from Him and this is for our own profit not for His

Reply Obj 2 The Jews were forbidden to take usury from their brethren, i e from other Jews By this we are given to understand that to take usury from any man is evil simply because we ought to treat every man as our neighbour and brother, especially in the state of the Gospel, whereto all are called Hence it is said without any distinction in Ps xiv 5 *He that hath not put out his money to usury*, and (Ezech xviii 8) *Who hath not taken usury* They were permitted, however, to take usury from foreigners, not as though it were lawful but in order to avoid a greater evil, lest to wit, through avarice to which they were prone according to Is lvi 11, they should take usury from the Jews who were worshippers of God

Where we find it promised to them as a reward, *Thou shalt fenerate to many nations*, etc, fenerating is to be taken in a broad sense for lending as in Eccles xxix 10, where we read *Many have refused to fenerate, not out of wickedness*, i e they would not lend Accordingly the Jews are promised in reward an abundance of wealth, so that they would be able to lend to others

Reply Obj 3 Human laws leave certain things unpunished, on account of the condition of those who are imperfect, and who would be deprived of many advantages, if all sins were strictly forbidden and punishments appointed for them Wherefore human law has permitted usury, not that it looks upon usury as harmonizing with justice, but lest the advantage of many should be hindered Hence it is that in civil law (Constit, Lib II, Tit 4, *De Usufructu*) it is stated that *those things according to natural reason and civil law which are consumed by being used, do not admit of usufruct*, and that *the senate did not (nor could it) appoint a usufruct to such things, but established a quasi usufruct*, namely by permitting usury Moreover the Philosopher, led by natural reason, says (*Polit* 1) that *to make money by usury is exceedingly unnatural*

Reply Obj 4 A man is not always bound to lend, and for this reason it is placed among the counsels Yet it is a matter of precept not to seek profit by lending although it may be called a matter of counsel in comparison with the maxims of the Pharisees, who deemed some kinds of usury to be lawful, just as love of one's enemies is a matter of counsel Or again, He speaks here not of the hope of usurious gain, but of the hope which is put in man For we ought not to lend or do any good deed through hope in man, but only through hope in God

Reply Obj 5 He that is not bound to lend, may accept repayment for what he has done, but he must not exact more Now he is repaid according to equality of justice if he is repaid as much as he lent Wherefore if he exacts more for the usufruct of a thing which has no other use but the consumption of its substance, he exacts a price of something non existent and so his exaction is unjust

Reply Obj 6 The principal use of a silver vessel is not its consumption, and so one may lawfully sell its use while retaining one's ownership of it On the other hand the principal use of silver money is sinking it in exchange, so that it is not lawful to sell its use and at the same time expect the restitution of the amount lent It must be observed, however, that the secondary use of silver vessels may be an exchange, and such use may not be law-

fully sold In like manner there may be some secondary use of silver money, for instance, a man might lend coins for show, or to be used as security

Reply Obj 7 He who gives usury does not give it voluntarily simply, but under a certain necessity, in so far as he needs to borrow money which the owner is unwilling to lend without usury

QUESTION 90

Of the Essence of Law

First Article

WHETHER LAW IS SOMETHING PERTAINING TO REASON?

We proceed thus to the First Article —

Objection 1 It seems that law is not something pertaining to reason For the Apostle says (Rom vii 23) *I see another law in my members,* etc But nothing pertaining to reason is in the members, since the reason does not make use of a bodily organ Therefore law is not something pertaining to reason

Obj 2 Further, in the reason there is nothing else but power, habit, and act But law is not the power itself of reason In like manner, neither is it a habit of reason because the habits of reason are the intellectual virtues of which we have spoken above (Q LVII) Nor again is it an act of reason because then law would cease, when the act of reason ceases, for instance, while we are asleep Therefore law is nothing pertaining to reason

Obj 3 Further, the law moves those who are subject to it to act aright But it belongs properly to the will to move to act, as is evident from what has been said above (Q IX, A 1) Therefore law pertains, not to the reason, but to the will, according to the words of the Jurist (*Lib* 1 *ff, De Const Prin*) *Whatsoever pleaseth the sovereign, has force of law*

On the contrary, It belongs to the law to command and to forbid But it belongs to reason to command, as stated above (Q. XVII, A 1) Therefore law is something pertaining to reason.

I answer that, Law is a rule and measure of acts, whereby man is induced to act or is restrained from acting for *lex* (law) is derived from *ligare* (to bind), because it binds one to act Now the rule and measure of human acts is the reason, which is the first principle of human acts, as is evident from what has been stated above (Q I, A 1 *ad* 3), since it belongs to the reason to direct to the end, which is the first principle in all matters of action, according to the Philosopher (*Phys* II) Now that which is the principle in any genus, is the rule and measure of that genus for instance, unity in the genus of numbers and the first movement in the genus of movements Consequently it follows that law is something pertaining to reason

Reply Obj 1 Since law is a kind of rule and measure, it may be in something in two ways First, as in that which measures and rules and since this is proper to reason, it follows that, in this way, law is in the reason alone —Secondly, as in that which is measured and ruled In this way, law is in all those things that are inclined to something by reason of some law so that any inclination arising from a law, may be called a law, not essentially but by participation as it were And thus the inclination of the members to concupiscence is called *the law of the members*

Reply Obj 2 Just as, in external action, we may consider the work and the work done for instance the work of building and the house built so in the acts of reason we may consider the act itself of reason, i e, to understand and to reason, and something produced by this act With regard to the speculative reason, this is first of all the definition, secondly, the proposition, thirdly, the syllogism or argument And since also the practical reason makes use of a syllogism in respect of the work to be done, and as the Philosopher teaches (*Ethic* VII), hence we find in the practical reason something that holds the same position in regard to operations, as, in the speculative intellect, the proposition holds in regard to con-

clusions Suchlike universal propositions of the practical intellect that are directed to actions have the nature of law And these propositions are sometimes under our actual consideration, while sometimes they are retained in the reason by means of a habit

Reply Obj 3 Reason has its power of moving from the will for it is due to the fact that one wills the end, that the reason issues its commands as regards things ordained to the end But in order that the volition of what is commanded may have the nature of law, it needs to be in accord with some rule of reason And in this sense is to be understood the saying that the will of the sovereign has the force of law, otherwise the sovereign's will would savour of lawlessness rather than of law

Second Article

WHETHER THE LAW IS ALWAYS DIRECTED TO THE COMMON GOOD

We proceed thus to the Second Article —

Objection 1 It seems that the law is not always directed to the common good as to its end For it belongs to law to command and to forbid But commands are directed to certain individual goods Therefore the end of the law is not always the common good

Obj 2 Further, the law directs man in his actions But human actions are concerned with particular matters Therefore the law is directed to some particular good

Obj 3 Further, Isidore says (*Etym* II) *If the law is based on reason, whatever is based on reason will be a law* But reason is the foundation not only of what is ordained to the common good, but also of that which is directed to private good Therefore the law is not only directed to the good of all, but also to the private good of an individual

On the contrary, Isidore says (*Etym* V) that *laws are enacted for no private profit, but for the common benefit of the citizens*

I answer that, As stated above (A. 1), the law belongs to that which is a principle of human acts, because it is their rule and measure Now as reason is a principle of human acts, so in reason itself there is something which is the principle in respect of all the rest wherefore to this principle chiefly and mainly law must needs be referred —Now the first principle in practical matters, which are the object of the practical reason, is the last end and the last end of human life is bliss or happiness, as stated above (Q II, A 7, Q III, A 1) Consequently the law must needs regard principally the relationship to happiness Moreover since every part is ordained to the whole, as imperfect to perfect, and since one man is a part of the perfect community, the law must needs regard properly the relationship to universal happiness Wherefore the Philosopher, in the above definition of legal matters mentions both happiness and the body politic for he says (*Ethic* V) that we call those legal matters *just, which are adapted to produce and preserve happiness and its parts for the body politic* since the state is a perfect community, as he says in *Polit* I

Now in every genus, that which belongs to it chiefly is the principle of the others, and the others belong to that genus in subordination to that thing thus fire which is chief among hot things, is the cause of heat in mixed bodies, and these are said to be hot in so far as they have a share of fire Consequently, since the law is chiefly ordained to the common good, any other precept in regard to some individual work, must needs be devoid of the nature of a law, save in so far as it regards the common good Therefore every law is ordained to the common good

Reply Obj 1 A command denotes an application of a law to matters regulated by the law Now the order to the common good, at which the law aims, is applicable to particular ends And in this way commands are given even concerning particular matters

Reply Obj 2 Actions are indeed concerned with particular matters but those

particular matters are referable to the common good, not as to a common genus or species, but as to a common final cause, according as the common good is said to be the common end.

Reply Obj. 3. Just as nothing stands firm with regard to the speculative reason except that which is traced back to the first indemonstrable principles, so nothing stands firm with regard to the practical reason, unless it be directed to the last end which is the common good: and whatever stands to reason in this sense, has the nature of a law.

Third Article

whether the reason of any man is competent to make laws?

We proceed thus to the Third Article:—

Objection 1. It seems that the reason of any man is competent to make laws. For the Apostle says (Rom. ii. 14) that *when the Gentiles, who have not the law, do by nature those things that are of the law,... they are a law to themselves.* Now he says this of all in general. Therefore anyone can make a law for himself.

Obj. 2. Further, as the Philosopher says (*Ethic.* ii.), *the intention of the lawgiver is to lead men to virtue.* But every man can lead another to virtue. Therefore the reason of any man is competent to make laws.

Obj. 3. Further, just as the sovereign of a state governs the state, so every father of a family governs his household. But the sovereign of a state can make laws for the state. Therefore every father of a family can make laws for his household.

On the contrary, Isidore says (*Etym.* v.; and the passage is quoted in *Decretals, Dist.* 2): *A law is an ordinance of the people, whereby something is sanctioned by the Elders together with the Commonalty.*

I answer that, A law, properly speaking, regards first and foremost the order to the common good. Now to order anything to the common good, belongs either to the whole people, or to someone who is the vicegerent of the whole people. And therefore the making of a law belongs either to the whole people or to a public personage who has care of the whole people: since in all other matters the directing of anything to the end concerns him to whom the end belongs.

Reply Obj. 1. As stated above (A. 1 *ad* 1), a law is in a person not only as in one that rules, but also by participation as in one that is ruled. In the latter way each one is a law to himself, in so far as he shares the direction that he receives from one who rules him. Hence the same text goes on: *Who show the work of the law written in their hearts.*

Reply Obj. 2. A private person cannot lead another to virtue efficaciously: for he can only advise, and if his advice be not taken, it has no coercive power, such as the law should have, in order to prove an efficacious inducement to virtue, as the Philosopher says (*Ethic.* x.). But this coercive power is vested in the whole people or in some public personage, to whom it belongs to inflict penalties, as we shall state further on (Q. XCII., A. 2 *ad* 3; II.-II., Q. LXIV., A. 3). Wherefore the framing of laws belongs to him alone.

Reply Obj. 3. As one man is a part of the household, so a household is a part of the state: and the state is a perfect community, according to *Polit.* i. And therefore, as the good of one man is not the last end, but is ordained to the common good; so too the good of one household is ordained to the good of a single state, which is a perfect community. Consequently he that governs a family, can indeed make certain commands or ordinances, but not such as to have properly the force of law.

Fourth Article

whether promulgation is essential to a law?

We proceed thus to the Fourth Article:—

Objection 1. It seems that promulgation is not essential to a law. For the natu-

ral law above all has the character of law. But the natural law needs no promulgation. Therefore it is not essential to a law that it be promulgated.

Obj. 2. Further, it belongs properly to a law to bind one to do or not to do something. But the obligation of fulfilling a law touches not only those in whose presence it is promulgated, but also others. Therefore promulgation is not essential to a law.

Obj. 3. Further, the binding force of a law extends even to the future, since *laws are binding in matters of the future,* as the jurists say (*Cod.* i., tit. *De lege et constit.*). But promulgation concerns those who are present. Therefore it is not essential to a law.

On the contrary. It is laid down in the *Decretals* (*Append. Grat.*) that *laws are established when they are promulgated.*

I answer that, As stated above (A. 1), a law is imposed on others by way of a rule and measure. Now a rule or measure is imposed by being applied to those who are to be ruled and measured by it. Wherefore, in order that a law obtain the binding force which is proper to a law, it must needs be applied to the men who have to be ruled by it. Such application is made by its being notified to them by promulgation. Wherefore promulgation is necessary for the law to obtain its force.

Thus from the four preceding articles, the definition of law may be gathered; and it is nothing else than an ordinance of reason for the common good, made by him who has care of the community, and promulgated.

Reply Obj. 1. The natural law is promulgated by the very fact that God instilled it into man's mind so as to be known by him naturally.

Reply Obj. 2. Those who are not present when a law is promulgated, are bound to observe the law, in so far as it is notified or can be notified to them by others, after it has been promulgated.

Reply Obj. 3. The promulgation that takes place now, extends to future time by reason of the durability of written characters, by which means it is continually promulgated. Hence Isidore says (*Etym.* ii.) that *lex* (law) *is derived from legere* (to read) *because it is written.*

QUESTION 91

OF THE VARIOUS KINDS OF LAW

FIRST ARTICLE

WHETHER THERE IS AN ETERNAL LAW?

We proceed thus to the First Article:—

Objection 1. It seems that there is no eternal law. Because every law is imposed on someone. But there was not someone from eternity on whom a law could be imposed: since God alone was from eternity. Therefore no law is eternal.

Obj. 2. Further, promulgation is essential to law. But promulgation could not be from eternity: because there was no one to whom it could be promulgated from eternity. Therefore no law can be eternal.

Obj. 3. Further, a law implies order to an end. But nothing ordained to an end is eternal: for the last end alone is eternal. Therefore no law is eternal.

On the contrary, Augustine says (*De Lib. Arb.* i.): *That Law which is the Supreme Reason cannot be understood to be otherwise than unchangeable and eternal.*

I answer that, As stated above (Q. XC., A. 1 *ad* 2; AA. 3, 4), a law is nothing else but a dictate of practical reason emanating from the ruler who governs a perfect community. Now it is evident, granted that the world is ruled by Divine Providence, as was stated in the First Part (Q. XXII., AA. 1, 2), that the whole community of the universe is governed by Divine Reason. Wherefore the very Idea of the government of things in God the Ruler of the universe, has the nature of a law. And since the Divine Reason's conception of things is not subject to time but is eternal, according to Prov. viii. 23, therefore it is that this kind of law must be called eternal.

Reply Obj 1 Those things that are not in themselves, exist with God, inasmuch as they are foreknown and predestined by Him, according to Rom iv 17 *Who calls those things that are not as those that are* Accordingly the eternal concept of the Divine law bears the character of an eternal law, in so far as it is ordained by God to the government of things foreknown by Him

Reply Obj 2 Promulgation is made by word of mouth or in writing and in both ways the eternal law is promulgated because both the Divine Word and the writing of the Book of Life are eternal But the promulgation cannot be from eternity on the part of the creature that hears or reads

Reply Obj 3 The law implies order to the end actively, in so far as it directs certain things to the end but not passively,—that is to say the law itself is not ordained to the end,—except accidentally, in a governor whose end is extrinsic to him, and to which end his law must needs be ordained But the end of the Divine government is God Himself, and His law is not distinct from Himself Wherefore the eternal law is not ordained to another end

SECOND ARTICLE

WHETHER THERE IS IN US A NATURAL LAW?

We proceed thus to the Second Article —

Objection 1 It seems that there is no natural law in us Because man is governed sufficiently by the eternal law for Augustine says (*De Lib Arb* 1) that *the eternal law is that by which it is right that all things should be most orderly* But nature does not abound in superfluities as neither does she fail in necessaries Therefore no law is natural to man

Obj 2 Further, by the law man is directed, in his acts, to the end, as stated above (Q XC, A 2) But the directing of human acts to their end is not a function of nature, as is the case in irrational creatures, which act for an end solely by their natural appetite, whereas man acts for an end by his reason and will Therefore no law is natural to man

Obj 3 Further, the more a man is free, the less is he under the law But man is freer than all the animals, on account of his free will, with which he is endowed above all other animals Since therefore other animals are not subject to a natural law, neither is man subject to a natural law

On the contrary, The gloss on Rom ii 14 *When the Gentiles, who have not the law, do by nature those things that are of the law* comments as follows *Although they have no written law, yet they have the natural law whereby each one knows, and is conscious of, what is good and what is evil*

I answer that, As stated above (Q XC, A 1 *ad* 1), law, being a rule and measure, can be in a person in two ways in one way, as in him that rules and measures, in another way, as in that which is ruled and measured, since a thing is ruled and measured, in so far as it partakes of the rule or measure Wherefore, since all things subject to Divine providence are ruled and measured by the eternal law, as was stated above (A 1), it is evident that all things partake somewhat of the eternal law, in so far as, namely, from its being imprinted on them, they derive their respective inclinations to their proper acts and ends Now among all others, the rational creature is subject to Divine providence in the most excellent way, in so far as it partakes of a share of providence, by being provident both for itself and for others Wherefore it has a share of the Eternal Reason, whereby it has a natural inclination to its proper act and end and this participation of the eternal law in the rational creature is called the natural law Hence the Psalmist after saying (Ps iv 6) *Offer up the sacrifice of justice,* as though someone asked what the works of justice are, adds *Many say, Who showeth us good things?* in answer to which question he says. *The light of Thy countenance, O Lord, is signed upon us*· thus implying that the light of natural reason, whereby we dis-

cern what is good and what is evil, which is the function of the natural law, is nothing else than an imprint on us of the Divine light It is therefore evident that the natural law is nothing else than the rational creature's participation of the eternal law

Reply Obj 1 This argument would hold, if the natural law were something different from the eternal law whereas it is nothing but a participation thereof, as stated above

Reply Obj 2 Every act of reason and will in us is based on that which is according to nature, as stated above (Q X, A 1) for every act of reasoning is based on principles that are known naturally, and every act of appetite in respect of the means is derived from the natural appetite in respect of the last end Accordingly the first direction of our acts to their end must needs be in virtue of the natural law

Reply Obj 3 Even irrational animals partake in their own way of the Eternal Reason just as the rational creature does But because the rational creature partakes thereof in an intellectual and rational manner therefore the participation of the eternal law in the rational creature is properly called a law since a law is something pertaining to reason, as stated above (Q XC, A 1) Irrational creatures, however, do not partake thereof in a rational manner, wherefore there is no participation of the eternal law in them, except by way of similitude

Third Article

whether there is a human law?

We proceed thus to the Third Article —

Objection 1 It seems that there is not a human law For the natural law is a participation of the eternal law, as stated above (A 2) Now through the eternal law *all things are most orderly*, as Augustine states (*De Lib Arb* 1) Therefore the natural law suffices for the ordering of all human affairs Consequently there is no need for a human law

Obj 2 Further, a law bears the character of a measure, as stated above (Q XC, A 1) But human reason is not a measure of things, but vice versa (*cf Metaph* x) Therefore no law can emanate from human reason

Obj 3 Further, a measure should be most certain, as stated in *Metaph* x But the dictates of human reason in matters of conduct are uncertain, according to Wis ix 14 *The thoughts of mortal men are fearful, and our counsels uncertain* Therefore no law can emanate from human reason

On the contrary, Augustine (*De Lib Arb* 1) distinguishes two kinds of law, the one eternal, the other temporal, which he calls human

I answer that, As stated above (Q XC, A 1, *ad* 2), a law is a dictate of the practical reason Now it is to be observed that the same procedure takes place in the practical and in the speculative reason for each proceeds from principles to conclusions, as stated above (*ibid*) Accordingly we conclude that just as, in the speculative reason, from naturally known indemonstrable principles, we draw the conclusions of the various sciences, the knowledge of which is not imparted to us by nature, but acquired by the efforts of reason, so too it is from the precepts of the natural law, as from general, and indemonstrable principles, that the human reason needs to proceed to the more particular determination of certain matters These particular determinations, devised by human reason, are called human laws provided the other essential conditions of law be observed, as stated above (Q XC, AA 2, 3, 4) Wherefore Tully says in his *Rhetoric* (*De Invent Rhet* II) that *justice has its source in nature, thence certain things came into custom by reason of their utility, afterwards these things which emanated from nature and were approved by custom, were sanctioned by fear and reverence for the law*

Reply Obj 1 The human reason cannot have a full participation of the dictate of the Divine Reason, but according to its own mode, and imperfectly Con

sequently as on the part of the specula tive reason, by a natural participation of Divine Wisdom, there is in us the knowl edge of certain general principles, but not proper knowledge of each single truth, such as that contained in the Divine Wis dom, so too on the part of the practical reason, man has a natural participation of the eternal law, according to certain general principles, but not as regards the particular determinations of individual cases, which are, however, contained in the eternal law Hence the need for human reason to proceed further to sanc tion them by law

Reply Obj 2 Human reason is not, of itself, the rule of things but the prin ciples impressed on it by nature, are gen eral rules and measures of all things re lating to human conduct whereof the natural reason is the rule and measure, although it is not the measure of things that are from nature

Reply Obj 3 The practical reason is concerned with practical matters, which are singular and contingent but not with necessary things, with which the specula tive reason is concerned Wherefore human laws cannot have that inerrancy that belongs to the demonstrated con clusions of sciences Nor is it necessary for every measure to be altogether un erring and certain but according as it is possible in its own particular genus

Fourth Article

Whether there was any need for a divine law?

We proceed thus to the Fourth Ar ticle —

Objection 1 It seems that there was no need for a Divine law Because as stated above (A 2) the natural law is a par ticipation in us of the eternal law But the eternal law is a Divine law, as stated above (A 1) Therefore there is no need for a Divine law in addition to the natural law, and human laws derived therefrom

Obj 2 Further, it is written (Ecclus xv 14) that *God left man in the hand of his own counsel* Now counsel is an act of reason, as stated above (Q XIV, A 1) Therefore man was left to the direction of his reason But a dictate of human rea son is a human law, as stated above (A 3) Therefore there is no need for man to be governed also by a Divine law

Obj 3 Further, human nature is more self sufficing than irrational creatures But irrational creatures have no Divine law besides the natural inclination im pressed on them Much less, therefore, should the rational creature have a Di vine law in addition to the natural law

On the contrary, David prayed God to set His law before him, saying *Set before me for a law the way of Thy justifications, O Lord*

I answer that, Besides the natural and the human law it was necessary for the directing of human conduct to have a Divine law And this for four reasons First, because it is by law that man is directed how to perform his proper acts in view of his last end And indeed if man were ordained to no other end than that which is proportionate to his natural faculty, there would be no need for man to have any further direction on the part of his reason, besides the natural law and human law which is derived from it But since man is ordained to an end of eternal happiness which is inproportion ate to man's natural faculty, as stated above (Q V, A 5), therefore it was neces sary that, besides the natural and the human law, man should be directed to his end by a law given by God

Secondly because, on account of the un certainty of human judgment, especially on contingent and particular matters, dif ferent people form different judgments on human acts whence also different and contrary laws result In order, therefore, that man may know without any doubt what he ought to do and what he ought to avoid, it was necessary for man to be directed in his proper acts by a law given by God, for it is certain that such a law cannot err

Thirdly, because man can make laws in those matters of which he is competent

to judge But man is not competent to judge of interior movements, that are hidden, but only of exterior acts which appear and yet for the perfection of virtue it is necessary for man to conduct himself aright in both kinds of acts Consequently human law could not sufficiently curb and direct interior acts, and it was necessary for this purpose that a Divine law should supervene

Fourthly, because, as Augustine says (*De Lib Arb* 1), human law cannot punish or forbid all evil deeds since while aiming at doing away with all evils, it would do away with many good things, and would hinder the advance of the common good, which is necessary for human intercourse In order, therefore, that no evil might remain unforbidden and unpunished, it was necessary for the Divine law to supervene, whereby all sins are forbidden

And these four causes are touched upon in Ps cxviii 8, where it is said *The law of the Lord is unspotted, i e*, allowing no foulness of sin, *converting souls*, because it directs not only exterior but also interior acts, *the testimony of the Lord is faithful*, because of the certainty of what is true and right *giving wisdom to little ones*, by directing man to an end supernatural and Divine

Reply Obj 1 By the natural law the eternal law is participated proportionately to the capacity of human nature But to his supernatural end man needs to be directed in a yet higher way Hence the additional law given by God, whereby man shares more perfectly in the eternal law

Reply Obj 2 Counsel is a kind of inquiry hence it must proceed from some principles Nor is it enough for it to proceed from principles implanted by nature, which are the precepts of the natural law, for the reasons given above but there is need for certain additional principles, namely, the precepts of the Divine law

Reply Obj 3 Irrational creatures are not ordained to an end higher than that which is proportionate to their natural powers consequently the comparison fails.

QUESTION 105

Of the Reason for the Judicial Precepts

First Article

whether the old law enjoined fitting precepts concerning rulers?

We proceed thus to the First Article –

Objection 1 It seems that the Old Law made unfitting precepts concerning rulers Because, as the Philosopher says (*Polit* iii), *the ordering of the people depends mostly on the chief ruler* But the Law contains no precept relating to the institution of the chief ruler, and yet we find therein prescriptions concerning the inferior rulers firstly (Exod xviii 21) *Provide out of all the people wise* (Vulg, *–able*) *men*, etc, again (Num xi 16) *Gather unto Me seventy men of the ancients of Israel*, and again (Deut i 13) *Let Me have from among you wise and understanding men*, etc Therefore the Law provided insufficiently in regard to the rulers of the people

Obj 2 Further, *The best gives of the best*, as Plato states (*Tim* ii) Now the best ordering of a state or of any nation is to be ruled by a king because this kind of government approaches nearest in resemblance to the Divine government, whereby God rules the world from the beginning Therefore the Law should have set a king over the people and they should not have been allowed a choice in the matter, as indeed they were allowed (Deut xvii 14, 15) *When thou shalt say I will set a king over me thou shalt set him*, etc

Obj 3 Further, according to Matth xii 25 *Every kingdom divided against itself shall be made desolate* a saying which was verified in the Jewish people, whose destruction was brought about by the division of the kingdom But the Law should aim chiefly at things pertaining to the general well being of the people Therefore it should have forbidden the kingdom to be divided under two kings nor should this have been introduced even

by Divine authority; as we read of its being introduced by the authority of the prophet Ahias the Silonite (3 Kings xi. 29 *seq.*).

Obj. 4. Further, just as priests are instituted for the benefit of the people in things concerning God, as stated in Heb. v. 1; so are rulers set up for the benefit of the people in human affairs. But certain things were allotted as a means of livelihood for the priests and Levites of the Law: such as the tithes and first-fruits, and many like things. Therefore in like manner certain things should have been determined for the livelihood of the rulers of the people: the more that they were forbidden to accept presents, as is clearly stated in Exod. xxiii. 8: *You shall not* (Vulg.,—*Neither shalt thou*) *take bribes, which even blind the wise, and pervert the words of the just.*

Obj. 5. Further, as a kingdom is the best form of government, so is tyranny the most corrupt. But when the Lord appointed the king, He established a tyrannical law; for it is written (1 Kings viii. 11): *This will be the right of the king, that shall reign over you: He will take your sons,* etc. Therefore the Law made unfitting provision with regard to the institution of rulers.

On the contrary, The people of Israel is commended for the beauty of its order (Num. xxiv. 5): *How beautiful are thy tabernacles, O Jacob, and thy tents, O Israel.* But the beautiful ordering of a people depends on the right establishment of its rulers. Therefore the Law made right provision for the people with regard to its rulers.

I answer that, Two points are to be observed concerning the right ordering of rulers in a state or nation. One is that all should take some share in the government: for this form of constitution ensures peace among the people, commends itself to all, and is most enduring, as stated in *Polit.* ii. The other point is to be observed in respect of the kinds of government, or the different ways in which the constitutions are established. For whereas these differ in kind, as the Philosopher states (*Polit.* iii.), nevertheless the first place is held by the *kingdom,* where the power of government is vested in one; and *aristocracy,* which signifies government by the best, where the power of government is vested in a few. Accordingly, the best form of government is in a state or kingdom, wherein one is given the power to preside over all; while under him are others having governing powers: and yet a government of this kind is shared by all, both because all are eligible to govern, and because the rulers are chosen by all. For this is the best form of polity, being partly kingdom, since there is one at the head of all; partly aristocracy, in so far as a number of persons are set in authority; partly democracy, i.e., government by the people, in so far as the rulers can be chosen from the people, and the people have the right to choose their rulers.

Such was the form of government established by the Divine Law. For Moses and his successors governed the people in such a way that each of them was ruler over all; so that there was a kind of kingdom. Moreover, seventy-two men were chosen, who were elders in virtue: for it is written (Deut. i. 15): *I took out of your tribes men wise and honourable, and appointed them rulers:* so that there was an element of aristocracy. But it was a democratical government in so far as the rulers were chosen from all the people; for it is written (Exod. xviii. 21): *Provide out of all the people wise* (Vulg.,—*able*) *men,* etc.; and, again, in so far as they were chosen by the people; wherefore it is written (Deut. i. 13): *Let me have from among you wise* (Vulg.,—*able*) *men,* etc. Consequently it is evident that the ordering of the rulers was well provided for by the Law.

Reply Obj. 1. This people was governed under the special care of God: wherefore it is written (Deut. vii. 6): *The Lord thy God hath chosen thee to be His peculiar people:* and this is why the Lord reserved to Himself the institution of the chief ruler. For this too did Moses pray (Num. xxvii. 16): *May the Lord the God of the spirits of all the flesh provide a man, that may be over this multitude.* Thus by God's

orders Josue was set at the head in place of Moses: and we read about each of the judges who succeeded Josue that God *raised ... up a saviour* for the people, and that *the spirit of the Lord was* in them (Judges iii. 9, 10, 15). Hence the Lord did not leave the choice of a king to the people; but reserved this to Himself, as appears from Deut. xvii. 15: *Thou shalt set him whom the Lord thy God shall choose.*

Reply Obj. 2. A kingdom is the best form of government of the people, so long as it is not corrupt. But since the power granted to a king is so great, it easily degenerates into tyranny, unless he to whom this power is given be a very virtuous man: for it is only the virtuous man that conducts himself well in the midst of prosperity, as the Philosopher observes (*Ethic.* iv.). Now perfect virtue is to be found in few: and especially were the Jews inclined to cruelty and avarice, which vices above all turn men into tyrants. Hence from the very first the Lord did not set up the kingly authority with full power, but gave them judges and governors to rule them. But afterwards when the people asked Him to do so, being indignant with them, so to speak, He granted them a king, as is clear from His words to Samuel (1 Kings viii. 7): *They have not rejected thee, but Me, that I should not reign over them.*

Nevertheless, as regards the appointment of a king, He did establish the manner of election from the very beginning (Deut. xvii. 14, *seqq.*): and then He determined two points: first, that in choosing a king they should wait for the Lord's decision; and that they should not make a man of another nation king, because such kings are wont to take little interest in the people they are set over, and consequently to have no care for their welfare:—secondly, He prescribed how the king after his appointment should behave, in regard to himself; namely, that he should not accumulate chariots and horses, nor wives, nor immense wealth: because through craving for such things princes become tyrants and forsake justice. —He also appointed the manner in which they were to conduct themselves towards God: namely, that they should continually read and ponder on God's Law, and should ever fear and obey God.—Moreover, He decided how they should behave towards their subjects: namely, that they should not proudly despise them, or illtreat them, and that they should not depart from the paths of justice.

Reply Obj. 3. The division of the kingdom, and a number of kings, was rather a punishment inflicted on that people for their many dissensions, specially against the just rule of David, than a benefit conferred on them for their profit. Hence it is written (Osee xiii. 11): *I will give thee a king in My wrath;* and (*ibid.* viii. 4): *They have reigned, but not by Me: they have been princes, and I knew not.*

Reply Obj. 4. The priestly office was bequeathed by succession from father to son: and this, in order that it might be held in greater respect, if not any man from the people could become a priest: since honour was given to them out of reverence for the divine worship. Hence it was necessary to put aside certain things for them both as to tithes and as to firstfruits, and, again, as to oblations and sacrifices, that they might be afforded a means of livelihood. On the other hand, the rulers, as stated above, were chosen from the whole people; wherefore they had their own possessions, from which to derive a living: and so much the more, since the Lord forbade even a king to have superabundant wealth for to make too much show of magnificence: both because he could scarcely avoid the excesses of pride and tyranny, arising from such things, and because, if the rulers were not very rich, and if their office involved much work and anxiety, it would not tempt the ambition of the common people; and would not become an occasion of sedition.

Reply Obj. 5. That right was not given to the king by Divine institution: rather was it foretold that kings would usurp that right, by framing unjust laws, and by degenerating into tyrants who preyed on

their subjects This is clear from the context that follows *And you shall be his slaves* (Douay, *servants*) which is significative of tyranny, since a tyrant rules his subjects as though they were his slaves Hence Samuel spoke these words to deter them from asking for a king, since the narrative continues *But the people would not hear the voice of Samuel*—It may happen, however, that even a good king without being a tyrant, may take away the sons, and make them tribunes and centurions, and may take many things from his subjects in order to secure the common weal

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Dante: Peace and Concord Under Universal Monarchy

The turmoil, warfare, and insecurity in late thirteenth- and early fourteenth-century Italy impelled Dante to write De Monarchia. *It is an appeal for, and a justification of, a single emperor who would restore order to Italy and the world His plea is for unity, law, and order through a Roman Empire and Church working together in harmony But even as Dante wrote (1310-1313), the time was past when there could be any turning back to the old ideal The modern era was at dawn. In the three books of* De Monarchia, *Dante discusses three questions The necessity of monarchy for the welfare of the world, the assumption of empire by the Romans, and the source of the monarch's authority "The Philosopher" is Aristotle, of course. The selection that follows is Dante's answer, in part, to the first and third questions.*[1]

BOOK I

[Temporal Monarchy]

II—First, therefore, we must see what is it that is called Temporal Monarchy, in its idea, so to speak, and according to its purpose. Temporal Monarchy, then, or, as men call it, the Empire, is the government of one prince above all men in time, or in those things and over those things which are measured by time Three great questions are asked concerning it First, there is the doubt and the question, is it necessary for the welfare of the world? Secondly, did the Roman people take to itself by right the office of Monarchy? And thirdly, does the authority of Monarchy come from God directly, or only from some other minister or vicar of God?

Now, since every truth, which is not itself a first principle, becomes manifest from the truth of some first principle, it is therefore necessary in every inquiry to have a knowledge of the first principle involved, to which by analysis we may go back for the certainty of all the propositions which are afterwards accepted And since this treatise is an inquiry, we must begin by examining the first principle on the strength of which deductions are to rest It must be understood then that there are certain things which, since they are not subject to our power, are matters of speculation, but not of action such are Mathematics and Physics, and things divine. But there are some things which, since they are subject to our power, are matters of action as well as of speculation, and in them we do not act for the sake

[1] From Dante Alighieri, *De Monarchia*, translated by F J Church, 1879 By permission of The Macmillan Company, London, publishers. Footnotes are selected and edited

of speculation, but contrariwise for in such things action is the end Now, since the matter which we have in hand has to do with states, nay with the very origin and principle of good forms of government and since all that concerns states is subject to our power, it is manifest that our subject is not in the first place speculation, but action And again since in matters of action the end sought is the first principle and cause of all (for that it is which first moves the agent to act) it follows that all our method concerning the means which are set to gain the end must be taken from the end For there will be one way of cutting wood to build a house, and another to build a ship That therefore, if it exists, which is the ultimate end for the universal civil order of mankind, will be the first principle from which all the truth of our future deductions will be sufficiently manifest But it is folly to think that there is an end for this and for that particular civil order and yet not one end for all

III—Now, therefore we must see what is the end of the whole civil order of men, and when we have found this then as the Philosopher [2] says in his book to Nichomachus, the half of our labour will have been accomplished And to render the question clearer we must observe that as there is a certain end for which nature makes the thumb and another, different from this, for which she makes the whole hand, and again another for which she makes the arm and another different from all for which she makes the whole man, so there is one end for which she orders the individual man and another for which she orders the family and another end for the city and another for the kingdom, and finally an ultimate one for which the Everlasting God, by His art which is nature, brings into being the whole human race And this is what we seek as a first principle to guide our whole inquiry

Let it then be understood that God and nature make nothing to be idle Whatever comes into being exists for some operation or working For no created essence is an ultimate end in the creator's purpose, so far as he is a creator but rather the proper operation of that essence Therefore it follows that the operation does not exist for the sake of the essence, but the essence for the sake of the operation

There is therefore a certain proper operation of the whole body of humankind for which this whole body of men in all its multitudes is ordered and constituted but to which no one man nor single family nor single neighbourhood nor single city nor particular kingdom can attain What this is will be manifest if we can find what is the final and characteristic capacity of humanity is a whole I say then that no quality which is shared by different species of things is the distinguishing capacity of any one of them For were it so, since this capacity is that which makes each species what it is it would follow that one essence would be specifically distributed to many species which is impossible Therefore the ultimate quality of men is not existence, taken simply, for the elements share therein Nor is it existence under certain conditions for we find this in minerals too Nor is it existence with life for plants too have life Nor is it percipient existence for brutes share in this power It is to be percipient with the possibility of understanding, for this quality falls to the lot of none but man either above or below him For though there are other beings which with him have understanding yet this understanding is not, as man's, capable of development For such beings are only certain intellectual natures, and not anything besides, and their being is nothing other than to understand which is without interruption, otherwise they would not be eternal It is plain, therefore, that the distinguishing quality of humanity is the faculty or the power of understanding

And because this faculty cannot be realised in act in its entirety at one time

[2] The common title for Aristotle from the first half of the thirteenth century.

by a single man, nor by any of the individual societies which we have marked, therefore there must be multitude in the human race, in order to realise it just as it is necessary that there should be a multitude of things which can be brought into being[3] so that the capacity of the primal matter for being acted on may be ever open to what acts on it For if this were not so, we could speak of a capacity apart from its substance, which is impossible And with this opinion Averroes, in his comment on [Aristotle's] treatise on the Soul, agrees For the capacity for understanding, of which I speak, is concerned not only with universal forms or species, but also, by a kind of extension, with particular ones Therefore it is commonly said that the speculative understanding becomes practical by extension, and then its end is to do and to make This I say in reference to things which may be *done*, which are regulated by political wisdom, and in reference to things which may be *made*, which are regulated by art, all which things wait as handmaidens on the speculative intellect, as on that best good, for which the Primal Goodness created the human race Hence the saying of the Politics[4] that those who are strong in understanding are the natural rulers of others

IV—It has thus been sufficiently set forth that the proper work of the human race, taken as a whole, is to set in action the whole capacity of that understanding which is capable of development first in the way of speculation and then, by its extension, in the way of action And seeing that what is true of a part is true also of the whole, and that it is by rest and quiet that the individual man becomes perfect in wisdom and prudence, so the human race, by living in the calm and tranquillity of peace, applies itself most freely and easily to its proper work, a work which, according to the saying, Thou hast made him a little lower than the angels," is almost divine Whence it is manifest that of all things that are ordered to secure blessings to men, peace is the best And hence the word which sounded to the shepherds from above was not riches nor pleasure, nor honour, nor length of life, nor health, nor strength, nor beauty but peace For the heavenly host said "Glory to God in the highest, and on earth, peace to men of goodwill" Therefore also, "Peace be with you," was the salutation of the Saviour of mankind For it behoved Him who was the greatest of saviours, to utter in His greeting the greatest of saving blessings And this custom His disciples too chose to preserve, and Paul also did the same in his greetings, as may appear manifest to all

Now that we have declared these matters, it is plain what is the better, nay the best, way in which mankind may attain to do its proper work And consequently we have seen the readiest means by which to arrive at the point, for which all our works are ordered, as their ultimate end, namely, the universal peace, which is to be assumed as the first principle for our deductions As we said, this assumption was necessary, for it is as a sign post to us, that into it we may resolve all that has to be proved, as into a most manifest truth

V—As therefore we have already said, there are three doubts, and these doubts suggest three questions, concerning Temporal Monarchy, which in more common speech is called the Empire, and our purpose is, as we explained, to inquire concerning these questions in their given order, and starting from the first principle which we have just laid down The first question, then, is whether Temporal Monarchy is necessary for the welfare of the world and that it is necessary can, I think be shown by the strongest and most manifest arguments, for nothing, either of reason or of authority, opposes me Let us first take the authority of the Philosopher in his Politics[5] There, on his venerable authority, it is said that where a number of things are arranged to attain

[3] "*Generabilium*"

[4] Arist *Polit* 1 5, 6—(W)

[5] Arist *Polit* 1 5

an end, it behoves one of them to regulate or govern the others, and the others to submit. And it is not only the authority of his illustrious name which makes this worthy of belief, but also reason, instancing particulars.

If we take the case of a single man, we shall see the same rule manifested in him: all his powers are ordered to gain happiness; but his understanding is what regulates and governs all the others; and otherwise he would never attain to happiness. Again, take a single household: its end is to fit the members thereof to live well; but there must be one to regulate and rule it, who is called the father of the family, or, it may be, one who holds his office. As the Philosopher says: "Every house is ruled by the oldest."[6] And, as Homer says, it is his duty to make rules and laws for the rest. Hence the proverbial curse: "Mayst thou have an equal at home." Take a single village: its end is suitable assistance as regards persons and goods, but one in it must be the ruler of the rest, either set over them by another, or with their consent, the head man amongst them. If it be not so, not only do its inhabitants fail of this mutual assistance, but the whole neighbourhood is sometimes wholly ruined by the ambition of many, who each of them wish to rule. If, again, we take a single city: its end is to secure a good and sufficient life to the citizens; but one man must be ruler in imperfect[7] as well as in good forms of the state. If it is otherwise, not only is the end of civil life lost, but the city too ceases to be what it was. Lastly, if we take any one kingdom, of which the end is the same as that of a city, only with greater security for its tranquillity, there must be one king to rule and govern. For if this is not so, not only do his subjects miss their end, but the kingdom itself falls to destruction, according to that word of the infallible truth: "Every kingdom divided against itself shall be brought to desolation." If then this holds good in these cases, and in each individual thing which is ordered to one certain end, what we have laid down is true.

Now it is plain that the whole human race is ordered to gain some end, as has been before shown. There must, therefore, be one to guide and govern, and the proper title for this office is Monarch or Emperor. And so it is plain that Monarchy or the Empire is necessary for the welfare of the world.

VI.—And as the part is to the whole, so is the order of parts to the order of the whole. The part is to the whole, as to an end and highest good which is aimed at; and, therefore, the order in the parts is to the order in the whole, as it is to the end and highest good aimed at. Hence we have it that the goodness of the order of parts does not exceed the goodness of the order of the whole, but that the converse of this is true. Therefore we find a double order in the world, namely, the order of parts in relation to each other, and their order in relation to some one thing which is not a part (as there is in the order of the parts of an army in relation to each other, and then in relation to the general); and the order of the parts in relation to the one thing which is not a part is the higher, for it is the end of the other order, and the other exists for the sake of it. Therefore, if the form of this order is found in the units of the mass of mankind, much more may we argue by our syllogism that it is found in mankind considered as a whole; for this latter order, or its form, is better. But as was said in the preceding chapter, and it is sufficiently plain, this order is found in all the units of the mass of mankind. Therefore it is, or should be, found in the mass considered as a whole. And therefore all the parts that we have mentioned, which are comprised in kingdoms, and the kingdoms themselves ought to be ordered with reference to one Prince or Princedom, that is, with reference to a Monarch or Monarchy.

VII.—Further, the whole human race is a whole with reference to certain parts, and, with reference to another whole, it is

[6] *Ibid.* i. 2, 6, quoting Hom. *Od.* ix. 114.—(W.)

[7] *V.* Arist. *Eth.* viii. 10; *Pol.* iii. 7.—(W.)

a part. For it is a whole with reference to particular kingdoms and nations, as we have shown; and it is a part with reference to the whole universe, as is manifest without argument. Therefore, as the lower portions of the whole system of humanity are well adapted to that whole, so that whole is said to be well adapted to the whole which is above it. It is only under the rule of one prince that the parts of humanity are well adapted to their whole, as may easily be collected from what we have said; therefore it is only by being under one Princedom, or the rule of a single Prince, that humanity as a whole is well adapted to the Universe, or its Prince, who is the One God. And it therefore follows that Monarchy is necessary for the welfare of the world.

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X.—Wherever there is controversy, there ought to be judgment, otherwise there would be imperfection without its proper remedy, which is impossible; for God and Nature, in things necessary, do not fail in their provisions. But it is manifest that there may be controversy between any two princes, where the one is not subject to the other, either from the fault of themselves, or even of their subjects. Therefore between them there should be means of judgment. And since, when one is not subject to the other, he cannot be judged by the other (for there is no rule of equals over equals), there must be a third prince of wider jurisdiction, within the circle of whose laws both may come. Either he will or he will not be a Monarch. If he is, we have what we sought; if not, then this one again will have an equal, who is not subject to his jurisdiction, and then again we have need of a third. And so we must either go on to infinity, which is impossible, or we must come to that judge who is first and highest; by whose judgment all controversies shall be either directly or indirectly decided; and he will be Monarch or Emperor. Monarchy is therefore necessary to the world, and this the Philosopher saw when he said: "The world is not intended to be disposed in evil order; 'in a multitude of rulers there is evil, therefore let there be one prince.'"

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XV.—... Hence it is plain that whatever is good, is good for this reason, that it consists in unity. And because concord is a good thing in so far as it is concord, it is manifest that it consists in a certain unity, as its proper root, the nature of which will appear if we find the real nature of concord. Concord then is the uniform motion of many wills; and hence it appears that a unity of wills, by which is meant their uniform motion, is the root of concord, nay, concord itself. For as we should say that many clods of earth are concordant, because that they all gravitate together towards the centre; and that many flames are concordant because that they all ascend together towards the circumference, if they did this of their own free will, so we say that many men are in concord because that they are all moved together, as regards their willing, to one thing, which one thing is formally in their wills just as there is one quality formally in the clods of earth, that is gravity, and one in the flame of fire, that is lightness. For the force of willing is a certain power; but the quality of good which it apprehends is its form; which form, like as others, being one is multiplied in itself, according to the multiplication of the matters which receive it, as the soul, and numbers, and other forms which belong to what is compound.[8]

To explain our assumption as we proposed, let us argue thus: All concord depends on unity which is in wills; the human race, when it is at its best, is a kind of concord; for as one man at his best is a kind of concord, and as the like is true of the family, the city, and the kingdom; so is it of the whole human race. Therefore the human race at its best depends on the unity which is in

[8] On the scholastic doctrine of forms, *v.* Thom. Aquin. *Summ.* I, 105, art. 4.

will. But this cannot be unless there be one will to be the single mistress and regulating influence of all the rest. For the wills of men, on account of the blandishments of youth, require one to direct them, as Aristotle shows in the tenth book of his *Ethics*.* And this cannot be unless there is one prince over all, whose will shall be the mistress and regulating influence of all the others. But if all these conclusions be true, as they are, it is necessary for the highest welfare of the human race that there should be a Monarch in the world; and therefore Monarchy is necessary for the good of the world.

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BOOK III

[SOURCE OF AUTHORITY]

XVI.—Although it has been proved in the preceding chapter that the authority of the Empire has not its cause in the authority of the Supreme Pontiff; for we have shown that this argument led to absurd results; yet it has not been entirely shown that the authority of the Empire depends directly upon God, except as a result from our argument. For it is a consequence that, if the authority comes not from the vicar of God, it must come from God Himself. And therefore, for the complete determination of the question proposed, we have to prove directly that the emperor or monarch of the world stands in an immediate relation to the King of the universe, who is God.

For the better comprehending of this, it must be recognised that man alone, of all created things, holds a position midway between things corruptible and things incorruptible; and therefore philosophers rightly liken him to a dividing line between two hemispheres. For man consists of two essential parts, namely, the soul and the body. If he be considered in relation to his body only, he is corruptible; but if he be considered in relation to his soul only, he is incorruptible. And therefore the Philosopher spoke well concerning the incorruptible soul when he said in the second book "of the Soul:" "It is this alone which may be separated, as being eternal, from the corruptible." [9]

If, therefore, man holds this position midway between the corruptible and the incorruptible, since every middle nature partakes of both extremes, man must share something of each nature. And since every nature is ordained to gain some final end, it follows that for man there is a double end. For as he alone of all beings participates both in the corruptible and the incorruptible, so he alone of all beings is ordained to gain two ends, whereby one is his end in so far as he is corruptible, and the other in so far as he is incorruptible.

Two ends, therefore, have been laid down by the ineffable providence of God for man to aim at: the blessedness of this life, which consists in the exercise of his natural powers, and which is prefigured in the earthly Paradise; and the next, the blessedness of the life eternal, which consists in the fruition of the sight of God's countenance, and to which man by his own natural powers cannot rise, if he be not aided by the divine light; and this blessedness is understood by the heavenly Paradise.

But to these different kinds of blessedness, as to different conclusions, we must come by different means. For at the first we may arrive by the lessons of philosophy, if only we will follow them, by acting in accordance with the moral and intellectual virtues. But at the second we can only arrive by spiritual lessons, transcending human reason, so that we follow them in accordance with the theological virtues, faith, hope, and charity. The truth of the first of these conclusions and of these means is made manifest by human reason, which by the philosophers has been all laid open to us. The other conclusions and means are made manifest by

* Arist. *Eth.* x. 5.—(W.)

[9] Arist. *De Anim.* ii. 2.—(W.)

the Holy Spirit, who by the mouth of the Prophets and holy writers, and by Jesus Christ, the co-eternal Son of God, and His disciples, has revealed to us supernatural truth of which we have great need. Nevertheless human passion would cast them all behind its back, if it were not that men, going astray like the beasts that perish,[10] were restrained in their course by bit and bridle, like horses and mules.

Therefore man had need of two guides for his life, as he had a twofold end in life; whereof one is the Supreme Pontiff, to lead mankind to eternal life, according to the things revealed to us; and the other is the Emperor, to guide mankind to happiness in this world, in accordance with the teaching of philosophy. And since none, or but a few only, and even they with sore difficulty, could arrive at this harbour of happiness, unless the waves and blandishments of human desires were set at rest, and the human race were free to live in peace and quiet, this therefore is the mark at which he who is to care for the world, and whom we call the Roman Prince, must most chiefly aim at: I mean, that in this little plot of earth[11] belonging to mortal men, life may pass in freedom and with peace. And since the order of this world follows the order of the heavens, as they run their course, it is necessary, to the end that the learning which brings liberty and peace may be duly applied by this guardian of the world in fitting season and place, that this power should be dispensed by Him who is ever present to behold the whole order of the heavens. And this is He who alone has preordained this, that by it in His providence He might bind all things together, each in their own order.

But if this is so, God alone elects, God alone confirms: for there is none higher than God. And hence there is the further conclusion, that neither those who now are, nor any others who may, in whatsoever way, have been called "Electors," ought to have that name; rather they are to be held as declarers and announcers of the providence of God. And, therefore, it is that they to whom is granted the privilege of announcing God's will sometimes fall into disagreement; because that, all of them or some of them have been blinded by their evil desires, and have not discerned the face of God's appointment.[12]

It is therefore clear that the authority of temporal Monarchy comes down, with no intermediate will, from the fountain of universal authority; and this fountain, one in its unity, flows through many channels out of the abundance of the goodness of God.

And now, methinks, I have reached the goal which I set before me. I have unravelled the truth of the questions which I asked: whether the office of Monarchy was necessary to the welfare of the world; whether it was by right that the Roman people assumed to themselves the office of Monarchy; and, further, that last question, whether the authority of the Monarch springs immediately from God, or from some other. Yet the truth of this latter question must not be received so narrowly as to deny that in certain matters the Roman Prince is subject to the Roman Pontiff. For that happiness, which is subject to mortality, in a sense is ordered with a view to the happiness which shall not taste of death. Let, therefore, Cæsar be reverent to Peter, as the firstborn son should be reverent to his father, that he may be illuminated with the light of his father's grace, and so may be stronger to lighten the world over which he has been placed by Him alone, who is the ruler of all things spiritual as well as temporal.

. . . . .

[10] *"Sua bestialitate vagantes." V.* Ps. xxxii. 10.

[11] Cf. *Parad.* xxii. 151. *"L'ajuola che si fa tanto feroci."*

[12] *V.* Hallam, *Middle Ages*, c. v. Bryce, *Roman Empire*, c. xiv. Witte, *Præf.* p. xxxiv. xlv.

AUTHORS	AMERICA	EUROPE	ASIA
1400	By 15th century Maya Empire in Yucatan decline Aztec Empire flourishing in Mexico Inca Empire at zenith in Peru Norse colonies in Greenland	15th cen period of exploration, trade 1415 61 Britain's conquest of France fails 1415 Execution of Hus step in Reformation 1417 Council of Constance heals Church schism, denounces heresy makes reforms 1420 31 Emergence of Bohemian nationalism Religious wars with Roman Catholic Church 1438 1806 Hapsburgs on German throne on Spanish throne 1516 1700 1434 91 Medici family dominates Italy	15th cen Moslems in India. Disunity.
1450		1430 Papal triumph over conciliarists 1455 85 Civil War in England between York and Lancaster Tudors on throne 1485 1603 1461 83 Louis XI brings France from feudal anarchy to absolute monarchy, prosperity 1462 1505 Ivan III frees Russia from Tatars, introduces Greek autocracy First tsar 1466 1536 Erasmus leader in renaissance of learning in northern Europe 1479 Ferdinand and Isabella unite Spain 1491 1559 Italy battleground of European nations Church corrupt, in power politics	1453 Turks take Constantinople to end Byzantine Empire after 1000 years
Machiavelli 1469 1527 Luther 1483 1546 Zwingli 1484 1531	1492, 3, 8, 1502 Columbus visits America 1493 Pope divides New World between Spain, Portugal with Line of Demarcation 1497 8 Cabot visits New World for England 1499, 1501 Amerigo Vespucci visits Brazil, New World named America 1507		
1500	1500 Cabral reaches India via Brazil, gives Portugal claim to Brazil	1513 72 Knox Calvinist leader in Scotland 1513 1645 Scandinavian union dissolves 1517 Beginning of Reformation—Luther publishes 95 Theses in Germany 1524 25 Peasants War in Germany 1534 Henry VIII, by Act of Supremacy, makes king only head of Church of England 1534 Jesuit Order founded by Catholic Church as counter Reformation move 16th 17th cen Spain's Golden Age 1542 Ireland made a kingdom under English	
Calvin 1509 1564	1519 22 Magellan sails around the world 1519 21 Cortes conquers Mexico		1520 66 Suleiman I leads Turks into central Europe takes Hungary, besieges Vienna Turks harass Persians, now in bad decline
Bellarmine 1542 1621	1531 36 Pizarro conquers Peru 1534 41 Voyages of French Jacques Cartier		1526 1857 Mogul Empire in central Asia Akbar (1556 1605) restores north Indian empire, reorganizes administration shows religious toleration Cultural progress under Persian influence Trade grows
1550	1540 42 Coronado explores Southwest		

1550		1558 Protestant Elizabeth defeats Catholic Mary for English throne Elizabethan era	
Hooker 1553 1600		1561 1626 Francis Bacon, Eng philosopher	
	1565 Spain colonizes St Augustine Fla	1562 98 French Protestants war with Catholics, defeated by Richelieu 1619	
		1564 1642 Galileo, Italian scientist	
		1568 1648 Netherlands revolt from Spain	1568 1600 In Japan, period of national unification, artistic intellectual expansion, militant Christianity at height
	1565 Portugal colonizes coast of Brazil	1571 1630 Kepler laws of planetary motion	
		1583 1645 Grotius founds international law	
		1588 Defeat of Spanish Armada by England	
Hobbes	1577 80 Francis Drake raids Pacific Coast	1589 1792 Bourbons rule France	Late 16th cen in China nationalist reaction
1588 1679	1584 Sir Walter Raleigh founds colony in Virginia, later abandoned	1589 Russia sets up independent church	against foreign elements led by Academy of
		Civil war, disunity until Romanovs 1613	Letters Buddhism national religion Ming
		1917 Serfdom grows 16th, 17th centuries	porcelains renowned
		1596 1650 Descartes modern philosophy	
1600			1585 Ottoman Empire begins decline
	1607 Jamestown founded Popular government revoked 1634 when Va became crown colony	1603 1714 Stuarts unite England, Scotland	1600 1868 Japanese Tokugawa period Peace and prosperity under family hierarchy Confucianism revives Christians persecuted
		1611 King James version of Bible completed	
	1608 French explore Canada, found Quebec	1618 48—30 Yrs War in Europe Protestants vs Catholics Hapsburgs vs rest of Europe	Merchant class growing in power
Mayflower	1620 Plymouth founded by Pilgrims	1621 Great Protestation in England declares	1600 British East India Co founded
Compact 1620	1621 Dutch West India Co founded	kings subject to Parliament Civil war	
	1625 64 French settle in West Indies.	1642 9	
Fundamental	1626 Dutch explore Hudson, buy Manhattan	1648 Treaties of Westphalia end 30 Yrs	1602 Dutch East India Co founded
Orders of	1630 42 Great migration to Mass Bay Col	War France wins Alsace Netherlands	
Connecticutt	ony Other New England colonies founded	Switzerland win independence states within	1644 1912 Ch'Ing Dynasty in China Manchu
1639	1632 88 Maryland, Delaware settled	Germany strengthened and equal rights ac	conquest absorbed by Chinese culture Kang
	1641 Body of Liberties in Mass Bay Colony	corded Catholics, Protestants Popes lost	Hsi reign 1662 1722 expands empire opens
	provides code of 100 laws	support of both Bourbons and Hapsburgs	unparalleled period of cultural achievement
	1643 New England Confederation founded	by neutrality	
1650			
	17th, 18th cen—New World reflects European wars land is traded as war booty	1649 60 English Commonwealth under	17th cen Declining Turks war with Europe
	European navies raid enemy colonies	Cromwell Charles II restored 1660 85 James	—with Venice 1645 64 With Poland Russia
	Britain's control of seas cuts Spain's trade	II (1685 8) deposed William and Mary come	Germany Siege of Vienna 1683 Treaty of
	line to colonial empire in America	from Holland to assume English crown	Karlowitz 1699 gives Hungary to Austria
	1664 English take New Amsterdam	1689 1702	
	17th cen—France explores, colonizes Mississippi valley, Great Lakes area	1668 Spain recognizes Portuguese freedom	1659 1707 Aurangzeb Mogul emperor in India prohibits Hindu religion Civil war
	1675 76 King Philip's War with Indians		
Locke	1681 Pennsylvania granted charter		
1632 1704	1686 New England made dominion Colonies	1685 France becomes Catholic	
1689	restore charter govt when James II flees		

EIGHT

The Protestant Revolt and Its Political Effects

NO PASSAGE CAN PUT THE SIGNIFICANCE of the Reformation in a more succinct way than the brief summary given by J. N. Figgis, one of the great historians of this period: "The supreme achievement of the Reformation is the modern state.... It was through the crucible of the sixteenth century that medieval notions were passed before influencing the modern world." [1]

There is substantial agreement among students of political thought concerning the importance of the Reformation and the sixteenth century, and some understanding of the period and its typical and diverse streams of political thought is essential to an understanding of the political world in which we live.

The preceding chapter ended with a selection from Dante's *De Monarchia* which was a plea for an effective world monarchy based upon the old and the new Roman Empire. It was a plea for an empire such as there might have been had Charlemagne's successors been as effective as he was. All history, however, was against the realization of Dante's grand vision, and the Renaissance and Reformation pointed the way to the world that was to be.

In Chapter VI we saw the rise of the papacy and the decline of imperial authority. This development paved the way for papal absolutism in a unified society. The elimination of one source of opposition to an increasingly powerful pope and Church, however, simply made room for the new and more formidable opposition of rising national monarchs. When to this political opposition to papal interference in national affairs one adds the new spirit of criticism of the Renaissance, and the attack on Church corruption and abuses by Church members, the way is well prepared for a great breaking up of medieval unity. Today we live in a world whose pattern was set by the rearrangement that followed this breaking up. The most characteristic feature of the new pattern is diversity as opposed to unity—diversity not only in political rule, but diversity in religion,

[1] J. N. Figgis, "Political Thought in the Sixteenth Century," in *The Cambridge Modern History* (New York, 1918), Vol. III, p. 736.

thought, language, and in other phases of culture. One question for which thoughtful men today are seeking an answer is "How much unity is there amidst the apparent diversity of the West?" In other words, is there such a thing as Europe, as distinguished from all the countries in Europe? Is there a Western way of life, as distinguished from a French, German, English, and American way of life? Is there a North Atlantic civilization?

The power and influence of the medieval Church reached their height under Innocent III (1198-1216). The result of the struggle between Philip the Fair and Boniface VIII was that Philip elected a pope, Clement V, with the understanding that the papacy be transferred to France. From 1309 to 1377 popes lived at Avignon, on the edge of the French frontier of that time. The absence of popes from Rome for seventy-two years, known as the Babylonian Captivity of the Church, had a degrading effect upon the papacy. Pope Gregory XI returned to Rome in 1377, and after he died the following year, the split between Italian and French cardinals over the selection of a new pope ended in the election of two popes, and thereafter the Council of Pisa (1409) tried unsuccessfully to heal the Great Schism.

The Conciliar Movement

The schism within the Church was important because it created discussion and raised questions about the validity of the claims the Church made. In particular, the schism, which finally brought about three claimants to the papacy where only one was possible, raised questions about the existence of any higher earthly authority for resolving Church disputes. Marsilius, as well as others, had suggested that the supreme power on earth lay in a Church council, and those who supported this position came to be known as "conciliarists." At the Council of Constance (1414-1418) and the Synod of Basle (1431-1443) the conciliarists made substantial gains for their point of view. But the form of Church government was destined to be an absolute monarchy rather than a constitutional and limited monarchy. The bull *Execrabilis* (1458) and the *Pastor Aeternus* (1516) successfully reasserted the supremacy of the pope over a council.

The most revolutionary claim of the conciliarists was that a universal council of the Church has the authority to settle disputes over claims to the papacy. The result of this claim was also an assertion that a Church council had greater authority than a pope. The Council of Constance agreed that a council could bind all Church officials and could institute reforms in all parts of the Church. Later, at the same Council, a provision was adopted which sought to require councils every ten years and to assure the independence of councils from papal control. The writings of Nicholas of Cusa (*De Concordantia Catholica*) deal with the theoretical

implications of the conciliarist movement and are important for asserting that even in a perfect society a constitutional monarchy, limited by a representative organ, is the best form of government. The failure of the conciliar movement to secure lasting reform, and the papal reaction to the decisions taken at Constance and Basle did much to pave the way for the Reformation and for the gradual adoption of an increasingly secular view of life. Moreover, the actual triumph of the principle of absolute monarchical rule in the Church provided precedents for political rulers later to claim absolute power.[2]

Authorities are in substantial agreement about the forces that converged on the sixteenth century and produced the mass desertion of the Church of Rome. They disagree on the weighting of some of these causes, as between those that were primarily theological and those that were secular. Actually, Church abuses and theological questionings were so interwoven that they cannot be separated completely. Those who were alarmed by the corruption and immorality in the Church were easily led to question the claim that the Church was the necessary and sole mediator between man and his God; and those who questioned this claim on theological grounds were easily led to believe that an absolute claim on the part of an earthly institution could lead only to such corruption and abuse as were everywhere evident. The critical spirit of the Renaissance and the resentment of national monarchs at Church interference and clerical immunity simply added more to the other potential forces that were making for eruption.

Reformation Proper

With the defeat of the "conciliarists," the hope for Church reform grew more dim, despite the fact that the period of council supremacy had seen no significant reforms. The importance of the Babylonian Captivity, the Great Schism, and the conciliar controversy lay in the ideas and thoughts that they stimulated. The association of the names Luther and Reformation should not lead us to forget that Luther had many predecessors and contemporaries. To the names of Marsilius, Dante, and Machiavelli must be added, among others, the names of John Huss, Erasmus, Wyclif, and Zwingli and, of course, John Calvin. In an age of many discontents and tensions one significant aspect of the revolt against the Church was that it drew into its vortex all the discontents of the age, until the only thing many reformers had in common was their discontentment.

Luther's specific attack on the Church grew out of his revulsion against the practice of selling "indulgences" (remission of temporal punishment for sins, the eternal punishment of which has been remitted and the guilt

[2] See on the conciliar controversy, J. N. Figgis, *From Gerson to Grotius* (Cambridge, 1907).

of which has been pardoned by reception of the sacrament of penance). His more fundamental objection, however, grew out of his long meditation on the Scriptures, which led him to reject the whole Roman Catholic idea of the Church as the necessary mediator between man (the moral individual person) and God. Specifically, he came to reject the belief that man could be saved by going through certain ceremonies, or even good works; and to accept completely the idea that man could be saved only by throwing himself directly on God's mercy. In short, complete and unquestioning faith alone could lead to salvation. The effectiveness and historical importance of Luther's attack on the Church were not that he fulminated against a specific evil. Many good Catholics had done that and still do. His effectiveness and thus his real crime against "The Church" were that he subverted the very foundations, the *raison d'être* of the Roman Church.[3]

Luther's attack was thus based upon both Church abuses and theology. Politically, the most important result was that Luther aligned himself with secular German princes who were smarting under papal interference in their realms. The general result of his position was to emphasize secular supremacy in this world in the belief that man's real reward was in heaven. This other-worldly aspect of the Lutheran position has always had the effect of glorifying the secular power and hence has made it less effective as a check on the State.[4]

Once the revolt against the Church got under way, it swept over all northern Europe. In France, John Calvin, trained as a lawyer, broke from the Church and went on to establish a sort of theocracy in Geneva. In England, on the other hand, the initial break came not so much from the theological differences or attacks on Church abuse, as it did from a monarch, Henry VIII, who wanted another wife and a male heir. In England, in contrast to France, Scotland, Switzerland, and other countries, the break with Rome was official and hence more complete. In turn, the original theological break was less complete and at the beginning the main change was in the headship of the Church, from pope to king.

The National Monarchs and the Political Questions of the Reformation

The decline of imperial power in the Middle Ages and the inability of the Church to furnish a complete system of government made it possible for national monarchs to develop. With this development, controversies

[3] For a psychological interpretation of Luther's successive stages of theological revolt and inner motives see Erich Fromm, *Escape From Freedom* (New York, 1942).

[4] See W. M. McGovern, *From Luther to Hitler* (Boston, 1941), pp. 30-35, for a development of this theme.

between secular and spiritual authority changed from emperor-pope to king-pope conflicts. Before the sixteenth century, however, these controversies did not greatly affect the people, for the Church system and its theology were not themselves questioned. A new ideal of spiritual unity within secular diversity was accepted. It was, however, accepted by the Church only with the understanding that the Church retain substantial power within a state, including appointments, jurisdiction over clergy, and the power to dissolve the allegiance of the Church faithful to a heretic king. Moreover, the Church claimed special control over the vast property it held in all countries. The strength of these national monarchs has already been suggested by the account of the Babylonian Captivity. So long as kings felt it to be their duty to protect the true faith and so long as the Church considered it a sin to resist the true king, uneasy accommodation was possible. *There was an institutional restraint on the king.*

This summary may be taken as an approximate and necessarily simplified statement of the situation that existed on the eve of the Reformation. When the break did come, it created a variety of situations, precisely because there had been for so many years such a close intermingling of the secular and spiritual authority, a relationship in which each supported the other. Such questions as these came up: If an individual is a good Catholic and his king adheres to the Protestant heresy, is obedience due such a king? If an individual becomes a Protestant, must he obey a Catholic monarch? If an individual is of a different Protestant persuasion from that of his king, need he obey, especially in religious matters? If a national monarch remains loyal to the Church, but wishes to exercise control over the clergy or Church property in his realm, should subjects support their king or the clergy, and which side should the clergy itself support? If a king, Catholic or Protestant, refused to acknowledge that he held his office from God through the pope, then whence did he hold his office? These and similar questions suggest the kind of wrench that was given to political questions by the Reformation. Moreover, they suggest what is meant when we say that political and religious speculation were inseparable in the seventeenth and eighteenth centuries. Somehow, every controversy ended up as a religious question, the answer to which could be found in the Bible or from the pope.

In the long run, the question became one of whether kings and subjects could be of different religious persuasions and still maintain the unity under secular law and order, in the furnishing of which the national state found its main justification. The answer, also in the long run, was, not until the secular power became supreme, even absolute, and proceeded to act upon the principle of toleration. The selections included in this chapter give some idea of the many-sided struggle as it worked itself out

in England, once Luther started the general revolt and Henry VIII and Calvin joined the movement. Substantially the same elements were present in all countries as a result of the Reformation, but they combined differently in different places and there were variations in the theoretical details.

In England the break with Rome was most complete but the reform was most moderate. The Puritan movement, founded by Calvin, caught up and drew together those who wanted genuine religious reform and those who wanted to put a bridle on the power of the king. The Puritans proper wanted to purify the English national version of Christianity by purging it of its "popish" practices. Had the king been amenable to their aims, they would have had no objection to his prerogatives. Yet it should be said that a greater natural incompatability exists between the Calvinist-presbyterian form of church organization and an absolute monarchy than between absolute monarchy and an episcopal system, with its neater hierarchical pattern.

Political Doctrines of the New Sects

The Reformation produced in England more than Anglicans and Puritans, however. Although the Puritans tried to get their reforms adopted by the king, Parliament, and the Church of England, a substantial group of reformers set up their own form of church organization—one that did not rely upon the friendly policies of civil authority. These dissenters were known as Independents or Separatists. They opposed popes, priests, presbyters, bishops, and national churches. Their form of church government was one in which each congregation decided all questions, and hence the name "Congregational" developed. Various congregations were knit together into a loose and indefinite relationship. The main thing that the Independents asked of government was to be left alone to worship God as they chose.

The beliefs of the Independents, as well as their practices, had a profound influence on political development. By their beliefs they could more readily accept a doctrine of religious toleration, although within a congregation or when a congregation and a political unit were coterminous they could be both severe and intolerant, as they were in New England. But the rule by the congregation was a great factor in developing the idea and practice of self-government.

In the great controversy between Charles I and Parliament, the Independents took the side of Parliament and later of Cromwell. In fact, the Independents furnished much of the dynamics and leadership for the revolution. Cromwell himself was a militant Independent who wanted neither "pope nor presbyter."

Protestants were further divided in England into Baptists and Quakers, to say nothing of lesser sects, but the emphasis in all was upon the need for little church government and less civil government in religion. A political offshoot of the dissenters was the Leveller movement, which was essentially political and egalitarian. Church and State were separating in fact in England; self-government was becoming a going concern in religion; and tolerance was on its way to becoming a principle. But the unique position of the Church of England made difficult the full development of these great ideas. The less custom-encrusted soil of the New World was more friendly for the growth of these ideas and practices to their logical conclusion.

National Differences in the Reformation

The theory of Calvin and its practice in his theocratic Geneva involved no grounds for resistance to rulers. Calvinism preached passive obedience, not resistance, revolt, or tyrannicide. But in Geneva Calvin had no "popish" king to unseat or convert. Not so with John Knox in Scotland, who was a disciple of Calvin. Knox was hounded, and he in turn hounded a Catholic king and court much in the same manner that kings and Calvinists opposed each other in France. Instead of passive obedience to the powers that be, Knox advocated the duty of resistance to a king who would not permit the true religion to prevail in Scotland. The effectiveness of Knox's work has testimonial in Scotch presbyterianism in modern times.

It is important to remember that when the king of England became head of the national church he acquired additional power, and by the confiscation of Church property he made himself even less dependent, for a time, upon the grants from his subjects. The Catholics in England, on the other hand, attacked the king and his court, first in the hope of restoring the realm to the papal fold, and then, when this became impossible, in the hope of securing a policy of religious freedom. Almost all the seventeenth century in England was spent in arriving at a settlement that drastically limited the kingly power and provided for religious differences within the state. For the purposes of this book, Locke is used as the theorist for both settlements in this chapter and in Chapter X, for he demonstrates how closely the two movements were related.

In Germany the situation was quite similar to that in England, in that the break from Rome was sharp and clean at the outset. The break in Germany, however, was more theological, and the theology indirectly exalted the supremacy of the secular powers. Since there was a genuine reform in the Church, Puritanism as a third force made little headway, and the forces of resistance to absolute secular power found no religious ally as they did in England. Any hope that Luther's theological protest

would support social and economic protests was dashed when Luther joined the side of the princes in putting down the Peasant's Revolt of 1524-25. Historically, the Lutheran Church has never been the effective limit on Caesar that the Calvinist Church was in other countries.

In France the results of the Reformation were somewhat different and the result was (in the end) a more complete secularization of government and society than in any other European country. But the full effect of this process was not evident until the French Revolution. Initially, tolerance came earlier in France with the Edict of Nantes in 1598, but this was revoked in 1685 by Louis XIV. In England the Toleration Act was adopted in 1689. The break was not so complete in France, because the two sides were more evenly divided and because there was no effective middle position, in religious terms, between the Calvinists and the Catholics. It is true that in political terms there was much in common between the theocracy that Calvin established in Geneva and the realm of Spain, dominated by the Catholic Church. Their theologies, however, were irreconcilable, because each wanted to control the whole individual.

From the religious extremists in France came no consistent political theory, as political theories were changed in the interests of religious theories. When the king was Catholic and amenable to papal control, the king's office and its occupant were both divinely appointed. To the Calvinists such a king was a usurper of a legitimate office or a tyrant with a formally correct title. That the kings in France tended to be Catholics accounts for the fact that the French writings which supported the king against the pope could not launch into the same type of denunciation of the Holy See as could followers of Luther, Calvin, and Henry VIII.

The middle position in France between the Catholics and Calvinists came to be occupied by a group of men who were primarily concerned about an effective national state ruled over by a strong national monarch. These men, mostly lawyers, were known as *politiques* and they, along with Roger Williams in Rhode Island, were the earliest advocates of religious toleration. There are three possibilities in matters of religion and the State. The Church can be a department of the State, such as it became in Germany and England, and act as a support to the policies of the secular régime. Or the governing functions can be exercised by a department of the Church after the fashion of the medieval Church and John Calvin's Geneva. A third possibility is that the Church can become a more or less independent association within the State, with the understanding that it stay out of politics. It was the latter relationship that the *politiques* sought in France. They wanted this settlement not to improve the Church by relieving it of part of its worldly burden, but to prevent it from interfering with the growth of a strong state.

The greatest name among the *politiques* and one of the great names in political theory is that of Jean Bodin (1530-1596). Bodin, in his *Six Books on the Republic,* contributed the idea that justified secular national supremacy. It is what today we call "sovereignty." There must be a supreme power in each state; if you would locate that power, determine who *makes* the law. Under the sovereign power in a state individual relationships are governed, and lesser associations such as churches, feudal lords, corporations, and cities are assigned their proper places. To Bodin the king was the ideal lawgiver or sovereign, limited by ancient law and custom, but not by the Church.

The results of the Reformation in other countries were substantially the same in principle as those noted above, although they were different in detail. Where a single religion maintained its monopolistic position, whether it was Catholicism in Spain or in the papal states, or Calvinism in Geneva, or Lutheranism in Germany, there was a coalescence of civil and religious rule. Where substantial differences existed between subjects and rulers, as in France, England, and the Netherlands, there could be no peace until there was tolerance.

Taking the Reformation as a whole, seven main contributions to political thought and practice seem to stand out of the welter of polemical literature that characterized the period. In one way or another, each contribution is important if we are to understand our own constitutional heritage.

(1) *Revival of Natural Law as a Limit on Royal Power*

As long as there is an effective church either partially outside the boundaries of a state or independent within a state, a power exists which is capable of limiting and judging a government. With the break from Rome and the nationalizing of churches, there was no such power or higher law. To meet this need for a higher law and one more flexible and useful, the medieval idea of a natural law, which even the pope could not alter or dispense with, was revived. This natural law was a universal norm by which human relations were regulated, or by which they ought to be regulated. The practices which gave force to natural law were to be found in customs and engraved on the hearts of men (*cf.* Stoics).

Richard Hooker, more so than any other writer perhaps, brings the medieval idea of natural law into the modern world and hence provides the continuity between the Middle Ages and Locke's completely modern idea of natural law as natural rights of individuals. It is not surprising that Hooker resorted to an emphasis upon natural law, for he was writing a rationale for a national church headed by a national monarch. Yet he did not want to justify absolutism. His use of the social contract theory

is unlike that of Hobbes, though their ends have some similarity Moreover, in France as well as in England the lawyers were often on the side of the king and against the pope, so it was natural for them to emphasize the natural law that had its genesis with the Stoics and its continuity through Roman law, and medieval Church scholasticism.

(2) *The "Divine Right of Kings"*

One of the most striking theories, the divine right of kings, did not exactly originate with the Reformation but received its most explicit statement then, first in France and then in England. Simply stated, this theory held that kings received their office by direct appointment from God, as made known under the Salic law in France or according to primogeniture in England, and that disobedience to a divinely commissioned king was nothing less than sin against God. In a certain measure this theory, as formulated by an eloquent political theologian like Bossuet, was accepted in France until the French Revolution, whereas it was never taken very seriously in England, despite the fact that one of its most powerful advocates was none other than James I himself. Its most extreme statement was made by Sir Robert Filmer, who traced English kings back to Adam in proving their indefeasible right to rule for God. John Locke's "First Essay on Civil Government" is an answer to Filmer.

Two things should be noted about this divine right idea. For purposes of monarchical absolutism no better justification could be invented. The king was responsible only to God, and if he was a tyrant he would have to answer only to God. No wonder Louis XIV could say *l'état c'est moi!* The second aspect of the theory is the one emphasized by J. N. Figgis in his classic *The Divine Right of Kings*. Figgis stresses its historical function of strengthening and unifying the national state as a pre-condition to its permitting liberties and diversities, and the fact that it opposed a conception of political society as being natural and hence an outgrowth of man's essential nature to the purely artificial conception of political society of the contract theorists. This interpretation seems to have more validity for England than for France.

(3) *Tyrannicide and the Right of Revolution*

Enough has been said to indicate the close relationship between the Reformation and the whole question of obedience, that perennial political question. As long as all political questions were also religious questions, the necessity for obedience or disobedience to secular rule was determined by the higher duty of obedience to God, or to his accepted deputies. What did develop out of all the discussions of obedience, resistance, and tyran

nicide was a clarification of the circumstances under which obedience might not be necessary. In the hands of the English Puritans, and later the French Jacobins, this clarification became important. The *Vindiciae Contra Tyrannos,* which appeared in France in 1579, stressed the religious and legal bases for non-obedience. On the whole, the advocates of resistance to kingly power (if exercised tyrannically) divided into two groups: those who believed that individuals had the right and duty to resist, and those who thought that only the lesser magistrates and feudal lords had such rights—the Estates in France, for example. One thing implicit in much of this resistance literature was the idea that the king held his power in some way from the people, and that only as he served the people was he justified in holding it. Fully developed by Locke and later by Tom Paine, this idea becomes the right of revolution.

(4) *Two Perfect Societies*

One way of escaping the dilemma of permitting religious diversity within national political unity was reminiscent of the "two swords" idea of the Middle Ages. Actually it was quite different—opposite, in fact. In the Middle Ages the leading idea was that there was or should be one perfect society with two departments to administer its affairs. Where it was obviously impossible for a single unified religion to extend its sway over a people, as it was hopelessly impossible for the Puritans or Catholics to do in England, there developed the idea, only implicitly to be sure, that two separate but perfect societies existed, each independent of the other. This development ran counter to the inherent theocratic tendencies of both the Puritans and Catholics, but it was an idea that met a particular situation. Although the first choice of Puritans and Catholics was to make their system prevail, their second choice was to stay alive, perhaps to win, "another day." For Catholics, this idea of two societies made it possible to give loyalty to the greater society of papal Christendom which transcended national boundaries and at the same time to give allegiance to the secular or political society of England. For the Puritans, the society of the elect of God was a second, separate society. The fact that both Catholics and Puritans were driven to such position very reluctantly should not detract from the fact that the idea of two separate, independent, and potentially perfect societies added to the drift toward a *de facto* separation of Church and State. Expediency edged Catholics and Puritans to the position which the Independents held more by conviction. The Catholics, however, could never accept a position in which the pope did not have any power over the Catholic subjects of a heretic king. Suppose the king ordered his Catholic subjects to disobey the papal hierarchy in a religious matter. For this contingency the great Jesuit Robert Cardinal Bellarmine concluded

hat the pope had no direct power over secular princes but that he did have an "indirect power" by which the Church could defend itself.[5]

Earlier in this chapter we noted that Church abuses played a large rôle in bringing about the Protestant revolt. Once that revolt was under way, the Church began to put its own house in order. Its renewed vigor gave rise to the Counter Reformation. The spearhead of the re invigorated Catholic Church was the Society of Jesus, which was founded by Ignatius Loyola in 1541. The Jesuits, as members of the society were called, worked in all countries and were responsible for working out some kind of a pragmatic accommodation between the Catholic Church as represented by the pope and the national states. In Catholic states, such as France and Spain, the Jesuits tended to uphold the position of the pope and to defend the Holy See from attacks by nationalist Catholics.

(5) *Contract as the Source of Authority*

In discussing the question of divine right and obedience, we have had occasion to mention the question of the source of the king's power. If the governing power does not come from God either directly or through the pope, then whence does it come? To this question there are two possible answers. One is that it comes from the people; with refinements, you have the just government deriving its power from the consent of the governed. On the other hand, the power may come from some ancient law which provides for legitimate succession. In either case, there needs to be an

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[5] Cardinal Bellarmine's theory of the indirect power of the pope in temporal matters has had a profound influence on subsequent Catholic political thought. In fact, most subsequent Catholic thought on this subject has been based upon Bellarmine's analysis In a contemporary book, *Catholic Principles of Politics* by Monsignor John A. Ryan and Francis J Boland, the discussion of the encyclical On the Christian Constitution of States (*Immortale Dei*, 1885) of Pope Leo XIII has aroused considerable controversy Msgr Ryan indicates in his essay (Chapter XXIII) that in a predominantly Catholic country the government might be justified in the repression of heresy. Nowhere is a new stirring in Catholic political thought better exemplified than in recent articles by John Courtney Murray, S J on 'Government Repression of Heresy" (*Proceedings of the Catholic Theological Society*, Vol I, Nos I-II, 1939). In this article Father Murray criticizes the analysis and theory of Cardinal Bellarmine and Msgr. Ryan and goes back to John of Paris for the truer statement of the proper relationship between the Catholic Church and a state. Father Murray argues that the original distinction between the temporal and spiritual as first set forth by Pope Gelasius (see p 295) and elaborated by John of Paris, and which does not claim that the State draws its authority from the Church but that both the Church and the State are directly of God, provides a solution for the dilemma stated by Msgr. Ryan The pope does not have indirect power over the king, as Bellarmine claimed, but the Church can indirectly affect the government by affecting the conscience of the people. Otherwise, the Church and State deal with different aspects of life, and two societies, each perfect for its end, which is ordained by God. It is impossible here to summarize this interesting new analysis by Father Murray. It should be read by those interested in this aspect of political thought.

explanation of how a people got together to set up its own governing authority. Who agreed or consented to Henry of Navarre or to James I? Under this theory they must have been agreed to in order to be legitimate and entitled to obedience. To people close to the Middle Ages and trained in the law an answer was ready in a contract theory of the state. This theory, as it was stated so lucidly by Hobbes and Locke, did not spring into sudden being, but evolved rather slowly. The author of the *Vindiciae Contra Tyrannos* described an elaborate contract, a double contract in fact, between God on the one hand and the king and people on the other. The second contract was between the king and the people. Under it the people could depose the king if he broke the contract by going against God's word. This is a more complicated contractual arrangement than that of the Middle Ages, where the idea of a contract between ruler and ruled grew out of the feudal relation between vassal and lord. As the contract idea developed, political society came to be more and more a conscious act of the people's will, something that they could take or leave, and less and less a natural outgrowth of man's essentially political nature. The difference between Hooker and Locke on this point is interesting. The net result of the Reformation was to make the State not only an artificial creation but a creation of man's volition. This development lays the ground for popular sovereignty.

(6) *Toleration as a Solution*

The great contribution of the Reformation was the idea of tolerance. If the national state was to survive and to furnish its subjects with a régime of law and order in which life could go on, and in which arts, commerce, and industry could flourish, the problem of religious diversity had to be settled. It could be settled by stamping out all divergent sects, but too much blood was spilled in trying this method, and it succeeded in too few places. The other alternative was to separate the Church and State, in fact if not in theory, and permit people to worship God as they chose. In short, to make man's relation with his God his private affair rather than the king's public affair. What started out to be a purely utilitarian accommodation to a fact came to be one of the most important principles in the development of constitutional government. For an area of religious freedom from state control will always provide a center of resistance to tyranny, and as long as man's religious freedom means something to him he has a moral base from which to judge the acts of the State. Where State and Church are one, or where there is substantial religious uniformity, this resistance is not possible, for resistance to the State is sin, and resistance to the Church, if not a crime, is at least bad public policy.

(7) *Independency and Popular Control*

A final aspect of the Reformation that came to play a great part in the development of political liberty could be called the transfer of independency in religion, including the congregation's control over its own organization, to the political sphere. The sects of the Protestant churches were not limited to Lutheranism in Germany or to the Church of England and the Puritans in England and Scotland. John Knox in Scotland developed a distinctive form of Calvinism which broke with the theocratic and passive-obedience tenets that were put into effect by Calvin in Geneva and by the Puritan government in Massachusetts. Calvin himself had broken with Zwingli when the latter tried to combine Church and State in Zürich in an absolute form. Calvinists in England and Scotland could hardly accept the king as the head of the State, since they did not acknowledge either the Church of England or the Catholic rule of the monarch in Scotland. The Scottish Presbyterian Church had necessarily to introduce some element of representation through its general assembly and the presbyteries and provincial synods. This organization of the church gave it a much more representative character than had the Scottish Parliament of the day and aligned the nation in a popular movement against the Catholic court and nobility, both of them much under the influence of France.

No doubt King James' firm emphasis on a national church, in order to control and discipline his subjects to their lawful king, came from his painful experience with the stiff-necked presbyterianism that Scotland had developed from John Knox.

But even the anti-monarchical and more or less popular representation of Knox's Calvinism contained too great a control by the Presbyterian synod to suit the Independents of England. Some of the sects that developed among the Puritans of England went as far in the direction of congregational control as had the Anabaptists in Germany. The Quakers, too, departed from any form of strict organization of the church along national lines and developed that peculiar dependence upon the "sense of the meeting," which is so characteristic of the Quaker religious organization.

The Jesuits themselves, on the Catholic side of the Counter Reformation, were as positive in their opposition to royal power when it was not guided by the Church as were any Puritans. James I said of them that the Jesuits "were nothing but Puritan-papists." The logic of both the Jesuits and the Calvinists, as Professor Sabine has pointed out, was bound to conflict with the development of a national state "secular in origin and

purpose, while the church is worldwide in scope and of divine origin." [6] The conclusion was obviously that membership in the Church and the State were independent of each other, in spite of the desire of both Jesuits and Calvinists for a precisely opposite doctrine.

If religious congregations had a right, as the independents in the religious sects all tended to assume, to choose their own pastors and their own church organization, how much more clearly should the principle apply to politics. The direct democracy and the representative institutions developed by the churches in this period of break-up resulting from the Reformation carried over a strong tendency to criticize the bases of political authority. Robert Browne's statement of the case for the Congregationalists found its reflection later on in the development of democratic principles in Cromwell's army. The Baptists and the Quakers carried this directly to the New World and were a powerful leaven for democratic thought and practice there, as well as in England.

It is significant that the great reform waves of liberalism were carried out by leaders who came in great part from the evangelical churches in England; and that a substantial backing for the early development of liberalism came from this source. The Wesleyan revival, which spread independent churches under the loose organization of Methodism throughout England into the United States, played a powerful rôle in the experience in democracy and in the basic dogma of individual rights under a moral law, accepted by each man for himself. The doctrine of personal salvation and the experience of revivalist religions certainly contributed to the peculiar growth of democratic societies in the English-speaking world.

Thus the Reformation contributed not only to the introduction of new political concepts of direct democratic practices, but as well to theories of church organization that had their reflection and counterpart in politics. To forget this strand of the development of liberalism and constitutional democracy, as is so often done by purely economic interpretations, is to neglect one of the most powerful dynamics of human action—that of religious conviction.

The Reformation played a mighty rôle in breaking up the old unity and the despotism that it threatened to impose as soon as it became efficient. In breaking up the old unity, however, it aided the rise of national monarchs such as Henry VIII and Louis XIV in France. Nevertheless, in the final analysis there proved to be enough strength in the essential Christian doctrine, when combined with the common law and a theory of the people as the source of political power, to aid in limiting the very mon-

[6] *A History of Political Theory*, p. 388.

archs whom it helped to become independent of pope and feudal lords. This development and result were especially striking in England and the United States.

(. . . *N.A.McD.*)

READINGS

THE Renaissance and the Reformation were almost parallel movements. The dominant political effect of the Renaissance was to secularize the State, as is evident in the writings of Machiavelli in the next chapter. The effect of the Reformation was to create two or more religious organizations in each state and to raise the question of whether there could be religious diversity within political unity. The answer to this question did not come until the diverse religions tolerated each other, making religious belief a matter for the individual conscience and not a matter for state enforcement or official sanction. This too secularized the state. The Reformation had different concrete results in each country. The selections included here stress its results and influences in England. For this there are two justifications: It is better to take the influence and follow it through with some clarity in one country; moreover, our heritage, although it is from all Europe, is so much more directly from England than from any other country that American political development tends to merge with European development through England and at the time when the Reformation's influence on English political life was its height.

The name Luther and the term Reformation are almost synonymous in the minds of many people. The German monk who posted the ninety-five theses symbolizes the secession of a substantial part of the Christian community from Rome. The facts of Luther's life are so familiar in the West that little need be said here. Born at Eisleben, Germany, in 1483 of a free peasant family, he turned from the study of law to become an Augustinian friar in 1505. By 1515 he was a vicar at Wittenberg, superintending eleven monasteries. The specific abuse that he attacked was the sale of indulgences (remission of temporal punishment for sins, the eternal punishment of which has been remitted and the guilt of which has been pardoned by reception of the sacrament of penance). The posting of the ninety-five theses in 1517 led to excommunication, protection by the princes and electors, and a period in hiding, during which he translated the New Testament and wrote. In 1524 the Peasants' Revolt put him on the side of the princes against the peasants. He insisted upon submission to constituted authority, much as Gregory the Great had, a millennium before. Luther died in 1546, after having translated the whole Bible, part of it with Melanchthon's help, into German and after a controversy with

Henry VIII of England, which found the latter defending the Catholic Church against Luther's attacks. Luther denied the supremacy of the pope, and elaborated the doctrine of justification by faith, in opposition to salvation by good works.

When Luther posted the ninety-five theses, John Calvin was eight years old. Born in 1509 in Picardy, Calvin studied law at Orleans, Bourges, and Paris. He was gradually converted to Protestantism and acknowledged his conversion around 1533. He fled from Paris to Basle, where he published the *Institutes of the Christian Religion* in 1536. Teaching and preaching, he moved from place to place. After one unsuccessful effort to establish a theocracy in Geneva, he was recalled there in 1541. His discipline was severe and led to the burning of Michael Servetus in 1553 because he denied the Trinity. Under his leadership, Geneva became the focal point for the dissemination of Protestant doctrine throughout Europe, and he drew many scattered protests against the Roman Church into one religion known as Calvinism. Politically, he preached a doctrine of passive obedience to the powers that be, but Calvinists like John Knox in Scotland, who lived under an unfriendly government, disregarded that part of his teachings. Predestination and the idea of the elect of God are his most important ideas. Likewise his imposition of a rigid code of morality is an important element, although it is scarcely derivable from the former. Calvin died in 1564.

It was a most worldly and non-doctrinal problem that aligned England on the Protestant side of the gigantic struggle over religion. After having defended the Pope against a heretic like Luther, Henry VIII wanted one divorce, and then several. Failing to get it, he renounced the Pope and became the head of his own church in England. With some reforms in ceremony and doctrine, the English church became Protestant, and so it remains today. From then on the Church of England was usually aligned on the side of the king and vice versa. Hence those who tried to reform or purify the Church were opposed by clergy and king, and those who tried to reform the government were likewise doubly opposed. The problem of Church and State was not yet settled. The question of the proper relation of the two and the justification for a church headed by a king drew forth a great work from Richard Hooker. Hooker was born near Exeter in 1553 and lived in what many believe to have been England's greatest century. He studied at Oxford and became a clergyman of the Church of England. His work, *Laws of Ecclesiastical Polity*, has become the authoritative defense of the Reformation settlement in England. In the main, he was concerned with the issues that lay between Puritans and Anglicans, and to treat these issues he went back to first principles. His use of the social contract prepares the way for Locke. On the whole, he

lived a quiet life much devoted to contemplation. He died in 1600, three years before James VI of Scotland became James I of England.

The Catholic Church did not take the Reformation with calm detachment. The Reformation led to the Counter Reformation, which found a reformed and re-invigorated church. The spearhead of this new energy was the Society of Jesus (Jesuits), founded by Ignatius Loyola in 1540 a decade or so after Calvin became a Protestant. Two years after Loyola received permission to start his new order, Roberto Francesco Romalo Bellarmine was born in Monte Pulciano, Tuscany. Bellarmine became a Jesuit when he was eighteen. After studying at Padua, he taught at Louvain and Rome. In 1599 he received the red hat of a cardinal. Archbishop of Capua from 1601-1605, he was forced to retire because of bad health. He became bishop at Monte Pulciano in 1607. As a consultant of the Holy Office, the Cardinal was prominent in the first examination of Galileo's writings and became his friend. He came to be the principal theologian of the Jesuits and of reformed Catholicism. Since Jesuits worked in all countries, it is no accident that they were concerned with the relation between the pope and national monarchs. Bellarmine expounded the indirect power of the pope in temporal affairs. He died in 1621 during the reign of James I in England, of Louis XIII in France, and of the first Romanov in Russia. He was canonized in 1930.

The great struggle that occupied most of the seventeenth century in England involved the constitutional question of whether king or parliament was to be supreme. But in a deeper sense it was a battle to determine whether unity required uniformity. On both these points, set against the background of trouble and turmoil, the voice of John Locke seems like the voice of moderation, reason, and common sense coming from another world. There was no civilized answer to the religious diversity brought on by the Reformation except the doctrine of tolerance, which was in keeping with the spirit of the Renaissance and the church revolt.

Locke was born two years after the settlement of the Massachusetts Bay Colony and ten years before the Puritan Revolution began. He was educated at Westminster School and at Oxford. By 1660, after having turned from the study of medicine to the classics, he became a tutor at Oxford. Through the friendship of the Earl of Shaftesbury he filled several minor public offices. After the Stuart Charles II was restored to the throne in 1660, Shaftesbury fell from the Monarch's favor and Locke went into exile in Holland. There he became a friend of William of Orange and was restored to favor after William and Mary ascended the throne of England. Locke achieved his fame after he returned from exile, and after four years in public office he retired in 1700 to devote his life to religious meditation and a study of the Scriptures. Locke's important works were produced

late in life, the *Essay Concerning Human Understanding* was published in 1690. He died in 1704, two years after Queen Anne had peacefully succeeded William III, and fifteen years after the Declaration of Rights had been converted into the Bill of Rights, and the passage of an act of toleration had vindicated in practice the ideas Locke had put on paper.

The end of the seventeenth century in England did not find complete toleration of religious diversity as it is now known, and England has never had separation of Church and State in the way it has developed in the United States. Nevertheless, after 1689 there was an accommodation which permitted gradual adjustment to the reformation of the Christian church. The political implications are clear, for the ultimate settlement in a doctrine of toleration permitted religious differences within national unity. No state that has consistently denied this principle has grown strong, and the most vigorous and progressive churches have been those subjected to the competition of other churches.

Luther: Appeal for Temporal Support

During the debate that followed the posting of the ninety-five theses Luther wrote his Address To The German Nobility. *Anxious to line up support for his side, he launches an attack on the very heart of the papal claims, and in so doing he appeals to scripture to deny the temporal power of the pope and to vindicate the power of the princes. Of particular interest is his conception of the relation between the ruler and religion. Guilt makes one man subject to another, and the charge against the pope is that he is not dealing adequately with sinners, and that he himself is a sinner. The prince should be able to punish all sinners in his realm. The following selection is from the first part of the* Address To The German Nobility, *written in 1520.*[1]

JESUS

TO HIS MOST SERENE AND MIGHTY IMPERIAL MAJESTY, AND TO THE CHRISTIAN NOBILITY OF THE GERMAN NATION

Dr MARTINUS LUTHER

The grace and might of God be with you, Most Serene Majesty! most gracious, well beloved gentlemen!

It is not out of mere arrogance and perversity that I, a single poor man, have taken upon me to address your lordships. The distress and misery that oppress all the Christian estates, more especially in Germany, have led not only myself, but every one else, to cry aloud and to ask for help, and have now forced me too, to cry out and to ask, if God would give His Spirit to any one, to reach a hand to His wretched people. Councils have often put forward some remedy, but through the cunning of certain men it has been adroitly frustrated, and the evils have become worse, whose malice and wickedness

[1] From *The Reformation of the Ninety Five Theses and the Three Primary Works of Dr. Martin Luther*, translated and edited by H. Wace and C. A. Buckheim, 1883, by permission John Murray, London.

I will now, by the help of God, expose, so that, being known, they may henceforth cease to be so obstructive and injurious God has given us a young and noble sovereign,[2] and by this has roused hope in many hearts now it is right that we too should do what we can, and make good use of time and grace

The first thing that we must do is to consider the matter with great earnestness, and, whatever we attempt, not to trust in our own strength and wisdom alone, even if the power of all the world were ours for God will not endure that a good work should be begun, trusting to our own strength and wisdom He destroys it, it is all useless as we read in the xxxiii Psalm "There is no king saved by the multitude of an host a mighty man is not delivered by much strength ' And I fear it is for that reason, that those beloved Princes, the Emperors Frederick, the First and the Second, and many other German Emperors were in former times, so piteously spurned and oppressed by the Popes, though they were feared by all the world Perchance they trusted rather in their own strength than in God, therefore they could not but fall and how would the sanguinary tyrant Julius II have risen so high in our own days, but, that, I fear, France, the Germans and Venice trusted to themselves? The children of Benjamin slew forty two thousand Israelites, for this reason, that these trusted to their own strength (Judges xx etc)

That it may not happen thus to us and to our noble Emperor Charles, we must remember that in this matter we wrestle not against flesh and blood, but against the rulers of the darkness of this world (Eph vi 12), who may fill the world with war and bloodshed, but cannot themselves be overcome thereby We must renounce all confidence in our natural strength, and take the matter in hand with humble trust in God, we must seek God's help with earnest prayer, and have nothing before our eyes but the misery and wretchedness of Christendom, irrespective of what punishment the wicked may deserve If we do not act thus, we may begin the game with great pomp, but when we are well in it, the spirits of evil will make such confusion, that the whole world will be immersed in blood, and yet nothing be done Therefore let us act in the fear of God, and prudently The greater the might of the foe, the greater is the misfortune if we do not act in the fear of God, and with humility As Popes and Romanists have hitherto, with the Devil's help, thrown kings into confusion, so will they still do, if we attempt things with our own strength and skill, without God's help

The Three Walls of the Romanists.

The Romanists have, with great adroitness, drawn three walls round themselves, with which they have hitherto protected themselves, so that no one could reform them, whereby all Christendom has fallen terribly

Firstly, if pressed by the temporal power, they have affirmed and maintained that the temporal power has no jurisdiction over them, but on the contrary that the spiritual power is above the temporal

Secondly, if it were proposed to admonish them with the Scriptures, they objected that no one may interpret the Scriptures but the Pope

Thirdly, if they are threatened with a Council, they pretend that no one may call a Council but the Pope

Thus they have secretly stolen our three rods, so that they may be unpunished, and entrenched themselves behind these three walls, to act with all wickedness and malice, as we now see And whenever they have been compelled to call a Council, they have made it of no avail, by binding the Princes beforehand with an oath to leave them as they were Besides this they have given the Pope full power

[2] Charles V was at that time not quite twenty years of age

over the arrangement of the Council, so that it is all one whether we have many Councils, or no Councils, for in any case they deceive us with pretences and false tricks So grievously do they tremble for their skin before a true, free Council and thus they have overawed kings and Princes that these believe they would be offending God if they were not to obey them in all such knavish, deceitful artifices

Now may God help us, and give us one of those trumpets, that overthrew the walls of Jericho, so that we may blow down these walls of straw and paper, and that we may set free our Christian rods, for the chastisement of sin, and expose the craft and deceit of the devil, so that we may amend ourselves by punishment and again obtain God's favour

The First Wall

Let us, in the first place, attack the first wall

It has been devised, that the Pope, bishops, priests and monks are called the Spiritual Estate, Princes, lords, artificers and peasants, are the Temporal Estate, which is a very fine, hypocritical device But let no one be made afraid by it and that for this reason That all Christians are truly of the Spiritual Estate, and there is no difference among them, save of office alone As St Paul says (1 Cor xii) we are all one body, though each member does its own work, to serve the others This is because we have one baptism one gospel, one faith, and are all Christians alike, for baptism, gospel and faith these alone make Spiritual and Christian people

As for the unction by a pope or a bishop, tonsure, ordination, consecration, clothes differing from those of laymen—all this may make a hypocrite or an anointed puppet, but never a Christian, or a spiritual man Thus we are all consecrated as priests by baptism, as St Peter says "Ye are a royal priesthood, a holy nation' (1 Peter ii 9), and in the book of Revelations "and hast made us unto our God, kings and priests" (Rev v 10) For, if we had not a higher consecration in us than Pope or bishop can give, no priest could ever be made by the consecration of Pope or bishop, nor could he say the mass, or preach, or absolve Therefore the bishop's consecration is just as if in the name of the whole congregation he took one person out of the community, each member of which has equal power, and commanded him to exercise this power for the rest, in the same way as if ten brothers, co heirs as king's sons, were to choose one from among them to rule over their inheritance, they would all of them, still remain kings and have equal power, although one is ordered to govern

And to put the matter even more plainly, If a little company of pious Christian laymen were taken prisoners and carried away to a desert, and had not among them a priest consecrated by a bishop, and were there to agree to elect one of them, married, or unmarried and were to order him to baptize, to celebrate the mass, to absolve and to preach, this man would as truly be a priest, as if all the bishops and all the Popes had consecrated him That is why in cases of necessity every man can baptize and absolve, which would not be possible if we were not all priests This great grace and virtue of baptism and of the Christian Estate, they have almost destroyed and made us forget by their ecclesiastical law In this way the Christians used to choose their bishops and priests out of the community, these being afterwards confirmed by other bishops, without the pomp that we have now So was it that St Augustine, Ambrose, Cyprian, were bishops

Since then the temporal power is baptized as we are, and has the same faith and gospel, we must allow it to be priest and bishop, and account its office an office that is proper and useful to the Christian community For whatever issues from baptism, may boast that it has been consecrated priest, bishop, and Pope, al-

though it does not beseem everyone to exercise these offices. For, since we are all priests alike, no man may put himself forward, or take upon himself, without our consent and election, to do that which we have all alike power to do. For, if a thing is common to all, no man may take it to himself without the wish and command of the community. And if it should happen that a man were appointed to one of these offices and deposed for abuses, he would be just what he was before. Therefore a priest should be nothing in Christendom but a functionary; as long as he holds his office, he has precedence of others; if he is deprived of it, he is a peasant and a citizen like the rest. Therefore a priest is verily no longer a priest after deposition. But now they have invented *characteres indelebiles*,[3] and pretend that a priest after deprivation still differs from a simple layman. They even imagine that a priest can never be anything but a priest, that is, that he can never become a layman. All this is nothing but mere talk and ordinance of human invention.

It follows then, that between laymen and priests, princes and bishops, or as they call it, between spiritual and temporal persons, the only real difference is one of office and function, and not of estate: for they are all of the same Spiritual Estate, true priests, bishops and Popes, though their functions are not the same: just as among priests and monks every man has not the same functions. And this St. Paul says (Rom. xii.; 1 Cor. xii.) and St. Peter (1 Peter ii.); "we being many are one body in Christ, and every one members one of another." Christ's body is not double or twofold, one temporal, the other spiritual. He is one head, and he has one body.

We see then that just as those that we call spiritual, or priests, bishops or popes, do not differ from other Christians in any other or higher degree, but in that they are to be concerned with the word of God, and the sacraments—that being their work and office—in the same way the temporal authorities hold the sword and the rod in their hands to punish the wicked and to protect the good. A cobbler, a smith, a peasant, every man has the office and function of his calling, and yet all alike are consecrated priests and bishops, and every man in his office must be useful and beneficial to the rest, that so many kinds of work may all be united into one community: just as the members of the body all serve one another.

Now see, what a Christian doctrine is this: that the temporal authority is not above the clergy, and may not punish it. This is, as if one were to say, the hand may not help, though the eye is in grievous suffering. Is it not unnatural, not to say unchristian, that one member may not help another, or guard it against harm? Nay, the nobler the member, the more the rest are bound to help it. Therefore I say: forasmuch as the temporal power has been ordained by God for the punishment of the bad, and the protection of the good, therefore we must let it do its duty throughout the whole Christian body, without respect of persons: whether it strike popes, bishops, priests, monks or nuns. If it were sufficient reason for fettering the temporal power that it is inferior among the offices of Christianity to the offices of priest or confessor, or to the spiritual estate—if this were so, then we ought to restrain tailors, cobblers, masons, carpenters, cooks, servants, peasants, and all secular workmen, from providing the Pope, or bishops, priests and monks, with shoes, clothes, houses or victuals, or from paying them tithes. But if these laymen are allowed to do their work without restraint, what do the Romanist scribes mean by their laws? They mean that they withdraw themselves from the operation of temporal Christian power, simply in order that they may be free to do evil, and thus fulfil what St.

[3] In accordance with a doctrine of the Roman Catholic Church the act of ordination impresses upon the priest an indelible character; so that he immutably retains the sacred dignity of priesthood.

Peter said 'There shall be false teachers among you, and through covetousness shall they with feigned words make merchandise of you" (2 Peter ii 1, etc)

Therefore the temporal Christian power must exercise its office without let or hindrance without considering whom it may strike whether pope, or bishop, or priest whoever is guilty let him suffer for it Whatever the ecclesiastical law says in opposition to this, is merely the invention of Romanist arrogance For this is what St Paul says to all Christians "Let every soul (I presume including the Popes) be subject unto the higher powers for he beareth not the sword in vain for he is the minister of God, a revenger to execute wrath upon him that doeth evil' (Rom xiii 1 4) Also St Peter Submit yourselves to every ordinance of man for the Lord s sake for so is the will of God (1 Peter ii 13 15) He has also said that men would come, who should despise government (2 Peter ii) is has come to pass through ecclesiastical law

Now I imagine, the first paper wall is overthrown, inasmuch as the temporal power has become a member of the Christian body, and although its work relates to the body, yet does it belong to the spiritual estate Therefore it must do its duty without let or hindrance upon all members of the whole body, to punish or urge, as guilt may deserve or need may require, without respect of Pope, bishops or priests let them threaten or excommunicate as they will That is why a guilty priest is deprived of his priesthood before being given over to the secular arm, whereas this would not be right, if the secular sword had not authority over him already by divine ordinance

It is, indeed, past bearing that the spiritual law should esteem so highly the liberty, life and property of the clergy, as if laymen were not as good spiritual Christians or not equally members of the Church Why should your body, life, goods, and honour be free and not mine, seeing that we are equal as Christians, and have received alike baptism, faith, spirit and all things? If a priest is killed, the country is laid under an interdict why not also if a peasant is killed? Whence comes all this difference among equal Christians? Simply from human laws and inventions

It can have been no good spirit, that devised these exceptions, and made sin to go unpunished For, if as Christ and the Apostles bid us, it is our duty to oppose the evil one, and all his works and words, and to drive him away as well as may be, how then should we look on in silence, when the Pope and his followers are guilty of devilish works and words? Are we for the sake of men to allow the commandments and the truth of God to be defeated, which at our baptism we vowed to support with body and soul? Truly we should have to answer for all souls that are thus led away into error

Therefore it must have been the arch devil himself who said, as we read in the ecclesiastical law If the Pope were so perniciously wicked, as to be dragging souls in crowds to the devil, yet he could not be deposed This is the accursed and devilish foundation on which they build at Rome, and think that the whole world is to be allowed to go to the devil, rather than they should be opposed in their knavery If a man were to escape punishment simply because he is above the rest, then no Christian might punish another since Christ has commanded each of us to esteem himself the lowest and the humblest (Matt xviii 4, Luke ix 48)

Where there is sin, there remains no avoiding the punishment, as St Gregory says We are all equal, but guilt makes one subject to another Now see, how they deal with Christendom, depriving it of its freedom without any warrant from the Scriptures, out of their own wickedness, whereas God and the Apostles made them subject to the secular sword, so that we must fear, that it is the work of Antichrist, or a sign of his near approach.

. . . . .

Calvin: Christian Behavior in the State

Calvin produced the INSTITUTES OF THE CHRISTIAN RELIGION *when he was twenty-seven, and it remains the authoritative statement of the Calvinist religion For Calvin it was inconceivable that the legitimate ruler should not be a true believer and hence be as much interested in the enforcement of religious rules as of any other His ideal was a theocracy where the spiritual and temporal are fused, such as he later operated at Geneva But like all religious writers of the time he felt called upon to deal with civil government, he did so in the last chapter of the* INSTITUTES *He emphasizes the duty of submission and obedience during man's earthly sojourn More than this, he conceives that civil government plays a positive rôle in religion* [1]

[JUSTICE WITHOUT HATE]

XVII It now remains for us, as we proposed, in the last place, to examine what advantage the common society of Christians derives from laws, judgments, and magistrates, with which is connected another question—what honour private persons ought to render to magistrates, and how far their obedience ought to extend Many persons suppose the office of magistracy to be of no use among Christians, for that they cannot consistently with piety, apply for their assistance, because they are forbidden to have recourse to revenge or litigation But as Paul, on the contrary, clearly testifies that the magistrate is 'the minister of God to us for good," [2] we understand from this that he is divinely appointed, in order that we may be defended by his power and protection against the malice and injuries of wicked men, and may lead peaceable and secure lives But if it be in vain that he is given to us by the Lord for our protection, unless it be lawful for us to avail ourselves of such an advantage, it clearly follows that we may appeal to him, and apply for his aid, without any violation of piety But here I have to do with two sorts of persons, for there are multitudes inflamed with such a rage for litigation, that they never have peace in themselves, unless they are in contention with others, and they commence their lawsuits with a mortal bitterness of animosities, and with an infuriated cupidity of revenge and injury and pursue them with an implacable obstinacy, even to the ruin of their adversary At the same time, that they may not be thought to do any thing wrong, they defend this perverseness under the pretext of seeking justice But, though it is allowable for a man to endeavour to obtain justice from his neighbour by a judicial process, he is not therefore at liberty to hate him, or to cherish a desire to hurt him, or to persecute him without mercy

["TO BEAR A PERPETUAL CROSS"]

XX Nor do we any more oppose the prohibition and injunction of Christ, Resist not evil, but whosoever shall smite thee on thy right cheek, turn to him the other also, and if any man will sue thee at the law, and take away thy coat, let him have thy cloak also" [3] In this passage, indeed, he requires the minds of

[1] From the John Allen translation of Calvin's *Institutes of the Christian Religion*, published by The Westminster Press Used by permission

[2] Rom XIII. 4

[3] Matt V 39, 40

his servants to be so far from cherishing a desire of retaliation, as rather to suffer the repetition of an injury against themselves than to wish to revenge it; nor do we dissuade them from this patience. For it truly behoves Christians to be a people, as it were, formed to bear injuries and reproaches, exposed to the iniquity, impostures, and ridicule of the worst of mankind; and not only so, but they ought to be patient under all these evils; that is to say, so calm and composed in their minds, that, after having suffered one affliction, they may prepare themselves for another, expecting nothing all their lifetime but to bear a perpetual cross. At the same time, they are required to bless and pray for them from whom they receive curses, to do good to them from whom they experience injuries, and to aim at that which constitutes their only victory, to "overcome evil with good." With this disposition they will not demand "an eye for an eye, and a tooth for a tooth," as the Pharisees taught their disciples to desire revenge; but, as we are instructed by Christ, they will suffer injuries in their persons and property in such a manner as to be ready to forgive them as soon as they are committed. Yet this equanimity and moderation will be no obstacle, but that, without any breach of friendship towards their enemies, they may avail themselves of the assistance of the magistrate for the preservation of their property: or, from zeal for the public good, may bring a pestilent offender to justice, though they know he can only be punished with death. For it is very correctly explained by Augustine, that the end of all these precepts is, "that a just and pious man should be ready to bear with patience the wickedness of those whom he desires to become good; rather in order that the number of the good may increase, not that with similar wickedness he may himself join the number of the evil; and in the next place, that they relate to the internal affection of the heart more than to the external actions; in order that in the secrecy of our minds we may feel patience and benevolence, but in our outward conduct may do that which we see tends to the advantage of those to whom we ought to feel benevolent affections."

[Governors More than Necessary Evils]

XXII. The first duty of subjects towards their magistrates is to entertain the most honourable sentiments of their function, which they know to be a jurisdiction delegated to them from God, and on that account to esteem and reverence them as God's ministers and vicegerents. For there are some persons to be found, who show themselves very obedient to their magistrates, and have not the least wish that there were no magistrates for them to obey, because they know them to be so necessary to the public good; but who, nevertheless, consider the magistrates themselves as no other than necessary evils. But something more than this is required of us by Peter, when he commands us to "honour the king;" [4] and by Solomon, when he says, "Fear thou the Lord and the king;" [5] for Peter, under the term *honour*, comprehends a sincere and candid esteem; and Solomon, by connecting the king with the Lord, attributes to him a kind of sacred veneration and dignity. It is also a remarkable commendation of magistrates which is given by Paul, when he says, that we "must needs be subject, not only for wrath, but also for conscience sake;" [6] by which he means, that subjects ought to be induced to submit to princes and governors, not merely from a dread of their power, as persons are accustomed to yield to an armed enemy, who they know will immediately take vengeance upon them if they resist; but because the obedience which is rendered to princes and magistrates is rendered to God, from whom they have received their authority. I am

[4] Peter ii. 17.
[5] Prov. xxiv. 21.
[6] Rom. xiii. 5.

not speaking of the persons, as if the mask of dignity ought to palliate or excuse folly, ignorance, or cruelty, and conduct the most nefarious and flagitious, and so to acquire for vices the praise due to virtues; but I affirm that the station itself is worthy of honour and reverence; so that, whoever our governors are, they ought to possess our esteem and veneration on account of the office which they fill.

[Obedience and No Meddling]

XXIII. Hence follows another duty, that, with minds disposed to honour and reverence magistrates, subjects approve their obedience to them, in submitting to their edicts, in paying taxes, in discharging public duties, and bearing burdens which relate to the common defence, and in fulfilling all their other commands. Paul says to the Romans, "Let every soul be subject unto the higher powers. Whosoever resisteth the power, resisteth the ordinance of God."[7] He writes to Titus, "Put them in mind to be subject to principalities and powers, to obey magistrates, to be ready to every good work."[8] Peter exhorts, "Submit yourselves to every ordinance of man for the Lord's sake; whether it be to the king, as supreme; or unto governors, as unto them that are sent by him for the punishment of evil-doers, and for the praise of them that do well."[9] Moreover, that subjects may testify that theirs is not a hypocritical but a sincere and cordial submission, Paul teaches, that they ought to pray to God for the safety and prosperity of those under whose government they live. "I exhort," he says, "that supplications, prayers, intercessions, and giving of thanks, be made for all men; for kings, and for all that are in authority; that we may lead a quiet and peaceable life in all godliness and honesty."[10] Here let no man deceive himself. For as it is impossible to resist the magistrate without, at the same time, resisting God himself; though an unarmed magistrate may seem to be despised with impunity, yet God is armed to inflict exemplary vengeance on the contempt offered to himself. Under this obedience I also include the moderation which private persons ought to prescribe to themselves in relation to public affairs, that they do not, without being called upon, intermeddle with affairs of state, or rashly intrude themselves into the office of magistrates, or undertake any thing of a public nature. If there be any thing in the public administration which requires to be corrected, let them not raise any tumults, or take the business into their own hands, which ought to be all bound in this respect, but let them refer it to the cognizance of the magistrate, who is alone authorized to regulate the concerns of the public. I mean, that they ought to attempt nothing without being commanded; for when they have the command of a governor, then they also are invested with public authority. For, as we are accustomed to call the counsellors of a prince *his eyes and ears*, so they may not unaptly be called *his hands* whom he has commissioned to execute his commands.

[Justification of Tyrants]

XXV. But, if we direct our attention to the word of God, it will carry us much further; even to submit to the government, not only of those princes who discharge their duty to us with becoming integrity and fidelity, but of all who possess the sovereignty, even though they perform none of the duties of their function. For, though the Lord testifies that the magistrate is an eminent gift of his liberality to preserve the safety of men, and prescribes to magistrates themselves the extent of their duty, yet he at the same time declares, that whatever be their characters, they have their government only from him; that those who govern

[7] Rom. xiii. 1, 2.
[8] Titus iii. 1.
[9] 1 Peter ii. 13, 14.
[10] 1 Tim. ii. 1, 2.

for the public good are true specimens and mirrors of his beneficence; and that those who rule in an unjust and tyrannical manner are raised up by him to punish the iniquity of the people; that all equally possess that sacred majesty with which he has invested legitimate authority. I will not proceed any further till I have subjoined a few testimonies in proof of this point. It is unnecessary, however, to labour much to evince an impious king to be a judgment of God's wrath upon the world, as I have no expectation that any one will deny it: and in this we say no more of a king than of any other robber who plunders our property; or adulterer who violates our bed; or assassin who attempts to murder us; since the Scripture enumerates all these calamities among the curses inflicted by God. But let us rather insist on the proof of that which the minds of men do not so easily admit; that a man of the worst character, and most undeserving of all honour, who holds the sovereign power, really possesses that eminent and Divine authority, which the Lord has given by his word to the ministers of his justice and judgment; and, therefore, that he ought to be regarded by his subjects, as far as pertains to public obedience, with the same reverence and esteem which they would show to the best of kings, if such a one were granted to them.

[Magistrates for Protection of the People]

XXXI. But whatever opinion be formed of the acts of men, yet the Lord equally executed his work by them, when he broke the sanguinary sceptres of insolent kings, and overturned tyrannical governments. Let princes hear and fear. But, in the mean while, it behoves us to use the greatest caution, that we do not despise or violate that authority of magistrates, which is entitled to the greatest veneration, which God has established by the most solemn commands, even though it reside in those who are most unworthy of it, and who, as far as in them lies, pollute it by their iniquity. For though the correction of tyrannical domination is the vengeance of God, we are not, therefore, to conclude that it is committed to us, who have received no other command than to obey and suffer. This observation I always apply to private persons. For if there be, in the present day, any magistrates appointed for the protection of the people and the moderation of the power of kings, such as were, in ancient times, the Ephori, who were a check upon the kings among the Lacedæmonians, or the popular tribunes upon the consuls among the Romans, or the Demarchi upon the senate among the Athenians; or with power such as perhaps is now possessed by the three estates in every kingdom when they are assembled; I am so far from prohibiting them, in the discharge of their duty, to oppose the violence or cruelty of kings, that I affirm, that if they connive at kings in their oppression of their people, such forbearance involves the most nefarious perfidy, because they fraudulently betray the liberty of the people, of which they know that they have been appointed protectors by the ordination of God.

[Justifiable Resistance]

XXXII. But in the obedience which we have shown to be due to the authority of governors, it is always necessary to make one exception, and that is entitled to our first attention,—that it do not seduce us from obedience to him, to whose will the desires of all kings ought to be subject, to whose decrees all their commands ought to yield, to whose majesty all their sceptres ought to submit. And, indeed, how preposterous it would be for us, with a view to satisfy men, to incur the displeasure of him on whose account we yield obedience to men! The Lord, therefore, is the King of kings; who, when he has opened his sacred mouth, is to be heard alone, above all, for all, and before all; in the next place, we are subject to

those men who preside over us; but no otherwise than in him. If they command any thing against him, it ought not to have the least attention; nor, in this case, ought we to pay any regard to all that dignity attached to magistrates; to which no injury is done when it is subjected to the unrivalled and supreme power of God. *On this principle Daniel denied that he* had committed any crime against the king *in disobeying his impious decree;* because the king had exceeded the limits of his office, and had not only done an injury to men, but, by raising his arm against God, had degraded his own authority. On the other hand, the Israelites are condemned for having been too submissive to the impious edict of their king. For when Jeroboam had made his golden calves, in compliance with his will, they deserted the temple of God and revolted to new superstitions. Their posterity conformed to the decrees of their idolatrous kings with the same facility. The prophet severely condemns them for having "willingly walked after the commandment:" [11] so far is any praise from being due to the pretext of humility, with which courtly flatterers excuse themselves and deceive the unwary, when they deny that it is lawful for them to refuse compliance with any command of their kings; as if God had resigned his right to mortal men when he made them rulers of mankind; or as if earthly power were diminished by being subordinated to its author, before whom even the principalities of *heaven tremble with* awe. *I know* what great and present danger awaits this constancy, for kings cannot bear to be disregarded without the greatest indignation, and "the wrath of a king," says Solomon, "is as messengers of death." [12] But since this edict has been proclaimed by that celestial herald, Peter, "We ought to obey God rather than men," [13]—let us console ourselves with this thought, that we truly perform the obedience which God requires of us, when we suffer any thing rather than deviate from piety. And that our hearts may not fail us, Paul stimulates us with another consideration—that Christ has redeemed us at the immense price which our redemption cost him, that we may not be submissive to the corrupt desires of men, much less be slaves to their impiety.[14]

[11] Hos. v. 11.

[12] Prov. xvi. 14.

[13] Acts v. 29.

[14] 1 Cor. vii. 23.

Hooker: Fusion of Medieval and Modern Thought

The greatness of Elizabethan England would have been marred had it not called forth a writing on government worthy of the period Richard Hooker produced the work in his LAWS OF ECCLESIASTICAL POLITY *This is a work that is getting rather belated recognition in the contemporary period, and yet one has only to read Locke to see what a debt he owed to the "judicious Hooker," in spite of a great difference in aim and emphasis It is tempting to speculate that if the calmness of Hooker had prevailed over the wise minds of the seventeenth century England might have had in 1600 what she achieved in 1689 In another dimension, one can say that with Aquinas strictly in the medieval tradition and Hobbes or Locke clearly in the modern, Hooker stands between Note especially his words on law, consent, and the relation of religion and the State* [1]

[LAW PRIOR TO POLITICAL SOCIETY]

X That which hitherto we have set down is (I hope) sufficient to shew their brutish ness, which imagine that religion and virtue are only as men will account of them that we might make as much account, if we would, of the contrary without any harm unto ourselves and that in nature they are as indifferent one as the other We see then how nature itself teacheth laws and statutes to live by The laws which have been hitherto mentioned do bind men absolutely even as they are men, although they have never any settled fellowship, never any solemn agreement amongst themselves what to do or not to do But forasmuch as we are not by ourselves sufficient to furnish ourselves with competent store of things needful for such a life as our nature doth desire, a life fit for the dignity of man therefore to supply those defects and imperfections which are in us living single and solely by ourselves we are naturally induced to seek communion and fellowship with others This was the cause of men s uniting themselves at the first in politic Societies, which societies could not be without Government nor Government without a distinct kind of Law from that which hath been already declared Two foundations there are which bear up public societies, the one, a natural inclination, whereby all men desire sociable life and fellowship, the other an order expressly or secretly agreed upon touching the manner of their union in living together The latter is that which we call the Law of a Common weal, the very soul of a politic body, the parts whereof are by law animated, held together, and set on work in such actions, as the common good requireth Laws politic ordained for external order and regiment amongst men, are never framed as they should be, unless presuming the will of man to be inwardly obstinate, rebellious, and averse from all obedience unto the sacred laws of his nature, in a word, unless presuming man to be in regard of his depraved mind little better than a wild beast, they do accordingly provide notwithstanding so to frame his outward actions, that they be no hinderance unto the common good for which societies are instituted unless they do this, they are not perfect It resteth therefore that we consider how nature findeth out such laws of government as serve to direct even nature depraved to a right end.

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[1] Taken from *Ecclesiastical Polity*, by Richard Hooker, published by E P Dutton & Co, Inc, New York, Everyman s Library

[Origin of Government]

[4] To take away all such mutual grievances, injuries, and wrongs, there was no way but only by growing unto composition and agreement amongst themselves, by ordaining some kind of government *public*, and by yielding themselves subject thereunto, that unto whom they granted authority to rule and govern, by them the peace, tranquillity, and happy estate of the rest might be procured Men always *knew that when force and injury* was offered they might be defenders of themselves they knew that howsoever men may seek their own commodity, yet if this were done with injury unto others it was *not to be suffered*, but by all *men* and by all good means to be withstood, finally they knew that no man might in reason take upon him to determine his own right, and according to his own determination proceed in maintenance thereof, inasmuch as every man is towards himself and them whom he greatly affecteth partial, and therefore that strifes and troubles would be endless, except they gave their common consent all to be ordered by some whom they should agree upon without which consent there were no reason that one man should take upon him to be lord or judge over another because, although there be according to the opinion of some very great and judicious men a kind of natural right in the noble, wise, and virtuous, to govern them which are of servile disposition [2] nevertheless for manifestation of this their right, and men's more peaceable contentment on both sides, the assent of them who are to be governed seemeth necessary

To fathers within their private families Nature hath given a supreme power, for which cause we see throughout the world even from the foundation thereof, all men have ever been taken as lords and lawful kings in their own houses Howbeit over a whole grand multitude having no such dependency upon any one, and consisting of so many families as every politic society in the world doth, impossible it is that any should have complete lawful power, but by consent of men, or immediate appointment of God, because not having the natural superiority of fathers, their power must needs be either usurped, and *then unlawful*, or, if lawful, then either granted or consented unto by them over whom they exercise the same, or else given extraordinarily from God, unto whom all the world is subject It is no *improbable opinion* therefore which the arch philosopher was of, that as the chiefest person in every household was always as it were a king, so when numbers of households joined themselves in civil society together, kings were the first kind of governors amongst them [3] Which is also (as it seemeth) the reason why the name of Father continued still in them, who of fathers were made rulers, as also the ancient custom of governors to do as Melchisedec, and being kings to exercise the office of priests, which fathers did at the first, grew perhaps by the same occasion

Howbeit not this the only kind of regiment that hath been received in the world The inconveniences of one kind have caused sundry other to be devised So that in a word all public regiment of what kind soever seemeth evidently to have risen from deliberate advice, consultation, and composition between men, judging it convenient and behoveful, there being no impossibility in nature considered by itself, but that men might have lived without any public regiment Howbeit, the corruption of our nature being presupposed, we may not deny that the Law of Nature doth now require of necessity some kind of regiment, so that to bring things unto the first course they were in, and utterly to take away all kind of public government in the world, were apparently to overturn the whole world

[2] Arist Polit lib III. et IV.

[3] Aristt Polit lib I cap 2 Vide et Platonem in 3 de Legibus [t II 680]

[NATURAL AND POSITIVE LAWS]

[7.] In laws, that which is natural bindeth universally, that which is positive not so. To let go those kind of positive laws which men impose upon themselves, as by vow unto God, contract with men, or such like; somewhat it will make unto our purpose, a little more fully to consider what things are incident unto the making of the positive laws for the government of them that live united in public society. Laws do not only teach what is good, but they enjoin it, they have in them a certain constraining force. And to constrain men unto any thing inconvenient doth seem unreasonable. Most requisite therefore it is that to devise laws which all men shall be forced to obey none but wise men be admitted. Laws are matters of principal consequence; men of common capacity and but ordinary judgment are not able (for how should they?) to discern what things are fittest for each kind and state of regiment. We cannot be ignorant how much our obedience unto laws dependeth upon this point. Let a man though never so justly oppose himself unto them that are disordered in their ways, and what one amongst them commonly doth not stomach at such contradiction, storm at reproof, and hate such as would reform them? Notwithstanding even they which brook it worst that men should tell them of their duties, when they are told the same by a law, think very well and reasonably of it. For why? They presume that the law doth speak with all indifferency; that the law hath no side-respect to their persons; that the law is as it were an oracle proceeded from wisdom and understanding.[4]

[8.] Howbeit laws do not take their constraining force from the quality of such as devise them, but from that power which doth give them the strength of laws. That which we spake before concerning the power of government must here be applied unto the power of making laws whereby to govern; which power God hath over all: and by the natural law, whereunto he hath made all subject, the lawful power of making laws to command whole politic societies of men belongeth so properly unto the same entire societies, that for any prince or potentate of what kind soever upon earth to exercise the same of himself, and not either by express commission immediately and personally received from God, or else by authority derived at the first from their consent upon whose persons they impose laws, it is no better than mere tyranny.

[VIRTUAL RECOGNITION AND TACIT CONSENT]

Laws they are not therefore which public approbation hath not made so. But approbation not only they give who personally declare their assent by voice sign or act, but also when others do it in their names by right originally at the least derived from them. As in parliaments, councils, and the like assemblies, although we be not personally ourselves present, notwithstanding our assent is by reason of others agents there in our behalf. And what we do by others, no reason but that it should stand as our deed, no less effectually to bind us than if ourselves had done it in person. In many things assent is given, they that give it not imagining they do so, because the manner of their assenting is not apparent. As for example, when an absolute monarch commandeth his subjects that which seemeth good in his own discretion, hath not his edict the force of a law whether they approve or dislike it? Again, that which hath been received long sithence and is by custom now established, we keep as a law which we may not transgress; yet what consent was ever thereunto sought or required at our hands?

Of this point therefore we are to note, that sith men naturally have no full and perfect power to command whole politic

[4] [Arist. Eth. Nic. x. c. ix. 12.]

multitudes of men, therefore utterly without our consent we could in such sort be at no man's commandment living. And to be commanded we do consent, when that society whereof we are part hath at any time before consented, without revoking the same after by the like universal agreement. Wherefore as any man's deed past is good as long as himself continueth; so the act of a public society of men done five hundred years sithence standeth as theirs who presently are of the same societies, because corporations are immortal; we were then alive in our predecessors, and they in their successors do live still. Laws therefore human, of what kind soever, are available by consent.

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[Law of Nations]

[12.] Now besides that law which simply concerneth men as men, and that which belongeth unto them as they are men linked with others in some form of politic society, there is a third kind of law which toucheth all such several bodies politic, so far forth as one of them hath public commerce with another. And this third is the Law of Nations. Between men and beasts there is no possibility of sociable communion, because the well-spring of that communion is a natural delight which man hath to transfuse from himself into others, and to receive from others into himself especially those things wherein the excellency of his kind doth most consist. The chiefest instrument of human communion therefore is speech, because thereby we impart mutually one to another the conceits of our reasonable understanding.[5] And for that cause seeing beasts are not hereof capable, forasmuch as with them we can use no such conference, they being in degree, although above other creatures on earth to whom nature hath denied sense, yet lower than to be sociable companions of man to whom nature hath given reason; it is of Adam said that amongst the beasts "he found not for himself any meet companion."[6] Civil society doth more content the nature of man than any private kind of solitary living, because in society this good of mutual participation is so much larger than otherwise. Herewith notwithstanding we are not satisfied, but we covet (if it might be) to have a kind of society and fellowship even with all mankind. Which thing Socrates intending to signify professed himself a citizen, not of this or that commonwealth, but of the world.[7] And an effect of that very natural desire in us (a manifest token that we wish after a sort an universal fellowship with all men) appeareth by the wonderful delight men have, some to visit foreign countries, some to discover nations not heard of in former ages, we all to know the affairs and dealings of other people, yea to be in league of amity with them: and this not only for traffick's sake, or to the end that when many are confederated each may make other the more strong, but for such cause also as moved the Queen of Saba to visit Solomon;[8] and in a word, because nature doth presume that how many men there are in the world, so many gods as it were there are, or at leastwise such they should be towards men.

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[Supernatural and Natural Societies]

[2.] Laws that concern supernatural duties are all positive,[9] and either con-

[5] Arist. Polit. i. cap. 2.

[6] Gen. ii. 20.

[7] Cic. Tusc. v. [c. 37.] et i. de Legib. [c. 12.]

[8] 1 Kings x. 1; 2 Chron. ix. 1; Matt. xii. 42; Luke xi. 31.

[9] [To prevent any misapplication of this principle, it may be useful to compare Butler's Analogy, p. ii. c. 1. § 2; where moral precepts and duties are contrasted with positive in a manner which may at first appear inconsistent with Hooker's language. But the appearance

cern men supernaturally as men, or else as parts of a supernatural society, which society we call the Church. To concern men as men supernaturally is to concern them as duties which belong of necessity to all, and yet could not have been known by any to belong unto them, unless God had opened them himself, inasmuch as they do not depend upon any natural ground at all out of which they may be deduced, but are appointed of God to supply the defect of those natural ways of salvation, by which we are not now able to attain thereunto. The Church being a supernatural society doth differ from natural societies in this, that the persons unto whom we associate ourselves, in the one are men simply considered as men, but they to whom we be joined in the other, are God, Angels, and holy men. Again the Church being both a society and a society supernatural, although as it is a society it have the selfsame original grounds which other politic societies have, namely, the natural inclination which all men have unto sociable life, and consent to some certain bond of association, which bond is the law that appointeth what kind of order they shall be associated in: yet unto the Church as it is a society supernatural this is peculiar, that part of the bond of their association which belong to the Church of God must be a law supernatural, which God himself hath revealed concerning the kind of worship which his people shall do unto him. The substance of the service of God therefore, so far forth as it hath in it any thing more than the Law of Reason doth teach, may not be invented of men, as it is amongst the heathens, but must be received from God himself, as always it hath been in the Church, saving only when the Church hath been forgetful of her duty.

. . . . .

[8.] Wherefore that here we may briefly end: of Law there can be no less acknowledged, than that her seat is the bosom of God, her voice the harmony of the world: all things in heaven and earth do her homage, the very least as feeling her care, and the greatest as not exempted from her power: both Angels and men and creatures of what condition soever, though each in different sort and manner, yet all with uniform consent, admiring her as the mother of their peace and joy.

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of discrepancy will perhaps be removed, if it is considered that Hooker opposes the term Positive to Natural, in regard of our ability or inability to *obtain the knowledge* of a law without express revelation: Butler on the other hand opposes Positive to Moral, in regard of our ability or inability to *discern the reasonableness* of a law *made known* to us by revelation or otherwise.]

Bellarmine: Indirect Power of the Pope

The writings of Cardinal Bellarmine are polemical in style, but they have had a profound influence on modern Catholic doctrine. His counterattack on the heretical protesters was vigorous and clear. He could not escape the issue of the State, and the work of William Barclay drew from his DE POTESTATE SUMMI PONTIFICIS IN REBUS TEMPORALIBUS *(On the Power of the Supreme Pontiff in Temporal Matters), written in 1610. With clarity he argues for an indirect papal supremacy, which turns out to be not greatly different from the claim of Boniface VIII in the Bull* UNAM SANCTAM *(see p. 309)*. *In his section of* LEVIATHAN *entitled "The Kingdom of Darkness," Hobbes answers Bellarmine.*[1]

BOOK V

[TEMPORAL POWER OF THE POPE]

That the Pope has the highest indirect temporal power. First we must set forth the opinions of the theologians. Then we must prove them. As to the first, we assert that, although the Pontiff as Pontiff does not have absolute temporal power, nonetheless for the attainment of spiritual good, he has the highest power of disposing temporal matters for the whole of Christendom. Many explain this by a comparison with the skill of the bridle maker and of the horseman, and other like comparisons. These two skills differ from one another since they have distinct objects, subjects, and actions. But at the same time the achievement of the one is necessary for the accomplishment of the other. Therefore one commands the other and prescribes its laws. In like fashion, ecclesiastical authority and political authority are seen to be two distinct authorities, yet achievement of the end of the one depends by its nature on the accomplishment of the end of the other.

But this metaphor is not altogether apt, for in the case of the skills mentioned, the inferior exists only because of the superior: to the extent that the superior is developed, the inferior is continually also developed to keep up with it, for if the skill of the horseman did not exist, it is clear that the skill of bridle-making would be of the utmost uselessness. But political power does not exist solely because of ecclesiastical power, for even if ecclesiastical power did not exist, political power would nonetheless exist, as appears among the infidels, where there is true temporal and political power but without relation to any true ecclesiastical and spiritual authority.

Another comparison is much more apt to our purposes... For as there is in man both spirit and flesh, so in the Church, there are two powers; for the flesh and the spirit are like two republics which can be found both conjoined and separate. The flesh has sense and appetite to which correspond action and objects appropriate to them and whose immediate goal is health and the good constitution of the body. The spirit has intellect and will, and actions and objects appropriate to these and for goal the health and perfection of the soul. The flesh without the spirit is found in brute beasts; the spirit without the flesh is found in angels.

From this it appears that neither is absolutely essential to the other. For the flesh is found joined to the spirit in man, where, since they make one person, they necessarily have subordination and con-

[1] Translated for this book from *De Summo Pontifice*, Liber V, Caput VI. Works of Robert Cardinal Bellarmine, Venice 1721, Volume I.

nection. The flesh is subordinate, the spirit commands, and, although the spirit does not involve itself with the actions of the body, but suffers the flesh to exercise all the functions which it exercises in brute beasts, nevertheless, since these are carried out to the ends of the spirit, the spirit commands the body, castigates it, and, if need be, imposes fasting and other penances involving detriment or weakening of the body, and binds the tongue lest it speak and the eyes lest they see, etc. For like reason, if in order to obtain the end of the spirit, any operation of the flesh is necessary (and death is of this nature) the spirit can command the body even to expose itself, as we see in the martyrs.

In precisely this fashion political authority has its princes, laws, judgments, etc. and likewise the ecclesiastical its bishops, canons, judgments. The one has them for the end of temporal peace, the other for eternal salvation. They are sometimes found separately, as formerly in the time of the Apostles, sometimes together, as now. When they are conjoined, they make one body, and therefore they ought to be connected and the inferior subjected and subordinated to the superior. And thus the spiritual does not concern itself in temporal business but suffers all things to proceed as they did before they were joined as long as they are neither prejudicial to the spiritual end nor necessary to its fulfillment. If, moreover, any such thing happens, the spiritual power can and ought to coerce the temporal by every argument and by every other means which shall seem necessary for this purpose.

To explain all these things in greater detail, the spiritual power of the Pope may be compared with the persons of judges or secular princes, with their civil laws, and with their jurisdiction and judgments.

As to persons, the Pope as Pope cannot ordinarily depose temporal princes, however just the cause, in the same manner in which he deposes bishops, that is, as an ordinary judge. On the other hand, he can change regal authority, taking it away from one and giving it to another, inasmuch as he is the highest spiritual prince, provided this is necessary to the saving of souls, as we have shown.

As to the laws, the Pope as Pope cannot ordinarily establish civil law, or confirm it, or invalidate the laws of princes, since he is not himself the political chief of the church. On the other hand, he can do all these things if kings do not wish to establish a civil law which shall be necessary to the salvation of souls, or to abrogate one which threatens the safety of souls. And thus the best rule is this...: When any conflict is found between the laws of the emperor and those of the Pope, if the matter of the law is something involving danger to souls, the imperial law shall be abrogated by the Pontiff....[2] And since the subject-matter of civil law is temporal affairs not involving danger to souls, the Pontiff cannot abrogate imperial law, but it is to be obeyed on both sides, on the one hand in the ecclesiastical forum and on the other in the civil.

As to judgments, the Pope as Pope cannot ordinarily judge concerning temporal things, for Bernard Eugenio...rightly said: "The lowest things and those of this earth have their judges, kings, and princes of the earth. Why should you invade foreign boundaries? Why reach out your scythe into an alien harvest?" And again: "Your power is against sins, not against possessions." On the other hand, in the case in which this is necessary to the safety of souls, the Pontiff can assume temporal jurisdiction, when without doubt there is no one else who can judge, as when two supreme kings contend, or when those who can and ought to judge do not wish to give an opinion. Whence...

[2] The author here gives a specific instance of conflict between canon and imperial law. The imperial law in this case is invalid, he says, "since it cannot be obeyed without mortal sin."

Bernard also says "But it is one thing to fall upon these things unexpectedly, quite another to bend one's attention towards them, things, as it were, proper for such attention and the attention of such people" And Innocent III says that the Pontiff can exercise temporal power only incidentally (*casualiter*)

Locke: The Conditions of Internal Peace

Locke's LETTER CONCERNING TOLERATION *was probably written in 1685 and first published in 1689 It first appeared in Latin. The idea of toleration was not new with Locke, but his expression of it is classic, for two reasons It came at an opportune time, he tries to inject a quality of positive value into a doctrine that can be completely negative, i e, putting up with heretics simply to keep the peace The positive quality makes it a precursor of the writings of John Stuart Mill nearly two centuries later. The limits of Locke's toleration are interesting and provide a measure of the difference between the doctrine of toleration near its source and at this distance* [1]

BUT TO COME TO PARTICULARS I SAY, first, no opinions contrary to human society, or to those moral rules which are necessary to the preservation of civil society, are to be tolerated by the magistrate But of these, indeed, examples in any Church are rare For no sect can easily arrive to such a degree of madness as that it should think fit to teach, for doctrines of religion, such things as manifestly undermine the foundations of society, and are, therefore, condemned by the judgment of all mankind, because their own interest, peace, reputation, everything would be thereby endangered

Another more secret evil, but more dangerous to the commonwealth, is when men arrogate to themselves, and to those of their own sect, some peculiar prerogative covered over with a specious show of deceitful words, but in effect opposite to the civil right of the community For example we cannot find any sect that teaches expressly and openly, that men are not obliged to keep their promise, that princes may be dethroned by those that differ from them in religion, or that the dominion of all things belongs only to themselves For these things, proposed thus nakedly and plainly, would soon draw on them the eye and hand of the magistrate, and awaken all the care of the commonwealth to a watchfulness against the spreading of so dangerous an evil But, nevertheless, we find those that say the same things in other words What else do they mean, who teach that faith is not to be kept with heretics? Their meaning, forsooth, is that the privilege of breaking faith belongs unto themselves, for they declare all that are not of their communion to be heretics, or at least may declare them so whensoever they think fit What can be the meaning of their asserting that kings excommunicated forfeit their crowns and kingdoms? It is evident that they thereby arrogate unto themselves the power of deposing kings, because they challenge the power of excommunication, as the peculiar right of their hierarchy That dominion is founded

[1] From John Locke, *Treatise of Civil Government and a Letter Concerning Toleration*, edited by Charles L Sherman Copyright, 1937, by D Appleton Century Company, Inc Reprinted by permission of Appleton Century Crofts, Inc.

in grace is also an assertion by which those that maintain it do plainly lay claim to the possession of all things For they are not so wanting to themselves as not to believe, or at least as not to profess themselves to be the truly pious and faithful These therefore and the like, who attribute unto the faithful, religious, and orthodox, that is in plain terms, unto themselves, any peculiar privilege or power above other mortals in civil concernments, or who upon pretence of religion do challenge any manner of authority over such as are not associated with them in their ecclesiastical communion, I say these have no right to be tolerated by the magistrate, as neither those that maintain it do plainly lay duty of tolerating all men in matters of mere religion For what do all these and the like doctrines signify but that they may, and are ready upon any occasion to seize the Government, and possess themselves of the estates and fortunes of their fellow subjects and that they only ask leave to be tolerated by the magistrate so long until they find themselves strong enough to effect it?

Again That Church can have no right to be tolerated by the magistrate which is constituted upon such a bottom that all those who enter into it do thereby *ipso facto* deliver themselves up to the protection and service of another prince For by this means the magistrate would give way to the settling of a foreign jurisdiction in his own country, and suffer his own people to be listed, as it were, for soldiers against his own Government Nor does the frivolous and fallacious distinction between the Court and the Church afford any remedy to this inconvenience especially when both the one and the other are equally subject to the absolute authority of the same person, who has not only power to persuade the members of his Church to whatsoever he lists, either as purely religious, or in order thereunto, but can also enjoin it them on pain of eternal fire It is ridiculous for any one to profess himself to be a Mahometan only in his religion, but in everything else a faithful subject to a Christian magistrate, whilst at the same time he acknowledges himself bound to yield blind obedience to the Mufti of Constantinople, who himself is entirely obedient to the Ottoman Emperor, and frames the feigned oracles of that religion according to his pleasure But this Mahometan living amongst Christians would yet more apparently renounce their government if he acknowledged the same person to be head of his Church who is the supreme magistrate in the state

Lastly, those are not at all to be tolerated who deny the being of a God Promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist The taking away of God, though but even in thought, dissolves all besides also, those that by their atheism undermine and destroy all religion, can have no pretence of religion whereupon to challenge the privilege of a toleration As for other practical opinions, though not absolutely free from all error, if they do not tend to establish domination over others, or civil impunity to the Church in which they are taught, there can be no reason why they should not be tolerated

[Factions and Toleration]

It remains that I say something concerning those assemblies which being vulgarly called, and perhaps having sometimes been conventicles and nurseries of factions and seditions, are thought to afford the strongest matter of objection against this doctrine of toleration But this has not happened by anything peculiar unto the genius of such assemblies but by the unhappy circumstances of an oppressed or ill settled liberty These accusations would soon cease if the law of toleration were once so settled that all Churches were obliged to lay down toleration as the foundation of their own liberty, and teach that liberty of conscience is every man's natural right,

equally belonging to dissenters as to themselves, and that nobody ought to be compelled in matters of religion either by law or force The establishment of this one thing would take away all ground of complaints and tumults upon account of conscience, and these causes of discontents and animosities being once removed, there would remain nothing in these assemblies that were not more peaceable and less apt to produce disturbance of state than in any other meetings whatsoever But let us examine particularly the heads of these accusations

You will say that assemblies and meetings endanger the public peace, and threaten the commonwealth I answer, if this be so why are there daily such numerous meetings in markets and Courts of Judicature? Why are crowds upon the Exchange, and a concourse of people in cities suffered? You will reply, those are civil assemblies, but these we object against are ecclesiastical I answer, it is a likely thing indeed, that such assemblies as are altogether remote from civil affairs should be most apt to embroil them Oh but civil assemblies are composed of men that differ from one another in matters of religion, but these ecclesiastical meetings are of persons that are all of one opinion As if an agreement in matters of religion were in effect a conspiracy against the commonwealth, or as if men would not be so much the more warmly unanimous in religion the less liberty they had of assembling But it will be urged still that civil assemblies are open and free for any one to enter into, whereas religious conventicles are more private, and thereby give opportunity to clandestine machinations I answer, that this is not strictly true, for many civil assemblies are not open to everyone And if some religious meetings be private, who are they (I beseech you) that are to be blamed for it, those that desire, or those that forbid their being public? Again, you will say that religious communion does exceedingly unite men s minds and affections to one another, and is there fore the more dangerous But if this be so, why is not the magistrate afraid of his own Church, and why does he not forbid their assemblies as things dangerous to his Government? You will say because he himself is a part, and even the head of them As if he were not also a part of the commonwealth, and the head of the whole people!

[MAGISTRATE AND CHURCHES]

Let us therefore deal plainly The magistrate is afraid of other Churches, but not of his own, because he is kind and favourable to the one, but severe and cruel to the other These he treats like children, and indulges them even to wantonness Those he uses as slaves, and how blamelessly soever they demean themselves, recompenses them no otherwise than by galleys prisons, confiscations, and death These he cherishes and defends, those he continually scourges and oppresses Let him turn the tables Or let those dissenters enjoy but the same privileges in civils as his other subjects, and he will quickly find that these religious meetings will be no longer dangerous For if men enter into seditious conspiracies, it is not religion inspires them to it in their meetings but their sufferings and oppressions that make them willing to ease themselves Just and moderate governments are everywhere quiet, everywhere safe but oppression raises ferments and makes men struggle to cast off an uneasy and tyrannical yoke I know that seditions are very frequently raised upon pretence of religion but it is as true that for religion subjects are frequently ill treated, and live miserably Believe me, the stirs that are made proceed not from any peculiar temper of this or that Church or religious society, but from the common disposition of all mankind, who when they groan under any heavy burthen endeavour naturally to shake off the yoke that galls their necks Suppose this business of religion were let alone, and that there were some other distinction made

between men and men upon account of their different complexions, shapes, and features, so that those who have black hair (for example) or grey eyes should not enjoy the same privileges as other citizens that they should not be permitted either to buy or sell, or live by their callings, that parents should not have the government and education of their own children that all should either be excluded from the benefit of the laws, or meet with partial judges, can it be doubted but these persons thus distinguished from others by the colour of their hair and eyes, and united together by one common persecution, would be as dangerous to the magistrate as any others that had associated themselves merely upon the account of religion? Some enter into company for trade and profit, others for want of business have their clubs for claret Neighbourhood joins some, and religion others But there is only one thing which gathers people into seditious commotions, and that is oppression

You will say, What, will you have people to meet at divine service against the magistrate's will? I answer, Why, I pray, against his will? Is it not both lawful and necessary that they should meet? Against his will, do you say? That is what I complain of that is the very root of all the mischief Why are assemblies less sufferable in a church than in a theatre or market? Those that meet there are not either more vicious or more turbulent than those that meet elsewhere The business in that is that they are ill used, and therefore they are not to be suffered Take away the partiality that is used towards them in matters of common right change the laws, take away the penalties unto which they are subjected, and all things will immediately become safe and peaceable, nay, those that are averse to the religion of the magistrate will think themselves so much the more bound to maintain the peace of the commonwealth as their condition is better in that place than elsewhere and all the several separate congregations, like so many guardians of the public peace, will watch one another, that nothing may be innovated or changed in the form of the government, because they can hope for nothing better than what they already enjoy—that is, an equal condition with their fellow subjects under a just and moderate government Now if that Church which agrees in religion with the prince be esteemed the chief support of any civil government, and that for no other reason (as has already been shown) than because the prince is kind and the laws are favourable to it, how much greater will be the security of government where all good subjects, of whatsoever Church they be, without any distinction upon account of religion, enjoying the same favour of the prince and the same benefit of the laws, shall become the common support and guard of it, and where none will have any occasion to fear the severity of the laws but those that do injuries to their neighbours and offend against the civil peace?

That we may draw towards a conclusion The sum of all we drive at is that every man may enjoy the same rights that are granted to others Is it permitted to worship God in the Roman manner? Let it be permitted to do it in the Geneva form also Is it permitted to speak Latin in the market place? Let those that have a mind to it be permitted to do it also in the Church Is it lawful for any man in his own house to kneel, stand sit, or use any other posture, and to clothe himself in white or black, in short or in long garments? Let it not be made unlawful to eat bread, drink wine, or wash with water in the church In a word, whatsoever things are left free by law in the common occasions of life, let them remain free unto every Church in divine worship Let no man's life, or body, or house, or estate, suffer any manner of prejudice upon these accounts Can you allow of the Presbyterian discipline? Why should not the Episcopal also have what they like? Ecclesiastical authority, whether it be administered by the hands of a single

person or many, is everywhere the same; and neither has any jurisdiction in things civil, nor any manner of power of compulsion, nor anything at all to do with riches and revenues.

Ecclesiastical assemblies and sermons are justified by daily experience and public allowance. These are allowed to people of some one persuasion, why not to all? If anything pass in a religious meeting seditiously and contrary to the public peace, it is to be punished in the same manner, and no otherwise than as if it had happened in a fair or market. These meetings ought not to be sanctuaries for factious and flagitious fellows. Nor ought it to be less lawful for men to meet in churches than in halls; nor are one part of the subjects to be esteemed more blamable for their meeting together than others. Every one is to be accountable for his own actions, and no man is to be laid under a suspicion or odium for the fault of another. Those that are seditious, murderers, thieves, robbers, adulterers, slanderers, &c., of whatsoever Church, whether national or not, ought to be punished and suppressed. But those whose doctrine is peaceable, and whose manners are pure and blameless, ought to be upon equal terms with their fellow-subjects. Thus if solemn assemblies, observations of festivals, public worship be permitted to any one sort of professors, all these things ought to be permitted to the Presbyterians, Independents, Anabaptists, Arminians, Quakers, and others, with the same liberty. Nay, if we may openly speak the truth, and as becomes one man to another, neither Pagan nor Mahometan, nor Jew, ought to be excluded from the civil rights of the commonwealth because of his religion. The Gospel commands no such thing. The Church which "judgeth not those that are without" [1 Cor. 5:12, 13] wants it not. And the commonwealth, which embraces indifferently all men that are honest, peaceable, and industrious, requires it not. Shall we suffer a Pagan to deal and trade with us, and shall we not suffer him to pray unto and worship God? If we allow the Jews to have private houses and dwellings amongst us, why should we not allow them to have synagogues? Is their doctrine more false, their worship more abominable, or is the civil peace more endangered by their meeting in public than in their private houses? But if these things may be granted to Jews and Pagans, surely the condition of any Christians ought not to be worse than theirs in a Christian commonwealth.

[Christianity and Wars]

You will say, perhaps, Yes, it ought to be; because they are more inclinable to factions, tumults, and civil wars. I answer, Is this the fault of the Christian religion? If it be so, truly the Christian religion is the worst of all religions, and ought neither to be embraced by any particular person, nor tolerated by any commonwealth. For if this be the genius, this the nature of the Christian religion, to be turbulent, and destructive to the civil peace, that Church itself which the magistrate indulges will not always be innocent. But far be it from us to say any such thing of that religion which carries the greatest opposition to covetousness, ambition, discord, contention, and all manner of inordinate desires; and is the most modest and peaceable religion that ever was. We must therefore seek another cause of those evils that are charged upon religion. And if we consider right, we shall find it to consist wholly in the subject that I am treating of. It is not the diversity of opinions (which cannot be avoided), but the refusal of toleration to those that are of different opinions (which might have been granted), that has produced all the bustles and wars that have been in the Christian world upon account of religion. The heads and leaders of the Church, moved by avarice and insatiable desire of dominion, making use of the immoderate ambition of magistrates and the credulous superstition of the giddy multitude, have incensed and

animated them against those that dissent from themselves, by preaching unto them, contrary to the laws of the Gospel and to the precepts of charity, that schismatics and heretics are to be outed of their possessions and destroyed. And thus have they mixed together and confounded two things that are in themselves most different, the Church and the commonwealth. Now as it is very difficult for men patiently to suffer themselves to be stripped of the goods which they have got by their honest industry, and, contrary to all the laws of equity, both human and divine, to be delivered up for a prey to other men's violence and rapine; especially when they are otherwise altogether blameless; and that the occasion for which they are thus treated does not at all belong to the jurisdiction of the magistrate, but entirely to the conscience of every particular man, for the conduct of which he is accountable to God only; what else can be expected but that these men, growing weary of the evils under which they labour, should in the end think it lawful for them to resist force with force, and to defend their natural rights (which are not forfeitable upon account of religion) with arms as well as they can? That this has been hitherto the ordinary course of things is abundantly evident in history, and that it will continue to be so hereafter is but too apparent in reason. It cannot, indeed, be otherwise so long as the principle of persecution for religion shall prevail, as it has done hitherto, with magistrate and people, and so long as those that ought to be the preachers of peace and concord shall continue with all their art and strength to excite men to arms and sound the trumpet of war. But that magistrates should thus suffer these incendiaries and disturbers of the public peace might justly be wondered at if it did not appear that they have been invited by them unto a participation of the spoil, and have therefore thought fit to make use of their covetousness and pride as means whereby to increase their own power. For who does not see that these good men are indeed more ministers of the government than ministers of the Gospel, and that by flattering the ambition and favouring the dominion of princes and men in authority, they endeavour with all their might to promote that tyranny in the commonwealth which otherwise they should not be able to establish in the Church? This is the unhappy agreement that we see between the Church and State. Whereas if each of them would contain itself within its own bounds—the one attending to the worldly welfare of the commonwealth, the other to the salvation of souls—it is impossible that any discord should ever have happened between them. *Sed pudet hæc opprobria, &c.* God Almighty grant, I beseech Him, that the gospel of peace may at length be preached, and that civil magistrates, growing more careful to conform their own consciences to the law of God and less solicitous about the binding of other men's consciences by human laws, may, like fathers of their country, direct all their counsels and endeavours to promote universally the civil welfare of all their children, except only of such as are arrogant, ungovernable, and injurious to their brethren; and that all ecclesiastical men, who boast themselves to be the successors of the Apostles, walking peaceably and modestly in the Apostles' steps, without intermeddling with State affairs, may apply themselves wholly to promote the salvation of souls.

FAREWELL.

NINE

The Secular National State

JACOB BURCKHARDT, THE GREAT SWISS scholar who helped to bring alive the Italy that existed between the fourteenth and seventeenth centuries, added to the earlier concepts of Stendhal and Michelet on the Renaissance the idea that it was an age of liberation from medieval chains. Individualism, he found, was the key to the four centuries which usually are taken as comprising the Renaissance—the period in which the rediscovery of the great classics, the impact of Arab culture, the flight of Greek and other scholars to the West, particularly after the fall of Constantinople (1453), all combined to bring the "New Learning" into play.

Criticism of the usual sort has brought more evidence into play—e.g., Carl Neumann's delving into the Byzantine origins of Renaissance art, and the work of Paul Sabatier and Emile Gebhart, among others, which showed the roots of individualism reaching back into the late Middle Ages. Such investigations have tended to blur sharp dividing lines.[1]

However, several significant forces made themselves felt in this period of three or four centuries: a great new interest in science, freeing itself of religious controls; a fresh and invigorating breath of philosophical freedom of speculation, partly from the rediscovery of Plato and the wide-ranging thought of classic antiquity through manuscripts (and partly from Arabian sources); a tremendous ferment of creativeness in the arts breaking through the old canons, and projecting classic models into a new freedom of design and perspective; a development of strong monarchies, able to curb feudalism and to reduce the Church to a minor rôle. In short, this period saw the break-up of the Holy Roman Empire, the decline in both the temporal and spiritual power of the papacy, and the disappearance of the Eastern Empire with the fall of Constantinople. The Crusades had set going the quest of discovery and had opened up the

[1] See especially S. Huizinga, *The Waning of the Middle Ages,* and Matthew Josephson, *The Life of Stendhal*—the latter for a recognition of Stendhal's prophetic emphasis on the individualism of the later Middle Ages. Stendhal, whose real name was Henri Beyle, was the author of *Le Rouge et le Noir,* and other works, which introduced the modern psychological novel.

trading routes and commerce that developed new wealth. Venice vied with Spain and Portugal and the rest of Italy, and later with England, Holland, and the Hanseatic League, in its far-ranging shipping—if not in colonizing. The bounds of the Old World centering around the Mediterranean and the Atlantic rim were suddenly widened, like the bounds of human knowledge and free inquiry.

Italy, nearest to the first impact of most of these forces and already well along the road to new levels of wealth and culture, led the European van. The *Divine Comedy* of Dante, the *Canzonieri* of Petrarch, the *Decameron* of Boccaccio had fixed the Italian language and widened the range of thought and literature in the new learning.

The Renaissance contained two streams, at least, that show in its Italian sources but that spread to all Europe. The first, for which Machiavelli may stand as our prototype, is the scientific and humanistic impact of pagan culture. "Otherworldliness" is drowned out by a preoccupation with human solutions and human problems. It is the Sophists again with "man as the measure of all things." The atmosphere is cleared of scriptural authority and preoccupations with the supernatural and dogmatic as if by a thunderbolt from Zeus himself. "We owe thanks," said Francis Bacon, "to Machiavelli and this sort of writer who gives us a true picture of the world and not a dream of the imagination." And again, "Nature is not to be conquered but by being obeyed." These are the watchwords of scientific naturalism, limited by humanism.

The second stream, however, continues a high order of speculation and metaphysical concern with the universe. In science it produces the great range of Galileo's thought. In philosophy the impact of Plato, particularly through Florence,[2] produces not only philosophers like Pico della Mirandola but figures like Leonardo da Vinci, artist and scientist, engineer and great inventor. Among the painters, Massacio, the architect Brunellesco, and the sculptor Donatello show the great impact of this new firmament of the mind. Michel Angelo and Raphael, of course, have left an imperishable record of it in the Vatican.

Elsewhere, Erasmus and then Melancthon and Ulrich von Hutten show how the northern scholars and humanists adapted this new light. It cut through the brittle scholasticism of the universities and opened new windows for the mind over all Europe. Its effect was felt on religion in both the Reformation and the Counter Reformation.

Platonism is an aristocratic doctrine which Florence was merely the first city of Italy to take to its bosom. Padua revived Aristotle in a wider

[2] Cosimo de Medici founded a Platonic academy in Florence before the fall of Constantinople. And even earlier, Bruni had retrieved from Aristotle's *Ethics* and *Politics* a very different and more Platonic cast than St. Thomas and the schoolmen had given.

context than that of the medieval church lawyers of Bologna or St. Thomas Aquinas. Greek plays and Graeco-Roman philosophy and literature became the order of the day.

So although we may start with Machiavelli as the most typical man of the Renaissance and the apostle of that nationalism which is borne along with it, we must not forget the side of the Renaissance that does not accept the positivistic and naturalistic limits of humanism. Nor can we forget the great religious tide that was flooding at this same period—which we treat separately for emphasis in this volume—namely, the Reformation and Counter Reformation. They, too, belong to the sixteenth and seventeenth centuries, which were the periods when the Renaissance also was at full tide.

Machiavelli, Apostle of Nationalism

Machiavelli, a much-disputed figure among students of politics, is in one respect subject to no disagreement. He is, *par excellence*, a man and a thinker produced by the Italian Renaissance. His wide-ranging and tough mind, his classical perspective, his scientific amoralism, and his one passion—Italian patriotism—all mark him as the most typical figure of his times for our purpose.

Turning from the endless controversies between Church and State to the writings of Machiavelli is like emerging into a new world: from the complexities and intricate and often obscurely lit recesses of a medieval cathedral into the harsh and brilliant sunlight of the Italian Renaissance. To Machiavelli, moral preoccupations are few or none, at least in his better-known works, such as the *Prince* and the *History of Florence*. The *Discourses*, as we shall see, is another matter. He prides himself on the stark realism and often the cynicism about human nature that seem to be the hallmark of the experienced diplomat, not alone in Machiavelli's age, but most naturally in his setting.[3] The names of the Medici, the princely line in Florence to which Machiavelli addressed his own counsels on the *Prince* with the hope of getting back the job that he had held under the Florentine Republic, are only less notorious than some of the Borgias in terms of deception and trickery. Poison and assassination were usual means of achieving their ends. Machiavelli admired the cunning of the Borgias and the force of the Sforzas. The great captains of the *condottiere* (professional mercenaries) excited his admiration, though he deplored having to rely on mercenary forces.[4] It is certain that the morality of the Italian city state, both public and private, had reached a point comparable to the worst of the Greek models, which it closely resembles.

[3] See *The Life and Times of Niccolo Machiavelli* by Pasquale Villari, new edition.
[4] See Readings from Burckhardt.

But there were also, as Burckhardt shows, the same vigor and ruthless strength and creative force

In this atmosphere, Machiavelli's exhortations on the need for a strong prince, a man of *virtu*[5] (strong and rugged character) on the old Roman model, show genuine elements of Italian patriotism Anything, he thought, would be better than the perpetual struggles between Italian cities which had led to the weakening of the whole of Italy as against the rising foreign monarchies in France and Spain His hope was that a strong prince would arise who, by carefully following his counsels, could unite Italy and throw off the humiliating foreign yoke that was so habitual in its imposition His own Florence, like much of the rest of Italy knew that yoke well In this respect he might be likened to Demosthenes in his appeals to the contemporary Athenians against Philip of Macedon, save for the difference in Machiavelli's methods

However, Machiavelli was also the author of a more reflective work which probably more nearly portrays his real philosophy, the *Discourses on the First Ten Books of Titus Livius* The *Discorsi*, much more Aristotelian in tone than the *Prince*, concludes by finding much virtue in republican institutions, including the wisdom that lies in the deliberation of popular assemblies rather than in the edicts of a single man Checks and balances and characteristically Aristotelian recipes against revolution marked the *Discorsi* with a tone entirely different from that of the *Prince* Machiavelli uses the history of Rome to point his morals, such as they are, in a fashion reminiscent of Polybius, though with much more emphasis on human psychology

Machiavelli on Human Nature

Machiavelli, for good or ill, is known to posterity very largely in terms of the theories of human nature that he develops in the *Prince*, and in terms of the remedies which he proposes for the sorry state of affairs that led to the most celebrated defense of amorality in politics. "Reason of state," which later came to be the defense for public amorality, if not immorality, in the achieving of diplomatic ends, finds its first professed apologist in Machiavelli[6] Within a single century after the appearance of the *Prince*, his name had become a byword for all that was subtle, scheming, and done in the Italian manner." Witness Falstaff's exclama-

[5] Another Elizabethan disciple of Machiavelli is shown by the curious witness of Gabriel Harvey's praise in The Cult of Virtu, to be found conveniently in *The Elizabethan Reader*, edited by H Haydn (Viking Press, N Y , 1946), p 235 Like Machiavelli, Harvey emphasized successful egoistic force rather than the Roman concept of manly virtue

[6] The most comprehensive treatment is Friedrich Meinecke, *Die Idee der Staatsraison* See also Alfred Cobban's *Dictatorship* and James Burnham's *The Machiavellians*

tion in the *Merry Wives of Windsor,* apropos of one of his scheming devices, "Am I a Machiavel?" Lyly in the *Euphues* says "The Englishman Italianate is the Devil incarnate." [7]

Every theory of politics depends, as we have seen, upon a basic theory of human nature To Machiavelli, man was an animal driven by the simpler motives of fear, vanity, lust for power, and scheming self-interest, in much the same terms as human nature was portrayed by the Sophists of Greece. In the *Discourses,* he speaks of man's "unlimited acquisitiveness." The vulgar masses were interested in security and the flattering of their crowd ego. Their natural masters were either the Lions or Foxes among men. Man's adjustment to his environment was that of a creature who made the best of brute necessity and by shrewdness and ruthlessness achieved his ends It is Thrasymachus speaking once more, as he did in Plato's *Republic* The ends in themselves were good only insofar as they advanced his appetites and his instincts This was the fruit of the Renaissance, a corrosion of moral values by the acid of the critical temper of the New-Old Learning.

It is interesting to note that Machiavelli in his own native Florence represents the precise antithesis to the reformist Savonarola, who viewed the entry of the French under Charles VIII into Florence in 1494 as a proper punishment for the sins of the population The great Dominican reformer strove to change the human nature that Machiavelli took for granted. In a quite striking way Savonarola resembles both in objectives and in actual physical likeness a remarkable modern priest, Don Sturzo, who became, as head of the *Partito popolari,* the chief opponent of Mussolini in the early days of Fascism's struggle for power. Mussolini made his pact with the Vatican and Don Sturzo had to flee Italy Savonarola's program is amazingly similar to that of the most idealistic contemporary liberalism.[8] The Vatican of Machiavelli's time, under a Borgia pope, delivered over Savonarola for burning as a heretic to the fickle Florentine mob that had adulated the reformer a year or so earlier.

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[7] John Donne, a contemporary of Shakespeare and of Thomas Hobbes, in his curious A Meeting in Hell" shows Machiavelli pleading to turn Lucifer against Grotius and in his favor. 'I must be invited to enter, since I did not only teach those ways by which through perfidiousness a man might possess and usurp upon the liberty of free Commonwealths, but I also did aim and furnish the people with my instructions, how when they were under the oppression, they might safeliest conspire and remove a tyrant, or revenge themselves of their Prince so that from both sides, both from Prince and people, brought an abundant harvest and a noble increase in this Kingdom" (From *The Elizabethan Reader,* pp 50 51)

[8] See essay in Chapter XIV ("Planning"), and cf. pp. 428-429.

Mussolini and Machiavelli

Mussolini, on his part, recognized Machiavelli as his spiritual master—if that phrase is not a contradiction in terms as applied either to Machiavelli or to Mussolini. His thesis on Machiavelli, submitted for the Doctor's Degree to the University of Bologna, was finally crowned only after a threatened purge of the faculty. But it represents a genuine allegiance to the political views and the saturnine estimate of human nature of the Florentine master.

Indeed, Mussolini and Machiavelli had much in common in their low estimate of their contemporary Italy, in their efforts to unify it, and in their desire to recapture the grandeur that was Rome. Beyond that they agreed perfectly on the means to that end, including the steady employment of force, deception, trickery, violence, and the delusion of the people by the leader. If Mussolini chose the title *Il Duce* from Roman origins, it was not only because of its pithy and popular character, but possibly also because *Il Principe* ran inconveniently afoul of the House of Savoy as the monopolizer of royal titles. There is added irony in the fact that it was the House of Savoy that helped bring Mussolini low, just as the House of the Medici showed no appreciation of Machiavelli's unsought counsels in statecraft. He did not get back the office that he had lost when the Republic of Florence was overthrown and that he sought to regain by dedicating the *Prince* to Lorenzo de Medici, though it had been intended for Giulano. A small sinecure was given him in his last years.

Italian nationalism had much longer to wait for its realization than had that of any other European power, including even Germany. The England of Machiavelli's time was emerging from feudalism under the Tudors. A little later, Henry VIII was to give positive character to royal absolutism, to use Parliament as his tool, and to make the King's Writ really supreme throughout all Britain and Ireland. Henry VIII, too, showed that such a monarch would deal roundly with the Church and make it the servant of the State to whatever degree was necessary to his own ends, much as Machiavelli would have counseled in Italy. Though Francis I in France did not achieve the complete union that was later to be realized by the Bourbons and their line of Machiavellian cardinals, he did bring France into existence as a national power, just as the Hapsburgs had done in Spain. It remained for the seventeenth century to see the consolidation of royal power in France by the putting down of the resistance of the recalcitrant nobility of the *Fronde* until such time as Louis XIV could say with some assurance, *"L'état, c'est moi."*

Nationalism, however, did not reach its apogee in France until the Napoleonic era had brought about a unification of the legal and adminis-

trative systems on the Roman model. And it may be added that until the French Revolution's *levée en masse* of citizen armies had produced Machiavelli's citizen army instead of hired professionals, nationalism was not ready to take the final climb to popular participation in voting as well as fighting. The French Revolution unchained in Europe the same mass democracy that was winning its way to control in England and in the United States throughout the nineteenth century. At the end of the World War of 1914-1918, universal suffrage was given its first trial throughout all Europe, and the principle of self-determination had significantly gone along with the triumph of popular sovereignty.

What Is Nationalism?

There is no more vexed problem in politics than the nature of nationality and nationalism. The origins of the word suggest birth, and, in turn, that may suggest descent (*jus sanguinis*) or place of birth (*jus solis*) or both, as determining factors in nationality. But it is impossible to ascribe nationality to any single factor or combination of factors among those usually produced for its causes. Neither language nor race can claim to be the determining factor in the European systems of nationality, important as each has been in its own way. Systems such as the Swiss and the Belgian, which have clung tenaciously to their nationalism, are not united by a single language and certainly not by a single racial origin. Race is of all the characteristics the most difficult to find in pure form in the melting pot of Europe, where differences between the north and south of a single country like Italy or France run to such extremes.

Geography has played its part in the erection of naturally defensible frontiers, and great river systems have helped highways to channel a natural flow of commerce. Military inventions like the English cloth-yard arrow that could pierce mail armor, or the Swiss pike formations that humbled Austrian knights on horseback, have changed the course of empires. Yet each factor—religious, racial, geographic, military, and economic—is only a partial cause. That complexity of causes probably accounts for the persistence of minority problems under any theory or practice of national self-determination.

Renan in his celebrated essay, *"Qu'est ce que c'est qu'une nation?"* concludes that a nation is a spiritual idea, the consciousness of a shared past and the desire to project that unity into the future. A nation, in short, is the product of what Plato called a *mythos*, an emotional attachment to historical origins, past sufferings and glories, and to common traditions, as well as to future hopes and fears.

In Machiavelli's time, Italy showed the effects of the invasions and importations of many races. It had produced a common language, but

there was no sufficient common tradition to unite the intense rivalry of the city states after the break-up of such vestiges of the Holy Roman Empire's control as remained, and in the absence of a strong temporal hold by the Church. The Church still held some power in its ecclesiastical states, but the papacy was never capable of bringing into any relationship of subordination even the Italian peninsula, and was more likely to become itself a pawn of the power politics of rival Italian dynasties. It had already undergone the Avignon captivity and had never recovered from the experience.

Maxims for the Prince

Against this background, Machiavelli preached to his prince the necessity of winning control by every device of power politics and of statecraft that a long experience of diplomacy could suggest to the subtle Florentine. Above all, the prince must be feared and respected rather than loved. He must never under any conditions show signs of weakness, and should avoid being despised as well as being hated. To win the people, he must cultivate their support by at least the appearance of liberality, whatever his true policies might be. He must avoid the more flagrant assaults on the feelings and interests of his subjects. It was safer, for example, to take a man's wife than his property. And under no circumstances must the prince allow a rival to the throne to rise within his domain or within reaching distance of his power. To the old Roman maxim of divide in order to rule (*"divide et impera"*), Machiavelli added the imperialistic note of "expand or perish," since to stand still was to allow internal dissensions to arise which could be diverted by constantly arousing the people's fear of an outside enemy.

To this end, the prince must recruit an army of citizens who would be attached to the interest of their own land, rather than depend upon the bought support of professional mercenaries whose untrustworthiness had been amply proved in the history of Europe as well as of all the Italian states. In this advice, Machiavelli reverts to the ideas of Plato on the need for a citizen soldiery (the "auxiliaries"), though he would have broadened the basis to the entire citizenship in a manner which is prophetic of modern nationalism. He fears the possibility of revolt by armed citizens less than enslavement by foreign powers.

The catalogue of Machiavelli's advice, often leading to actions considered immoral or infamous, has many times been made.[9] It is less interesting than the general similarity of his counsels for the means of preventing revolutions to those of Aristotle. Each is interested in stability,

[9] E.g., T. B. Macaulay's essay on Machiavelli (*Collected Essays*) and Lord Acton's essay on Machiavelli in the *History of Freedom.*

though to Machiavelli stability is a means to power and power is an end in itself; to Aristotle stability was a means to the end of permitting the state to encourage the good life. There was no thought of a checked and balanced system in the *Prince,* since the need for a strong man to create unity is the whole theme of the work. Political absolutism was the necessary remedy for the chaos and anarchy of internecine strife among the Italian cities.

Absolutism and National Unification

Actually, the pattern of establishing national unity in this period closely followed Machiavelli's prescription. Royal absolutism was the remedy for feudalism, though it did not prevent the rise of anarchy among the nations grouping themselves about religious as well as dynastic issues. The counsel to the prince was taken in fact, if not in avowed discipleship, by the royal sovereigns who united their people from the westernmost island of Britain to the almost Asiatic domains of Peter the Great in Russia in the succeeding centuries. If Frederick the Great of Prussia wrote an *Anti-Machiavelli* for the edification of his own subjects, he was hardly the less assiduous in practicing the precepts of the Florentine. To impose unity on areas large enough to support armies and promote a balance of power of even a tolerable character required the firm hand of royal absolutism. It is lacking in historical perspective to demand that democracy spring full armed, like Pallas Athena from the brow of Zeus, before the preparatory work of unification and of establishing secure régimes that could protect commerce and put down feudal anarchy had come into existence. Democratic institutions require centuries, not merely generations, of preparation, and "gradualism." Witness modern China.

It is none the less worth remembering that until something more closely approaching the *consensus juris,* or basic agreement on both law and right of which Cicero had spoken in the *De Re Publica,* permeated the area of Italy, Machiavelli's dream was doomed to frustration. The monarchs who established national systems in the rest of Europe had a more fruitful ground to plant and reap—they were aided by the existence of political traditions bound together by common law and traditions that bred mutual trust among their subjects. Force alone could not create the necessary loyalty, and perhaps the prince whose stature measured up to Machiavelli's demands could not arise in the welter of intrigue and bad faith that marked the Italian cities. Cesare Borgia, Machiavelli's model duke, wound up a broken and contemptible figure of scorn in the papal court.

But to do Machiavelli justice, one must remember that the *Prince* does not express his full and most sincere thinking, even as much as the *Republic* does that of the many-sided Plato. The *Discourses on the First*

Ten Books of Titus Livius is Machiavelli's most thorough, if not his most celebrated, work. Written during the long years of seclusion when his job-hunting *Prince* had failed in its object, it offers his reflections not so much on the subject of Roman history, which was its point of departure, as upon the nature of politics and the State. The analysis "of Conspiracies," e.g., is a characteristic bit of Machiavelli's realism. It treats with a less classifying touch but a more penetrating insight than that of Aristotle a political phenomenon that few writers in the intervening or even in later periods have touched upon. Yet its importance and its universal occurrence in politics would make it difficult to overestimate, as he indicates, its "danger both to princes and to subjects; for history teaches us that many more princes have lost their lives and their states by conspiracies than by open war." [10]

In the Italy which Burckhardt so brilliantly brings to life (see the selections in the following Readings from his *Renaissance in Italy*), Machiavelli's method had a wonderful laboratory in which to study "Against whom conspiracies are formed... and the causes that provoke them." His analysis is startlingly like that of Aristotle, whom he seems to have known only slightly, though he does not go into the sort of comparison of all the types and of the factors that produce revolutions, for instance, so thoroughly or profoundly as Aristotle.[11] It is the accomplished diplomat and practical politician and political psychologist, rather than the philosopher, who is at work in the *Discourses.*

Superiority of the DISCOURSES *as Political Theory*

But his writing rises to the level of a truly scientific observation and occasional moral judgments in part of the *Discourses.* He is prepared, like Aristotle and Polybius, to find in mixed constitutions a form superior to any of the pure types which tend to degenerate. "When there is combined under the same constitution a prince, a nobility, and the power of the people, then these three powers will watch and keep each other reciprocally in check," he concludes.[12]

He emphasizes two needs of the State, even while acknowledging this need for a balancing of powers in order to check the tendency to tyranny. The first is that of having the possibility in any government, even in republics, of an emergency institution of something like the Roman *dictator*—who possessed full powers for the period of the emergency, but powers which could be revoked or limited, or, in the last extremity,

[10] *The Prince and The Discourses* (Modern Library Edition, New York, 1940), Book III, Ch. VI, p. 410.

[11] Compare the prescriptions in the *Prince* on avoiding revolutions with Books 4, 5, and 6 of the *Politics.*

[12] *Discourses,* Vol. I, Ch. 2, p. 115.

brought to an end by tyrannicide. "All republics," said Machiavelli, "should have some institution similar to the dictatorship.... For without... [it]... Rome would with difficulty have escaped the many extraordinary dangers that befell her." [13] We have already noted that the Athenian Polemarch (Supreme General) was granted extraordinary powers, though not quite such complete powers, even in the person of Pericles, as were given to the Roman dictator.

Dangers to Constitutionalism

In the *Discourses* Machiavelli makes some very wise remarks about the true dangers of dictatorship. It is not from those powers that are conferred by the people that a republic has to fear for its safety, he says. The Roman dictator as an institution was not dangerous so long as the powers conferred upon him by the people could be withdrawn by organs of the government that remained in being. The tribunes and the senate and the popular assembly were not dissolved. It was only when such an attempt as was made in the earliest period of the Roman Republic by the Decemvirs, to act without regard for the other organs of the government and to suppress them, that popular liberties were really in danger. This comes very close to the type of constitutional dictatorship that modern states tend to establish in great wartime emergencies, when extraordinary powers are conferred, but without putting an end to the checking organs of government which can limit and withdraw these powers.

The other great need of the State was to have a genuinely popular deliberative assembly. Although Machiavelli follows the classic tradition in finding a great law-giver necessary to the founding of good states—"...it never or rarely happens that a republic or monarchy is well constituted... unless it is done by only one individual," [14]—nevertheless he is prepared again like Aristotle to admit that more wisdom and virtue reside in the people than in the prince, when it comes to legislation. *Founding* a city may require a Solon or a Lycurgus. Carrying it on requires that the people itself be consulted and have a determining right to assent to or to reject legislation. "The people are more prudent and stable, and have better judgment than a prince," he says flatly.[15] "...If the people are not utterly degraded, although individually they may be worse judges than those that have specialized knowledge—as a body they are as good or better." [16]

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[13] *Ibid.*, Vol. I, Ch. 34, p. 203.
[14] *Ibid.*, Book I, Ch. 9, p. 138.
[15] *Ibid.*, Book I, Ch. 58, p. 263.
[16] *Ibid.*, Book III, Ch. 2, p. 148.

How Much Was Machiavelli a Scientist?

It is perhaps too much to say that Machiavelli is the first real scientist in politics since Aristotle and Polybius, for he is not a scientist in all respects himself. He is more the artist in his appreciation of the facts of human nature and its subtle shadings. Sometimes, too, he appears to oversimplify, as practical men tend to, his psychology and his generalizations from it: "All cities and all peoples are and ever have been animated by the same desires and the same passions; so that it is easy, by diligent study of the past, to foresee what is likely to happen in the future." [17] Truly this is an example of the worst sort of historicism, whose previous criticism by Popper we have noted.[18]

It was his objectivity in assessing facts, however, that led him to agree with Guicciardini after Savonarola's death as a martyr to Florentine democracy, that the constitution which that remarkable monk had drawn up during his brief rule of Florence was the best Florence had ever had. No love was lost between them, even though Machiavelli achieved his career under the Republic which Savonarola helped give to Florence.

Savonarola's Reforms in Florence

Savonarola in attempting to impose on the fun-loving and fleshly Florence of his time a régime as severe as Calvin established in Geneva, embarked on a road which, almost fatally, led to the stake. He was condemned as a heretic by the Pope (himself a Borgia). His friend, Charles of France, had died on the very day that the travesty of the ordeal by fire had so angered the Florentine mob against Savonarola. His death on the cross erected in the Florentine *piazza*, amid the flames of the Inquisition's pyre and the savage shouts of the mob, makes one of the most vivid martyrdoms in history.

In his ascetic, exalted, and saintly demand for purification of men's souls and his struggles against papal corruption, in his reliance directly on the Bible, he was a precursor of the Protestant Reformation. Yet there was no wavering in his belief in the essential dogmas of the Church. Rather, he tried to extend and apply them to political matters. He himself summed up the spirit of his reforms and of the elaborate constitution which he gave Florence in the following four points:

(1) Fear of God and purification of manners.
(2) Promotion of the public welfare in preference to private interests.
(3) A general amnesty to political offenders.

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[17] *Ibid.*, Book I, Ch. 39, p. 216.
[18] See his *The Open Society and Its Enemies*, especially Vol. I, Chs. 2-5.

(4) A council on the Venetian model (with a grand council of 3200 citizens and a steering council of 80) but with no *doge*.

Along with these high principles of morality, as much popular participation as possible, and the reconciliation of citizens in a Christian community, went a tax program which aimed at substituting an equitable tax on real property on a percentage basis as opposed to the arbitrary imposts and so-called "voluntary" loans which had been usual in Florence.

But his zeal and crusading fervor demanded the impossible. For a time bonfires lit by pious bands of children consumed the "vanities" offered voluntarily by Florentines spellbound by his eloquence and moral suasion. But the fire burned too hot to last long. It consumed the scanty combustible material of Florentine piety as rapidly almost as it consumed their gauds—and then fed its flames on the body of the preacher.

Savonarola in the flames—Machiavelli sipping his sour wine in the "Tusculan seclusion" of an unwilling exile from public life—Florence was not a gentle mistress, any more than Athens had been to her great. But the same divine fire of creation and burning energy that had blazed in Athens' golden times infused the Florentine renaissance.

Machiavelli and the Jacobins

It is interesting that Machiavelli has always been something of a hero to those pseudo-liberals who are more Jacobin revolutionaries than constitutionalists. There are interesting examples in our own day. This is partly because Machiavelli was genuinely talking of remedies for a state of civil corruption, which he deplored and recognized, though he had no fundamental remedy for it. He saw in contemporary Switzerland and in the Roman Republic periods where civil virtue had really existed.

But the praise of Machiavelli by the Jacobins of all periods can be readily enough understood from noting in what esteem he was held by Stendhal. It was not only that Stendhal appreciated the flavor of Italy, which even in its most corrupt times bred men of great resolution and dramatic interest. Even more, the exile soldier of Napoleon was more a Bonapartist than a Jacobin. He, like Machiavelli, viewing the Italy of his own period, felt that there was little to be hoped from the constant talk of the Carbonari and the endless conspiracies of the *salon* in Milan or Venice. There was in Stendhal a hankering for the strong man to deal with corrupt times that was the true essence also of Machiavelli.

It remained for Hobbes, the British philosopher, to work out a defense of absolutism simply on grounds of self-preservation through law and order, and to justify it in those terms. Though he arrived at a defense of absolutism as complete as that of Machiavelli and had as little use for theology or the divine right of kings, he was fundamentally arguing the

lawyer's later case for the logical character of sovereignty, rather than making an appeal to patriotism. Hobbes is an interesting mixture of psychologist and jurist: as a psychologist, he is as convinced as the Fascists that man is a low creature. As a jurist, he is arguing that sovereignty must be orderly, absolute, and uncontrollable. His political thinking puts these two strains together through his development, in typical seventeenth-century logic, of the social compact theory to form what might be called "The once-and-for-all surrender of all democratic rights."

The Social Contract Theory of Hobbes as a Justification of Absolute Sovereignty

The climate in which Hobbes writes is again a very different one from that of Machiavelli, although their views of human nature are not fundamentally dissimilar and the results that they reach are often parallel. Hobbes is no nationalist; however, he is in favor of a strong state. Machiavelli is primarily a nationalist. Unlike Machiavelli, Hobbes is bent on *justifying* the principle of absolutism, rather than upon producing a pragmatic textbook on the method of achieving and maintaining power. But Machiavelli's hope was to get for his prince a strong patriot to save Italy. Hobbes' sovereign was no more a patriot than was Hobbes. He was simply the logical condition for assuring law and order in any society. Machiavelli ignored religion, except as a tool; and in the main showed a complete blindness to moral values other than patriotism. Hobbes is a moralist, or at least a moralizer, though he reduces morality to a sort of mechanics. He is full of ironical bows to religious authority in his use of biblical texts, but he would subordinate the Church to the sovereign. Both had the Sophists' view of human nature; both were secular thinkers, accused of atheism—in all probability rightly. Both believed in strength and force as means to power, and power for security.

Hobbes: Rationalist, Pseudo-Scientist, Absolutist

In his most celebrated work, the *Leviathan*,[19] Hobbes lays the conditions for what later on becomes one of the stock phrases of political thought, *sovereignty*. He is, it is true, explaining the *need* for a sovereign, while sovereignty itself is a legalistic or lawyer's conception. But Hobbes is drawing conclusions appropriate to the end of finding a *final* source of power to make and keep laws. He is concerned primarily with setting up the *rationale* of the legal foundations of absolutism, i.e., with showing how "to transform force into law, and obedience into duty," to borrow the phrases that Rousseau was later to use. The nature of that sovereignty must be absolute and indivisible, to fulfill Hobbes' logical requirements.

[19] See Readings in text.

Characteristically, Hobbes approaches the problem as if it were one simply of logic or mathematics, resting on some self-evident propositions about human nature. He rather prided himself upon his abilities as a mathematician; although that was not a view which was shared by the mathematicians of his own time or of later generations. His style is essentially that of a logical demonstration resting upon what he conceived to be irrefutable premises, with all the neatness of a demonstration in geometry or an algebraic equation.

Hobbes, the First Systematic Psychologist

Though this deductive method is not characteristic of what we think of today as "scientific method," it was in the proper spirit of his own time. His little treatise on *Human Nature,* written in 1640 but published ten years later, is a much more systematic analysis of universal egoism than Machiavelli's shrewd observations, though the latter are set in a more historical and literary frame. Hobbes makes the first approach to something like a psychological system, if not a systematic psychology, though he is both too rationalistic and too limited in his dependence upon observed fact to be really scientific. He starts out with a complete materialism, and hits upon *motion* as the key to his whole system—everything can ultimately be reduced to the motions of which it consists. This was at once the revival of a main point from the thought of Heraclitus and, at the same time, a partial anticipation of the key concept which Newton was to use in order to develop modern physics. Hobbes applied his idea of the basic nature of motion to the world of human conduct. His politics were derived from a psychology that he based in turn on physics. The whole was rigorously developed in what Hobbes hoped, quite wrongly, was a demonstration, *more geometrico,* of politics as a branch of physical science.

Natural Law, Science, and Philosophic Method

Professor Sabine, in his scholarly *History of Political Theory,* has shown how this conception of natural law related to physical laws and mathematics. Freed of theology, the concept of natural law was one of the keys to the great change in the intellectual climate of Europe. Though it took very different forms, this new idea of natural law played a rôle in Bodin and in Althusius. Nature is rational, as the Stoics thought. The key to her laws is through mathematics and physics, by whose aid the laws of human nature and of human societies may be deduced. True principles for political societies must rest on this scientific and deductive "natural law." It becomes the general philosophy in which such different results are reached as those of Hobbes and Grotius, Pufendorf and Locke.

It was not until a genuine empiricism like that of Hume shook the whole foundation of that deductive approach that a new conception of science discarded so-called *natural* laws not based upon a genuine analysis of nature.

But for Hobbes and his time the concept of nature could be treated in this fashion to a point that had led Descartes in his *Discours de la Methode* to assume that the geometrical proofs could be generalized to all knowledge. Even Galileo, one of the first really great experimentalists, assumed that the geometry of the universe was the source of his success in discovering its laws. From this it is a small step to Montesquieu's opening words in *The Spirit of the Laws*, "Laws, in their most general signification, are the necessary relations arising out of the nature of things." Today's empirical temper discounts this deductive approach from general principles. But it is a necessary part of human reasoning.

If Machiavelli was the proper child of the Italian city state of the Renaissance, Hobbes, though he was one of the most timid souls who ever lived—born prematurely, according to a story of his own times, from his mother's fright at the thunders of the Spanish Armada—nevertheless showed a concern that grew upon many Englishmen of his period, to have at all costs a stable government, capable of protecting life and property. Even conservative Englishmen could accept Cromwell on these terms, as did Hobbes. Looking abroad over Europe in the throes of the religious wars, and living just after a period in which England had narrowly escaped being drawn into those wars, and had not escaped a bloody civil war of its own, his preoccupation with law and order is understandable. His work, the *Leviathan*, was published under Cromwell in 1651, even though it contained in its frontispiece a mass of human beings forming the body of which the head remarkably resembled that of Charles I. It was of little concern to Hobbes that that head had but lately been laid on the block. The body rises above a hill, at the foot of which lies a city. The crowned figure holds a sword in his right hand, a crozier (church symbol) in his left. Hobbes was no defender of the divine rights of kings, as was Bishop Filmer. He was simply looking for a sovereign power which could exercise complete control over the entire realm, Church and State alike. In this respect, Hobbes' work need have given no worry to the Commonwealth under Cromwell, even had the censorship been more severe. For his justification of governmental authority lay ultimately in the adequacy of its exercise of power, which was for him the true test of its legitimacy, not its origin.

Why a Social Contract?

Why, then, should he have used the social contract as a vehicle for justifying absolute sovereignty?

Let us look for a moment at the origins of the social contract theory in order to understand the peculiar use to which it was put by Thomas Hobbes. In the first place, the word *contract* implies a relationship of voluntary individual consent to the terms of an agreement which has some elements of reciprocal obligation in it. The individual accepts a relationship which is defined by the contract—as Hobbes calls it, "a mutual transferring of Right."

In this sense, the word *contract* already implies a growth of individualism which Hobbes was bound to recognize as the mental climate of his time. Furthermore, the old idea of contract had at least three main roots in the institutional setting of (1) feudalism and monarchy, (2) religious organization, and (3) the combination of the anthropolitical concepts of the time with the use of the "state of nature" to explain the conditions of primitive political organization. The idea of going back to origins to explain *why* political societies existed, and *why* laws were binding was a very old device, as we have seen in previous chapters. It tried to derive logic and even ethics from supposed facts.

(1) Contract is as ancient as any legal tradition and was well established certainly in Roman law on a private basis. But to transfer the idea of contract to a reciprocally binding agreement between ruler and ruled is another matter. Feudalism itself had certain elements of contractual relationships, even though it has often been represented as rooted in status as defined by religious or sacramental bonds. The relation of vassal to liege lord implied in the oath of allegiance, if not a voluntary acceptance, at least a reciprocal obligation to protection in return for feudal dues and military service. Magna Carta, wrung from the reluctant king by the barons at Runnymede, was in a sense a feudal contract in which the king was bound to perform in accordance with its terms, on pain of losing their support for his régime. These articles, which have often been cited as the first development of civil liberties, were, as modern scholarship generally recognizes, hardly more than a recital of royal obligation to the king's chief vassals.

In other systems—for example, the Spanish Cortez of Aragon—the very Coronation Oath [20] recites the complete reciprocity of this obligation in the most unmistakable terms—a fashion later repeated in Coronation Oaths in England.[21]

[20] See E. M. Sait, *Political Institutions*, Ch. 3.
[21] See Michael MacDonagh, *The English King*, Ch. 2.

The Contract in Richard Hooker and Johannes Althusius

(2) In addition to the semi-contractual elements in feudalism, the rise of religious independency shows a clear evidence of the notion of contract in matters concerning church organization. Richard Hooker's *Law of Ecclesiastical Polity* is the classic work showing the rise of the rationale of the social contract in this sphere. Hooker aimed at putting religion and the Church, so to speak, *in its place* as part of the whole community, established by the compact. His argument, though centered on proving that Puritans and Catholics were both obligated to accept the established church, really rests on the binding force of all law through a general consent—"composition and agreement"—which amounted to a contract. Ecclesiastical law is therefore only a part of general law, but binding as such. The independents turned this argument around to insist that only ecclesiastical organization based on consent was valid. The same principle was easily transferred to political organization.

Althusius, whose chief work (*Politica Methodica Digesta*) antedates Grotius but not Hooker, had also used a version of the social contract, though he had set it in a much more Aristotelian context of the *naturalness* of all associations. Unlike Hobbes, he does not think of political society as "an artificial body." He derives the most mature theory of constitutionalism of any writer of the times from his conception of the tacit agreement that underlies any association or community (*consociatio*). He also uses the naturalistic language of describing the members as *symbiotici*, "dwellers together," or fellows, though with not quite the sense of dependence implied by the term symbiosis in modern botany or biology.

The essence of Althusius' thought, though he clearly distinguishes a governmental compact from this fundamental compact, lies in his locating sovereignty (*maiestas*) in the people *as a corporate body*. Other associations are naturally created in a political hierarchy that runs from the family, the voluntary corporation, the local community, the province, and the state. Thus his theory of contract lays the basis for a federalized and constitutional system of authority.

The Mayflower Compact and Religious Independency

But if more evidence were needed on the use of the compact theory as related to actual institutions, it is close at hand in the Mayflower Compact, which was duly signed by the little band of Pilgrims before they landed on the Massachusetts shores in 1620.[22] President Lowell, in his *Essays on Government*, has made an interesting commentary on this point.

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[22] See Readings.

Congregationalism in religion in one point followed in the footsteps of Lutherans and Anabaptists. Even where it took the intensely theocratic form that it did in the Massachusetts Bay Colony, there was a determination by the people of their own form of worship through what amounted to the consent of the congregation itself.[23] Independency in Cromwell's army, as has often been noted, took the form of repudiating fixed forms of spiritual discipline in such expressions as "neither Pope nor Presbyter." This principle of democracy in religion, which was a natural fruit of the Reformation, gave rise to the same claims in the body politic.[24]

Anthropology and the Contract

(3) The third source of the social contract thinking comes from a combination of *anthropological* views with attempts to explain the *logical* conditions for the existence of civil society. There is a natural tendency to find in primitive institutions a justification of the simple logic which created the body politic. Even in Plato's *Republic,* in Socrates' dialogue with Glaucon and Adeimantus, there is a vague foreshadowing of the whole social contract theory in the attempt to explain the nature of justice by its logical implications. But Plato was not concerned with the natural history of states; Aristotle, who was, found it unnecessary to introduce so artificial a concept of society as the contract theory.[25]

It remained for a scientific generation, which was producing in every field causal explanations of natural phenomena, to link up what was known of primitive society with what were the logical implications of obedience in any society. To this work, Hobbes was peculiarly suited. He made his anthropology fit his materialistic psychology. But it was a powerfully reasoned system.

If proof were needed of the connection between anthropology and the forms taken by the social contract theory, one would have only to consider the various changes in the idea of the state of nature out of which the social contract theory arose with the development of European contacts with different savage tribes.[26] It is noteworthy that the conception of the

[23] See G. P. Gooch, *English Democratic Ideas in the Seventeenth Century,* and J. N. Figgis, *Church and State,* and *The Divine Right of Kings.*

[24] See Gooch, *op. cit., supra,* and *English Political Thought from Bacon to Halifax* (Home University Library), particularly Chs. VI and VII on the relation of the sects to political organization.

[25] Cicero represents the opponents of Scipio as putting the compact theory in almost the words of Hobbes, as C. H. McIlwain notes "But since one fears another, and no one does trust to himself, a sort of compact (*pactio*) is made between the people and the powerful men, and it is from this that exists that form of united state which Scipio was praising" Cicero, *De Re Publica,* III, 13, quoted by McIlwain, *Growth of Political Thought in the West,* p. 117.

[26] Montaigne, in several of his essays, had already in Hobbes' time begun examining the "noble savage." John Florio (1553-1625) translated some of these into English—

noble savage, naturally good, which underlies Locke's conception as well as Rousseau's, comes about from much later contact with the gentle South Sea Islanders, who had already begun to color European speculations through such figures as Robinson Crusoe's "man Friday," and in the many other tales of travelers of Locke's times, after the time of Hobbes.

Hobbes' Theory of Human Nature

To Hobbes, however, the savage was still a fit subject for a "state of nature" in which life was, as he said, "solitary, poore, nasty, brutish, and short"; and with every man's hand turned against every other man, in which man was a wolf to man (*homo homini lupus*). This highly individualistic and pessimistic (Sophist) view of man as naturally wolfish in character underlies Hobbes' theory of human nature as a whole. Such qualities in humanity as were not animal were derived from the view that man's instincts limited him to emotions like fear, vanity, the lust for power, and substantially the same sort of appraisal of human emotions as we have previously described in Machiavelli. Hobbes' own psychological insight is often very shrewd and foreshadows much of the work of later students of human nature who start from the same perspective of egoism and the aggressive drives stressed by Freud. Laughter he describes in one place as a "sudden glory," which is not a very far cry from the laughter that some psychologists have associated with *Schadenfreude*.[27]

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though that would have been unnecessary for Hobbes long an exile in France, was acquainted with many of its most eminent figures especially with Gassendi and Mersenne. But Montaigne praised the warlike virtue of the savages there are but two virtues commended to the savages of Canada, who live in the long houses (Iroquois) first valor against their enemies, then lovingness to their wives." These simple virtues may have endeared them as pets to their owners to Montaigne. They were neither of them of great worth in the eyes of Hobbes'

For a convenient translation by John Florio of Montaigne on the noble savage, see *The Elizabethan Reader*, p. 86, ed. by H. Haydn (Viking Press, New York, 1946).

- "*Sudden Glory*, is the passion which maketh those *Grimaces* called LAUGHTER; and is caused either by some sudden act of their own that pleaseth them, or by the apprehension of some deformed thing in another, by comparison whereof they suddenly applaud themselves." *The Leviathan*, Part I, Ch. VI, p. 35. (Citations from the *Leviathan* are taken from W. G. Pogson Smith Edition, Clarendon Press, 1909).

On the other hand, Hobbes makes the telling observation that "... much Laughter at the defects of others, is a signe of Pusillanimity. For of great minds, one of the proper workes is, to help and free others from scorn; and compare themselves only with the most able." (*Ibid.*)

One ought not to forget that Hobbes had a certain integrity of doctrine. He did not alter his views to gain favor with Cromwell. He was not a Machiavelli. Leslie Stephens, in his work on Hobbes, gives him credit also for extending this right of freedom of belief or opinion into his political doctrines—odd as it may appear in the light of the rest of his theories of human nature. "A state can constrain obedience but convince no error nor alter the mind of them that think they have the better reason. Suppression of doctrines does but unite and exasperate." But Hobbes adds a characteristic practical

Universal egoism and materialism produce "... a generall inclination of all mankind, a perpetuall and restlesse desire for Power after power, that ceaseth only in Death." Hobbes points out how dramatically that "which is worst of all, continuall feare, and danger of violent death" haunts men and drives them to seek security. The lust for power drives them, too, as fatally as Plato showed that injustice would drive on the tyrant. Not that a man "... cannot be content with a moderate power: but because he cannot assure the power and means to live well, which he hath present, without the acquisition of more." To this "Warre, of every man, against every man," a limit must be set—hence the contract to set up a sovereign.[28]

State of Nature = State of War

The state of nature is a state of war. "Force, and Fraud, are in warre the two Cardinall vertues." To escape it there are also "passions enclining to peace" as well as reason.[29] The state of nature was to Hobbes such a "beastly" state in a very literal sense that it was also natural for man to try to escape from it by erecting a civil society that could curb the unlimited propensity to destruction, theft, and violence, inherent in human beings, for it was Hobbes' firm conviction that the passions of men are commonly more potent than their reason. Yet the "law of nature... is the dictate of right reason, conversant about those things which are either to be done or omitted for the constant preservation of life and members as much as in us lies." [30]

Hobbes' Analysis of Myths

Hobbes also has an acute analysis of the use of myths to secure obedience, showing his reliance on the analysis that the Sophists had used in Greece. This is to exploit the nonrational side of human nature, as Plato, too, had proposed. After an interesting passage on the uses of oracles, "Sibills," and astrology, he observes: "... the first Founders and Legislators of Common-wealths amongst the Gentiles, whose ends were only to keep the people in obedience, and peace, have in all places taken care; First, to imprint in their minds a beliefe, that those precepts which they gave concerning Religion, might not be thought to proceed from their own device, but from the dictates of some God, or other Spirit.... So *Numa Pompilius* pretended to receive the Ceremonies he instituted amongst the Romans, from the Nymph *Egeria:* and the first King and founder of the Kingdome

estimate to the matter to show that he is not moralizing in the usual vein: "... that is, [suppressions] increase both the malice and power of them that have already believed them." (Leslie Stephens, *Hobbes,* p. 31.)

[28] See especially *Leviathan,* Chs. 11, 13, and 14, for Hobbes' elaboration of these ideas.

[29] *Ibid.*

[30] *De cive,* 2, 1. *English Works* (edited by Molesworth), Vol. II, p. 16.

of *Peru*, pretended himselfe and his wife to be the children of the Sunne: and *Mahomet*, to set up his new Religion, pretended to have conferences with the Holy Ghost, in the form of a dove." [31]

Though Hobbes was cautious enough not to extend his remarks to Christianity at large, he felt safe in comparing the Roman Church to "A Kingdom of the Fairies."

Curiously enough, he starts off with a unique theory of equality in the state of nature. But this democracy of the savage is lost once and for all when civil society is erected by the social compact. His reasoning is that every man is, by cunning if not by force, able to kill every other man and is therefore himself equal to every other man. If he is not so strong, he can accomplish the same ends by deceit, trickery, and stealth. In this respect, his analysis of equality reminds one of the western saying of frontier times: "Not God, but old man Colt, made all men equal!"

Natural Equality and Majority Rule

With this natural equality also comes his assertion that the majority principle is the convenient way of counting heads, rather than breaking them, for determining what form the compact will take. He asserts that since the greater force is on the side of the majority, the majority may bind the minority by a compact which is valid for about the same reason that enforced treaties were assumed to be valid in early justifications of this right of conquest by international law: that since the victor had full rights of life and death over the vanquished, by sparing his life he obligates the vanquished to accept any conditions that may be imposed. The compact in this sense was of doubtful moral validity: insofar as the majority could *impose* its will on the minority, the minority would accept because it was forced to do so. But there could be no true moral obligation created by force. This same defect in finding an element of really voluntary obligation runs through all Hobbes' subsequent play with the compact idea.

Nevertheless, he asserts that future generations would be bound forever by the original compact, setting up a sovereign into whose hands a society surrenders all its rights—and those rights could never be regained. The compact, in short, was a perpetually binding affair which gave the element of legitimacy to the sovereign established by the compact. The act was irrevocable and final.

What Hobbes is really saying, of course, makes very little sense from the point of view of moral obligation. It is rather intended to lay down the logical conditions for the absolute and indivisible character of sover-

[31] *Ibid.*, Ch. 12, p. 89.

eignty, and it was in this light that Hobbes was later to prove most useful to the analytical jurists of the school of Bentham and Austin, who were bent on the same end.

The Laws of Nature

As a *tour de force* of logic, Hobbes' analysis of the laws of nature which are set up to govern the compact has few equals in all the annals of political literature. There is, of course, a complete *non sequitur* in his employment of the "laws of nature," in that *nature* has suddenly assumed an entirely different meaning from its original sense in the *state of nature* which he had previously described in such unpleasant terms. These "natural laws," one of the principal of which is that "covenants must be preserved," introduce an element of morality into nature which it had not previously possessed. The first law of Hobbes is self-preservation.[32] This one law, and indeed the individual's right of self-preservation, is the single right that is carried over into civil society; all others are abandoned once and for all into the hands of the sovereign.

Among the long list of what amount to precepts for self-preservation, Hobbes leads off with two: "... the first, and Fundamentall Law of Nature; which is, *to seek Peace, and follow it.* The Second, the summe of the Right of Nature; which is, *By all the means we can, to defend our selves.*"

These two are really "branches" of the one first "general rule of reason." From them follow the second "Law of Nature": *"That a man be willing, when others are so too, as farre-forth, as for Peace, and defense of himselfe he shall think it necessary, to lay down his right to all things; and be contented with so much liberty against other men, as he would allow other men against himselfe."* [33]

This is hardly the Christian "Golden Rule." [34] It is conditioned by too many cautions and purely egoistic safeguards to be an absolute injunction to risk doing "unto others as you would have them do unto you." It is grounded on self-interest and security only.

These "Laws of Nature" are followed by the specific reservation of the one right that cannot be alienated, namely self-defense in all its forms. But Hobbes would not leave the individual in any other respect to be the judge in his own case. Even for self-defense, men will through self-interest have to set up a common and independent judge.

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[32] *Ibid.*, "A LAW OF NATURE, (*Lex Naturalis,*) is a Precept, or generall Rule, found out by Reason, by which a man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same; and to omit, that, by which he thinketh it may be best preserved." (Ch. 14, p. 99.)

[33] *Ibid.*, Ch. 14, p. 100.

[34] For Hobbes' effort to equate his own thinking with the Golden Rule, see *ibid.*, p. 121.

Why should there be any moral force to his Third Law of Nature: "*That men performe their Covenants made*" (cf. the maxim of Roman and of international law: *Pacta sunt servanda*)? Here enters Hobbes' greatest logical difficulty—from complete egoism grappling with brute necessity, how to get moral compulsion on the individual conscience. Yet he is aware that "in this law of Nature, consisteth the Fountain, and Originall of JUSTICE." He admits that "a feare of not performance on either part" makes covenants of mutual trust invalid. By a bit of characteristically specious logic this gives him his clue: get rid of this fear and covenants must be, therefore, binding. "So that the nature of Justice, consisteth of keeping valid Covenants: but the Validity of Covenants begins not but with the Constitution of a Civill Power, sufficient to compell men to keep them: And then it is also that Propriety [property] begins." [35]

Hobbes reveals the essence of his thought in the passages that follow: Covenants should be kept because to break the covenant which sets up a strong government is to destroy one's own security. And he has no patience with those who would rely on a law without sanctions. Power is needed: "Covenants without the Sworde are but words, and of no strength to secure a man at all!" [36]

Obviously the sovereign who is set up to judge is not a party to this contract, Hobbes would say. To bind him is as impossible as to make a covenant which would bind God. He is that "Mortal God" who is created to be the common judge and to bear the sword of execution. His only necessary attribute is sufficient power—though Hobbes hopes that he will be restrained by the moral homilies which constitute the rest of his "Laws of Nature."

Such a theory of sovereignty seemed to Hobbes much less vulnerable to carping criticism than any divine right of kings. It was based upon the stern necessity for assuring law and order in a badly torn world.

Anarchy as the Begetter of Absolutism

In a limited way there is a basic truth in what Hobbes is saying. When a society becomes anarchic to a degree that he describes in the state of nature, the first cry is for a strong government, for "law and order." Psychologically, the description that Hobbes gives of the state of nature is most apt to describe the lapse of governmental powers in the societies which fell under the yoke of fascism. The fascists themselves used typically Hobbesian language to justify their régimes, as Mussolini did in Italy: "We have stamped out violence and civil disorders and strikes; and the trains run on time." But Hobbes justified absolutism out of a reasoning

[35] *Ibid.*, pp. 110-111.
[36] *Ibid.*

that was that of individualism—to save one's own skin Fascism would have added to this the myth of the organismic nation—the absorption of the individual in the eternal biological oneness of the nation

On the matter of security, however, the appeal of fascism was very much like that of Hobbes There is a profound hunger in humanity for the assurance of public services where society has become so interdependent that the continued interruption of these public services by strikes calls for the sternest measures [3] With even greater reason, this hunger is felt in times of savage class warfare and actual civil disorder The Sophist view of human nature, that emphasizes fear and force and adjustment to necessity, triumphs and calls for an organic "state," a Leviathan in Hobbes' own terms.

No Account of Moral Basis of Loyalty

There was one question which Hobbes left unresolved in terms of any moral legitimacy That was the reason for obeying a government that had succeeded in overthrowing the existing government by revolution or by conquest It is difficult to see why the original contract should carry any validity in such a case as this The real inwardness in Hobbes' thought comes out, however, in his justification of obedience to the succeeding government on the grounds that it has inherited the full force of the contract with the government that has been overthrown [38] Indeed, the weaker government that has gone under simply forfeits its right to obedience by not being adequate to assure that protection and security which is the object of all government The succeeding government legitimizes itself by the exercise of sufficient force to make law and order once more supreme Then fear of the new power legitimizes the successor. There are

[37] See the chapters in W Y Elliott *The Pragmatic Revolt in Politics*, on the theories of M L Duguit, on the nature of modern law as an objective law whose sole aim is 'the assurance of the public services

[38] A few quotations from Hobbes may serve to illustrate the nature of this Leviathan and its relation to consent For by Art is created that great Leviathan called a Commonwealth, or State (in Latine *Civitas*) which is but an Artificiall Man, though of greater stature and strength than the Naturall, for whose protection and defense it was intended ' (Introduction p 1) This is more than Consent or Concord, it is a reall Unitie of them all, in one and the same Person made by Covenant of every man with every man " (Part 2 Ch 17 p 131) And in him consisteth the Essence of the Common wealth, which (to define it) is *One Person, of whose Acts a great Multitude, by mutuall Covenants one with another, have made themselves every one the Author, to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence"* (Part 2, Ch 17, p 132) Finally, from Part 2, Ch 20, pp 152 153 And this kind of Dominion, or Soveraignty [acquired by force], differeth from Soveraignty by Institution, onely in this, That men who choose their Soveraign, do it from fear of one another, and not of him whom they institute But in this case, they subject themselves to him they are afraid of .. the Rights and Consequences of Soveraignty, are the same in both."

doctrines of state succession and recognition in international law which are closely parallel to Hobbes' arguments, though not stated in terms so baldly cynical.

Little more than formalism can come from such reasoning. Fear does not create true moral obligation. It creates only the loyalty of convenience. Such a state does not possess the first element suggested by the very word itself—stability—for it is founded on a basic weakness, an inwardly deteriorating morale.

The fear that the sovereign would abuse his powers does not impress Hobbes in the least. He has some pious observations to make about the natural tendency of rulers to obey the laws of nature by which the compact has been set up, and the unwisdom of tyranny. Nothing can deter Hobbes from the logical working out of his theory, which is based on a very simple proposition: it is better to have strong government and run the risk of tyranny than to have weak government and run the risk of anarchy.

A Sovereign But No Patriot King

Hobbes was not in search of a patriot prince, as was Machiavelli. He was an absolutist, willing to accept any sovereign power who would keep order. Nor was he concerned about the nature or extent of the rule enforced. That was a matter of purely pragmatic determination, according to the strength that the ruler could exert. His whole philosophy may be summed up by paraphrasing Hamlet's soliloquy: "It is better to bear those ills we have, than to fly to others that we know not of."

The Sophist philosophy has come full circle in the need to create a pseudo-religion in which the Leviathan becomes a "mortal god." The deification of the Caesar is an appropriate institutionalizing of this state religion. In this way, Hobbes lays the ground for fascism and really for all totalitarianism by not distinguishing, as Althusius had done in his version of the compact, between the ruler and those who have originally given him power. For once the ruler has received all power by the original compact, he becomes the only sovereign, subject to no limitations either by constitutional rights of his subjects or by a rule of international law binding on sovereigns. The people cease to be a corporate body, except as the sovereign directs them.

It would, however, be a mistake to think that Hobbes did not provide for the possibility for a sovereign that might be plural. The representative assembly could, as he noted in Chapter 19, Part II, also be the sovereign. But he clearly prefers the government of a single person, or monarch, as a matter of convenience. A monarch cannot, like an assembly, be divided against himself. Such a division, inherent in numbers, may lead to the destruction of the whole end of the social compact. It "may produce a Civill

Warre" In his description of "Bodies Politique," he is prepared to assert that "the power of the Representative is alwaies Limited,"[39] but he is talking here only of subordinate bodies like colonies, for he goes on to say, "And that which prescribeth the Limits thereof, is the Power Soveraign. For Power Unlimited, is absolute Soveraignty"

> The bounds of that Power, which is given to the Representative of a Bodie Politique, are to be taken notice of, from two things One is their Writt, or Letters from the Soveraign the other is the Law of the Commonwealth
>
> For though in the Institution or Acquisition of a Common wealth, which is independent, there needs no Writing, because the Power of the Representative has there no other bounds, but such as are set out by the unwritten Law of Nature, yet in subordinate bodies, there are such diversities of Limitation necessary, concerning their businesses, times, and places, as can neither be remembered without Letters, not taken notice of, unlesse such Letters be Patent, that they may be read to them, and withall sealed, or testified, with the Seales, or other permanent signes of the Authority Soveraign
>
> And because such Limitation is not alwaies easie, or perhaps possible to be described in writing, the ordinary Lawes, common to all Subjects, must determine, what the Representative may lawfully do, in all Cases, where the Letters themselves are silent And therefore
>
> In a Body Politique, if the Representative be one man, whatsoever he does in the Person of the Body, which is not warranted in his Letters, nor by the Lawes, in his own act, and not the act of the Body, nor of any other Member thereof besides himselfe Because further than his Letters, or the Lawes limit, he representeth no man's person, but his own But what he does according to these, is the act of every one For of the Act of the Soveraign every one is Author, because he is their Representative unlimited, and the act of him that recedes not from the Letters of the Soveraign, is the act of the Soveraign, and therefore every member of the Body is Author of it
>
> But if the Representative be an Assembly, whatsoever that Assembly shall Decree, not warranted by their Letters, or the Lawes, is the act of the Assembly, or Body Politique, and the act of every one by whose Vote the Decree was made, but not the act of any man that being present Voted to the contrary, nor of any man absent, unless he Voted it by procuration[40]

It can be seen from this confused quotation, which was one of the first efforts to wrestle with the juristic puzzle of the power and limits of dependent governments, that Hobbes is thinking as a lawyer or a jurist.

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[39] Hobbes' *Leviathan*, Part II, Ch 22

[40] Hobbes' *Leviathan*, Part II, Ch 22, p 173 This was the theory of imperial sovereignty over colonial assemblies which the American revolutionists were contesting, particularly as it was exercised by Parliament contrary in their view to the royal prerogative and their own charters from the Crown See C H McIlwain's *The American Revolution.*

No Limitations on Sovereign Power—Comparison with Locke and Rousseau

Hobbes has raised, but has failed to answer, throughout his inquiry into the nature of sovereign power, the primary questions which will concern the next two authors whom we shall take as representing developments of the social contract. The first is John Locke, who is much more concerned than Hobbes to set limitations not only on the power of a representative body but on any sovereign organ of government, and especially upon the royal power. This is completely to reverse Hobbes, who demands the complete subordination of the people to the sovereign whom they have set up. He would put no limits on the sovereign power whether of the monarch or the assembly.

On the other hand, Rousseau is as much concerned as Hobbes to avoid the delegation of sovereignty to a representative assembly and would retain the ultimate power in the people, who constitute through a direct assembly the only true expression of what Rousseau comes to call "general will." But Rousseau on his part is equally unwilling to admit that this original assembly can ever contract away its sovereignty to any individual, and he denies in this way the most fundamental assumption of Hobbes.

As we shall see, Hobbes and Rousseau have some similarity in finding that there must be an ultimate sovereignty that overrides all rights of individuals because it *interprets* all rights. Further, they locate this sovereignty *in a government* that could destroy the original rights which a government is set up to protect. In this sense, Locke is the true begetter of the American constitutional dogma that sees in the fundamental law of the Constitution and particularly of its Bill of Rights an abiding and permanent contract of civil society to protect individual rights *against the government* which is a creature of that society and not its absolute sovereign ruler. Locke shares with Althusius the basic belief of constitutionalism: the sovereign people as a corporate body can never alienate its sovereign rights.

The approach that Locke is making to the nature of political society in terms that the Stoics too would have accepted is to stress its fundamental purpose, which is shared through the possession of sovereign reason and *by all men*. It is clear that such a basis for political society allows for the development of a federal system and ultimately for a world system of law in a way quite different from the absolute sovereignty of Rousseau's small city state and direct democracy. Hobbes, for his part, would approve the erection of a world system, if any sovereign were powerful enough to enforce it by conquest. There is not, however, in Hobbes, a place for law

based upon the moral consensus of free men, bent upon remaining free through the protection of their basic human rights.

His observations on international relations, and some of the participants in them, of his own time are unforgettable. He speaks, for example, of the Holy Roman Empire, which, as Voltaire later remarked, was neither holy, Roman, nor an empire, as "the ghost of ancient Rome sitting crowned on the ruins thereof"; and of the contemporary picture of international relations as rulers, fully armed, assuming the posture of gladiators, one toward the other on their respective boundaries.[41]

In any case, it is not to be wondered that the Cromwellian Commonwealth saw nothing too dangerous in the publication of Hobbes' *Leviathan* when it contained such sentiments as these, which would as well defend the Cromwellian régime as that of Charles I, which had just fallen. Hobbes would have pushed the celebrated line of Pope in his *Essay on Man,* "Whatever is, is right," to a slightly less comprehensive meaning: "Whoever wins, and can hold his power, is sovereign"—a position expressed later on in the doggerel language:

> The good old rule, the simple plan;
> That he who gets, will take the power,
> And he will keep who can.

Church and State

In repudiation of the unification of Church and State, it is enough for Hobbes to show, as he does in Part III, Chapters 41 and 42, to his satisfaction, "That the Kingdome of Christ is not of this world." His conclusion is, "therefore neither can his Ministers (unlesse they be Kings,) require obedience in his name. For if the Supreme King, have not his Regall Power in this world; by what authority can obedience be required to his Officers?" He ransacks the Scriptures to prove that their total end is to exhort men *"to be subject to the Higher Powers"* (Romans 13: 1-6) and equally from St. Peter (1st Epist. 2: 13-15) *"Submit your selves to every Ordinance of Man, for the Lords sake, whether it bee to the King, as Supreme, or unto Governours, as to them that be sent by him for the punishment of evill doers, and for the praise of them that doe well; for so is the will of God."* And again (St. Paul, Tit. 3. 1) *"Put men in mind to be subject to Principalities, and Powers, and to obey Magistrates."*

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[41] "But though there had never been any time, wherein particular men were in a condition of warre one against another; yet in all times, Kings, and Persons of Soveraigne authority, because of their Independency, are in continuall jealousies, and in the state and posture of Gladiators; having their weapons pointing, and their eyes fixed on one another...." (Part I, Ch. 13, p. 98.)

Hobbes therefore would have laid down the conditions for the creation of an Erastian state controlling the church and controlling therefore matters of doctrine, in terms of temporal power, also. His conclusions on religious organizations are not unlike Hooker's, though quite different as to political obligation through consent.

Locke, on the other hand, represents the reaction and possibly the weariness of his times with this effort to impose religion through the State as well as the efforts of religion to control the State. His *Three Letters on Toleration,* probably much more than Milton's great defense of toleration and freedom of the press in the *Areopagitica,* represents the temper of the new age.

The Influence of Hobbes on Later Theory

Hobbes was a precursor of that hard-bitten logical method that marked the "Age of Reason." But the full flower of eighteenth-century rationalism was marked by a very different temper—the passionate belief in man's perfectibility that marks the writings of Tom Paine, of Godwin, and of the *English radicals who were in turn the precursors of nineteenth-century* liberalism. Rationalism also finds characteristic expression in the French Encyclopaedists, aided by the satires of Voltaire. But the passionate rationalism of the French Revolution pushed reason beyond logic into a faith. Rousseau was borne along on this growing and spreading stream. He represents, as we shall see, a strain that will once more reintroduce something of the mysticism of the civic religion which deifies the general will of the people. From this latter, both modern nationalism and some strains of democratic mysticism that characterize the utopian aspects of Marxism are also derived.

Hobbes' rationalism was rooted in very saturnine, certainly not "perfectionist," views of human nature. He followed the Sophist tradition, in which man confronted by brute necessity, driven on by blind desires, yet has rationality enough to plan his escape into an ordered world of law. This view led in a very different direction from Locke's rationalism and that of the liberals: On the one hand, it led to a theory of absolute sovereignty that suited the lawyers like Austin who were interested only in the logic of a self-completing system of law. Law based on command and assuming "the habitual obedience of the bulk of the people" answered the needs of such a positive and analytical jurisprudence. At the same time, this view of sovereignty suited the temper of the heady and powerful nationalism which refused to recognize any limits on its own sovereign powers except those which were accepted through *force majeure,* or by its own will. International law was voluntarily recognized or received.

The day of the world state, which has not yet shown more than a false dawn, lay far ahead. The world was kept in a somewhat precarious state of peace and sporadic war only by the "balance of power" system that states played for their own convenience or sometimes necessity.



A Proto-Fascist

The other strain in Hobbes lay deeper in the roots of human nature: the escape from anarchy, the basic drives of fear and force and lust for power served to give the same apology to the fascists and the totalitarians. In Hobbes' time, the logic of events led to Cromwell or to the absolute monarchs: security from violence, peace, if possible, at least at home. The fascists, however, understood the further logic of Machiavelli for any such system as rested purely on power, buttressed by fraud, deceit, force, and the use of myths: "Expand or perish." History was to add: "Expand *and* perish," as an ironic emendation to this text. And fascism, in terms of its terroristic methods and techniques of imperialism, and of its struggle for the endless extension of its power, has come, on the witness of the times, to find its new center where the term is most abusively screamed at the free world outside—in the Politburo in Moscow.

To do Hobbes justice he was, in his own objectives, an absolutist rather than a totalitarian. It didn't occur to him that a sovereign would be so grasping of power as to push beyond the limits of assuring the conditions of law by making his writ run where law was needed. Hobbes thought the sovereign would accept moral restraints through "natural law." But the absolutist becomes fatally a totalitarian, since there can be in the ruthless logic of Hobbes and in the equally ruthless logic of absolute power, no restraint upon him—either internal or external—save that of his own will or of external force that he does not or cannot challenge.

One ought to note, too, that Hobbes is addressing his book to the reason of men, not to the favor of a prince. He has this much respect for opinion. He is no *élitist*, and no oligarchist or aristocrat like Plato. He is really trying to answer the question, *given the fundamentally aggressive nature of human beings,* (a) Is not law, unchallengeable law, necessary for man's individual safety? (b) Does not such a law imply an absolute sovereign to whom all rights have been surrendered in exchange? (c) Is this logical precondition of ordered civil society not best described as creating Leviathan by compact?

The Sophist and the Stoic views clash once more—Hobbes coming out with a dictatorship born of necessity; Locke with human rights and limited government, created by the natural consent of free men. If Hobbes' ideas of the state of nature or of human nature were either true or complete, his

logic would be more compelling, though not inescapable. In times of social upheaval and anarchy, his analysis is often correct. But Locke challenged his basic views of nature and human nature, and in effect turned the *Leviathan* upside down.

(... *W.Y.E.*)

READINGS

IN THE EARLY Middle Ages the relation between the pope and emperor had been compared with two swords independent of each other but each, in the hand of God, serving the other. To Augustine an empire without Christianity was no empire at all. Then the dominant thought moved toward a raising of the pope over the emperor with the doctrine that the emperor's power came from God through the pope. The *Defensor Pacis* of Marsilius spoke for rising nationality and helped to turn the tide against papal supremacy. Still there were few who would argue that a valid case could be made out for a state which was not an instrument of God's will; that is, the doctrine that a state could be legitimate which had no need for God or in which the main function of religion was to make the ruling task more effective. By the time that Machiavelli and Hobbes wrote, the Holy Roman Emperor had long since ceased to exercise effective rule in most of Europe. The world, for political rule, had split up into states, large and small. The effective rule over these states was threatened by many forces, among which the pope, foreign powers, feudal lords, and a rising middle class were the most important. Peace and order required an appeal to national sentiment, to transcendent personal leadership, and to rigorous logic. God's state could give neither peace nor order, and so Machiavelli and Hobbes provided a state foundation to which God and his church were but an adornment—at best, a tool of the ruler. Each found justification for his political régime in the consent of the governed—one in a tacit acquiescence to a powerful leader, the other in the single act of surrendering the power of protecting themselves. And for the first time in the history of political speculation the edifice of a state is reared which either has no morals or which manufactures its own. That this conception had its roots in the Renaissance is shown by Burckhardt in his work on the Renaissance in Italy.

In sharp contrast with medieval political thought, both argued that states could be made by man alone. And before Hobbes died, men who had left England for the New World were already fashioning new states much as one makes a new house. But in their states they found room for God and his faithful, but none for a Roman pope or for an archbishop of Canterbury.

Niccolo Machiavelli was born of a noble Florentine family in 1469. He was well read in the Latin and Italian classics but not in Greek. As a pupil of Adrian, Machiavelli became second chancellor and secretary when the former became chancellor of the republic in 1498. Machiavelli served on several government missions, including one to Cesare Borgia, who was waging war to win the Papal States for himself. Machiavelli showed real admiration for the unscrupulous Borgia and modeled the hero of his work, *Il Principe* (*The Prince*), after him. With the return of the Medici to power in Florence in 1512, Machiavelli was driven into exile. There he thought and wrote and kept an ever-watchful eye on the doings of his native Florence. By 1522 he regained some favor in the eyes of the Medicis, but in 1527 they were overthrown and the unfortunate Machiavelli was again excluded from public life. In the same year he died, a broken man and out of public favor. Aside from his political writings, Machiavelli was one of the great writers of Italian prose.

Over a half-century separates the death of Machiavelli in Florence and the birth of Thomas Hobbes at Westport, now Malmesbury, in England. Hobbes' notorious fear of violence is explained sometimes by the story that he was born prematurely because of his mother's fright at the news of the Armada. Educated at Magdalen College, Oxford, he became a tutor for sons of noble families and spent much time traveling on the Continent. He came to know Galileo, Descartes, Gassendi, and Mersenne, and even served for a time as secretary to Francis Bacon. Thus he had intimate contact with the leaders of the revolt against scholasticism.

Political writings brought Hobbes into disfavor with the parliamentarians, and in 1640 he began his Continental exile—as he himself says, "the first of all that fled," "doubting how they would use him"—that lasted eleven years. During this period he served as tutor to the future Charles II. He fell out of favor with Charles because of his "atheism," and had to retreat to England in 1651. His later life was filled with quarrels, principally with churchmen who took issue with his attacks on religion, and with scientists of the day concerning physics and mathematics. Much of Hobbes' writings, and the most amateurish part of them, was in the field of mathematics and physics, but he is best known for his political writings. He died in 1679 at the age of ninety-one. His life spanned the period from the later years of Queen Elizabeth to a time only ten years before the "Glorious Revolution." The latter was, in a sense, a settlement restraining the prince or sovereign in a way that much of the *Leviathan* goes to prove impossible.

If one studies the writings of Machiavelli and Hobbes as a whole, and in their proper historical setting, they are seen to have a certain measure of relevance for democratic development, despite their explicit authori-

tarian results They knife through the mysticism and custom that stifled their world and thus did much to clear the atmosphere for reason and logic. This approach *suggests,* even if they do not approve the idea, that man is responsible for his government and that man's consent alone can make a state both legitimate and effective. It is significant, too, that their own contemporaries, fully hardened to their upset times, were well aware of the moral blindness that would forever deprive Machiavelli of a patriot king if his advice were taken; and Hobbes of his precious security if his sovereign rule rested on no more than a compact of convenience and necessity.

Burckhardt: The Roots of Secularism

The following is not political thought produced by the Renaissance, but an account of thought and institutional developments in Italy and in the Italian city state which accompanied the Renaissance and which profoundly influenced modern political thought. ¶ *The breaking up of medieval unity created a state of anarchy, not so much within cities as between cities, and adventurers who could command troops came to be rulers. Religion and old-fashioned legitimacy were secondary. The spirit of the Renaissance was well represented in Florence, Machiavelli's city Burckhardt gives the best idea of that spirit, and the form it took in institutions. Moreover, he comments on the effect of the critical approach upon the belief in immortality, and the corrosive effects on all social behavior and morality.*[1]

PART I

CHAPTER III

[Independent Rulers]

But the highest and the most admired form of illegitimacy in the fifteenth century was presented by the Condottiere, who, whatever may have been his origin, raised himself to the position of an independent ruler. At bottom, the occupation of Lower Italy by the Normans in the eleventh century was of this character. Such attempts now began to keep the peninsula in a constant ferment

It was possible for a Condottiere to obtain the lordship of a district even without usurpation, in the case where his employer, through want of money or troops, provided for him in this way, under any circumstances the Condottiere, even when he dismissed for the time the greater part of his forces, needed a safe place where he could establish his winter quarters and lay up his stores and provisions The first example of a captain thus portioned is John Hawkwood, who was invested by Gregory XI with the lordship of Bagnacavallo and Cotignola. When with Alberigo da Barbiano Italian armies and leaders appeared upon the

[1] From Jacob Burckhardt, *The Civilization of the Renaissance in Italy* 8th edition, translated by S G. C. Middlemore London G Allen & Unwin, Ltd., 1921 The first edition of this work appeared in 1878.

scene the chances of founding a principality, or of increasing one already acquired, became more frequent. The first great bacchanalian outbreak of military ambition took place in the duchy of Milan after the death of Giangaleazzo (1402). The policy of his two sons was chiefly aimed at the destruction of the new despotisms founded by the Condottieri; and from the greatest of them, Facino Cane, the house of Visconti inherited, together with his widow, a long list of cities, and 400,000 golden florins, not to speak of the soldiers of her first husband whom Beatrice di Tenda brought with her. From henceforth that thoroughly immoral relation between the Governments and their Condottieri which is characteristic of the fifteenth century became more and more common. An old story—one of those which are true and not true, everywhere and nowhere—describes it as follows: The citizens of a certain town (Siena seems to be meant) had once an officer in their service who had freed them from foreign aggression; daily they took counsel how to recompense him, and concluded that no reward in their power was great enough, not even if they made him lord of the city. At last one of them rose and said, "Let us kill him and then worship him as our patron saint." And so they did, following the example set by the Roman Senate with Romulus. In fact, the Condottieri had reason to fear none so much as their employers; if they were successful they became dangerous, and were put out of the way like Roberto Malatesta just after the victory he had won for Sixtus IV (1482); if they failed, the vengeance of the Venetians on Carmagnola showed to what risks they were exposed (1432). It is characteristic of the moral aspect of the situation that the Condottieri had often to give their wives and children as hostages, and, notwithstanding this, neither felt nor inspired confidence. They must have been heroes of abnegation, natures like Belisarius himself, not to be cankered by hatred and bitterness; only the most perfect goodness could save them from the most monstrous iniquity. No wonder then if we find them full of contempt for all sacred things, cruel and treacherous to their fellows—men who cared nothing whether or no they died under the ban of the Church. At the same time, and through the force of the same conditions, the genius and capacity of many among them attained the highest conceivable development, and won for them the admiring devotion of their followers; their armies are the first in modern history in which the personal credit of the leader is the one moving power. A brilliant example is shown in the life of Francesco Sforza; no prejudice of birth could prevent him from winning and turning to account when he needed it a boundless devotion from each individual with whom he had to deal; it happened more than once that his enemies laid down their arms at the sight of him, greeting him reverently with uncovered heads, each honouring in him 'the common father of the men-at-arms.' The race of Sforza has this special interest, that from the very beginning of its history we seem able to trace its endeavours after the crown. The foundation of its fortune lay in the remarkable fruitfulness of the family; Francesco's father, Jacopo, himself a celebrated man, had twenty brothers and sisters, all brought up roughly at Cotignola, near Faenza, amid the perils of one of the endless Romagnole *vendette* between their own house and that of the Pasolini. The family dwelling was a mere arsenal and fortress; the mother and daughters were as warlike as their kinsmen. In his thirteenth year Jacopo ran away and fled to Panicale to the Papal Condottiere Boldrino—the man who even in death continued to lead his troops, the word of order being given from the bannered tent in which the embalmed body lay, till at last a fit leader was found to succeed him. Jacopo, when he had at length made himself a name in the service of different Condottieri, sent for his relations, and obtained through them the

same advantages that a prince derives from a numerous dynasty It was these relations who kept the army together when he lay a captive in the Castel dell Uovo at Naples, his sister took the royal envoys prisoners with her own hands, and saved him by this reprisal from death It was an indication of the breadth and the range of his plans that in monetary af fairs Jacopo was thoroughly trustworthy even in his defeats he consequently found credit with the bankers He habitually protected the peasants against the licence of his troops and reluctantly destroyed or injured a conquered city He gave his well known mistress, Lucia, the mother of Francesco, in marriage to another in or der to be free from a princely alliance Even the marriages of his relations were arranged on a definite plan He kept clear of the impious and profligate life of his contemporaries, and brought up his son Francesco to the three rules Let other men s wives alone strike none of your followers, or, if you do send the injured man far away don t ride a hard mouthed horse, or one that drops his shoe But his chief source of influence lay in the quali ties if not of a great general, at least of a great soldier His frame was powerful and developed by every kind of exercise his peasant s face and frank manners won general popularity his memory was mar vellous and after the lapse of years could recall the names of his followers, the num ber of their horses, and the amount of their pay His education was purely Italian he devoted his leisure to the study of history and had Greek and Latin authors translated for his use Francesco, his still more famous son, set his mind from the first on founding a powerful state, and through brilliant generalship and a faithlessness which hesitated at nothing got possession of the great city of Milan (1447 50)

His example was contagious Æneas Sylvius wrote about this time 'In our change loving Italy, where nothing stands firm and where no ancient dynasty exists, a servant can easily become a king' One man in particular, who styled himself 'the man of fortune,' filled the imagi nation of the whole country Jacopo Piccinino, the son of Niccolò It was a burning question of the day if he too would succeed in founding a princely house The greater states had an obvious interest in hindering it, and even Fran cesco Sforza thought it would be all the better if the list of self made sovereigns were not enlarged But the troops and captains sent against him, at the time for instance, when he was aiming at the lord ship of Siena, recognized their interest in supporting him 'If it were all over with him, we should have to go back and plough our fields Even while besieging him at Orbetello they supplied him with provisions, and he got out of his straits with honour But at last Fate overtook him All Italy was betting on the result when (1465), after a visit to Sforza at Milan he went to King Ferrante at Naples In spite of the pledges given and of his high connexions he was murdered in the Castel dell Uovo Even the Condot tieri who had obtained their dominions by inheritance never felt themselves safe When Roberto Malatesta and Federigo of Urbino died on the same day (1482) the one at Rome, the other at Bologna, it was found that each had recommended his state to the care of the other Against a class of men who themselves stuck at noth ing everything was held to be permissible Francesco Sforza, when quite young, had married a rich Calabrian heiress, Polissen a Russa, Countess of Montalto, who bore him a daughter, an aunt poisoned both mother and child, and seized the in heritance

From the death of Piccinino onward the foundations of new states by the Con dottieri became a scandal not to be tol erated The four great Powers, Naples Milan, the Papacy, and Venice, formed among themselves a political equilibrium which refused to allow of any disturbance In the States of the Church, which swarmed with petty tyrants, who in part were, or had been, Condottieri, the neph

ews of the Popes, since the time of Sixtus IV, monopolized the right to all such undertakings. But at the first sign of a political crisis the soldiers of fortune appeared again upon the scene. Under the wretched administration of Innocent VIII it was near happening that a certain Boccalino, who had formerly served in the Burgundian army, gave himself and the town of Osimo, of which he was master, up to the Turkish forces; fortunately, through the intervention of Lorenzo the Magnificent, he proved willing to be paid off, and took himself away. In 1495, when the wars of Charles VIII had turned Italy upside-down, the Condottiere Vidovero, of Brescia, made trial of his strength: he had already seized the town of Cesena and murdered many of the nobles and the burghers; but the citadel held out, and he was forced to withdraw. He then, at the head of a band lent him by another scoundrel, Pandolfo Malatesta of Rimini, son of the Roberto already spoken of, and Venetian Condottiere, wrested the town of Castelnuovo from the Archbishop of Ravenna. The Venetians, fearing that worse would follow, and urged also by the Pope, ordered Pandolfo, 'with the kindest intentions,' to take an opportunity of arresting his good friend: the arrest was made, though 'with great regret,' whereupon the order came to bring the prisoner to the gallows. Pandolfo was considerate enough to strangle him in prison, and then show his corpse to the people. The last notable example of such usurpers is the famous Castellan of Musso, who, during the confusion in the Milanese territory which followed the battle of Pavia (1525), improvised a sovereignty on the Lake of Como.

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CHAPTER VII

[FLORENCE]

The most elevated political thought and the most varied forms of human development are found united in the history of Florence, which in this sense deserves the name of the first modern state in the world. Here the whole people are busied with what in the despotic cities is the affair of a single family. That wondrous Florentine spirit, at once keenly critical and artistically creative, was incessantly transforming the social and political condition of the state, and as incessantly describing and judging the change. Florence thus became the home of political doctrines and theories, of experiments and sudden changes, but also, like Venice, the home of statistical science, and, alone and above all other states in the world, the home of historical representation in the modern sense of the phrase. The spectacle of ancient Rome and a familiarity with its leading writers were not without influence; Giovanni Villani confesses that he received the first impulse to his great work at the jubilee of 1300, and began it immediately on his return home. Yet how many among the 200,000 pilgrims of that year may have been like him in gifts and tendencies, and still did not write the history of their native cities! For not all of them could encourage themselves with the thought: "Rome is sinking; my native city is rising, and ready to achieve great things, and therefore I wish to relate its past history, and hope to continue the story to the present time, and as long as my life shall last." And besides the witness to its past, Florence obtained through its historians something further—a greater fame than fell to the lot of any other city of Italy.

Our present task is not to write the history of this remarkable state, but merely to give a few indications of the intellectual freedom and independence for which the Florentines were indebted to this history.

In no other city of Italy were the struggles of political parties so bitter, of such early origin, and so permanent. The descriptions of them, which belong, it is true, to a somewhat later period, give clear evidence of the superiority of Florentine criticism.

And what a politician is the great victim of these crises, Dante Alighieri, maimed alike by home and by exile! He uttered his scorn of the incessant changes and experiments in the constitution of his native city in verses of adamant, which will remain proverbial so long as political events of the same kind recur, he addressed his home in words of defiance and yearning which must have stirred the hearts of his countrymen But his thoughts ranged over Italy and the whole world, and if his passion for the Empire, as he conceived it, was no more than an illusion, it must yet be admitted that the youthful dreams of a new born political speculation are in his case not without a poetical grandeur He is proud to be the first who had trod this path, certainly in the footsteps of Aristotle, but in his own way independently His ideal Emperor is a just and humane judge, dependent on God only, the heir of the universal sway of Rome, to which belonged the sanction of nature, of right, and of the will of God The conquest of the world was, according to this view, rightful, resting on a divine judgment between Rome and the other nations of the earth, and God gave His approval to this empire since under it He became Man, submitting at His birth to the census of the Emperor Augustus, and at His death to the judgment of Pontius Pilate We may find it hard to appreciate these and other arguments of the same kind, but Dante's passion never fails to carry us with him In his letters he appears as one of the earliest publicists, and is perhaps the first layman to publish political tracts in this form He began early Soon after the death of Beatrice he addressed a pamphlet on the state of Florence "to the great ones of the earth," and the public utterances of his later years, dating from the time of his banishment, are all directed to emperors, princes, and cardinals In these letters and in his book *De Vulgari Eloquentia* the feeling, bought with such bitter pains, is constantly recurring that the exile may find elsewhere than in his native place an intellectual home in language and culture which cannot be taken from him On this point we shall have more to say in the sequel

To the two Villani, Giovanni as well as Matteo, we owe not so much deep political reflection as fresh and practical observations, together with the elements of Florentine statistics and important notices of other states Here too trade and commerce had given the impulse to economical as well as political science Nowhere else in the world was such accurate information to be had on financial affairs The wealth of the Papal Court at Avignon, which at the death of John XXII amounted to twenty five millions of gold florins, would be incredible on any less trustworthy authority Here only, at Florence, do we meet with colossal loans like that which the King of England contracted from the Florentine houses of Bardi and Peruzzi, who lost to his Majesty the sum of 1,365 000 gold florins (1338)—their own money and that of their partners—and nevertheless recovered from the shock Most important facts are here recorded as to the condition of Florence at this time the public income (over 300,000 gold florins) and expenditure the population of the city, here only roughly estimated, according to the consumption of bread in *bocche—i e*, mouths—put at 90,000, and the poulation of the whole territory, the excess of 300 to 500 male children among the 5800 to 6000 annually baptized, the school children, of whom 8000 to 10,000 learned reading, 1000 to 1200 in six schools arithmetic, and besides these 600 scholars who were taught Latin grammar and logic in four schools Then follow the statistics of the churches and monasteries, of the hospitals, which held more than a thousand beds, of the wool trade, with its most valuable details, of the mint, the provisioning of the city, the public officials, and so on Incidentally we learn many curious facts, how, for instance, when the public funds (*il monte*) were first established, in the year 1353, the Franciscans spoke from the pulpit in

favour of the measure, the Dominicans and Augustinians against it. The economical results of the Black Death were and could be observed and described nowhere else in all Europe as in this city. Only a Florentine could have left it on record how it was expected that the scanty population would have made everything cheap, and how instead of that labour and commodities doubled in price; how the common people at first would do no work at all, but simply give themselves up to enjoyment; how in the city itself servants and maids were not to be had except at extravagant wages; how the peasants would only till the best lands, and left the rest uncultivated; and how the enormous legacies bequeathed to the poor at the time of the plague seemed afterward useless, since the poor had either died or had ceased to be poor. Lastly, on the occasion of a great bequest, by which a childless philanthropist left six *danari* to every beggar in the city, the attempt is made to give a comprehensive statistical account of Florentine mendicancy.

This statistical view of things was at a later time still more highly cultivated at Florence. The noteworthy point about it is that, as a rule, we can perceive its connexion with the higher aspects of history, with art, and with culture in general. An inventory of the year 1422 mentions, within the compass of the same document, the seventy-two exchange offices which surrounded the 'Mercato Nuovo'; the amount of coined money in circulation (two million golden florins); the then new industry of gold-spinning; the silk wares; Filippo Brunellesco, then busy in digging classical architecture from its grave; and Leonardo Aretino, secretary of the republic, at work at the revival of ancient literature and eloquence; lastly it speaks of the general prosperity of the city, then free from political conflicts, and of the good fortune of Italy, which had rid itself of foreign mercenaries. The Venetian statistics..., which date from about the same year, certainly give evidence of larger property and profits and of a more extensive scene of action; Venice had long been mistress of the seas before Florence sent out its first galleys (1422) to Alexandria. But no reader can fail to recognize the higher spirit of the Florentine documents. These and similar lists recur at intervals of ten years, systematically arranged and tabulated, while elsewhere we find at best occasional notices. We can form an approximate estimate of the property and the business of the first Medici; they paid for charities, public buildings, and taxes from 1434 to 1471 no less than 633,755 gold florins, of which more than 400,000 fell to Cosimo alone, and Lorenzo Magnifico was delighted that the money had been so well spent. In 1472 we have again a most important and in its way complete view of the commerce and trades of this city, some of which may be wholly or partly reckoned among the fine arts—such as those which had to do with damasks and gold or silver embroidery, with wood-carving and 'intarsia,' with the sculpture of arabesques in marble and sandstone, with portraits in wax, and with jewellery and work in gold. The inborn talent of the Florentines for the systematization of outward life is shown by their books on agriculture, business, and domestic economy, which are markedly superior to those of other European people in the fifteenth century. It has been rightly decided to publish selections of these works, although no little study will be needed to extract clear and definite results from them. At all events, we have no difficulty in recognizing the city, where dying parents begged the Government in their wills to fine their sons 1000 florins if they declined to practise a regular profession.

For the first half of the sixteenth century probably no state in the world possessed a document like the magnificent description of Florence by Varchi. In descriptive statistics, as in so many things besides, yet another model is left to us, before the freedom and greatness of the city sank into the grave.

This statistical estimate of outward life

is, however, uniformly accompanied by the narrative of political events to which we have already referred.

Florence not only existed under political forms more varied than those of the free states of Italy and of Europe generally, but it reflected upon them far more deeply. It is a faithful mirror of the relations of individuals and classes to a variable whole. The pictures of the great civic democracies in France and in Flanders, as they are delineated in Froissart, and the narratives of the German chroniclers of the fourteenth century, are in truth of high importance; but in comprehensiveness of thought and in the rational development of the story, none will bear comparison with the Florentines. The rule of the nobility, the tyrannies, the struggles of the middle class with the proletariate, limited and unlimited democracy, pseudo-democracy, the primacy of a single house, the theocracy of Savonarola, and the mixed forms of government which prepared the way for the Medicean despotism—all are so described that the inmost motives of the actors are laid bare to the light. At length Machiavelli in his Florentine history (down to 1492) represents his native city as a living organism and its development as a natural and individual process; he is the first of the moderns who has risen to such a conception. It lies without our province to determine whether and in what points Machiavelli may have done violence to history, as is notoriously the case in his life of Castruccio Castracane—a fancy picture of the typical despot. We might find something to say against every line of the 'Istorie Fiorentine,' and yet the great and unique value of the whole would remain unaffected. And his contemporaries and successors, Jacopo Pitti, Guicciardini, Segni, Varchi, Vettori, what a circle of illustrious names! And what a story it is which these masters tell us! The great and memorable drama of the last decades of the Florentine republic is here unfolded. The voluminous record of the collapse of the highest and most original life which the world could then show may appear to one but as a collection of curiosities, may awaken in another a devilish delight at the shipwreck of so much nobility and grandeur, to a third may seem like a great historical assize; for all it will be an object of thought and study to the end of time. The evil which was for ever troubling the peace of the city was its rule over once powerful and now conquered rivals like Pisa—a rule of which the necessary consequence was a chronic state of violence. The only remedy, certainly an extreme one and which none but Savonarola could have persuaded Florence to accept, and that only with the help of favourable chances, would have been the well-timed resolution of Tuscany into a federal union of free cities. At a later period this scheme, then no more than the dream of a past age, brought (1548) a patriotic citizen of Lucca to the scaffold. From this evil and from the ill-starred Guelph sympathies of Florence for a foreign prince, which familiarized it with foreign intervention, came all the disasters which followed. But who does not admire the people, which was wrought up by its venerated preacher to a mood of such sustained loftiness that for the first time in Italy it set the example of sparing a conquered foe, while the whole history of its past taught nothing but vengeance and extermination? The glow which melted patriotism into one with moral regeneration may seem, when looked at from a distance, to have soon passed away; but its best results shine forth again in the memorable siege of 1529-30. They were 'fools,' as Guicciardini then wrote, who drew down this storm upon Florence, but he confesses himself that they achieved things which seemed incredible; and when he declares that sensible people would have got out of the way of the danger he means no more than that Florence ought to have yielded itself silently and ingloriously into the hands of its enemies. It would no doubt have preserved its splendid suburbs and gardens and the lives and prosperity

of countless citizens; but it would have been the poorer by one of its greatest and most ennobling memories.

In many of their chief merits the Florentines are the pattern and the earliest type of Italians and modern Europeans generally; they are so also in many of their defects. When Dante compares the city which was always mending its constitution with the sick man who is continually changing his posture to escape from pain, he touches with the comparison a permanent feature of the political life of Florence. The great modern fallacy that a constitution can be made, can be manufactured by a combination of existing forces and tendencies,[2] was constantly cropping up in stormy times; even Machiavelli is not wholly free from it. Constitutional artists were never wanting who by an ingenious distribution and division of political power, by indirect elections of the most complicated kind, by the establishment of nominal offices, sought to found a lasting order of things, and to satisfy or to deceive the rich and the poor alike. They naïvely fetch their examples from classical antiquity, and borrow the party names ottimati, aristocrazia, as a matter of course. The world since then has become used to these expressions and given them a conventional European sense, whereas all former party names were purely national, and either characterized the cause at issue or sprang from the caprice of accident. But how a name colours or discolours a political cause!

But of all who thought it possible to construct a state the greatest beyond all comparison was Machiavelli. He treats existing forces as living and active, takes a large and an accurate view of alternative possibilities, and seeks to mislead neither himself nor others. No man could be freer from vanity or ostentation; indeed, he does not write for the public, but either for princes and administrators or for personal friends. The danger for him does not lie in an affectation of genius or in a false order of ideas, but rather in a powerful imagination which he evidently controls with difficulty. The objectivity of his political judgment is sometimes appalling in its sincerity; but it is the sign of a time of no ordinary need and peril when it was a hard matter to believe in right, or to credit others with just dealing. Virtuous indignation at his expense is thrown away upon us who have seen in what sense political morality is understood by the statesmen of our own century. Machiavelli was at all events able to forget himself in his cause. In truth, although his writings, with the exception of very few words, are altogether destitute of enthusiasm, and although the Florentines themselves treated him at last as a criminal, he was a patriot in the fullest meaning of the word. But free as he was, like most of his contemporaries, in speech and morals, the welfare of the State was yet his first and last thought.

His most complete programme for the construction of a new political system at Florence is set forth in the memorial to Leo X, composed after the death of the younger Lorenzo de' Medici, Duke of Urbino (d. 1519), to whom he had dedicated his *Prince*. The State was by that time in extremities and utterly corrupt, and the remedies proposed are not always morally justifiable; but it is most interesting to see how he hopes to set up the republic in the form of a moderate democracy, as heiress to the Medici. A more ingenious scheme of concessions to the Pope, to the Pope's various adherents, and to the different Florentine interests

[2] On the third Sunday in Advent 1494 Savonarola preached as follows on the method of bringing about a new constitution; the sixteen companies of the city were each to work out a plan, the Gonfalonieri to choose the four best of these, and the Signoria to name the best of all on the reduced list. Things, however, took a different turn, under the influence, indeed, of the preacher himself. See P. Villari, *Savonarola*. Besides this sermon, Savonarola had written a remarkable *Trattato circa il Regimento di Firenze* (reprinted at Lucca, 1817).

cannot be imagined, we might fancy ourselves looking into the works of a clock. Principles, observations, comparisons, political forecasts, and the like are to be found in numbers in the *Discorsi*, among them flashes of wonderful insight. He recognizes, for example, the law of a continuous though not uniform development in republican institutions, and requires the constitution to be flexible and capable of change, as the only means of dispensing with bloodshed and banishments. For a like reason, in order to guard against private violence and foreign interference —'the death of all freedom'—he wishes to see introduced a judicial procedure (accusa) against hated citizens, in place of which Florence had hitherto had nothing but the court of scandal. With a masterly hand the tardy and involuntary decisions are characterized, which at critical moments play so important a part in republican states. Once, it is true, he is misled by his imagination and the pressure of events into unqualified praise of the people, which chooses its officers, he says, better than any prince, and which can be cured of its errors by good advice. With regard to the government of Tuscany he has no doubt that it belongs to his native city, and maintains in a special *Discorso* that the reconquest of Pisa is a question of life or death. He deplores that Arezzo, after the rebellion of 1502, was not razed to the ground, he admits in general that Italian republics must be allowed to expand freely and add to their territory in order to enjoy peace at home, and not to be themselves attacked by others; but declares that Florence had always begun at the wrong end, and from the first made deadly enemies of Pisa, Lucca, and Siena, while Pistoja, 'treated like a brother,' had voluntarily submitted to her.

It would be unreasonable to draw a parallel between the few other republics which still existed in the fifteenth century and this unique city—the most important workshop of the Italian, and indeed of the modern European spirit. Siena suffered from the gravest organic maladies, and its relative prosperity in art and industry must not mislead us on this point. Aeneas Sylvius looks with longing from his native town over to the 'merry' German Imperial cities, where life is embittered by no confiscations of land and goods, by no arbitrary officials, and by no political factions. Genoa scarcely comes within range of our task, as before the time of Andrea Doria it took almost no part in the Renaissance. Indeed, the inhabitant of the Riviera was proverbial among Italians for his contempt of all higher culture. Party conflicts here assumed so fierce a character, and disturbed so violently the whole course of life, that we can hardly understand how, after so many revolutions and invasions, the Genoese ever contrived to return to an endurable condition. Perhaps it was owing to the fact that nearly all who took part in public affairs were at the same time almost without exception active men of business. The example of Genoa shows in a striking manner with what insecurity wealth and vast commerce, and with what internal disorder the possession of distant colonies, are compatible.

Lucca is of small significance in the fifteenth century.

PART VI

CHAPTER I

General Disintegration of Belief

*With these superstitions, as with an*cient modes of thought generally, the decline in the belief of immortality stands in the closest connexion. This question has the widest and deepest relations with the whole development of the modern spirit.

One great source of doubt in immorality was the inward wish to be under no obligations to the hated Church. We have seen that the Church branded those who thus felt as Epicureans. In the hour of death many doubtless called for the Sacraments, but multitudes during their whole lives, and especially during their

most vigorous years, lived and acted on the negative supposition That unbelief on this particular point must often have led to a general scepticism is evident of itself, and is attested by abundant his torical proof These are the men of whom Ariosto says 'Their faith goes no higher than the roof' In Italy, and especially in Florence, it was possible to live as an open and notorious unbeliever if a man only refrained from direct acts of hostility against the Church The confessor, for in stance, who was sent to prepare a political offender for death began by inquiring whether the prisoner was a believer, 'for there was a false report that he had no belief at all.'

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If unbelief in this respect made such progress among the more highly culti vated natures the reason lay partly in the fact that the great earthly task of discovering the world and representing it in word and form absorbed most of the higher spiritual faculties But this in vestigation and this art were necessarily accompanied by a general spirit of doubt and inquiry If this spirit shows itself but little in literature, if we find, for example, only isolated instances of the beginnings of Biblical criticism, we are not therefore to infer that it had no existence The sound of it was overpowered only by the need of representation and creation in all departments—that is, by the artistic in stinct, and it was further checked, when ever it tried to express itself theoretically by the already existing despotism of the Church This spirit of doubt must, for reasons too obvious to need discussion, have inevitably and chiefly busied itself with the question of the state of man after death

And here came in the influence of an tiquity, and worked in a twofold fashion on the argument In the first place men set themselves to master the psychology of the ancients, and tortured the letter of Aristotle for a decisive answer In one of the Lucianic dialogues of the time Charon tells Mercury how he questioned Aris totle on his belief in immortality when the philosopher crossed in the Stygian boat but the prudent sage, although dead in the body and nevertheless living on, declined to compromise himself by a definite answer—and centuries later how was it likely to fare with the interpreta tion of his writings? All the more eagerly did men dispute about his opinion and that of others on the true nature of the soul, its origin, its pre existence, its unity in all men, its absolute eternity, even its transformations, and there were men who treated of these things in the pulpit The dispute was warmly carried on even in the fifteenth century, some proved that Aristotle taught the doctrine of an im-mortal soul, others complained of the hardness of men s hearts, who would not believe that there was a soul at all till they saw it sitting down on a chair before them, Filelfo in his funeral oration on Francesco Sforza brings forward a long list of opinions of ancient and even of Arabian philosophers in favour of immor tality, and closes the mixture, which cov ers a folio page and a half of print, with the words Besides all this we have the Old and New Testaments, which are above all truth' Then came the Floren-tine Platonists with their master s doctrine of the soul, supplemented at times, as in the case of Pico, by Christian teaching But the opposite opinion prevailed in the instructed world At the beginning of the sixteenth century the stumbling block which it put in the way of the Church was so serious that Leo X set forth a Con stitution at the Lateran Council in 1513 in defence of the immortality and indi viduality of the soul, the latter against those who asserted that there was but one soul in all men A few years later ap-peared the work of Pomponazzo, in which the impossibility of a philosophical proof of immortality is maintained, and the contest was now waged incessantly with replies and apologies, till it was silenced by the Catholic reaction The pre existence of the soul in God, con

ceived more or less in accordance with Plato's theory of ideas, long remained a common belief, and proved of service even to the poets The consequences which followed from it as to the mode of the soul's continued existence after death were not more closely considered

There was a second way in which the influence of antiquity made itself felt, chiefly by means of that remarkable fragment of the sixth book of Cicero's *Republic* known by the name of 'Scipio's Dream' Without the commentary of Macrobius it would probably have perished like the rest of the second part of the work it was now diffused in countless manuscript copies, and, after the discovery of typography in a printed form, and edited afresh by various commentators It is the description of a transfigured hereafter for great men, pervaded by the harmony of the spheres This pagan heaven, for which many other testimonies were gradually extracted from the writings of the ancients came step by step to supplant the Christian heaven in proportion as the ideal of fame and historical greatness threw into the shade the ideal of the Christian life, without, nevertheless, the public feeling being thereby offended, as it was by the doctrine of personal annihilation after death Even Petrarch founds his hope chiefly on this dream of Scipio, on the declamations found in other Ciceronian works, and on Plato's *Phædo*, without making any mention of the Bible 'Why,' he asks elsewhere, 'should not I as a Catholic share a hope which was demonstrably cherished by the heathen' Soon afterward Coluccio Salutati wrote his *Labours of Hercules* (still existing in manuscript) in which it is proved at the end that the valorous man, who has well endured the great labours of earthly life, is justly entitled to a dwelling among the stars If Dante still firmly maintained that the great pagans, whom he would have gladly welcomed in Paradise nevertheless must not come beyond the Limbo at the entrance to Hell, the poetry of a later time accepted joyfully the new liberal ideas of a future life Cosimo the Elder, according to Bernardo Pulci's poem on his death, was received in Heaven by Cicero, who had also been called the 'father of his country,' by the Fabii, by Curius, Fabricius, and many others, 'with them he would adorn the choir where only blameless spirits sing

But in the old writers there was another and less pleasing picture of the world to come—the shadowy realms of Homer and of those poets who had not sweetened and humanized the conception This made an impression on certain temperaments Giovianо Pontano somewhere attributes to Sannazaro the story of a vision which he beheld one morning early, while half awake He seemed to see a departed friend Ferrandus Januarius, with whom he had often discoursed on the immortality of the soul, and whom he now asked whether it was true that the pains of hell were really dreadful and eternal The shadow gave an answer like that of Achilles when Odysseus questioned him 'So much I tell and aver to thee that we who are parted from earthly life have the strongest desire to return to it again' He then saluted his friend and disappeared

It cannot but be recognized that such views of the state of man after death partly presuppose and partly promote the dissolution of the most essential dogmas of Christianity The notion of sin and salvation must have almost entirely evaporated We must not be misled by the effects of the great preachers of repentance or by the epidemic revivals For even granting that the individually developed classes had shared in them like the rest, the cause of their participation was rather the need of emotional excitement, the rebound of passionate natures the horror felt at great national calamities, the cry to heaven for help The awakening of the conscience had by no means necessarily the sense of sin and the felt need of salvation as its consequence, and even a very severe outward penance did not perforce involve any repentance in

the Christian meaning of the word When the powerful natures of the Renaissance tell us that their principle is to repent of nothing they may have in their minds only matters that are morally indifferent, faults of unreason or imprudence, but in the nature of the case this contempt for repentance must extend to the sphere of morals, because its origin—namely, the consciousness of individual force, is common to both sides of human nature The passive and contemplative form of Christianity, with its constant reference to a higher world beyond the grave could no longer control these men Machiavelli ventured still farther, and maintained that it could not be serviceable to the State and to the maintenance of public freedom

The form assumed by the strong religious instinct which notwithstanding all, survived in many natures was theism or deism as we may please to call it The latter name may be applied to that mode of thought which simply wiped away the Christian element out of religion without either seeking or finding any other substitute for the feelings to rest upon Theism may be considered that definite heightened devotion to the one Supreme Being which the Middle Ages were not acquainted with This mode of faith does not exclude Christianity, and can either ally itself with the Christian doctrines of sin, redemption and immortality, or else exist and flourish without them

Sometimes this belief presents itself with childish *naivete* and even with a half pagan air, God appearing as the almighty fulfiller of human wishes Agnolo Pandolfini tells us how after his wedding he shut himself in with his wife, and knelt down before the family altar with the picture of the Madonna and prayed not to her, but to God, that He would vouchsafe to them the right use of their property, a long life in joy and unity with one another, and many male descendants 'for myself I prayed for wealth, honour, and friends, for her blamelessness, honesty, and that she might be a good housekeeper' When the language used has a strong antique flavour it is not always easy to keep apart the pagan style and the theistic belief

This temper sometimes manifests itself in times of misfortune with a striking sincerity Some addresses to God are left us from the latter period of Firenzuola, when for years he lay ill of fever, in which, though he expressly declares himself a believing Christian, he shows that his religious consciousness is essentially theistic His sufferings seem to him neither as the punishment of sin, nor as preparation for a higher world, they are an affair between him and God only, Who has put the strong love of life between man and his despair 'I curse, but only curse nature, since Thy greatness forbids me to utter Thy name . Give me death, Lord, I beseech Thee, give it me now!'

In these utterances and the like it would be vain to look for a conscious and consistent theism, the speakers partly believed themselves to be still Christians, and for various other reasons respected the existing doctrines of the Church But at the time of the Reformation, when men were driven to come to a distinct conclusion on such points, this mode of thought was accepted with a fuller consciousness, a number of the Italian Protestants came forward as Anti Trinitarians and Socinians, and even as exiles in distant countries made the memorable attempt to found a Church on these principles From the foregoing exposition it will be clear that apart from humanistic rationalism other spirits were at work in this field

One chief centre of theistic modes of thought lay in the Platonic Academy at Florence, and especially in Lorenzo Magnifico himself. The theoretical works and even the letters of these men show us only half their nature It is true that Lorenzo, from his youth till he died, expressed himself dogmatically as a Christian, and that Pico was drawn by Savonarola's influence to accept the point of view of a monkish ascetic But in the hymns of Lorenzo, which we are tempted to regard as the highest product of the

spirit of this school, an unreserved theism is set forth—a theism which strives to treat the world as a great moral and physical cosmos. While the men of the Middle Ages look on the world as a vale of tears, which Pope and Emperor are set to guard against the coming of Antichrist; while the fatalists of the Renaissance oscillate between seasons of overflowing energy and seasons of superstition or of stupid resignation, here in this circle of chosen spirits the doctrine is upheld that the visible world was created by God in love, that it is the copy of a pattern pre-existing in Him, and that He will ever remain its eternal mover and restorer. The soul of man can by recognizing God draw Him into its narrow boundaries, but also by love to Him itself expand into the Infinite—and this is blessedness on earth.

Echoes of medieval mysticism here flow into one current with Platonic doctrines, and with a characteristically modern spirit. One of the most precious fruits of the knowledge of the world and of man here comes to maturity, on whose account alone the Italian Renaissance must be called the leader of modern ages.

Machiavelli: Statecraft Analyzed

It is often said that Machiavelli wrote the PRINCE *to get a job. Whether this is true or not, a work such as this is the product of keen observation interpreted through long contemplation. The breadth of Machiavelli's grasp is striking, gauged from both the* PRINCE *and the* DISCOURSES, *even in a time when the keen criticism excited by the new learning of the Renaissance made it not unusual to look through clichés and slogans to the reality of political life. He saw much of the disease of his time, and, if his solution was too simple, the problem he faced has baffled many men who write in a more noble vein. At many periods since Machiavelli, the world has yearned for all-wise leadership without analyzing the implications as Machiavelli did. In the* DISCOURSES, *his insight that freedom arises out of difference has scarcely received the credit it deserves.*[1]

NICCOLO MACHIAVELLI

TO

LORENZO THE MAGNIFICENT

SON OF PIERO DI MEDICI

IT IS CUSTOMARY FOR THOSE WHO WISH to gain the favour of a prince to endeavour to do so by offering him gifts of those things which they hold most precious, or in which they know him to take special delight. In this way princes are often presented with horses, arms, cloth of gold, gems, and such-like ornaments worthy of their grandeur. In my desire, however, to offer to Your Highness some humble testimony of my devotion, I have been unable to find among my possessions anything which I hold so dear or esteem so highly as that knowledge of the deeds of great men which I have acquired through a long experience of modern events and a constant study of the past.

With the utmost diligence I have long pondered and scrutinised the actions of

[1] Translation of the *Prince* is by Luigi Ricci, revised by E. R. P. Vincent. The *Discourses* is translated by Christian E. Detmold. From *The Prince* and *The Discourses*, by Niccolo Machiavelli, Modern Library Edition, by permission of Random House, Inc., New York, 1940.

the great, and now I offer the results to Your Highness within the compass of a small volume: and although I deem this work unworthy of Your Highness's acceptance, yet my confidence in your humanity assures me that you will receive it with favour, knowing that it is not in my power to offer you a greater gift than that of enabling you to understand in a very short time all those things which I have learnt at the cost of privation and danger in the course of many years. I have not sought to adorn my work with long phrases or high-sounding words or any of those superficial attractions and ornaments with which many writers seek to embellish their material, as I desire no honour for my work but such as the novelty and gravity of its subject may justly deserve. Nor will it, I trust, be deemed presumptuous on the part of a man of humble and obscure condition to attempt to discuss and direct the government of princes; for in the same way that landscape painters station themselves in the valleys in order to draw mountains or high ground, and ascend an eminence in order to get a good view of the plains, so it is necessary to be a prince to know thoroughly the nature of the people, and one of the populace to know the nature of princes.

May I trust, therefore, that Your Highness will accept this little gift in the spirit in which it is offered; and if Your Highness will deign to peruse it, you will recognise in it my ardent desire that you may attain to that grandeur which fortune and your own merits presage for you.

And should Your Highness gaze down from the summit of your lofty position towards this humble spot, you will recognise the great and unmerited sufferings inflicted on me by a cruel fate.

CHAPTER I

. . . . .

[New Possessions]

Be it observed, therefore, that those states which on annexation are united to a previously existing state may or may not be of the same nationality and language. If they are, it is very easy to hold them, especially if they are not accustomed to freedom; and to possess them securely it suffices that the family of the princes which formerly governed them be extinct. For the rest, their old condition not being disturbed, and there being no dissimilarity of customs, the people settle down quietly under their new rulers, as is seen in the case of Burgundy, Brittany, Gascony, and Normandy, which have been so long united to France; and although there may be some slight differences of language, the customs of the people are nevertheless similar, and they can get along well together. Whoever obtains possession of such territories and wishes to retain them must bear in mind two things: the one, that the blood of their old rulers be extinct; the other, to make no alteration either in their laws or in their taxes; in this way they will in a very short space of time become united with their old possessions and form one state.

But when dominions are acquired in a province differing in language, laws, and customs, the difficulties to be overcome are great, and it requires good fortune as well as great industry to retain them; one of the best and most certain means of doing so would be for the new ruler to take up his residence there. This would render possession more secure and durable, and it is what the Turk has done in Greece. In spite of all the other measures taken by him to hold that state, it would not have been possible to retain it had he not gone to live there. Being on the spot, disorders can be seen as they arise and can quickly be remedied, but living at a distance, they are only heard of when they get beyond remedy. Besides which, the province is not despoiled by your officials, the subjects being able to obtain satisfaction by direct recourse to their prince; and wishing to be loyal they have more reason to love him, and should they be otherwise inclined they will have greater

cause to fear him. Any external Power who wishes to assail that state will be less disposed to do so, so that as long as he resides there he will be very hard to dis possess

The other and better remedy is to plant colonies in one or two of those places which form as it were the keys of the land, for it is necessary either to do this or to maintain a large force of armed men. The colonies will cost the prince little; with little or no expense on his part, he can send and maintain them, he only injures those whose lands and houses are taken to give to the new inhabitants and these form but a small proportion of the state, and those who are injured, remaining poor and scattered, can never do any harm to him, and all the others are, on the one hand, not injured and therefore easily pacified and on the other are fearful of offending lest they should be treated like those who have been dispossessed To conclude, these colonies cost nothing, are more faithful and give less offence, and the injured parties being poor and scattered are unable to do mischief, as I have shown For it must be noted, that men must either be caressed or else annihilated they will revenge themselves for small injuries, but cannot do so for great ones, the injury therefore that we do to a man must be such that we need not fear his vengeance But by maintaining a garrison instead of colonists, one will spend much more, and consume all the revenues of that state in guarding it, so that the acquisition will result in a loss, besides giving much greater offence, since it injures every one in that state with the quartering of the army on it, which being an inconvenience felt by all, every one becomes an enemy, and these are enemies which can do mischief, as, though beaten, they remain in their own homes In every way, therefore, a garrison is as useless as colonies are useful

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CHAPTER IV

[Barons or Ministers]

Considering the difficulties there are in holding a newly acquired state some may wonder how it came to pass that Alexander the Great became master of Asia in a few years and had hardly occupied it when he died, from which it might be supposed that the whole state would have rebelled However, his successors maintained themselves in possession, and had no further difficulties in doing so than those which arose among themselves from their own ambitions

I reply that the kingdoms known to history have been governed in two ways either by a prince and his servants who as ministers by his grace and permission assist in governing the realm or by a prince and by barons, who hold their positions not by favour of the ruler but by antiquity of blood Such barons have states and subjects of their own who recognise them as their lords and are naturally attached to them In those states which are governed by a prince and his servants, the prince possesses more authority, because there is no one in the state regarded as a superior other than himself and if others are obeyed it is merely as ministers and officials of the prince, and no one regards them with any special affection

Examples of these two kinds of government in our own time are those of the Turk and the King of France All the Turkish monarchy is governed by one ruler, the others are his servants and dividing his kingdom into "sanjiacates, he sends to them various administrators and changes or recalls them at his pleasure But the King of France is surrounded by a large number of ancient nobles recognised as such by their subjects, and loved by them, they have their prerogatives, of which the king cannot deprive them without danger to himself. Whoever now considers these two states will see that it would be difficult to acquire the

state of the Turk, but having conquered it, it would be very easy to hold it In many respects, on the other hand, it would be easier to conquer the kingdom of France, but there would be great difficulty in holding it

The causes of the difficulty of occupying the Turkish kingdom are, that the invader could not be invited by princes of that kingdom, nor hope to facilitate his enterprise by the rebellion of those near the ruler's person, as will be evident from reasons given above Because, being all slaves, and dependent, it will be more difficult to corrupt them, and even if they were corrupted, little effect could be hoped for, as they would not be able to carry the people with them for the reasons mentioned Therefore, whoever assaults the Turk must be prepared to meet his united forces, and must rely more on his own strength than on the disorders of others, but having once conquered him, and beaten him in battle so that he can no longer raise armies, nothing else is to be feared except the family of the prince, and if this be extinguished, there is no longer any one to be feared, others having no credit with the people, and as the victor before the victory could place no hope in them, so he need not fear them afterwards

The contrary is the case in kingdoms governed like that of France, because it is easy to enter them by winning over some baron of the kingdom, there being always malcontents, and those desiring innovations These can, for the reasons stated, open the way to you and facilitate victory, but afterwards, if you wish to keep possession, infinite difficulties arise, both from those who have aided you and from those you have oppressed Nor is it sufficient to suppress the family of the prince, for there remain those nobles who will take the lead in new revolutions, and being neither able to content them nor exterminate them, you will lose the state whenever an occasion arises

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CHAPTER V

THE WAY TO GOVERN CITIES OR DOMINIONS THAT, PREVIOUS TO BEING OCCUPIED, LIVED UNDER THEIR OWN LAWS

When those states which have been acquired are accustomed to live at liberty under their own laws, there are three ways of holding them The first is to despoil them, the second is to go and live there in person, the third is to allow them to live under their own laws, taking tribute of them, and creating within the country a government composed of a few who will keep it friendly to you Because this government, being created by the prince, knows that it cannot exist without his friendship and protection, and will do all it can to keep them What is more, a city used to liberty can be more easily held by means of its citizens than in any other way, if you wish to preserve it

There is the example of the Spartans and the Romans The Spartans held Athens and Thebes by creating within them a government of a few, nevertheless they lost them The Romans, in order to hold Capua, Carthage, and Numantia, ravaged them, but did not lose them They wanted to hold Greece in almost the same way as the Spartans held it, leaving it free and under its own laws, but they did not succeed, so that they were compelled to lay waste many cities in that province in order to keep it, because in truth there is no sure method of holding them except by despoiling them And whoever becomes the ruler of a free city and does not destroy it, can expect to be destroyed by it, for it can always find a motive for rebellion in the name of liberty and of its ancient usages, which are forgotten neither by lapse of time nor by benefits received, and whatever one does or provides, so long as the inhabitants are not separated or dispersed, they do not forget that name and those usages, but appeal to them at once in every emergency, as did Pisa after being so many years held in servitude by the Florentines But when

cities or provinces have been accustomed to live under a prince and the family of that prince is extinguished, being on the one hand used to obey, and on the other not having their old prince, they cannot unite in choosing one from among themselves, and they do not know how to live in freedom, so that they are slower to take arms, and a prince can win them over with greater facility and establish himself securely But in republics there is greater life, greater hatred, and more desire for vengeance, they do not and cannot cast aside the memory of their ancient liberty, so that the surest way is either to lay them waste or reside in them

CHAPTER IX

[Two Parties Popular and *Aristocratic*]

But we now come to the case where a citizen becomes prince not through crime or intolerable violence, but by the favour of his fellow citizens, which may be called a civic principality To attain this position depends not entirely on worth or entirely on fortune, but rather on cunning assisted by fortune One attains it by help of popular favour or by the favour of the aristocracy For in every city these two opposite parties are to be found, arising from the desire of the populace to avoid the oppression of the great, and the desire of the great to command and oppress the people And from these two opposing interests arises in the city one of the three effects either absolute government, liberty, or licence The former is created either by the populace or the nobility, depending on the relative opportunities of the two parties, for when the nobility see that they are unable to resist the people they unite in exalting one of their number and creating him prince, so as to be able to carry out their own designs under the shadow of his authority The populace, on the other hand, when unable to resist the nobility, endeavour to exalt and create a prince in order to be protected by his authority He who becomes prince by help of the nobility has greater difficulty in maintaining his power than he who is raised by the populace, for he is surrounded by those who think themselves his equals, and is thus unable to direct or command as he pleases But one who is raised to leadership by popular favour finds himself alone, and has no one, or very few, who are not ready to obey him Besides which, it is impossible to satisfy the nobility by fair dealing and without inflicting injury on others, whereas it is very easy to satisfy the mass of the people in this way For the aim of the people is more honest than that of the nobility, the latter desiring to oppress, and the former merely to avoid oppression It must also be added that the prince can never insure himself against a hostile populace on account of their number, but he can against the hostility of the great, as they are but few The worst that a prince has to expect from a hostile people is to be abandoned, but from hostile nobles he has to fear not only desertion but their active opposition, and as they are more far seeing and more cunning, they are always in time to save themselves and take sides with the one who they expect will conquer The prince is, moreover, obliged to live always with the same people, but he can easily do without the same nobility, being able to make and unmake them at any time, and improve their position or deprive them of it as he pleases.

And to throw further light on this part of my argument, I would say, that the nobles are to be considered in two different manners, that is, they are either to be ruled so as to make them entirely dependent on your fortunes, or else not Those that are thus bound to you and are not rapacious, must be honoured and loved, those who stand aloof must be considered in two ways, they either do this through pusillanimity and natural want of courage, and in this case you ought to make use of them, and especially such as are of good counsel, so that they may honour you in prosperity and in adversity

you have not to fear them But when they are not bound to you of set purpose and for ambitious ends, it is a sign that they think more of themselves than of you, and from such men the prince must guard himself and look upon them as secret enemies, who will help to ruin him when in adversity

One, however, who becomes prince by favour of the populace, must maintain its friendship, which he will find easy, the people asking nothing but not to be oppressed But one who against the people's wishes becomes prince by favour of the nobles, should above all endeavour to gain the favour of the people, this will be easy to him if he protects them And, as men, who receive good from whom they expected evil feel under a greater obligation to their benefactor, so the populace will soon become even better disposed towards him than if he had become prince through their favour The prince can win their favour in many ways, which vary according to circumstances, for which no certain rule can be given, and will therefore be passed over I will only say, in conclusion, that it is necessary for a prince to possess the friendship of the people, otherwise he has no resource in times of adversity

Nabis, prince of the Spartans sustained a siege by the whole of Greece and a victorious Roman army, and defended his country against them and maintained his own position It sufficed when the danger arose for him to make sure of a few, which would not have sufficed if the populace had been hostile to him And let no one oppose my opinion in this by quoting the trite proverb, "He who builds on the people, builds on mud , because that is true when a private citizen relies upon the people and persuades himself that they will liberate him if he is oppressed by enemies or by the magistrates in this case he might often find himself deceived, as were in Rome the Gracchi and in Florence Messer Georgio Scali But when it is a prince who founds himself on this basis, one who can command and is a man of courage, and does not get frightened in adversity, and does not neglect other preparations, and one who by his own valour and measures animates the mass of the people, he will not find himself deceived by them, and he will find that he has laid his foundations well

Usually these principalities are in danger when the prince from the position of a civil ruler changes to an absolute one, for these princes either command themselves or by means of magistrates In the latter case their position is weaker and more dangerous, for they are at the mercy of those citizens who are appointed magistrates, who can, especially in times of adversity, with great facility deprive them of their position, either by acting against them or by not obeying them The prince is not in time, in such dangers, to assume absolute authority, for the citizens and subjects who are accustomed to take their orders from the magistrates are not ready in these emergencies to obey his, and he will always in difficult times lack men whom he can rely on Such a prince can not base himself on what he sees in quiet times when the citizens have need of the state for then every one is full of promises and each one is ready to die for him when death is far off but in adversity, when the state has need of citizens, then he will find but few And this experience is the more dangerous, in that it can only be had once Therefore a wise prince will seek means by which his subjects will always and in every possible condition of things have need of his government, and then they will always be faithful to him.

CHAPTER X

[STRENGTH OF STATES]

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A prince, therefore, who possesses a strong city and does not make himself hated, cannot be assaulted, and if he were to be so, the assailant would be obliged to retire shamefully, for so many things change, that it is almost impossible for

any one to maintain a siege for a year with his armies idle And to those who urge that the people having their possessions outside and seeing them burnt will not have patience, and the long siege and self interest will make them forget their prince, I reply that a powerful and courageous prince will always overcome those difficulties by now raising the hopes of his subjects that the evils will not last long, now impressing them with fear of the enemy's cruelty, now by dextrously assuring himself of those who appear too bold Besides which, the enemy would naturally burn and ravage the country on first arriving and at the time when men's minds are still hot and eager to defend themselves, and therefore the prince has still less to fear, for after some time, when people have cooled down the damage is done, the evil has been suffered and there is no remedy, so that they are the more ready to unite with their prince, as it appears that he is under an obligation to them, their houses having been burnt and their possessions ruined in his defence

It is the nature of men to be as much bound by the benefits that they confer as by those they receive From which it follows that, everything considered, a prudent prince will not find it difficult to uphold the courage of his subjects both at the commencement and during a state of siege, if he possesses provisions and means to defend himself

CHAPTER XIII

[Troops]

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The prince, therefore, who fails to recognise troubles in his state as they arise, is not truly wise, and it is given to few to be thus If we consider the first cause of the collapse of the Roman Empire we shall find it merely due to the hiring of Goth mercenaries, for from that time we find the Roman strength begin to weaken All the advantages derived from the Empire fell to the Goths

I conclude then by saying that no prince is secure without his own troops, on the contrary he is entirely dependent on fortune, having no trustworthy means of defence in time of trouble It has always been held and proclaimed by wise men 'quod nihil sit tam infirmum aut instabile quam fama potentiae non sua vi nixae' One's own troops are those composed either of subjects or of citizens or of one's own dependants, all others are mercenaries or auxiliaries The way to organise one's own troops is easily learnt if the methods of the four princes mentioned above be studied, and if one considers how Philip, father of Alexander the Great and many republics and sovereigns have organised theirs With such examples as these there is no need to labour the point

CHAPTER XIV

[The Role of Arms]

A prince should therefore have no other aim or thought, nor take up any other thing for his study, but war and its organisation and discipline, for that is the only art that is necessary to one who commands, and it is of such virtue that it not only maintains those who are born princes, but often enables men of private fortune to attain to that rank And one sees on the other hand, that when princes think more of luxury than of arms, they lose their state The chief cause of the loss of states, is the contempt of this art, and the way to acquire them is to be well versed in the same

Francesco Sforza, through being well armed, became, from private status, Duke of Milan, his sons, through wishing to avoid the fatigue and hardship of war, from dukes became private persons For among other evils caused by being disarmed, it renders you contemptible, which is one of those disgraceful things which a prince must guard against, as will be explained later Because there is no comparison whatever between an armed and a disarmed man, it is not reasonable to

suppose that one who is armed will obey willingly one who is unarmed; or that any unarmed man will remain safe among armed servants. For one being disdainful and the other suspicious, it is not possible for them to act well together. And therefore a prince who is ignorant of military matters, besides the other misfortunes already mentioned, cannot be esteemed by his soldiers, nor have confidence in them.

He ought, therefore, never to let his thoughts stray from the exercise of war; and in peace he ought to practise it more than in war, which he can do in two ways: by action and by study. As to action, he must, besides keeping his men well disciplined and exercised, engage continually in hunting, and thus accustom his body to hardships; and meanwhile learn the nature of the land, how steep the mountains are, how the valleys debouch, where the plains lie, and understand the nature of rivers and swamps. To all this he should devote great attention. This knowledge is useful in two ways. In the first place, one learns to know one's country, and can the better see how to defend it. Then by means of the knowledge and experience gained in one locality, one can easily understand any other that it may be necessary to observe; for the hills and valleys, plains and rivers of Tuscany, for instance, have a certain resemblance to those of other provinces, so that from a knowledge of the country in one province one can easily arrive at a knowledge of others. And that prince who is lacking in this skill is wanting in the first essentials of a leader; for it is this which teaches how to find the enemy, take up quarters, lead armies, plan battles and lay siege to towns with advantage.

CHAPTER XVI

[LIBERALITY]

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For these reasons a prince must care little for the reputation of being a miser, if he wishes to avoid robbing his subjects, if he wishes to be able to defend himself, to avoid becoming poor and contemptible, and not to be forced to become rapacious; this niggardliness is one of those vices which enable him to reign. If it is said that Cæsar attained the empire through liberality, and that many others have reached the highest positions through being liberal or being thought so, I would reply that you are either a prince already or else on the way to become one. In the first case, this liberality is harmful; in the second, it is certainly necessary to be considered liberal. Cæsar was one of those who wished to attain the mastery over Rome, but if after attaining it he had lived and had not moderated his expenses, he would have destroyed that empire. And should any one reply that there have been many princes, who have done great things with their armies, who have been thought extremely liberal, I would answer by saying that the prince may either spend his own wealth and that of his subjects or the wealth of others. In the first case he must be sparing, but for the rest he must not neglect to be very liberal. The liberality is very necessary to a prince who marches with his armies, and lives by plunder, sack and ransom, and is dealing with the wealth of others, for without it he would not be followed by his soldiers. And you may be very generous indeed with what is not the property of yourself or your subjects, as were Cyrus, Cæsar, and Alexander; for spending the wealth of others will not diminish your reputation, but increase it, only spending your own resources will injure you. There is nothing which destroys itself so much as liberality, for by using it you lose the power of using it, and become either poor and despicable, or, to escape poverty, rapacious and hated. And of all things that a prince must guard against, the most important are being despicable or hated, and liberality will lead you to one or other of these conditions. It is, therefore, wiser to have the name of a miser, which produces disgrace without hatred, than to incur of

necessity the name of being rapacious, which produces both disgrace and hatred

CHAPTER XVII

Of Cruelty and Clemency, and Whether It Is Better to Be Loved or Feared

Proceeding to the other qualities before named I say that every prince, must de sire to be considered merciful and not cruel He must, however, take care not to misuse this mercifulness Cesare Borgia was considered cruel, but his cruelty had brought order to the Romagna, united it, and reduced it to peace and fealty If this is considered well, it will be seen that he was really much more merciful than the Florentine people, who, to avoid the name of cruelty, allowed Pistoia to be destroyed A prince, therefore, must not mind incurring the charge of cruelty for the purpose of keeping his subjects united and faithful for, with a very few exam ples, he will be more merciful than those who, from excess of tenderness, allow dis orders to arise, from whence spring blood shed and rapine, for these as a rule injure the whole community, while the execu tions carried out by the prince injure only individuals And of all princes, it is im possible for a new prince to escape the reputation of cruelty, new states being always full of dangers Wherefore Virgil through the mouth of Dido says

Res dura et regni novitas me talia cogunt
Moliri, et late fines custode tueri

Nevertheless he must be cautious in believing and acting and must not be afraid of his own shadow, and must pro ceed in a temperate manner with pru dence and humanity, so that too much confidence does not render him incau tious, and too much diffidence does not render him intolerant

From this arises the question whether it is better to be loved more than feared, or feared more than loved The reply is, that one ought to be both feared and loved, but as it is difficult for the two to go together, it is much safer to be feared than loved, if one of the two has to be wanting For it may be said of men in general that they are ungrateful, voluble dissemblers anxious to avoid danger, and covetous of gain, as long as you benefit them, they are entirely yours they offer you their blood, their goods their life and their children, as I have before said when the necessity is remote, but when it approaches they revolt And the prince who has relied solely on their words, with out making other preparations, is ruined for the friendship which is gained by purchase and not through grandeur and nobility of spirit is bought but not se cured, and at a pinch is not to be ex pended in your service And men have less scruple in offending one who makes him self loved than one who makes himself feared for love is held by a chain of obligation which, men being selfish is broken whenever it serves their purpose but fear is maintained by a dread of punishment which never fails

Still, a prince should make himself feared in such a way that if he does not gain love, he at any rate avoids hatred for fear and the absence of hatred may well go together, and will be always at tained by one who abstains from inter fering with the property of his citizens and subjects or with their women And when he is obliged to take the life of any one, let him do so when there is a proper justification and manifest reason for it but above all he must abstain from taking the property of others, for men forget more easily the death of their father than the loss of their patrimony Then also pretexts for seizing property are never wanting, and one who begins to live by rapine will always find some rea son for taking the goods of others whereas causes for taking life are rarer and more fleeting

But when the prince is with his army and has a large number of soldiers under his control, then it is extremely necessary that he should not mind being thought

cruel, for without this reputation he could not keep an army united or disposed to any duty Among the noteworthy actions of Hannibal is numbered this, that although he had an enormous army composed of men of all nations and fighting in foreign countries, there never arose any dissension either among them or against the prince, either in good fortune or in bad This could not be due to anything but his inhuman cruelty which together with his infinite other virtues, made him always venerated and terrible in the sight of his soldiers, and without it his other virtues would not have sufficed to produce that effect Thoughtless writers admire on the one hand his actions, and on the other blame the principal cause of them

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I conclude, therefore, with regard to being feared and loved, that men love at their own free will, but fear at the will of the prince, and that a wise prince must rely on what is in his power and not on what is in the power of others, and he must only contrive to avoid incurring hatred, as has been explained

CHAPTER XVIII

[The Fox and the Lion]

How laudable it is for a prince to keep good faith and live with integrity, and not with astuteness, every one knows Still the experience of our times shows those princes to have done great things who have had little regard for good faith, and have been able by astuteness to confuse men's brains, and who have ultimately overcome those who have made loyalty their foundation

You must know, then, that there are two methods of fighting, the one by law, the other by force the first method is that of men, the second of beasts, but as the first method is often insufficient, one must have recourse to the second It is therefore necessary for a prince to know well how to use both the beast and the man This was covertly taught to rulers by ancient writers, who relate how Achilles and many others of those ancient princes were given to Chiron the centaur to be brought up and educated under his discipline The parable of this semi-animal, semi human teacher is meant to indicate that a prince must know how to use both natures, and that the one without the other is not durable

A prince being thus obliged to know well how to act as a beast must imitate the fox and the lion, for the lion cannot protect himself from traps, and the fox cannot defend himself from wolves One must therefore be a fox to recognise traps, and a lion to frighten wolves Those that wish to be only lions do not understand this Therefore, a prudent ruler ought not to keep faith when by so doing it would be against his interest, and when the reasons which made him bind himself no longer exist If men were all good, this precept would not be a good one, but as they are bad, and would not observe their faith with you, so you are not bound to keep faith with them Nor have legitimate grounds ever failed a prince who wished to show colourable excuse for the non-fulfilment of his promise Of this one could furnish an infinite number of modern examples, and show how many times peace has been broken, and how many promises rendered worthless, by the faithlessness of princes, and those that have been best able to imitate the fox have succeeded best But it is necessary to be able to disguise this character well, and to be a great feigner and dissembler, and men are so simple and so ready to obey present necessities, that one who deceives will always find those who allow themselves to be deceived

I will only mention one modern instance Alexander VI did nothing else but deceive men, he thought of nothing else, and found the occasion for it, no man was ever more able to give assurances, or affirmed things with stronger oaths, and no man observed them less, however, he

always succeeded in his deceptions, as he well knew this aspect of things

It is not, therefore, necessary for a prince to have all the above named qualities, but it is very necessary to seem to have them I would even be bold to say that to possess them and always to observe them is dangerous, but to appear to possess them is useful Thus it is well to seem merciful, faithful, humane, sincere, religious, and also to be so, but you must have the mind so disposed that when it is needful to be otherwise you may be able to change to the opposite qualities And it must be understood that a prince, and especially a new prince, cannot observe all those things which are considered good in men, being often obliged, in order to maintain the state to act against faith against charity, against humanity, and against religion And, therefore, he must have a mind disposed to adapt itself according to the wind, and as the variations of fortune dictate, and, as I said before, not deviate from what is good, if possible, but be able to do evil if constrained

A prince must take great care that nothing goes out of his mouth which is not full of the above named five qualities, and, to see and hear him, he should seem to be all mercy, faith, integrity, humanity, and religion And nothing is more necessary than to seem to have this last quality, for men in general judge more by the eyes than by the hands, for every one can see, but very few have to feel Everybody sees what you appear to be, few feel what you are, and those few will not dare to oppose themselves to the many who have the majesty of the state to defend them, and in the actions of men, and especially of princes, from which there is no appeal, the end justifies the means Let a prince therefore aim at conquering and maintaining the state, and the means will always be judged honourable and praised by every one, for the vulgar is always taken by appearances and the issue of the event, and the world consists only of the vulgar, and the few who are not vulgar are isolated when the many have a rallying point in the prince. A certain prince of the present time, whom it is well not to name, never does anything but preach peace and good faith, but he is really a great enemy to both, and either of them, had he observed them, would have lost him state or reputation on many occasions

CHAPTER XIX

[The Art of Being Prince]

But as I have now spoken of the most important of the qualities in question I will now deal briefly and generally with the rest The prince must, as already stated, avoid those things which will make him hated or despised and whenever he succeeds in this he will have done his part, and will find no danger in other vices He will chiefly become hated, as I said, by being rapacious and usurping the property and women of his subjects, which he must abstain from doing, and whenever one does not attack the property or honour of the generality of men they will live contented, and one will only have to combat the ambition of a few, who can be easily held in check in many ways He is rendered despicable by being thought changeable, frivolous, effeminate, timid and irresolute, which a prince must guard against as a rock of danger, and so contrive that his actions show grandeur spirit gravity, and fortitude, and as to the government of his subjects, let his sentence be irrevocable, and let him adhere to his decisions so that no one may think of deceiving or cozening him

The prince who creates such an opinion of himself gets a great reputation, and it is very difficult to conspire against one who has a great reputation and he will not easily be attacked, so long as it is known that he is capable and reverenced by his subjects For a prince must have two kinds of fear one internal as regards his subjects, one external as regards foreign powers From the latter he can defend himself with good arms and good friends, and he will

always have good friends if he has good arms; and internal matters will always remain quiet, if they are not perturbed by conspiracy and there is no disturbance from without; and even if external powers sought to attack him, if he has ruled and lived as I have described, he will always if he stands firm, be able to sustain every shock, as I have shown that Nabis the Spartan did. But with regard to the subjects, if not acted on from outside, it is still to be feared lest they conspire in secret, from which the prince may guard himself well by avoiding hatred and contempt, and keeping the people satisfied with him, which it is necessary to accomplish, as has been related at length. And one of the most potent remedies that a prince has against conspiracies, is that of not being hated by the mass of the people; for whoever conspires always believes that he will satisfy the people by the death of their prince; but if he thought to offend them by doing this, he would fear to engage in such an undertaking, for the difficulties that conspirators have to meet are infinite. Experience shows that there have been very many conspiracies, but few have turned out well, for whoever conspires cannot act alone, and cannot find companions except among those who are discontented; and as soon as you have disclosed your intention to a malcontent, you give him the means of satisfying himself, for by revealing it he can hope to secure everything he wants; to such an extent that seeing a certain gain by doing this, and seeing on the other hand only a doubtful one and full of danger, he must either be a rare friend to you or else a very bitter enemy to the prince if he keeps faith with you. And to express the matter in a few words, I say, that on the side of the conspirator there is nothing but fear, jealousy, suspicion, and dread of punishment which frightens him; and on the side of the prince there is the majesty of government, the laws, the protection of friends and of the state which guard him. When to these things is added the goodwill of the people, it is impossible that any one should have the temerity to conspire. For whereas generally a conspirator has to fear before the execution of his plot, in this case, having the people for an enemy, he must also fear after his crime is accomplished, and thus he is not able to hope for any refuge.

Numberless instances might be given of this, but I will content myself with one which took place within the memory of our fathers. Messer Annibale Bentivogli, Prince of Bologna, ancestor of the present Messer Annibale, was killed by the Canneschi, who conspired against him. He left no relations but Messer Giovanni, who was then an infant, but after the murder the people rose up and killed all the Canneschi. This arose from the popular goodwill that the house of Bentivogli enjoyed at that time, which was so great that, as there was nobody left after the death of Annibale who could govern the state, the Bolognese hearing that there was one of the Bentivogli family in Florence, who had till then been thought the son of a blacksmith, came to fetch him and gave him the government of the city, and it was governed by him until Messer Giovanni was old enough to assume the government.

I conclude, therefore, that a prince need trouble little about conspiracies when the people are well disposed, but when they are hostile and hold him in hatred, then he must fear everything and everybody. Well-ordered states and wise princes have studied diligently not to drive the nobles to desperation, and to satisfy the populace and keep it contented, for this is one of the most important matters that a prince has to deal with.

Among the kingdoms that are well ordered and governed in our time is France, and there we find numberless good institutions on which depend the liberty and security of the king; of these the chief is the parliament and its authority, because he who established that kingdom, knowing the ambition and insolence of the great nobles, deemed it necessary to

have a bit in their mouths to check them And knowing on the other hand the hatred of the mass of the people against the great, based on fear, and wishing to secure them, he did not wish to make this the special care of the king, to relieve him of the dissatisfaction that he might incur among the nobles by favouring the people, and among the people by favouring the nobles He therefore established a third judge that, without direct charge of the king, kept in check the great and favoured the lesser people Nor could any better or more prudent measure have been adopted, nor better precaution for the safety of the king and the kingdom From which another notable rule can be drawn, that princes should let the carrying out of unpopular duties devolve on others, and bestow favours themselves I conclude again by saying that a prince must esteem his nobles, but not make himself hated by the populace

It may perhaps seem to some, that considering the life and death of many Roman emperors that they are instances contrary to my opinion, finding that some who always lived nobly and showed great strength of character, nevertheless lost the empire, or were killed by their subjects who conspired against them Wishing to answer these objections I will discuss the qualities of some emperors, showing the cause of their ruin not to be at variance with what I have stated, and I will also meanwhile consider the things to be noted by whoever reads the deeds of these times I will content myself with taking all those emperors who succeeded to the empire from Marcus the philosopher to Maximinus, these were Marcus, Commodus his son, Pertinax, Julianus, Severus, Antoninus, Caracalla his son, Macrinus, Heliogabalus, Alexander, and Maximinus And the first thing to note is, that whereas other princes have only to contend against the ambition of the great and the insolence of the people, the Roman emperors had a third difficulty, that of having to support the cruelty and avarice of the soldiers, which was such that it was the cause of the ruin of many, it being hardly possible to satisfy both the soldiers and the people For the people love tranquillity, and therefore like pacific princes, but the soldiers prefer a prince of military spirit, who is insolent, cruel, and rapacious They wish him to exercise these qualities on the people so that they may get double pay and give vent to their avarice and cruelty Thus it came about that those emperors who, by nature or art, had not such a reputation as could keep both parties in check, were invariably ruined, and the greater number of them who were raised to the empire being new men, knowing the difficulties of these two opposite dispositions, confined themselves to satisfying the soldiers and thought little of injuring the people This choice was necessary princes not being able to avoid being hated by some one They must first try not to be hated by the mass of the people, if they cannot accomplish this they must use every means to escape the hatred of the most powerful parties .

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Whence it may be seen that hatred is gained as much by good works as by evil and therefore, as I said before, a prince who wishes to maintain the state is often forced to do evil, for when that party whether populace, soldiery, or nobles whichever it be that you consider necessary to you for keeping your position, is corrupt, you must follow its humour and satisfy it, and in that case good works will be inimical to you

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I will not speak of Heliogabalus, of Macrinus, or Julianus, who being entirely contemptible were immediately suppressed, but I will come to the conclusion of this discourse by saying that the princes of our time have less difficulty than these in being obliged to satisfy in an extraordinary degree their soldiers in their states,

for although they must have a certain consideration for them, yet any difficulty is soon settled, for none of these princes have armies that are inextricably bound up with the administration of the government and the rule of their provinces as were the armies of the Roman empire. If it was then necessary to satisfy the soldiers rather than the people, it was because the soldiers could do more than the people; now, it is more necessary for all princes, except the Turk and the Sultan, to satisfy the people than the soldiers, for the people can do more than the soldiers. I except the Turk, because he always keeps about him twelve thousand infantry and fifteen thousand cavalry, on which depend the security and strength of his kingdom; and it is necessary for him to postpone every other consideration to keep them friendly. It is the same with the kingdom of the Sultan, which being entirely in the hands of the soldiers, he is bound to keep their friendship regardless of the people. And it is to be noted that this state of the Sultan is different from that of all other princes, being similar to the Christian pontificate, which cannot be called either a hereditary kingdom or a new one, for the sons of the dead prince are not his heirs, but he who is elected to that position by those who have authority. And as this order is ancient it cannot be called a new kingdom, there being none of these difficulties which exist in new ones; as although the prince is new, the rules of that state are old and arranged to receive him as if he were their hereditary lord.

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CHAPTER XXI

[Rule by Example]

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A prince must also show himself a lover of merit, give preferment to the able, and honour those who excel in every art. Moreover he must encourage his citizens to follow their callings quietly, whether in commerce, or agriculture, or any other trade that men follow, so that this one shall not refrain from improving his possessions through fear that they may be taken from him, and that one from starting a trade for fear of taxes; but he should offer rewards to whoever does these things, and to whoever seeks in any way to improve his city or state. Besides this, he ought, at convenient seasons of the year, to keep the people occupied with festivals and shows; and as every city is divided either into guilds or into classes, he ought to pay attention to all these groups, mingle with them from time to time, and give them an example of his humanity and munificence, always upholding, however, the majesty of his dignity, which must never be allowed to fail in anything whatever.

CHAPTER XXII

[Machiavelli's Recommendations for Himself]

The choice of a prince's ministers is a matter of no little importance; they are either good or not according to the prudence of the prince. The first impression that one gets of a ruler and of his brains is from seeing the men that he has about him. When they are competent and faithful one can always consider him wise, as he has been able to recognise their ability and keep them faithful. But when they are the reverse, one can always form an unfavourable opinion of him, because the first mistake that he makes is in making this choice.

There was nobody who knew Messer Antonio da Venafro as the minister of Pandolfo Petrucci, Prince of Siena, who did not consider Pandolfo to be a very prudent man, having him for his minister. There are three different kinds of brains, the one understands things unassisted, the other understands things when shown by others, the third understands neither alone nor with the explanations

of others. The first kind is most excellent, the second also excellent, but the third useless It is therefore evident that if Pandolfo was not of the first kind, he was at any rate of the second For every time the prince has the judgment to know the good and evil that any one does or says, even if he has no originality of intellect, yet he can recognise the bad and good works of his minister and correct the one and encourage the other, and the minister cannot hope to deceive him and therefore remains good

For a prince to be able to know a minister there is this method which never fails When you see the minister think more of himself than of you, and in all his actions seek his own profit such a man will never be a good minister, and you can never rely on him, for whoever has in hand the state of another must never think of himself but of the prince, and not mind anything but what relates to him And, on the other hand, the prince, in order to retain his fidelity ought to think of his minister, honouring and enriching him, doing him kindnesses, and conferring on him honours and giving him responsible tasks, so that the great honours and riches bestowed on him cause him not to desire other honours and riches, and the offices he holds make him fearful of changes

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CHAPTER XXV

[Fortune in Human Affairs]

It is not unknown to me how many have been and are of opinion that worldly events are so governed by fortune and by God, that men cannot by their prudence change them, and that on the contrary there is no remedy whatever, and for this they may judge it to be useless to toil much about them, but let things be ruled by chance This opinion has been more held in our day, from the great changes that have been seen, and are daily seen, beyond every human conjecture When I think about them, at times I am partly inclined to share this opinion Nevertheless, that our free will may not be altogether extinguished, I think it may be true that fortune is the ruler of half our actions, but that she allows the other half or thereabouts to be governed by us I would compare her to an impetuous river that, when turbulent, inundates the plains, casts down trees and buildings, removes earth from this side and places it on the other, every one flees before it, and everything yields to its fury without being able to oppose it, and yet though it is of such a kind, still when it is quiet, men can make provision against it by dykes and banks, so that when it rises it will either go into a canal or its rush will not be so wild and dangerous So it is with fortune, which shows her power where no measures have been taken to resist her, and directs her fury where she knows that no dykes or barriers have been made to hold her And if you regard Italy, which has been the seat of these changes, and who has given the impulse to them, you will see her to be a country without dykes or banks of any kind If she had been protected by proper measures, like Germany, Spain, and France, this inundation would not have caused the great changes that it has, or would not have happened at all

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I conclude then that fortune varying and men remaining fixed in their ways, they are successful so long as these ways conform to circumstances, but when they are opposed then they are unsuccessful I certainly think that it is better to be impetuous than cautious, for fortune is a woman, and it is necessary, if you wish to master her, to conquer her by force, and it can be seen that she lets herself be overcome by the bold rather than by those who proceed coldly And therefore, like a woman, she is always a friend to the young, because they are less cautious,

fiercer, and master her with greater audacity.

CHAPTER XXVI

EXHORTATION TO LIBERATE ITALY FROM THE BARBARIAN

Having now considered all the things we have spoken of, and thought within myself whether at present the time was not propitious in Italy for a new prince, and if there was not a state of things which offered an opportunity to a prudent and capable man to introduce a new system that would do honour to himself and good to the mass of the people, it seems to me that so many things concur to favour a new ruler that I do not know of any time more fitting for such an enterprise And if, as I said, it was necessary in order that the power of Moses should be displayed that the people of Israel should be slaves in Egypt and to give scope for the greatness and courage of Cyrus that the Persians should be oppressed by the Medes, and to illustrate the pre eminence of Theseus that the Athenians should be dispersed, so at the present time, in order that the might of an Italian genius might be recognised, it was necessary that Italy should be reduced to her present condition, and that she should be more enslaved than the Hebrews, more oppressed than the Persians, and more scattered than the Athenians, without a head, without order, beaten, despoiled, lacerated, and overrun, and that she should have suffered ruin of every kind

And although before now a gleam of hope has appeared which gave hope that some individual might be appointed by God for her redemption, yet at the highest summit of his career he was thrown aside by fortune, so that now, almost lifeless, she awaits one who may heal her wounds and put a stop to the pillaging of Lombardy, to the rapacity and extortion in the Kingdom of Naples and in Tuscany, and cure her of those sores which have long been festering Behold how she prays God to send some one to redeem her from this barbarous cruelty and insolence Behold her ready and willing to follow any standard if only there be some one to raise it There is nothing now she can hope for but that your illustrious house may place itself at the head of this redemption, being by its power and fortune so exalted, and being favoured by God and the Church, of which it is now the ruler Nor will this be very difficult, if you call to mind the actions and lives of the men I have named And although those men were rare and marvellous, they were none the less men, and each of them had less opportunity than the present, for their enterprise was not juster than this, nor easier, nor was God more their friend than He is yours Here is a just cause, *'iustum enim est bellum quibus necessarium, et pia arma ubi nulla nisi in armis spes est'* Here is the greatest willingness, nor can there be great difficulty where there is great willingness, provided that the measures are adopted of those whom I have set before you as examples Besides this, unexampled wonders have been seen here performed by God, the sea has been opened, a cloud has shown you the road, the rock has given forth water, manna has rained, and every thing has contributed to your greatness, the remainder must be done by you God will not do everything, in order not to deprive us of freewill and the portion of the glory that falls to our lot

It is no marvel that none of the beforementioned Italians have done that which it is to be hoped your illustrious house may do, and if in so many revolutions in Italy and so many warlike operations, it always seems as if military capacity were extinct, this is because the ancient methods were not good, and no one has arisen who knew how to discover new ones Nothing does so much honour to a newly risen man than the new laws and measures which he introduces These things when they are well based and have greatness in them, render him revered and admired and there is not lacking scope

in Italy for the introduction of every kind of new organisation Here there is great virtue in the members, if it were not wanting in the heads Look how in duels and in contests of a few the Italians are superior in strength, dexterity, and intelligence But when it comes to armies they make a poor show, which proceeds entirely from the weakness of the leaders, for those that know are not obeyed, and every one thinks that he knows, there being hitherto nobody who has raised himself so high both by valour and fortune as to make the others yield Hence it comes about that for so long a time, in all the wars waged during the last twenty years, whenever there has been an entirely Italian army it has always been a failure, as witness first Taro, then Alexandria, Capua, Genoa, Vaila, Bologna, and Mestri

If your illustrious house, therefore, wishes to follow those great men who redeemed their countries it is before all things necessary, as the true foundation of every undertaking, to provide yourself with your own forces, for you cannot have more faithful, or truer and better soldiers And although each one of them may be good, they will united become even better when they see themselves commanded by their prince, and honoured and favoured by him It is therefore necessary to prepare such forces in order to be able with Italian prowess to defend the country from foreigners

[Military Factors in Politics]

And although both the Swiss and Spanish infantry are deemed terrible, none the less they each have their defects, so that a third method of array might not only oppose them, but be confident of overcoming them For the Spaniards cannot sustain the attack of cavalry, and the Swiss have to fear infantry which meets them with resolution equal to their own From which it has resulted, as will be seen by experience, that the Spaniards cannot sustain the attack of French cavalry, and the Swiss are overthrown by Spanish infantry And although a complete example of the latter has not been seen, yet an instance was furnished in the battle of Ravenna where the Spanish infantry attacked the German battalions, which are organised in the same way as the Swiss The Spaniards, through their bodily agility and aided by their bucklers, had entered between and under their pikes and were in a position to attack them safely without the Germans being able to defend themselves, and if the cavalry had not charged them they would have utterly destroyed them Knowing therefore the defects of both these kinds of infantry, a third kind can be created which can resist cavalry and need not fear infantry, and this will be done by the choice of arms and a new organisation And these are the things which, when newly introduced, give reputation and grandeur to a new prince

This opportunity must not, therefore, be allowed to pass, so that Italy may at length find her liberator I cannot express the love with which he would be received in all those provinces which have suffered under these foreign invasions, with what thirst for vengeance, with what steadfast faith, with what love, with what grateful tears What doors would be closed against him? What people would refuse him obedience? What envy could oppose him? What Italian would withhold allegiance? This barbarous domination stinks in the nostrils of every one May your illustrious house therefore assume this task with that courage and those hopes which are inspired by a just cause, so that under its banner our fatherland may be raised up, and under its auspices be verified that saying of Petrarch

Valour against fell wrath
Will take up arms, and be the combat
quickly sped!
For, sure, the ancient worth,
That in Italians stirs the heart, is not yet
dead.

Machiavelli: Discourses on the First Ten Books of Titus Livius

As the full name indicates, this work by Machiavelli is composed of his reflections and comments upon the first ten books of THE ANNALS OF THE ROMAN PEOPLE *by Titus Livius. This history of Rome covered the period from its foundation to the death of Drusus* (9 B.C.). *In all, there were 142 books. Books I–X and XXI–XLV are extant, as are parts of most of the others.*

BOOK I

CHAPTER II

OF THE DIFFERENT KINDS OF REPUBLICS, AND OF WHAT KIND THE ROMAN REPUBLIC WAS

I will leave aside what might be said of cities which from their very birth have been subject to a foreign power, and will speak only of those whose origin has been independent, and which from the first governed themselves by their own laws, whether as republics or as principalities, and whose constitution and laws have differed as their origin. Some have had at the very beginning, or soon after, a legislator, who, like Lycurgus with the Lacedæmonians, gave them by a single act all the laws they needed. Others have owed theirs to chance and to events, and have received their laws at different times, as Rome did. It is a great good fortune for a republic to have a legislator sufficiently wise to give her laws so regulated that, without the necessity of correcting them, they afford security to those who live under them. Sparta observed her laws for more than eight hundred years without altering them and without experiencing a single dangerous disturbance. Unhappy, on the contrary, is that republic which, not having at the beginning fallen into the hands of a sagacious and skilful legislator, is herself obliged to reform her laws. More unhappy still is that republic which from the first has diverged from a good constitution. And that republic is furthest from it whose vicious institutions impede her progress, and make her leave the right path that leads to a good end; for those who are in that condition can hardly ever be brought into the right road. Those republics, on the other hand, that started without having even a perfect constitution, but made a fair beginning, and are capable of improvement,–such republics, I say, may perfect themselves by the aid of events. It is very true, however, that such reforms are never effected without danger, for the majority of men never willingly adopt any new law tending to change the constitution of the state, unless the necessity of the change is clearly demonstrated; and as such a necessity cannot make itself felt without being accompanied with danger, the republic may easily be destroyed before having perfected its constitution. That of Florence is a complete proof of this: reorganized after the revolt of Arezzo, in 1502, it was overthrown after the taking of Prato, in 1512.

[ORIGIN OF GOVERNMENT]

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Chance has given birth to these different kinds of governments amongst men; for at the beginning of the world the inhabitants were few in number, and lived for a time dispersed, like beasts. As the human race increased, the necessity for uniting themselves for defence made itself felt; the better to attain this object, they chose the strongest and most courageous from amongst themselves and placed him

at their head, promising to obey him Thence they beg in to know the good and the honest, and to distinguish them from the bad and vicious, for seeing a man in jure his benefactor aroused at once two sentiments in every heart, hatred against the ingrate and love for the benefactor They blamed the first, and on the contrary honored those the more who showed themselves grateful, for each felt that he in turn might be subject to a like wrong, and to prevent similar evils, they set to work to make laws, and to institute pun ishments for those who contravened them Such was the origin of justice This caused them, when they had afterwards to choose a prince, neither to look to the strongest nor bravest, but to the wisest and most just But when they began to make sov ereignty hereditary and non elective, the children quickly degenerated from their fathers, and, so far from trying to equal their virtues, they considered that a prince had nothing else to do than to excel all the rest in luxury, indulgence, and every other variety of pleasure The prince consequently soon drew upon him self the general hatred An object of hatred, he naturally felt fear, fear in turn dictated to him precautions and wrongs, and thus tyranny quickly developed itself Such were the beginning and causes of disorders, conspiracies, and plots against the sovereigns, set on foot, not by the feeble and timid, but by those citizens who, surpassing the others in grandeur of soul, in wealth, and in courage, could not submit to the outrages and excesses of their princes.

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CHAPTER III

[Tribunes in Rome]

All those who have written upon civil institutions demonstrate (and history is full of examples to support them) that whoever desires to found a state and give it laws, must start with assuming that all men are bad and ever ready to display their vicious nature, whenever they may find occasion for it If their evil disposi tion remains concealed for a time, it must be attributed to some unknown reason, and we must assume that it lacked oc casion to show itself, but time, which has been said to be the father of all truth, does not fail to bring it to light After the expulsion of the Tarquins the great est harmony seemed to prevail between the Senate and the people The nobles seemed to have laid aside all their haughtiness and assumed popular man ners, which made them supportable even to the lowest of the citizens The nobility played this role so long as the Tarquins lived, without their motive being divined, for they feared the Tarquins, and also lest the ill treated people might side with them Their party therefore assumed all possible gentleness in their manners towards the people But so soon as the death of the Tarquins had relieved them of their apprehensions, they began to vent upon the people all the venom they had so long retained within their breasts, and lost no opportunity to outrage them in every possible way, which is one of the proofs of the argument we have ad vanced, that men act right only upon compulsion, but from the moment that they have the option and liberty to com mit wrong with impunity, then they never fail to carry confusion and disorder everywhere It is this that has caused it to be said that poverty and hunger make men industrious, and that the law makes men good, and if fortunate circumstances cause good to be done without constraint, the law may be dispensed with But when such happy influence is lacking, then the law immediately becomes necessary Thus the nobles, after the death of the Tarquins, being no longer under the in fluence that had restrained them, deter mined to establish a new order of things, which had the same effect as the misrule of the Tarquins during their existence, and therefore, after many troubles, tu mults, and dangers occasioned by the ex cesses which both the nobles and the

people committed, they came, for the security of the people, to the creation of the Tribunes, who were endowed with so many prerogatives, and surrounded with so much respect, that they formed a powerful barrier between the Senate and the people, which curbed the insolence of the former

CHAPTER IV

[Origin of Liberty]

I shall not pass over in silence the disturbances that occurred in Rome from the time of the death of the Tarquins to that of the creation of the Tribunes and shall afterwards refute the opinion of those who claim that the Roman republic has always been a theatre of turbulence and disorder, and that if its extreme good fortune and the military discipline had not supplied the defects of her constitution, she would have deserved the lowest rank amongst the republics

It cannot be denied that the Roman Empire was the result of good fortune and military discipline, but it seems to me that it ought to be perceived that where good discipline prevails there also will good order prevail, and good fortune rarely fails to follow in their train Let us, however, go into details upon this point I maintain that those who blame the quarrels of the Senate and the people of Rome condemn that which was the very origin of liberty, and that they were probably more impressed by the cries and noise which these disturbances occasioned in the public places, than by the good effect which they produced, and that they do not consider that in every republic there are two parties, that of the nobles and that of the people, and all the laws that are favorable to liberty result from the opposition of these parties to each other, as may easily be seen from the events that occurred in Rome From the time of the Tarquins to that of the Gracchi, that is to say, within the space of over three hundred years, the differences between these parties caused but very few exiles, and cost still less blood they cannot therefore be regarded as having been very injurious and fatal to a republic, which during the course of so many years saw on this account only eight or ten of its citizens sent into exile, and but a very small number put to death, and even but a few condemned to pecuniary fines Nor can we regard a republic as disorderly where so many virtues were seen to shine For good examples are the result of good education, and good education is due to good laws, and good laws in their turn spring from those very agitations which have been so inconsiderately condemned by many For whoever will carefully examine the result of these agitations will find that they have neither caused exiles nor any violence prejudicial to the general good, and will be convinced even that they have given rise to laws that were to the advantage of public liberty And if it be said that these are strange means—to hear constantly the cries of the people furious against the Senate, and of a Senate declaiming against the people, to see the populace rush tumultuously through the streets, close their houses, and even leave the city of Rome,—I reply, that all these things can alarm only those who read of them, and that every free state ought to afford the people the opportunity of giving vent, so to say, to their ambition, and above all those republics which on important occasions have to avail themselves of this very people Now such were the means employed at Rome, when the people wanted to obtain a law, they resorted to some of the extremes of which we have just spoken, or they refused to enroll themselves to serve in the wars, so that the Senate was obliged to satisfy them in some measure The demands of a free people are rarely pernicious to their liberty, they are generally inspired by oppressions, experienced or apprehended, and if their fears are ill founded, resort is had to public assemblies where the mere eloquence of a single good and respectable man will

make them sensible of their error "The people," says Cicero, "although ignorant, yet are capable of appreciating the truth, and yield to it readily when it is presented to them by a man whom they esteem worthy of their confidence"

One should show then more reserve in blaming the Roman government, and consider that so many good effects, which originated in that republic, cannot but result from very good causes If the troubles of Rome occasioned the creation of Tribunes, then they cannot be praised too highly, for besides giving to the people a share in the public administration, these Tribunes were established as the most assured guardians of Roman liberty ...

CHAPTER IX

[The Lawgiver]

It may perhaps appear to some that I have gone too far into the details of Roman history before having made any mention of the founders of that republic, or of her institutions, her religion, and her military establishment Not wishing, therefore, to keep any longer in suspense the desires of those who wish to understand these matters, I say that many will perhaps consider it an evil example that the founder of a civil society, as Romulus was, should first have killed his brother, and then have consented to the death of Titus Tatius, who had been elected to share the royal authority with him, from which it might be concluded that the citizens, according to the example of their prince, might, from ambition and the desire to rule, destroy those who attempt to oppose their authority This opinion would be correct, if we do not take into consideration the object which Romulus had in view in committing that homicide But we must assume, as a general rule, that it never or rarely happens that a republic or monarchy is well constituted, or its old institutions entirely reformed, unless it is done by only one individual, it is even necessary that he whose mind has conceived such a constitution should be alone in carrying it into effect A sagacious legislator of a republic, therefore, whose object is to promote the public good, and not his private interests, and who prefers his country to his own successors, should concentrate all authority in himself and a wise mind will never censure any one for having employed any extraordinary means for the purpose of establishing a kingdom or constituting a republic It is well that, when the act accuses him, the result should excuse him and when the result is good, as in the case of Romulus, it will always absolve him from blame For he is to be reprehended who commits violence for the purpose of destroying, and not he who employs it for beneficent purposes The lawgiver should however, be sufficiently wise and virtuous not to leave this authority which he has assumed either to his heirs or to any one else, for mankind, being more prone to evil than to good, his successor might employ for evil purposes the power which he had used only for good ends Besides, although one man alone should organize a government, yet it will not endure long if the administration of it remains on the shoulders of a single individual it is well then, to confide this to the charge of many, for thus it will be sustained by the many Therefore, as the organization of anything cannot be made by many, because the divergence of their opinions hinders them from agreeing as to what is best, yet, when once they do understand it, they will not readily agree to abandon it That Romulus deserves to be excused for the death of his brother and that of his associate, and that what he had done was for the general good, and not for the gratification of his own ambition, is proved by the fact that he immediately instituted a Senate with which to consult and according to the opinions of which he might form his resolutions And on carefully considering the authority which Romulus reserved for himself, we see that all he kept was the command of the army

in case of war, and the power of convoking the Senate. This was seen when Rome became free, after the expulsion of the Tarquins, when there was no other innovation made upon the existing order of things than the substitution of two Consuls, appointed annually, in place of an hereditary king; which proves clearly that all the original institutions of that city were more in conformity with the requirements of a free and civil society than with an absolute and tyrannical government.

The above views might be corroborated by any number of examples, such as those of Moses, Lycurgus, Solon, and other founders of monarchies and republics, who were enabled to establish laws suitable for the general good only by keeping for themselves an exclusive authority; but all these are so well known that I will not further refer to them. I will adduce only one instance, not so celebrated, but which merits the consideration of those who aim to become good legislators: it is this. Agis, king of Sparta, desired to bring back the Spartans to the strict observance of the laws of Lycurgus, being convinced that, by deviating from them, their city had lost much of her ancient virtue, and consequently her power and dominion; but the Spartan Ephores had him promptly killed, as one who attempted to make himself a tyrant. His successor, Cleomenes, had conceived the same desire, from studying the records and writings of Agis, which he had found, and which explained his aims and intentions. Cleomenes was convinced that he would be unable to render this service to his country unless he possessed sole authority; for he judged that, owing to the ambitious nature of men, he could not promote the interests of the many against the will of the few; and therefore he availed of a convenient opportunity to have all the Ephores slain, as well as all such others as might oppose his project, after which he restored the laws of Lycurgus entirely. This course was calculated to resuscitate the greatness of Sparta, and to give Cleomenes a reputation equal to that of Lycurgus, had it not been for the power of the Macedonians and the weakness of the other Greek republics. For being soon after attacked by the Macedonians, and Sparta by herself being inferior in strength, and there being no one whom he could call to his aid, he was defeated; and thus his project, so just and laudable, was never put into execution. Considering, then, all these things, I conclude that, to found a republic, one must be alone; and that Romulus deserves to be absolved from, and not blamed for, the death of Remus and of Tatius.

CHAPTER XI

[The Rôle of Religion]

Although the founder of Rome was Romulus, to whom, like a daughter, she owed her birth and her education, yet the gods did not judge the laws of this prince sufficient for so great an empire, and therefore inspired the Roman Senate to elect Numa Pompilius as his successor, so that he might regulate all those things that had been omitted by Romulus. Numa, finding a very savage people, and wishing to reduce them to civil obedience by the arts of peace, had recourse to religion as the most necessary and assured support of any civil society; and he established it upon such foundations that for many centuries there was nowhere more fear of the gods than in that republic, which greatly facilitated all the enterprises which the Senate or its great men attempted. Whoever will examine the actions of the people of Rome as a body, or of many individual Romans, will see that these citizens feared much more to break an oath than the laws; like men who esteem the power of the gods more than that of men. This was particularly manifested in the conduct of Scipio and Manlius Torquatus; for after the defeat which Hannibal had inflicted upon the Romans at Cannæ many citizens had assembled together, and, frightened and trembling,

agreed to leave Italy and fly to Sicily When Scipio heard of this he went to meet them and with his drawn sword in hand he forced them to swear not to abandon their country Lucius Manlius father of Titus Manlius, who was afterwards called Torquatus, had been accused by Marcus Pomponius one of the Tribunes of the people Before the day of judgment Titus went to Marcus and threatened to kill him if he did not promise to withdraw the charges against his father, he compelled him to take an oath and Marcus although having sworn under the pressure of fear withdrew the accusation against Lucius And thus these citizens, whom neither the love of country nor the laws could have kept in Italy, were retained there by an oath that had been forced upon them by compulsion and the Tribune Pomponius disregarded the hatred which he bore to the father, as well as the insult offered him by the son, for the sake of complying with his oath and preserving his honor which can be ascribed to nothing else than the religious principles which Numa had instilled into the Romans And whoever reads Roman history attentively will see in how great a degree religion served in the command of the armies, in uniting the people and keeping them well conducted, and in covering the wicked with shame So that if the question were discussed whether Rome was more indebted to Romulus or to Numa I believe that the highest merit would be conceded to Numa for where religion exists it is easy to introduce armies and discipline, but where there are armies and no religion it is difficult to introduce the latter And although we have seen that Romulus could organize the Senate and establish other civil and military institutions without the aid of divine authority, yet it was very necessary for Numa, who feigned that he held converse with a nymph, who dictated to him all that he wished to persuade the people to, and the reason for all this was that Numa mistrusted his own authority, lest it should prove insufficient to enable him to introduce new and unaccustomed ordinances in Rome In truth there never was any remarkable lawgiver amongst any people who did not resort to divine authority, as otherwise his laws would not have been accepted by the people, for there are many good laws, the importance of which is known to the sagacious lawgiver, but the reasons for which are not sufficiently evident to enable him to persuade others to submit to them, and therefore do wise men, for the purpose of removing this difficulty, resort to divine authority Thus did Lycurgus and Solon, and many others who aimed at the same thing

The Roman people, then, admiring the wisdom and goodness of Numa, yielded in all things to his advice It is true that those were very religious times, and the people with whom Numa had to deal were very untutored and superstitious which made it easy for him to carry out his designs, being able to impress upon them any new form And doubtless, if any one wanted to establish a republic at the present time, he would find it much easier with the simple mountaineers, who live almost without any civilization, than with such as are accustomed to live in cities, where civilization is already corrupt, as a sculptor finds it easier to make a fine statue out of a crude block of marble than out of a statue badly begun by another Considering then, all these things, I conclude that the religion introduced by Numa into Rome was one of the chief causes of the prosperity of that city, for this religion gave rise to good laws, and good laws bring good fortune, and from good fortune results happy success in all enterprises And as the observance of divine institutions is the cause of the greatness of republics, so the disregard of them produces their ruin, for where the fear of God is wanting, there the country will come to ruin, unless it be sustained by the fear of the prince, which may temporarily supply the want of religion But as the lives of princes are short, the kingdom will of necessity per

ish as the prince fails in virtue. Whence it comes that kingdoms which depend entirely upon the virtue of one man endure but for a brief time, for his virtue passes away with his life, and it rarely happens that it is renewed in his successor, as Dante so wisely says:—

"'T is seldom human wisdom descends from sire to son;
Such is the will of Him who gave it,
That at his hands alone we may implore the boon."

The welfare, then, of a republic or a kingdom does not consist in having a prince who governs it wisely during his lifetime, but in having one who will give it such laws that it will maintain itself even after his death. And although untutored and ignorant men are more easily persuaded to adopt new laws or new opinions, yet that does not make it impossible to persuade civilized men who claim to be enlightened. The people of Florence are far from considering themselves ignorant and benighted, and yet Brother Girolamo Savonarola succeeded in persuading them that he held converse with God. I will not pretend to judge whether it was true or not, for we must speak with all respect of so great a man; but I may well say that an immense number believed it, without having seen any extraordinary manifestations that should have made them believe it; but it was the purity of his life, the doctrines he preached, and the subjects he selected for his discourses, that sufficed to make the people have faith in him. Let no one, then, fear not to be able to accomplish what others have done, for all men (as we have said in our Preface) are born and live and die in the same way, and therefore resemble each other.

CHAPTER XII

[CHRISTIANITY AND THE STATE]

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And certainly, if the Christian religion had from the beginning been maintained according to the principles of its founder, the Christian states and republics would have been much more united and happy than what they are. Nor can there be a greater proof of its decadence than to witness the fact that the nearer people are to the Church of Rome, which is the head of our religion, the less religious are they. And whoever examines the principles upon which that religion is founded, and sees how widely different from those principles its present practice and application are, will judge that her ruin or chastisement is near at hand. But as there are some of the opinion that the well-being of Italian affairs depends upon the Church of Rome, I will present such arguments against that opinion as occur to me; two of which are most important, and cannot according to my judgment be controverted. The first is, that the evil example of the court of Rome has destroyed all piety and religion in Italy, which brings in its train infinite improprieties and disorders; for as we may presuppose all good where religion prevails, so where it is wanting we have the right to suppose the very opposite. We Italians then owe to the Church of Rome and to her priests our having become irreligious and bad; but we owe her a still greater debt, and one that will be the cause of our ruin, namely, that the Church has kept and still keeps our country divided. And certainly a country can never be united and happy, except when it obeys wholly one government, whether a republic or a monarchy, as is the case in France and in Spain; and the sole cause why Italy is not in the same condition, and is not governed by either one republic or one sovereign, is the Church; for having acquired and holding a temporal dominion, yet she has never had sufficient power or courage to enable her to seize the rest of the country and make herself sole sovereign of all Italy. And on the other hand she has not been so feeble that the fear of losing her temporal power prevented her from calling in the aid of a foreign power to defend her against

such others as had become too powerful in Italy, as was seen in former days by many sad experiences, when through the intervention of Charlemagne she drove out the Lombards, who were masters of nearly all Italy and when in our times she crushed the power of the Venetians by the aid of France, and afterwards with the assistance of the Swiss drove out in turn the French The Church, then, not having been powerful enough to be able to master all Italy, nor having permitted any other power to do so, has been the cause why Italy has never been able to unite under one head, but has always remained under a number of princes and lords, which occasioned her so many dissensions and so much weakness that she became a prey not only to the powerful barbarians, but of whoever chose to assail her This we other Italians owe to the Church of Rome, and to none other And any one, to be promptly convinced by experiment of the truth of all this, should have the power to transport the court of Rome to reside, with all the power it has in Italy, in the midst of the Swiss, who of all peoples nowadays live most according to their ancient customs so far as religion and their military system are concerned, and he would see in a very little while that the evil habits of that court would create more confusion in that country than anything else that could ever happen there

CHAPTER LVIII

[GOVERNMENT AND LAWS]

And finally to sum up this matter, I say that both governments of princes and of the people have lasted a long time, but both required to be regulated by laws For a prince who knows no other control but his own will is like a madman, and a people that can do as it pleases will hardly be wise If now we compare a prince who is controlled by laws, and a people that is untrammelled by them, we shall find more virtue in the people than in the prince, and if we compare them when both are freed from such control, we shall see that the people are guilty of fewer excesses than the prince, and that the errors of the people are of less importance, and therefore more easily remedied For a licentious and mutinous people may easily be brought back to good conduct by the influence and persuasion of a good man, but an evil minded prince is not amenable to such influences, and therefore there is no other remedy against him but cold steel We may judge then from this of the relative defects of the one and the other, if words suffice to correct those of the people, whilst those of the prince can only be remedied by violence, no one can fail to see that where the greater remedy is required, there also the defects must be greater The follies which a people commits at the moment of its greatest license are not what is most to be feared, it is not the immediate evil that may result from them that inspires apprehension, but the fact that such general confusion might afford the opportunity for a tyrant to seize the government But with evil disposed princes the contrary is the case it is the immediate present that causes fear and there is hope only in the future for men will persuade themselves that the termination of his wicked life may give them a chance of liberty Thus we see the difference between the one and the other to be, that the one touches the present and the other the future The excesses of the people are directed against those whom they suspect of interfering with the public good, whilst those of princes are against apprehended interference with their individual interests The general prejudice against the people results from the fact that everybody can freely and fearlessly speak ill of them in mass, even whilst they are at the height of their power, but a prince can only be spoken of with the greatest circumspection and apprehension ...

BOOK III

CHAPTER XXXIV

[THE VOICE OF THE PEOPLE]

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Thus the people are always less liable to the influence of erroneous opinions and corruption than princes; although it might happen that the people are deceived by public opinion and the fame and acts of a man, supposing him to be better than he really is, which would not happen to a prince, who would be informed of it by his counsellors. Therefore, so that the people might not lack similar counsel, the wise lawgivers of republics have ordered that, in the appointment of men to the highest positions, where it would be dangerous to place inefficient persons, every citizen should be allowed, and in fact it should be accounted honorable for him, to publish in the assemblies the defects of any one named for public office; so that the people, fully informed, might form a more correct judgment. That such was the established custom at Rome is proved by the speech which Fabius Maximus made to the people at the time of the second Punic war. When the Consuls were to be chosen, popular favor inclined towards T. Otacilius. Fabius deeming him unfit for that important post in such difficult times, spoke against him, and pointed out his insufficiency, so as to prevent the nomination of Otacilius, and caused the popular choice to fall upon one more worthy of that dignity. The people then are influenced in the choice of their magistrates by the best evidences they can obtain of the qualifications of the candidates, and are less liable to error than princes when equally counselled. Every citizen, therefore, who desires to win the favor of the people, should strive to merit it by some notable action, according to the example of Titus Manlius.

From the New World in the Seventeenth Century

Not all Englishmen became embroiled in the civil war that engulfed England in the seventeenth century. Some crossed over to America. One group, in the Mayflower, headed for Virginia, but on November 11, 1620, they landed at Plymouth, in the harbor of Cape Cod. Since they landed on territory that had no duly constituted government, the whole ship's company, from cabin boy to master and minister, signed a simple instrument of self-government. On a small scale, this was a real modern social contract—a reality before Hobbes, Locke, and Rousseau wrote. The government was not entirely secular, nevertheless a "Civil Body Politick" was made by men simply agreeing, and it is a political society they create, not a church or theocracy. It is founded on equality and unanimous consent. ¶ A decade after the Pilgrims landed at Plymouth, a regularly organized company of Puritans settled at Massachusetts Bay No sooner had this group organized under its charter than dissatisfied elements began to secede westward. These groups had no charter, so what could be more natural than that they draw up their own rules for self-government? On January 14, 1639, groups that settled in Connecticut drew up the "Fundamental Orders of Connecticut," which, if not the first, is certainly one of the first written, *constitutions in the world. The source of the authority is the body of freemen, and, although officials must be church members, the end of the government is essentially secular. Men hold their offices because they are elected to them by their fellow men and not because God, pope, or king appoint them. Here, then, in a practical document is a man-created state that is based upon a written document, the final sanction for which is the consent of the governed Institutions and ideas which had their genesis in the Old World made a great growth when transplanted to the untilled soil of the New World.*[1]

THE MAYFLOWER COMPACT

IN THE NAME OF GOD, AMEN. WE, WHOSE names are underwritten, the Loyal Subjects of our dread Sovereign Lord King *James*, by the Grace of God, of *Great Britain, France,* and *Ireland,* King, *Defender of the Faith,* &c. Having undertaken for the Glory of God, and Advancement of the Christian Faith, and the Honour of our King and Country, a Voyage to plant the first colony in the northern Parts of Virginia; Do by these Presents, solemnly and mutually in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Furtherance of the Ends aforesaid; And by Virtue hereof do enact, constitute, and frame, such just and equal Laws, Ordinances, Acts, Constitutions, and Offices, from time to time, as shall be thought most meet and convenient for the general Good of the Colony; unto which we promise all due Submission and Obedi-

[1] From *The Federal and State Constitutions,* compiled by B. P. Poore (Washington, 1878).

ence. In WITNESS whereof we have hereunto subscribed our names at *Cape Cod* the eleventh of *November,* in the Reign of our Sovereign Lord King *James* of *England, France,* and *Ireland,* the eighteenth and of *Scotland,* the fifty-fourth. *Anno Domini,* 1620

Mr. John Carver, *et al.*

FUNDAMENTAL ORDERS OF CONNECTICUT—1638–39

Forasmuch as it hath pleased the Allmighty God by the wise disposition of his diuyne prouidence so to Order and dispose of things that we the Inhabitants and Residents of Windsor, Harteford and Wethersfield are now cohabiting and dwelling in and vppon the River of Conectecotte and the Lands thereunto adioyneing; And well knowing where a people are gathered togather the word of God requires that to mayntayne the peace and vnion of such a people there should be an orderly and decent Goverment established according to God, to order and dispose of the affayres of the people at all seasons as occation shall require; doe therefore assotiate and conioyne our selues to be as one Publike State or Cõmonwelth; and doe, for our selues and our Successors and such as shall be adioyned to vs att any tyme hereafter, enter into Combination and Confederation togather, to mayntayne and presearue the liberty and purity of the gospell of our Lord Jesus which we now professe, as also the disciplyne of the Churches, which according to the truth of the said gospell is now practised amongst vs; As also in our Ciuell Affaires to be guided and gouerned according to such Lawes, Rules, Orders and decrees as shall be made, ordered & decreed, as followeth:—

1 It is Ordered, sentenced and decreed, that there shall be yerely two generall Assemblies or Courts, the on the second thursday in April, the other the second thursday in September, following; the first shall be called the Courte of Elec tion, wherein shall be yerely Chosen frõ tyme to tyme soe many Magestrats and other publike Officers as shall be found requisitte: Whereof one to be chosen Gouernour for the yeare ensueing and vntill another be chosen, and noe other Magestrate to be chosen for more then one yeare; prouided allwayes there be sixe chosen besids the Gouernour; which being chosen and sworne according to an Oath recorded for that purpose shall haue power to administer iustice according to the Lawes here established, and for want thereof according to the rule of the word of God; which choise shall be made by all that are admitted freemen and haue taken the Oath of Fidellity, and doe cohabitte within this Jurisdiction, (hauing beene admitted Inhabitants by the major part of the Towne wherein they liue,) or the mayor parte of such as shall be then present.

2. It is ordered, sentensed and decreed, that the Election of the aforesaid Magestrats shall be on this manner: euery person present and quallified for choyse shall bring in (to the persons deputed to receaue the) one single paper with the name of him written in yt whom he desires to haue Gouernour, and he that hath the greatest nuber of papers shall be Gouernor for that yeare. And the rest of the Magestrats or publike Officers to be chosen in this manner: The Secretary for the tyme being shall first read the names of all that are to be put to choise and then shall seuerally nominate them distinctly, and euery one that would haue the person nominated to be chosen shall bring in one single paper written vppon, and he that would not haue him chosen shall bring in a blanke: and euery one that hath more written papers then blanks shall be a Magistrat for that yeare; which papers shall be receaued and told by one or more that shall be then chosen by the court and sworne to be faythfull therein; but in case there should not be sixe chosen as aforesaid, besids the Gouernor, out of those which are nominated,

then he or they which haue the most written papers shall be a Magestrate or Magestrats for the ensueing yeare, to make vp the foresaid nuber.

3. It is Ordered, sentenced and decreed, that the Secretary shall not nominate any person, nor shall any person be chosen newly into the Magestracy which was not perpownded in some Generall Courte before, to be nominated the next Election; and to that end yt shall be lawfull for ech of the Townes aforesaid by their deputyes to nominate any two whō they conceaue fitte to be put to election; and the Courte may ad so many more as they judge requisitt.

4. It is Ordered, sentenced and decreed that noe person be chosen Gouernor aboue once in two yeares, and that the Gouernor be always a mēber of some approved congregation, and formerly of the Magestracy within this Jurisdiction; and all the Magestrats Freemen of this Coñonwelth: and that no Magestrate or other publike officer shall execute any parte of his or their Office before they are seuerally sworne, which shall be done in the face of the Courte if they be present, and in case of absence by some deputed for that purpose.

5. It is Ordered, sentenced and decreed, that to the aforesaid Courte of Election the seuerall Townes shall send their deputyes, and when the Elections are ended they may proceed in any publike seruice as at other Courts. Also the other Generall Courte in September shall be for makeing of lawes, and any other publike occation, which conserns the good of the Coñonwelth.

6. It is Ordered, sentenced and decreed, that the Gouernor shall, ether by himselfe or by the secretary, send out suñons to the Constables of euer Towne for the cauleing of these two standing Courts, on month at lest before their seuerall tymes: And also if the Gouernor and the gretest parte of the Magestrats see cause vppon any spetiall occation to call a generall Courte, They may giue order to the secretary soe to doe within fowerteene dayes warneing; and if vrgent necessity so require, vppon a shorter notice, giueing sufficient grownds foryt to the deputyes when they meete, or els be questioned for the same; And if the Gouernor and Mayor parte of Magestrats shall ether neglect or refuse to call the two Generall standing Courts or ether of the, as also at other tymes when the occations of the Coñonwelth require, the Freemen thereof, or the Mayor parte of them, shall petition to them soe to doe: if then yt be ether denyed or neglected the said Freemen or the Mayor parte of them shall haue power to giue order to the Constables of the seuerall Townes to doe the same, and so may meete togather, and chuse to themselues a Moderator, and may proceed to do any Acte of power, which any other Generall Courte may.

7. It is Ordered, sentenced and decreed that after there are warrants giuen out for any of the said Generall Courts, the Constable or Constables of ech Towne shall forthwith give notice distinctly to the inhabitants of the same, in some publike Assembly or by goeing or sending fro howse to howse, that at a place and tyme by him or them lymited and sett, they meet and assemble thē selues togather to elect and chuse certen deputyes to be att the Generall Courte then following to agitate the afayres of the coñonwelth; which said Deputyes shall be chosen by all that are admitted Inhabitants in the seuerall Townes and haue taken the oath of fidellity; prouided that non be chosen a Deputy for any Generall Courte which is not a Freeman of this Coñonwelth.

The foresaid deputyes shall be chosen in manner following: euery person that is present and quallified as before expressed, shall bring the names of such, written in seuerall papers. as they desire to haue chosen for that Imployment, and these 3 or 4, more or lesse, being the nūber agreed on to be chosen for that tyme, that haue greatest nūber of papers written for thē shall be deputyes for that Courte; whose names shall be endorsed on the

backe side of the warrant and returned into the Courte, with the Constable or Constables hand vnto the same.

8. It is Ordered, sentenced and decreed, that Wyndsor, Hartford and Wethersfield shall haue power, ech Towne, to send fower of their freemen as deputyes to euery Generall Courte; and whatsoeuer other Townes shall be hereafter added to this Jurisdiction, they shall send so many deputyes as the Courte shall judge meete, a resonable proportion to the nūber of Freemen that are in the said Townes being to be attended therein; which deputyes shall have the power of the whole Towne to giue their voats and alowance to all such lawes and orders as may be for the publike good, and unto which the said townes are to be bownd.

9. It is ordered and decreed, that the deputyes thus chosen shall haue power and liberty to appoynt a tyme and a place of meeting togather before any Generall Courte to aduise and consult of all such things as may concerne the good of the publike, as also to examine their owne Elections, whether according to the order, and if they or the gretest parte of them find any election to be illegall they may seclud such for present fro their meeting, and returne the same and their resons to the Courte; and if yt proue true, the Courte may fyne the party or partyes so intruding and the Towne, if they see cause, and giue out a warrant to goe to a newe election in a legall way, either in parte or in whole. Also the said deputyes shall haue power to fyne any that shall be disorderly at their meetings, or for not coming in due tyme or place according to appoyntment; and they may returne the said fynes into the Courte if yt be refused to be paid, and the tresurer to take notice of yt, and to estreete or levy the same as he doth other fynes.

10. It is Ordered, sentenced and decreed, that euery Generall Courte, except such as through neglecte of the Gouernor and the greatest parte of Magestrats the Freemen themselves doe call, shall consist of the Gouernor, or some one chosen to moderate the Court, and 4 other Magestrats at lest, with the mayor parte of the deputyes of the seuerall Townes legally chosen; and in case the Freemen or mayor parte of thē, through neglect or refusall of the Gouernor and mayor parte of the magestrats, shall call a Courte, yt shall consist of the mayor parte of Freemen that are present or their deputyes, with a Moderator chosen by thē: In which said Generall Courts shall consist the supreme power of the Comonwelth, and they only shall haue power to make laws or repeale thē, to graunt leuyes, to admitt of Freemen, dispose of lands undisposed of, to seuerall Townes or persons, and also shall haue power to call ether Courte or Magestrate or any other person whatsoeuer into question for any misdemeanour, and may for just causes displace or deale otherwise according to the nature of the offence; and also may deale in any other matter that concerns the good of this comon welth, excepte election of Magestrats, which shall be done by the whole boddy of Freemen.

In which Courte the Gouernour or Moderator shall haue power to order the Courte to giue liberty of spech, and silence vnceasonable and disorderly speakeings, to put all things to voate, and in case the vote be equall to haue the casting voice. But non of these Courts shall be adiorned or dissolued without the consent of the maior parte of the Court.

11. It is ordered, sentenced and decreed, that when any Generall Courte vppon the occations of the Comonwelth haue agreed vppon any sume or somes of mony to be leuyed vppon the seuerall Townes within this Jurisdiction, that a Comittee be chosen to sett out and appoynt what shall be the proportion of euery Towne to pay of the said leuy, provided the Comittees be made vp of an equall nūber out of each Towne.

14th January, 1638, the 11 Orders aboue-said are voted.

Hobbes: From Human Nature to Leviathan

Hobbes' LEVIATHAN is the first complete analysis of the modern state Hobbes so fancied himself as a mathematician that he starts from a simple premise and proceeds to unfold the consequences of the initial assumption about human nature Although the tendency of a modern American is to recoil from Hobbes' analysis, a careful student can learn much from him about the nature of political society For example, one of the most useful devices of the modern state is state-made law, and no one brings out so clearly as Hobbes the essential nature of this law Likewise the ultimate unification of national states required a concept like sovereignty, in the seventeenth century not so much to proclaim independence from other states, as to assert an ultimate supremacy over groups within the state[1] *The selection starts with Part I, "Of Man"*

CHAPTER X

[OF POWER]

The Power *of a Man,* (to take it Universally) is his present means, to obtain some future apparent Good And is either *Originall* or *Instrumentall*

Naturall Power, is the eminence of the Faculties of Body, or Mind as extraordinary Strength, Forme, Prudence, Arts, Eloquence, Liberality, Nobility *Instrumentall* are those Powers, which acquired by these, or by fortune, are means and Instruments to acquire more as Riches Reputation, Friends, and the secret working of God, which men call Good Luck For the nature of Power, is in this point like to Fame, increasing as it proceeds or like the motion of heavy bodies which the further they go, make still the more hast

The Greatest of humane Powers, is that which is compounded of the Powers of most men, united by consent, in one person, Naturall, or Civill, that has the use of all their Powers depending on his will such as is the Power of a Common wealth Or depending on the wills of each particular, such as is the Power of a Faction, or of divers factions leagued Therefore to have servants, is Power, To have friends, is Power for they are strengths united

Also Riches joyned with liberality, is Power, because it procureth friends, and servants Without liberality not so, because in this case they defend not, but expose men to Envy, as a Prey

Reputation of power, is Power, because it draweth with it the adhærence of those that need protection

So is Reputation of love of a mans Country (called Popularity,) for the same Reason

Also what quality soever maketh a man beloved, or feared of many, or the reputation of such quality, is Power because it is a means to have the assistance, and service of many

Good successe is Power, because it maketh reputation of Wisdome, or good fortune, which makes men either feare him, or rely on him

Affability of men already in power, is increase of Power, because it gaineth love

Reputation of Prudence in the conduct of Peace or War, is Power, because to prudent men, we commit the government of our selves, more willingly than to others

Nobility is Power, not in all places, but onely in those Common wealths, where it has Priviledges for in such priviledges consisteth their Power.

[1] Taken from *Leviathan,* by Thomas Hobbes, published by E P Dutton & Co, Inc, New York, Everyman's Library

Eloquence is power; because it is seeming Prudence.

Forme is Power; because being a promise of Good, it recommendeth men to the favour of women and strangers.

The Sciences, are small Power; because not eminent; and therefore, not acknowledged in any man; nor are at all, but in a few; and in them, but of a few things. For Science is of that nature, as none can understand it to be, but such as in a good measure have attayned it.

Arts of publique use, as Fortification, making of Engines, and other Instruments of War; because they conferre to defence, and Victory, are Power: And though the true Mother of them, be Science, namely the Mathematiques; yet, because they are brought into the Light, by the hand of the Artificer, they be esteemed (the Midwife passing with the vulgar for the Mother,) as his issue.

The *Value*, or WORTH of a man, is as of all other things, his Price; that is to say, so much as would be given for the use of his Power: and therefore is not absolute; but a thing dependant on the need and judgement of another. An able conductor of Souldiers, is of great Price in time of War present, or imminent; but in Peace not so. A learned and uncorrupt Judge, is much Worth in time of Peace; but not so much in War. And as in other things, so in men, not the seller, but the buyer determines the Price. For let a man (as most men do,) rate themselves at the highest Value they can; yet their true Value is no more than it is esteemed by others.

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CHAPTER XIII

[OF HUMAN NATURE]

Nature hath made men so equall, in the faculties of body, and mind; as that though there bee found one man sometimes manifestly stronger in body, or of quicker mind then another; yet when all is reckoned together, the difference between man, and man, is not so considerable, as that one man can thereupon claim to himselfe any benefit, to which another may not pretend, as well as he. For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others, that are in the same danger with himselfe.

And as to the faculties of the mind, (setting aside the arts grounded upon words, and especially that skill of proceeding upon generall, and infallible rules, called Science; which very few have, and but in few things; as being not a native faculty, born with us; nor attained, (as Prudence,) while we look after somewhat els,) I find yet a greater equality amongst men, than that of strength. For Prudence, is but Experience; which equall time, equally bestowes on all men, in those things they equally apply themselves unto. That which may perhaps make such equality incredible, is but a vain conceipt of ones owne wisdome, which almost all men think they have in a greater degree, than the Vulgar; that is, than all men but themselves, and a few others, whom by Fame, or for concurring with themselves, they approve. For such is the nature of men, that howsoever they may acknowledge many others to be more witty, or more eloquent, or more learned; Yet they will hardly believe there be many so wise as themselves: For they see their own wit at hand, and other mens at a distance. But this proveth rather that men are in that point equall, than unequall. For there is not ordinarily a greater signe of the equall distribution of any thing, than that every man is contented with his share.

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[CAUSE OF QUARRELS]

So that in the nature of man, we find three principall causes of quarrell. First, Competition; Secondly, Diffidence; Thirdly, Glory.

The first, maketh men invade for Gain;

the Second, for Safety, and the third, for Reputation The first use Violence, to make themselves Masters of other mens persons, wives, children, and cattell, the second, to defend them, the third, for trifles, as a word, a smile, a different opinion, and any other signe of undervalue, either direct in their Persons, or by reflexion in their Kindred, their Friends, their Nation, their Profession, or their Name

Hereby it is manifest, that during the time men live without a common Power to keep them all in awe they are in that condition which is called Warre, and such a warre, as is of every man, against every man For WARRE, consisteth not in Battell onely, or the act of fighting but in a tract of time, wherein the Will to contend by Battell is sufficiently known and therefore the notion of *Time*, is to be considered in the nature of Warre, as it is in the nature of Weather For as the nature of Foule weather, lyeth not in a showre or two of rain, but in an inclination thereto of many daves together, So the nature of War, consisteth not in actuall fighting, but in the known disposition thereto, during all the time there is no assurance to the contrary All other time is PEACE

Whatsoever therefore is consequent to a time of Warre, where every man is Enemy to every man, the same is consequent to the time, wherein men live without other security, than what their own strength, and their own invention shall furnish them withall In such condition, there is no place for Industry, because the fruit thereof is uncertain and consequently no Culture of the Earth, no Navigation, nor use of the commodities that may be imported by Sea, no commodious Building, no Instruments of moving, and removing such things as require much force no Knowledge of the face of the Earth, no account of Time, no Arts, no Letters, no Society, and which is worst of all, continuall feare, and danger of violent death, And the life of man, solitary, poore, nasty, brutish, and short

[RÔLE OF LAW]

It may seem strange to some man, that has not well weighed these things, that Nature should thus dissociate, and render men apt to invade, and destroy one another and he may therefore, not trusting to this Inference, made from the Passions desire perhaps to have the same confirmed by Experience Let him therefore consider with himselfe, when taking a journey, he armes himselfe, and seeks to go well accompanied, when going to sleep he locks his dores, when even in his house he locks his chests, and this when he knowes there bee Lawes, and publike Officers, armed, to revenge all injuries shall bee done him what opinion he has of his fellow subjects, when he rides armed, of his fellow Citizens, when he locks his dores and of his children, and servants when he locks his chests Does he not there as much accuse mankind by his actions, as I do by my words? But neither of us accuse mans nature in it The Desires, and other Passions of man, are in themselves no Sin No more are the Actions, that proceed from those Passions, till they know a Law that forbids them which till Lawes be made they cannot know nor can any Law be made, till they have agreed upon the Person that shall make it

It may peradventure be thought, there was never such a time, nor condition of warre as this, and I believe it was never generally so, over all the world but there are many places, where they live so now For the savage people in many places of *America*, except the government of small Families, the concord whereof dependeth on naturall lust, have no government at all, and live at this day in that brutish manner, as I said before Howsoever, it may be perceived what manner of life there would be, where there were no common Power to feare, by the manner of life, which men that have formerly lived under a peaceful government, use to degenerate into, in a civill Warre

But though there had never been any time, wherein particular men were in a

condition of warre one against another; yet in all times, Kings, and Persons of Soveraigne authority, because of their Independency, are in continuall jealousies, and in the state and posture of Gladiators; having their weapons pointing, and their eyes fixed on one another; that is, their Forts, Garrisons, and Guns, upon the Frontiers of their Kingdomes; and continuall Spyes upon their neighbours; which is a posture of War. But because they uphold thereby, the Industry of their Subjects; there does not follow from it, that misery, which accompanies the Liberty of particular men.

[JUSTICE]

To this warre of every man against every man, this also is consequent; that nothing can be Unjust. The notions of Right and Wrong, Justice and Injustice have there no place. Where there is no common Power, there is no Law: where no Law, no Injustice. Force, and Fraud, are in warre the two Cardinall vertues. Justice, and Injustice are none of the Faculties neither of the Body, nor Mind. If they were, they might be in a man that were alone in the world, as well as his Senses, and Passions. They are Qualities, that relate to men in Society, not in Solitude. It is consequent also to the same condition, that there be no Propriety, no Dominion, no *Mine* and *Thine* distinct; but onely that to be every mans, that he can get; and for so long, as he can keep it. And thus much for the ill condition, which man by meer Nature is actually placed in; though with a possibility to come out of it, consisting partly in the Passions, partly in his Reason.

The Passions that encline men to Peace, are Feare of Death; Desire of such things as are necessary to commodious living; and a Hope by their Industry to obtain them. And Reason suggesteth convenient Articles of Peace, upon which men may be drawn to agreement. These Articles, are they, which otherwise are called the Lawes of Nature....

CHAPTER XIV

[NATURAL LAW AND NATURAL RIGHT]

The Right of Nature, which Writers commonly call *Jus Naturale,* is the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing any thing, which in his own Judgement, and Reason, hee shall conceive to be the aptest means thereunto.

By LIBERTY, is understood, according to the proper signification of the word, the absence of externall Impediments: which Impediments, may oft take away part of a mans power to do what hee would; but cannot hinder him from using the power left him, according as his judgement, and reason shall dictate to him.

A LAW OF NATURE, (*Lex Naturalis,*) is a Precept, or generall Rule, found out by Reason, by which a man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same; and to omit, that, by which he thinketh it may be best preserved. For though they that speak of this subject, use to confound *Jus,* and *Lex, Right* and *Law*; yet they ought to be distinguished; because RIGHT, consisteth in liberty to do, or to forbeare; Whereas LAW, determineth, and bindeth to one of them: so that Law, and Right, differ as much, as Obligation, and Liberty; which in one and the same matter are inconsistent.

And because the condition of man... is a condition of Warre of every one against every one; in which case every one is governed by his own Reason; and there is nothing he can make use of, that may not be a help unto him, in preserving his life against his enemyes; It followeth, that in such a condition, every man has a Right to every thing; even to one anothers body. And therefore, as long as this naturall Right of every man to every thing endureth, there can be no security to any man, (how strong or wise soever he be,) of living out the time, which Nature ordinarily alloweth men to live. And con-

sequently it is a precept, or generall rule of Reason, *That every man, ought to endeavour Peace, as farre as he has hope of obtaining it, and when he cannot obtain it, that he may seek, and use, all helps, and advantages of Warre* The first branch of which Rule, containeth the first, and Fundamentall Law of Nature which is, *to seek Peace and follow it* The Second, the summe of the Right of Nature, which is *By all means we can, to defend our selves*

From this Fundamentall Law of Nature, by which men are commanded to endeavour Peace, is derived this second Law, *That a man be willing, when others are so too, as farre forth, as for Peace and defence of himselfe he shall think it necessary, to lay down this right to all things and be contented with so much liberty against other men as he would allow other men against himselfe* For as long as every man holdeth this Right of doing any thing he liketh so long are all men in the condition of Warre But if other men will not lay down their Right as well as he, then there is no Reason for any one, to devest himselfe of his For that were to expose himselfe to Prey, (which no man is bound to) rather than to dispose himselfe to Peace This is that Law of the Gospell *Whatsoever you require that others should do to you that do ye to them* And that Law of all men, *Quod tibi fieri non vis, alteri ne feceris*

To *lay downe* a mans *Right* to any thing, is to *devest* himselfe of the *Liberty* of hindring another of the benefit of his own Right to the same For he that renounceth or passeth away his Right giveth not to any other man a Right which he had not before because there is nothing to which every man had not Right by Nature but onely standeth out of his way, that he may enjoy his own originall Right, without hindrance from him, not without hindrance from another So that the effect which redoundeth to one man, by another mans defect of Right, is but so much diminution of impediments to the use of his own Right originall

Right is layd aside, either by simply Renouncing it, or by Transferring it to another By *Simply* Renouncing when he cares not to whom the benefit thereof redoundeth By Transferring when he intendeth the benefit thereof to some certain person or persons And when a man hath in either manner abandoned, or granted away his Right then is he said to be Obliged, or Bound not to hinder those to whom such Right is granted, or abandoned, from the benefit of it and that he *Ought*, and it is his Duty, not to make voyd that voluntary act of his own and that such hindrance is Injustice and Injury as being *Sine Jure* the Right being before renounced or transferred So that *Injury* or *Injustice* in the controversies of the world is somewhat like to that which in the disputations of Scholars is called *Absurdity* For as it is there called an Absurdity to contradict what one maintained in the Beginning so in the world it is called Injustice and Injury voluntarily to undo that which from the beginning he had voluntarily done The way by which a man either simply Renounceth or Transferreth his Right, is a Declaration or Signification by some voluntary and sufficient signe or signes that he doth so Renounce or Transferre or hath so Renounced or Transferred the same to him that accepteth it And these Signes are either Words onely, or Actions onely or (as it happeneth most often) both Words, and Actions And the summe the Bonds, by which men are bound and obliged Bonds that have their strength, not from their own Nature, (for nothing is more easily broken then a mans word) but from Feare of some evill consequence upon the rupture

[Contract and Gift]

Whensoever a man Transferreth his Right, or Renounceth it, it is either in consideration of some Right reciprocally transferred to himselfe, or for some other good he hopeth for thereby For it is a voluntary act and of the voluntary acts of every

man, the object is some *Good to him selfe* And therefore there be some Rights which no man can be understood by any words, or other signes to have aban doned, or transferred As first a man can not lay down the right of resisting them, that assault him by force, to take away his life, because he cannot be understood to ayme thereby, at any Good to himselfe The same may be sayd of Wounds, and Chayns, and Imprisonment both because there is no benefit consequent to such patience, as there is to the patience of suffering another to be wounded, or im prisoned as also because a man cannot tell, when he seeth men proceed against him by violence, whether they intend his death or not And lastly the motive, and end for which this renouncing and trans ferring of Right is introduced is nothing else but the security of a mans person in his life, and in the means of so preserving life, as not to be weary of it And there fore if a man by words or other signes, seem to despoyle himselfe of the End, for which those signes were intended he is not to be understood as if he meant it, or that it was his will but that he was ig norant of how such words and actions were to be interpreted

The mutuall transferring of Right, is that which men call CONTRACT

There is difference, between transfer ring of Right to the Thing and transfer ring, or tradition, that is delivery of the Thing it selfe For the Thing may be de livered together with the Translation of the Right, as in buying and selling with ready mony or exchange of goods, or lands and it may be delivered some time after

Again, one of the Contractors, may de liver the Thing contracted for on his part, and leave the other to perform his part at some determinate time after, and in the mean time be trusted and then the Con tract on his part, is called PACT, or COVE NANT Or both parts may contract now, to performe hereafter in which cases, he that is to performe in time to come, being trusted, his performance is called *Keeping of Promise*, or Faith, and the fayling of performance (if it be voluntary) *Violation of Faith*

When the transferring of Right, is not mutuall, but one of the parties transfer reth, in hope to gain thereby friendship, or service from another, or from his friends, or in hope to gain the reputation of Charity, or Magnanimity, or to deliver his mind from the pain of compassion, or in hope of reward in heaven, This is not Contract, but GIFT, FREE GIFT, GRACE which words signifie one and the same thing

Signes of Contract, are either *Expresse*, or *by Inference* Expresse, are words spoken with understanding of what they signifie And such words are either of the time *Present*, or *Past*, as, *I Give, I Grant, I have Given, I have Granted, I will that this be yours* Or of the future, as, *I will Give, I will Grant* which words of the future, are called PROMISE

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[THE COMMON POWER]

If a Covenant be made, wherein neither of the parties performe presently, but trust one another, in the condition of meer Nature, (which is a condition of Warre of every man against every man,) upon any reasonable suspition, it is Voyd But if there be a common Power set over them both, with right and force sufficient to compell performance, it is not Voyd. For he that performeth first, has no as surance the other will performe after, because the bonds of words are too weak to bridle mens ambition, avarice, anger, and other Passions, without the feare of some coercive Power, which in the con dition of meer Nature, where all men are equall, and judges of the justnesse of their own fears, cannot possibly be supposed And therefore he which performeth first, does but betray himselfe to his enemy contrary to the Right (he can never aban don) of defending his life, and means of living

But in a civill estate, where there is a Power set up to constrain those that would otherwise violate their faith that feare is no more reasonable, and for that cause, he which by the Covenant is to perform first, is obliged so to do

The cause of feare, which maketh such a Covenant invalid, must be always something arising after the Covenant made, as some new fact, or other signe of the Will not to performe else it can not make the Covenant voyd For that which could not hinder a man from promising, ought not to be admitted as a hindrance of performing

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[Self Injury]

A Covenant not to defend my selfe from force, by force, is always voyd For (as I have shewed before) no man can transferre, or lay down his Right to save himselfe from Death, Wounds, and Imprisonment, (the avoyding whereof is the onely End of laying down any right,) and therefore the promise of not resisting force, in no Covenant transferreth any right, nor is obliging For though a man may Covenant thus, *Unlesse I do so, or so, kill me*, he cannot Covenant thus *Unlesse I do so, or so, I will not resist you, when you come to kill me*. For man by nature chooseth the lesser evill, which is danger of death in resisting rather than the greater, which is certain and present death in not resisting And this is granted to be true by all men, in that they lead Criminals to Execution, and Prison with armed men, notwithstanding that such Criminals have consented to the Law, by which they are condemned

A Covenant to accuse ones selfe, without assurance of pardon, is likewise invalide For in the condition of Nature, where every man is Judge, there is no place for Accusation and in the Civill State, the Accusation is followed with Punishment, which being Force, a man is not obliged not to resist The same is also true of the Accusation of those by whose Condemnation a man falls into misery, as of a Father, Wife, or Benefactor

For the Testimony of such an Accuser, if it be not willingly given, is præsumed to be corrupted by Nature, and therefore not to be received and where a mans Testimony is not to be credited, he is not bound to give it Also Accusations upon Torture, are not to be reputed as Testimonies For Torture is to be used but as means of conjecture, and light, in the further examination, and search of truth and what is in that case confessed, tendeth to the ease of him that is Tortured, not to the informing of the Torturers and therefore ought not to have the credit of a sufficient Testimony for whether he deliver himselfe by true, or false Accusation, he does it by the Right of preserving his own life

[Fear]

The force of Words, being (as I have formerly noted) too weak to hold men to the performance of their Covenants, there are in mans nature, but two imaginable helps to strengthen it And those are either a Feare of the consequence of breaking their word or a Glory, or Pride in appearing not to need to breake it This later is a Generosity too rarely found to be presumed on, especially in the pursuers of Wealth, Command, or sensuall Pleasure, which are the greatest part of Mankind The Passion to be reckoned upon, is Fear, whereof there be two very generall Objects one, The Power of Spirits Invisible, the other, The Power of those men they shall therein Offend Of these two, though the former be the greater Power, yet the feare of the later is commonly the greater Feare The Feare of the former is in every man, his own Religion, which hath place in the nature of man before Civill Society The later

hath not so, at least not place enough, to keep men to their promises, because in the condition of meer Nature, the inequality of Power is not discerned, but by the event of Battell So that before the time of Civill Society or in the interruption thereof by Warre there is nothing can strengthen a Covenant of Peace agreed on, against the temptations of Avarice, Ambition, Lust, or other strong desire, but the feare of that Invisible Power, which they every one Worship as God, and Feare as a Revenger of their perfidy All therefore that can be done between two men not subject to Civill Power, is to put one another to swear by the God he feareth Which *Swearing*, or OATH, is a *Forme of Speech added to a Promise, by which he that promiseth, signifieth, that unlesse he performe, he renounceth the mercy of his God, or calleth to him for vengeance on himselfe* Such was the Heathen Forme, *Let* Jupiter *kill me else, as I kill this Beast* So is our Forme, *I shall do thus, and thus, so help me God* And this, with the Rites and Ceremonies, which every one useth in his own Religion, that the feare of breaking faith might be the greater

By this it appears, that an Oath taken according to any other Forme, or Rite, then his, that sweareth is in vain, and no Oath And that there is no Swearing by any thing which the Swearer thinks not God For though men have sometimes used to swear by their Kings, for feare, or flattery, yet they would have it thereby understood, they attributed to them Divine honour And that Swearing unnecessarily by God, is but prophaning of his name and Swearing by other things, as men do in common discourse, is not Swearing, but an impious Custome, gotten by too much vehemence of talking

It appears also, that the Oath addes nothing to the Obligation For a Covenant, if lawfull, binds in the sight of God, without the Oath, as much as with it: if unlawfull, bindeth not at all, though it be confirmed with an Oath

CHAPTER XV

[PERFORMANCE OF COVENANTS]

From that law of Nature, by which we are obliged to transferre to another, such Rights, as being retained, hinder the peace of Mankind, there followeth a Third, which is this, *That men performe their Covenants made:* without which, Covenants are in vain, and but Empty words, and the Right of all men to all things remaining, wee are still in the condition of Warre

And in this law of Nature, consisteth the Fountain and Originall of JUSTICE For where no Covenant hath preceded, there hath no Right been transferred, and every man has right to every thing, and consequently, no action can be Unjust But when a Covenant is made, then to break it is *Unjust* And the definition of INJUSTICE, is no other than *the not Performance of Covenant* And whatsoever is not Unjust, is *Just*

But because Covenants of mutuall trust, where there is a feare of not performance on either part, (as hath been said in the former Chapter) are invalid, though the Originall of Justice be the making of Covenants, yet Injustice actually there can be none, till the cause of such feare be taken away, which while men are in the naturall condition of Warre, cannot be done Therefore before the names of Just, and Unjust can have place, there must be some coercive Power, to compell men equally to the performance of their Covenants, by the terrour of some punishment, greater than the benefit they expect by the breach of their Covenant, and to make good that Propriety, which by mutuall Contract men acquire, in recompence of the universall Right they abandon and such power there is none before the erection of a Common wealth And this is also to be gathered out of the ordinary definition of Justice in the Schooles For they say, that *Justice is the constant Will of giving to every men his own* And therefore where there is no

Own, that is, no Propriety, there is no Injustice; and where there is no coercive Power erected, that is, where there is no Common-wealth, there is no Propriety all men having Right to all things. Therefore where there is no Common wealth, there nothing is Unjust So that the nature of Justice, consisteth in keeping of valid Covenants but the Validity of Covenants begins not but with the Constitution of a Civill Power, sufficient to compell men to keep them And then it is also that Propriety begins

PART II

Of Commonwealth

CHAPTER XVII

[Origin of Commonwealth]

The finall Cause, End, or Designe of men, (who naturally love Liberty, and Dominion over others,) in the introduction of that restraint upon themselves, (in which wee see them live in Common wealths,) is the foresight of their own preservation, and of a more contented life thereby, that is to say, of getting themselves out from that miserable condition of Warre which is necessarily consequent (as hath been shewn) to the naturall Passions of men, when there is no visible Power to keep them in awe and tye them by feare of punishment to the performance of their Covenants, and observation of those Lawes of Nature set down in the fourteenth and fifteenth Chapters

For the Lawes of Nature (as *Justice, Equity, Modesty, Mercy,* and (in summe) *doing to others, as wee would be done to,*) of themselves, without the terrour of some Power, to cause them to be observed, are contrary to our naturall Passions, that carry us to Partiality, Pride, Revenge, and the like And Covenants, without the Sword, are but Words, and of no strength to secure a man at all Therefore notwithstanding the Lawes of Nature, (which every one hath then kept, when he has the will to keep them, when he can do it safely,) if there be no Power erected, or not great enough for our security every man will, and may lawfully rely on his own strength and art, for caution against all other men And in all places, where men have lived by small Families, to robbe and spoyle one another has been a Trade, and so farre from being reputed against the Law of Nature, that the greater spoyles they gained, the greater was their honour, and men observed no other Lawes therein, but the Lawes of Honour that is, to abstain from cruelty leaving to men their lives, and instruments of husbandry And as small Families did then so now do Cities and Kingdomes, which are but greater Families (for their own security) enlarge their Dominions, upon all pretences of danger and fear of Invasion, or assistance that may be given to Invaders, endeavour as much as they can, to subdue, or weaken their neighbours, by open force, and secret arts for want of other Caution, justly, and are remembred for it in after ages with honour

[Size]

Nor is it the joyning together of a small number of men, that gives them this security because in small numbers, small additions on the one side or the other make the advantage of strength so great as is sufficient to carry the Victory, and therefore gives encouragement to an Invasion The Multitude sufficient to confide in for our Security, is not determined by any certain number, but by comparison with the Enemy we feare, and is then sufficient, when the odds of the Enemy is not of so visible and conspicuous moment, to determine the event of warre, as to move him to attempt

[Disunity]

And be there never so great a Multitude, yet if their actions be directed ac

cording to their particular judgements, and particular appetites, they can expect thereby no defence, nor protection, neither against a common enemy, nor against the injuries of one another. For being distracted in opinions concerning the best use and application of their strength, they do not help, but hinder one another; and reduce their strength by mutuall opposition to nothing: whereby they are easily, not onely subdued by a very few that agree together; but also when there is no common enemy, they make warre upon each other, for their particular interests. For if we could suppose a great Multitude of men to consent in the observation of Justice, and other Lawes of Nature, without a common Power to keep them all in awe; we might as well suppose all Man-kind to do the same; and then there neither would be, nor need to be any Civill Government, or Common-wealth at all; because there would be Peace without subjection.

Nor is it enough for the security, which men desire should last all the time of their life, that they be governed, and directed by one judgement, for a limited time; as in one Battel, or one Warre. For though they obtain a Victory by their unanimous endeavour against a forraign enemy; yet afterwards, when either they have no common enemy, or he that by one part is held for an enemy, is by another part held for a friend, they must needs by the difference of their interests dissolve, and fall again into a Warre amongst themselves.

It is true, that certain living creatures, as Bees, and Ants, live sociably one with another, (which are therefore by *Aristotle* numbred amongst Politicall creatures;) and yet have no other direction, than their particular judgements and appetites; nor speech, whereby one of them can signifie to another, what he thinks expedient for the common benefit: and therefore some man may perhaps desire to know, why Man-kind cannot do the same. To which I answer,

First, that men are continually in competition for Honour and Dignity, which these creatures are not; and consequently amongst men there ariseth on that ground, Envy and Hatred, and finally Warre; but amongst these not so.

Secondly, that amongst these creatures, the Common good differeth not from the Private; and being by nature enclined to their private, they procure thereby the common benefit. But man, whose joy consisteth in comparing himselfe with other men, can relish nothing but what is eminent.

Thirdly, that these creatures, having not (as man) the use of reason, do not see, nor think they see any fault, in the administration of their common businesse: whereas amongst men, there are very many, that thinke themselves wiser, and abler to govern the Publique, better than the rest; and these strive to reforme and innovate, one this way, another that way; and thereby bring it into Distraction and Civill warre.

Fourthly, that these creatures, though they have some use of voice, in making knowne to one another their desires, and other affections; yet they want that art of words, by which some men can represent to others, that which is Good, in the likenesse of Evill; and Evill, in the likenesse of Good; and augment, or diminish the apparent greatnesse of Good and Evill; discontenting men, and troubling their Peace at their pleasure.

Fiftly, irrationall creatures cannot distinguish betweene *Injury*, and *Dammage*; and therefore as long as they be at ease, they are not offended with their fellowes: whereas Man is then most troublesome, when he is most at ease: for then it is that he loves to shew his Wisdome, and controule the Actions of them that governe the Common-wealth.

Lastly, the agreement of these creatures is Naturall; that of men, is by Covenant only, which is Artificiall: and therefore it is no wonder if there be somwhat else required (besides Covenant) to make their Agreement constant and lasting; which is a Common Power, to keep them in awe,

and to direct their actions to the Common Benefit.

[To Secure Unity]

The only way to erect such a Common Power, as may be able to defend them from the invasion of Forraigners, and the injuries of one another, and thereby to secure them in such sort, as that by their owne industrie, and by the fruites of the Earth, they may nourish themselves and live contentedly is, to conferre all their power and strength upon one Man, or upon one Assembly of men, that may reduce all their Wills, by plurality of voices, unto one Will which is as much as to say, to appoint one Man, or Assembly of men, to beare their Person, and every one to owne, and acknowledge himselfe to be Author of whatsoever he that so beareth their Person, shall Act, or cause to be Acted, in those things which concerne the Common Peace and Safetie, and therein to submit their Wills, every one to his Will, and their Judgements, to his Judgment This is more than Consent, or Concord, it is a reall Unitie of them all, in one and the same Person, made by Covenant of every man with every man, in such manner, as if every man should say to every man, *I Authorise and give up my Right of Governing my selfe, to this Man, or to this Assembly of men, on this condition, that thou give up thy Right to him, and Authorise all his Actions in like manner* This done, the Multitude so united in one Person, is called a Common wealth, in latine Civitas This is the Generation of that great Leviathan, or rather (to speake more reverently) of that *Mortall God*, to which wee owe under the *Immortall God*, our peace and defence For by this Authoritie, given him by every particular man in the Common Wealth, he hath the use of so much Power and Strength conferred on him, that by terror thereof, he is inabled to forme the wills of them all, to Peace at home, and mutuall ayd against their enemies abroad. And in him consisteth the Essence of the Common wealth, which (to define it,) is *One Person, of whose Acts a great Multitude, by mutuall Covenants one with another, have made themselves every one the Author, to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence*

And he that carryeth this Person, is called Soveraigne, and said to have *Soveraigne Power*, and every one besides, his Subject

The attaining to this Soveraigne Power, is by two wayes One, by Naturall 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 Warre 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, on confidence to be protected by him against all others This later, may be called a Politicall Common wealth, or Common wealth by *Institution*, and the former, a Common wealth by *Acquisition* And first, I shall speak of a Common wealth by Institution

CHAPTER XVIII

[Sovereigns by Institution]

A *Common wealth* is said to be *Instituted*, when a *Multitude* of men do Agree and *Covenant, every one, with every one*, that to whatsoever *Man*, or *Assembly of Men*, shall be given by the major part, the *Right to Present* the Person of them all, (that is to say, to be their *Representative*,) every one, as well he that *Voted for it*, as he that *Voted against it*, shall *Authorise* all the Actions and Judgements, of that Man, or Assembly of men, in the same manner, as if they were his own, to the end, to live peaceably amongst themselves, and be protected against other men

From this Institution of a Common wealth are derived all the *Rights*, and

Facultyes of him, or them, on whom the Soveraigne Power is conferred by the consent of the People Assembled.

First, because they Covenant, it is to be understood, they are not obliged by former Covenant to any thing repugnant hereunto. And Consequently they that have already Instituted a Common-wealth. being thereby bound by Covenant, to own the Actions, and Judgements of one, cannot lawfully make a new Covenant, amongst themselves, to be obedient to any other, in any thing whatsoever, without his permission. And therefore, they that are subjects to a Monarch, cannot without his leave cast off Monarchy, and return to the confusion of a disunited Multitude; nor transferre their Person from him that beareth it, to another Man, or other Assembly of men: for they are bound, every man to every man, to Own, and be reputed Author of all, that he that already is their Soveraigne, shall do, and judge fit to be done: so that any one man dissenting all the rest should break their Covenant made to that man, which is injustice: and they have also every man given the Soveraignty to him that beareth their Person; and therefore if they depose him, they take from him that which is his own, and so again it is injustice. Besides, if he that attempteth to depose his Soveraign, be killed, or punished by him for such attempt, he is author of his own punishment, as being by the Institution, Author of all his Soveraign shall do: And because it is injustice for a man to do any thing, for which he may be punished by his own authority, he is also upon that title, unjust. And whereas some men have pretended for their disobedience to their Soveraign, a new Covenant, made, not with men, but with God; this also is unjust: for there is no Covenant with God, but by mediation of some body that representeth Gods Person; which none doth but Gods Lieutenant, who hath the soveraignty under God. But this pretence of Covenant with God, is so evident a lye, even in the pretenders own consciences, that it is not onely an act of an unjust, but also of a vile, and unmanly disposition.

[Sovereign Not Bound]

Secondly, Because the Right of bearing the Person of them all, is given to him they make Soveraigne, by Covenant onely of one to another, and not of him to any of them; there can happen no breach of Covenant on the part of the Soveraigne; and consequently none of his Subjects, by any pretence of forfeiture, can be freed from his Subjection. That he which is made Soveraigne maketh no Covenant with his Subjects before-hand, is manifest; because either he must make it with the whole multitude, as one party to the Covenant; or he must make a severall Covenant with every man. With the whole, as one party, it is impossible; because as yet they are not one Person: and if he make so many severall Covenants as there be men, those Covenants after he hath the Soveraignty are voyd, because what act soever can be pretended by any one of them for breach thereof, is the act both of himselfe, and of all the rest, because done in the Person, and by the Right of every one of them in particular. Besides, if any one, or more of them, pretend a breach of the Covenant made by the Soveraigne at his Institution; and others, or one other of his Subjects, or himselfe alone, pretend there was no such breach, there is in this case, no Judge to decide the controversie: it returns therefore to the Sword again; and every man recovereth the right of Protecting himselfe by his own strength, contrary to the designe they had in the Institution. It is therefore in vain to grant Soveraignty by way of precedent Covenant. The opinion that any Monarch receiveth his Power by Covenant, that is to say on Condition, proceedeth from want of understanding this easie truth, that Covenants being but words, and breath, have no force to oblige, contain, constrain, or protect any man, but what it has from the publique Sword; that is, from the untyed hands of

that Man, or Assembly of men that hath the Soveraignty, and whose actions are avouched by them all, and performed by the strength of them all, in him united But when an Assembly of men is made Soveraigne, then no man imagineth any such Covenant to have past in the Institution, for no man is so dull as to say for example, the People of *Rome*, made a Covenant with the Romans, to hold the Soveraignty on such or such conditions, which not performed, the Romans might lawfully depose the Roman people That men see not the reason to be alike in a Monarchy, and in a Popular Government, proceedeth from the ambition of some, that are kinder to the government of an Assembly, whereof they may hope to participate, than of Monarchy, which they despair to enjoy

[Minority Rights]

Thirdly, because the major part hath by consenting voices declared a Soveraigne, he that dissented must now consent with the rest, that is, be contented to avow all the actions he shall do, or else justly be destroyed by the rest For if he voluntarily entered into the Congregation of them that were assembled, he sufficiently declared thereby his will (and therefore tacitely covenanted) to stand to what the major part should ordayne and therefore if he refuse to stand thereto, or make Protestation against any of their Decrees, he does contrary to his Covenant, and therfore unjustly And whether he be of the Congregation, or not, and whether his consent be asked, or not, he must either submit to their decrees, or be left in the condition of warre he was in before, wherein he might without injustice be destroyed by any man whatsoever

[Injury by Soveriegn Impossible]

Fourthly, because every Subject is by this Institution Author of all the Actions, and Judgments of the Soveraigne Instituted, it followes, that whatsoever he doth, it can be no injury to any of his Subjects nor ought he to be by any of them accused of Injustice, For he that doth any thing by authority from another, doth therein no injury to him by whose authority he acteth But by this Institution of a Common wealth, every particular man is Author of all the Soveraigne doth and consequently he that complaineth of injury from his Soveraigne, complaineth of that whereof he himselfe is Author, and therefore ought not to accuse any man but himselfe, no nor himselfe of injury because to do injury to ones selfe, is impossible It is true that they that have Soveraigne power, may commit Iniquite, but not Injustice, or Injury in the proper signification

Fifthly, and consequently to that which was sayd last, no man that hath Soveraigne power can justly be put to death, or otherwise in any manner by his Subjects punished For seeing every Subject is Author of the actions of his Soveraigne, he punisheth another, for the actions committed by himselfe

And because the End of this Institution, is the Peace and Defence of them all, and whosoever has right to the End, has right to the Means, it belongeth of Right, to whatsoever Man, or Assembly that hath the Soveraignty, to be Judge both of the meanes of Peace and Defence, and also of the hindrances, and disturbances of the same, and to do whatsoever he shall think necessary to be done, both before hand, for the preserving of Peace and Security, by prevention of Discord at home, and Hostility from abroad, and, when Peace and Security are lost, for the recovery of the same And therefore,

[Opinion]

Sixtly, it is annexed to the Soveraignty, to be Judge of what Opinions and Doctrines are averse, and what conducing to Peace, and consequently, on what occasions, how farre, and what, men are to be trusted withall, in speaking to Multi

tudes of people; and who shall examine the Doctrines of all bookes before they be published? For the Actions of men proceed from their Opinions; and in the wel governing of Opinions, consisteth the well governing of mens Actions, in order to their Peace, and Concord. And though in matter of Doctrine, nothing ought to be regarded but the Truth; yet this is not repugnant to regulating of the same by Peace. For Doctrine repugnant to Peace, can no more be True, than Peace and Concord can be against the Law of Nature. It is true, that in a Common-wealth, where by the negligence, or unskilfullnesse of Governours, and Teachers, false Doctrines are by time generally received; the contrary Truths may be generally offensive: Yet the most sudden, and rough husling in of a new Truth, that can be, does never breake the Peace, but only somtimes awake the Warre. For those men that are so remissely governed, that they dare take up Armes, to defend, or introduce an Opinion, are still in Warre; and their condition not Peace, but only a Cessation of Armes for feare of one another; and they live as it were, in the procincts of battaile continually. It belongeth therefore to him that hath the Soveraign Power, to be Judge, or constitute all Judges of Opinions and Doctrines, as a thing necessary to Peace; thereby to prevent Discord and Civill Warre.

[Property]

Seventhly, is annexed to the Soveraigntie, the whole power of prescribing the Rules, whereby every man may know, what Goods he may enjoy, and what Actions he may doe, without being molested by any of his fellow Subjects: And this is it men call *Propriety*. For before constitution of Soveraign Power (as hath already been shewn) all men had right to all things; which necessarily causeth Warre: and therefore this Proprietie, being necessary to Peace, and depending on Soveraign Power, is the Act of that Power, in order to the publique peace. These Rules of Propriety (or *Meum* and *Tuum*) and of *Good, Evill, Lawfull,* and *Unlawfull* in the actions of Subjects, are the Civill Lawes; that is to say, the Lawes of each Commonwealth in particular; though the name of Civill Law be now restrained to the antient Civill Lawes of the City of *Rome*; which being the head of a great part of the World, her Lawes at that time were in these parts the Civill Law.

[Judgment]

Eightly, is annexed to the Soveraigntie, the Right of Judicature; that is to say, of hearing and deciding all Controversies, which may arise concerning Law, either Civill, or Naturall, or concerning Fact. For without the decision of Controversies, there is no protection of one Subject, against the injuries of another; the Lawes concerning *Meum* and *Tuum* are in vaine; and to every man remaineth, from the naturall and necessary appetite of his own conservation, the right of protecting himselfe by his private strength, which is the condition of Warre; and contrary to the end for which every Commonwealth is instituted.

[War]

Ninthly, is annexed to the Soveraignty, the Right of making Warre, and Peace with other Nations, and Common-wealths; that is to say, of Judging when it is for the publique good, and how great forces are to be assembled, armed, and payd for that end; and to levy mony upon the Subjects, to defray the expences thereof. For the Power by which the people are to be defended, consisteth in their Armies; and the strength of an Army, in the union of their strength under one Command; which Command the Soveraign Instituted, therefore hath; because the command of the *Militia*, without other Institution, maketh him that hath it Soveraign. And therefore whosoever is made Generall of an Army, he that hath the

Soveraign Power is alwayes Generallissimo.

[Appointment]

Tenthly, is annexed to the Soveraignty, the choosing of all Counsellours, Ministers, Magistrates, and Officers, both in Peace, and War. For seeing the Soveraign is charged with the End, which is the common Peace and Defence; he is understood to have Power to use such Means, as he shall think most fit for his discharge.

[Honor]

Eleventhly, to the Soveraign is committed the Power of Rewarding with riches, or honour; and of Punishing with corporall, or pecuniary punishment, or with ignominy every Subject according to the Law he hath formerly made; or if there be no Law made, according as he shall judge most to conduce to the encouraging of men to serve the Commonwealth, or deterring of them from doing dis-service to the same.

Lastly, considering what values men are naturally apt to set upon themselves; what respect they look for from others; and how little they value other men; from whence continually arise amongst them, Emulation, Quarrells, Factions, and at last Warre, to the destroying of one another, and diminution of their strength against a Common Enemy; It is necessary that there be Lawes of Honour, and a publique rate of the worth of such men as have deserved, or are able to deserve well of the Common-wealth; and that there be force in the hands of some or others, to put those Lawes in execution. But it hath already been shewn, that not onely the whole *Militia*, or forces of the Common-wealth; but also the Judicature of all Controversies, is annexed to the Soveraignty. To the Soveraign therefore it belongeth also to give titles of Honour; and to appoint what Order of place, and dignity, each man shall hold; and what signes of respect, in publique or private meetings, they shall give to one another.

[Powers Indivisible]

These are the Rights, which make the Essence of Soveraignty; and which are the markes, whereby a man may discern in what Man, or Assembly of men, the Soveraign Power is placed, and resideth. For these are incommunicable, and inseparable. The Power to coyn Mony; to dispose of the estate and persons of Infant heires; to have præemption in Markets; and all other Statute Prærogatives, may be transferred by the Soveraign; and yet the power to protect his subjects be retained. But if he transferre the *Militia*, he retains the Judicature in vain, for want of execution of the Lawes: Or if he grant away the Power of raising Mony; the *Militia* is in vain: or if he give away the government of Doctrines, men will be frighted into rebellion with the feare of Spirits. And so if we consider any one of the said Rights, we shall presently see, that the holding of all the rest, will produce no effect, in the conservation of Peace and Justice, the end for which all Commonwealths are Instituted. And this division is it, whereof it is said, *a Kingdome divided in it selfe, cannot stand*: for unlesse this division precede, division into opposite Armies can never happen. If there had not first been an opinion received of the greatest part of *England*, that these Powers were divided between the King and the Lords, and the House of Commons, the people had never been divided, and fallen into this Civill Warre; first between those that disagreed in politiques; and after between the Dissenters about the liberty of Religion; which have so instructed men in this point of Soveraign Right, that there be few now (in *England*,) that do not see, that these Rights are inseparable, and will be so generally acknowledged, at the next return of Peace; and so continue, till their miseries are forgotten; and no longer, except the vulgar be better taught than they have hetherto been.

And because they are essentiall and inseparable Rights, it follows necessarily,

that in whatsoever words any of them seem to be granted away, yet if the Soveraign Power it selfe be not in direct termes renounced, and the name of Soveraign no more given by the Grantees to him that Grants them, the Grant is voyd: for when he has granted all he can, if we grant back the Soveraignty, all is restored, as inseparably annexed thereunto.

This great Authority being Indivisible, and inseparably annexed to the Soveraignty, there is little ground for the opinion of them, that say of Soveraign Kings, though they be *singulis majores*, of greater Power than every one of their Subjects, yet they be *Universis minores*, of lesse power than them all together. For if by *all together*, they mean not the collective body as one person, then *all together*, and *every one*, signifie the same; and the speech is absurd. But if by *all together*, they understand them as one Person (which person the Soveraign bears,) then the power of all together, is the same with the Soveraigns power; and so again the speech is absurd: which absurdity they see well enough, when the Soveraignty is in an Assembly of the people; but in a Monarch they see it not; and yet the power of Soveraignty is the same in whomsoever it be placed.

And as the Power, so also the Honour of the Soveraign, ought to be greater, than that of any, or all the Subjects. For in the Soveraignty is the fountain of Honour. The dignities of Lord, Earle, Duke, and Prince are his Creatures. As in the presence of the Master, the Servants are equall, and without any honour at all; So are the Subjects, in the presence of the Soveraign. And though they shine some more, some lesse, when they are out of his sight; yet in his presence, they shine no more than the Starres in presence of the Sun.

But a man may here object, that the Condition of Subjects is very miserable; as being obnoxious to the lusts, and other irregular passions of him, or them that have so unlimited a Power in their hands. And commonly they that live under a Monarch, think it the fault of Monarchy; and they that live under the government of Democracy, or other Soveraign Assembly, attribute all the inconvenience to that forme of Commonwealth; whereas the Power in all formes, if they be perfect enough to protect them, is the same; not considering that the estate of Man can never be without some incommodity or other; and that the greatest, that in any forme of Government can possibly happen to the people in generall, is scarce sensible, in respect of the miseries, and horrible calamities, that accompany a Civill Warre; or that dissolute condition of masterlesse men, without subjection to Lawes, and a coërcive Power to tye their hands from rapine, and revenge: nor considering that the greatest pressure of Soveraign Governours, proceedeth not from any delight, or profit they can expect in the dammage, or weakening of their Subjects, in whose vigor, consisteth their own strength and glory; but in the restiveness of themselves, that unwillingly contributing to their own defence, make it necessary for their Governours to draw from them what they can in time of Peace, that they may have means on any emergent occasion, or sudden need, to resist, or take advantage on their Enemies. For all men are by nature provided of notable multiplying glasses, (that is their Passions and Selfe-love,) through which, every little payment appeareth a great grievance; but are destitute of those prospective glasses, (namely Morall and Civill Science,) to see a farre off the miseries that hang over them, and cannot without such payments be avoyded.

CHAPTER XIX

[KINDS OF GOVERNMENT]

The difference of Common-wealths, consisteth in the difference of the Soveraign, or the Person representative of all and every one of the Multitude. And because the Soveraignty is either in one Man, or in an Assembly of more than

one; and into that Assembly either Every man hath right to enter, or not every one, but Certain men distinguished from the rest; it is manifest, there can be but Three kinds of Common-wealth. For the Representative must needs be One man, or More: and if more, then it is the Assembly of All, or but of a Part. When the Representative is One man, then is the Common-wealth a MONARCHY: when an Assembly of All that will come together, then it is a DEMOCRACY, or Popular Common-wealth: when an Assembly of a Part onely, then it is called an ARISTOCRACY. Other kind of Common-wealth there can be none: for either One, or More, or All, must have the Soveraign Power (which I have shewn to be indivisible) entire.

There be other names of Government, in the Histories, and books of Policy; as *Tyranny*, and *Oligarchy*: But they are not the names of other Formes of Government, but of the same Formes misliked. For they that are discontented under *Monarchy*, call it *Tyranny*; and they that are displeased with *Aristocracy*, called it *Oligarchy*: So also, they which find themselves grieved under a *Democracy*, call it *Anarchy*, (which signifies want of Government;) and yet I think no man believes, that want of Government, is any new kind of Government: nor by the same reason ought they to believe, that the Government is of one kind, when they like it, and another, when they mislike it, or are oppressed by the Governours.

[MONARCH AS REPRESENTATIVE]

It is manifest, that men who are in absolute liberty, may, if they please, give Authority to One man, to represent them every one; as well as give such Authority to any Assembly of men whatsoever; and consequently may subject themselves, if they think good, to a Monarch, as absolutely, as to any other Representative. Therefore, where there is already erected a Soveraign Power, there can be no other Representative of the same people, but onely to certain particular ends, by the Soveraign limited. For that were to erect two Soveraigns; and every man to have his person represented by two Actors, that by opposing one another, must needs divide that Power, which (if men will live in Peace) is indivisible; and thereby reduce the Multitude into the condition of Warre, contrary to the end for which all Soveraignty is instituted. And therefore as it is absurd, to think that a Soveraign Assembly, inviting the People of their Dominion, to send up their Deputies, with power to make known their Advise, or Desires, should therefore hold such Deputies, rather than themselves, for the absolute Representative of the people: so it is absurd also, to think the same in a Monarchy. And I know not how this so manifest a truth, should of late be so little observed; that in a Monarchy, he that had the Soveraignty from a descent of 600 years, was alone called Soveraign, had the title of Majesty from every one of his Subjects, and was unquestionably taken by them for their King, was notwithstanding never considered as their Representative; that name without contradiction passing for the title of those men, which at his command were sent up by the people to carry their Petitions, and give him (if he permitted it) their advise. Which may serve as an admonition, for those that are the true, and absolute Representative of a People, to instruct men in the nature of that Office, and to take heed how they admit of any other generall Representation upon any occasion whatsoever, if they mean to discharge the trust committed to them.

[DIFFERENCES]

The difference between these three kindes of Commonwealth, consisteth not in the difference of Power; but in the difference of Convenience, or Aptitude to produce the Peace, and Security of the people; for which end they were instituted. And to compare Monarchy with the other two, we may observe; First, that

whosoever beareth the Person of the people, or is one of that Assembly that bears it, beareth also his own naturall Person. And though he be carefull in his politique Person to procure the common interest; yet he is more, or no lesse carefull to procure the private good of himselfe, his family, kindred and friends; and for the most part, if the publique interest chance to crosse the private, he preferrs the private; for the Passions of men, are commonly more potent than their Reason. From whence it follows, that where the publique and private interest are most closely united, there is the publique most advanced. Now in Monarchy, the private interest is the same with the publique. The riches, power, and honour of a Monarch arise onely from the riches, strength and reputation of his Subjects. For no King can be rich, nor glorious, nor secure; whose Subjects are either poore, or contemptible, or too weak through want or dissention, to maintain a war against their enemies: Whereas in a Democracy, or Aristocracy, the publique prosperity conferres not so much to the private fortune of one that is corrupt, or ambitious, as doth many times a perfidious advice, a treacherous action, or a Civill warre.

Secondly, that a Monarch receiveth counsell of whom, when, and where he pleaseth; and consequently may heare the opinion of men versed in the matter about which he deliberates, of what rank or quality soever, and as long before the time of action, and with as much secrecy, as he will. But when a Soveraigne Assembly has need of Counsell, none are admitted, but such as have a Right thereto from the beginning; which for the most part are of those who have beene versed more in the acquisition of Wealth than of Knowledge; and are to give their advice in long discourses, which may, and do commonly excite men to action, but not governe them *in* it. For the *Understanding* is by the flame of the Passions, never enlightened, but dazled: Nor is there any place, or time, wherein an Assemblie can receive Counsell with secrecie, because of their owne Multitude.

Thirdly, that the Resolutions of a Monarch. are subject to no other Inconstancy, than that of Humane Nature; but in Assemblies, besides that of Nature, there ariseth an Inconstancy from the Number. For the absence of a few, that would have the Resolution once taken, continue firme. (which may happen by security, negligence, or private impediments.) or the diligent appearance of a few of the contrary opinion, undoes to day, all that was concluded yesterday.

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CHAPTER XX

[RATIONALE FOR ABSOLUTISM]

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So that it appeareth plainly, to my understanding, both from Reason, and Scripture, that the Soveraign Power, whether placed in One Man, as in Monarchy, or in one Assembly of men, as in Popular, and Aristocraticall Commonwealths, is as great. as possibly men can be imagined to make it. And though of so unlimited a Power, men may fancy many evill consequences, yet the consequences of the want of it, which is perpetuall warre of every man against his neighbour, are much worse. The condition of man in this life shall never be without Inconveniences; but there happeneth in no Common-wealth any great Inconvenience, but what proceeds from the Subjects disobedience, and breach of those Covenants, from which the Common-wealth hath its being. And whosoever *thinking* Soveraign Power too great, will seek to make it lesse; must subject himselfe, to the Power, that can limit it; that is to say, to a greater.

The greatest objection is, that of the Practise; when men ask, where, and when, such Power has by Subjects been acknowledged; But one may ask them again, when, or where has there been a King.

dome long free from Sedition and Civill Warre. In those Nations, whose Commonwealths have been long-lived, and not been destroyed, but by forraign warre, the Subjects never did dispute of the Soveraign Power. But howsoever, an argument from the Practise of men, that have not sifted to the bottom, and with exact reason weighed the causes, and nature of Common-wealths, and suffer daily those miseries, that proceed from the ignorance thereof, is invalid. For though in all places of the world, men should lay the foundation of their houses on the sand, it could not thence be inferred, that so it ought to be. The skill of making, and maintaining Common-wealths, consisteth in certain Rules, as doth Arithmetique and Geometry; not (as Tennis-play) on Practise onely: which Rules, neither poor men have the leisure, nor men that have had the leisure, have hitherto had the curiosity, or the method to find out.

CHAPTER XXI

[Of Liberty]

. . . . .

But it is an easy thing, for men to be deceived, by the specious name of Libertie; and for want of Judgement to distinguish, mistake that for their Private Inheritance, and Birth right, which is the right of the Publique only. And when the same errour is confirmed by the authority of men in reputation for their writings in this subject, it is no wonder if it produce sedition, and change of Government. In these westerne parts of the world, we are made to receive our opinions concerning the Institution, and Rights of Common-wealths, from *Aristotle, Cicero,* and other men, Greeks and Romanes, that living under Popular States, derived those Rights, not from the Principles of Nature, but transcribed them into their books, out of the Practise of their own Common-wealths, which were Popular; as the Grammarians describe the Rules of Language, out of the Practise of the time; or the Rules of Poetry, out of the Poems of *Homer* and *Virgil.* And because the Athenians were taught, (to keep them from desire of changing their Government,) that they were Freemen, and all that lived under Monarchy were slaves; therefore *Aristotle* puts it down in his *Politiques* (*lib.* 6. *cap.* 2.) *In democracy,* Liberty *is to be supposed: for 'tis commonly held, that no man is* Free *in any other Government.* And as *Aristotle*; so *Cicero,* and other Writers have grounded their Civill doctrine, on the opinions of the Romans, who were taught to hate Monarchy, at first, by them that having deposed their Soveraign, shared amongst them the Soveraignty of *Rome*; and afterwards by their Successors. And by reading of these Greek, and Latine Authors, men from their childhood have gotten a habit (under a false shew of Liberty,) of favouring tumults, and of licentious controlling the actions of their Soveraigns; and again of controlling those controllers, with the effusion of so much blood; as I think I may truly say, there was never any thing so deerly bought, as these Western parts have bought the learning of the Greek and Latine tongues.

[Basis of Liberty]

To come now to the particulars of the true Liberty of a Subject; that is to say, what are the things, which though commanded by the Soveraign, he may nevertheless, without Injustice, refuse to do; we are to consider, what Rights we passe away, when we make a Commonwealth; or (which is all one,) what Liberty we deny our selves, by owning all the Actions (without exception) of the Man, or Assembly we make our Soveraign. For in the act of our *Submission,* consisteth both our *Obligation,* and our *Liberty*; which must therefore be inferred by arguments taken from thence; there being no Obligation on any man, which ariseth not from some Act of his own;

for all men equally, are by Nature Free. And because such arguments, must either be drawn from the expresse words, *I Authorise all his Actions*, or from the Intention of him that submitteth himselfe to his Power, (which Intention is to be understood by the End for which he so submitteth;) The Obligation, and Liberty of the Subject, is to be derived, either from those Words, (or others equivalent;) or else from the End of the Institution of Soveraignty; namely, the Peace of the Subjects within themselves, and their Defence against a common Enemy.

[To Avoid Death]

First therefore, seeing Soveraignty by Institution, is by Covenant of every one to every one; and Soveraignty by Acquisition, by Covenants of the Vanquished to the Victor, or Child to the Parent; It is manifest, that every Subject has Liberty in all those things, the right whereof cannot by Covenant be transferred. I have shewn before in the 14. Chapter, that Covenants, not to defend a mans own body, are voyd. Therefore,

If the Soveraign command a man (though justly condemned,) to kill, wound, or mayme himselfe; or not to resist those that assault him; or to abstain from the use of food, ayre, medicine, or any other thing, without which he cannot live; yet hath that man the Liberty to disobey.

[Self-incrimination]

If a man be interrogated by the Soveraign, or his Authority, concerning a crime done by himselfe, he is not bound (without assurance of Pardon) to confesse it; because no man (as I have shewn in the same Chapter) can be obliged by Covenant to accuse himselfe.

Again, the Consent of a Subject to Soveraign Power, is contained in these words, *I Authorise, or take upon me, all his actions;* in which there is no restriction at all, of his own former naturall Liberty: For by allowing him to *kill me*, I am not bound to kill my selfe when he commands me. 'Tis one thing to say, *Kill me, or my fellow, if you please*; another thing to say, *I will kill my selfe, or my fellow*. It followeth therefore, that

No man is bound by the words themselves, either to kill himselfe, or any other man; And consequently, that the Obligation a man may sometimes have, upon the Command of the Soveraign to execute any dangerous, or dishonourable Office, dependeth not on the Words of our Submission; but on the Intention; which is to be understood by the End thereof. When therefore our refusall to obey, frustrates the End for which the Soveraignty was ordained; then there is no Liberty to refuse: otherwise there is.

[Military Service]

Upon this ground, a man that is commanded as a Souldier to fight against the enemy, though his Soveraign have Right enough to punish his refusall with death, may neverthelesse in many cases refuse, without Injustice; as when he substituteth a sufficient Souldier in his place: for in this case he deserteth not the service of the Common-wealth. And there is allowance to be made for naturall timorousnesse, not onely to women, (of whom no such dangerous duty is expected,) but also to men of feminine courage. When Armies fight, there is on one side, or both, a running away; yet when they do it not out of trechery, but fear, they are not esteemed to do it unjustly, but dishonourably. For the same reason, to avoyd battell, is not Injustice, but Cowardise. But he that inrowleth himselfe a Souldier, or taketh imprest mony, taketh away the excuse of a timorous nature; and is obliged, not onely to go to the battell, but also not to run from it, without his Captaines leave. And when the Defence of the Common-wealth, requireth at once the help of all that are able to bear Arms, every one is obliged; because otherwise the Institution of the Common-

wealth, which they have not the purpose, or courage to preserve, was in vain

[RESISTANCE]

To resist the Sword of the Common wealth, in defence of another man, guilty, or innocent, no man hath Liberty, be cause such Liberty, takes away from the Soveraign, the means of Protecting us, and is therefore destructive of the very essence of Government But in case a great many men together, have already resisted the Soveraign Power unjustly, or committed some Capitall crime, for which every one of them expecteth death, whether have they not the Liberty then to joyn together, and assist, and defend one another? Certainly they have For they but defend their lives which the Guilty man may as well do as the Inno cent There was indeed injustice in the first breach of their duty Their bearing of Arms subsequent to it, though it be to maintain what they have done, is no new unjust act And if it be onely to defend their persons it is not unjust at all But the offer of pardon taketh from them, to whom it is offered the plea of self defence, and maketh their persever ance in assisting, or defending the rest, unlawful

[SILENCE OF LAW]

As for other Liberties they depend on the Silence of the Law In cases where the Soveraign has prescribed no rule, there the Subject hath the Liberty to do, or forbeare, according to his own discre tion And therefore such Liberty is in some places more, and in some lesse, and in some times more, in other times lesse, according as they that have the Sover aigntv shall think most convenient As for Example, there was a time, when in *Eng land* a man might enter in to his own Land, (and dispossesse such as wrongfully possessed it,) by force But in after times, that Liberty of Forcible Entry, was taken away by a Statute made (by the King) in Parliament And in some places of the world, men have the Liberty of many wives in other places, such Liberty is not allowed

[CONTROVERSIES WITH THE SOVEREIGN]

If a Subject have a controversie with his Soveraigne, of debt, or of right of possession of lands or goods, or concern ing any service required at his hands, or concerning any penalty, corporall, or pe cuniary, grounded on a precedent Law, he hath the same Liberty to sue for his right, as if it were against a Subject and before such Judges, as are appointed by the Soveraign For seeing the Soveraign demandeth by force of a former Law, and not by vertue of his Power he de clareth thereby, that he requireth no more, than shall appear to be due by that Law The sute therefore is not contrary to the will of the Soveraign and conse quently the Subject hath the Liberty to demand the hearing of his Cause, and sentence, according to that Law. But if he demand, or take any thing by pretence of his Power there lyeth in that case, no action of Law for all that is done by him in Vertue of his Power, is done by the Authority of every Subject, and conse quently, he that brings an action against the Soveraign brings it against himselfe

If a Monarch, or Soveraign Assembly grant a Liberty to all, or any of his Sub jects, which Grant standing he is disabled to provide for their safety, the Grant is voyd, unlesse he directly renounce, or transferre the Soveraignty to another For in that he might openly, (if it had been his will,) and in plain termes, have re nounced, or transferred it, and did not, it is to be understood it was not his will, but that the Grant proceeded from ig norance of the repugnancy between such a Liberty and the Soveraign Power and therefore the Soveraignty is still retayned, and consequently all those Powers, which are necessary to the exercising thereof, such as are the Power of Warre, and Peace, of Judicature, of appointing Offi-

cers, and Councellours, of levying Mony, and the rest named in the 18th Chapter.

[The Basis of Obligation]

The Obligation of Subjects to the Sovereign, is understood to last as long, and no longer, than the power lasteth, by which he is able to protect them. For the right men have by Nature to protect themselves, when none else can protect them, can by no Covenant be relinquished. The Soveraignty is the Soule of the Common-wealth; which once departed from the Body, the members doe no more receive their motion from it. The end of Obedience is Protection; which, wheresoever a man seeth it, either in his own, or in anothers sword, Nature applyeth his obedience to it, and his endeavour to maintain it. And though Soveraignty, in the intention of them that make it, be immortall; yet is it in its own nature, not only subject to violent death, by forreign war; but also through the ignorance, and passions of men, it hath in it, from the very institution, many seeds of a naturall mortality, by Intestine Discord.

If a Subject be taken prisoner in war; or his person, or his means of life be within the Guards of the enemy, and hath his life and corporall Libertie given him, on condition to be Subject to the Victor, he hath Libertie to accept the condition; and having accepted it, is the subject of him that took him; because he had no other way to preserve himself. The case is the same, if he be deteined on the same termes, in a forreign country. But if a man be held in prison, or bonds, or is not trusted with the libertie of his bodie; he cannot be understood to be bound by Covenant to subjection; and therefore may, if he can, make his escape by any means whatsoever.

[Succession]

If a Monarch shall relinquish the Soveraignty, both for himself, and his heires; His Subjects returne to the absolute Libertie of Nature; because, though Nature may declare who are his Sons, and who are the nerest of his Kin; yet it dependeth on his own will, (as hath been said in the precedent chapter,) who shall be his Heyr. If therefore he will have no Heyre, there is no Soveraignty, nor Subjection. The case is the same, if he dye without known Kindred, and without declaration of his Heyre. For then there can no Heire be known, and consequently no Subjection be due.

If the Soveraign Banish his Subject: during the Banishment, he is not Subject. But he that is sent on a message, or hath leave to travell, is still Subject; but it is, by Contract between Soveraigns, not by vertue of the covenant of Subjection. For whosoever entreth into another dominion, is Subject to all the Laws thereof; unlesse he have a privilege by the amity of the Soveraigns, or by speciall licence.

If a Monarch subdued by war, render himself Subject to the Victor; his Subjects are delivered from their former obligation, and become obliged to the Victor. But if he be held prisoner, or have not the liberty of his own Body; he is not understood to have given away the Right of Soveraigntie; and therefore his Subjects are obliged to yield obedience to the Magistrates formerly placed, governing not in their own name, but in his. For, his Right remaining, the question is only of the Administration; that is to say, of the Magistrates and Officers; which, if he have not means to name, he is supposed to approve those, which he himself had formerly appointed.

CHAPTER XXIV

[Property]

The Nutrition of a Common-wealth consisteth, in the *Plenty*, and *Distribution* of *Materials* conducing to Life: In *Concoction*, or *Preparation*; and (when con-

cocted) in the *Conveyance* of it, by convenient conduits, to the Publique use.

[Natural Resources]

As for the Plenty of Matter, it is a thing limited by Nature, to those commodities which from (the two breasts of our common Mother) Land and Sea, God usually either freely giveth, or for labour selleth to man kind.

For the Matter of this Nutriment, consisting in Animals Vegetals, and Minerals, God hath freely laid them before us in or neer to the face of the Earth so as there needeth no more but the labour, and industry of receiving them Insomuch as Plenty dependeth (next to Gods favour) meerly on the labour and industry of men

[Trade]

This Matter commonly called Commodities, is partly *Native*, and partly *Forraign*. *Native*, that which is to be had within the Territory of the Common wealth *Forraign* that which is imported from without And because there is no Territory under the Dominion of one Common wealth (except it be of very vast extent) that produceth all things needfull for the maintenance and motion of the whole Body and few that produce not something more than necessary, the superfluous commodities to be had within become no more superfluous but supply these wants at home, by importation of that which may be had abroad, either by Exchange or by just Warre, or by Labour for a mans Labour also is a commodity exchangeable for benefit as well as any other thing And there have been Common wealths that having no more Territory than hath served them for habitation, have nevertheless not onely maintained but also encreased their Power partly by the labour of trading from one place to another, and partly by selling the Manufactures, whereof the Materials were brought in from other places

[Distribution]

The Distribution of the Materials of this Nourishment, is the constitution of *Mine*, and *Thine*, and *His*, that is to say, in one word *Propriety*, and belongeth in all kinds of Common wealth to the Soveraign Power For where there is no Common wealth, there is (as hath been already shewn) a perpetuall warre of every man against his neighbour, And therefore every thing is his that getteth it, and keepeth it by force, which is neither *Propriety*, nor *Community*, but *Uncertainty* Which is so evident, that even *Cicero*, (a passionate defender of Liberty,) in a publique pleading, attributeth all Propriety to the Law Civil, *Let the Civill Law*, saith he, *be once abandoned, or but negligently guarded, (not to say oppressed,) and there is nothing, that any man can be sure to receive from his Ancestor, or leave to his Children* And again, *Take away the Civill Law, and no man knows what is his own, and what another mans* Seeing therefore the Introduction of *Propriety* is an effect of Common wealth, which can do nothing but by the Person that Represents it, it is the act onely of the Soveraign, and consisteth in the Lawes, which none can make that have not the Soveraign Power And this they well knew of old, who called that Νομος (that is to say, *Distribution*,) which we call Law, and defined Justice, by *distributing* to every man *his own*

In this Distribution, the First Law, is for Division of the Land it selfe wherein the Soveraign assigneth to every man a portion, according as he, and not according as any Subject, or any number of them, shall judge agreeable to Equity, and the Common Good The Children of Israel, were a Common wealth in the Wildernesse but wanted the commodities of the Earth, till they were masters of the Land of Promise, which afterward was divided amongst them, not by their own discretion, but by the discretion of *Eleazar* the Priest, and *Joshua* their Generall who when there were twelve Tribes,

making them thirteen by subdivision of the Tribe of *Joseph*; made nevertheless but twelve portions of the Land; and ordained for the Tribe of *Levi* no land; but assigned them the tenth part of the whole fruits; which division was therefore Arbitrary. And though a People comming into possession of a Land by warre, do not alwaies exterminate the antient Inhabitants, (as did the Jewes,) but leave to many, or most, or all of them their estates; yet it is manifest they hold them afterwards, as of the Victors distribution; as the people of *England* held all theirs of *William* the *Conquerour*.

From whence we may collect, that the propriety which a subject hath in his lands, consisteth in a right to exclude all other subjects from the use of them; and not to exclude their Soveraign, be it an Assembly, or a Monarch. For seeing the Soveraign, that is to say, the Commonwealth (whose Person he representeth,) is understood to do nothing but in order to the common Peace and Security, this Distribution of lands, is to be understood as done in order to the same: And consequently, whatsoever Distribution he shall make in prejudice thereof, is contrary to the will of every subject, that committed his Peace, and safety to his discretion, and conscience; and therefore by the will of every one of them, is to be reputed voyd. It is true, that a Soveraign Monarch, or the greater part of a Soveraign Assembly, may ordain the doing of many things in pursuit of their Passions, contrary to their own consciences, which is a breach of trust, and of the Law of Nature; but this is not enough to authorise any subject, either to make warre upon, or so much as to accuse of Injustice, or any way to speak evill of their Soveraign; because they have authorised all his actions, and in bestowing the Soveraign Power, made them their own. But in what cases the Commands of Soveraigns are contrary to Equity, and the Law of Nature, is to be considered hereafter in another place.

In the Distribution of land, the Common-wealth it selfe, may be conceived to have a portion, and possesse, and improve the same by their Representative; and that such portion may be made sufficient, to susteine the whole expence to the common Peace, and defence necessarily required: Which were very true if there could be any Representative conceived free from humane passions, and infirmities. But the nature of men being as it is, the setting forth of Publique Land, or of any certaine Revenue for the Commonwealth, is in vaine; and tendeth to the dissolution of Government, and to the condition of meere Nature, and War, as soon as ever the Soveraign Power falleth into the hands of a Monarch, or of an Assembly, that are either too negligent of mony, or too hazardous in engaging the publique stock, into a long, or costly war. Common-wealths can endure no Diet: For seeing their expence is not limited by their own appetite, but by externall Accidents, and the appetites of their neighbours, the Publique Riches cannot be limited by other limits, than those which the emergent occasions shall require. And whereas in *England*, there were by the Conquerour, divers Lands reserved to his own use, (besides Forrests, and Chases, either for his recreation, or for preservation of Woods,) and divers services reserved on the Land he gave his Subjects; yet it seems they were not reserved for his Maintenance in his Publique, but in his Naturall capacity: For he, and his Successors did for all that, lay Arbitrary Taxes on all Subjects Land, when they judged it necessary. Or if those publique Lands, and Services, were ordained as a sufficient maintenance of the Commonwealth, it was contrary to the scope of the Institution; being (as it appeared by those ensuing Taxes) insufficient, and (as it appeares by the late small Revenue of the Crown) Subject to Alienation, and Diminution. It is therefore in vaine, to assign a portion to the Common-wealth; which may sell, or give it away; and does sell, and give it away when tis done by their Representative.

As the Distribution of Lands at home;

so also to assigne in what places, and for what commodities, the Subject shall traffique abroad, belongeth to the Soveraign. For if it did belong to private persons to use their own discretion therein, some of them would bee drawn for gaine, both to furnish the enemy with means to hurt the Common-wealth, and hurt it themselves, by *importing such things*, as *pleasing* men's appetites, be neverthelese noxious, or at least unprofitable to them. And therefore it belongeth to the Common-wealth, (that is, to the Soveraign only,) to approve, or disapprove both of the places, and matter of forraign Traffique.

Further, seeing it is not enough to the Sustentation of a Common-wealth, that every man have a propriety in a portion of Land, or in some few commodities, or a naturall property in some usefull art, and there is no art in the world, but is necessary either for the being, or well being almost of every particular man: it is necessary, that men distribute that which they can spare, and transferre their propriety therein, mutually one to another, by exchange, and mutuall contract.

. . . . .

CHAPTER XXVI

[Positive Law]

By Civill Lawes, I understand the Lawes, that men are therefore bound to observe, because they are Members, not of this, or that Common-wealth in particular, but of a Common-wealth. For the knowledge of particular Lawes belongeth to them, that professe the study of the Lawes of their severall Countries; but the knowledge of Civill Law in generall, to any man. The antient Law of *Rome* was called their *Civil Law*, from the word *Civitas*, which signifies a Common-wealth: And those Countries, which having been under the Roman Empire, and governed by that Law, retaine still such part thereof as they think fit, call that part the Civill Law, to distinguish it from the rest of their own Civill Lawes. But that is not it I intend to speak of here; my designe being not to shew what is Law here, and there; but what is Law; as *Plato*, *Aristotle*, *Cicero*, and divers others have done, without taking upon them the profession of the study of the Law.

And first it is manifest, that Law in generall, is not Counsell, but Command; nor a Command of any man to any man; but only of him, whose Command is addressed to one formerly obliged to obey him. And as for Civill Law, it addeth only the name of the person Commanding, which is *Persona Civitatis*, the Person of the Common-wealth.

[Definition]

Which considered, I define Civill Law in this manner. Civill Law, '*Is to every Subject, those Rules, which the Common-wealth hath Commanded him, by Word, Writing, or other sufficient Sign of the Will, to make use of, for the Distinction of Right, and Wrong; that is to say, of what is contrary, and what is not contrary to the Rule.*

In which definition, there is nothing that is not at first sight evident. For every man seeth, that some Lawes are addressed to all the Subjects in generall; some to particular Provinces; some to particular Vocations; and some to particular Men; and are therefore Lawes, to every of those to whom the Command is directed; and to none else. As also, that Lawes are the Rules of Just, and Unjust; nothing being reputed Unjust, that is not contrary to some Law. Likewise, that none can make Lawes but the Common-wealth; because our Subjection is to the Common-wealth only: and that Commands, are to be signified by sufficient Signs; because a man knows not otherwise how to obey them. And therefore, whatsoever can from this definition by necessary consequence be deduced, ought to be acknowledged for truth. Now I deduce from it this that followeth.

[Sovereign as Legislator]

1. The Legislator in all Common-wealths, is only the Soveraign, be he one Man, as in a Monarchy, or one Assembly of men, as in a Democracy or Aristocracy. For the Legislator, is he that maketh the Law. And the Common-wealth only, præscribes, and commandeth the observation of those rules, which we call Law: Therefore the Common-wealth is the Legislator. But the Common-wealth is no Person. nor has capacity to doe any thing. but by the Representative, (that is, the Soveraign;) and therefore the Soveraign is the sole Legislator. For the same reason, none can abrogate a Law made, but the Soveraign; because a Law is not abrogated, but by another Law, that forbiddeth it to be put in execution.

[Sovereign above the Law]

2. The Soveraign of a Common-wealth. be it an Assembly, or one Man, is not Subject to the Civill Lawes. For having power to make, and repeale Lawes, he may when he pleaseth, free himselfe from that subjection, by repealing those Lawes that trouble him, and making of new; and consequently he was free before. For he is free, that can be free when he will: Nor is it possible for any person to be bound to himselfe; because he that can bind, can release; and therefore he that is bound to himselfe onely, is not bound.

[Customary Law]

3. When long Use obtaineth the authority of a Law, it is not the Length of Time that maketh the Authority, but the Will of the Soveraign signified by his silence, (for Silence is sometimes an argument of Consent;) and it is no longer Law, then the Soveraign shall be silent therein. And therefore if the Soveraign shall have a question of Right grounded, not upon his present Will, but upon the Lawes, formerly made; the Length of Time shall bring no prejudice to his Right; but the question shall be judged by Equity. For many unjust Actions, and unjust Sentences, go uncontrolled a longer time, than any man can remember. And our Lawyers account no Customes Law, but such as are reasonable, and that evill Customes are to be abolished: But the Judgement of what is reasonable, and of what is to be abolished, belongeth to him that maketh the Law, which is the Soveraign Assembly, or Monarch.

[Natural Law]

4. The Law of Nature, and the Civill Law, contain each other, and are of equall extent. For the Lawes of Nature, which consist in Equity, Justice, Gratitude, and other morall Vertues on these depending, in the condition of meer Nature (as I have said before in the end of the 15th Chapter,) are not properly Lawes, but qualities that dispose men to peace, and to obedience. When a Common-wealth is once settled, then are they actually Lawes, and not before; as being then the commands of the Common-wealth; and therefore also Civill Lawes: For it is the Soveraign Power that obliges men to obey them. For in the differences of private men, to declare, what is Equity, what is Justice, and what is morall Vertue, and to make them binding, there is need of the Ordinances of Soveraign Power, and Punishments to be ordained for such as shall break them; which Ordinances are therefore part of the Civill Law. The Law of Nature therefore is a part of the Civill Law in all Common-wealths of the world. Reciprocally also, the Civill Law is a part of the Dictates of Nature. For Justice, that is to say, Performance of Covenant, and giving to every man his own, is a Dictate of the Law of Nature. But every subject in a Common-wealth, hath covenanted to obey the Civill Law, (either one with another, as when they assemble to make a common Representative, or with the Representative it selfe one by one, when subdued by the Sword they promise obedience, that

they may receive life;) And therefore Obedience to the Civill Law is part also of the Law of Nature. Civill, and Naturall Law are not different kinds, but different parts of Law; whereof one part being written, is called Civill, the other unwritten, Naturall. But the Right of Nature, that is, the naturall Liberty of man, may by the Civill Law be abridged, and restrained: nay, the end of making Lawes, is no other, but such Restraint; without the which there cannot possibly be any Peace. And Law was brought into the world for nothing else, but to limit the naturall liberty of particular men, in such manner, as they might not hurt, but assist one another, and joyn together against a common Enemy.

[Conquered Territory]

5. If the Soveraign of one Common-wealth, subdue a People that have lived under other written Lawes, and afterwards govern them by the same Lawes, by which they were governed before; yet those Lawes are the Civill Lawes of the Victor, and not of the Vanquished Common-wealth. For the Legislator is he, not by whose authority the Lawes were first made, but by whose authority they now continue to be Lawes. And therefore where there be divers Provinces, within the Dominion of a Common-wealth, and in those Provinces diversity of Lawes, which commonly are called the Customes of each severall Province, we are not to understand that such Customes have their force, onely from Length of Time; but that they were antiently Lawes written, or otherwise made known, for the Constitutions, and Statutes of their Soveraigns; and are now Lawes, not by vertue of the Præscription of time, but by the Constitutions of their present Soveraigns. But if an unwritten Law, in all the Provinces of a Dominion, shall be generally observed, and no iniquity appear in the use thereof; that Law can be no other but a Law of Nature, equally obliging all man-kind.

[Common Law]

6. Seeing then all Lawes, written, and unwritten, have their Authority, and force, from the Will of the Common-wealth; that is to say, from the Will of the Representative; which in a Monarchy is the Monarch, and in other Common-wealths the Soveraign Assembly; a man may wonder from whence proceed such opinions, as are found in the Books of Lawyers of eminence in severall Common-wealths, directly, or by consequence making the Legislative Power depend on private men, or subordinate Judges. As for example, *That the Common Law, hath no Controuler but the Parlament;* which is true onely where a Parlament has the Soveraign Power, and cannot be assembled, nor dissolved, but by their own discretion. For if there be a right in any else to dissolve them, there is a right also to controule them, and consequently to controule their controulings. And if there be no such right, then the Controuler of Lawes is not *Parlamentum,* but *Rex in Parlamento.* And where a Parlament is Soveraign, if it should assemble never so many, or so wise men, from the Countries subject to them, for whatsoever cause; yet there is no man will believe, that such an Assembly hath thereby acquired to themselves a Legislative Power. *Item,* that the two arms of a Common-wealth, *are Force, and Justice; the first whereof is in the King; the other deposited in the hands of the Parlament.* As if a Common-wealth could consist, where the Force were in any hand, which Justice had not the Authority to command and govern.

[Reason]

7. That Law can never be against Reason, our Lawyers are agreed; and that not the Letter, (that is, every construction of it,) but that which is according to the Intention of the Legislator, is the Law. And it is true: but the doubt is, of whose Reason it is, that shall be received for Law. It is not meant of any private Rea-

son; for then there would be as much contradiction in the Lawes, as there is in the Schooles, nor yet, (as Sr. *Ed Coke* makes it,) an *Artificiall perfection of Reason, gotten by long study, observation, and experience,* (as his was.) For it is possible long study may encrease, and confirm erroneous Sentences and where *men build on false grounds, the more* they build, the greater is the ruine and of those that study, and observe with equall time, and diligence, the reasons and resolutions are, and must remain discordant and therefore it is not that *Juris prudentia,* or wisedome of subordinate Judges, but the Reason of this our Artificiall Man the Common wealth, and his Command, that maketh Law And the Common wealth being in their Representative but one Person, there cannot easily arise any contradiction in the Lawes, and when there doth, the same Reason is able, by interpretation or alteration, to take it away In all Courts of Justice, the Soveraign (which is the Person of the Common wealth,) is he that Judgeth The subordinate Judge, ought to have regard to the reason, which moved his Soveraign to make such Law, that his Sentence may be according thereunto, which then is his Soveraigns Sentence, otherwise it is his own, and an unjust one

[Subjects of Law]

8. From this, that the Law is a Command, and a Command consisteth in declaration, or manifestation of the will of him that commandeth, by voyce, writing, or some other sufficient argument of the same, we may understand, that the Command of the Common wealth, is Law onely to those, that have means to take notice of it Over naturall fooles, children, or mad men there is no Law, no more than over brute beasts, nor are they capable of the title of just, or unjust, because they had never power to make any covenant, or to understand the consequences thereof, and consequently never took upon them to authorise the actions of any Soveraign, as they must do that make to themselves a Common wealth And as those from whom Nature, or Accident hath taken away the notice of all Lawes in generall; so also every man, from whom any accident, not proceeding from his own default, hath taken away the means to take notice of any particular *Law, is excused, if he observe it not; And* to speak properly, that law is no Law to him

. . . . .

Nor is it enough the Law be written, and published, but also that there be manifest signs, that it proceedeth from the will of the Soveraign For private men, when they have, or think they have force enough to secure their unjust designes, and convoy them safely to their ambitious ends, may publish for Lawes what they please, without, or against the Legislative Authority There is therefore requisite, not only a Declaration of the Law, but also sufficient signes of the Author, and Authority. The Author, or Legislator is supposed in every Common-wealth to be evident, because he is the Soveraign, who having been Constituted by the consent of every one, is supposed by every one to be sufficiently known And though the ignorance, and security *of men be such, for the most part, as* that when the memory of the first Constitution of their Common-wealth is worn out, they doe not consider, by whose power they use to be defended against their enemies, and to have their industry protected, and to be righted when injury is done them, yet because no man that considers, can make question of it, no excuse can be derived from the ignorance of where the Soveraignty is placed And it is a Dictate of Naturall Reason, and consequently an evident Law of Nature, that no man ought to weaken that power, the protection whereof he hath himself demanded, or wittingly received against others. Therefore of who is Soveraign, no man, but by his own fault, (whatsoever evill men suggest,) can make any doubt.

The difficulty consisteth in the evidence of the Authority derived from him; The removing whereof, dependeth on the knowledge of the publique Registers, publique Counsels, publique Ministers, and publique Seales; by which all Lawes are sufficiently verified; Verifyed, I say, not Authorised: for the Verification, is but the Testimony and Record; not the Authority of the Law; which consisteth in the Command of the Soveraign only.

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[Rebellion]

All Punishments of Innocent subjects, be they great or little, are against the Law of Nature: For Punishment is only for Transgression of the Law, and therefore there can be no Punishment of the Innocent. It is therefore a violation, First, of that Law of Nature, which forbiddeth all men, in their Revenges, to look at any thing but some future good: For there can arrive no good to the Common-wealth by Punishing the Innocent. Secondly, of that, which forbiddeth Ingratitude: For seeing all Soveraign Power, is originally given by the consent of every one of the Subjects, to the end they should as long as they are obedient, be protected thereby; the Punishment of the Innocent, is a rendring of Evill for Good. And thirdly, of the Law that commandeth Equity; that is to say, an equall distribution of Justice; which in Punishing the Innocent is not observed.

But the Infliction of what evill soever, on an Innocent man, that is not a Subject, if it be for the benefit of the Common-wealth, and without violation of any former Covenant, is no breach of the Law of Nature. For all men that are not Subjects, are either Enemies, or else they have ceased from being so, by some precedent covenants. But against Enemies, whom the Commonwealth judgeth capable to do them hurt, it is lawfull by the originall Right of Nature to make warre; wherein the Sword Judgeth not, nor doth the Victor make distinction of Nocent, and Innocent, as to the time past; nor has other respect of mercy, than as it conduceth to the good of his own People. And upon this ground it is, that also in Subjects, who deliberately deny the Authority of the Common-wealth established, the vengeance is lawfully extended, not onely to the Fathers, but also to the third and fourth generation not yet in being, and consequently innocent of the fact, for which they are afflicted: because the nature of this offence, consisteth in the renouncing of subjection; which is a relapse into the condition of warre, commonly called Rebellion; and they that so offend, suffer not as Subjects, but as Enemies. For *Rebellion*, is but warre renewed.

. . . . .

Hitherto I have set forth the nature of Man; (whose Pride and other Passions have compelled him to submit himselfe to Government;) together with the great power of his Governour, whom I compared to *Leviathan*, taking that comparison out of the two last verses of the one and fortieth of *Job*; where God having set forth the great power of *Leviathan*, called him King of the Proud. *There is nothing*, saith he, *on earth, to be compared with him. He is made so as not to be afraid. Hee seeth every high thing below him; and is King of all the children of pride.* But because he is mortall, and subject to decay, as all other Earthly creatures are; and because there is that in heaven, (though not on earth) that he should stand in fear of, and whose Lawes he ought to obey; I shall in the next following Chapters speak of his Diseases, and the causes of his Mortality; and of what Lawes of Nature he is bound to obey.

CHAPTER XXIX

[Causes of Dissolution]

Though nothing can be immortall, which mortals make; yet, if men had the

use of reason they pretend to, their Common-wealths might be secured, at least, from perishing by internall diseases. For by the nature of their Institution, they are designed to live, as long as Man-kind, or as the Lawes of Nature, or as Justice it selfe, which gives them life. Therefore when they come to be dissolved, not by externall violence, but intestine disorder, the fault is not in men, as they are the *Matter*; but as they are the *Makers*, and orderers of them. For men, as they become at last weary of irregular justling, and hewing one another, and desire with all their hearts, to conforme themselves into one firme and lasting edifice; so for want, both of the art of making fit Lawes, to square their actions by, and also of humility, and patience, to suffer the rude and combersome points of their present greatnesse to be taken off, they cannot without the help of a very able Architect, be compiled, into any other than a crasie building, such as hardly lasting out their own time, must assuredly fall upon the heads of their posterity.

Amongst the *Infirmities* therefore of a Common-wealth, I will reckon in the first place, those that arise from an Imperfect Institution, and resemble the diseases of a naturall body, which proceed from a Defectuous Procreation.

[Weakness]

Of which, this is one, *That a man to obtain a Kingdome, is sometimes content with lesse Power, than to the Peace, and defence of the Common-wealth is necessarily required*. From whence it commeth to passe, that when the exercise of the Power layd by, is for the publique safety to be resumed, it hath the resemblance of an unjust act; which disposeth great numbers of men (when occasion is presented) to rebell; In the same manner as the bodies of children, gotten by diseased parents, are subject either to untimely death, or to purge the ill quality, derived from their vicious conception, by breaking out into biles and scabbs. And when Kings deny themselves some such necessary Power, it is not alwayes (though sometimes) out of ignorance of what is necessary to the office they undertake; but many times out of a hope to recover the same again at their pleasure: Wherein they reason not well; because such as will hold them to their promises, shall be maintained against them by forraign Common-wealths; who in order to the good of their own Subjects let slip few occasions to *weaken* the estate of their Neighbours. So was *Thomas Becket* Archbishop of *Canterbury*, supported against *Henry* the Second, by the Pope; the subjection of Ecclesiastiques to the Common-wealth, having been dispensed with by *William the Conquerour* at his reception, when he took an Oath, not to infringe the liberty of the Church. And so were the *Barons*, whose power was by *William Rufus* (to have their help in transferring the Succession from his Elder brother, to himselfe,) encreased to a degree, inconsistent with the Soveraign Power, maintained in their Rebellion against King *John*, by the French.

Nor does this happen in Monarchy onely. For whereas the stile of the antient Roman Common-wealth, was, *The Senate, and People of Rome*; neither Senate, nor People pretended to the whole Power; which first caused the seditions, of *Tiberius Gracchus, Caius Gracchus, Lucius Saturninus*, and others; and afterwards the warres between the Senate and the People, under *Marius* and *Sylla;* and again under *Pompey* and *Cæsar*, to the Extinction of their Democraty, and the setting up of Monarchy.

The people of *Athens* bound themselves but from one onely Action; which was, that no man on pain of death should propound the renewing of the warre for the Islands of *Salamis*; And yet thereby, if *Solon* had not caused to be given out he was mad, and afterwards in gesture and habit of a mad-man, and in verse, propounded it to the People that flocked about him, they had had an enemy perpetually in readinesse, even at the gates

of their Citie; such dammage, or shifts, are all Common-wealths forced to, that have their Power never so little limited

[Private Judgment of Good and Evil]

In the second place, I observe the *Diseases* of a Common wealth, that proceed from the poyson of seditious doctrines whereof one is, *That every private man is Judge of Good and Evill actions* This is true in the condition of meer Nature, where there are no Civill Lawes, and also under Civill Government, in such cases as are not determined by the Law But otherwise, it is manifest, that the measure of Good and Evill actions, is the Civill Law, and the Judge the Legislator, who is always Representative of the Common wealth From this false doctrine, men are disposed to debate with themselves, and dispute the commands of the Common wealth, and afterwards to obey or disobey them, as in their private judgements they shall think fit Whereby the Common wealth is distracted and *Weakened*

Another doctrine repugnant to Civill Society is, that *whatsoever a man does against his Conscience, is Sinne* and it dependeth on the presumption of making himself judge of Good and Evill For a mans Conscience, and his Judgement is the same thing, and as the Judgement, so also the Conscience may be erroneous Therefore, though he that is subject to no Civill Law, sinneth in all he does against his Conscience, because he has no other rule to follow but his own reason, yet it is not so with him that lives in a Common wealth, because the Law is the publique Conscience, by which he hath already undertaken to be guided Otherwise in such diversity, as there is of private Consciences, which are but private opinions, the Common wealth must needs be distracted, and no man dare to obey the Soveraign Power, farther than it shall seem good in his own eyes

It hath been also commonly taught, *That Faith and Sanctity, are not to be attained by Study and Reason, but by supernaturall Inspiration or Infusion,* which granted, I see not why any man should render a reason of his Faith, or why every Christian should not be also a Prophet or why any man should take the Law of his Country, rather than his own Inspiration, for the rule of his action And thus wee fall again into the fault of taking upon us to Judge of Good and Evill, or to make Judges of it such private men as pretend to be supernaturally Inspired, to the Dissolution of all Civill Government Faith comes by hearing and hearing by those accidents, which guide us into the presence of them that speak to us which accidents are all contrived by God Almighty and yet are not supernaturall, but onely for the great number of them that concurre to every effect, unobservable Faith and Sanctity, are indeed not very frequent but yet they are not Miracles but brought to passe by education, discipline, correction and other naturall waves, by which God worketh them in his elect, at such time as he thinketh fit And these three opinions, pernicious to Peace and Government, have in this part of the world, proceeded chiefly from the tongues, and pens of unlearned Divines who joyning the words of Holy Scripture together, otherwise than is agreeable to reason, do what they can, to make men think, that Sanctity and Natural Reason, cannot stand together

[Sovereign under Law]

A fourth opinion, repugnant to the nature of a Common wealth, is this, *That he that hath the Soveraign Power, is subject to the Civill Lawes* It is true, that Soveraigns are all subject to the Lawes of Nature, because such lawes be Divine, and cannot by any man, or Common wealth be abrogated. But to those Lawes which the Soveraign himselfe, that is, which the Common-wealth maketh, he is not subject For to be subject to Lawes, is to be subject to the Common wealth,

that is to the Soveraign Representative, that is to himselfe, which is not subjection, but freedome from the Lawes Which errour, because it setteth the Lawes above the Soveraign, setteth also a Judge above him, and a Power to punish him, which is to make a new Soveraign, and again for the same reason a third, to punish the second and so continually without end, to the Confusion, and Dissolution of the Common wealth

[Absolute Property Rights]

A Fifth doctrine, that tendeth to the Dissolution of a Common wealth is, *That every private man has an absolute Propriety in his Goods, such, as excludeth the Right of the Soveraign* Every man has indeed a Propriety that excludes the Right of every other Subject And he has it onely from the Soveraign Power, without the protection whereof, every other man should have equall Right to the same But if the Right of the Soveraign also be excluded, he cannot performe the office they have put him into which is, to defend them both from forraign enemies, and from the injuries of one another, and consequently there is no longer a Common wealth

And if the Propriety of Subjects, exclude not the Right of the Soveraign Representatives to their Goods much lesse to their offices of Judicature, or Execution, in which they Represent the Soveraign himselfe

[Division of Power]

There is a Sixth doctrine plainly, and directly against the essence of a Common wealth, and 'tis this, *That the Soveraign Power may be divided* For what is it to divide the Power of a Common wealth, but to Dissolve it, for Powers divided mutually destroy each other And for these doctrines, men are chiefly beholding to some of those, that making profession of the Lawes, endeavour to make them depend upon their own learning, and not upon the Legislative Power

[Dangers from Antiquity]

And as False Doctrine, so also often times the Example of different Government in a neighbouring Nation, disposeth men to alteration of the forme already setled So the people of the Jewes were stirred up to reject God, and to call upon the Prophet *Samuel*, for a King after the manner of the Nations So also the lesser Cities of *Greece*, were continually disturbed, with seditions of the Aristocraticall, and Democraticall factions one part of almost every Common wealth, desiring to imitate the Lacedæmonians, the other, the Athenians And I doubt not, but many men, have been contented to see the late troubles in *England*, out of an imitation of the Low Countries, supposing there needed no more to grow rich, than to change, as they had done, the forme of their Government For the constitution of mans nature, is of it selfe subject to desire novelty When therefore they are provoked to the same, by the neighbourhood also of those that have been enriched by it, it is almost impossible for them, not to be content with those that solicite them to change, and love the first beginnings, though they be grieved with the continuance of disorder, like hot bloods, that having gotten the itch, tear themselves with their own nayles, till they can endure the smart no longer

[Greeks and Romans]

And as to Rebellion in particular against Monarchy, one of the most frequent causes of it, is the Reading of the books of Policy, and Histories of the antient Greeks, and Romans, from which, young men, and all others that are unprovided of the Antidote of solid Reason, receiving a strong, and delightfull impression, of the great exploits of warre, achieved by the Conductors of their Armies, receive withall a pleasing Idea,

of all they have done besides, and imagine their great prosperity, not to have proceeded from the æmulation of particular men, but from the vertue of their popular forme of government Not considering the frequent Seditions, and Civill warres, produced by the imperfection of their Policy From the reading, I say, of such books, men have undertaken to kill their Kings, because the Greek and Latine writers, in their books, and discourses of Policy, make it lawfull, and laudable, for any man so to do provided before he do it, he call him Tyrant For they say not *Regicide*, that is, killing of a King but *Tyrannicide*, that is, killing of a Tyrant is lawfull From the same books, they that live under a Monarch conceive an opinion, that the Subjects in a Popular Commonwealth enjoy Liberty but that in a Monarchy they are all Slaves I say, they that live under a Monarchy conceive such an opinion, not they that live under a Popular Government for they find no such matter In summe, I cannot imagine, how any thing can be more prejudiciall to a Monarchy, than the allowing of such books to be publikely read, without prescnt applying such correctives of discreet Masters, as are fit to take away their Venime Which Venime I will not doubt to compare to the biting of a mad Dogge which is a disease the Physicians call *Hydrophobia*, or *feare of Water* For as he that is so bitten, has a continuall torment of thirst, and yet abhorreth water, and is in such an estate, as if the poyson endeavoureth to convert him into a Dogge So when a Monarchy is once bitten to the quick, by those Democraticall writers, that continually snarle at that estate, it wanteth nothing more than a strong Monarch, which nevertheless out of a certain *Tyrannophobia*, or feare of being strongly governed, when they have him, they abhorre

[CHRISTIANITY]

As there have been Doctors, that hold there be three Soules in a man: so there be also that think there may be more Soules, (that is, more Soveraigns,) than one, in a Common wealth, and set up a *Supremacy* against the *Soveraignty*, *Canons* against *Lawes*, and a *Ghostly Authority* against the *Civill*, working on mens minds, with words and distinctions, that of themselves signifie nothing but bewray (by their obscurity) that there walketh (as some think invisibly) another Kingdome, as it were a Kingdome of Fayries, in the dark Now seeing it is manifest, that the Civill Power and the Power of the Common wealth is the same thing, and that Supremacy, and the Power of making Canons, and granting Faculties implyeth a Common wealth, it followeth that where one is Soveraign another Supreme where one can make Lawes, and another make Canons there must needs be two Common wealths, of one & the same Subjects, which is a kingdome divided in it selfe, and cannot stand For notwithstanding the insignificant distinction of *Temporall* and *Ghostly* they are still two Kingdomes and every Subject is subject to two Masters For seeing the *Ghostly* Power challengeth the Right to declare what is Sinne it challengeth by consequence to declare what is Law, (Sinne being nothing but the transgression of the Law) and again the Civill Power challenging to declare what is Law, every Subject must obey two Masters, who both will have their Commands be observed as Law, which is impossible Or, if it be but one Kingdome either the *Civill*, which is the Power of the Common wealth, must be subordinate to the *Ghostly*, and then there is no Soveraignty but the *Ghostly*, or the *Ghostly* must be subordinate to the *Temporall* and then there is no *Supremacy* but the *Temporall* When therefore these two Powers oppose one another, the Common wealth cannot but be in great danger of Civill warre, and Dissolution For the *Civill* Authority being more visible, and standing in the cleerer light of naturall reason, cannot choose but draw to it in all times a very considerable part of the

people: And the *Spirituall*, though it stand in the darknesse of Schoole distinctions, and hard words; yet because the fear of Darknesse, and Ghosts, is greater than other fears, cannot want a party sufficient to Trouble, and sometimes to Destroy a Common-wealth. And this is a Disease which not unfitly may be compared to the Epilepsie, or Falling-sicknesse (which the Jewes took to be one kind of possession by Spirits) in the Body Naturall. For as in this Disease, there is an unnaturall spirit, or wind in the head that obstructeth the roots of the Nerves, and moving them violently, taketh away the motion which naturally they should have from the power of the Soule in the Brain, and thereby causeth violent, and irregular motions (which men call Convulsions) *in* the parts; *insomuch* as he that is seized therewith, falleth down sometimes into the water, and sometimes into the fire, as a man deprived of his senses; so also in the Body Politique, when the spirituall power, moveth the Members of a Common-wealth, by the terrour of punishments, and hope of rewards (which are the Nerves of it,) otherwise than by the Civill Power (which is the Soule of the Common-wealth) they ought to be moved; and by strange, and hard words suffocates their understanding, it must needs thereby Distract the people, and either Overwhelm the Common-wealth with Oppression, or cast it into the Fire of a Civill warre.

[Political Monsters]

Sometimes also in the meerly Civill government, there be more than one Soule: As when the Power of levying mony, (which is the Nutritive faculty,) has depended on a generall Assembly; the Power of conduct and command, (which is the Motive faculty,) on one man; and the Power of making Lawes, (which is the Rationall faculty,) on the accidentall consent, not onely of those two, but also of a third; This endangereth the Common-wealth, somtimes for want of consent to good Lawes; but most often for want of such Nourishment, as is necessary to Life, and Motion. For although few perceive, that such government, is not government, but division of the Common-wealth into three Factions, and call it mixt Monarchy; yet the truth is, that it is not one independent Common-wealth, but three independent Factions; nor one Representative Person, but three. In the Kingdome of God, there may be three Persons independent, without breach of unity in God that Reigneth; but where men Reigne, that be subject to diversity of opinions, it cannot be so. And therefore if the King bear the person of the People, and the generall Assembly bear also the person of the People, and another Assembly bear the person of a Part of the people, they are not one Person, nor one Soveraign, but three Persons, and three Soveraigns.

To what Disease in the Naturall Body of man I may exactly compare this irregularity of a Common-wealth, I know not. But I have seen a man, that had another man growing out of his side, with an head, armes, breast, and stomach, of his own: If he had had another man growing out of his other side, the comparison might then have been exact.

[Preparation for War]

Hitherto I have named such Diseases of a Common-wealth, as are of the greatest, and most present danger. There be other, not so great: which nevertheless are not unfit to be observed. At first, the difficulty of raising Mony, for the necessary uses of the Common-wealth; especially in the approach of warre. This difficulty ariseth from the opinion, that every Subject hath of a Propriety in his lands and goods, exclusive of the Soveraigns Right to the use of the same. From whence it commeth to passe, that the Soveraign Power, which foreseeth the necessities and dangers of the Common-wealth, (finding the passage of mony to the publique Treasure obstructed, by the tenacity of the people,) whereas it

ought to extend it selfe, to encounter, and prevent such dangers in their beginnings, contracteth it selfe as long as it can, and when it cannot longer, struggles with the people by stratagems of Law, to obtain little summes, which not sufficing, he is fain at last violently to open the way for present supply, or Perish; and being put often to these extremities, at last reduceth the people to their due temper; or else the Common-wealth must perish. Insomuch as we may compare this Distemper very aptly to an Ague; wherein, the fleshy parts being congealed, or by venomous matter obstructed; the Veins which by their naturall course empty themselves into the Heart, are not (as they ought to be) supplyed from the Arteries, whereby there succeedeth at first a cold contraction, and trembling of the limbes; and afterwards a hot, and strong endeavour of the Heart, to force a passage for the Bloud; and before it can do that, contenteth it selfe with the small refreshments of such things as coole for a time, till (if Nature be strong enough) it break at last the contumacy of the parts obstructed, and dissipateth the venome into sweat; or (if Nature be too weak) the Patient dyeth.

[Excessive Wealth]

Again, there is sometimes in a Common-wealth, a Disease, which resembleth the Pleurisie; and that is, when the Treasure of the Common-wealth, flowing out of its due course, is gathered together in too much abundance in one, or a few private men, by Monopolies, or by Farmes of the Publique Revenues; in the same manner as the Blood in a Pleurisie, getting into the Membrane of the breast, breedeth there an Inflammation, accompanied with a Fever, and painfull stitches.

[Caesarism]

Also, the Popularity of a potent Subject, (unlesse the Common-wealth have very good caution of his fidelity,) is a dangerous Disease; because the people (which should receive their motion from the Authority of the Soveraign,) by the flattery, and by the reputation of an ambitious man, are drawn away from their obedience to the Lawes, to follow a man, of whose vertues, and designes they have no knowledge. And this is commonly of more danger in a Popular Government, than in a Monarchy; because an Army is of so great force, and multitude, as it may easily be made believe, they are the People. By this means it was, that *Julius Cæsar*, who was set up by the People against the Senate, having won to himselfe the affections of his Army, made himselfe Master, both of Senate and People. And this proceeding of popular, and ambitious men, is plain Rebellion; and may be resembled to the effects of Witchcraft.

[Corporations]

Another infirmity of a Common-wealth, is the immoderate greatnesse of a Town, when it is able to furnish out of its own Circuit, the number, and expence of a great Army: As also the great number of Corporations; which are as it were many lesser Common-wealths in the bowels of a greater, like wormes in the entrayles of a naturall man. To which may be added, the Liberty of Disputing against absolute Power, by pretenders to Politicall Prudence; which though bred for the most part in the Lees of the people; yet animated by False Doctrines, are perpetually medling with the Fundamentall Lawes, to the molestation of the Common-wealth; like the little Wormes, which Physicians call *Ascarides*.

We may further adde, the insatiable appetite, or *Bulimia*, of enlarging Dominion; with the incurable *Wounds* thereby many times received from the enemy; And the *wens*, of united conquests, which are many times a burthen, and with lesse danger lost, than kept; As also the *Lethargy* of Ease, and *Consumption* of Riot and Vain Expence.

Lastly, when in a warre (forraign, or intestine,) the enemies get a finall Victory; so as (the forces of the Common-wealth keeping the field no longer) there is no farther protection of Subjects in their loyalty; then is the Common-wealth DISSOLVED, and every man at liberty to protect himselfe by such courses as his own discretion shall suggest unto him. For the Soveraign, is the publique Soule, giving Life and Motion to the Common-wealth; which expiring, the Members are governed by it no more, than the Carcase of a man, by his departed (though Immortall) Soule. For though the Right of a Soveraign Monarch cannot be extinguished by the act of another; yet the Obligation of the members may. For he that wants protection, may seek it any where; and when he hath it, is obliged (without fraudulent pretence of having submitted himselfe out of feare,) to protect his Protection as long as he is able. But when the Power of an Assembly is once suppressed, the Right of the same perisheth utterly; because the Assembly it selfe is extinct; and consequently, there is no possibility for the Soveraignty to re-enter.

CHAPTER XXX

[SOVEREIGN AS EDUCATOR AND BENEFACTOR]

The Office of the Soveraign, (be it a Monarch, or an Assembly,) consisteth in the end, for which he was trusted with the Soveraign Power, namely the procuration of *the safety of the people*; to which he is obliged by the Law of Nature, and to render an account thereof to God, the Author of that Law, and to none but him. But by Safety here, is not meant a bare Preservation, but also all other Contentments of life, which every man by lawfull Industry, without danger, or hurt to the Common-wealth, shall acquire to himselfe.

And this is intended should be done, not by care applyed to Individualls, further than their protection from injuries, when they shall complain; but by a generall Providence, contained in publique Instruction, both of Doctrine, and Example; and in the making, and executing of good Lawes, to which individuall persons may apply their own cases.

And because, if the essentiall Rights of Soveraignty (specified before in the eighteenth Chapter) be taken away, the Common-wealth is thereby dissolved, and every man returneth into the condition, and calamity of a warre with every other man, (which is the greatest evill that can happen in this life;) it is the Office of the Soveraign, to maintain those Rights entire; and consequently against his duty, First, to transferre to another, or to lay from himselfe any of them. For he that deserteth the Means, deserteth the Ends; and he deserteth the Means, that being the Soveraign, acknowledgeth himselfe subject to the Civill Lawes; and renounceth the Power of Supreme Judicature; or of making Warre, or Peace by his own Authority; or of Judging of the Necessities of the Common-wealth; or of levying Mony, and Souldiers, when, and as much as in his own conscience he shall judge necessary; or of making Officers, and Ministers both of Warre, and Peace; or of appointing Teachers, and examining what Doctrines are conformable, or contrary to the Defence, Peace, and Good of the people. Secondly, it is against his Duty, to let the people be ignorant, or mis-informed of the grounds, and reasons of those his essentiall Rights; because thereby men are easie to be seduced, and drawn to resist him, when the Common-wealth shall require their use and exercise.

And the grounds of these Rights, have the rather need to be diligently, and truly taught; because they cannot be maintained by any Civill Law, or terrour of legall punishment. For a Civill Law, that shall forbid Rebellion (and such is all resistance to the essential Rights of Soveraignty,) is not (as a Civill Law) any obligation, but by vertue onely of the Law of Nature, that forbiddeth the viola-

tion of Faith; which naturall obligation if men know not, they cannot know the Right of any Law the Soveraign maketh And for the Punishment, they take it but for an act of Hostility, which when they think they have strength enough, they will endeavour by acts of Hostility, to avoyd.

[Inquiry and Progress]

As I have heard some say, that Justice is but a word, without substance, and that whatsoever a man can by force, or act, acquire to himselfe, (not onely in the condition of warre, but also in a Common wealth,) is his own which I have already shewed to be false So there be also that maintain that there are no grounds nor Principles of Reason to sustain those essentiall Rights, which make Soveraignty absolute For if there were they would have been found out in some place, or other whereas we see there has not hitherto been any Common wealth where those Rights have been acknowledged, or challenged Wherein they argue as ill, as if the Savage people of America should deny there were any grounds, or Principles of Reason, so to build a house, as to last as long as the materials, because they never yet saw any so well built Time, and Industry produce every day new knowledge And as the art of well building, is derived from Principles of Reason observed by industrious men, that had long studied the nature of materials, and the divers effects of figure and proportion, long after mankind began (though poorly) to build So, long time after men have begun to constitute Common wealths, imperfect, and apt to relapse into disorder, there may Principles of Reason be found out, by industrious meditation, to make their constitution (excepting by externall violence) everlasting And such are those which I have in this discourse set forth. Which whether they come not into the sight of those that have Power to make use of them, or be neglected by them, or not, concerneth my particular interest, at this day, very little But supposing that these of mine are not such Principles of Reason, yet I am sure they are Principles from Authority of Scripture, as I shall make it appear when I shall come to speak of the Kingdome of God, (administred by *Moses*,) over the Jewes, his peculiar people by Covenant

[Common People's Capacity]

But they say again, that though the Principles be right, yet Common people are not of capacity enough to be made to understand them I should be glad, that the Rich, and Potent Subjects of a Kingdome, or those that are accounted the most Learned, were no lesse incapable than they But all men know, that the obstructions to this kind of doctrine, proceed not so much from the difficulty of the matter, as from the interest of them that are to learn Potent men, digest hardly any thing that setteth up a Power to bridle their affections and Learned men, any thing that discovereth their errours, and thereby lesseneth their Authority whereas the Common peoples minds, unlesse they be tainted with dependence on the Potent, or scribbled over with the opinions of their Doctors, are like clean paper, fit to receive whatsoever by Publique Authority shall be imprinted in them Shall whole Nations be brought to *acquiesce* in the great Mysteries of Christian Religion, which are above Reason and millions of men be made believe, that the same Body may be in innumerable places, at one and the same time, which is against Reason, and shall not men be able, by their teaching, and preaching, protected by the Law, to make that received, which is so consonant to Reason, that any unprejudicated man, needs no more to learn it, than to hear it? I conclude therefore, that in the instruction of the people in the Essential Rights (which are the Naturall, and Fundamentall Lawes) of Soveraignty, there is no difficulty, (whilest a Soveraign has

his Power entire,) but what proceeds from his own fault, or the fault of those whom he trusteth in the administration of the Common-wealth; and consequently, it is his Duty, to cause them so to be instructed; and not onely his Duty, but his Benefit also, and Security, against the danger that may arrive to himselfe in his naturall Person, from Rebellion.

[Obedience and Concord]

And (to descend to particulars) the People are to be taught, First, that they ought not to be in love with any forme of Government they see in their neighbour Nations, more than with their own, nor (whatsoever present prosperity they behold in Nations that are otherwise governed than they,) to desire change. For the prosperity of a People ruled by an Aristocraticall, or Democraticall assembly, commeth not from Aristocracy, nor from Democracy, but from the Obedience, and Concord of the Subjects: nor do the people flourish in a Monarchy, because one man has the right to rule them, but because they obey him. Take away in any kind of State, the Obedience, (and consequently the Concord of the People,) and they shall not onely not flourish but in short time be dissolved. And they that go about by disobedience, to doe no more than reforme the Common-wealth, shall find they do thereby destroy it; like the foolish daughters of *Peleus* (in the fable;) which desiring to renew the youth of their decrepit Father, did by the Counsell of *Medea*, cut him in pieces, and boyle him, together with strange herbs, but made not of him a new man. This desire of change, is like the breach of the first of Gods Commandements: For there God sayes, *Non habebis Deos alienos*; Thou shalt not have the Gods of other Nations; and in another place concerning *Kings*, that they are *Gods*.

Secondly, they are to be taught, that they ought not to be led with admiration of the vertue of any of their fellow Subjects, how high soever he stand, nor how conspicuously soever he shine in the Common-wealth; nor of any Assembly, (except the Soveraign Assembly,) so as to deferre to them any obedience, or honour, appropriate to the Soveraign onely, whom (in their particular stations) they represent; nor to receive any influence from them, but such as is conveighed by them from the Soveraign Authority. For that Soveraign, cannot be imagined to love his People as he ought, that is not Jealous of them, but suffers them by the flattery of Popular men, to be seduced from their loyalty, as they have often been, not onely secretly, but openly, so as to proclaime Marriage with them *in facie Ecclesiæ* by Preachers; and by publishing the same in the open streets: which may fitly be compared to the violation of the second of the ten Commandements.

Thirdly, in consequence to this, they ought to be informed, how great a fault it is, to speak evill of the Soveraign Representative, (whether One man, or an Assembly of men;) or to argue and dispute his Power, or any way to use his Name irreverently, whereby he may be brought into Contempt with his People, and their Obedience (in which the safety of the Common-wealth consisteth) slackened. Which doctrine the third Commandement by resemblance pointeth to.

[Time for Teaching]

Fourthly, seeing people cannot be taught this, nor when 'tis taught, remember it, nor after one generation past, so much as know in whom the Soveraign Power is placed, without setting a part from their ordinary labour, some certain times, in which they may attend those that are appointed to instruct them; It is necessary that some such times be determined, wherein they may assemble together, and (after prayers and praises given to God, the Soveraign of Soveraigns) hear those their Duties told them, and the Positive Lawes, such as generally concern them all, read and expounded, and be put in mind of the Authority that

maketh them Lawes. To this end had the *Jewes* every seventh day, a *Sabbath*, in which the Law was read and expounded; and in the solemnity whereof they were put in mind, that their King was God; that having created the world in six dayes, he rested the seventh day; and by their resting on it from their labour, that that God was their King, which redeemed them from their servile, and painfull labour in *Egypt*, and gave them a time. after they had rejoyced in God, to take joy also in themselves, by lawfull recreation. So that the first Table of the Commandements, is spent all, in setting down the summe of Gods absolute Power; not onely as God, but as King by pact, (in peculiar) of the Jewes; and may therefore give light, to those that have Soveraign Power conferred on them by the consent of men, to see what doctrine they Ought to teach their Subjects.

[Family]

And because the first instruction of Children, dependeth on the care of their Parents; it is necessary that they should be obedient to them, whilest they are under their tuition; and not onely so, but that also afterwards (as gratitude requireth,) they acknowledge the benefit of their education, by externall signes of honour. To which end they are to be taught, that originally the Father of every man was also his Soveraign Lord, with power over him of life and death; and that the Fathers of families, when by instituting a Common-wealth, they resigned that absolute Power, yet it was never intended, they should lose the honour due unto them for their education. For to relinquish such right, was not necessary to the Institution of Soveraign Power; nor would there be any reason, why any man should desire to have children, or take the care to nourish, and instruct them, if they were afterwards to have no other benefit from them, than from other men. And this accordeth with the fifth Commandement.

[The Commandments]

Again, every Soveraign Ought to cause Justice to be taught, which (consisting in taking from no man what is his,) is as much as to say, to cause men to be taught not to deprive their Neighbours, by violence, or fraud, of any thing which by the Soveraign Authority is theirs. Of things held in propriety, those that are dearest to a man are his own life, & limbs; and in the next degree (in most men,) those that concern conjugall affection: and after them riches and means of living. Therefore the People are to be taught, to abstain from violence to one anothers person, by private revenges; from violation of conjugall honour; and from forcible rapine, and fraudulent surreption of one anothers goods. For which purpose also it is necessary they be shewed the evill consequences of false Judgement, by corruption either of Judges or Witnesses, whereby the distinction of propriety is taken away, and Justice becomes of no effect: all which things are intimated in the sixth, seventh, eighth, and ninth Commandements.

Lastly, they are to be taught, that not onely the unjust facts, but the designes and intentions to do them, (though by accident hindred,) are Injustice; which consisteth in the pravity of the will, as well as in the irregularity of the act. And this is the intention of the tenth Commandement, and the summe of the second Table; which is reduced all to this one Commandement of mutuall Charity, *Thou shalt love thy neighbour as thy selfe:* as the summe of the first Table is reduced to *the love of God*; whom they had then newly received as their King.

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[Equality before the Law]

The safety of the People, requireth further, from him, or them that have the Soveraign Power, that Justice be equally

administred to all degrees of People; that is, that as well the rich, and mighty, as poor and obscure persons, may be righted of the injuries done them; so as the great, may have no greater hope of impunity, when they doe violence, dishonour, or any Injury to the meaner sort, than when one of these, does the like to one of them: For in this consisteth Equity; to which, as being a Precept of the Law of Nature, a Soveraign is as much subject, as any of the meanest of his People. All breaches of the Law, are offences against the Commonwealth: but there be some. that are also against private Persons. Those that concern the Common-wealth onely, may without breach of Equity be pardoned; for every man may pardon what is done against himselfe, according to his own discretion. But an offence against a private man, cannot in Equity be pardoned, without the consent of him that is injured; or reasonable satisfaction.

The Inequality of Subjects, proceedeth from the Acts of Soveraign Power; and therefore has no more place in the presence of the Soveraign; that is to say, in a Court of Justice, then the Inequality between Kings, and their Subjects, in the presence of the King of Kings. The honour of great Persons, is to be valued for their beneficence, and the aydes they give to men of inferiour rank, or not at all. And the violences, oppressions, and injuries they do, are not extenuated, but aggravated by the greatnesse of their persons; because they have least need to commit them. The consequences of this partiality towards the great, proceed in this manner. Impunity maketh Insolence; Insolence Hatred; and Hatred, and Endeavour to pull down all oppressing and contumelious greatnesse, though with the ruine of the Common-wealth.

[Consumption Taxes]

To Equall Justice, appertaineth also the Equall imposition of Taxes; the Equality whereof dependeth not on the Equality of riches, but on the Equality of the debt, that every man oweth to the Common-wealth for his defence. It is not enough, for a man to labour for the maintenance of his life; but also to fight, (if need be,) for the securing of his labour. They must either do as the Jewes did after their return from captivity, in re-edifying the Temple, build with one hand, and hold the Sword in the other; or else they must hire others to fight for them. For the Impositions, that are layd on the People by the Soveraign Power, are nothing else but the Wages, due to them that hold the publique Sword, to defend private men in the exercise of severall Trades, and Callings. Seeing then the benefit that every one receiveth thereby, is the enjoyment of life, which is equally dear to poor, and rich; the debt which a poor man oweth them that defend his life, is the same which a rich man oweth for the defence of his; saving that the rich, who have the service of the poor, may be debtors not onely for their own persons, but for many more. Which considered, the Equality of Imposition, consisteth rather in the Equality of that which is consumed, than of the riches of the persons that consume the same. For what reason is there, that he which laboureth much, and sparing the fruits of his labour, consumeth little, should be more charged, then he that living idlely, getteth little, and spendeth all he gets; seeing the one hath no more protection from the Common-wealth, then the other? But when the Impositions are layd upon those things which men consume, every man payeth Equally for what he useth: Nor is the Common-wealth defrauded, by the luxurious waste of private men.

[Public Relief]

And whereas many men, by accident unevitable, become unable to maintain themselves by their labour; they ought not to be left to the Charity of private persons; but to be provided for, (as farforth as the necessities of Nature require,) by the Lawes of the Common-wealth: For

as it is Uncharitablenesse in any man, to neglect the impotent; so it is in the Soveraign of a Common-wealth, to expose them to the hazard of such uncertain Charity.

[Limit of Expansion]

But for such as have strong bodies, the case is otherwise: they are to be forced to work; and to avoyd the excuse of not finding employment, there ought to be such Lawes, as may encourage all manner of Art; as Navigation, Agriculture, Fishing, and all manner of Manifacture that requires labour. The multitude of poor, and yet strong people still encreasing, they are to be transplanted into Countries not sufficiently inhabited: where neverthelesse, they are not to exterminate those they find there; but constrain them to inhabit closer together, and not range a great deal of ground, to snatch what they find; but to court each little Plot with art and labour, to give them their sustenance in due season. And when all the world is overcharged with Inhabitants, then the last remedy of all is Warre; which provideth for every man, by Victory, or Death.

[Good Laws]

To the care of the Soveraign, belongeth the making of Good Lawes. But what is a good Law? By a Good Law, I mean not a Just Law: for no Law can be Unjust. The Law is made by the Soveraign Power, and all that is done by such Power, is warranted, and owned by every one of the people; and that which every man will have so, no man can say is unjust. It is in the Lawes of a Common-wealth, as in the Lawes of Gaming: whatsoever the Gamesters all agree on, is Injustice to none of them. A good Law is that, which is *Needfull*, for the *Good of the People*, and withall *Perspicuous*.

For the use of Lawes, (which are but Rules Authorised) is not to bind the People from all Voluntary actions; but to direct and keep them in such a motion, as not to hurt themselves by their own impetuous desires, rashnesse, or indiscretion; as Hedges are set, not to stop Travellers, but to keep them in the way. And therefore a Law that is not Needful, having not the true End of a Law, is not Good. A Law may be conceived to be Good, when it is for the benefit of the Soveraign; though it be not Necessary for the People; but it is not so. For the good of the Soveraign and People, cannot be separated. It is a weak Soveraign, that has weak Subjects; and a weak People, whose Soveraign wanteth Power to rule them at his will. Unnecessary Lawes are not good Lawes; but trapps for Mony: which where the right of Soveraign Power is acknowledged, are superfluous; and where it is not acknowledged, unsufficient to defend the People.

The Perspicuity, consisteth not so much in the words of the Law it selfe, as in a Declaration of the Causes, and Motives, for which it was made. That is it, that shewes us the meaning of the Legislator; and the meaning of the Legislator known, the Law is more easily understood by few, than many words. For all words, are subject to ambiguity; and therefore multiplication of words in the body of the Law, is multiplication of ambiguity: Besides it seems to imply, (by too much diligence,) that whosoever can evade the words, is without the compasse of the Law. And this is a cause of many unnecessary Processes. For when I consider how short were the Lawes of antient times; and how they grew by degrees still longer; me thinks I see a contention between the Penners, and Pleaders of the Law: the former seeking to circumscribe the later; and the later to evade their circumscriptions; and that the Pleaders have got the Victory. It belongeth therefore to the Office of a Legislator, (such as is in all Common-wealths the Supreme Representative, be it one Man, or an Assembly,) to make the reason Perspicuous, why the Law was made; and the Body of

the Law it selfe, as short, but in as proper, and significant termes, as may be.

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[Hobbes' Aim]

And thus farre concerning the Constitution Nature, and Right of Soveraigns, and concerning the Duty of Subjects, derived from the Principles of Naturall Reason And now, considering how different this Doctrine is, from the Practise of the greatest part of the world, especially of these Western parts, that have received their Morall learning from *Rome*, and *Athens*, and how much depth of Morall Philosophy is required, in them that have the Administration of the Soveraign Power, I am at the point of believing this my labour, as uselesse, as the Common-wealth of *Plato*, For he also is of opinion that it is impossible for the disorders of State, and change of Governments by Civill Warre, ever to be taken away, till Soveraigns be Philosophers But when I consider again, that the Science of Naturall Justice, is the onely Science necessary for Soveraigns, and their principall Ministers, and that they need not be charged with the Sciences Mathematicall, (as by *Plato* they are,) further, than by good Lawes to encourage men to the study of them, and that neither *Plato*, nor any other Philosopher hitherto, hath put into order, and sufficiently or probably proved all the Theoremes of Morall doctrine, that men may learn thereby, both how to govern, and how to obey, I recover some hope, that one time or other, this writing of mine, may fall into the hands of a Soveraign, who will consider it himselfe, (for it is short, and I think clear,) without the help of any interessed, or envious Interpreter, and by the exercise of entire Soveraignty, in protecting the Publique teaching of it, convert this Truth of Speculation, into the Utility of Practice.

PART III

A Christian Common-wealth

CHAPTER XXXIX

[Church under State]

...I define a Church to be, *A Company of men professing Christian Religion, united in the person of one Soveraign at whose command they ought to assemble, and without whose authority they ought not to assemble.* And because in all Common wealths that Assembly, which is without warrant from the Civil Soveraign, is unlawful; that Church also, which is assembled in any Common-wealth, that hath forbidden them to assemble, is an unlawfull Assembly.

It followeth also, that there is on Earth, no such universall Church, as all Christians are bound to obey, because there is no power on Earth, to which all other Common wealths are subject: There are Christians, in the Dominions of severall Princes and States; but every one of them is subject to that Common-wealth, whereof he is himself a member; and consequently, cannot be subject to the commands of any other Person. And therefore a Church, such a one as is capable to Command, to Judge, Absolve, Condemn, or do any other act, is the same thing with a Civil Common-wealth, consisting of Christian men, and is called a *Civill State*, for that the subjects of it are *Men*, and a *Church*, for that the subjects thereof are *Christians*. *Temporall* and *Spirituall* Government, are but two words brought into the world, to make men see double, and mistake their *Lawfull Soveraign* It is true, that the bodies of the faithfull, after the Resurrection, shall be not onely Spirituall, but Eternall. but in this life they are grosse, and corruptible There is therefore no other Government in this life, neither of State, nor Religion, but Temporall, nor teaching of any doctrine, lawfull to any Subject, which the Governour both of the State, and of the Religion, forbiddeth to be taught And that Governour must be one, or else there

must needs follow Faction, and Civil war in the Common-wealth, between the *Church* and *State*; between *Spiritualists*, and *Temporalists*: between the *Sword of Justice*, and the *Shield of Faith*; and (which is more) in every Christian mans own brest, between the *Christian*, and the *Man*. The Doctors of the Church, are called Pastors: so also are Civill Soveraignes: But if Pastors be not subordinate one to another, so as that there may bee one chief Pastor, men will be taught contrary Doctrines, whereof both may be, and one must be false. Who that one chief Pastor is, according to the law of Nature, hath been already shewn; namely, that it is the Civill Soveraign....

CHAPTER XLII

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[Hobbes' Answer to Bellarmine]

In the fift Book he [Bellarmine] hath four Conclusions. The first is, *That the Pope is not Lord of all the world*: The second, *That the Pope is not Lord of all the Christian world*: The third, *That the Pope* (without his owne Territory) *has not any Temporall Jurisdiction DIRECTLY*: These three Conclusions are easily granted. The fourth is, *That the Pope has* (in the Dominions of other Princes) the Supreme *Temporall Power INDIRECTLY*: which is denyed; unlesse hee mean by *Indirectly*, that he has gotten it by Indirect means; then is that also granted. But I understand, that when he saith he hath it *Indirectly*, he means, that such Temporall Jurisdiction belongeth to him of Right, but that this Right is but a Consequence of his Pastorall authority, the which he could not exercise, unlesse he have the other with it: And therefore to the Pastorall Power (which he calls Spirituall) the Supreme Power Civill is necessarily annexed; and that thereby hee hath a Right to change Kingdomes, giving them to one, and taking them from another, when he shall think it conduces to the Salvation of Souls.

Before I come to consider the Arguments by which hee would prove this Doctrine, it will not bee amisse to lay open the Consequences of it; that Princes, and States, that have the Civill Soveraignty in their several Common-wealths, may bethink themselves, whether it bee convenient for them, and conducing to the good of their Subjects, of whom they are to give an account at the day of Judgment, to admit the same.

When it is said, the Pope hath not (in the Territories of other States) the Supreme Civill Power *Directly*; we are to understand, he doth not challenge it, as other Civill Soveraigns doe, from the originall submission thereto of those that are to be governed. For it is evident, and has already been sufficiently in this Treatise demonstrated, that the Right of all Soveraigns, is derived originally from the consent of every one of those that are to bee governed; whether they that choose him, doe it for their common defence against an Enemy, as when they agree amongst themselves to appoint a Man, or an Assembly of men to protect them; or whether they doe it, to save their lives, by submission to a conquering Enemy. The Pope therefore, when he disclaimeth the Supreme Civill Power over other States *Directly*, denyeth no more, but that his Right cometh to him by that way; He ceaseth not for all that, to claime it another way; and that is, (without the consent of them that are to be governed) by a Right given him by God, (which hee calleth *Indirectly*,) in his Assumption to the Papacy. But by what way soever he pretend, the Power is the same; and he may (if it bee granted to be his Right) depose Princes and States, as often as it is for the Salvation of Soules, that is, as often as he will; for he claimeth also the Sole Power to Judge, whether it be to the Salvation of mens Souls, or not. And this is the Doctrine, not onely that Bellarmine here, and many other Doctors teach in their Sermons and Books, but also that some Councells have decreed, and the Popes have accordingly, when the occa-

sion hath served them, put in practise. For the fourth Councell of Lateran held under Pope *Innocent* the third, (in the third Chap. *De Hæreticis,*) hath this Canon. *If a King at the Popes admonition, doe not purge his Kingdome of Hæretiques, and being Excommunicate for the same, make not satisfaction within a year, his Subjects are absolved of their Obedience.* And the practise hereof hath been seen on divers occasions; as in the Deposing of *Chilperique,* King of France; in the Translation of the Roman Empire to *Charlemaine*; in the Oppression of *John* King of England; In Transferring the Kingdome of *Navarre*; and of late years, in the League against *Henry* the third of France, and in many more occurrences. I think there be few Princes that consider not this as Injust, and Inconvenient; but I wish they would all resolve to be Kings, or Subjects. Men cannot serve two Masters: They ought therefore to ease them, either by holding the Reins of Government wholly in their own hands; or by wholly delivering them into the hands of the Pope; that such men as are willing to be obedient, may be protected in their obedience. For this distinction of Temporall, and Spirituall Power is but words. Power is as really divided, and as dangerously to all purposes, by sharing with another *Indirect* Power, as with a *Direct* one.

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CHAPTER XLVII

[Authors of Darkness in Religion]

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After... certain Churches had renounced [the] universall Power of the Pope, one would expect in reason, that the Civill Soveraigns in all those Churches, should have recovered so much of it, as (before they had unadvisedly let it goe) was their own Right, and in their own hands. And in England it was so in effect; saving that they, by whom the Kings administred the Government of Religion, by maintaining their imployment to be in Gods Right, seemed to usurp, if not a Supremacy, yet an Independency on the Civill Power: and they but seemed to usurpe it, in as much as they acknowledged a Right in the King, to deprive them of the Exercise of their Functions at his pleasure.

But in those places where the Presbytery took that Office, though many other Doctrines of the Church of Rome were forbidden to be taught; yet this Doctrine, that the Kingdome of Christ is already come, and that it began at the Resurrection of our Saviour, was still retained. But *cui bono?* What Profit did they expect from it? The same which the Popes expected: to have a Soveraign Power over the People. For what is it for men to excommunicate their lawfull King, but to keep him from all places of Gods publique Service in his own Kingdom? and with force to resist him, when he with force endeavoureth to correct them? Or what is it, without Authority from the Civill Soveraign, to excommunicate any person, but to take from him his Lawfull Liberty, that is, to usurpe an unlawfull Power over their Brethren? The Authors therefore of this Darknesse in Religion, are the Romane, and the Presbyterian Clergy.

. . . . .

CHART V EIGHTEENTH CENTURY AGE OF ENLIGHTMENT

AUTHORS	AMERICA	EUROPE	ASIA
1689	1689 97 King William's War with France	1643 1715 French Louis XIV Era of conquest	17th cen —Dutch Portuguese trade wars along China coast, in Chinese dominated Indies
Locke 1632 1704	17th 18th cen —New World reflects European conflicts, land traded as war booty	1682 99 Germany frees Hungary from Turks 1689 97 Grand Alliance England, Spain, Holland, Germany, Sweden, fight France 1689 1725 Peter the Great in Russia advances boundaries to west, south Western ized Russia Wins window on Baltic	1600 1868 Tokugawa Period in Japan one of peace and prosperity 1688 1707 apogee of vigorous culture of merchant class
1700		1700 21 Great Northern War—Russia, Poland, Denmark against Swedish supremacy in Baltic	
	1702 13 Queen Anne's War—Canada to England	1701 14 War of Spanish Succession—Grand Alliance against France Bourbons win Spanish throne lose land in Netherlands Italy 1703 11 Revolt of Hungarians from Germany begins century of social revolutions	1707 Following death of Aurangzeb Mogul Empire disintegrates Persia invades 1736
	1715 50 Settlement of the Piedmont gives colonies aggressive frontier society 1719 29 Carolinas divided	1714 House of Hanover gains English throne Walpole first prime minister, 1721 42 Cabinet and party system take form Period of stability common sense Commerce advances	1722 Peter the Great invades Persia
1725		18th cen Italy divided under foreign rule A new renaissance of culture learning	
	1733 Georgia founded, last of 13 colonies	1733 35 War of Polish Succession Austria, Russia against France Spain, Sardinia Bourbons move into Italy, main battle ground	1730 Persia has brief revival, drives out Afghans Russia joins Persians against Turks 1735 Persia wars with Turkey 1743 46 draw
	1739 During war between Britain and Spain, British raid Florida, Spanish raid Georgia	1740 48 War of Austrian Succession Bourbons with Frederick the Great against Maria Theresa of Austria backed by England	18th cen Japan peasant losing land warriors in debt to merchants Unbalanced economy leads to decline
	1743 48 King George's War wins Louisburg	1741 62 Elizabeth of Russia introduces golden age of Russian aristocracy, development of learning, science Expansion continues	
1750		Mid 18th cen Switzerland has intellectual renaissance, loose political unity	

1750		1756 63 Seven Years War Bourbons (Fr, Sp, It) against England Germany against Austria Diplomatic revolution lines Austria with France estranges Russia Britain	1751 China invades Tibet 18th cen French and English vie for influence in India Clive weakens French, 1751
	1755 63 French and Indian War Britain wins North America to Mississippi, including Canada France cedes Louisiana to Spain	1762 96 Catherine the Great of Russia enlightened despot Continues westernization	
	1763 Br Proclamation limits frontier moves requires licenses for fur traders Anti British feeling grows over limitations Britain enacts Sugar Tax 1764 Stamp tax 1765 Colonial	1771 92 Sweden's Gustavus III another enlightened despot Warred with Russia	1763 93 China showing new advance in wealth population under Ch'ien Lung reign Cultural activity enjoys imperial patronage
Hume 1711 1776	Currency Act 1764 creates shortage of money in American colonies	1772 First partition of Poland Russia Prussia Austria and Partition 1793 3rd 1795	
	1765 Colonies make Declaration of Rights	1771 92 Louis XVI of France also enlightened despot France and Spain back colonists	
Rousseau 1712 1778	and *Liberties Anti British* bitterness grows	in War for American Independence	
		1780 90 Joseph II of Austria typical of 18th cen contradictions reform with absolutism	1774 Regulating Act provides for government of British India by governor and council
	1774 First Continental Congress	1782 Rockinghams ministry in England Fox Burke Sheridan	
	1775 83 War for American Independence	1789 French Revolution—Declaration of	1774 First Chinese rebellion in a century
	1776 Declaration of Independence	Rights Middle class becomes National Assembly Monarchy abolished 1792 War	Revolts continue until 19th cen Corruption
Smith 1723 1790	1777 Articles of Confederation U S A	with Austria Britain Holland, Spain	in civil service Anti Christian uprisings
Burke		1796 7 Napoleon's campaigns win Italy concessions from Austria take Switzerland	1784 Pitt's India Act tries to check territorial expansion at expense of natives
1729 1797	1787 Constitutional Convention New Constitution ratified 1788	1796 War of 2nd Coalition vs France Russia Britain Austria Naples, Portugal, Turkey	
	1789 First Congress meets Washington		Late 18th cen Br East India Co grows
Fichte 1762 1814	elected president Bill of Rights 1791 Industrial Revolution begins in U S	1798 Napoleon's coup d'etat dictatorship	1793 1837 Japan's Tenari shogun Increasing
	1792 *Political parties develop*	1801 *Legislative union of Great Britain and*	extravagance and inefficiency Breakdown of
Bentham 1748 1832	1794 Neutrality Act passed to keep United States out of Napoleonic Wars	Ireland to form United Kingdom 1801 Serbs revolt against Turkey	isolation of military rule.
		1804 14 The First Empire under Napoleon	1794 Kajar dynasty ends Persian anarchy
Austin 1790 1859	1802 Ohio enters Union as 17th state 1803 Louisiana purchased from Spain	1805 War of Third Coalition against France French overrun Iberian Peninsula, Holland	1800 28 Persia wars with Russia
[Mill 1806 1873]	1805 12 Russian expansion in Alaska	1812 French invasion of Russia disastrous Revolts against France break out across Empire Napoleon surrenders	
[Green 1836 1882]	1808 African slave trade prohibited	1815 Hundred Days of Napoleon's return	
	1812 14 War with England—nationalism	Battle of Waterloo Allies defeat France	
1815		1815 Congress of Vienna reshapes Europe	

TEN

Natural Rights and a Limited State

JOHN LOCKE IS GENERALLY REGARDED as the father of modern liberal constitutionalism. He at least advanced the essential ideas of constitutionalism by his analysis of the social contract as the basis for the limitation of government for the protection of individual rights, which he related to natural rights.

Setting of Locke's Theories: Parliamentary Wars and Democratic Thought

A glance at the institutions of the period in which Locke wrote and at some of the previous speculations about democracy and constitutionalism will indicate that Locke was by no means alone in his emphasis upon majority rule and supremacy of the legislature. Indeed, it will show that some of the parliamentary pamphleteers and participants in the English Civil War of Cromwell's time had a considerably more democratic theory than had Locke himself. Among these, one might first select Lilburne, the leader of the Levellers, and Gerard Winstanley, leader of the "Diggers," a smaller group chiefly important because of their anticipation of some of the later doctrines of communism. But the debates on the "Agreement of the People" in Cromwell's army produced some of the most fundamental thinking about the nature of democracy and its relations to constitutionalism.

Nor was Locke alone in his defense of toleration. The North American colonies, particularly those in New England, were founded by Independents or Congregationalists, who were generally regarded as looking for freedom to worship as they pleased.

Religious Independency and Democratic Forms

The principle of Independency was based upon the right of any body of Christians to form a congregation that would be a church in every sense of the word, with its own method of worship and church organization. Such a principle naturally implied the right of a similar toleration for other congregations and a complete separation of Church and State.

The practice, however, of this so-called Independency, particularly in the Massachusetts Bay Colony, was very far from according the toleration it demanded. It developed into something pretty close to a theocracy in its practice, not unlike the Calvinism of Geneva. Roger Williams, himself a fugitive to Rhode Island from this intolerance, in "The Bloudy Tenent of Persecution," 1644, proclaimed the most advanced position on toleration. The Quakers in England and several pamphleteers, such as William Walwyn, shared Roger Williams' views. Such views were certainly widely extended in Cromwell's New Model Army, as indeed they necessarily had to be in order to *unite* the parliamentary forces against the Crown.

The whole period of the English Civil War, which had arisen over the struggle to limit the monarch through the parliament and to prevent the royal prerogative from destroying traditional English rights, produced a rich literature in the fundamentals both of democracy and of constitutionalism. Lawyers today all look back to Sir Edward Coke and delight to quote Coke's quotation to James I from Bracton: *"Quod enim rex non debet esse sub homine, sed sub Deo et lege."* Generally they interpreted "under the law," their critics allege, to mean "under the lawyers." It is a favorite tag for judicial review, along with Coke's opinions in Bonham's case and his general theory that the king had no right to interfere with the basic common law of England, which was to be applied by the courts.

This strain, however, had little effect on the more important struggle for the supremacy of Parliament and for the extension of popular rights among those who were fighting on the side of Cromwell's armies. *The Clarke Papers*[1] give a fascinating account of the case made by the radicals in Cromwell's army, particularly by the leaders of the Levellers, John Lilburne and Richard Overton, and by spokesmen in the debates like Rainborough. These early democrats were not interested in overturning all property rights, but in extending the suffrage and the rights of the people. They were bent rather on destroying privileges of status than on any general leveling of property or social distinctions. They were really interested in the equality of opportunity, which becomes a keynote of modern democracy.

Whereas Cromwell's officers, headed in the discussions with the representatives of the ranks by Colonel Ireton, were also bent upon a reform that would secure the freedom and supremacy of Parliament and a redistribution of seats, they wished to put the basis of territorial representa-

[1] Edited by C. H. Firth, 4 volumes. Camden Society Publications, 1891-1901. See also William Haller, *Tracts on Liberty in the Puritan Revolution, 1638-1647,* and S. R. Gardiner, *Constitutional Documents of the Puritan Revolution.* See also comments of A. D. Lindsay in *Essentials of Democracy.*

tion on the proportion of taxes paid. The Levellers on their part wished to count heads equally for the whole population. Ireton put the officers' view by saying that no man had the right to vote who did not have "a permanent fixed interest in this kingdom." If he had no local interest, a foreigner might as well claim the same rights. Rainborough, who may be taken as a stout representative of the rank and file of the army, on his part replies in the most essential democratic terms: "Really I think that the poorest he that is in England hath a life to live, as the greatest he." It was on this basis of the equality of men as men that the ultimate argument of the Levellers rested. The text in the Readings bears out this view.

Cromwell Forced To Turn Absolute Ruler

Cromwell, like many leaders of successful revolutions, found that he had to deal sternly with the proposals from the more radical elements of his own army. The officers strengthened their position by making the drastic decision to treat no more with Charles I and ultimately to behead him. The "Agreement of the People," 1648, that had been proposed by the ranks in the army through their regimental representatives in the army councils had to be brushed aside. It left, however, one deposit in the Instrument of Government (1651), after which Cromwell set up his Protectorate in 1653. The "Agreement" proposed to set up a sort of constitutional convention, "not to exercise any legislative power but only to draw up the foundation for just government." This was in a sense a compact setting up the form of government, though it was hardly so fundamental as the idea of the social contract setting up civil society itself later used by Locke. A "fundamental law" was what in fact the Instrument of Government was intended to be, i.e., an unchangeable constitution. Cromwell himself said of it, "There must be in every government somewhat fundamentall, somewhat like Magna Charta."

The Agreement itself did not destroy property as the basis of representation. In spite of Colonel Rainborough's arguments, a two-hundred-pound property qualification was accepted. But Cromwell had to destroy in fact the Instrument of Government which had been set up so hopefully. In assuming the Lord Protectorship in lieu of the Crown, he found that the inner tensions of his régime required him to dismiss the Rump Parliament with which he was attempting to govern. His invasion of the House of Commons, in spite of the cries of "Privilege! Privilege!" from many quarters, went beyond what any British king had dared to do. His contemptuous words to the sergeant of the troops whom he brought with him, "Fetch me that bauble!," were applied to taking away the Speaker's Mace, which symbolized the traditional power of the House. From that time on he had to rule almost as a Caesar, and without the benefits of the

legitimacy principle of kings. It would have taken a stronger son than was Richard Cromwell to have carried on such a rule. The people of England welcomed back the Restoration in 1660 with a feeling of relief. Hobbes' "sovereign" had been able to provide law and order, but he had not fulfilled the requirements on which consent in England had to rest.

Parliamentary Gains under the Restoration

The succeeding period between the Restoration and the "Glorious Revolution of 1688," in which Parliament once more resumed its struggle with the Stuarts, is the setting of Locke's *Essays on Government.* The king's ministers have to deal with a Parliament which acts as the controller of the power of the purse in a still stronger position. By 1678 Parliament had gained the right to scrutinize the *expenditures* of the Crown, as well as its taxes. The transition to parliamentary control over the executive was already on its way, even without the substitution of William and Mary for the Stuarts and the subsequent development of cabinet government under the Hanoverian régime.

Locke is the representative of the power of the landholding squirearchy which brought about that revolution and established the supremacy of the legislature. Locke was also familiar with the great expansion of business which the seventeenth century had brought to England as a rising empire, reaching out to the East Indies as well as to the New World. He was Secretary to the Board of Trade and Plantations at a later stage of his career. The *Essays on Government,* however, may be taken as the typical statement of the position of a British landed and propertied class which had to justify its own revolution against the crown. It does not advocate the extreme democracy of the Levellers, and Locke's majority rule must not be so misinterpreted. It does advocate a limited government in the sense that the government should not take away rights. The only suggestion, however, for institutionalizing this limitation is in Locke's peculiar conception of the nature of the governmental compact. He feels that it is binding on the people as instituted, so that they cannot change the form of agreement "till the government be dissolved."

Locke's Limitations on Popular Sovereignty

The people is limited, therefore, to setting up the legislature, short of its ultimate right of revolution. In this respect he precisely contradicts Rousseau, whose theories we shall examine later. Rousseau thought that the people could not act through representative institutions in the true sense of their "General Will." Locke is inclined, like Hobbes, to find something binding in the original compact, since the people are limited to this setting up of the legislature. He is not willing, however, to make the

original compact irrevocable. In the last analysis, the people can always change the form of government by resuming its power—and justly so if the government has taken away natural rights.

Parliamentary Sovereignty: A Republican Trend

This will serve to indicate that Locke has a good title to being the first constitutionalist in the liberal tradition that was later to achieve its greater importance in the nineteenth century. He did not, however, achieve so rounded a view of the nature of the constitution itself as did Harrington, who thought much more specifically in terms of a written document with republican institutions and a balanced state based upon an economic balance of classes, much more like that of Aristotle. The word "commonwealth," which had been used by Cromwell (Commonwealth Act of 1649, setting up a commonwealth and free state for "the people of England and all the dominions and territories thereunto belonging"), took on a distinctly anti-monarchical flavor at this time. Harrington, in his *Art of Lawgiving*, says:[2]

> The course of England, into a commonwealth, is both certain and natural. The ways of nature require peace: The ways of peace require obedience to the laws: Laws in England cannot be made by Parliaments: Parliaments in England are come to be mere popular assemblies: The laws made by popular assemblies (though for a time they may be awed, or deceived, in the end) must be popular laws; and the sum of popular laws must amount to a commonwealth.

Locke was concerned to assert the supremacy of Parliament, which would have in effect limited the monarchical prerogative and retained at best only a constitutional kingship. Harrington, who also influenced greatly the founding fathers of the American Constitution, would have set up a fundamental law in written form, which would have been erected by compulsory popular education into something like Plato's myth. All the education of the state would be devoted to this end, and a numerous body of educators would be given the sole duty of explaining and defending the constitution to the citizens. He also clearly had in mind an extraordinary body for constitution-making and a distinction between ordinary law and constitutional law. It was Harrington's hope that Cromwell in 1656 would set up such a constituent body, which would put forth the new constitution. Interestingly enough, Harrington does not discuss the means of amending the constitution, which is the essential problem of differentiating the fundamental law of the constitution from ordinary law.

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[2] *Works*, 1747, p. 432. Quoted by Sabine, *op. cit.*, p. 500.

John Locke's Social Contract as a Limitation on the Power of Government

The *Two Treatises on Civil Government,* of which only the second is selected for the Readings, ought to be read with the background of Locke's very individualistic psychology in mind. His exposition of his own views on human nature are to be found in his *Essay concerning Human Understanding.* In this work Locke sets up the groundwork on which most English psychology and a great part of English philosophy were to rest for a considerable period of time. Indeed, the fundamental assumptions have carried over into modern thinking, where they have been blended with the empiricist philosophy and psychology of Hume.

His Philosophy of "Nature"

Locke was a firm believer in the limited realm of freedom for human beings, which he associated with "freedom of attention." His associationist psychology otherwise consisted in analysis of the development of ideas in the individual through what the term suggests, the association of sensations with other elements of consciousness on the *tabula rasa* of the mind. It was as if experience brought to the empty slate of the mind a sort of writing which was joined together by the one faculty of the mind which supplied the place later on attributed by Kant to the categories of pure reason. This faculty of the self for developing out of experience patterns of associated meaning came in the first instance from sensations; but it imposed upon the flow of sensations an interpretation of logic which could be contributed only by the mind itself. The freedom of attention which Locke laid down as the fundamental characteristic of human freedom meant the ability to learn by reconstructing past experience in terms of patterns which the mind regrouped and projected itself.

It is important to understand this basic psychology of Locke because it enters into his theory of nature and of natural rights. The state of nature was one of complete individualism, of an active self, more or less mechanical in its reactions to nature but developing through free attention. The nature that man shares is one in which immanent reason enabled human beings to interpret their experience and to develop conceptions of rights from that experience. The *Essay concerning Human Understanding* is very largely a proof that there are *no* innate ideas. Reason is therefore empirical. This individualistic and sensationalist psychology had a relativistic side, which Locke emphasized in his *Letters on Toleration.* Experiment was to be the road to truth; therefore no truth, even of religion, could be absolute. On the other hand, this did not prevent his essential rationalism from laying down quite sweeping views—almost absolute views

—about human rights; or from developing a theory of perfectibility of human beings through education.

In the state of nature, said Locke, every man, "born free as we are born rational," is possessed of certain inalienable rights, among them, life, liberty, and property. The social compact setting up civil society and its government is "... for the mutual preservation of their lives, liberties, and estates, which I call by the general name—property." [3]

These were all the fruits of man's status as a human being, but as an active human being who, by mixing his labor with the materials with which nature provided him, created property. In a sense, this is the first "labor theory of value," and it is the one from which classical English economics subsequently developed the individualistic theory of property rights. Later on, Marx was to turn the whole theory upside down by deriving a labor theory of value from the "collective laborer," with an entirely different implication of the philosophy of property rights.

Locke and the Stoic View of Human Nature

If Hobbes' views of human nature and of the nature of society were derived in the main from the Sophist strain of philosophy, Locke's views, on the other hand, are primarily Stoic in character. The overwhelming position which his system gives to reason as an immanent, natural characteristic of men sharply differentiates his theory of the state of nature from that of Hobbes. For Locke, the state of nature was one in which, like the Golden Age described by Ovid, rational and social men cherished right and justice of their own free will and without fear of punishment. They possessed the natural rights as human beings which, as we have already seen, Stoic philosophy had imported into Roman thought, including Roman law. An equality of natural rights followed; [4] though in Locke's view not an equality of property rights, since the individual created property by his own efforts, by mixing his own labor with what nature gave. There is no thought of "social value" in Locke's individualistic theory. But there is, as in Aristotle, a general though not consistent view of the need for limiting property.[5]

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[3] *Second Treatise,* Everyman Edition, Ch. 9, p. 180.

[4] "This equality of men by Nature," says Locke (*op. cit.,* Ch. 2, p. 119), "the judicious Hooker [author of *The Laws of Ecclesiastical Polity*] looks upon as so evident in itself, and beyond all question, that he makes it the foundation of that obligation to mutual love amongst men on which he builds the duties they owe one another, and from whence he derives the great maxims of justice and charity."

[5] *Ibid.,* Ch. 5, p. 131: "As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in. Whatever is beyond this is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy," is the way Locke puts the principle of limitation. But he notes (pp. 139-140) that with the advent of money as "... some lasting thing that men might

State of Nature Lacks a Common Judge

Why, then, was not this perfect state of nature satisfactory, and why should men have found it necessary to go into civil society with the limitations upon natural freedom that the civil order imposes? This question shows a fundamental dilemma in Locke's thinking. Just as Hobbes found it necessary to change his conception of nature from the beastly, amoral realm of his "state of nature" to a moral order in the "laws of nature," so Locke finds an imperfection in his otherwise idyllic state of nature to explain the necessity for transition to civil society and civil government. This defect in the state of nature was the lack of a common judge.

> To this strange doctrine—viz., That in the state of Nature every one has the executive power of the law of Nature—I doubt not but it will be objected that it is unreasonable for men to be judges in their own cases. ... I easily grant that civil government is the proper remedy for the inconveniences of the state of Nature, which must certainly be great when men are judges in their own case... [6]

The social compact, therefore, is the logical implication of voluntarily erecting a civil government in order to secure the necessary common judge. Government's primary function, consequently, is a negative one, that is, to protect the natural rights that man carries over from the state of nature into civil society. Since this is the function of government, it follows that government must be strictly limited by its organization and in its aims in this rôle of protecting natural rights. Any extension of its functions is an usurpation of power in Locke's view. This is the characteristic so-called "liberal" view of the state, later on popularized under the term the "night watchman" state.

The Social Compact

The original compact, according to Locke, was entered into by the whole society. Apparently, he conceives it as something approaching

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keep without spoiling, and that, by mutual consent, men would take in exchange for the truly useful but perishable supports of life," a means of storing wealth comes into existence. Unlike Aristotle, he does not find this use of money as an exchange medium a danger to society through becoming almost an end in itself (The Chrematistics that Aristotle condemned is sometimes roughly translated, especially by Marxians, as "Finance Capitalism")

[6] *Ibid.*, Ch. 2, p. 123. For the explicit connection to protecting property rights, see pp. 180-181. He develops this theory on the general basis also of the community as umpire on p. 159, further. "And thus all private judgment of every particular member being excluded, the community comes to be umpire (not the monarch, who is but another individual), and by understanding indifferent rules and men authorised by the community for them execution, decides all the differences that may happen between any members of that society concerning any matter of right...."

unanimity of consent, though it can function in its later stages through the government, which is set up only by the majority principle. This is, of course, entirely unlike Hobbes' theory of setting up the original compact by the majority principle, which then disappears from the mechanics of government.

The essence of the contract in Locke is to get a common *moral* consent to a government with limited functions, which is aimed at protecting natural rights. The contract is essentially different from that of Hobbes in that, resting on consent, it is, so far as it sets up the government itself, revocable, limited, and conditional. The powers entrusted to government in order to fulfill the functions given to it by the contract creating a civil society are specific powers, whose abuse dissolves the compact and justifies revolution. Hobbes would have given only one "out" to the individual to escape tyranny, namely, the protection of his life and the steps necessary to that protection, such as not being required to bear witness against himself. Locke would have left a large number of ways of escape; though he did not make a clear institutional design for testing the abuses of power by the government or for determining how any such abuses should be resisted. He laid down a number of moral injunctions to limit even the power of the legislature.[7] It should not take away property; it couldn't delegate its power; it must act according to clearly established forms; and so forth. The chief difference between the writers in both the problems of politics and of their theories of the social contract lay in the fact that Hobbes was attempting to justify unlimited power for purposes of assuring law and order, whereas Locke was trying to justify only power that was limited to the preservation of rights as a basis for law. To Locke, power in the hands of government is a trust; to Hobbes, it is the necessary condition for human security and as such it is absolute and unlimited.

Locke addressed his *First Treatise* of the two on government largely in refutation of Bishop Filmer's *Patriarcha*, which championed the divine right of kings and the parental theory of authority of the patriarchy. The good Bishop adduced his proofs for the Stuart line through his genealogical chart tracing back to the eldest born of Adam. Locke's major effort is, however, bent on destroying the basic effort to legitimize absolutism that represented Hobbes' whole theory. The *Second Treatise* is his positive contribution to that end. The state, to Locke, is no "mortal god," as it was to Hobbes, no Leviathan, and no Behemoth, but a sort of "limited-liability" joint stock company, created by the individual consent of each member, and strictly limited in the range of its functions to an area of protecting rights. The social compact, therefore, is intended to limit gov-

[7] For a contrary view see Edwin Mims, *The Majority of the People.*

ernment as much as to justify it, and to justify it only insofar as it is a guard and a judge, rather than an absolute sovereign.[8]

Institutional Framework: Majority Principle and Legislative Supremacy

Within this framework, the form of government set up shows the English drift toward putting supremacy in the legislature, since Locke thinks that this is the proper deliberative organ through which consent is best registered. Once government is established by the basic compact, the majority principle is operative, because Locke feels that the equality of rights demands a mathematical formula for determining how legislation should be framed in order to protect rights. Simple addition dictates the majority principle, and he really gives it no very elaborate defense beyond deriving it from this basic equality and stating that it is the necessary method of weighing individual interests.[9]

Moral Restraints on Majority Principle

It is true that he puts restrictions upon the majority principle by asserting that the majority *should not* violate either the laws of nature or, in particular, property rights or anything contained in the fundamental compact. Legislation should not be particular and should not be delegated. However, there is no machinery for preventing a possible violation of rights, and Locke nowhere contemplates the sort of formal restrictions upon majority powers which were later written into the bills of rights of the American state governments and have become part of our whole constitutional thinking. The majority simply *will* not take away property rights, Locke thinks, because the majority is composed of individuals who are all concerned with the protection of property rights[10]—a convenient

[8] "For he that thinks absolute power purifies men's blood, and corrects the baseness of human nature, need read but the history of this, or any other age, to be convinced to the contrary." *Ibid.*, Ch. 7, p. 162; and "... hence it is evident that absolute monarchy, which by some men is counted for the only government in the world, is indeed inconsistent with civil society, and so can be no form of civil government at all." *Ibid.*, p. 160.

[9] "For that which acts any community, being only the consent of the individuals of it, and it being one body, must move one way, it is necessary the body should move that way whither the greater force carries it, which is the consent of the majority, or else it is impossible it should act or continue one body, one community, which the consent of every individual that united into it agreed that it should; and so every one is bound by that consent to be concluded by the majority." *Ibid.*, Ch. 8, p. 165.

[10] "Thirdly, the supreme power cannot take from any man any part of his property without his own consent. For the preservation of property being the end of government, and that for which men enter into society, it necessarily supposes and requires that the people should have property...." (*Ibid.*, Ch. 11, p. 187.) But see p. 189 for, "...it [fair taxation] must be with his own consent—*i.e.*, the consent of the majority, giving it either by themselves or their representatives chosen by them...."

theory and not an unreasonable one so long as the electorate in England was limited to property holders and dominated by the squirearchy of the seventeenth and eighteenth centuries. It was essentially an agrarian philosophy and was eminently suited to Jefferson's use for the later agrarianism of the landholding colonial civilization of his time.[11]

That there are certain inner contradictions in Locke's philosophy of property and in his political instruments for safeguarding it becomes apparent on any historical examination of the nature of property in his own time. It is true, as R. H. Tawney has pointed out, somewhat twisting the celebrated thesis of Max Weber to his own uses, that the Protestant ethic of individualism fitted in with the rights of capitalism and its individualistic economics. The joint-stock form of economic association had made steady strides not only in colonizing enterprises, but also in the whole organization of wealth through share-holding that covered matters as diverse as the "South Sea Bubble" and certain trading activities centering in Liverpool, e.g., the slave trade. But in these matters, inequality of wealth and the rise of great funds which were later on to finance the industrial revolution were implicit. Property became something more complex than the fruits of the labor of the individual.

Property Rights and the Politics of Locke's Time

What is more, even in land-holding the great estates of the day had been built up in very large measure by confiscation from the monastic orders and by the enclosure movement, which had steadily stripped the commons in favor of the gentry. The simple labor theory of value through individual toil, which Locke produces as a justification of property rights, would require some very curious interpretations of the term "labor" to cover all these activities. Later, economists were to stretch the conception to cover the entrepreneur as an essential part of creating wealth and property. Perhaps the term "manipulator" might well have been added, if all property rights are to be defended. And what of inheritance?

In any case, Locke's views on the supremacy of the legislative branch as a method of eliciting consent through the majority principle formed the basic development of English parliamentarianism from his day onward.

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[11] Locke anticipates or founds an important part of the modern doctrine of Due Process of Law on this point: "...the power of the society or legislative constituted by them can never be supposed to extend farther than the common good, but is obliged to secure every one's property by providing against those three defects above mentioned that made the state of Nature so unsafe and uneasy. And so, whoever has the legislative or supreme power of any commonwealth, is bound to govern by established standing laws, promulgated and known to the people, and not by extemporary decrees, by indifferent and upright judges, who are to decide controversies by those laws...." *Ibid.*, Ch. 9, p. 182.

He added the safeguard of a primitive separation of powers to perform the function of checking and balancing the legislature in order to prevent sole power from falling to any single person or body. Locke's separation of powers, interestingly enough, did not contain the judiciary as a separate branch. He spoke of the executive, legislative, and federative powers. The federative was that power which made treaties (*foedera*), or the branch of the government that controlled foreign affairs.

Locke's views were entirely consistent with the organization of English government in his time. The Tenure of Office Act, which secured the independence of the judiciary by protecting the judicial office holder during "good behavior," was not passed until several years after the appearance of the *Two Treatises on Civil Government*, that is, in 1694. The judges in Locke's time were considered a branch of the executive and, in spite of Sir Edward Coke's efforts, had been in the main so treated by the Stuarts and during Cromwell's time. At no stage of English government, even in a later period, did the judiciary ever come to exercise powers of review over parliamentary acts in terms of the broad constitutional review vested in the courts by the United States' constitution and practice.

On the other hand, the "federative power," as Locke called it, or the royal prerogative for dealing with treaties and with foreign affairs, still legally exists in England, without the necessity in strict law of referring treaties to Parliament for ratification. The usage has grown up of asking for Parliament's ratification because the government in power today would never dare press its legal right to an issue. But the Foreign Office has always operated in England with a marked degree of independence and with a great reluctance to submit its policies to open parliamentary scrutiny. Locke's argument is that the power that deals with the very survival of the state must be left to operate with comparative freedom from legislative scrutiny, since its high policy often involves matters of the greatest secrecy. This doctrine has always seemed most reasonable to state departments and foreign offices, and their efforts to put Locke's views into practice have persisted in every modern system, including our own.

Yet in spite of his effort to check arbitrary power by this separation, Locke continued to regard the legislative power as ultimately supreme, since it was the representative vehicle of the sovereign majority. The limits upon it were the laws of nature and their recognition in the sort of unwritten constitution of self-restraint that Britain had.

Right of Revolution

There was over and above the mechanics of the separation of powers a final check upon the arbitrary abuse of power to take away natural rights. This ultimate recourse to the withdrawal of consent by the public through

the overturn of government Locke called the "right of revolution." It was a doctrine grounded in the love of liberty that Burke described as "that fierce love of liberty characteristic of the English, and the natural inheritance of their colonies." Later on, it was to prove a most useful weapon in the armory of constitutional arguments of the colonial spokesmen defending their rights against the mother country. Jefferson was forever flourishing the "right of revolution" in such phrases as "the tree of liberty being manured with the blood of tyrants," and the need for a revolution every political generation. Tom Paine was even more direct in his devotion to the right of revolution. The latter's part in the authorship of the Declaration of Independence may well have been very important, though less direct than Jefferson's. But both went back to John Locke. In practice, Jefferson was satisfied to call the political overturn of the Federalists, an overthrow of which he was the leader, the Revolution of 1800, though it was even more bloodless than the Glorious Revolution of 1688 which assured the triumph of Locke's doctrines in England.

Influence on American Institutions

The early colonial constitutions drew on Locke almost as much as did the Declaration of Independence. Some of them solemnly included the "right of revolution" in their bills of rights. To the conservatives in the colonies this doctrine had a frightening look. Once they had assured their independence from England, they were mightily concerned to put down popular movements like Shays' Rebellion in Massachusetts or the later Dorr's Rebellion in Rhode Island (1842). On the other hand, Locke's doctrine of the limited government which should be circumscribed to the protection of property rights, chief among all the rights carried from the state of nature, was a very agreeable doctrine to the Federalists, and to their successors in the line of American conservatism. They regarded the institution of judicial review through a later development of the separation of powers, which included Montesquieu's formulation as a basic defense against the tyranny of the majorities.

In this respect, American development emphasized the negative side of Locke's doctrines through creating rigid formulations of fundamental law in constitutions which were themselves taken as a sort of social compact. It is interesting that extraordinary majorities were usually required to make or to amend these constitutions and that, ordinarily, majorities were strictly hedged about by limitations upon their power.

English development, on the other hand, although it emphasized the protection of rights through unwritten limitations upon the powers of majorities (customs and conventions of the constitution), stressed far

more than the American the development of responsible majorities and legislative supremacy among the organs of government. It was not until the year 1911 that the House of Lords was definitely reduced to an inferior chamber, by law as well as by practice. This triumph of the Commons and the institution of responsible government through the gradual elimination of the royal prerogative as a personal attribute of the King ensured Locke's theory as the working form of British government.

Toleration

One other major contribution to modern liberalism may be attributed in larger measure to Locke than to any other thinker of his time. Milton had laid the groundwork for a reasoned defense of toleration and freedom of the press and Cromwell had gone far toward putting it into practice in terms at least of religious doctrines. Locke's *Three Letters for Toleration* (1685-1692) attempted to answer the question which he had set for himself in his first work in 1660 in an essay, "Whether the civil magistrate may lawfully impose and determine the use of indifferent things in reference to Religious Worship."

Professor Catlin, in his *Story of the Political Philosophers,* notes that Locke in his travels had begun to find that "the Protestant live not better than the Papist" (a note from Montpellier); and again from Cleves in Germany: "I have not met with any so good-natured people, or so civil, as the Catholic priests." A further entry in his journal for 1661, Mr. Catlin rightly thinks to be significant: "The three great things that govern mankind are Reason, Passion and Superstition; the first governs few, the two last share the bulk of mankind, and possess them in their turns; but superstition is most powerful, and produces the greatest mischiefs." Milton was concerned with freedom of the press and writing in his *Areopagitica* (1644), but Locke in the *Three Letters for Toleration* puts down in his preface sentiments of a broader kind:

> I would men would be persuaded to be so kind to their religion, their country, and themselves, as not to hazard them against the substantial blessings of peace and settlement, in an over-zealous contention about things which they themselves confess to be little, and at most are but indifferent.... I have not therefore the same apprehension of liberty that some have, or can think the benefits of it to consist in a liberty for men, at pleasure, to adopt themselves children of God, and from thence assume a title to inheritances here, and proclaim themselves heirs of the world, *nor a liberty for ambitious men to pull down well-framed constitutions, that out of the ruins they may build themselves fortunes.*[12]

[12] See Readings.

Locke himself dares not rely upon the certainty of magistrates as the basis for influencing the promoting the "true religion," for, as he says, a magistrate under such a commission "... can never do his duty, for to the certain knowledge of the true religion he can, in this world, never arrive." [13]

Locke's whole position is basic to the new skepticism of ultimate religious principles so different from the world of Plato and Thomas Aquinas and so consonant with an age of scientific development and reliance upon reason.

Locke and the Science of His Times

Just as Hobbes was a friend and disciple of Bacon and of the mathematicians and scientists of his time, so Locke had the closest relations with Boyle and Sir Isaac Newton and the scientists who were to usher in the golden age of scientific discovery. It is in conformity with this reliance upon man as the measure of all things, yet, in a different sense, from the way this measure had been turned into relativism by the Sophists, that Locke treats politics as if it in some sense were governed by underlying scientific laws. In the end, however, it will be seen that Locke's values are themselves those of an ethical order which depend upon the ultimacy of moral personality in the individual. In spite of all efforts to ground natural rights upon a logical and scientific derivation of the social contract and natural law—the majority principle, the supremacy of the legislature, and the preservation of life, liberty, and property—it is clear that the ultimate force of Locke's thought depends upon the acceptance of Stoic values. We shall see that Rousseau, starting from an equal emphasis upon nature, and even upon equality, arrives at a political solution that re-enthrones absolutism. This is, however, an absolutism of the community through the "general will"—an absolutism of the legal sovereign, the popular assembly, to which Hobbes would have made obeisance as willingly as he had to the Rump Parliament in 1651 or to Cromwell, the Lord Protector, in 1653.

The Law of Nature and International Law: Seventeenth-Century Concepts

Precisely the absence of such a sovereign *above* the nations was the fatal defect of all law between states—or as it came to be called, international law. This was not a law derived from the customary laws of tribes or peoples to govern their whole system of law, like the *ius gentium* of the

[13] Quoted by Catlin, *op. cit.*, p. 285. See also (for context) Readings.

Romans. It was a *ius inter gentes,* that is, a law among peoples or nations, limited to those acts which they would commonly recognize and apply, either through custom, treaty, or common legislative action. It therefore governed the agreements of correct behavior between states, both in war and peace (international public law), as well as those mutually recognized rights of individuals which the states agreed to accept and respect through their own separate systems. Locke paid little heed to this extension of Stoic thought. Hobbes denied it the force of law. But others applied natural law to this new field in the century of Hobbes and Locke.

Gentilis, an Italian refugee from religious persecution then in England, in 1598 had analyzed the laws of war in *De jure belli,* compiling the generally accepted laws of war and peace. He particularly recommended leaving out theology as having no place in a true system of laws.

Hugo Grotius, a Dutch jurist, built his most celebrated work, *De jure belli et pacis* (1625) on the foundations laid by Gentilis. But he reintroduced something to take the place of controversial theology as a moral sanction in the prevalent doctrine of the "law of nature." Like Locke, and unlike Hobbes, he took the Stoic view of this nature, with much the same results as had come about in the development of Roman law. Perhaps there is an emphasis that goes beyond the Roman concept of the *ius naturae* since that was limited to laws that immanent reason in men had caused to be common. Grotius, like most of the others who had preceded him since the Reformation—Bodin and Melancthon certainly, and maybe also Suarez—took the law of nature as a moral norm—what *ought* to be, rather than natural custom.

"The law of nature is a dictate of right reason, which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral baseness or moral necessity; and that, in consequence, such an act is either forbidden or enjoined by the author of Nature, God." [14]

This moral basis for right action contradicts Hobbes' self-interest and lays the ground for Locke. But it also lays the ground for some order of a legal character between nations, even without sanctions. For if "part of the true social nature of man" is a sense of justice, why should not mutual assent recognize this justice as between or among states themselves? Hobbes had pointed out the "state of nature" which would otherwise exist among nations, and which, he thought, would continue so long as there was no absolute sovereign over them all, with the power of coercive sanctions to back his commands. Grotius, on the other hand, believed that contract

[14] Book I, Ch. i, sect. x. 1.

might create a "voluntary" organization of "states" which would stop short of creating a super-sovereignty, yet would permit a régime of secure and commonly administered laws. Treaties (*foedera*), when extended to the more permanent bases of federation, yielded some aspects of sovereignty without giving up all, or even the final right to enforce or not to enforce agreed international law.

This would not have satisfied the rigorous logic of Hobbes, but it did describe a situation of fact—namely the growth of rules which states did not and could not create or enforce on each other, which were yet observed voluntarily. Self-interest, Hobbes would say. No, a common idea of what was naturally *just* and *should* be law, said Grotius.

Bodin: Sovereignty and (or) Constitutionalism?

Bodin, who is often thought of as Hobbes' predecessor in the doctrine of an absolute sovereignty, "supreme and irresistible," would have found force as the *ultima ratio* of international as much as of national law. But he was prepared to think of the *leges summi imperii* (e.g., the law of Salic succession, that no woman could rule) as governing even the sovereign. And his sovereign would be subject to the moral constraints of natural law. As Professor McIlwain points out, in justice to him, Bodin emphasizes, over and over, the difference between his royal ("absolute") monarch and the despotic "seignorial" monarch—the former being the trustee of national power, the latter being the feudal *owner* of lands and chattels, and the military tyrant over his fiefs, including people. Bodin went so far as to deny to his sovereign proprietary rights in the goods or lands of his subjects.[15]

The question of how to limit the power of government was not novel with Locke. It had been fought out on behalf of the Church, as our study of the Middle Ages and the Reformation shows.[16] It had been fought out by the Barons and feudal nobility against the King (witness Magna Charta). It had been the core of much of the theory of the later Middle Ages, as is so persuasively shown by Professor McIlwain.

Now this problem as raised by Bodin, Grotius, and Locke comes as a challenge to Hobbes on two counts, both of which rest on a more fundamental premise: justice is natural, not conventional, sowed like seed in the human heart and mind, as the Stoics believed, by right reason. Common ideas of justice came from common reason by natural law—not, as

[15] McIlwain, *op. cit.*, p. 386. This was no academic issue, as it was with John of Paris at the opening of the fourteenth century. Bodin stood up for his principles with great courage in the Estates of Blois in 1576.

[16] See also J. N. Figgis, *From Gerson to Grotius.*

Hobbes thought, simply from fear and a conventional agreement to set up absolutism as a means of saving each man's skin.

The rejection of this Sophistic view on the first count led to the effort to state those moral rights which a true state should preserve against arbitrary power—Locke's objective. These come into the domain of public law eventually as *constitutional* restraints on the sovereign, whether the sovereign be a prince, an oligarchy, or a democratic majority. All require restraint. Even Bodin, as we have seen, was forced to find *laws* that controlled the sovereign in his accession, and *principles* that could be asserted against the sovereign, if the latter forgot his true nature, as "under God and the law." It is no great step from this to Locke and from Locke to "Fundamentall Orders" like those of Connecticut, and a very small step from these to bills of rights that are enjoined as limits even upon democratically elected officials and legislatures.

The Constitutional Convention comes to play the rôle of the original compact to set up government, and its ratification by extraordinary majorities is a witness to its character as a law more fundamental than ordinary statute.[17]

Hugo Grotius: Is International Law "Real" Law or Morality?

The second count against Hobbes' view comes, as we have seen, through the concept of international law as real law with moral binding force and positive application. This concept is given its earliest clear statement by Grotius. Grotius did not understand, with the clarity of Kant, that to escape perpetual war and its horrors (which was Grotius' object as much as Hobbes' was to escape civil war and anarchy) there must be both (1) a real super-government among nations to constrain sovereign states by something more than moral homilies; and (2) a relation of the government to the governed that Kant called "Republican,"[18] or what we would call constitutional. Kant insisted that to expect an international association capable of enforcing peace among nations without a common morality of democratic values and a consensus on human rights was illusory and impossible.

Grotius had no idea of applying his doctrine of natural law to institutional restraints, either internal or external, on the sovereign. He

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[17] See Charles Borgeaud, *The Adoption and Amendment of the Original State Constitutions.*

[18] See the analysis of Kant's essay, *Toward Perpetual Peace,* in C. J. Friedrich, *Inevitable Peace.* For the literature on the nature of international law, see Ranyard West, *Conscience and Society.*

believed, apparently, in absolute monarchies as much as did Bodin, though he does feel that revolt is legitimate (morally) if the sovereign violates the laws of God or nature. He also believes in the ultimacy of the nation state as a sovereign unit, and the legitimacy of wars—though again, as Lauterpacht observes, he makes one reference to the need for international conferences in which "steps may be taken to compel parties to accept peace on fair terms." [19] But Grotius left legal sovereignty about where Bodin and Hobbes did. It was his *moral* preachment that prepares the way for later theoretical developments by Locke and by Kant of constitutional limitations.

His disciples, Pufendorf and Vattel, maintain the Stoic view of a law of nature morally binding, but they leave international law without a common legislative source, a single organ of interpretation, or a means of unified enforcement with sanctions adequate to prevent war, rather than make it.

We have not come very far toward international order, as yet, from the days when Demosthenes and Isocrates (contemporaries of Aristotle) were exhorting Greece to band together and Athens to lead, not only against the Persians, but against the rising imperialism of Macedon. It is no small thing to stir the conscience of mankind as Grotius did. But it needs a great feat to band nations together into a single government, federated to prevent war and to solve the common problems from which war rises by common consent. National unity has always been produced by external pressures as well as by the need to extend the internal area of law. What external pressure is great enough to force the nations of the world, even of Western Europe, into legal unity?

(... *W.Y.E.*)

READINGS

THE SEVENTEENTH CENTURY in England was a period of great thought and great deeds. Nearly every stream of thought found eloquent expression, including the most advanced democratic doctrine. The latter found powerful expression by the Levellers in Cromwell's army and took the form of an "Agreement of the People" and army debates between officers and men. The ideas developed in these debates have had their influence

[19] *The Function of the Law in the International Community* (Clarendon Press, 1933), p. 7.

on democratic thought, but at the time it was less direct than that of Locke.

Nearly one hundred years separate the other two selections contained in this chapter. Moreover, the origins of the two documents were separated by the Atlantic Ocean. Nevertheless, there is a strong kinship between the two—something of the same type of debt that Locke owed to Hooker, Jefferson owed to Locke. But Jefferson here really symbolizes the general spirit of the American revolutionary generation, for his ideas were a part of the colonial atmosphere and remained a part of the intellectual and legal atmosphere of the new union for a long time after. In England the historical period that separated Locke and Jefferson was noteworthy for the struggle to systematize the settlement between the king and Parliament which had been effected as a result of the "Glorious Revolution." The party system and the Cabinet developed in their modern form in the eighteenth century.

The type of government that Locke visualized in the Second Essay became something of a reality, with the king firmly under control of Parliament. For the New World, the same period saw the development of self-government in each of the thirteen colonies, and self-government here meant two things: That the colonial governments were not run primarily by the mother country, and that within the colonies themselves there was a large element of relatively popular control as opposed to one-man rule.

Not only did England spend the eighteenth century in struggle for realization of the Glorious Revolution, she was likewise engaged in hammering out a method of acquiring and ruling a far-flung empire. The loss of the American colonies was a casualty that England suffered in this latter struggle. The ideas of Locke were invaluable for the self-rule of a nation state but of little use in ruling an empire. In the vacillation and experiment that went into the making of an imperial policy, and the vacillation and experiment of perfecting cabinet government, the American colonies seemed to be caught and were finally alienated. And the main arguments to justify the separation were drawn, as Jefferson's Declaration makes clear, from the writings of Locke.

The eighteenth century in England was a period of consolidation of the gains and innovations of the seventeenth century. It was also a period of innovation in its own right. It marked the beginning of the Industrial Revolution, the development of a theory to permit the new economic order to be fitted into the old forms, and a devastating criticism of Locke's major ideas. In the United States there was no such innovation, but Locke came into his own here in the eighteenth century. This relationship

between United States and England, and this disparity in time, are made clear by a coincidence that is only a coincidence in its exactness. In the same year, 1776, when Jefferson drafted the Declaration of Independence and thus placed that Locke-inspired document at the very beginning of our national existence, Jeremy Bentham in England entirely rejected the natural rights assumptions upon which Locke had built. (See further discussion in the next chapter.) Moreover, in 1776, Adam Smith wrote *The Wealth of Nations* in England, a work that was to furnish a rationale for a new industrial state. It is interesting and perhaps significant that the ideas of Locke on tolerance and natural rights and of Smith on a laissez-faire relation between the state and its economy both reached their most complete practical usefulness in the United States, but both were most completely adopted in this country a century after they were set forth in England. By 1776 Locke had passed the high point of his influence in England, and the man who wore his mantle, Blackstone, had been subjected to the withering criticism of Hume and Burke and Bentham. But in the New World, in 1776, Locke again stood at the beginning of a great tradition as he had in England in 1688.

So much for a note on the history of ideas. We need now to be clear about the political importance of the events which led up to Locke's *Second Essay* and the nature of the settlement it justified. We last saw Locke as the exponent of toleration (Chapter IX), and that toleration was the only civilized answer to religious diversity. In this sense toleration grew out of the religious diversity within Christianity that had been a concomitant of the Reformation. But the struggle in seventeenth-century England was more than a religious struggle. It was equally a political controversy over the rôle of the King and his court. Locke's contribution was to justify the violent revolution which led to Cromwell and at the same time to justify the final settlement or compromise which put sovereignty into the hands of the King in Parliament, with Parliament alone having the final supremacy. The remarkable thing about Locke's *Essay*, when it is viewed as an historical document, is that earlier than 1688 he could have seen in that year so clearly the *ultimate* nature of the settlement that was achieved.

In historical terms, there are many ways of viewing Locke's work on political thought. Some of these have been suggested here. However, one more remains. If Locke be considered a fairly direct descendant of Hooker, and his own admission of reliance on the latter suggests that he was, and if Hooker be considered a descendant of Aquinas, it is inescapable that through Hooker and Locke much of the medieval political tradition was carried into modern political thought.

In the preceding chapter we have noted the significant facts of Locke's

life. Of Jefferson little need be said. Born in 1743 in what is now Albemarle County, Virginia, and formally educated at William and Mary, he entered public life as a young lawyer and was never long out of it. He served in the Virginia colonial legislature, as governor, member of Congress, secretary of state, vice president, in several diplomatic posts, and as the third president of the United States. And perhaps today we should add the latter to the three accomplishments he noted on the epitaph he prepared for his tomb. There he recorded that he was the author of the Declaration of Independence, of the Virginia Statute of Religious Toleration, and founder of the University of Virginia.

Levellers: Choosing and Limiting a Parliament

There is virtually no limit to the strains of political thought that were expressed in seventeenth-century England. The Levellers, under the leadership of John Lilburne, in the course of debates between officers and men in Cromwell's army, developed a document known as "An Agreement of the People," and printed it November 3, 1647. The democratic individualism embodied in the brief document has achieved reasonably widespread acceptance only in recent years. That ideas so basic and so simple and persuasive to a modern democrat could be as slow in gaining widespread acceptance and institutional expression as these have been suggests something of the difficulty of translating political ideas into political practice. It would seem that democratic constitutionalism must be earned by the continuous work of generations. ¶ *The "Agreement of the people" and some excerpts from the Putney Debates are reprinted here.*[1]

An Agreement of the People

...In order whereunto we declare:

I. That the people of England, being at this day very unequally distributed by counties, cities, and boroughs, for the election of their deputies in Parliament, ought to be more indifferently proportioned, according to the number of the inhabitants; the circumstances whereof, for number, place, and manner, are to be set down before the end of this present Parliament.

II. That to prevent the many inconveniences apparently arising from the long continuance of the same persons in authority, this present Parliament be dissolved upon the last day of September, which shall be in the year of our Lord 1648.

III. That the people do of course choose themselves a Parliament once in two years, *viz.*, upon the first Thursday in every second March, after the manner as shall be prescribed before the end of this Parliament, to begin to sit upon the first

[1] From *Puritanism and Liberty; Being the Army Debates 1647-9 from the Clarke Manuscripts with Supplementary Documents.* Selected and edited with an Introduction by A. S. P. Woodhouse. London, J. M. Dent & Sons, 1938.

Thursday in April following, at Westminster (or such other place as shall be appointed from time to time by the preceding Representatives), and to continue till the last day of September then next ensuing, and no longer.

IV. That the power of this, and all future Representatives of this nation is inferior only to theirs who choose them, and doth extend, without the consent or concurrence of any other person or persons, to the enacting, altering, and repealing of laws; to the erecting and abolishing of offices and courts; to the appointing, removing, and calling to account magistrates and officers of all degrees; to the making war and peace; to the treating with foreign states; and generally to whatsoever is not expressly or impliedly reserved by the represented to themselves.

Which are as followeth:

1. That matters of religion, and the ways of God's worship, are not at all entrusted by us to any human power, because therein we cannot remit or exceed a tittle of what our consciences dictate to be the mind of God, without wilful sin; nevertheless the public way of instructing the nation (so it be not compulsive) is referred to their discretion.

2. That the matter of impressing and constraining any of us to serve in the wars is against our freedom, and therefore we do not allow it in our representatives; the rather because money (the sinews of war) being always at their disposal, they can never want numbers of men apt enough to engage in any just cause.

3. That after the dissolution of this present Parliament, no person be at any time questioned for anything said or done in reference to the late public differences, otherwise than in execution of the judgments of the present representatives, or House of Commons.

4. That in all laws made, or to be made, every person may be bound alike, and that no tenure, estate, charter, degree, birth, or place, do confer any exemption from the ordinary course of legal proceedings, whereunto others are subjected.

5. That as the laws ought to be equal, so they must be good, and not evidently destructive to the safety and well-being of the people.

These things we declare to be our native rights, and therefore are agreed and resolved to maintain them with our utmost possibilities against all opposition whatsoever, being compelled thereunto not only by the examples of our ancestors, whose blood was often spent in vain for the recovery of their freedoms, suffering themselves, through fraudulent accommodations, to be still deluded of the fruit of their victories, but also by our own woeful experience, who, having long expected, and dearly earned, the establishment of these certain rules of government, are yet made to depend for the settlement of our peace and freedom upon him that intended our bondage and brought a cruel war upon us.

The Debates

Debate of October 29, 1647

Major Rainborough: I desire we may come to that end we all strive after. I humbly desire you will fall upon that which is the engagement of all, which is the rights and freedoms of the people, and let us see how far we have made sure to them a right and freedom, and if anything be tendered as to that [in this paper]. And when that engagement is gone through, then, let us consider of those [things only] that are of greater weight.

(The paper called the Agreement read. Afterwards the first article read by itself.)

Ireton: The exception that lies in it is this. It is said, they are to be distributed according to the number of the inhabitants: "The people of England," &c. And this doth make me think that the meaning is, that every man that is an inhabitant is to be equally considered, and to have an equal voice in the election of those representatives, the persons that are for the general Representative; and if that be the meaning, then I have something to say against it. But if it be only that those

people that by the civil constitution of this kingdom, which is original and fundamental, and beyond which I am sure no memory of record does go--

[*Cowling, interrupting*]: Not before the Conquest.

[*Ireton*]: But before the Conquest it was so. If it be intended that those that by that constitution that was before the Conquest, that hath been beyond memory, such persons that have been before [by] that constitution [the electors], should be [still] the electors, I have no more to say against it.

Colonel Rainborough objected: That others might have given their hands to it.

Captain Denne denied that those that were set of their regiment were their hands.

Ireton [asked]: Whether those men whose hands are to it, or those that brought it, do know so much of the matter as [to know] whether they mean that all that had a former right of election [are to be electors], or [that] those that had no right before are to come in.

Cowling: In the time before the Conquest. Since the Conquest the greatest part of the kingdom was in vassalage.

Petty: We judge that all inhabitants that have not lost their birthright should have an equal voice in elections.

Rainborough: I desired that those that had engaged in it [might be included]. For really I think that the poorest he that is in England hath a life to live, as the greatest he; and therefore truly, sir, I think it's clear, that every man that is to live under a government ought first by his own consent to put himself under that government; and I do think that the poorest man in England is not at all bound in a strict sense to that government that he hath not had a voice to put himself under; and I am confident that, when I have heard the reasons against it, something will be said to answer those reasons, insomuch that I should doubt whether he was an Englishman or no, that should doubt of these things.

Ireton: That's [the meaning of] this, ["according to the number of the inhabitants"]?

Give me leave to tell you, that if you make this the rule I think you must fly for refuge to an absolute natural right, and you must deny all civil right; and I am sure it will come to that in the consequence. This, I perceive, is pressed as that which is so essential and due: the right of the people of this kingdom, and as they are the people of this kingdom, distinct and divided from other people, and that we must for this right lay aside all other considerations; this is so just, this is so due, this is so right to them. And that those that they do thus choose must have such a power of binding all, and loosing all, according to those limitations, this is pressed as so due, and so just, as [it] is argued, that it is an engagement paramount [to] all others: and you must for it lay aside all others; if you have engaged any otherwise, you must break it. [We must] so look upon these as thus held out to us; so it was held out by the gentleman that brought it yesterday. For my part, I think it is no right at all. I think that no person hath a right to an interest or share in the disposing of the affairs of the kingdom, and in determining or choosing those that shall determine what laws we shall be ruled by here—no person hath a right to this, that hath not a permanent fixed interest in this kingdom, and those persons together are properly the represented of this kingdom, and consequently are [also] to make up the representers of this kingdom, who taken together do comprehend whatsoever is of real or permanent interest in the kingdom. And I am sure otherwise I cannot tell what any man can say why a foreigner coming in amongst us—or as many as will coming in amongst us, or by force or otherwise settling themselves here, or at least by our permission having a being here—why they should not as well lay claim to it as any other. We talk of birthright. Truly [by] birthright there is thus much claim. Men may justly have by birthright, by their very being

born in England, that we should not seclude them out of England, that we should not refuse to give them air and place and ground, and the freedom of the highways and other things, to live amongst us—not any man that is born here, though by his birth there come nothing at all (that is part of the permanent interest of this kingdom) to him. That I think is due to a man by birth. But that by a man's being born here he shall have a share in that power that shall dispose of the lands here, and of all things here, I do not think it a sufficient ground. I am sure if we look upon that which is the utmost (within [any] man's view) of what was originally the constitution of this kingdom, upon that which is most radical and fundamental, and which if you take away, there is no man hath any land, any goods, [or] any civil interest, that is this: that those that choose the representers for the making of laws by which this state and kingdom are to be governed, are the persons who, taken together, do comprehend the local interest of this kingdom; that is, the persons in whom all land lies, and those in corporations in whom all trading lies. This is the most fundamental constitution of this kingdom and [that] which if you do not allow, you allow none at all. This constitution hath limited and determined it that only those shall have voices in elections. It is true, as was said by a gentleman near me, the meanest man in England ought to have [a voice in the election of the government he lives under—but only if he has some local interest]. I say this: that those that have the meanest local interest—that man that hath but forty shillings a year, he *hath* as great voice in the election of a knight for the shire as he that hath ten thousand a year, or more if he had never so much; and therefore there is that regard had to it. But this [local interest], still the constitution of this government hath had an eye to (and what other government hath not an eye to this?). It doth not relate to the interest of the kingdom if it do not lay the foundation of the power that's given to the representers, in those who have a permanent and a local interest in the kingdom, and who taken all together do comprehend the whole [interest of the kingdom]. There is all the reason and justice that can be, [in this]: if I will come to live in a kingdom, being a foreigner to it, or live in a kingdom, having no permanent interest in it, [and] if I will desire as a stranger, or claim as one freeborn here, the air, the free passage of highways, the protection of laws, and all such things—if I will either desire them or claim them, [then] I (if I have no permanent interest in that kingdom) must submit to those laws and those rules [which they shall choose], who, taken together, do comprehend the whole interest of the kingdom. And if we shall go to take away this, we shall plainly go to take away all property and interest that any man hath either in land by inheritance, or in estate by possession, or anything else—[I say], if you take away this fundamental part of the civil constitution.

Rainborough: Truly, sir, I am of the same opinion I was, and am resolved to keep it till I know reason why I should not. I confess my memory is bad, and therefore I am fain to make use of my pen. I remember that, in a former speech [which] this gentleman brought before this [meeting], he was saying that in some cases he should not value whether [there were] a king or no king, whether lords or no lords, whether a property or no property. For my part I differ in that. I do very much care whether [there be] a king or no king, lords or no lords, property or no property; and I think, if we do not all take care, we shall all have none of these very shortly. But as to this present business. I do hear nothing at all that can convince me, why any man that is born in England ought not to have his voice in election of burgesses. It is said that if a man have not a permanent interest, he can have no claim; and [that] we must be no freer than the laws will let us be, and that there is no [law in any]

chronicle will let us be freer than that we [now] enjoy. Something was said to this yesterday. I do think that the main cause why Almighty God gave men reason, it was that they should make use of that reason, and that they should improve it for that end and purpose that God gave it them. And truly, I think that half a loaf is better than none if a man be anhungry: [this gift of reason without other property may seem a small thing], yet I think there is nothing that God hath given a man that any [one] else can take from him. And therefore I say, that either it must be the Law of God or the law of man that must prohibit the meanest man in the kingdom to have this benefit as well as the greatest. I do not find anything in the Law of God, that a lord shall choose twenty burgesses, and a gentleman but two, or a poor man shall choose none: I find no such thing in the Law of Nature, nor in the Law of Nations. But I do find that all Englishmen must be subject to English laws, and I do verily believe that there is no man but will say that the foundation of all laws lies in the people, and if [it lie] in the people, I am to seek for this exemption.

And truly I have thought something [else]: in what a miserable distressed condition would many a man that hath fought for the Parliament in this quarrel, be! I will be bound to say that many a man whose zeal and affection to God and this kingdom hath carried him forth in this cause, hath so spent his estate that, in the way the state [and] the Army are going, he shall not hold up his head, if when his estate is lost, and not worth forty shillings a year, a man shall not have any interest. And there are many other ways by which [the] estates men have (if that be the rule which God in his providence does use) do fall to decay. A man, when he hath an estate, hath an interest in making laws, [but] when he hath none, he hath no power in it; so that a man cannot lose that which he hath for maintenance of his family but he must [also] lose that which God and nature hath given him! And therefore I do [think], and am still of the same opinion, that every man born in England cannot, ought not, neither by the Law of God nor the Law of Nature, to be exempted from the choice of those who are to make laws for him to live under, and for him, for aught I know, to lose his life under. And therefore I think there can be no great stick in this.

Truly I think that there is not this day reigning in England a greater fruit or effect of tyranny than this very thing would produce. Truly I know nothing free but only the knight of the shire, nor do I know anything in a parliamentary way that is clear from the height and fulness of tyranny, but only [that]. As for this of corporations [which you also mentioned], it is as contrary to freedom as may be. For, sir, what is it? The King he grants a patent under the Broad Seal of England to such a corporation to send burgesses, he grants to [such] a city to send burgesses. When a poor base corporation from the King['s grant] shall send two burgesses, when five hundred men of estate shall not send one, when those that are to make their laws are called by the King, or cannot act [but] by such a call, truly I think that the people of England have little freedom.

Ireton: I think there was nothing that I said to give you occasion to think that I did contend for this, that such a corporation [as that] should have the electing of a man to the Parliament: I think I agreed to this matter, that all should be equally distributed. But the question is, whether it should be distributed to all persons, or whether the same persons that are the electors [now] should be the electors still, and it [be] equally distributed amongst *them*. I do not see anybody else that makes this objection; and if nobody else be sensible of it I shall soon have done. Only I shall a little crave your leave to represent the consequences of it, and clear myself from one thing that was misrepresented by the gentleman that sat next me. I think, if the gentleman remember himself, he cannot but remember that what I said was to this effect: that if

I saw the hand of God leading so far as to destroy King, and destroy Lords, and destroy property, and [leave] no such thing at all amongst us, I should acquiesce in it, and so I did not care, if no king, no lords, or no property [should] be, in comparison of the tender care that I have of the honour of God, and of the people of God, whose [good] name is so much concerned in this Army This I did deliver [so], and not absolutely

All the main thing that I speak for, is because I would have an eye to property I hope we do not come to contend for victory—but let every man consider with himself that he do not go that way to take away all property For here is the case of the most fundamental part of the constitution of the kingdom, which if you take away, you take away all by that Here men of this and this quality are determined to be the electors of men to the Parliament, and they are all those who have any permanent interest in the kingdom, and who, taken together, do comprehend the whole [permanent, local] interest of the kingdom I mean by permanent [and] local, that [it] is not [able to be removed] anywhere else As for instance, he that hath a freehold, and that freehold cannot be remove out of the kingdom, and so there's a [freeman of a] corporation a place which hath the privilege of a market and trading, which if you should allow to all places equally, I do not see how you could preserve any peace in the kingdom, and that is the reason why in the constitution we have but some few market towns Now those people [that have freeholds] and those [that] are the freemen of corporations, were looked upon by the former constitution to comprehend the permanent interest of the kingdom For [first], he that hath his livelihood by his trade, and by his freedom of trading in such a corporation, which he cannot exercise in another, he is tied to that place, [for] his livelihood depends upon it And secondly, that man hath an interest, hath a permanent interest there, upon which he may live, and live a freeman without dependence These [things the] constitution [of] this kingdom hath looked at Now I wish we may all consider of what right you will challenge that all the people should have right to elections Is it by the right of nature? If you will hold forth that as your ground, then I think you must deny all property too, and this is my reason For thus by that same right of nature (what ever it be) that you pretend, by which you can say, one man hath an equal right with another to the choosing of him that shall govern him—by the same right of nature, he hath the same [equal] right in any goods he sees—meat, drink, clothes—to take and use them for his sustenance He hath a freedom to the land, [to take] the ground, to exercise it, till it, he hath the [same] freedom to anything that any one doth account himself to have any propriety in Why now I say then, if you against the most fundamental part of [the] civil constitution (which I have now declared), will plead the Law of Nature that a man should (paramount [to] this and contrary to this) have a power of choosing those men that shall determine what shall be law in this state, though he himself have no permanent interest in the state, [but] whatever interest he hath he may carry about with him—if this be allowed, [because by the right of nature] we are free, we are equal, one man must have as much voice as another, then show me what step or difference [there is], why [I may not] by the same right [take your property, though not] of necessity to sustain nature It is for my better being, and [the better settlement of the kingdom]? Possibly not for it, neither possibly I may not have so real a regard to the peace of the kingdom as that man who hath a permanent interest in it He that is here to day, and gone to morrow, I do not see that he hath such a permanent interest Since you cannot plead to it by anything but the Law of Nature, [or for anything] but for the end of better being and [since] that better being is not certain, and [what is] more, destructive to another,

upon these grounds, if you do, paramount [to] all constitutions, hold up this Law of Nature, I would fain have any man show me their bounds, where you will end, and [why you should not] take away all property.

Rainborough I shall now be a little more free and open with you than I was before I wish we were all true hearted, and that we did all carry ourselves with integrity If I did mistrust you I would [not] use such asseverations I think it doth go on mistrust, and things are thought too [readily] matters of reflection, that were never intended For my part, as I think, *you* forgot something that was in *my* speech, and you do not only yourselves believe that [some] men are inclining to anarchy, but you would make all men believe that And, sir, to say because a man pleads that every man hath a voice [by right of nature], that therefore it destroys [by] the same [argument all property—this is to forget the Law of God] That there's a property, the Law of God says it, else why [hath] God made that law, *Thou shalt not steal*? I am a poor man, therefore I must be [op]pressed if I have no interest in the kingdom, I must suffer by all their laws be they right or wrong Nay thus a gentleman lives in a country and hath three or four lordships, as some men have (God knows how they got them), and when a Parliament is called he must be a Parliament man, and it may be he sees some poor men, they live near this man, he can crush them—I have known an invasion to make sure he hath turned the poor men out of doors, and I would fain know whether the potency of [rich] men do not this, and so keep them under the greatest tyranny that was [ever] thought of in the world And therefore I think that to that it is fully answered God hath set down that thing as to propriety with this law of his, *Thou shalt not steal* And for my part I am against any such thought, and, as for yourselves, I wish you would not make the world believe that we are for anarchy

Cromwell· I know nothing but this, that they that are the most yielding have the greatest wisdom, but really, sir, this is not right as it should be No man says that you have a mind to anarchy, but [that] the consequence of this rule tends to anarchy, must end in anarchy, for where is there any bound or limit set if you take away this [limit], that men that have no interest but the interest of breathing [shall have no voice in elections]? Therefore I am confident on 't, we should not be so hot one with another

Rainborough I know that some particular men we debate with [believe we] are for anarchy....

. . . . .

Ireton I profess I must clear myself as to that point I would not desire, I cannot allow myself, to lay the least scandal upon anybody And truly, for that gentleman that did take so much offence, I do not know why he should take it so We speak to the paper—not to persons—and to the matter of the paper. And I hope that no man is so much engaged to the matter of the paper—I hope [that] our persons, and our hearts and judgments, are not [so] pinned to papers but that we are ready to hear what good or ill consequence will flow from it

I have, with as much plainness and clearness of reason as I could, showed you how I did conceive the doing of this [that the paper advocates] takes away that which is the most original, the most fundamental civil constitution of this kingdom, and which is, above all, that constitution by which I have any property If you will take away that and set up, as a thing paramount, whatever a man may claim by the Law of Nature, though it be not a thing of necessity to him for the sustenance of nature, if you do make this your rule, I desire clearly to understand where then remains property

Now then—I would misrepresent nothing—the answer which had anything of matter in it, the great and main answer upon which that which hath been said

against this [objection] rests, seemed to be that it will not make a breach of property, [for this reason] that there is a law, *Thou shalt not steal* [But] the same law says, *Honour thy father and [thy] mother,* and that law doth likewise hold out that it doth extend to all that [in that place where we are in] are our governors, so that by that there is a forbidding of breaking a civil law when we may live quietly under it, and [that by] a divine law Again it is said—indeed [was said] before—that there is no law, no divine law, that tells us that such a corporation must have the election of burgesses, such a shire [of knights], or the like Divine law extends not to particular things And so, on the other side, if a man were to demonstrate his [right to] property by divine law, it would be very remote Our [right to] property descends from other things, as well as our right of sending burgesses That divine law doth not determine particulars but generals in relation to man and man, and to property, and all things else and we should be as far to seek if we should go to prove a property in [a thing by] divine law, as to prove that I have an interest in choosing burgesses of the Parliament by divine law And truly, under favour, I refer it to all, whether there be anything of solution to that objection that I made, if it be understood —I submit it to any man's judgment

Rainborough To the thing itself—property [in the franchise] I would fain know how it comes to be the property [of some men, and not of others] As for estates and those kind of things, and other things that belong to men, it will be granted that they are property, but I deny that that is a property, to a lord, to a gentleman, to any man more than another in the kingdom of England If it be a property, it is a property by a law—neither do I think that there is very little property in this thing by the law of the land, because I think that the law of the land in that thing is the most tyrannical law under heaven And I would fain know what we have fought for. [For our laws and liberties?] And this is the old law of England—and that which enslaves the people of England—that they should be bound by laws in which they have no voice at all! [With respect to the divine law which says *Honour thy father and thy mother*] the great dispute is, who is a father and mother, and—I take it in the same sense you do—I would have a distinction, a character whereby God commands me to honour [them] And for my part I look upon the people of England so, that wherein they have not voices in the choosing of their [governors—their civil] fathers and mothers—they are not bound to that commandment

Rainborough Sir, I see that it is impossible to have liberty but all property must be taken away If it be laid down for a rule, and if you will say it, it must be so But I would fain know what the soldier hath fought for all this while? He hath fought to enslave himself, to give power to men of riches men of estates, to make him a perpetual slave We do find in all presses that go forth none must be pressed that are freehold men When these gentlemen fall out among themselves they shall press the poor scrubs to come and kill [one an other for] them

Ireton I confess I see so much right in the business that I am not easily satisfied with flourishes If you will [not] lay the stress of the business upon the consideration of reason, or right relating to anything of human constitution, or any thing of that nature, but will put it upon consequences, I will show you greater ill consequences—I see enough to say that, to my apprehensions, I can show you greater ill consequences to follow upon that alteration which you would have, by extending [voices] to all that have a being in this kingdom, than [any] that [can come] by this [present constitution], a great deal That [that you urge of the present constitution] is a particular ill consequence This [that I object against your proposal] is a general ill consequence, and this is as great as that or any [ill consequence] else [whatsoever], though I think you will see

that the validity of that argument must be that for one ill [that] lies upon that which now is, I can show you a thousand upon this [that you propose].

Give me leave [to say] but this one word. I [will] tell you what the soldier of the kingdom hath fought for. First, the danger that we stood in was that one man's will must be a law. The people of the kingdom must have this right at least, that they should not be concluded [but] by the Representative of those that had the interest of the kingdom. So[m]e men fought in this, because they were immediately concerned and engaged in it. Other men who had no other interest in the kingdom but this, that they should have the benefit of those laws made by the Representative, yet [fought] that they should have the benefit of this Representative. They thought it was better to be concluded by the common consent of those that were fixed men, and settled men, that had the interest of this kingdom [in them]. "And from that way," [said they], "I shall know a law and have a certainty." Every man that was born [in the country, that] is a denizen in it, that hath a freedom, he was capable of trading to get money, to get estates by; and therefore this man, I think, had a great deal of reason to build up such a foundation of interest to himself: that is, that the will of one man should not be a law, but that the law of this kingdom should be by choice of persons to represent, and that choice to be made by, the generality of the kingdom. Here was a right that induced men to fight, and those men that had this interest, though this be not the utmost interest that other men have, yet they had *some* interest. Now [tell me] why we should go to plead whatsoever we can challenge by the right of nature against whatsoever any man can challenge by constitution. I do not see where that man will stop, as to point of property, [so] that he shall not use [against other property] that right he hath [claimed] by the Law of Nature against that constitution. I desire any man to show me where there is a difference. I have been answered, "Now we see liberty cannot stand without [destroying] property." Liberty may be had and property not be destroyed. First, the liberty of all those that have the permanent interest in the kingdom, *that* is provided for [by the constitution]. And [secondly, by an appeal to the Law of Nature] liberty cannot be provided for in a general sense, if property be preserved. For if property be preserved [by acknowledging a natural right in the possessor, so] that I am not to meddle with such a man's estate, his meat, his drink, his apparel, or other goods, then the right of nature destroys liberty. By the right of nature I am to have sustenance rather than perish; yet property destroys it for a man to have [this] by the right of nature, [even] suppose there be no human constitution. . . .

Locke: Natural Rights Limit the Ruler

In other writings Locke develops a theory of human nature and learning which holds that all knowledge comes from sensations recorded on an otherwise blank mind or consciousness This theory does not appear in, or is not basic to, his political writings and is, in fact, contradictory to some of them In his FIRST ESSAY ON CIVIL GOVERNMENT *he answers Sir Robert Filmer's* PATRIARCHA *In his* SECOND ESSAY, *which follows in part, he is probably answering Hobbes Here he assumes the existence of innate human rights which no government or association can rightly take away without consent On this basic assumption he discusses a frame and system of government which will be most likely to protect these rights Neither Locke nor anyone else can prove that such rights exist The important point then revolves around what rights Locke considers "natural" ones and what kind of polity' the existence of such rights and their protection requires It is always interesting to speculate on what, if anything, Locke had in common with Plato and Aristotle* [1]

AN ESSAY CONCERNING THE TRUE ORIGINAL, EXTENT AND END OF CIVIL GOVERNMENT

CHAPTER I

[POLITICAL POWER]

. . . . .

2 I think it may not be amiss to set down what I take to be political power, that the power of a magistrate over a subject may be distinguished from that of a father over his children, a master over his servant, a husband over his wife, and a lord over his slave All which distinct powers happening sometime together in the same man, if he be considered under these different relations it may help us to distinguish these powers one from another, and show the difference betwixt a ruler of a commonwealth a father of a family and a captain of a galley

3 Political power, then, I take to be a right of making laws with penalties of death and consequently all less penalties, for the regulating and preserving of property, and of employing the force of the community in the execution of such laws and in the defence of the commonwealth from foreign injury, and all this only for the public good

CHAPTER II

[STATE OF NATURE AND WAR]

. . . .

12 Every offence that can be committed in the state of nature, may in the state of nature be also punished equally, and as far forth as it may, in a commonwealth For though it would be beside my present purpose to enter here into the particulars of the law of nature, or its measures of punishment, yet it is certain there is such a law, and that, too, as intelligible and plain to a rational creature and a studier of that law as the positive laws of commonwealths, nay, possibly plainer, as much as reason is easier to be understood than the fancies and intricate contrivances of men, following contrary

[1] From John Locke, *Treatise of Civil Government and a Letter Concerning Toleration*, edited by Charles L Sherman Copyright, 1937, by D Appleton Century Company, Inc Reprinted by permission of Appleton Century Crofts, Inc

and hidden interests put into words; for truly so are a great part of the municipal laws of countries, which are only so far right as they are founded on the law of nature, by which they are to be regulated and interpreted.

13. To this strange doctrine—viz., That in the state of nature every one has the executive power of the law of nature—I doubt not but it will be objected that it is unreasonable for men to be judges in their own cases, that self-love will make men partial to themselves and their friends. And on the other side, that ill-nature, passion, and revenge will carry them too far in punishing others; and hence nothing but confusion and disorder will follow; and that therefore God hath certainly appointed government to restrain the partiality and violence of men. I easily grant that civil government is the proper remedy for the inconveniences of the state of nature, which must certainly be great where men may be judges in their own case, since 'tis easy to be imagined that he who was so unjust as to do his brother an injury, will scarce be so just as to condemn himself for it. But I shall desire those who make this objection, to remember that absolute monarchs are but men, and if government is to be the remedy of those evils which necessarily follow from men's being judges in their own cases, and the state of nature is therefore not to be endured, I desire to know what kind of government that is, and how much better it is than the state of nature, where one man commanding a multitude, has the liberty to be judge in his own case, and may do to all his subjects whatever he pleases, without the least question or control of those who execute his pleasure; and in whatsoever he doth, whether led by reason, mistake, or passion, must be submitted to, which men in the state of nature are not bound to do one to another? And if he that judges, judges amiss in his own or any other case, he is answerable for it to the rest of mankind.

14. 'Tis often asked as a mighty objection, Where are, or ever were there, any men in such a state of nature? To which it may suffice as an answer at present: That since all princes and rulers of independent governments all through the world are in a state of nature, 'tis plain the world never was, nor ever will be, without numbers of men in that state. I have named all governors of independent communities, whether they are or are not in league with others. For 'tis not every compact that puts an end to the state of nature between men, but only this one of agreeing together mutually to enter into one community, and make one body politic; other promises and compacts men may make one with another, and yet still be in the state of nature. The promises and bargains for truck, etc., between the two men in Soldania, in or between a Swiss and an Indian, in the woods of America, are binding to them, though they are perfectly in a state of nature in reference to one another. For truth and keeping of faith belong to men as men, and not as members of society.

15. To those that say there were never any men in the state of nature, I will not only oppose the authority of the judicious Hooker—"Eccl. Pol.," lib. i., sect. 10, where he says, "The laws which have been hitherto mentioned," *i.e.*, the laws of nature, "do bind men absolutely, even as they are men, although they have never any settled fellowship, and never any solemn agreement amongst themselves what to do or not to do; but forasmuch as we are not by ourselves sufficient to furnish ourselves with competent store of things needful for such a life as our nature doth desire—a life fit for the dignity of man—therefore to supply those defects and imperfections which are in us, as living single and solely by ourselves, we are naturally induced to seek communion and fellowship with others; this was the cause of men's uniting themselves at first in politic societies"—but I moreover affirm that all men are naturally in that state, and remain so, till by their own consents they make themselves members of some politic society; and I doubt not, in the

sequel of this discourse, to make it very clear.

CHAPTER III

Of the State of War

16. The state of war is a state of enmity and destruction; and therefore declaring by word or action, not a passionate and hasty, but a sedate, settled design upon another man's life, puts him in a state of war with him against whom he has declared such an intention, and so has exposed his life to the other's power to be taken away by him, or any one that joins with him in his defence and espouses his quarrel; it being reasonable and just I should have a right to destroy that which threatens me with destruction. For by the fundamental law of nature, man being to be preserved as much as possible, when all cannot be preserved, the safety of the innocent is to be preferred; and one may destroy a man who makes war upon him, or has discovered an enmity to his being, for the same reason that he may kill a wolf or a lion; because they are not under the ties of the common law of reason, have no other rule but that of force and violence, and so may be treated as a beast of prey, those dangerous and noxious creatures that will be sure to destroy him whenever he falls into their power.

17. And hence it is that he who attempts to get another man into his absolute power does thereby put himself into a state of war with him; it being to be understood as a declaration of a design upon his life. For I have reason to conclude that he who would get me into his power without my consent, would use me as he pleased when he had got me there, and destroy me too, when he had a fancy to it; for nobody can desire to have me in his absolute power, unless it be to compel me by force to that which is against the right of my freedom, *i.e.*, make me a slave. To be free from such force is the only security of my preservation; and reason bids me look on him as an enemy to my preservation who would take away that freedom which is the fence to it; so that he who makes an attempt to enslave me, thereby puts himself into a state of war with me. He that in the state of nature would take away the freedom that belongs to any one in that state, must necessarily be supposed to have a design to take away everything else, that freedom being the foundation of all the rest; as he that in the state of society would take away the freedom belonging to those of that society or commonwealth, must be supposed to design to take away from them everything else, and so be looked on as in a state of war.

18. This makes it lawful for a man to kill a thief who has not in the least hurt him, nor declared any design upon his life, any farther than by the use of force so to get him in his power as to take away his money or what he pleases from him; because using force, where he has no right, to get me into his power, let his pretence be what it will, I have no reason to suppose that he who would take away my liberty would not, when he had me in his power, take away everything else. And therefore it is lawful for me to treat him as one who has put himself into a state of war with me, *i.e.*, kill him, if I can; for to that hazard does he justly expose himself, whoever introduces a state of war and is aggressor in it.

19. And here we have the plain difference between the state of nature and the state of war, which however some men have confounded, are as far distant as a state of peace, good-will, mutual assistance and preservation, and a state of enmity, malice, violence and mutual destruction, are one from another. Men living together according to reason, without a common superior on earth with authority to judge between them, is properly the state of nature. But force, or a declared design of force, upon the person of another, where there is no common superior on earth to appeal to for relief, is the state of war; and 'tis the want of such an appeal gives a man the right of war even against an aggressor, though he be in so-

ciety and a fellow-subject. Thus a thief, whom I cannot harm, but by appeal to the law, for having stolen all that I am worth, I may kill, when he sets on to rob me but of my horse or coat; because the law, which was made for my preservation where it cannot interpose to secure my life from present force, which if lost is capable of no reparation, permits me my own defence, and the right of war, a liberty to kill the aggressor, because the aggressor allows not time to appeal to our common judge, nor the decision of the law, for remedy in a case where the mischief may be irreparable. Want of a common judge with authority puts all men in a state of nature; force without right, upon a man's person, makes a state of war, both where is, and is not, a common judge.

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CHAPTER IV

[FREEDOM]

22. The natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man, but to have only the law of nature for his rule. The liberty of man in society is to be under no other legislative power but that established by consent in the commonwealth; nor under the dominion of any will or restraint of any law, but what that legislative shall enact according to the trust put in it. Freedom then is not what Sir R. R. tells us, O. A. 55, "a liberty for every one to do what he lists, to live as he pleases, and not to be tied by any laws." But freedom of men under government is to have a standing rule to live by, common to every one of that society, and made by the legislative power erected in it; a liberty to follow my own will in all things, where that rule prescribes not; and not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man: as freedom of nature is to be under no other restraint but the law of nature.

23. This freedom from absolute arbitrary power is so necessary to, and closely joined with, a man's preservation, that he cannot part with it but by what forfeits his preservation and life together. For a man not having the power of his own life cannot by compact, or his own consent, enslave himself to any one, nor put himself under the absolute arbitrary power of another to take away his life when he pleases. Nobody can give more power than he has himself; and he that cannot take away his own life, cannot give another power over it. Indeed, having by his fault forfeited his own life by some act that deserves death, he to whom he has forfeited it may (when he has him in his power) delay to take it, and make use of him to his own service; and he does him no injury by it. For whenever he finds the hardship of his slavery outweigh the value of his life, 'tis in his power by resisting the will of his master to draw on himself the death he desires.

24. This is the perfect condition of slavery, which is nothing else but the state of war continued between a lawful conqueror and a captive. For if once compact enter between them, and make an agreement for a limited power on the one side, and obedience on the other, the state of war and slavery ceases as long as the compact endures. For, as has been said, no man can by agreement pass over to another that which he hath not in himself, a power over his own life.

I confess we find among the Jews as well as other nations that men did sell themselves; but 'tis plain this was only to drudgery, not to slavery. For it is evident the person sold was not under an absolute, arbitrary, despotical power. For the master could not have power to kill him, at any time, whom at a certain time he was obliged to let go free out of his service; and the master of such a servant was so far from having an arbitrary power over his life, that he could not at pleasure so much as maim him, but the loss of an eye or tooth set him free. (Exodus xxi.)

CHAPTER V

Of Property

25. **Whether we** consider natural reason, which tells us that men being once born have a right to their preservation, and consequently to meat and drink and such other things as nature affords for their subsistence, or Revelation, which gives us an account of those grants God made of the world to Adam, and to Noah and his sons, 'tis very clear that God, as King David says, Psalm cxv 16, "has given the earth to the children of men," given it to mankind in common But this being supposed, it seems to some a very great difficulty how any one should ever come to have a property in anything I will not content myself to answer that if it be difficult to make out property upon a supposition that God gave the world to Adam and his posterity in common, it is impossible that any man but one universal monarch should have any property upon a supposition that God gave the world to Adam and his heirs in succession, exclusive of all the rest of his posterity But I shall endeavour to show how men might come to have a property in several parts of that which God gave to mankind in common, and that without any express compact of all the commoners

26 God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life and convenience The earth and all that is therein is given to men for the support and comfort of their being And though all the fruits it naturally produces, and beasts it feeds, belong to mankind in common, as they are produced by the spontaneous hand of nature, and nobody has originally a private dominion exclusive of the rest of mankind in any of them as they are thus in their natural state, yet being given for the use of men, there must of necessity be a means to appropriate them some way or other before they can be of any use or at all beneficial to any particular man. The fruit or venison which nourishes the wild Indian, who knows no enclosure, and is still a tenant in common, must be his, and so his, *i e*, a part of him, that another can no longer have any right to it, before it can do any good for the support of his life.

[Property in Own Person]

27 Though the earth and all inferior creatures be common to all men, yet every man has a property in his own person, this nobody has any right to but himself The labour of his body and the work of his hands we may say are properly his Whatsoever, then, he removes out of the state that nature hath provided and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property It being by him removed from the common state nature placed it in, it hath by this labour something annexed to it that excludes the common right of other men For this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good left in common for others

[Property Not Based on Consent]

28 He that is nourished by the acorns he picked up under an oak, or the apples he gathered from the trees in the wood, has certainly appropriated them to himself. Nobody can deny but the nourishment is his I ask, then, When did they begin to be his—when he digested, or when he ate, or when he boiled, or when he brought them home, or when he picked them up? And 'tis plain if the first gathering made them not his, nothing else could That labour put a distinction between them and common, that added something to them more than Nature, the common mother of all, had done, and so they became his private right And will any one say he had no right to those acorns or apples he thus appropriated,

because he had not the consent of all mankind to make them his? Was it a robbery thus to assume to himself what belonged to all in common? If such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him We see in commons which remain so by compact that 'tis the taking any part of what is common and removing it out of the state nature leaves it in, which begins the property, without which the common is of no use And the taking of this or that part does not depend on the express consent of all the commoners Thus the grass my horse has bit, the turfs my servant has cut, and the ore I have dug in any place where I have a right to them in common with others, become my property without the assignation or consent of anybody The labour that was mine removing them out of that common state they were in, hath fixed my property in them

29 By making an explicit consent of every commoner necessary to any one's appropriating to himself any part of what is given in common, children or servants could not cut the meat which their father or master had provided for them in common without assigning to every one his peculiar part Though the water running in the fountain be every one's, yet who can doubt but that in the pitcher is his only who drew it out? His labour hath taken it out of the hands of Nature, where it was common, and belonged equally to all her children, and hath thereby appropriated it to himself

30 Thus this law of reason makes the deer that Indian's who hath killed it, 'tis allowed to be his goods who hath bestowed his labour upon it, though before it was the common right of every one And amongst those who are counted the civilised part of mankind, who have made and multiplied positive laws to determine property, this original law of nature, for the beginning of property in what was before common, still takes place, and by virtue thereof, what fish any one catches in the ocean, that great and still remaining common of mankind, or what ambergris any one takes up here, is, by the labour that removes it out of that common state nature left it in, made his property who takes that pains about it And even amongst us, the hare that any one is hunting is thought his who pursues her during the chase For being a beast that is still looked upon as common, and no man's private possession, whoever has employed so much labour about any of that kind as to find and pursue her has thereby removed her from the state of nature wherein she was common, and hath begun a property

[Limit to Property]

31 It will perhaps be objected to this, that if gathering the acorns, or other fruits of the earth, &c, makes a right to them, then any one may engross as much as he will To which I answer, Not so The same law of nature that does by this means give us property, does also bound that property too "God has given us all things richly" (I Tim vi 17), is the voice of reason confirmed by inspiration But how far has He given it us? To enjoy As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in whatever is beyond this, is more than his share, and belongs to others Nothing was made by God for man to spoil or destroy And thus considering the plenty of natural provisions there was a long time in the world, and the few spenders, and to how small a part of that provision the industry of one man could extend itself, and engross it to the prejudice of others—especially keeping within the bounds, set by reason, of what might serve for his use—there could be then little room for quarrels or contentions about property so established.

[Land]

32. But the chief matter of property being now not the fruits of the earth, and

the beasts that subsist on it, but the earth itself, as that which takes in and carries with it all the rest, I think it is plain that property in that, too, is acquired as the former As much land as a man tills, plants, improves, cultivates, and can use the product of, so much is his property He by his labour does as it were enclose it from the common Nor will it invalidate his right to say, everybody else has an equal title to it, and therefore he cannot appropriate, he cannot enclose, without the consent of all his fellow commoners, all mankind God, when He gave the world in common to all mankind commanded man also to labour, and the penury of his condition required it of him God and his reason commanded him to subdue the earth, *i.e.*, improve it for the benefit of life, and therein lay out something upon it that was his own, his labour He that, in obedience to this command of God, subdued, tilled, and sowed any part of it, thereby annexed to it something that was his property, which another had no title to, nor could without injury take from him

33 Nor was this appropriation of any parcel of land, by improving it, any prejudice to any other man, since there was still enough and as good left, and more than the yet unprovided could use So that in effect there was never the less left for others because of his enclosure for himself For he that leaves as much as another can make use of, does as good as take nothing at all Nobody could think himself injured by the drinking of another man, though he took a good draught, who had a whole river of the same water left him to quench his thirst, and the case of land and water, where there is enough of both, is perfectly the same.

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[Labor Theory of Value]

40. Nor is it so strange, as perhaps before consideration it may appear, that the property of labour should be able to overbalance the community of land For it is labour indeed that puts the difference of value on everything, and let any one consider what the difference is between an acre of land planted with tobacco or sugar, sown with wheat or barley, and an acre of the same land lying in common without any husbandry upon it, and he will find that the improvement of labour makes the far greater part of the value I think it will be but a very modest computation to say that of the products of the earth useful to the life of man nine tenths are the effects of labour, nay, if we will rightly estimate things as they come to our use, and cast up the several expenses about them—what in them is purely owing to nature, and what to labour—we shall find that in most of them ninety nine hundredths are wholly to be put on the account of labour

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[Regulation]

44 From all which it is evident that though the things of nature are given in common, yet man, by being master of himself and proprietor of his own person and the actions or labour of it, had still in himself the great foundation of property, and that which made up the great part of what he applied to the support or comfort of his being, when invention and arts had improved the conveniences of life, was perfectly his own, and did not belong in common to others

45 Thus labour, in the beginning, gave a right of property, wherever any one was pleased to employ it upon what was common, which remained a long while the far greater part, and is yet more than mankind makes use of Men at first, for the most part, contented themselves with what unassisted nature offered to their necessities, and though afterwards, in some parts of the world (where the increase of people and stock, with the use of money, had made land scarce, and so of some value), the several communities

settled the bounds of their distinct territories, and, by laws within themselves, regulated the properties of the private men of their society, and so, by compact and agreement, settled the property which labour and industry began—and the leagues that have been made between several states and kingdoms, either expressly or tacitly disowning all claim and right to the land in the other's possession, have, by common consent, given up their pretences to their natural common right, which originally they had to those countries; and so have, by positive agreement, settled a property amongst themselves in distinct parts of the world—yet there are still great tracts of ground to be found which, the inhabitants thereof not having joined with the rest of mankind in the consent of the use of their common money, lie waste, and are more than the people who dwell on it do or can make use of, and so still lie in common; though this can scarce happen amongst that part of mankind that have consented to the use of money.

46. ... Again, if he would give his nuts for a piece of metal, pleased with its colour, or exchange his sheep for shells, or wool for a sparkling pebble or a diamond, and keep those by him all his life, he invaded not the right of others; he might heap up as much of these durable things as he pleased, the exceeding of the bounds of his just property not lying in the largeness of his possessions, but the perishing of anything uselessly in it.

[Money]

47. And thus came in the use of money—some lasting thing that men might keep without spoiling, and that, by mutual consent, men would take in exchange for the truly useful but perishable supports of life.

48. And as different degrees of industry were apt to give men possessions in different proportions, so this invention of money gave them the opportunity to continue and enlarge them; for supposing an island, separate from all possible commerce with the rest of the world, wherein there were but a hundred families—but there were sheep, horses, and cows, with other useful animals, wholesome fruits, and land enough for corn for a hundred thousand times as many, but nothing in the island, either because of its commonness or perishableness, fit to supply the place of money—what reason could any one have there to enlarge his possessions beyond the use of his family and a plentiful supply to its consumption, either in what their own industry produced, or they could barter for like perishable useful commodities with others? Where there is not something both lasting and scarce, and so valuable to be hoarded up, there men will not be apt to enlarge their possessions of land, were it never so rich, never so free for them to take; for I ask, what would a man value ten thousand or a hundred thousand acres of excellent land, ready cultivated, and well stocked too with cattle, in the middle of the inland parts of America, where he had no hopes of commerce with other parts of the world, to draw money to him by the sale of the product? It would not be worth the enclosing, and we should see him give up again to the wild common of nature whatever was more than would supply the conveniences of life to be had there for him and his family.

49. Thus in the beginning all the world was America, and more so than that is now, for no such thing as money was anywhere known. Find out something that hath the use and value of money amongst his neighbours, you shall see the same man will begin presently to enlarge his possessions.

50. But since gold and silver, being little useful to the life of man in proportion to food, raiment, and carriage, has its value only from the consent of men, whereof labour yet makes, in great part, the measure, it is plain that the consent of men have agreed to a disproportionate and unequal possession of the earth—I mean out of the bounds of society and

compact; for in governments the laws regulate it; they having, by consent, found out and agreed in a way how a man may rightfully and without injury possess more than he himself can make use of by receiving gold and silver, which may continue long in a man's possession, without decaying for the overplus, and agreeing those metals should have a value

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CHAPTER VI

[Nature of Paternal Power]

57 The law that was to govern Adam was the same that was to govern all his posterity, the law of reason But his offspring having another way of entrance into the world, different from him, by a natural birth, that produced them ignorant and without the use of reason, they were not presently under that law For nobody can be under a law which is not promulgated to him and this law being promulgated or made known by reason only, he that is not come to the use of his reason cannot be said to be under this law, and Adam's children being not presently as soon as born under this law of reason, were not presently free For law in its true notion is not so much the limitation as the direction of a free and intelligent agent to his proper interest, and prescribes no farther than is for the general good of those under that law could they be happier without it the law as an useless thing would of itself vanish, and that ill deserves the name of confinement which hedges us in only from bogs and precipices So that, however it may be mistaken, the end of law is, not to abolish or restrain, but to preserve and enlarge freedom For in all the states of created beings capable of laws, where there is no law there is no freedom For liberty is to be free from restraint and violence from others, which cannot be where there is no law and is not, as we are told, a liberty for every man to do what he lists (For who could be free when every other man's humour might domineer over him?) But a liberty to dispose, and order as he lists, his person actions, possessions, and his whole property, within the allowance of those laws under which he is, and therein not to be subject to the arbitrary will of another, but freely follow his own

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[Reason]

61 Thus we are born free, as we are born rational not that we have actually the exercise of either age that brings one brings with it the other too And thus we see how natural freedom and subjection to parents may consist together, and are both founded on the same principle A child is free by his father's title by his father's understanding, which is to govern him till he hath it of his own The freedom of a man at years of discretion and the subjection of a child to his parents whilst yet short of that age, are so consistent and so distinguishable, that the most blinded contenders for monarchy by right of fatherhood cannot miss of it, the most obstinate cannot but allow of it For were their doctrine all true, were the right heir of Adam now known, and by that title settled a monarch in his throne, invested with all the absolute unlimited power Sir R F talks of, if he should die as soon as his heir were born, must not the child, notwithstanding he were never so free, never so much Sovereign, be in subjection to his mother and nurse, to tutors and governors, till age and education brought him reason and ability to govern himself and others? The necessities of his life, the health of his body, and the information of his mind would require him to be directed by the will of others and not his own, and yet will any one think that this restraint and subjection were inconsistent with, or spoiled him of that liberty or sovereignty he had a right to, or gave away his empire

to those who had the government of his nonage? This government over him only prepared him for the better and sooner for it If anybody should ask me when my son is of age to be free, I shall answer, "Just when his monarch is of age to govern" "But at what time, says the judicious Hooker ("Eccl Pol" lib 1, sect 6), "a man may be said to have attained so far forth the use of reason as sufficeth to make him capable of those laws whereby he is then bound to guide his actions, this is a great deal more easy for sense to discern than for any one by skill and learning to determine"

62 Commonwealths themselves take notice of and allow that there is a time when men are to begin to act like free men, and therefore till that time require not oaths of fealty or allegiance, or other public owning of, or submission to, the government of their countries

63 The freedom, then, of man, and liberty of acting according to his own will, is grounded on his having reason, which is able to instruct him in that law he is to govern himself by, and make him know how far he is left to the freedom of his own will To turn him loose to an unreasoned liberty before he has reason to guide him is not the allowing him the privilege of his nature to be free, but to thrust him out amongst brutes, and abandon him to a state as wretched, and as much beneath that of a man, as theirs This is that which puts the authority into the parents' hands to govern the minority of their children God hath made it their business to employ this care on their offspring, and hath placed in them suitable inclinations of tenderness and concern to temper this power, to apply it, as His wisdom designed it, to the children's good, as long as they should need to be under it.

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[Paternal Power]

71. This shows the reason how it comes to pass that parents in societies, where they themselves are subjects, retain a power over their children, and have as much right to their subjection, as those who are in the state of nature Which could not possibly be if all political power were only paternal, and that in truth they were one and the same thing; for then all paternal power being in the prince, the subject could naturally have none of it But these two powers, political and paternal, are so perfectly distinct and separate, are built upon so different foundations, and given to so different ends, that every subject that is a father has as much a paternal power over his children as the prince has over his, and every prince that has parents owes them as much filial duty and obedience as the meanest of his subjects do to theirs, and can therefore contain not any part or degree of that kind of dominion which a prince or magistrate has over his subject.

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CHAPTER VII

[Political Society and Absolute Monarchy]

77 God having made man such a creature, that in his own judgment it was not good for him to be alone, put him under strong obligations of necessity, convenience, and inclination to drive him into society, as well as fitted him with understanding and language to continue and enjoy it. The first society was between man and wife, which gave beginning to that between parents and children, to which, in time, that between master and servant came to be added, and though all these might, and commonly did meet together, and make up but one family, wherein the master or mistress of it had some sort of rule proper to a family; each of these, or all together, came short of political society, as we shall see, if we consider the different ends, ties, and bounds of each of these.

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[CONCERNING POLITICAL SOCIETY]

87. Man being born, as has been proved, with a title to perfect freedom, and an uncontrolled enjoyment of all the rights and privileges of the law of nature equally with any other man or number of men in the world, hath by nature a power not only to preserve his property—that is, his life, liberty, and estate—against the injuries and attempts of other men, but to judge of and punish the breaches of that law in others as he is persuaded the offence deserves, even with death itself, in crimes where the heinousness of the fact in his opinion requires it. But because no political society can be nor subsist without having in itself the power to preserve the property, and, in order thereunto, punish the offences of all those of that society, there, and there only, is political society, where every one of the members hath quitted this natural power, resigned it up into the hands of the community in all cases that exclude him not from appealing for protection to the law established by it, and thus all private judgment of every particular member being excluded, the community comes to be umpire, and by understanding indifferent rules and men authorized by the community for their execution, decides all the differences that may happen between any members of that society concerning any matter of right, and punishes those offences which any member hath committed against the society with such penalties as the law has established, whereby it is easy to discern who are and who are not in political society together. Those who are united into one body, and have a common established law and judicature to appeal to, with authority to decide controversies between them and punish offenders, are in civil society one with another, but those who have no such common appeal—I mean on earth—are still in the state of nature, each being, where there is no other judge for himself and executioner, which is, as I have before shown it, the perfect state of nature.

[ORIGIN OF LEGISLATIVE AND EXECUTIVE POWER]

88. And thus the commonwealth comes by a power to set down what punishment shall belong to the several transgressions which they think worthy of it committed amongst the members of that society, which is the power of making laws as well as it has the power to punish any injury done unto any of its members by any one that is not of it, which is the power of war and peace; and all this for the preservation of the property of all the members of that society as far as is possible. But though every man entered into civil society, has quitted his power to punish offences against the law of nature in prosecution of his own private judgment, yet with the judgment of offences which he has given up to the legislative in all cases where he can appeal to the magistrate, he has given a right to the commonwealth to employ his force for the execution of the judgments of the common wealth whenever he shall be called to it; which, indeed, are his own judgments, they being made by himself or his representative. And herein we have the original of the legislative and executive power of civil society, which is to judge by standing laws how far offences are to be punished when committed within the commonwealth, and also by occasional judgments founded on the present circumstances of the fact, how far injuries from without are to be vindicated; and in both these to employ all the force of all the members when there shall be need.

89. Wherever, therefore, any number of men so unite into one society, as to quit every one his executive power of the law of nature, and to resign it to the public, there and there only, is a political or civil society. And this is done wherever any number of men, in the state of nature, enter into society to make one people, one body politic, under one supreme government, or else when any one joins himself to, and incorporates with, any government already made. For hereby he authorises

the society, or, which is all one, the legislative thereof, to make laws for him, as the public good of the society shall require, to the execution whereof his own assistance (as to his own decrees) is due. And this puts men out of a state of nature into that of a commonwealth, by setting up a judge on earth with authority to determine all the controversies and redress the injuries that may happen to any member of the commonwealth; which judge is the legislative, or magistrates appointed by it. And wherever there are any number of men, however associated, that have no such decisive power to appeal to, there they are still in the state of nature.

[Absolute Monarchy]

90. Hence it is evident that absolute monarchy, which by some men is counted the only government in the world, is indeed inconsistent with civil society, and so can be no form of civil government at all. For the end of civil society being to avoid and remedy those inconveniences of the state of nature which necessarily follow from every man's being judge in his own case, by setting up a known authority to which every one of that society may appeal upon any injury received or controversy that may arise, and which every one of the society ought to obey [2]; wherever any persons are who have not such an authority to appeal to and decide any difference between them there, those persons are still in the state of nature. And so is every absolute prince, in respect of those who are under his dominion.

91. For he being supposed to have all, both legislative and executive power in himself alone, there is no judge to be found; no appeal lies open to any one who may fairly and indifferently and with authority decide, and from whence relief and address may be expected of any injury or inconvenience that may be suffered from or by his order; so that such a man, however entitled—Czar, or Grand Seignior, or how you please—is as much in the state of nature, with all under his dominion, as he is with the rest of mankind. For wherever any two men are, who have no standing rule and common judge to appeal to on earth for the determination of controversies of right betwixt them, there they are still in the state of nature, and under all the inconveniences of it, with only this woful difference to the subject, or rather slave, of an absolute prince: [3] that, whereas in the ordinary state of nature he has a liberty to judge of his right, and according to the best of his power to maintain it, now, whenever his property is invaded by the will and order of his monarch, he has not only no appeal, as those in the society ought to have, but, as if he were degraded from the common state of rational creatures, is denied a liberty to judge of or to defend his right; and so is exposed to all the misery and inconveniences that a man can fear from one who, being in the unrestrained state of nature, is yet corrupted with flattery, and armed with power.

92. For he that thinks absolute power purifies men's blood, and corrects the baseness of human nature, need read but the history of this or any other age, to be convinced of the contrary. He that would have been insolent and injurious in the woods of America, would not probably be much better in a throne; where, perhaps, learning and religion shall be found out to justify all that he shall do to his subjects, and the sword presently silence all those that dare question it. For what the protection of absolute monarchy is, what kind of fathers of their countries it makes princes to be, and to what a degree of happiness and security it car-

[2] "The public power of all society is above every soul contained in the same society, and the principal use of that power is to give laws unto all that are under it, which laws in such cases we must obey, unless there be reason showed which may necessarily enforce that the law of reason or of God doth enjoin the contrary."—Hooker (*Eccl. Pol.*, lib. i., sec. 16).

[3] Locke here quotes from Hooker the passage on p. 405 this book, lines 1-30.

ries civil society, where this sort of government is grow to perfection, he that will look into the late relation of Ceylon may easily see

93 In absolute monarchies, indeed, as well as other governments of the world, the subjects have an appeal to the law, and judges to decide any controversies and restrain any violence that may happen betwixt the subjects themselves, one amongst another This every one thinks necessary, and believes he deserves to be thought a declared enemy to society and mankind who should go about to take it away But whether this be from a true love of mankind and society, and such a charity as we owe all one to another there is reason to doubt For this is no more than that every man who loves his own power, profit, or greatness may, and naturally must do, keep those animals from hurting or destroying one another who labour and drudge only for his pleasure and advantage, and so are taken care of, not out of any love the master has for them, but love of himself and the profit they bring him For if it be asked, what security what fence is there, in such a state, against the violence and oppression of this absolute ruler, the very question can scarce be borne They are ready to tell you that it deserves death only to ask after safety Betwixt subject and subject they will grant there must be measures, laws and judges, for their mutual peace and security, but as for the ruler, he ought to be absolute, and is above all such circumstances, because he has power to do more hurt and wrong us right when he does it To ask how you may be guarded from harm or injury on that side where the strongest hand is to do it, is presently the voice of faction and rebellion As if when men quitting the state of nature entered into society they agreed that all of them but one should be under the restraint of laws, but that he should still retain all the liberty of the state of nature, increased with power, and made licentious by impunity This is to think that men are so foolish that they take care to avoid what mischiefs may be done them by polecats or foxes, but are content, nay, think it safety, to be devoured by lions [4]

94 But, whatever flatterers may talk to amuse people's understandings, it never hinders men from feeling, and when they perceive that any man, in what station soever, is out of the bounds of the civil society they are of, and that they have no appeal on earth against any harm they may receive from him, they are apt to think themselves in the state of nature in respect of him whom they find to be so, and to take care, as soon as they can to have that safety and security in civil society for which it was first instituted, and for which only they entered into it And therefore, though perhaps at first (as shall be shown more at large hereafter in the following part of this discourse), some one good and excellent man, having got a preeminence amongst the rest, had this deference paid to his goodness and virtue as to a kind of natural authority, that the chief rule, with arbitration of their differences, by a tacit consent devolved into his hands without any other caution but the assurance they had of his uprightness and wisdom, yet when time, giving authority and (as some men would persuade us) sacredness to customs which the negligent and unforeseeing innocence of the first ages began, had brought in successors of another stamp, the people finding their properties not secure under the government as then it was (whereas government has no other end but the preservation of property), could never be safe nor at rest nor think themselves in civil society, till the legislative was placed in collective bodies of men, call them Senate, Parliament, or what you please By which means every single person became subject, equally with other the meanest men, to those laws, which he himself, as part of the legislative, had established, nor could any one by his own authority avoid the force of the law when once made, nor by

[4] Cf Hobbes.

any pretence of superiority plead exemption, thereby to license his own, or the miscarriages of any of his dependents No man in civil society can be exempted from the laws of it For if any man may do what he thinks fit, and there be no appeal on earth for redress or security against any harm he shall do, I ask whether he be not perfectly still in the state of nature, and so can be no part or member of that civil society, unless any one will say the state of nature and civil society are one and the same thing, which I have never yet found any one so great a patron of anarchy as to affirm [5]

CHAPTER VIII

Of the Beginning of Political Societies

95 Men being, as has been said, by nature all free, equal, and independent no one can be put out of this estate and subjected to the political power of another without his own consent, which is done by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any that are not of it This any number of men may do, because it injures not the freedom of the rest, they are left as they were in the liberty of the state of nature When any number of men have so consented to make one community or government, they are thereby presently incorporated, and make one body politic, wherein the majority have a right to act and conclude the rest

[Majority Rule]

96 For when any number of men have, by the consent of every individual, made a community, they have thereby made that community one body, with a power to act as one body, which is only by the will and determination of the majority for that which acts any community being only the consent of the individuals of it and it being one body must move one way, it is necessary the body should move that way whither the greater force carries it, which is the consent of the majority; or else it is impossible it should act or continue one body, one community, which the consent of every individual that united into it agreed that it should, and so every one is bound by that consent to be concluded by the majority And therefore we see that in assemblies empowered to act by positive laws, where no number is set by that positive law which empowers them, the act of the majority passes for the act of the whole, and of course determines, as having by the law of nature and reason the power of the whole

97 And thus every man, by consenting with others to make one body politic under one government, puts himself under an obligation to every one of that society to submit to the determination of the majority, and to be concluded by it, or else this original compact, whereby he with others incorporates into one society, would signify nothing, and be no compact, if he be left free and under no other ties than he was in before in the state of nature For what appearance would there be of any conpact? What new engagement if he were no farther tied by any decrees of the society, than he himself thought fit, and did actually consent to? This would be still as great a liberty as he himself had before his compact, or any one else in the state of nature hath, who may submit himself and consent to any acts of it if he thinks fit

98 For if the consent of the majority shall not in reason be received as the act of the whole and conclude every individual, nothing but the consent of every individual can make anything to be the act of the whole, which considering the infirmities of health and avocations of

[5] 'Civil law, being the act of the whole body politic, doth therefore overrule each several part of the same body"—Hooker

business, which in a number, though much less than that of a commonwealth, will necessarily keep many away from the public assembly, and the variety of opinions, and contrariety of interest, which unavoidably happen in all collections of men, 'tis next to impossible ever to be had. And therefore if the coming into society be upon such terms it will be only like Cato's coming into the theatre, *tantum ut exiret.* Such a constitution as this would make the mighty leviathan of a shorter duration than the feeblest creatures, and not let it outlast the day it was born in; which cannot be supposed till we can think that rational creatures should desire and constitute societies only to be dissolved. For where the majority cannot conclude the rest, there they cannot act as one body, and consequently will be immediately dissolved again.

99. Whosoever therefore out of a state of nature unite into a community must be understood to give up all the power necessary to the ends for which they unite into society, to the majority of the community, unless they expressly agreed in any number greater than the majority. And this is done by barely agreeing to unite into one political society, which is all the compact that is, or needs be, between the individuals that enter into or make up a commonwealth. And thus that which begins and actually constitutes any political society is nothing but the consent of any number of freemen capable of a majority to unite and incorporate into such a society. And this is that, and that only, which did or could give beginning to any lawful government in the world.

100. To this I find two objections made.

First: That there are no instances to be found in story of a company of men independent, and equal one amongst another, that met together and in this way began and set up a government.

Secondly: 'Tis impossible of right that men should do so, because all men being born under government, they are to submit to that, and are not at liberty to begin a new one.

[Historical Example]

101. To the first there is this to answer—That it is not at all to be wondered that history gives us but a very little account of men that lived together in the state of nature. The inconveniences of that condition, and the love and want of society, no sooner brought any number of them together, but they presently united and incorporated if they designed to continue together. And if we may not suppose men ever to have been in the state of nature, because we hear not much of them in such a state, we may as well suppose the armies of Salmanasser or Xerxes were never children, because we hear little of them till they were men, and embodied in armies. Government is everywhere antecedent to records, and letters seldom come in amongst a people, till a long continuation of civil society has, by other more necessary arts, provided for their safety, ease, and plenty. And then they begin to look after the history of their founders, and search into their original, when they have outlived the memory of it. For 'tis with commonwealths as with particular persons, they are commonly ignorant of their own birth and infancies. And if they know anything of their original, they are beholden for it to the accidental records that others have kept of it. And those that we have of the beginning of any polities in the world, excepting that of the Jews, where God Himself immediately interposed, and which favours not at all paternal dominion, are all either plain instances of such a beginning as I have mentioned, or at least have manifest footsteps of it.

. . . . .

[Golden Age]

111. But the golden age (though before vain ambition, and *amor sceleratus habendi,* evil concupiscence had corrupted men's minds into a mistake of true power and honour) had more virtue, and con-

sequently better governors, as well as less vicious subjects; and there was then no stretching prerogative, on the one side, to oppress the people, nor consequently, on the other, any dispute about privilege, to lessen or restrain the power of the magistrate, and so no contest betwixt rulers and people about governors or government.[6] Yet, when ambition and luxury in future ages would retain and increase the power, without doing the business for which it was given, and, aided by flattery, taught princes to have distinct and separate interests from their people, men found it necessary to examine more carefully the original and rights of government, and to find out ways to restrain the exorbitances, and prevent the abuses of that power which, they having entrusted in another's hands only for their own good, they found was made use of to hurt them.

. . . . .

[Express and Tacit Consent]

119. Every man being, as has been shown, naturally free, and nothing being able to put him into subjection to any earthly power but only his own consent, it is to be considered what shall be understood to be sufficient declaration of a man's consent to make him subject to the laws of any government. There is a common distinction of an express and a tacit consent, which will concern our present case. Nobody doubts but an express consent of any man entering into any society makes him a perfect member of that society, a subject of that government. The difficulty is, what ought to be looked upon as a tacit consent, and how far it binds, *i.e.*, how far any one shall be looked on to have consented, and thereby submitted to any government, where he has made no expressions of it at all. And to this I say that every man that hath any possession or enjoyment of any part of the dominions of any government doth thereby give his tacit consent, and is as far forth obliged to obedience to the laws of that government during such enjoyment as any one under it; whether this his possession be of land to him and his heirs for ever, or a lodging only for a week; or whether it be barely travelling freely on the highway; and in effect it reaches as far as the very being of any one within the territories of that government.

120. To understand this the better, it is fit to consider that every man when he at first incorporates himself into any commonwealth, he, by his uniting himself thereunto, annexed also, and submits to the community those possessions which he has or shall acquire that do not already belong to any other government; for it would be a direct contradiction for any one to enter into society with others for the securing and regulating of property, and yet to suppose his land, whose property is to be regulated by the laws of the society, should be exempt from the jurisdiction of that government to which he himself, and the property of the land, is a subject. By the same act, therefore, whereby any one unites his person, which was before free, to any commonwealth, by the same he unites his possessions, which was before free, to it also; and they become, both of them, person and possession, subject to the government and dominion of that commonwealth as long as it hath a being. Whoever therefore from thenceforth by inheritance, purchases, permission, or otherwise, enjoys any part of the land so annexed to, and under the government of that commonwealth, must take it with the condition it is under, that is, of submitting to the government of the commonwealth under whose jurisdiction it is as far forth as any subject of it.

121. But since the government has a direct jurisdiction only over the land, and reaches the possessor of it (before he has actually incorporated himself in the society), only as he dwells upon, and enjoys

[6] Locke here quotes Hooker on the advantages of settled law.

that the obligation any one is under, by virtue of such enjoyment, to submit to the government begins and ends with the enjoyment, so that whenever the owner, who has given nothing but such a tacit consent to the government will by donation, sale, or otherwise, quit the said possession, he is at liberty to go and incorporate himself into any other commonwealth, or to agree with others to begin a new one (*in vacuis locis*) in any part of the world they can find free and unpossessed Whereas he that has once by actual agreement and any express declaration given his consent to be of any commonweal is perpetually and indispensably obliged to be and remain unalterably a subject to it and can never be again in the liberty of the state of nature unless by any calamity, the government he was under comes to be dissolved or else by some public acts cuts him off from being any longer a member of it

[CITIZENSHIP]

122 But submitting to the laws of any country, living quietly and enjoying privileges and protection under them makes not a man a member of that society This is only a local protection and homage due to and from all those who, not being in the state of war, come within the territories belonging to any government to all parts whereof the force of its law extends But this no more makes a man a member of that society a perpetual subject of that commonwealth, than it would make a man a subject to another in whose family he found it convenient to abide for some time, though whilst he continued in it he were obliged to comply with the laws, and submit to the government he found there And thus we see, that foreigners by living all their lives under another government, and enjoying the privileges and protection of it, though they are bound even in conscience to submit to its administration as far forth as any denizen, yet do not thereby come to be subjects or members of that commonwealth Nothing can make any man so, but his actually entering into it by positive engagement, and express promise and compact This is that which I think concerning the beginning of political societies, and that consent which makes any one a member of any commonwealth

CHAPTER XI

OF THE EXTENT OF THE LEGISLATIVE POWER

134 The great end of men's entering into society being the enjoyment of their properties in peace and safety and the great instrument and means of that being the laws established in that society the first and fundamental positive law of all commonwealths, is the establishing of the legislative power, as the first and fundamental natural law, which is to govern even the legislative itself is the preservation of the society and (as far as will consist with the public good) of every person in it This legislative is not only the supreme power of the commonwealth but sacred and unalterable in the hands where the community have once placed it nor can any edict of anybody else, in what form soever conceived, or by what power soever backed, have the force and obligation of a law which has not its sanction from that legislative which the public has chosen and appointed For without this the law could not have that which is absolutely necessary to its being a law, the consent of the society over whom nobody can have a power to make laws, but by their own consent, and by authority received from them, and therefore all the obedience, which by the most solemn ties any one can be obliged to pay, ultimately terminates in this supreme power, and is directed by those laws which it enacts, nor can any oaths to any foreign power whatsoever, or any domestic subordinate power discharge any member of the society from his obedience

[7] Locke here quotes Hooker on the need for consent to law

to the legislative, acting pursuant to their trust; nor oblige him to any obedience contrary to the laws so enacted, or farther than they do allow; it being ridiculous to imagine one can be tied ultimately to obey any power in the society which is not the supreme.

135. Though the legislative, whether placed in one or more, whether it be always in being, or only by intervals, though it be the supreme power in every commonwealth, yet,

First, It is not nor can possibly be absolutely arbitrary over the lives and fortunes of the people. For it being but the joint power of every member of the society given up to that person, or assembly, which is legislator; it can be no more than those persons had in a state of nature before they entered into society, and gave it up to the community. For nobody can transfer to another more power than he has in himself; and nobody has an absolute arbitrary power over himself, or over any other to destroy his own life, or take away the life or property of another. A man as has been proved cannot subject himself to the arbitrary power of another; and having in the state of nature no arbitrary power over the life, liberty, or possession of another, but only so much as the law of nature gave him for the preservation of himself, and the rest of mankind; this is all he doth, or can give up to the commonwealth, and by it to the legislative power, so that the legislative can have no more than this. Their power in the utmost bounds of it, is limited to the public good of the society.[8] It is a power that hath no other end but preservation, and therefore can never have a right to destroy, enslave, or designedly to impoverish the subjects. The obligations of the law of nature cease not in society, but only in many cases are drawn closer, and have by human laws known penalties annexed to them to enforce their observation. Thus the law of nature stands as an eternal rule to all men, legislators as well as others. The rules that they make for other men's actions must, as well as their own, and other men's actions be conformable to the law of nature, *i.e.* to the will of God, of which that is a declaration, and the fundamental law of nature being the preservation of mankind, no human sanction can be good or valid against it.

[8] Locke here quotes from Hooker's discussion of natural law. The passage appears in this book on p. 404, 2nd column, lines 4-29.

[Standing Laws]

136. *Secondly*, The legislative, or supreme authority, cannot assume to itself a power to rule by extemporary arbitrary decrees, but is bound to dispense justice, and decide the rights of the subject by promulgated standing laws, and known authorised judges. For the law of nature being unwritten, and so nowhere to be found but in the minds of men, they who through passion or interest shall miscite or misapply it, cannot so easily be convinced of their mistake where there is no established judge. And so it serves not, as it ought, to determine the rights, and fence the properties of those that live under it, especially where every one is judge, interpreter, and executioner of it too, and that in his own case; and he that has right on his side, having ordinarily but his own single strength hath not force enough to defend himself from injuries, or punish delinquents. To avoid these inconveniences, which disorder men's properties in the state of nature, men unite into societies that they may have the united strength of the whole society to secure and defend their properties, and may have standing rules to bound it, by which every one may know what is his. To this end it is that men give up all their natural power to the society which they enter into, and the community put the legislative power into such hands as they think fit, with this trust, that they shall be governed by declared laws, or else their peace, quiet, and property, will

still be at the same uncertainty as it was in the state of nature.

137. Absolute arbitrary power, or governing without settled standing laws, can neither of them consist with the ends of society and government, which men would not quit the freedom of the state of nature for, and tie themselves up under, were it not to preserve their lives, liberties, and fortunes; and by stated rules of right and property to secure their peace and quiet. It cannot be supposed that they should intend, had they a power so to do, to give to any one, or more, an absolute arbitrary power over their persons and estates, and put a force into the magistrate's hand to execute his unlimited will arbitrarily upon them. This were to put themselves into a worse condition than the state of nature, wherein they had a liberty to defend their right against the injuries of others, and were upon equal terms of force to maintain it, whether invaded by a single man or many in combination. Whereas, by supposing they have given up themselves to the absolute arbitrary power and will of a legislator, they have disarmed themselves, and armed him, to make prey of them when he pleases. He being in a much worse condition that is exposed to the arbitrary power of one man who has the command of 100,000, than he that is exposed to the arbitrary power of 100,000 single men; nobody being secure that his will, who hath such a command, is better than that of other men, though his force be 100,000 times stronger. And, therefore, whatever form the commonwealth is under, the ruling power ought to govern by declared and received laws, and not by extemporary dictates and undetermined resolutions. For then mankind will be in a far worse condition than in the state of nature, if they shall have armed one, or a few men, with the joint power of a multitude to force them to obey at pleasure the exorbitant and unlimited decrees of their sudden thoughts, or unrestrained, and, till that moment, unknown wills, without having any measures set down which may guide and justify their actions. For all the power the government has, being only for the good of the society, as it ought not to be arbitrary and at pleasure, so it ought to be exercised by established and promulgated laws; that both the people may know their duty and be safe and secure within the limits of the law; and the rulers too kept within their due bounds, and not be tempted by the power they have in their hands to employ it to such purposes, and by such measures as they would not have known, and own not willingly.

[Taking Property]

138. *Thirdly*, The supreme power cannot take from any man any part of his property without his own consent. For the preservation of property being the end of government, and that for which men enter into society, it necessarily supposes and requires that the people should have property, without which they must be supposed to lose that by entering into society, which was the end for which they entered into it, too gross an absurdity for any man to own. Men, therefore, in society having property, they have such a right to the goods which by the law of the community are theirs, that nobody hath a right to take them or any part of them from them, without their own consent; without this they have no property at all. For I have truly no property in that which another can by right take from me when he pleases, against my consent. Hence it is a mistake to think that the supreme or legislative power of any commonwealth can do what it will, and dispose of the estates of the subjects arbitrarily, or take any part of them at pleasure. This is not much to be feared in governments where the legislative consists wholly, or in part, in assemblies which are variable, whose members, upon the dissolution of the assembly, are subjects under the common laws of their country, equally with the rest. But in

governments where the legislative is in one lasting assembly, always in being, or in one man, as in absolute monarchies, there is danger still, that they will think themselves to have a distinct interest from the rest of the community, and so will be apt to increase their own riches and power by taking what they think fit from the people. For a man's property is not at all secure, though there be good and equitable laws to set the bounds of it between him and his fellow subjects, if he who commands those subjects have power to take from any private man what part he pleases of his property, and use and dispose of it as he thinks good.

139. But government, into whosesoever hands it is put, being, as I have before shown, entrusted with this condition, and for this end, that men might have and secure their properties, the prince, or senate, however it may have power to make laws for the regulating of property between the subjects one amongst another, yet can never have a power to take to themselves the whole or any part of the subjects' property without their own consent. For this would be in effect to leave them no property at all. And to let us see that even absolute power, where it is necessary, is not arbitrary by being absolute, but is still limited by that reason, and confined to those ends which required it in some cases to be absolute, we need look no farther than the common practice of martial discipline. For the preservation of the army, and in it the whole commonwealth, requires an absolute obedience to the command of every superior officer, and it is justly death to disobey or dispute the most dangerous or unreasonable of them; but yet we see that neither the sergeant, that could command a soldier to march up to the mouth of a cannon, or stand in a breach, where he is almost sure to perish, can command that soldier to give him one penny of his money; nor the general, that can condemn him to death for deserting his post, or not obeying the most desperate orders, cannot yet, with all his absolute power of life and death, dispose of one farthing of that soldier's estate, or seize one jot of his goods, whom yet he can command anything, and hang for the least disobedience. Because such a blind obedience is necessary to that end for which the commander has his power, viz., the preservation of the rest; but the disposing of his goods has nothing to do with it.

140. 'Tis true governments cannot be supported without great charge, and it is fit every one who enjoys a share of the protection should pay out of his estate his proportion for the maintenance of it. But still it must be with his own consent, *i.e.*, the consent of the majority giving it either by themselves or their representatives chosen by them. For if any one shall claim a power to lay and levy taxes on the people, by his own authority, and without such consent of the people, he thereby invades the fundamental law of property, and subverts the end of government. For what property have I in that which another may by right take when he pleases to himself?

[Delegation of Power]

141. *Fourthly*, The legislative cannot transfer the power of making laws to any other hands; for it being but a delegated power from the people, they who have it cannot pass it over to others. The people alone can appoint the form of the commonwealth, which is by constituting the legislative, and appointing in whose hands that shall be. And when the people have said we will submit to rules, and be governed by laws made by such men, and in such forms, nobody else can say other men shall make laws for them; nor can the people be bound by any laws but such as are enacted by those whom they have chosen and authorised to make laws for them.

142. These are the bounds which the trust that is put in them by the society, and the law of God and Nature, have set to the legislative power of every commonwealth, in all forms of government.

First, They are to govern by promulgated established laws, not to be varied in particular cases, but to have one rule for rich and poor, for the favourite at court and the countryman at plough.

Secondly, These laws also ought to be designed for no other end ultimately but the good of the people.

Thirdly, They must not raise taxes on the property of the people without the consent of the people, given by themselves or their deputies. And this properly concerns only such governments where the legislative is always in being, or at least where the people have not reserved any part of the legislative to deputies, to be from time to time chosen by themselves.

Fourthly, The legislative neither must nor can transfer the power of making laws to anybody else, or place it anywhere but where the people have.

CHAPTER XII

[LEGISLATIVE, EXECUTIVE, AND FEDERATIVE]

143. The legislative power is that which has a right to direct how the force of the commonwealth shall be employed for preserving the community and the members of it. Because those laws which are constantly to be executed, and whose force is always to continue, may be made in a little time, therefore there is no need that the legislative should be always in being, not having always business to do; and because it may be too great a temptation to human frailty, apt to grasp at power for the same persons, who have the power of making laws, to have also in their hands the power to execute them, whereby they exempt themselves from obedience to the laws they make, and suit the law, both in its making and execution to their own private advantage, and thereby come to have a distinct interest from the rest of the community, contrary to the end of society and government. Therefore, in well ordered commonwealths, where the good of the whole is so considered as it ought, the legislative power is put into the hands of divers persons who duly assembled, have by themselves or jointly with others a power to make laws, which when they have done, being separated again, they are themselves subject to the laws they have made; which is a new and near tie upon them, to take care that they make them for the public good.

144. But because the laws that are at once and in a short time made, have a constant and lasting force and need a perpetual execution or an attendance thereunto; therefore, it is necessary there should be a power always in being, which should see to the execution of the laws that are made and remain in force; and thus the legislative and executive power come often to be separated.

145. There is another power in every commonwealth, which one may call natural, because it is that which answers to the power every man naturally had before he entered into society; for though in a commonwealth the members of it are distinct persons still in reference to one another, and as such are governed by the laws of the society, yet in reference to the rest of mankind they make one body, which is, as every member of it before was still in the state of nature with the rest of mankind. So that the controversies that happen between any man of the society with those that are out of it are managed by the public, and an injury done to a member of their body engages the whole in the reparation of it. So that under this consideration the whole community is one body in the state of nature in respect of all other states or persons out of its community.

146. This therefore contains the power of war and peace, leagues and alliances, and all the transactions with all persons and communities without the commonwealth, and may be called federative if any one pleases. So the thing be understood, I am indifferent as to the name.

147. These two powers, executive and federative, though they be really distinct

in themselves, yet one comprehending the execution of the municipal laws of the society within itself upon all that are parts of it; the other the management of the security and interest of the public without, with all those that it may receive benefit or damage from, yet they are always almost united. And though this federative power in the well or ill management of it be of great moment to the commonwealth, yet it is much less capable to be directed by antecedent, standing, positive laws than the executive; and so must necessarily be left to the prudence and wisdom of those whose hands it is in to be managed for the public good. For the laws that concern subjects one amongst another, being to direct their actions, may well enough precede them. But what is to be done in reference to foreigners, depending much upon their actions and the variation of designs and interests, must be left in great part to the prudence of those who have this power committed to them, to be managed by the best of their skill for the advantage of the commonwealth.

148. Though, as I said, the executive and federative power of every community be really distinct in themselves, yet they are hardly to be separated and placed at the same time in the hands of distinct persons; for both of them requiring the force of the society for their exercise, it is almost impracticable to place the force of the commonwealth in distinct and not subordinate hands; or that the executive and federative power should be placed in persons that might act separately, whereby the force of the public would be under different commands, which would be apt some time or other to cause disorder and ruin.

CHAPTER XIII

[Relation of Powers]

149. Though in a constituted commonwealth, standing upon its own basis, and acting according to its own nature, that is, acting for the preservation of the community, there can be but one supreme power, which is the legislative, to which all the rest are and must be subordinate, yet the legislative being only a fiduciary power to act for certain ends, there remains still in the people a supreme power to remove or alter the legislative when they find the legislative act contrary to the trust reposed in them; for all power given with trust for the attaining an end, being limited by that end, whenever that end is manifestly neglected or opposed, the trust must necessarily be forfeited, and the power devolve into the hands of those that gave it who may place it anew where they shall think best for their safety and security. And thus the community perpetually retains a supreme power of saving themselves from the attempts and designs of any body, even of their legislators whenever they shall be so foolish or so wicked as to lay and carry on designs against the liberties and properties of the subject; for no man or society of men, having a power to deliver up their preservation, or consequently the means of it to the absolute will and arbitrary dominion of another, whenever any one shall go about to bring them into such a slavish condition they will always have a right to preserve what they have not a power to part with; and to rid themselves of those who invade this fundamental, sacred and unalterable law of self-preservation for which they entered into society; and thus the community may be said in this respect to be always the supreme power, but not as considered under any form of government, because this power of the people can never take place till the government be dissolved.

150. In all cases whilst the government subsists, the legislative is the supreme power; for what can give laws to another must needs be superior to him, and since the legislative is no otherwise legislative of the society but by the right it has to make laws for all the parts and for every member of the society, prescribing rules to their actions, and giving power of execution where they are transgressed, the

legislative must needs be the supreme, and all other powers in any members or parts of the society derived from and subordinate to it.

[Constitutional Monarch]

151. In some commonwealths where the legislative is not always in being, and the executive is vested in a single person, who has also a share in the legislative, there that single person in a very tolerable sense may also be called supreme, not that he has in himself all the supreme power, which is that of law-making, but because he has in him the supreme execution from whom all inferior magistrates derive all their several subordinate powers, or at least the greatest part of them; having also no legislative superior to him, there being no law to be made without his consent which cannot be expected should ever subject him to the other part of the legislative, he is properly enough in this sense supreme. But yet it is to be observed, that though oaths of allegiance and fealty are taken to him, it is not to him as supreme legislator, but as supreme executor of the law, made by a joint power of him with others, allegiance being nothing but obedience according to law, which when he violates, he has no right to obedience, nor can claim it otherwise than as the public person vested with the power of the law and so is to be considered as the image, phantom, or representative of the commonwealth, acted by the will of the society, declared in its laws; and thus he has no will, no power, but that of the law. But when he quits this representation, this public will, and acts by his own private will, he degrades himself, and is but a single private person without power, and without will, the members owing no obedience but to the public will of the society.

[Other Executives]

152. The executive power placed anywhere but in a person that has also a share in the legislative, is visibly subordinate and accountable to it, and may be at pleasure changed and displaced; so that it is not the supreme executive power that is exempt from subordination, but the supreme executive power vested in one, who having a share in the legislative, has no distinct superior legislative to be subordinate and accountable to, farther than he himself shall join and consent; so that he is no more subordinate than he himself shall think fit, which one may certainly conclude will be but very little. Of other ministerial and subordinate powers in a commonwealth we need not speak, they being so multiplied with infinite variety, in the different customs and constitutions of distinct commonwealths, that it is impossible to give a particular account of them all. Only thus much, which is necessary to our present purpose, we may take notice of concerning them that they have no manner of authority any of them, beyond what is by positive grant and commission, delegated to them, and are all of them accountable to some other power in the commonwealth.

153. It is not necessary, no nor so much as convenient, that the legislative should be always in being. But absolutely necessary that the executive power should, because there is not always need of new laws to be made, but always need of execution of the laws that are made. When the legislative hath put the execution of the laws they make into other hands, they have a power still to resume it out of those hands when they find cause, and to punish for any mal-administration against the laws. The same holds also in regard of the federative power, that and the executive being both ministerial and subordinate to the legislative, which has been shown in a constituted commonwealth, is the supreme. The legislative also in this case being supposed to consist of several persons (for if it be a single person, it cannot but be always in being, and so will, as supreme, naturally have the supreme executive power, together

with the legislative), may assemble and exercise their legislative at the times that either their original constitution or their own adjournment appoints, or when they please, if neither of these have appointed any time, or there be no other way prescribed to convoke them For the supreme power being placed in them by the people, it is always in them and they may exercise it when they please, unless by their original constitution they are limited to certain seasons or by an act of their supreme power, they have adjourned to a certain time, and when that time comes they have a right to assemble and act again

. . . . .

[Representation]

158 *Salus populi suprema lex* is certainly so just and fundamental a rule that he who sincerely follows it cannot dangerously err If therefore the executive, who has the power of convoking the legislative observing rather the true proportion than fashion of representation, regulates, not by old custom but true reason, the number of members in all places that have a right to be distinctly represented, which no part of the people however incorporated can pretend to, but in proportion to the assistance which it affords to the public, it cannot be judged to have set up a new legislative, but to have restored the old and true one and to have rectified the disorders which succession or time had insensibly as well as inevitably introduced For it being the interest, as well as intention of the people, to have a fair and equal representative, whoever brings it nearest to that is an undoubted friend to and establisher of the government, and cannot miss the consent and approbation of the community Prerogative being nothing but a power in the hands of the prince to provide for the public good in such cases which, depending upon unforeseen and uncertain occurrences, certain and unalterable laws could not safely direct Whatsoever shall be done manifestly for the good of the people and the establishing the government upon its true foundations is, and always will be, just prerogative The power of erecting new corporations, and there with new representatives, carries with it a supposition that in time the measures of representation might vary, and those have a just right to be represented which before had none, and by the same reason those cease to have a right, and be too inconsiderable for such a privilege which before had it It is not a change from the present state, which perhaps corruption or decay has introduced, that makes an inroad upon the government, but the tendency of it to injure or oppress the people, and to set up one part or party with a distinction from, and an unequal subjection of the rest Whatsoever cannot but be acknowledged to be of advantage to the society and people in general upon just and lasting measures, will always when done, justify itself, and whenever the people shall choose their representatives upon just and undeniably equal measures, suitable to the original frame of the government, it cannot be doubted to be the will and act of the society who ever permitted or proposed to them so to do

CHAPTER XIV

Of Prerogative

159 Where the legislative and executive power are in distinct hands (as they are in all moderated monarchies and well framed governments) there the good of the society requires that several things should be left to the discretion of him that has the executive power For the legislators not being able to foresee and provide by laws for all that may be useful to the community, the executor of the laws having the power in his hands has by the common law of Nature a right to make use of it for the good of the society, in many cases, where the municipal law has given no direction, till the legislative can con-

veniently be assembled to provide for it Many things there are which the law can by no means provide for, and those must necessarily be left to the discretion of him that has the executive power in his hands to be ordered by him as the public good and advantage shall require Nay, it is fit that the laws themselves should in some cases give way to the executive power, or rather to this fundamental law of Nature and government, viz, that as much as may be all the members of the society are to be preserved For since many accidents may happen wherein a strict and rigid observation of the laws may do harm (as not to pull down an innocent man's house to stop the fire when the next to it is burning) and a man may come sometimes within the reach of the law, which makes no distinction of persons by an action that may deserve reward and pardon it is fit the ruler should have a power in many cases to mitigate the severity of the law, and pardon some offenders since the end of government being the preservation of all, as much as may be, even the guilty are to be spared where it can prove no prejudice to the innocent

160 This power to act according to discretion for the public good, without the prescription of the law, and sometimes even against it is that which is called prerogative For since in some governments the law making power is not always in being and is usually too numerous, and so too slow for the dispatch requisite to execution and because also it is impossible to foresee, and so by laws to provide for all accidents and necessities that may concern the public, or make such laws as will do no harm if they are executed with an inflexible rigour on all occasions and upon all persons that may come in their way, therefore there is a latitude left to the executive power to do many things of choice which the laws do not prescribe

161 This power whilst employed for the benefit of the community, and suitably to the trust and ends of the government, is undoubted prerogative, and never is questioned For the people are very seldom or never scrupulous or nice in the point, or questioning of prerogative whilst it is in any tolerable degree employed for the use it was meant, that is for the good of the people, and not manifestly against it But if there comes to be a question between the executive power and the people about a thing claimed as a prerogative, the tendency of the exercise of such prerogative to the good or hurt of the people will easily decide that question

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[Judge of Prerogative]

168 The old question will be asked in this matter of prerogative But who shall be judge when this power is made a right use of? I answer Between an executive power in being with such a prerogative and a legislative that depends upon his will for their convening there can be no judge on earth As there can be none between the legislative and the people should either the executive or the legislative when they have got the power in their hands, design or go about to enslave or destroy them The people have no other remedy in this, as in all other cases where they have no judge on earth but to appeal to heaven for the rulers in such attempts, exercising a power the people never put into their hands, who can never be supposed to consent that any body should rule over them for their harm, do that which they have not a right to do And where the body of the people or any single man are deprived of their right, or are under the exercise of a power without right having no appeal on earth they have a liberty to appeal to heaven, whenever they judge the cause of sufficient moment And, therefore, though the people cannot be judge so as to have by the constitution of that society any superior power, to determine and give effective sentence in the case, yet they have reserved that ultimate determination to themselves which belongs to all mankind, where there lies no appeal on earth,

by a law antecedent and paramount to all positive laws of men whether they have just cause to make their appeal to heaven And this judgment they cannot part with it being out of man's power so to submit himself to another as to give him a liberty to destroy him, God and Nature never allowing a man so to abandon himself as to neglect his own preservation and since he cannot take away his own life, neither can he give another power to take it Nor let any one think this lays a perpetual foundation for disorder, for this operates not till the inconvenience is so great that the majority feel it and are weary of it and find a necessity to have it amended But this the executive power or wise princes never need come in the danger of and it is the thing of all others they have most need to avoid, as of all others the most perilous

CHAPTER XIX

Of the Dissolution of Government

211 He that will with any clearness speak of the dissolution of government ought, in the first place to distinguish between the dissolution of the society and the dissolution of the government That which makes the community and brings men out of the loose state of nature into one politic society, is the agreement which every one has with the rest to incorporate and act as one body and so be one distinct commonwealth The usual and almost only way whereby this union is dissolved, is the inroad of foreign force making a conquest upon them For in that case (not being able to maintain and support themselves as one entire and independent body) the union belonging to that body which consisted therein must necessarily cease, and so every one return to the state he was in before, with a liberty to shift for himself and provide for his own safety as he thinks fit in some other society Whenever the society is dissolved, it is certain the government of that society cannot remain Thus conquerors' swords often cut up governments by the roots, and mangle societies to pieces, separating the subdued or scattered multitude from the protection of and dependence on that society which ought to have preserved them from violence The world is too well instructed in, and too forward to allow of this way of dissolving of, governments to need any more to be said of it, and there wants not much argument to prove that where the society is dissolved, the government cannot remain—that being as impossible as for the frame of a house to subsist when the materials of it are scattered and displaced by a whirlwind, or jumbled into a confused heap by an earthquake

212 Besides this overturning from without, governments are dissolved from within

[Internal Dissolution]

First, When the legislative is altered Civil society being a state of peace amongst those who are of it from whom the state of war is excluded by the umpirage which they have provided in their legislative for the ending all differences that may arise amongst any of them, it is in their legislative that the members of a commonwealth are united and combined together in one coherent living body This is the soul that gives form life, and unity to the commonwealth From hence the several members have their mutual influence, sympathy, and connection And, therefore, when the legislative is broken or dissolved, dissolution and death follow. For the essence and union of the society consisting in having one will, the legislative, when once established by the majority, has the declaring and, as it were, keeping of, that will The constitution of the legislative is the first and fundamental act of the society, whereby provision is made for the continuation of their union, under the direction of persons and bonds of laws made by persons authorised thereunto by the consent and appointment of the

people, without which no one man or number of men amongst them can have authority of making laws that shall be binding to the rest. When any one or more shall take upon them to make laws, whom the people have not appointed so to do, they make laws without authority, which the people are not therefore bound to obey; by which means they come again to be out of subjection, and may constitute to themselves a new legislative, as they think best, being in full liberty to resist the force of those who without authority would impose anything upon them. Every one is at the disposure of his own will when those who had by the delegation of the society the declaring of the public will, are excluded from it, and others usurp the place who have no such authority or delegation.

[Subversion of Legislature]

213. This being usually brought about by such in the commonwealth who misuse the power they have, it is hard to consider it aright, and know at whose door to lay it, without knowing the form of government in which it happens. Let us suppose, then, the legislative placed in the concurrence of three distinct persons.

1. A single hereditary person having the constant supreme executive power, and with it the power of convoking and dissolving the other two within certain periods of time.

2. An assembly of hereditary nobility.

3. An assembly of representatives chosen *pro tempore* by the people. Such a form of government supposed, it is evident,

214. *First,* That when such a single person or prince sets up his own arbitrary will in place of the laws which are the will of the society, declared by the legislative, then the legislative is changed. For that being in effect the legislative whose rules and laws are put in execution and required to be obeyed when other laws are set up, and other rules pretended and enforced, than what the legislative constituted by the society have enacted, it is plain that the legislative is changed. Whoever introduces new laws, not being thereunto authorised by the fundamental appointment of the society, or subverts the old, disowns and overturns the power by which they were made, and so sets up a new legislative.

215. *Secondly,* When the prince hinders the legislative from assembling in its due time, or from acting freely, pursuant to those ends for which it was constituted, the legislative is altered. For it is not a certain number of men, no, nor their meeting, unless they have also freedom of debating and leisure of perfecting what is for the good of the society, wherein the legislative consists. When these are taken away or altered so as to deprive the society of the due exercise of their power, the legislative is truly altered. For it is not names that constitute governments, but the use and exercise of those powers that were intended to accompany them; so that he who takes away the freedom, or hinders the acting of the legislative in its due seasons, in effect takes away the legislative, and puts an end to the government.

216. *Thirdly,* When, by the arbitrary power of the prince, the electors or ways of elections are altered, without the consent and contrary to the common interest of the people, there also the legislative is altered. For if others than those whom the society hath authorised thereunto, do choose, or in another way than what the society hath prescribed, those chosen are not the legislative appointed by the people.

217. *Fourthly,* The delivery also of the people into the subjection of foreign power, either by the prince, or by the legislative, is certainly a change of the legislative, and so a dissolution of the government. For the end why people entered into society being to be preserved one entire, free, independent society, to be governed by its own laws, this is lost whenever they are given up into the power of another.

[MONARCH IS DANGEROUS]

218 Why in such a constitution as this the dissolution of the government in these cases is to be imputed to the prince, is evident, because he, having the force, treasure, and offices of the state to employ, and often persuading himself, or being flattered by others, that, as supreme magistrate he is incapable of control he alone is in a condition to make great advances towards such changes, under pretence of lawful authority, and has it in his hands to terrify or suppress opposers as factious, seditious, and enemies to the government Whereas no other part of the legislative or people is capable by themselves to attempt any alteration of the legislative, without open and visible rebellion, apt enough to be taken notice of, which, when it prevails, produces effects very little different from foreign conquest Besides, the prince in such a form of government, having the power of dissolving the other parts of the legislative and thereby rendering them private persons, they can never, in opposition to him, or without his concurrence, alter the legislative by a law, his consent being necessary to give any of their decrees that sanction But yet so far as the other parts of the legislative any way contribute to any attempt upon the government, and do either promote, or not, what lies in them, hinder such designs, they are guilty, and partake in this, which is certainly the greatest crime men can be guilty of one towards another

[ABDICATION OF RESPONSIBILITY]

219 There is one way more whereby such a government may be dissolved, and that is, when he who has the supreme executive power neglects and abandons that charge, so that the laws already made can no longer be put in execution. This is demonstratively to reduce all to anarchy, and so effectually to dissolve the government. For laws not being made for themselves, but to be by their execution the bonds of the society, to keep every part of the body politic, in its due place and function, when that totally ceases, the government visibly ceases, and the people become a confused multitude without order or connection Where there is no longer the administration of justice, for the securing of men's rights, nor any remaining power within the community to direct the force, or provide for the necessities of the public, there certainly is no government left Where the laws cannot be executed, it is all one as if there were no laws, and a government without laws is, I suppose, a mystery in politics, inconceivable to human capacity, and inconsistent with human society.

[NEW LEGISLATURE]

220 In these and the like cases, when the government is dissolved, the people are at liberty to provide for themselves by erecting a new legislative, differing from the other, by the change of persons, or form or both as they shall find it most for their safety and good For the society can never, by the fault of another, lose the native and original right it has to preserve itself, which can only be done by a settled legislative, and a fair and impartial execution of the laws made by it But the state of mankind is not so miserable that they are not capable of using this remedy, till it be too late to look for any To tell people they may provide for themselves by erecting a new legislative, when by oppression, artifice, or being delivered over to a foreign power, their old one is gone, is only to tell them they may expect relief when it is too late, and the evil is past cure This is in effect no more than to bid them first be slaves, and then to take care of their liberty, and when their chains are on tell them they may act like free men This, if barely so, is rather mockery than relief, and men can never be secure from tyranny if there be no means to escape it till they are perfectly under it. And therefore it is that they

have not only a right to get out of it, but to prevent it.

[Acting Contrary to Public Trust]

221. There is therefore secondly another way whereby governments are dissolved, and that is when the legislative or the prince, either of them, act contrary to their trust

First, The legislative acts against the trust reposed in them when they endeavour to invade the property of the subject, and to make themselves or any part of the community masters or arbitrary disposers of the lives, liberties, or fortunes of the people

222. The reason why men enter into society is the preservation of their property, and the end why they choose and authorise a legislative is that there may be laws made, and rules set as guards and fences to the properties of all the members of the society to limit the power and moderate the dominion of every part and member of the society For since it can never be supposed to be the will of the society that the legislative should have a power to destroy that which every one designs secure by entering into society and for which the people submitted themselves to legislators of their own making whenever the legislators endeavour to take away and destroy the property of the people or to reduce them to slavery under arbitrary power, they put themselves into a state of war with the people who are thereupon absolved from any further obedience and are left to the common refuge which God hath provided for all men against force and violence Whensoever, therefore the legislative shall transgress this fundamental rule of society, and either by ambition, fear, folly, or corruption, endeavour to grasp themselves or put into the hands of any other an absolute power over the lives, liberties, and estates of the people, by this breach of trust they forfeit the power the people had put into their hands, for quite contrary ends, and it devolves to the people, who have a right to resume their original liberty, and by the establishment of the new legislative (such as they shall think fit) provide for their own safety and security, which is the end for which they are in society What I have said here concerning the legislative in general, holds true also concerning the supreme executor, who having a double trust put in him, both to have a part in the legislative and the supreme execution of the law, acts against both when he goes about to set up his own arbitrary will as the law of the society He acts also contrary to his trust when he either employs the force, treasure, and offices of the society to corrupt the representatives and gain them to his purposes or openly prengages the electors, and prescribes to their choice such whom he has by solicitations threats, promises, or otherwise won to his designs and employs them to bring in such who have promised before hand what to vote and what to enact Thus to regulate candidates and electors, and new model the ways of election, what is it but to cut up the government by the roots and poison the very fountain of public security? For the people having reserved to themselves the choice of their representatives as the fence to their properties could do it for no other end but that they might always be freely chosen, and so chosen, freely act and advise as the necessity of the commonwealth and the public good should upon examination and mature debate be judged to require This those who give them votes before they hear the debate, and have weighed the reason on all sides, are not capable of doing To prepare such an assembly as this, and endeavour to set up the declared abettors of his own will for the true representatives of the people and the law makers of the society is certainly as great a breach of trust and as perfect a declaration of a design to subvert the government as is possible to be met with. To which if one shall add rewards and punishments visibly employed to the same end and all the arts of perverted law made use of to take off and destroy all that stand in the way of

such a design, and will not comply and consent to betray the liberties of their country, it will be past doubt what is doing What power they ought to have in the society who thus employ it contrary to the trust that went along with it in its first institution is easy to determine, and one cannot but see that he who has once attempted any such thing as this cannot any longer be trusted

[Conservatism of People]

223 To this perhaps it will be said that the people being ignorant and always discontented, to lay the foundation of government in the unsteady opinion and uncertain humour of the people is to expose it to certain ruin and no government will be able long to subsist if the people may set up a new legislative whenever they take offence at the old one To this I answer Quite the contrary People are not so easily got out of their old forms as some are apt to suggest They are hardly to be prevailed with to amend the acknowledged faults in the frame they have been accustomed to And if there be any original defects, or adventitious ones introduced by time or corruption it is not an easy thing to get them changed even when all the world sees there is an opportunity for it This slowness and aversion in the people to quit their old constitutions has, in the many revolutions which have been seen in this kingdom, in this and former ages still kept us to, or after some interval of fruitless attempts still brought us back again to our old legislative of King Lords, and Commons And whatever provocations have made the crown be taken from some of our princes heads, they never carried the people so far as to place it in another line

[Rebellion]

224. But it will be said, this hypothesis lays a ferment for frequent rebellion. To which I answer:

First, no more than any other hypothesis For when the people are made miserable, and find themselves exposed to the ill usage of arbitrary power, cry up their governors as much as you will for sons of Jupiter, let them be sacred and divine, descended, or authorised from heaven, give them out for whom or what you please, the same will happen The people generally ill treated, and contrary to right, will be ready upon any occasion to ease themselves of a burden that sits heavy upon them They will wish and seek for the opportunity, which in the change, weakness, and accidents of human affairs seldom delays long to offer itself He must have lived but a little while in the world who has not seen examples of this in his time, and he must have read very little who cannot produce examples of it in all sorts of governments in the world.

["Right of Revolution"]

225 Secondly, I answer, such revolutions happen not upon every little mismanagement in public affairs Great mistakes in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty will be borne by the people without murmur or murmur But if a long train of abuses prevarications and artifices, all tending the same way, make the design visible to the people—and they cannot but feel what they lie under, and see whither they are going—it is not to be wondered that they should then rouse themselves and endeavour to put the rule into such hands which may secure to them the ends for which government was at first erected, and without which ancient names and specious forms are so far from being better that they are much worse than the state of nature or pure anarchy; the inconveniences being all as great and as near, but the remedy farther off and more difficult

226. Thirdly, I answer that this power in the people of providing for their safety anew by a new legislative when their legislators have acted contrary to their trust by invading their property, is the

best fence against rebellion, and the probablest means to hinder it For rebellion being an opposition, not to persons, but authority, which is founded only in the constitutions and laws of the government, those whoever they be who by force break through, and by force justify their violation of them are truly and properly rebels For when men by entering into society and civil government have excluded force, and introduced laws for the preservation of property, peace, and unity amongst themselves, those who set up force again in opposition to the laws do *rebellare*—that is, bring back again the state of war—and are properly rebels which they who are in power (by the pretence they have to authority, the temptation of force they have in their hands, and the flattery of those about them) being likeliest to do, the properest way to prevent the evil is to show them the danger and injustice of it who are under the greatest temptation to run into it

227 In both the fore mentioned cases when either the legislative is changed or the legislators act contrary to the end for which they were constituted those who are guilty are guilty of rebellion For if anyone by force takes away the established legislative of any society, and the laws by them made pursuant to their trust, he thereby takes away the umpirage which everyone had consented to for a peaceable decision of all their controversies, and a bar to the state of war amongst them They who remove or change the legislative, take away this decisive power, which nobody can have but by the appointment and consent of the people, and so destroying the authority which the people did, and nobody else can, set up, and introducing a power which the people hath not authorised, actually introduce a state of war which is that of force without authority And thus by removing the legislative established by the society (in whose decisions the people acquiesced and united as to that of their own will), they untie the knot and expose the people anew to the state of war And if those who by force take away the legislative are rebels, the legislators themselves, as has been shown, can be no less esteemed so when they who were set up for the protection and preservation of the people, their liberties and properties, shall by force invade and endeavour to take them away, and so they putting themselves into a state of war with those who made them the protectors and guardians of their peace, are properly and with the greatest aggravation *rebellantes* (rebels)

228 But if they who say it lays a foundation for rebellion mean that it may occasion civil wars or intestine broils, to tell the people they are absolved from obedience when illegal attempts are made upon their liberties or properties, and may oppose the unlawful violence of those who were their magistrates when they invade their properties contrary to the trust put in them and that therefore this doctrine is not to be allowed, being so destructive to the peace of the world they may as well say upon the same ground that honest men may not expose robbers or pirates because this may occasion disorder or bloodshed If any mischief come in such cases it is not to be charged upon him who defends his own right, but on him that invades his neighbours If the innocent honest man must quietly quit all he has for peace's sake to him who will lay violent hands upon it, I desire it may be considered what a kind of peace there will be in the world which consists only in violence and rapine, and which is to be maintained only for the benefit of robbers and oppressors Who would not think it an admirable peace betwixt the mighty and the mean when the lamb without resistance yielded his throat to be torn by the imperious wolf? Polyphemus's den gives us a perfect pattern of such a peace and such a government, wherein Ulysses and his companions had nothing to do but quietly to suffer themselves to be devoured And no doubt Ulysses, who was a prudent man, preached up passive obedience, and exhorted them to a quiet

submission by representing to them of what concernment peace was to mankind, and by showing the inconveniences which might happen if they should offer to resist Polyphemus, who had now the power over them.

229 The end of government is the good of mankind, and which is best for mankind, that the people should be always exposed to the boundless will of tyranny, or that the rulers should be sometimes liable to be oppressed when they grow exorbitant in the use of their power and employ it for the destruction and not the preservation of the properties of their people?

230 Nor let anyone say that mischief can arise from hence, as often as it shall please a busy head or turbulent spirit to desire the alteration of the government It is true such men may stir whenever they please, but it will be only to their own just ruin and perdition For till the mischief be grown general, and the ill designs of the rulers become visible, or their attempts sensible to the greater part, the people who are more disposed to suffer than right themselves by resistance are not apt to stir The examples of particular injustice or oppression of here and there an unfortunate man, move them not But if they universally have a persuasion grounded upon manifest evidence that designs are carrying on against their liberties and the general course and tendency of things cannot but give them strong suspicions of the evil intention of their governors, who is to be blamed for it? Who can help it if they who might avoid it bring themselves into this suspicion? Are the people to be blamed, if they have the sense of rational creatures, and can think of things no otherwise than as they find and feel them? And is it not rather their fault who put things into such a posture that they would not have them thought to be as they are? I grant that the pride, ambition, and turbulency of private men have sometimes caused great disorders in commonwealths, and factions have been fatal to states and kingdoms But whether the mischief hath oftener begun in the people's wantonness and a desire to cast off the lawful authority of their rulers, or in the rulers insolence, and endeavours to get and exercise an arbitrary power over their people, whether oppression or disobedience gave the first rise to the disorder, I leave it to impartial history to determine This I am sure, whoever, either ruler or subject, by force goes about to invade the rights of either prince or people, and lays the foundation for overturning the constitution and frame of any just government, he is guilty of the greatest crime I think a man is capable of, being to answer for all those mischiefs of blood, rapine, and desolation, which the breaking to pieces of governments brings on a country And he who does it is justly to be esteemed the common enemy and pest of mankind, and is to be treated accordingly

231 That subjects or foreigners attempting by force on the properties of any people may be resisted with force, is agreed on all hands But that magistrates doing the same thing may be resisted, hath of late been denied As if those who had the greatest privileges and advantages by the law, had thereby power to break those laws by which alone they were set in a better place than their brethren Whereas their offence is thereby the greater, both as being ungrateful for the greater share they have by the law and breaking also that trust which is put into their hands by their brethren

232 Whosoever uses force without right, as everyone does in society who does it without law, puts himself into a state of war with those against whom he so uses it, and in that state all former ties are cancelled, all other rights cease, and everyone has a right to defend himself and to resist the aggressor This is so evident that Barclay himself, that great assertor of the power and sacredness of kings, is forced to confess that it is lawful for the people in some cases to resist their king, and that too in a chapter wherein he pretends to show that the

Divine Law shuts up the people from all manner of rebellion Whereby it is evident, even by his own doctrine that, since they may in some cases resist, all resisting of princes is not rebellion His words are these —

. . . . .

233 But if anyone should ask Must the people, then, always lay themselves open to the cruelty and rage of tyranny? Must they see their cities pillaged and laid in ashes, their wives and children exposed to the tyrant's lust and fury, and themselves and families reduced by their king to ruin, and all the miseries of want and oppression, and yet sit still? Must men alone be debarred the common privilege of opposing force with force, which nature allows so freely to all other creatures for their preservation from injury? I answer Self defence is a part of the law of nature, nor can it be denied the community, even against the king himself But to revenge themselves upon him must by no means be allowed them, it being not agreeable to that law Wherefore, if the king shall show an hatred, not only to some particular persons, but sets himself against the body of the commonwealth, whereof he is the head, and shall with intolerable ill usage, cruelly tyrannise over the whole or a considerable part of the people, in this case the people have a right to resist and defend themselves from injury But it must be with this caution, that they only defend themselves, but do not attack their prince They may repair the damages received but must not, for any provocation exceed the bounds of due reverence and respect They may repulse the present attempt, but must not revenge past violences For it is natural for us to defend life and limb, but that an inferior should punish a superior, is against nature The mischief which is designed them, the people may prevent before it be done, but when it is done, they must not revenge it on the king, though author of the villainy This, therefore, is the privilege of the people in general, above what any private person hath that particular men are allowed by our adversaries themselves (Buchanan only excepted), to have no other remedy but patience, but the body of the people may, with respect, resist intolerable tyranny, for when it is but moderate, they ought to endure it [9]

234 Thus far that great advocate of monarchical power allows of resistance

. . .

[Who Will Be Judge?]

240 Here, it is likely, the common question will be made Who shall be judge whether the prince or legislative act contrary to their trust? Thus, perhaps, ill affected and factious men may spread amongst the people when the prince only makes use of his due prerogative To this I reply The people shall be judge, for who shall be judge whether the trustee or deputy acts well and according to the trust reposed in him, but he who deputes him and must, by having deputed him, have still the power to discard him when he fails in his trust? If this be reasonable in particular cases of private men, why should it be otherwise in that of the greatest moment, where the welfare of millions is concerned, and also where the evil, if not prevented, is greater, and the redress very difficult, dear, and dangerous?

241 But farther this question, who shall be judge, cannot mean that there is no judge at all, for where there is no judicature on earth to decide controversies amongst men, God in heaven is Judge He alone, it is true, is Judge of the right, but every man is judge for himself, as in all other cases, so in this, whether another hath put himself into a state of war with him, and whether he should appeal to the Supreme Judge as Jephtha did

242 If a controversy arise betwixt a

[9] Barclay, *Contra Monarchomachos, lib. iii c 8*

prince and some of the people in a matter where the law is silent or doubtful, and the thing be of great consequence, I should think the proper umpire in such a case should be the body of the people; for in cases where the prince hath a trust reposed in him, and is dispensed from the common ordinary rules of the law; there, if any men find themselves aggrieved, and think the prince acts contrary to or beyond that trust, who so proper to judge as the body of the people (who at first lodged that trust in him) how far they meant it should extend? But if the prince or whoever they be in the administration decline that way of determination, the appeal then lies nowhere but to heaven; force between either persons who have no known superior on earth, or which permits no appeal to a judge on earth, being properly a state of war, wherein the appeal lies only to heaven, and in that state the injured party must judge for himself when he will think fit to make use of that appeal and put himself upon it.

243. To conclude, the power that every individual gave the society when he entered into it, can never revert to the individuals again as long as the society lasts, but will always remain in the community, because without this there can be no community, no commonwealth, which is contrary to the original agreement; so also when the society hath placed the legislative in any assembly of men to continue in them and their successors, with direction and authority for providing such successors, the legislative can never revert to the people whilst that government lasts, because having provided a legislative with power to continue for ever, they have given up their political power to the legislative and cannot resume it. But if they have set limits to the duration of their legislative, and made this supreme power in any person or assembly only temporary; or else when by the miscarriages of those in authority it is forfeited; upon the forfeiture, or at the determination of the time set, it reverts to the society, and the people have a right to act as supreme, and continue the legislative in themselves; or place it in a new form, or new hands as they think good.

The Declaration of Independence

When the break with Britain became inevitable, the American Continental Congress passed a resolution stating that the colonies were and of right ought to be free. A committee composed of Jefferson, John Adams, Franklin, Sherman, and R. R. Livingston was appointed to draft a declaration. The resolution declaring independence was adopted July 2, and the Declaration was approved July 4. Jefferson's debt to Locke is clear, but behind Locke were Harrington, Sidney, Hooker, the Middle Ages, and the Stoics. It would be difficult to overestimate the influence that this document has had, both in the United States and in many other countries.

In Congress, July 4, 1776,

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA,

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the

Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws of Naturalization of Foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our People, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislature.

He has affected to render the Military independent of and superior to the Civil Power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing taxes on us without our Consent:

For depriving us in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislature, and declaring themselves invested with Power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose

known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only be repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free People.

Nor have We been wanting in attention to our Brittish brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

JOHN HANCOCK.
et al.

ELEVEN

Revolutionary Popular Sovereignty and Conservatism

In placing strong emphasis on the development and the clash of political ideas, there is a strong danger that one may underestimate the great currents which bear along institutions as well as ideas. Ever since the time of Polybius, political science had emphasized a side of the problem of government and of political institutions which was not foreign to Aristotle—namely, the physical setting of the State in terms of climate and environment, defensive frontiers, and economic resources. This context of political institutions, which can certainly qualify in a very direct way for the use of the ambiguous term *natural*, was also stressed by writers as diverse as Jean Bodin, in his *Six Books of the Republic*, by James Harrington, and most of all by the Baron de Montesquieu.

Out of this mixture of institutional and natural philosophy comes also the beginning of the anthropological and geographical approach to politics. Natural law reaches beyond the philosophic doctrines of the Stoics on man's possession of reason and begins to add some elements on which the Sophist also would have insisted—namely, the natural setting (necessity = ἀνάγκη) within which all human effort must be framed. Psychological characteristics were therefore related to the climatic theory, as in a fragmentary way they had already been in the works of Bodin and Dubois.

Later writers were to attempt a more elaborate and single-minded application of this theory, ranging all the way from the rather simple panegyrics on liberty, "cradled by the mountains and the sea," as an explanation of Swiss and English freedom such as one finds in the poetry of Wordsworth, to the more sophisticated efforts to puzzle out the play of environmental, as well as racial, factors in a modern writer like Ellsworth Huntington.

One ought to note also the beginnings of what later comes to be known as the "economic interpretation" of politics and of history. There is something of this in Aristotle and more than a hint of it in the socio-

logical and anthropological discussions of Vico and Machiavelli. But in Harrington, the stress on property comes to mean a causal relation between economic power and political power. The class stratification is outlined in terms of property holdings in a way that goes back to Greek origins.

Harrington, however, as much as Aristotle, wished to balance the classes. He naturally arrived, in the *Commonwealth of Oceana,* at a mixed state in which the yeoman farmer is bolstered against the feudal aristocracy and absolutism by a distribution of property fixed in the constitution. His solution is much like that of Aristotle, and his ideas on checks and balances profoundly influenced the constitutional fathers in the United States, particularly John Adams, who was a great believer in all possible checks and balances. The stability of society again becomes an end in itself.

Montesquieu's checks and balances included also a separation of powers. It is true that his judiciary is not quite the same thing as Hamilton was later to assume as the basis for the classical separation in the American system.[1] Montesquieu's judiciary had a much more limited function, more along the lines of modern juries. It was to be renewed regularly, even annually. But Montesquieu also thought in terms of property relations and in a fashion far more like that of Harrington, and later Madison,[2] than of the individualistic doctrines of Locke. Locke was, after all, more concerned to build up a defense of property for a landholding squirearchy that would equally serve the trading classes. With the latter he must later have become intimately acquainted through his work as Secretary for the Committee on Trade and Plantations. Locke had less interest in a stable and a balanced society through the division and fixing of wealth by an Aristotelian formula than in safeguarding property of all sorts as a part of the new democratic mythology.

It is obvious that none of the economic or other deterministic interpretations of history will adequately explain the dynamic changes that take place in political history. Great religious movements, national upheavals, and wars are not *just* economic in their origins. Yet it would be equally foolish to deny that the development of trading classes and of great resources of capital from the overseas empire of Britain played a tremendous rôle in the political evolution of England. Nor can one deny that

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[1] See *Federalist,* 78th Paper, and compare the celebrated Eleventh Book of Montesquieu's *Spirit of the Laws.* For a critique of Hamilton's interpretation of Montesquieu, see Edwin Mims, *The Majority of the People.*

[2] See *Federalist,* 10th Paper. For comment, see A. N. Holcombe, *Political Parties Today,* and Charles A. Beard, *Economic Interpretation of Jeffersonian Democracy.*

the impact of the Industrial Revolution and the creation of an extended middle class and equally one of landless laborers were primary forces in the movement of democracy and nationalism, particularly in the nineteenth century.

The Military Interpretation of Political History

For that matter, there was great truth in Hobbes' observations that the equal ability to kill was, in itself, a foundation for democratic equality—limited in Hobbes' thinking to the action of the original majority in accepting a sovereign through the social compact. There was no logic, however, in bringing this equality to an end with the original compact. The introduction of firearms, in any case, had doomed medieval chivalry. Although Napoleon, himself an artilleryman, understood and practiced the impact of all arms, including the dashing cavalry of such figures as Marshall Ney, he nevertheless understood that the great power of the French armies depended upon the levy of all the citizens. It was in the sense perhaps that he made his shocking remark, "God is on the side of the heavier battalions." [3]

History may be rewritten in modern days in terms of the produces to effort necessary to equip mass armies, at which the United States has shown itself to be the most powerful system in the world. In projecting the future may also indicate that the march of science into the of apocalyptic weapons—atomic bombs, guided missiles, and bacteriological warfare—decrees a new order on a world basis or an era of destruction more frightful than the wars of religion or the scourges of Jesus Genghis Khan's lieutenants and the Tatar hordes over the thresholds of Europe.

The Rôle of Ideas: The Social Contract

No single factor can ever explain all the causality of human history. From whatever basis history is written, the mind and conscience of mankind in the end dictate the units of political power which can be integrated into a world of economic instruments and of weapons. It is, therefore, in the realm of the combination of these factors that any balanced interpretation of history must proceed.

If one turns back with that philosophy in mind to the study of ideas of such a figure as Rousseau, it becomes apparent how dynamic a factor ideas are. It would be quite erroneous to think that Rousseau, more than the satirist Voltaire, or the Physiocrats, or the Encyclopaedists, or,

[3] See Quincy Wright, *A Study of War,* and Hans von Delbrück, *Government and the Will of the People* (translated by Roy McElwee), or the three-volume German work by the same author, *Kriegsgeschichte.*

indeed, such figures as the Abbés de Mably and de Sieyès, was the moving force behind the French Revolution. Yet there can be little question that the vogue of Rousseau's political dogmas, with their appeal at once to rationalism and to the democratic romanticism of the era, were explosive elements without which the French Revolution could hardly have moved so rapidly or so far. And it was, after all, on the back of the French Revolution and the morale of its soldiers that Napoleon ushered in his own system and gave birth to the nationalism of Europe, not only in France but in all the countries and kingdoms of nineteenth-century Europe.

How could the social contract theory, which had already served to defend the absolutism of Hobbes and the individualism of Locke, form a basis for that savage sovereignty of the people on which the French Jacobins erected their terror? Rousseau had started his earlier work *Discourse on the Origin of Inequality Among Men,* with a description of a state of nature, as had Hobbes and Locke. In far greater detail than either of the latter, he analyzed the state of nature based, not upon the force and eternal civil war of Hobbes, or upon the idyllic individualism of Locke, but upon something more like Aristotle's natural relationship of the family. In it, liberty was a right, but not in the Stoic sense or based upon a rational moral law like that of St. Thomas Aquinas. It was based rather on instinct, more in the line of anti-rationalist thinking. Rousseau, the friend of Hume, had more than a sneaking liking for the irrationalism that Hume emphasizes in his treatment of instinct and habit. But, significantly enough, Rousseau did not regard fear as a basic factor to support reason and authority, as had Hobbes. Force doesn't create moral obligation.

Origins of Inequality

How does inequality come in—that inequality which Rousseau believes to be the source of all evils? In the *Discourse on the Origin of Inequality,* the natural man degenerates easily through his very innocence. Out of the desire for property comes the vice of inequality. Indeed, Rousseau anticipates Proudhon and the Marxian theory of private property as exploitation and at the same time as the basis of the State by saying: "The first man who, having enclosed a piece of ground, bethought himself of saying *This is mine,* and found people simple enough to believe him, was the real founder of civil society." [4] This may be compared with Pascal's celebrated *"Mine; thine:* 'This dog is mine,' said these poor

[4] *The Social Contract and Discourses* (Everyman Edition), "Discourses on the Origin and Foundation of Inequality among Men," Second Part, p. 207.

children, 'this is my place in the sun.' There is the beginning and the symbol of the usurpation of the entire world." [5]

Rousseau's further views on human nature may be judged from the cynicism with which he pronounces in almost the same passage:

> Man's first feeling was that of his own existence, and his first care that of self-preservation. The produce of the earth furnished him with all he needed, and instinct told him how to use it. Hunger and other appetites made him at various times experience various modes of existence; and among these was one which urged him to propagate his species—a blind propensity that, having nothing to do with the heart, produced a merely animal act. The want once gratified, the two sexes knew each other no more; and even the offspring was nothing to its mother, as soon as it could do without her.[6]

From this primitivism the family emerges to cement society, by instinct. Out of so animal a view of human nature and of a story of primitive society based upon it, no natural rights in the moral sense that the Stoics and Locke had attempted to ground them could arise. The whole *Discourse on the Origin of Inequality* is a confused theory of history much like the Platonic and Aristotelian theory of cycles. It professes to be strictly historical and scientific, and yet its values unconsciously assume moral attitudes in speaking of the abuses of society and in treating inequality as the foremost basis of them.

Rousseau's Version of the Social Contract

The *Social Contract* has some similarities to Hobbes in that it also attempts a pseudo-scientific method for deriving the foundations of society and professes at the outset to treat "...men being taken as they are and laws as they might be." [7] He aims, as he says, to unite justice with utility, and to that end he is concerned to defend the legitimacy of civil society in a fashion that he prides himself is realistic.

The famous first page of the *Social Contract* had an impact almost as brutal as that of the *Communist Manifesto,* but for different reasons: "Man," said Rousseau, "is born free; and everywhere he is in chains. One thinks himself the master of others, and still remains a greater slave than they. How did this change come about? I do not know. What can make it legitimate? That question I think I can answer." [8]

"...The social order," he goes on, "is a sacred right [law] which is the basis of all other rights. Nevertheless, this right does not come from

[5] *Pascal's Pensées, or Thoughts on Religion,* translated and edited by Gertrude B. Rawlings, Peter Pauper Press, Mt. Vernon, New York, First Part IX, Section 53, p. 41.

[6] *Discourse on Inequality,* p. 207.

[7] *The Social Contract,* Book I (Everyman Edition), p. 5.

[8] *Ibid.*

nature, and must therefore be founded on conventions. Before coming to that, I have to prove what I have just asserted." [9]

In the pursuit of this effort, he starts out, as Aristotle does, with the family, but eliminates slavery as contrary to the order of natural human grouping. In the same manner, he eliminates both monarchy and natural aristocracy and finds that the only legitimate basis of society comes from a voluntary acceptance of the community through an original contract. In fact, he says:

> Indeed, if there were no prior convention, where, unless the election were unanimous, would be the obligation on the minority to submit to the choice of the majority? How have a hundred men who wish for a master the right to vote on behalf of ten who do not? The law of majority voting is itself something established by convention, and presupposes unanimity, on one occasion at least.[10]

This social contract, therefore, for Rousseau is aimed to "...find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before." [11] Such a *tour de force* is the essential statement of the problem to which he finds the social contract the only solution. Essentially, *the contract is the logical condition of obedience to a government which will have morally binding force on all its members.* There is, of course, a logical catch in the assumption that Rousseau makes—that since the opportunity for adhering to the contract presents equal conditions to all, the government established by the contract cannot act contrary to the interest of any. This is what A. D. Lindsay has called "the silly democratic argument." [12] Equality in the participation in voting rights does not guarantee mathematical justice in the outcome of any popular action taken either through the majority principle or through any possible action of what Rousseau calls "the general will" which is created by the social contract.

It is instructive, however, to see how his own logic develops what becomes the democratic *mystique* of mass movements and of subsequent nationalism. The gift by each member of the community of himself and all his goods to the community is a part of the original contract. Rousseau feels that this merely adds to the force of the individual by the

[9] *Ibid.*, p. 6.
[10] *Ibid.*, pp. 13-14.
[11] *Ibid.*, p. 14.
[12] "...That all the people cannot have interests conflicting with all the people, and therefore—here the argument crashes—with any of the people." Lindsay is applying this to the utilitarians, but it also applies to Rousseau. *Modern Democratic State*, Vol. I, p. 142.

force of mathematical addition and does not in any way subtract from his original liberty. It is the logic of collectivism through which later the *Communist Manifesto* invites the working people of the world to unite. Instead of telling them, as the latter does, "You have nothing to lose but your chains," Rousseau emphasizes the promise, "You have a world to win," at least the little world where direct democracy can flourish. Though he initiated the formulae for mass democracy and modern nationalism, Rousseau, ironically enough, thinks that he is arguing only the case that Plato and Aristotle made—namely, that for the small city state.

At the end of Chapter XV of Book III (see Readings) he makes a promise—never to be fulfilled—to show, in a sequel to the *Social Contract,* how the advantages of a small state may be combined with the power of a great people; the trick is to be accomplished through the principle of "confederation." But we have seen that Greece (which was Rousseau's model and ideal), because it lacked representative legislatures, could never achieve a real and powerful confederation of its small states.

No Rights against the State—The General Will and Moral Obligation

Such a sovereignty as is created in the General Will by this mass allegiance is inalienable and indivisible. There are no longer individual rights left, as Locke would have insisted. The sovereign is as absolute as the Leviathan of Hobbes, and individual rights under the social contract are as finally and irrevocably given up. The General Will, he says, cannot err. Its infallibility rests upon the moral purification of its members when they act only for the common good.

It is at this point that Rousseau's own logic begins to force him into certain doubts and reservations. The General Will can act only on general questions. It can be a true General Will only after the individuals composing it ask themselves the right question: What is the common good? It is not the same thing as the will of all, which is no more than the sum of individual wills bent upon self-interest, even though it may act through the majority principle.

The Rôle of "The Legislator"

There is an odd chapter in the *Social Contract* which deals with the original conditions for setting up the General Will. Here Rousseau has recourse to the *Legislator,* who plays the same rôle as Plutarch ascribes to the great founder of the city states of Greece and Rome. Only after the Legislator establishes sound institutions which force the people to "ask themselves the right question" are they able to achieve the true

General Will. This would appear in itself to repudiate the idea of a free social contract, morally binding because of its voluntary origin. However, Rousseau is led by his admiration for Sparta, which undoubtedly comes also from his native setting in Geneva under Calvinism, to fall back on this contradictory launching of the General Will through a great legislator like Lycurgus.

He quotes Montesquieu to the effect that, "'At the birth of societies'...'the rulers of Republics establish institutions, and afterwards the institutions mould the rulers.'" [13] In a sense, however, the Legislator is above constitutions, since he is their founder and begetter. In shaping the spirit of the society by giving it form, "The great soul of the legislator is the only miracle that can prove his mission. Any man." says Rousseau, "may grave tablets of stone, or buy an oracle, or feign secret intercourse with some divinity, or train a bird to whisper in his ear, or find other vulgar ways of imposing on the people." But as opposed to these impostors, "...the true political theorist admires, in the institutions they set up, the great and powerful genius which presides over things made to endure." Nevertheless, "We should not, with Warburton, conclude from this that politics and religion have among us a common object, but that, in the first periods of nations, the one is used as an instrument for the other." [14]

Only a people is fit for legislation which has been "...already bound by some unity of origin, interest, or convention, has never yet felt the real yoke of law; one that has neither customs nor superstitions deeply ingrained, one which stands in no fear of being overwhelmed by sudden invasion; one which, without entering into its neighbours' quarrels, can resist each of them single-handed, or get the help of one to repel another; one in which every member may be known by every other, and there is no need to lay on any man burdens too heavy for a man to bear; one which can do without other peoples, and without which all others can do; one which is neither rich nor poor, but self-sufficient; and, lastly, one which unites the consistency of an ancient people with the docility of a new one." [15]

As Rousseau remarks, "All these conditions are indeed rarely found united, and therefore few States have good constitutions." [16] He goes on with the astonishing prophecy that there is in Europe still one country capable of legislation, the Isle of Corsica. The courage and constancy with which this brave people has known how to recover and de-

[13] *Ibid.*, Book II, Ch. VII, p. 35.
[14] *Ibid.*, p. 38.
[15] *Ibid.*, Ch. X, pp. 44-45.
[16] *Ibid.*, p. 45.

fend its liberty would well merit that some wise man should teach it to preserve it. "I have," says the prophet Rousseau, "a feeling that some day that little island will astonish Europe." [17] When this was stated, Napoleon had already been born, although there may well be a question as to whether he fulfilled the object of Rousseau's prophecy, in terms of liberty. Perhaps he might be accepted, on Rousseau's terms, as "The Legislator."

General Will Cannot Be Represented

In the *Letter to D'Alembert,* he makes it even clearer that he would further limit the ideal state, which can act through a popular assembly in the realization of the General Will, much as Plato and Aristotle would have, to a small city state where popular assemblies and direct democracy are possible. Although he agrees with Montesquieu that climate has a great bearing on liberty and that the natural productive power of the soil and the economic setting of the state will condition the possibility of true democracy, it is in the end to the organization of the state that he looks for the realization of a good government.

Rousseau is himself not insensible to the decline of states through a sort of natural history such as had brought low Sparta and Rome. But in order to give the longest stability compatible with human affairs to the state, the constitution should have at least regular assemblies so that sovereignty may not be divided and that there be a mutual relationship between subject and sovereign, "reunited under the single word, citizen." The downfall of Rome he attributes to ignoring the necessity of suspending the executive power whenever the body of the people is legitimately assembled as a sovereign body. He has no use for representative legislatures; although he concedes that representatives are necessary for the magistracy. Sovereignty, he feels, cannot be represented for the same reason that it cannot be alienated. For that reason deputies should not be able to conclude anything finally. The ratification by the people is the basic condition of all law. On this basis he condemns the stupidity of the English, who think they are free when, in fact, they are only free during the election of members for Parliament.

All this comes very oddly from the inspirer of that French Revolution which, in turn, set up the most absolute dogma of the sovereignty of the elected representatives of the people in the legislature. To this day, good Frenchmen like Herriot and Blum oppose the English type of right of dissolution in the hands of the Prime Minister or President of the Council —the most basic of all necessary French constitutional reforms—because

[17] *Ibid.,* p. 45.

of the dogma of the French Revolution that the sovereignty of the people resides in their representative legislature. Rousseau not only would have gone back to the electorate, he would also have insisted that the electorate must act directly upon the laws.

Regular Assemblies the Safeguard of Democratic Liberty

He also has a formula for preventing usurpations on the part of the government. He does not rely on a separation of powers or in a system of checks and balances; rather he would assure continuous popular sovereignty, through the basic constitutional protection of periodic assemblies which need no formal convocation and which should be opened at every session by two fundamental propositions not capable of being amended or suppressed. These two propositions should be regularly passed by formal votes:

"The first is: 'Does it please the Sovereign to preserve the present form of government?'

"The second is: 'Does it please the people to leave its administration in the hands of those who are actually in charge of it?' " [18]

The idea that democracy can itself commit suicide by voting its own destruction Rousseau thinks is inconsistent with a habit that has taken a fixed form in terms of the protections that he has outlined above. Nevertheless, since the general will is absolutely free, it is, he concedes, free also to commit suicide, by dissolving the social contract itself! (See Readings, Book III, Chapter XVIII.)

Extraordinary Majorities

He is also aware that the simple majority formula leaves much to be desired in a democracy, and he proposes a formula to deal with this issue that has a great deal of interest in the light of the American practice of requiring extraordinary majorities for constitutional amendments, particularly those which change federal relationships:

> There are two general rules that may serve to regulate this relation [the relation between the proportional number of votes necessary to declare the general will]. First, the more grave and important the questions discussed, the nearer should the opinion that is to prevail approach unanimity. Secondly, the more the matter in hand calls for speed, the smaller the prescribed difference in the numbers of votes may be allowed to become: (for example) where an instant decision has to be reached, a majority of one vote should be enough. The first of these two rules seems more in harmony with the laws [constitutional], and the second with practical affairs. In any case, it is the combination

[18] *Social Contract*, Book III, Ch. XVIII, p. 89.

of them that gives the best proportions for determining the majority necessary.[19]

Rousseau also has some interesting observations to make on the class structure of the society and the abuses which this class structure had produced in Roman society through the perversion of the senate and the consuls to class struggles that destroyed liberty. He falls back upon the tribune of the people as an institution which suggests a rather new idea for a powerful magistrate to serve as a sort of liaison or, as he says, "...a link or middle term between either prince and people, or prince and Sovereign, or, if necessary, both at once." [20] Although he has, as usual, a somewhat vague idea of what his objective is, he nevertheless makes one of his characteristically suggestive and original contributions in the description of this proposed body: "This body, which I shall call the *tribunate,* is the preserver of the laws and of the legislative power. It serves sometimes to protect the Sovereign against the government, as the tribunes of the people did at Rome; sometimes to uphold the government against the people, as the Council of Ten now does at Venice; and sometimes to maintain the balance between the two, as the Ephors did at Sparta." [21] In accordance with this view, this tribunate is neither a constituent part of the polity nor should it have any part of the legislative or executive power. On the other hand, its power is just as great, for although "...it can do nothing, it can prevent anything from being done. It is more sacred and more revered, as the defender of the laws, than the prince who executes them, or than the Sovereign which ordains them." [22]

This is a striking anticipation of the rôle that is played by the Supreme Court in the American Constitution. It indicates that Rousseau had a strong feeling for a fundamental law as the proper matrix for a general will. He had equally striking views, like those of Machiavelli in the *Discourses,* about the necessity for arranging for a dictatorship of temporary character (what is sometimes called in modern usage "a constitutional dictatorship"). The example of Rome, with the duration of the dictatorship limited to six months, subject to extension, seems to him good in the shortness of the term but dangerous in the possibility of the extension. With his fixed preference for direct democracy, Rousseau is always afraid of an evasion which will destroy rather than save the

[19] *Ibid.,* Book IV, Ch. II, p. 94.

[20] *Ibid.,* Ch. V, p. 106. Cf. Machiavelli's chapter on the tribunes in *The Discourses.* See Readings.

[21] *Ibid.*

[22] *Ibid.,* pp. 106-107. The institution of the council of censors in the colonial constitution and the first state constitution of Pennsylvania suggests a possible use of Rousseau's suggestion. See Louis Hart, *Economic Policy and Democratic Thought.*

state. Similarly, he feels that the institution of the censors on the Roman model cannot by force and judgment secure what the force of laws has not accomplished. He would admit that censorship can sometimes preserve morals, but he thinks it impossible for morality to be reestablished by this means.

Religion, Morality and "Civic" Religion

Morality, for Rousseau, after all, is a question of legislation, since legislation is the product of the General Will itself. To its aid, he would bring a civil religion or, perhaps, what one could better translate as a religion of civil duty, although his observations on the relations of this religion to supernatural systems are somewhat contradictory. "The religion of man," he differentiates from "the religion of the citizen." The first is limited to a purely interior cult of a supreme god, with eternal duties of morality, "... the religion of the Gospel pure and simple, the true theism, what may be called natural divine right or law." The religion of the citizen, on the contrary, "... is codified in a single country, gives it its gods, its own tutelary patrons; it has its dogmas, its rites, and its external cult prescribed by law...." These, he thinks, describe the two religions of primitive peoples. The latter may be called "civil or positive divine right or law."

In addition to what he calls "the religion of priests" is still a third form, which gives, as he says, "... two codes of legislation, two rulers, and two countries ..." and contradictory duties which prevent them from being at the same time pious followers of the religion and good citizens.[23] This is the stricture he puts on Roman Catholicism, likening it to the religion of the Lamas and that of the Japanese (*N.B.*, pre-Shinto in the last case). All these religions have their faults in the mind of Rousseau, although he makes an appropriate bow to the *true* religion of Christianity, not that of today but that of the New Testament, which forms the basis for uniting men as brothers. But even this idealistic version of Christianity has a weakness in that it does not add anything to the force of the laws and has no particular relation with the body politic. He concludes "... that a society of true Christians would not be a society of men."[24] Therefore, in order to reach a religion fit for bolstering a General Will, he wishes to set up a profession of faith which is, as he says, purely civic. Its dogmas would not be like those of religion but like "sentiments of sociability," in which it is impossible to be a good citizen without being a faithful subject. Without being able to obligate anyone

[23] *Ibid.*, Ch. VIII, p. 117.
[24] *Ibid.*, p 118.

to believe these dogmas, it can still banish from the state whoever does not believe in the state. It can banish him, not as impious but as unsociable, as incapable of sincerely loving the law and justice, and of sacrificing at need his very life to his duty. Rousseau goes as far as Plato in this matter: "If any one, after publicly recognising these dogmas, behaves as if he does not believe them, let him be punished by death: he has committed the worst of all crimes, that of lying before the law." [25]

Toleration: But None for Intolerance?

When it comes, however, to defining what his civic religion should include, beyond saying that its dogmas should be simple and few in number and announced with precision, without explanation and commentary, he can only add that they should contain the following positive points: "The existence of a mighty, intelligent, and beneficent Divinity, possessed of foresight and providence, the life to come, the happiness of the just, the punishment of the wicked, the sanctity of the social contract and the laws...." [26] There is only one negative dogma, that against all "intolerance." However, he does not distinguish between theological intolerance and civic intolerance beyond pointing out that the one precludes the other. Civic tolerance would not permit theological intolerance: "Wherever theological intolerance is admitted," according to Rousseau, "...It must inevitably have some civil effect; and as soon as it has such an effect, the Sovereign is no longer Sovereign even in the temporal sphere: thenceforth priests are the real masters, and kings only their ministers." [27] However, he does not permit divergence from his "civic" religion. *This points the way toward Marxist dogmas and their savage purges of "heretics and apostates" later on.*

It will be seen that religious tolerance as to doctrinal differences has now become fixed, to the point of never tolerating intolerance. The French Revolution documented this attitude by the savagery with which it pursued priests with even more venom than it devoted to aristocrats. Marxism equally treated religion as the "opiate of the people," until Soviet power began to find controlled uses for the Greek Orthodox Church, as far as it still recognized the Patriarch of Moscow.

The Real Contribution of Rousseau: Kant's Development of the General Will as the Condition of Morality

This sketch of the ideal state to which Rousseau leaves the unfulfilled promise of returning in a more comprehensive treatise, in spite of

[25] *Ibid.*, p. 121.
[26] *Ibid.*
[27] *Ibid.*, p. 122.

its manifest illogic in many points and the habit of substituting a flood of rhetoric for close reasoning, must not be too lightly dismissed. It is simple enough to show that Rousseau's own conception of the General Will has in itself contradictory elements; that he pays insufficient attention to human nature, in spite of the exaggerated pride with which he parades history and pseudo-scientific anthropology. It is not difficult, either, to show that Rousseauism is, as the late Irving Babbitt was so fond of pointing out, aligned with some of the most destructive forces of what he called "romanticism," particularly in those works like *Émile* and the *Confessions,* which unchained the demon of "self-expression," without the humanistic restraints or "brake" of the morally disciplined will.

Rousseau's Legacy—"The Right Question"

The *Social Contract,* in spite of all this, remains one of the great works of political literature, if only in terms of its influence on subsequent thought. Immanuel Kant, who was certainly not a romanticist, owed a great part of his magistral efforts to reconcile individual morality with a moral political order to the work of Rousseau. He, in common with many later thinkers, tried to go beyond the contradictions inherent in Rousseau to what Rousseau was really *trying* to say, which, in some ways, was the same quest that Plato had set for himself in the *Republic:* How can the moral will of the individual be brought into a right relationship to the political order so as to secure an acknowledged justice that will give law moral validity through consent? Rousseau's effort was overlaid with a great deal of the same sort of thimble-rigging logic that has marked the use and abuse of the social contract theory by his predecessors, Hobbes and Locke. However, he went beyond either of them in trying to emphasize the fact that political obligation on a voluntary basis inheres in a citizenship which acts according to accepted forms of constitutional democracy. His insistence upon the rightness of the General Will, even to the degree of saying that it could "force men to be free," was aimed at teaching the individual citizen a simple lesson: Only through asking oneself the question, what is the good of the community?, can moral action in politics be accomplished. But his methods and his dogma both led on to a totalitarian state.

Totalitarian Trends: Mass Democracy and Marxism

Plato and many others had attempted to exorcise self-interest in order to prevent the degeneration of society into the atomistic egoism of which the Sophists were the defenders and from which the fascist theory of Hobbes and the cynical counsels of Machiavelli were the legitimate offsprings. Rousseau attempted Socrates' objective, although often in a

very clumsy way. It is to that end that he attempts to inculcate a civic religion that anticipates in some measure the later effort of the great positivist, Auguste Comte. Marxism was to set up a counter-religion of collectivism, alleging its scientific character but demanding a loyalty as final as had Rousseau.

That this effort has in it a dynamic quality can be judged by its applications not only in the phrenetic form of the French Revolution and in the impassioned nationalism of Fichte, but in the utopian phases of Communism. The surrender of man to society in order to gain not only the security promised by Hobbes but the escape from loneliness that is psychologically the most powerful foe of moral responsibility marks the development of a great deal of later democratic thought. Ortega y Gasset traces the rise of this "mass man" in the degeneration of mass democracy.[28]

There are, of course, perverse and dangerous sides to Rousseau's democratic absolutism. The individual who surrenders himself so completely as Rousseau demanded to the incorporating personality of the super-being created through this ideal General Will, the *"moi-commun,"* tends to lose the vigorous moral responsibility which is basic to healthy democracy. Perhaps it is unfair to Rousseau to suggest that this loss is inevitable. It is hard, however, to see how an infallible General Will does not take up all moral responsibility into itself quite as effectively as totalitarianism does. There is a real danger that Rousseauism merely means the transference of the divine right of kings to the divine right of the mass man, "the people."

Rousseau's Contribution to Constitutionalism

But what most commentators miss in interpreting Rousseau is that he did, as we have noticed, insist on several basic elements of protection against this abuse. The *first* is the free and critical activity of the citizen himself as a participant in the democratic process; the *second* is the constitutional nature of the fundamental laws that protect regular assemblies and attempt to avoid the suicide of democracy that comes by falling back on a messianic leader or dictator; the *third* is the interesting subject of different degrees in the majority principle as an operative democratic device; and the *fourth* is what looks to be a clear provision for a body in the "tribunate" which would play the rôle of the constitutional protector and expounder, like that of the Supreme Court of the United States. He never makes quite clear that this body would be able to check

[28] See his *Revolt of the Masses*, and Salvador de Madariaga's *Anarchy or Hierarchy*. On the loneliness and insecurity of individualistic life under modern conditions as a source of totalitarian escapism, see Erich Fromm, *Escape from Freedom*.

in any way the popular assembly. But, conceivably, it could enforce the required majorities by refusing to apply laws not constitutionally passed in the fashion later followed by the American court system.

In any case, the impact of Rousseau on subsequent political thought is sufficiently great to make it worth our while to examine, as we shall next, the liberal reaction toward individualism away from his doctrine of mass collectivism. Rousseau, like Hobbes and like the French Revolutionists, would have felt that all associations within the state which pursued self-interest were hostile to the ends of the state. Hobbes likened these associations within the state to "worms in the entrails of a natural man." The French Revolution, by the Loi le Chapelier of 1791, attempted to eliminate private associations within the state, including religious associations, in a way quite in conformity with Rousseau's own hostility to such groups. The General Will, like the French Revolution, demanded that the individual be atomized in such a way as to be ground into a fineness that would make him and his fellows equally "dust under the chariot wheels of the Revolution."

"Forcing Men To Be Free"—Rousseau to Marx

Rousseau was a striking anticipation of Marx, who himself preferred to acknowledge his debt to Hobbes. There is implicit in the Rousseauistic General Will the idea that a society must be "forced to be free" in order for man to find his true self. This is precisely what Marx insists upon. His dictatorship of the proletariat would fulfill the rôle of Rousseau's Legislator in setting the conditions for a truly free society. After that, he would go far beyond Rousseau, however, in expecting the State as an institution to wither away, since the General Will would be automatically created by eliminating the self-interest of private property.

Such a concept would re-enthrone Leviathan. Modern liberalism was an effort to give both the individual and the voluntary groups which he created and which served his interests a legitimate rôle within the state. The extreme form of this group-rights doctrine today is called pluralism and syndicalism. In its pathological state it leads to anarchic impotence on the part of the government or, at the very least, to the rule of "pressure politics." In the balanced state of constitutional democracy, however, there is a place for a public interest that derives from the free play of private interest, held within the discipline of a national program by a strong party system. This is the core of the problem of modern liberalism in finding an answer to Rousseau that will at once preserve the liberty of the individual and permit the emergence of a true general will. The deepest expression of the general will is constitutional morality itself, namely the *willingness* of a people to maintain the "rules of the

game" by which political settlements applying the majority principle are limited and played.

Conservatism—Hume and Burke

Edmund Burke was the greatest expounder of his own times and, perhaps, of any, of the truly conservative doctrine of property, though he combined it, as Locke had done, with an odd mixture of political liberalism and conservatism. Burke had a profound conception, more deeply reasoned even than Hume's, of the historical method and, indeed, of the organic process of history which could not be wrenched apart violently without disaster. He set himself at sixty-one to write his first real work on the philosophy that underlay his profound insight. The result was an attack on all the mechanistic rationalism of the Enlightenment, and a reminder that if there is to be a contract for the state it is an enduring partnership in a complex and long-developing community. A "general will" is not to be created by the mere political mechanics of voting. It is the product of the same slow growth that creates a nation. This is the essence of true conservatism.

Property, for Burke, like other basic human interests, was based on this historic "prescription," founded on the very texture of human nature and society. It was not an abstract right or a contractual product of rational consent. But it corresponded to the deeper human needs of an established order that had to be judged by its *whole* nature and not piecemeal. "The characteristic essence of property, formed out of the combined principles of its acquisition and conservation, is to be unequal," he states flatly in *Reflections on the Present Discontents.*

In this sense his view of the general will is that it is the organic life of a nation—as opposed to the rationalized contract theory of Rousseau. The same reasoned defense of privilege, as inherent in human nature and a healthy society, led him to defend "virtual representation" of the masses by their betters—the propertied classes who controlled both Lords and Commons to a degree that made political struggle largely an aristocratic game of power. Burke's well-known letter to the Electors of Bristol is the best defense, no doubt, of the position of a representative who tries to act for *his* idea of the best interests of his constituents as part of the nation, rather than as a "delegate," who responds to constituents' views like a puppet on a string. But Burke went further than that. In his letter to Sir Hercules Langrishe (January 3, 1792), he gives the classic exposition of the "aristocratic" philosophy of representation: "There is a communion of interests, and a sympathy of 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 chosen

by them. This is Virtual Representation. Such a Representation I think to be in many cases even better than the actual."

Burke, the Liberal

On the other hand, Burke's attacks on Warren Hasting's régime of grand feudal control over India, which operated to shake the pagoda tree of the East India Company, his attack on the treatment of Catholics and others in Ireland, his attack on the revival of a statute of Henry VIII to suspend *habeas corpus* against American colonists accused of treason (Letter to the Sheriffs of Bristol on the Affairs of America), and his classic defense of the case for the American colonies, do not permit one to describe him as a simple Tory reactionary. "Liberty . . . is a *general* principle," he proclaimed in that same letter, "and the clear right of all the subjects within the realm, or of none."

His classic aphorism that "Magnanimity in politics is not seldom the truest wisdom; and a great empire and little minds go ill together," remains as a cornerstone of liberal doctrine. He wanted just government and honest and patriotic government. He found that rank and privilege were necessary to get that government on the high level of efficiency that only talent could give.

"It is said that twenty-four millions ought to prevail over two hundred thousand," he puts the argument in *Reflections on the Revolution in France* (1790). "True, if the constitution of a kingdom be a problem of arithmetic. This sort of discourse does well enough with the lamp post for its second; to men who *may* reason calmly, it is ridiculous. *This will of the many, and their interest, must often differ; and great will be the difference when they make an evil choice.* . . . A government of five hundred country attorneys and obscure curates is not good enough for twenty-four millions of men, though it were chosen by eight and forty millions; nor is it better for being guided by a dozen of persons of quality, who have betrayed their trust in order to obtain that power." [Editor's italics. See Readings for quotation.]

But though Burke was no democrat and, hence, no liberal in this sense, he had a profound understanding of the *organic* (in the sense of the necessary and natural) needs of government, among them the absolute necessity of parties to reconcile interests into programs of policy, if any responsibility or efficiency was to result. ". . . A body of men united, for promoting by their joint endeavors the national interest, upon some particular principle in which they are all agreed," [29] may be an idealistic description of party; but it stresses a *moral* aspect of politics which Burke

[29] *Thoughts on the Cause of the Present Discontents* (1770), "Defense of Party."

never overlooked, although he held very conservative views as to its meaning. To Burke liberalism could not mean leveling and remain liberal.

The ground-swell of democracy, however, was not to be arrested by Burke's generally conservative defense of the "venerable" and "prescriptive" British constitution of his time His views on the French Revolution, which so profoundly shocked his sense of law and order and his belief that the powers that be are ordained of God, probably represented the general British reaction to the terror and the bloody excesses of the French mobs.[30] But the rebelling American colonies, whose constitutional case Burke was prepared to defend, raised a chorus of answering sympathy in England which eventually carried the day.[31]

Burke's own complacent views on the superiority in general of the British Constitution and the state of England itself may be well enough summarized by the tone of one of the *Letters of Eminent Persons to David Hume:*

> In all respects we are in a most respectable situation . The state of our domestic politics, from the nature of our constitution, can never be very permanent, but, as one half of our great men are happily a check to the ambition and sinister views of the other half, it necessarily follows that, as we are not likely to continue in the right way for any length of time, so neither can we persist long in the wrong direction We have little to fear at present We have a good and virtuous prince upon the throne [George III] the nature of our government leaves every individual as free as his own happiness and security will admit of, our dominions are rich and extensive, our commerce great and increasing, and we want nothing but a little strong and active virtue in those at the helm, to render all those blessings as permanent as the nature of human affairs will admit[32]

[30] One of his most memorable defenses of the reasons for this philosophy is given in his *Reform of Representation in the House of Commons* (1782) "Prescription is the most solid of all titles, not only to property, but, which is to secure that property to government . It is a presumption in favor of any settled scheme of government against any untried project, that a nation has long existed and flourished under it It is a better presumption even of the *choice* of a nation, far better than any sudden and temporary arrangement by annual election Because a nation is not an idea only of local extent, and individual momentary aggregation, but it is an idea of continuity, which extends in time as well as in numbers and space And this is a choice not of one day or one set of people, not a tumultuary and giddy choice, it is a deliberate election of the ages and of generations . the species is wise, and, when time is given to it, as a species it always acts right."

[31] On Burke as a political liberal, see H J Laski, *English Political Thought from Locke to Bentham,* chapter on Burke Mr Laski credits Burke with more effect on the ultimate defeat of George III than any other person or movement He cites persuasive examples from Burke's speeches and writings on Ireland, India, and, of course, from his *Speech on Conciliation with America* (1775).

[32] *Letters of Eminent Persons to David Hume,* edited by J H. Burton We owe this quotation to the interesting interpretation of *Modern Individualism* of S. McKee Rosen, p 24 His careful collection of the significant sources furnishes an admirable body of liberal thought in very succinct form Many of the citations in the following

To Hume himself is owed a continuation of that doctrine of Locke which stressed utility and property and natural reason:

> Had every man sufficient sagacity to perceive, at all times, the strong interest which binds him to the observance of justice and equity, and strength of mind to persevere in a steady adherence to a general and distant interest, in opposition to the allurements of present pleasure and advantage: there had never, in that case, been any such thing as government or political society, but each man, following his natural liberty, had lived in entire peace and harmony with all others.... Why abridge our native freedom, when, in every instance, the utmost exertion of it is found innocent and beneficial....The sole foundation of the duty of allegiance is the 'advantage' which it procures to society, by preserving peace and order among mankind.[32]

David Hume—Conservatism Rooted in Habit and Human Nature

This quotation from Hume shows a certain kinship with Hobbes in its utilitarian analysis of human nature and action. It is interesting that Hume, who followed Locke in his psychology in deriving everything from sensations and their association, so completely rejects Locke's concepts of natural law and rights. Hume drew from the denial of innate ideas a more logical conclusion than Locke: custom and emotion, not reason, dictate political as well as other actions.

The profoundly conservative nature of custom led Hume to emphasize the detached view of society that later marks cultural anthropology and positivistic sociology: moral preoccupations are unimportant, since they are derivative from the natural "love of dominion" and habit of subordination in human nature. Natural instinct, supported by rational reflection, leads men to accept government and to see the advantage of general and equal laws and a balance between liberty and authority. He finds a sufficient cause for obligation, allegiance, and good faith in "the general interests or necessities of society." He concludes that "in all questions with regard to morals, as well as criticism, there is really no other standard by which any controversy can ever be decided... [than by] an appeal to general opinion." (See Readings for this text.)

To Hume, therefore, a comfortable balance, based on custom and general opinion, represented the desirable political form. No sultan could in fact be so absolute as to go against the rooted habits of his subjects. Habit could be as absolute as Rousseau's general will.

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pages were made easily available through this useful and scholarly monograph and have led us to other points of emphasis in the original texts that might have otherwise been missed.

[32] Quoted by S. M. Rosen, *op. cit.*, p. 25, from T. Hume, *Inquiries* (Selby-Bigge ed.), p. 205.

Naturally, the outcome of such a philosophy was in the main conservative. It laid the ground, indeed, for Burke's own emphasis on the organic factors in society.

But Hume, who had befriended Rousseau while most differing from the moody Swiss, stirred to philosophical rebuttal a great German who, as we have already noted, was to carry out the liberal side of Rousseau's general will and recapture for rational individualism its most profound modern statement. That philosopher was Immanuel Kant, who will be used hereafter as the best philosophical expounder of constitutionalism.

Kant's Philosophical Basis for Modern Liberalism

The puzzle that liberalism was later on to face in reconciling individual self-interest with moral obligation (individual right with a "general will") was much better put by Immanuel Kant, the great German metaphysician, than by any other philosopher. His profound analysis raised again the basic questions that Hume had faced and had answered so differently: Can there be universal laws which mankind can know? Above all, can there be any universal foundation for a rational ethics? Hume's answer to these questions, rooted in his own empiricism and associationist psychology as the basis of a theory of knowledge, was a flat "No." His skepticism, both of innate ideas and of the possibility of finding any concepts of universal validity, led him to a theory of human society quite like that of modern positivism and some strains of pragmatism.

Hume was in some sense the first "cultural determinist," for he felt that custom and the repeated force of habit were the great bonds of society; although he would assert that ultimate power always rested with the governed, because of the mass force of social action and beliefs, even in dictatorships. Hume's questions had, as Kant himself said, waked philosophy from its dogmatic slumbers. They undermined even the possibility of a really scientific and complete explanation of human action from which general rules could be deduced; and they destroyed the complete reliance upon mathematical method which had characterized the impact of Newton's discoveries on all the sciences, including those dealing with mankind.

Kant's effort was in some measure to restate the possibilities of knowledge and the nature and limits of science and of morals. He wished to escape the dead end of philosophy into which Hume had run. It had caused Hume's abandonment of all philosophical efforts at a very early age. Essentially, Kant's position, applied to politics, was to retrieve what was valuable in Rousseau, and yet to state the moral ultimacy of the individual as the basis of all ethics. On this foundation, subsequent demo-

cratic thought, in some cases buttressed by Christian doctrine, has rested ever since.

In his metaphysics, Kant insisted that the mind imposed its own patterns and rules on external reality without exhausting that reality. The "Pure Theoretical Reason," therefore, was capable of furnishing the structure of all *knowable* reality, and in this sense could furnish a logic for science and its application in universal terms.

On the other hand, the ultimate essence of reality, the "noumenal," as opposed to the "phenomenal," in Platonic terms which Kant revived, could only be understood by the (Pure) "Practical Reason," which, in effect, relied upon an unprovable but experienced relationship between the world of knowledge and the world of experience. Time and space, as well as the other categories of the "Theoretical Reason" which Kant outlined, can be applied to the world of our sense experience and receive what later on came to be called "pragmatic verification." It is impossible for the mind to reverse the order of events by an effort of will and it is coerced, therefore, into accepting causality as the objective form of experience, and is coerced by the Practical Reason into accepting causality as a reality.

But how can one escape the antinomies that Kant himself pointed out in the application of Pure Reason to a phenomenal world? By "antinomies," he meant contradictions, such as the relation of finite to infinite, of freedom and God to deterministic causality, and similar problems insoluble when set in these terms. Kant himself said the whole conception of human freedom is meaningless and God as a first cause represents a logical inconsistency if the total reality is exhausted in the phenomenal world, that is, if we approach it only through our Theoretical Reason.

In his effort to escape this dilemma, he expressed in his *Fundamental Principles of the Metaphysic of Morals* and in the *Critique of Practical Reason* a series of propositions upon which most of our modern liberal philosophies still rest, if they are pushed back to their fundamental assumptions: Kant's ethics and moral philosophy.

Criticism of the Pain-Pleasure Calculus

Kant began by showing that the mere calculus of pleasure and pain, according to the hedonistic philosophy which Hobbes and the Utilitarians had adopted, can never serve as the basis for a universal rule. It depends upon man's varying desires and inclinations and it is relative to the appetites of individuals. A true standard for testing the moral quality of any act can be found only if the act is criticized in accordance with some *rational* principle. This position, which was a development

of the Aristotelian criticism, rules out intensity or mere quantitative measurement as a standard of validity, since there can be no measurement of such a standard on any other than a subjective basis. The only way in which men can achieve a morality which is capable of universal application and acceptance is to find a rational ground that has an objective character and can be shown to be universal.

Kant proceeds from the inner necessity of man as a rational being to attempt to establish this universal Good. He starts by saying that we experience will just as we do knowledge, and that the only good is the good will. Is "Good" a quality of the will itself, or can it be measured by a will which is determined by reason which itself requires universality? This latter postulate—grounded on logical necessity and direct experience—is what Kant established as the basis for his moral law, i.e., a will which is *self-determined in accordance with its own concept of duty,* but not by mere inclination. Duty itself is conditioned by the necessity of acting from respect for moral law, not from expediency.

Kant's "Categorical Imperative"

This difficult but profound conception of the nature of morality Kant gave a formulation in terms of what he called the "Categorical Imperative," namely, "Act as if the maxim of your own action were to become by your will a universal law of nature." In other words, so act that your actions could be universalized. This is to deny morality to one who acts from mere self-interest, which considers nothing but individual satisfaction. It is to discipline the will by moral conceptions that are strikingly like that of the formulation of the Golden Rule of Christianity.

From Kant's "Categorical Imperative" flowed a second imperative, which dealt with the means of action, namely, "So act as to treat humanity, both in your own person and in that of others, as an end in itself, and never as a means only." In essence, this extension of the Imperative of moral action does conform to the need of humanity for a standard that can be mutually applied by all men—that is, the universal standard of the Golden Rule. And second, in order to realize such a principle, to allow moral judgments to every man as a condition for realizing his essential dignity as a human being. This means never to treat people as *means to ends;* and it necessarily implies complete acceptance of moral equality and moral ultimacy of other human beings, which is the fundamental ethics of democracy and of constitutionalism.

What Kant Added to Rousseau

Rousseau had insisted, too, that the individual will could conform to the true General Will only *"if it asks the right question."* That is, indi-

viduals, to be free, must wish to have a purpose transcending their own self-interest and one which is the true good of the community. Kant rescued this conception of the General Will, however, from the perversion into which it so easily fell in Rousseau's hands—namely, that society could force men to be free by establishing an absolute pattern through majority action—by insisting that no power could ethically deprive the individual of his own right to accept or reject the moral values which he was asked by a community to obey. That way ("forcing men to be free") lay totalitarianism—e.g., Marxism. But Kant went further. He drew the necessary consequences for such a universal formulation of individual moral responsibility by showing that in a true ethical community the protection of voluntary action must be maintained; and that no human being should be treated completely as a means without his own consent. He emphasized, at the same time, the necessity for a mutual understanding of the purposes of society as the basis for truly common moral action.

Constitutionalism as the Basis of World Order

It was this element of Kant's thought that led him in the formulation of his masterly summary in the *Essay on Perpetual* (or *Eternal*) *Peace*, of the moral conditions of a world society under law. He saw that what he (like Rousseau) called "republican" governments, and what we today should call "constitutional" governments, were the only types of communities which would both permit and protect the right of individual moral choice for their citizens. Only on such a basis could there be a shared morality and, through that, the respect for human rights. This hard doctrine, in effect, denied the possibility of a world order made up of component communities where some rejected the entire basis of morality through totalitarian control of men's beliefs and actions. No *moral* law could be universalized between totalitarianism and constitutionalism. Only an uneasy truce to the fundamental clash of values could be achieved: a "hot peace" or a "cold war."

It is unnecessary here to try to defend the entirety of Kant's magnificent structure of philosophy, but its significance to subsequent democratic thought can hardly be doubted. Not only did Kant lay the grounds for the rightful spheres of science and morality, he also gave the most rational justification for linking human ethics to the postulates of religion by showing that infinite progress alone could achieve the true holiness of the moral will and the perfection of human experience through the Christian concept of the Kingdom of Heaven or of God.

No one can pretend that any philosophy ever answers all the questions or the puzzles of experience and of the relation of men to the universe

and the nature of his own mind. By giving equal reality to the "starry heavens without and the moral law within," Kant laid the foundation for human law based on moral rights. He did not, perhaps, reach the full insight of the Christian gospel of love. Yet his system, far better than that of the subsequent Utilitarians, established the true foundations of liberalism, insofar as that rested upon the doctrine of moral personality as the ultimate unit of human society. Constitutionalism since Kant's time has implicitly rested upon this explanation of human freedom and human rights. Kant's doctrine of free moral personality as the condition of any ethical action laid the truest philosophical grounds for democratic tolerance, equality of opportunity, and for the protection of the conditions necessary to all free self-development.

The development of eighteenth-century political thought in those limited parts that we have emphasized shows in the clearest form the seeds of future cultural determinism and the appeal to habit in Hume, and an equally conservative view of the natural character of national development in Burke, yet with great insight into the true nature of the rôle of party in representative government. At the same time, it saw the development of a mystical conception of the general will as the basis for collective absolutism in Rousseau; and a refinement and restatement of the cause for individual rights as the condition for all true morality and constitutionalism in Kant. Much of the moral groundwork of liberalism was better stated by Kant than by the English liberals to whom we turn in the succeeding chapter.

However, the relation of the Physiocrats and Adam Smith and their economic theories to this evolution must unhappily be omitted. The result is less than adequate for a history of political theory and its relation to economics. But the essential ideas of the emergence of liberalism are so much more often stressed in terms of economics than of morals that the present selective treatment will, we hope, redress the balance of the usual interpretations. The continuity of liberal thought from Locke through Kant and the statements of the counter-philosophy of conservatism must serve as the basis for any true perspective of the typical British liberalism which came to its peak in the nineteenth century.

(...*W. Y. E.*)

READINGS

THE PRECEDING CHAPTER dealt with a line of political thought that was uniquely English, and has had an uniquely Anglo-American influence. We have seen that the ideas involved had a close relation to political

events such as the Glorious Revolution and the American Revolution. In the present chapter the writings likewise are closely associated with the most far-reaching political event of the modern period, the French Revolution. Rousseau is often credited with being the father of the French upheaval, and Burke's criticism of that revolution is at once a criticism of Rousseau and of Locke. Similarly, Hume was Locke's most devastating critic, and to a lesser extent he struck at the justification of the French Revolution. Kant sets the profound moral tone for modern constitutionalism.

The age of enlightenment and reason is characterized by the decline of faith and mysticism and the growth of the idea that all phenomena can be explained by the mind of man, if he will only develop the use of his reason. Essentially, this is a secular, positive, and humanistic point of view. The universe is man-centered, not God-centered.

The seventeenth century that had seen the final victory of Parliament over the king in England, saw the French monarch Louis XIV (1661-1715) rise to heights of splendor and absolutism unequaled in modern history. A part of the splendor provided during the reign led to the encouragement of industry and of literature. Thus developed a middle class with wealth and a literary tradition, both important factors that led to the final overthrow of the monarchy in the last years of the eighteenth century. Louis XIV was succeeded in 1715 by his five-year-old great-grandson Louis XV. The enormous debt and the despotism which marked the close of the reign of Louis XIV developed a powerful resentment among the French people. That Louis sensed his significance and the temper of the time is suggested by his cynical summary, *"après-moi, le déluge."* Louis XV ruled until his death in 1774, except for the first eight years of his reign, when the government was conducted under a regency headed by the Duke of Orleans. Troubles over finances, wars, internal political feuds, and religious questions marked the reign, and it was during this period that Rousseau and the Encyclopaedists wrote and produced the Age of Enlightenment.

A tribute to the writers of this period was that they were adored and accepted by the very elements in society they were undermining. Voltaire, Montesquieu, Diderot, D'Alembert, Buffon, Helvétius, Holbach, Quesnay, to mention but a few of the more prominent spirits of the period, will give some idea of the intellectual ferment in the period in which Rousseau wrote. And in no case was the influence of these writers confined to France. It spread in all directions, beyond the boundaries of the country that produced them. While Rousseau was not usually in agreement with his intellectual companions, he in many ways symbolized the spirit of the age. He was brilliant, profound, and ruthless in the way he challenged

the existing order in France. He was not afraid to "strike at the jugular" in his analyses.

Rousseau was born in 1712 at Geneva. His parents were Huguenot, but they scarcely influenced him, for his mother died in childbirth and his father was forced to flee when he was young. After Rousseau reached the age of sixteen, he left his relatives and led a gypsy life, which finally brought him to France and the home of Madame de Warens at Annecy. She saw that he continued his education while she kept him in her household as a lover. After this arrangement broke up, he set up as a music critic in Paris. Through Madame D'Epinay he joined the circle that consisted of Grimm, Diderot, Duclos, and Voltaire. He first won fame at the age of thirty-seven by writing a prizewinning essay which showed that civilization degraded man (*Discours sur les arts et sciences.*) In the years that followed his output of writings was large in quantity, quality, and variety.

The publication of *Emile* (1762), a book on education that argued for natural self-expression, made it necessary for him to flee. He finally found an asylum in England (1765) with David Hume. He soon quarreled with Hume and by 1767 was back in France. Here he wrote his autobiography (*Confessions*) and some other works. In addition to his political works, Rousseau wrote a musical dictionary, a one-act opera, and a work on the relation between color and music. He died in 1778, four years after Louis XVI came to the throne of France and eleven years before the States-General was convoked for the last time.

David Hume, the man who gave Rousseau shelter in London, was born in Edinburgh in 1711, one year before Rousseau was born. After completing his education in Edinburgh, he spent a few unhappy months in business in Bristol before going to France. There he prepared his great work, *Treatise of Human Nature,* at the age of twenty-eight. In 1746 he entered government service, first as a secretary to a general and later to an embassy. In 1752 Hume was made librarian of Advocates Library in Edinburgh, which again gave him the leisure for writing. In 1763 he again returned to public life, accompanying Lord Hertford to Paris as secretary to the Embassy. In 1767 he went to London as undersecretary to General Conway at the Foreign Office. He retired to Edinburgh in 1769 and died there in 1776. In the course of his lifetime he not only befriended Rousseau but also influenced Kant and was a close personal friend of Adam Smith.

It should be noted that Hume's life and Rousseau's covered almost the same period, but the France of Rousseau was politically quite a different place from the England of Hume. People may not have been any better off in England, but they were happier with their government.

Their philosophers and writers served in governmental posts, as their counterparts did not do in France. In England during Hume's time the House of Hanover came to the throne and by the time of his death was firmly established under the dominance of Parliament. Also, Walpole had risen to a position very similar to that of a contemporary prime minister. England went through a duel for empire with France, won out, and began to learn the fine art of managing an empire. George III (1760-1770) tried to reassert the ancient prerogatives of the king, and in the course of the controversy that ensued England lost her most promising imperial possession. There was nothing terribly exciting in English history or in the writings and life of Hume, but in both there was a great deal of profound and lasting importance.

The third writer represented in this chapter is Edmund Burke, a Dubliner. He lived between the years 1729 and 1797. Like Rousseau and Hume, he lived wholly in the eighteenth century. He was educated in Dublin, where Oliver Goldsmith was also in school. After studying law at the Middle Temple in London, he abandoned the law for writing, and in 1756 published his *Vindication of Natural Society*, a satire on Bolingbroke, who conceived of government as being ideal when presided over by a patriot king. He entered public service in 1761 by becoming secretary to the Irish Secretary, "Single Speech" Hamilton. From 1765 to 1782 Burke served Rockingham in a similar capacity.

He began his parliamentary career in 1766, when he was elected as a Whig. It was then that he became identified with the defense of the American colonies. During North's Administration, Burke protested time and again against the American policy, but his great speeches in the crucial 'seventies failed to effect a reconciliation. Burke left the Whig party when the monarchy in France was threatened, and his *Reflections on The French Revolution* did much to stimulate resistance to the new régime. In later works he advocated suppression of the new French government. Burke had pushed the impeachment of Warren Hastings, and when the latter was acquitted in 1794 Burke retired from public life and refused all honors. He died in 1796, the year in which Bonaparte was conducting a brilliant campaign in Italy, when John Adams was elected President of the United States, and William Pitt was trying to make peace with the Directory in France.

It may seem inconsistent that Burke, the great Whig who never tired of attacking sycophants of the Court of St. James and who supported the drive for freedom in the New World, should oppose with all his strength and transcendent abilities the revolution in France. To charge this inconsistency is to misunderstand Burke's deepest conviction. He was a progressive conservative, who wanted no sharp breaks with the

past but who wanted to conserve every gain that man made. When carefully analyzed, the causes he supported and opposed fit into this pattern.

Conservatism, however, was challenged in England as well as in France, but in England its challengers now were intellectuals and artists. Dr. Price, against whom Burke directed so much of his *Reflections on The French Revolution,* was not an isolated English figure. Such men as Priestley, Godwin, Paine, Shelley, and many others saw in the French Revolution a great movement that would make man truly free, and do away with injustice. True to its tradition, however, the reforms in England were moderate and were a long time in coming.

Rousseau: From Obedience To Duty

Rousseau's principal political works, before the SOCIAL CONTRACT, *had glorified the state of nature and condemned the damaging effect of civilization on man. In the* SOCIAL CONTRACT *he comes to grips with the reality of political society and political life and tries to construct a political society that would be completely consistent with the concept of human nature he had worked out in his earlier essays. ¶In doing this, he drew from nearly every thought tradition that had preceded him. He speaks of a social contract but he does not require it in his scheme, for society is the natural outcome of man's nature. Not the least of his intellectual creditors is Plato, but his ideal commonwealth seems to be his native Geneva rather than Athens. In this writing of Rousseau are the seeds for nearly all subsequent political speculation, both radical and conservative. A key to understanding this most difficult writer is to remember his conception of the natural goodness and sociability of man and the question that Rousseau asks in the opening of the work: Under what circumstances should man feel morally bound to obey the commands of government? What can make the chains of political society legitimate, since man ought to be free at birth? The whole work is his attempt to answer this question.*[1]

BOOK I

I mean to inquire if, in the civil order, there can be any sure and legitimate rule of administration, men being taken as they are and laws as they might be. In this inquiry I shall endeavour always to unite what right sanctions with what is prescribed by interest, in order that justice and utility may in no case be divided.

I enter upon my task without proving the importance of the subject. I shall be asked if I am a prince or a legislator, to write on politics. I answer that I am neither, and that is why I do so. If I were a prince or a legislator, I should not waste time in saying what wants doing; I should do it, or hold my peace.

[1] Taken from *Social Contract* by J. J. Rousseau, translated by G. D. H. Cole, published by E. P. Dutton & Co., Inc., New York, Everyman's Library.

As I was born a citizen of a free State and a member of the Sovereign, I feel that, however feeble the influence my voice can have on public affairs, the right of voting on them makes it my duty to study them and I am happy when I reflect upon governments, to find my inquiries always furnish me with new reasons for loving that of my own country

CHAPTER I

Subject of the First Book

Man is born free, and everywhere he is in chains One thinks himself the master of others, and still remains a greater slave than they How did this change come about? I do not know What can make it legitimate? That question I think I can answer

If I took into account only force, and the effects derived from it, I should say As long as a people is compelled to obey, and obeys, it does well, as soon as it can shake off the yoke, and shakes it off, it does still better, for, regaining its liberty by the same right as took it away, either it is justified in resuming it, or there was no justification for those who took it away' But the social order is a sacred right which is the basis of all other rights Nevertheless, this right does not come from nature, and must therefore be founded on conventions Before coming to that, I have to prove what I have just asserted

CHAPTER II

The First Societies

The most ancient of all societies, and the only one that is natural, is the family and even so the children remain attached to the father only so long as they need him for their preservation As soon as this need ceases the natural bond is dissolved The children, released from the obedience they owed to the father, and the father, released from the care he owed his children, return equally to independence If they remain united, they continue so no longer naturally, but voluntarily, and the family itself is then maintained only by convention

This common liberty results from the nature of man His first law is to provide for his own preservation, his first cares are those which he owes to himself, and, as soon as he reaches years of discretion, he is the sole judge of the proper means of preserving himself, and consequently becomes his own master

The family then may be called the first model of political societies the ruler corresponds to the father, and the people to the children and all, being born free and equal, alienate their liberty only for their own advantage The whole difference is that, in the family, the love of the father for his children repays him for the care he takes of them, while, in the State, the pleasure of commanding takes the place of the love which the chief cannot have for the peoples under him

Grotius denies that all human power is established in favour of the governed and quotes slavery as an example His usual method of reasoning is constantly to establish right by fact[2] It would be possible to employ a more logical method but none could be more favourable to tyrants

It is then, according to Grotius, doubtful whether the human race belongs to a hundred men, or that hundred men to the human race and, throughout his book, he seems to incline to the former alternative, which is also the view of Hobbes On this showing, the human species is divided into so many herds of cattle, each with its ruler, who keeps guard over them for the purpose of devouring them

As a shepherd is of a nature superior

[2] I earned inquiries into public right are often only the history of past abuses and troubling to study them too deeply is a profitless infatuation' (*Essay on the Interests of France in Relation to its Neighbours*, by the Marquis d' Argenson) This is exactly what Grotius has done.

to that of his flock, the shepherds of men, i.e. their rulers, are of a nature superior to that of the peoples under them. Thus, Philo tells us, the Emperor Caligula reasoned, concluding equally well either that kings were gods, or that men were beasts.

The reasoning of Caligula agrees with that of Hobbes and Grotius. Aristotle, before any of them, had said that men are by no means equal naturally, but that some are born for slavery, and others for dominion.

Aristotle was right; but he took the effect for the cause. Nothing can be more certain than that every man born in slavery is born for slavery. Slaves lose everything in their chains, even the desire of escaping from them: they love their servitude, as the comrades of Ulysses loved their brutish condition.[3] If then there are slaves by nature, it is because there have been slaves against nature. Force made the first slaves, and their cowardice perpetuated the condition.

I have said nothing of King Adam, or Emperor Noah, father of the three great monarchs who shared out the universe, like the children of Saturn, whom some scholars have recognized in them. I trust to getting due thanks for my moderation: for, being a direct descendant of one of these princes, perhaps of the eldest branch, how do I know that a verification of titles might not leave me the legitimate king of the human race? In any case, there can be no doubt that Adam was sovereign of the world, as Robinson Crusoe was of his island, as long as he was its only inhabitant; and this empire had the advantage that the monarch, safe on his throne, had no rebellions, wars, or conspirators to fear.

CHAPTER III

The Right of the Strongest

The strongest is never strong enough to be always the master, unless he transforms strength into right, and obedience into duty. Hence the right of the strongest, which, though to all seeming meant ironically, is really laid down as a fundamental principle. But are we never to have an explanation of this phrase? Force is a physical power, and I fail to see what moral effect it can have. To yield to force is an act of necessity, not of will—at the most, an act of prudence. In what sense can it be a duty?

Suppose for a moment that this so-called 'right' exists. I maintain that the sole result is a mass of inexplicable nonsense. For, if force creates right, the effect changes with the cause: every force that is greater than the first succeeds to its right. As soon as it is possible to disobey with impunity, disobedience is legitimate; and, the strongest being always in the right, the only thing that matters is to act so as to become the strongest. But what kind of right is that which perishes when force fails? If we must obey perforce, there is no need to obey because we ought; and if we are not forced to obey, we are under no obligation to do so. Clearly, the word 'right' adds nothing to force: in this connection, it means absolutely nothing.

Obey the powers that be. If this means yield to force, it is a good precept, but superfluous: I can answer for its never being violated. All power comes from God, I admit; but so does all sickness: does that mean that we are forbidden to call in the doctor? A brigand surprises me at the edge of a wood: must I not merely surrender my purse on compulsion; but, even if I could withhold it, am I in conscience bound to give it up? For certainly the pistol he holds is also a power.

Let us then admit that force does not create right, and that we are obliged to obey only legitimate powers. In that case, my original question recurs.

CHAPTER IV

Slavery

Since no man has a natural authority over his fellow, and force creates no right, we

[3] See a short treatise of Plutarch's entitled 'That Animals Reason.'

must conclude that conventions form the basis of all legitimate authority among men

If an individual, says Grotius, can alienate his liberty and make himself the slave of a master, why could not a whole people do the same and make itself subject to a king? There are in this passage plenty of ambiguous words which would need explaining, but let us confine ourselves to the word *alienate*. To alienate is to give or to sell Now, a man who becomes the slave of another does not give himself he sells himself, at the least for his subsistence but for what does a people sell itself? A king is so far from furnishing his subjects with their subsistence that he gets his own only from them and according to Rabelais, kings do not live on nothing Do subjects then give their persons on condition that the king takes their goods also? I fail to see what they have left to preserve

It will be said that the despot assures his subjects civil tranquillity Granted but what do they gain, if the wars his ambition brings down upon them his insatiable avidity, and the vexatious conduct of his ministers press harder on them than their own dissensions would have done? What do they gain, if the very tranquillity they enjoy is one of their miseries? Tranquillity is found also in dungeons, but is that enough to make them desirable places to live in? The Greeks imprisoned in the cave of the Cyclops lived there very tranquilly, while they were awaiting their turn to be devoured

To say that a man gives himself gratuitously, is to say what is absurd and inconceivable, such an act is null and illegitimate, from the mere fact that he who does it is out of his mind To say the same of a whole people is to suppose a people of madmen, and madness creates no right

Even if each man could alienate himself, he could not alienate his children they are born men and free, their liberty belongs to them, and no one but they has the right to dispose of it Before they come to years of discretion, the father can, in their name, lay down conditions for their preservation and well being, but he cannot give them irrevocably and without conditions such a gift is contrary to the ends of nature, and exceeds the rights of paternity It would therefore be necessary in order to legitimize an arbitrary government, that in every generation the people should be in a position to accept or reject it, but, were this so, the government would be no longer arbitrary

To renounce liberty is to renounce being a man, to surrender the rights of humanity and even its duties For him who renounces everything no indemnity is possible Such a renunciation is incompatible with man's nature to remove all liberty from his will is to remove all morality from his acts Finally it is an empty and contradictory convention that sets up, on the one side absolute authority and, on the other unlimited obedience Is it not clear that we can be under no obligation to a person from whom we have the right to exact everything? Does not this condition alone in the absence of equivalence or exchange, in itself involve the nullity of the act? For what right can my slave have against me, when all that he has belongs to me, and, his right being mine, this right of mine against myself is a phrase devoid of meaning?

Grotius and the rest find in war another origin for the so called right of slavery The victor having as they hold, the right of killing the vanquished, the latter can buy back his life at the price of his liberty and this convention is the more legitimate because it is to the advantage of both parties

But it is clear that this supposed right to kill the conquered is by no means deducible from the state of war Men, from the mere fact that, while they are living in their primitive independence, they have no mutual relations stable enough to constitute either the state of peace or the state of war, cannot be naturally enemies. War is constituted by a relation

between things, and not between persons and, as the state of war cannot arise out of simple personal relations but only out of real relations, private war, or war of man with man, can exist neither in the state of nature where there is no constant property, nor in the social state where everything is under the authority of the laws

Individual combats duels and encounters, are acts which cannot constitute a state while the private wars authorized by the Establishments of Louis IX King of France, and suspended by the Peace of God are abuses of feudalism, in right of the strongest If war does not give the conqueror the right to massacre the conquered peoples the right to enslave them cannot be based upon a right which does not exist No one has a right to kill an enemy except when he cannot make him a slave, and the right to enslave him can not therefore be derived from the right to kill him It is accordingly an unfair exchange to make him buy at the price of his liberty his life over which the victor holds no right Is it not clear that there is a vicious circle in founding the right of life and death on the right of slavery and the right of slavery on the right of life and death?

Even if we assume this terrible right to kill everybody I maintain that a slave made in war or a conquered people is under no obligation to a master, except to obey him as far as he is compelled to do so By taking an equivalent for his life, the victor has not done him a favour, instead of killing him without profit, he has killed him usefully So far then is he from acquiring over him any authority in addition to that of force that the state of war continues to subsist between them their mutual relation is the effect of it, and the usage of the right of war does not imply a treaty of peace A convention has indeed been made, but this convention, so far from destroying the state of war, presupposes its continuance

So, from whatever aspect we regard the question, the right of slavery is null and void, not only as being illegitimate, but also because it is absurd and meaningless The words *slave* and *right* contradict each other, and are mutually exclusive It will always be equally foolish for a man to say to a man or to a people 'I make with you a convention wholly at your expense and wholly to my advantage, I shall keep it as long as I like, and you will keep it as long as I like'

CHAPTER V

That We Must Always Go Back to a First Convention

Even if I granted all that I have been refuting the friends of despotism would be no better off There will always be a great difference between subduing a multitude and ruling a society Even if scattered individuals were successively enslaved by one man, however numerous they might be, I still see no more than a master and his slaves, and certainly not a people and its ruler, I see what may be termed an aggregation, but not an association there is as yet neither public good nor body politic The man in question, even if he has enslaved half the world, is still only an individual, his interest, apart from that of others, is still a purely private interest If this same man comes to die, his empire, after him, remains scattered and without unity, as an oak falls and dissolves into a heap of ashes when the fire has consumed it

A people, says Grotius, can give itself to a king Then, according to Grotius, a people is a people before it gives itself The gift is itself a civil act, and implies public deliberation It would be better, before examining the act by which a people gives itself to a king, to examine that by which it has become a people, for this act, being necessarily prior to the other, is the true foundation of society

Indeed, if there were no prior convention, where, unless the election were unanimous, would be the obligation on the minority to submit to the choice of

the majority? How have a hundred men who wish for a master the right to vote on behalf of ten who do not? The law of majority voting is itself something established by convention, and presupposes unanimity, on one occasion at least

CHAPTER VI

The Social Compact

I suppose men to have reached the point at which the obstacles in the way of their preservation in the state of nature show their power of resistance to be greater than the resources at the disposal of each individual for his maintenance in that state That primitive condition can then subsist no longer, and the human race would perish unless it changed its manner of existence

But, as men cannot engender new forces, but only unite and direct existing ones, they have no other means of preserving themselves than the formation, by aggregation, of a sum of forces great enough to overcome the resistance These they have to bring into play by means of a single motive power, and cause to act in concert

This sum of forces can arise only where several persons come together but, as the force and liberty of each man are the chief instruments of his self preservation how can he pledge them without harming his own interests, and neglecting the care he owes to himself? This difficulty in its bearing on my present subject, may be stated in the following terms

'The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before' This is the fundamental problem of which the *Social Contract* provides the solution

The clauses of this contract are so determined by the nature of the act that the slightest modification would make them vain and ineffective, so that, although they have perhaps never been formally set forth they are everywhere the same and everywhere tacitly admitted and recognized, until, on the violation of the social compact, each regains his original rights and resumes his natural liberty, while losing the conventional liberty in favour of which he renounced it

These clauses, properly understood, may be reduced to one—the total alienation of each associate, together with all his rights, to the whole community, for in the first place, as each gives himself absolutely, the conditions are the same for all, and, this being so, no one has any interest in making them burdensome to others

Moreover, the alienation being without reserve, the union is as perfect as it can be, and no associate has anything more to demand for, if the individuals retained certain rights, as there would be no common superior to decide between them and the public, each, being on one point his own judge, would ask to be so on all the state of nature would thus continue, and the association would necessarily become inoperative or tyrannical

Finally, each man, in giving himself to all, gives himself to nobody, and as there is no associate over which he does not acquire the same right as he yields others over himself, he gains an equivalent for everything he loses, and an increase of force for the preservation of what he has

If then we discard from the social compact what is not of its essence, we shall find that it reduces itself 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, in our corporate capacity, we receive each member as an indivisible part of the whole'

At once, in place of the individual personality of each contracting party, this act of association creates a moral and collective body, composed of as many members as the assembly contains voters, and receiving from this act its unity, its com

mon identity, its life, and its will This public person, so formed by the union of all other persons, formerly took the name of *city*,[4] and now takes that of *Republic* or *body politic*, it is called by its members *State* when passive, *Sovereign* when active, and *Power* when compared with others like itself Those who are associated in it take collectively *the name of people*, and severally are called *citizens*, as sharing in the sovereign power, and *subjects*, as being under the laws of the State But these terms are often confused and taken one for another it is enough to know how to distinguish them when they are being used with precision.

CHAPTER VII

The Sovereign

This formula shows us that the act of association comprises a mutual undertaking between the public and the individuals, and that each individual, in making a contract, as we may say, with himself, is bound in a double capacity, as a member of the Sovereign he is bound to the individuals and as a member of the State to the Sovereign But the maxim of civil right, that no one is bound by undertakings made to himself, does not apply in this case, for there is a great difference between incurring an obligation to yourself *and incurring one to a whole of* which you form a part

Attention must further be called to the fact that public deliberation, while competent to bind all the subjects to the Sovereign, because of the two different capacities in which each of them may be regarded, cannot for the opposite reason, bind the Sovereign to itself, and that it is consequently against the nature of the body politic for the Sovereign to impose on itself a law which it cannot infringe Being able to regard itself in only one capacity, it is in the position of an individual who makes a contract with himself and this makes it clear that there neither is nor can be any kind of fundamental law binding on the body of the people—not even the social contract itself This does not mean that the body politic cannot enter into undertakings with others, provided the contract is not infringed by them, for in relation to what is external to it, it becomes a simple being, an individual

But the body politic or the Sovereign, drawing its being wholly from the sanctity of the contract, can never bind itself, even to an outsider, to do anything derogatory to the original act, for instance, to alienate any part of itself, or to submit to another Sovereign Violation of the act by which it exists would be self annihilation, and that which is itself nothing can create nothing

As soon as this multitude is so united in one body, it is impossible to offend against one of the members without attacking the body, and still more to offend against the body without the members resenting it Duty and interest therefore equally oblige the two contracting parties to give each other help, and the same

[4] The real meaning of this word has been almost wholly lost in modern times most people mistake a town for a city and a townsman for a citizen They do not know that houses make a town but citizens a city The same mistake long ago cost the Carthaginians dear I have never read of the title of citizens being given to the subjects of any prince not even the ancient Macedonians or the English of to day though they are nearer liberty than any one else The French alone everywhere familiarly adopt the name of citizens, because as can be seen from their dictionaries they have no idea of its meaning otherwise they would be guilty in usurping it of the crime of *lese majeste* among them, the name expresses a virtue and not a right When Bodin spoke of our citizens and townsmen he fell into a bad blunder in taking the one class for the other M d Alembert has avoided the error and in his article on Geneva, has clearly distinguished the four orders of men (or even five counting mere foreigners) who dwell in our town, of which two only compose the Republic No other French writer, to my knowledge, has understood the real meaning of the word citizen

men should seek to combine, in their double capacity all the advantages de pendent upon that capacity

Again the Sovereign, being formed wholly of the individuals who compose it, neither has nor can have any interest contrary to theirs and consequently the sovereign power need give no guarantee to its subjects, because it is impossible for the body to wish to hurt all its members We shall also see later on that it cannot hurt any in particular The Sovereign merely by virtue of what it is, is always what it should be

This however, is not the case with the relation of the subjects to the Sovereign, which despite the common interest would have no security that they would fulfil their undertakings unless it found means to assure itself of their fidelity

In fact, each individual as a man may have a particular will contrary or dis similar to the general will which he has as a citizen His particular interest may speak to him quite differently from the common interest his absolute and natu rally independent existence may make him look upon what he owes to the com mon cause as a gratuitous contribution, the loss of which will do less h urm to others than the payment of it is burden some to himself and, regarding the moral person which constitutes the State as a *persona ficta*, because not a man, he may wish to enjoy the rights of citizenship without being ready to fulfil the duties of a subject The continuance of such an injustice could not but prove the undo ing of the body politic

In order then that the social compact may not be an empty formula it tacitly in cludes the undertaking, which alone can give force to the rest that whoever re fuses to obey the general will shall be compelled to do so by the whole body This means nothing less than that he will be forced to be free, for this is the condi tion which by giving each citizen to his country secures him against all personal dependence In this lies the key to the working of the political machine, this alone legitimizes civil undertakings, which, without it, would be absurd, ty rannical, and liable to the most frightful abuses

CHAPTER VIII

The Civil State

The passage 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 giving his actions the morality they had formerly lacked Then only, when the voice of duty takes the place of physical impulses and right of appetite, does man, who so far had considered only himself, find that he is forced to act on different principles and to consult his reason before listening to his inclinations Although in this state he deprives himself of some advan tages which he got from nature he gains in return others so great his faculties are so stimulated and developed his ideas so extended his feelings so ennobled, and his whole soul so uplifted, that, did not the abuses of this new condition often de grade him below that which he left, he would be bound to bless continually the happy moment which took him from it for ever, and, instead of a stupid and un imaginative animal, made him an intel ligent being and a man

Let us draw up the whole account in terms easily commensurable What man loses by the social contract is his natural liberty and an unlimited right to every thing he tries to get and succeeds in get ting what he gains is civil liberty and the proprietorship of all he possesses If we are to avoid mistake in weighing one against the other, we must clearly dis tinguish natural liberty, which is bounded only by the strength of the individual from civil liberty, which is limited by the general will, and possession, which is merely the effect of force or the right of the first occupier, from property, which can be founded only on a positive title

We might, over and above all this, add to what man acquires in the civil state

moral liberty, which alone makes him truly master of himself, for the mere impulse of appetite is slavery, while obedience to a law which we prescribe to ourselves is liberty But I have already said too much on this head and the philosophical meaning of the word liberty does not now concern us

CHAPTER IX

Real Property

Each member of the community gives himself to it, at the moment of its foundation, just as he is, with all the resources at his command, including the goods he possesses This act does not make possession, in changing hands change its nature, and become property in the hands of the Sovereign, but, as the forces of the city are incomparably greater than those of an individual, public possession is also in fact, stronger and more irrevocable, without being any more legitimate, at any rate from the point of view of foreigners For the State, in relation to its members, is master of all their goods by the social contract, which within the State, is the basis of all rights but, in relation to other powers, it is so only by the right of the first occupier, which it holds from its members

The right of the first occupier, though more real than the right of the strongest, becomes a real right only when the right of property has already been established Every man has naturally a right to everything he needs, but the positive act which makes him proprietor of one thing excludes him from everything else Having his share, he ought to keep to it and can have no further right against the community This is why the right of the first occupier, which in the state of nature is so weak, claims the respect of every man in civil society In this right we are respecting not so much what belongs to another as what does not belong to ourselves

In general, to establish the right of the first occupier over a plot of ground, the following conditions are necessary first, the land must not yet be inhabited, secondly, a man must occupy only the amount he needs for his subsistence, and, in the third place, possession must be taken, not by an empty ceremony, but by labour and cultivation, the only sign of proprietorship that should be respected by others in default of a legal title

In granting the right of first occupancy to necessity and labour, are we not really stretching it as far as it can go? Is it possible to leave such a right unlimited? Is it to be enough to set foot on a plot of common ground, in order to be able to call yourself at once the master of it? Is it to be enough that a man has the strength to expel others for a moment in order to establish his right to prevent them from ever returning? How can a man or a people seize an immense territory and keep it from the rest of the world except by a punishable usurpation, since all others are being robbed, by such an act, of the place of habitation and the means of subsistence which nature gave them in common? When Nuñez Balbao, standing on the seashore, took possession of the South Seas and the whole of South America in the name of the crown of Castille was that enough to dispossess all their actual inhabitants, and to shut out from them all the princes of the world? On such a showing, these ceremonies are idly multiplied, and the Catholic King need only take possession all at once, from his apartment, of the whole universe, merely making a subsequent reservation about what was already in the possession of other princes

We can imagine how the lands of individuals, where they were contiguous and come to be united, became the public territory, and how the right of Sovereignty, extending from the subjects over the lands they held, became at once real and personal The possessors were thus made more dependent, and the forces at their command used to guarantee their fidelity The advantage of this does not

seem to have been felt by ancient monarchs who called themselves King of the Persians, Scythians or Macedonians, and seemed to regard themselves more as rulers of men than as masters of a country. Those of the present day more cleverly call themselves Kings of France, Spain, England, etc. thus holding the land, they are quite confident of holding the inhabitants.

The peculiar fact about this alienation is that in taking over the goods of individuals, the community so far from despoiling them, only assures them legitimate possession, and changes usurpation into a true right and enjoyment into proprietorship. Thus the possessors, being regarded as depositaries of the public good, and having their rights respected by all the members of the State and maintained against foreign aggression by all its forces, have by a cession which benefits both the public and still more themselves, acquired, so to speak, all that they gave up. This paradox may easily be explained by the distinction between the rights which the Sovereign and the proprietor have over the same estate, as we shall see later on.

It may also happen that men begin to unite one with another before they possess anything and that, subsequently occupying a tract of country which is enough for all, they enjoy it in common or share it out among themselves, either equally or according to a scale fixed by the Sovereign. However the acquisition be made, the right which each individual has to his own estate is always subordinate to the right which the community has over all: without this, there would be neither stability in the social tie, nor real force in the exercise of Sovereignty.

I shall end this chapter and this book by remarking on a fact on which the whole social system should rest: that, instead of destroying natural inequality, the fundamental compact substitutes, for such physical inequality as nature may have set up between men, an equality that is moral and legitimate, and that men, who may be unequal in strength or intelligence, become every one equal by convention and legal right.[5]

BOOK II

CHAPTER I

THAT SOVEREIGNTY IS INALIENABLE

The first and most important deduction from the principles we have so far laid down is that the general will alone can direct the State according to the object for which it was instituted, i.e. the common good: for if the clashing of particular interests made the establishment of societies necessary, the agreement of these very interests made it possible. The common element in these different interests is what forms the social tie, and were there no point of agreement between them all, no society could exist. It is solely on the basis of this common interest that every society should be governed.

I hold then that Sovereignty, being nothing less than the exercise of the general will, can never be alienated, and that the Sovereign, who is no less than a collective being, cannot be represented except by himself: the power indeed may be transmitted, but not the will.

In reality, if it is not impossible for a particular will to agree on some point with the general will, it is at least impossible for the agreement to be lasting and constant, for the particular will tends, by its very nature, to partiality, while the general will tends to equality. It is even more impossible to have any guarantee of this agreement, for even if it should always exist, it would be the effect not of art, but of chance. The Sov-

[5] Under bad governments, this equality is only apparent and illusory: it serves only to keep the pauper in his poverty and the rich man in the position he has usurped. In fact, laws are always of use to those who possess and harmful to those who have nothing, from which it follows that the social state is advantageous to men only when all have something and none too much.

ereign may indeed say 'I now will ac tually what this man wills, or at least what he says he wills, but it cannot say 'What he wills to morrow, I too shall will' because it is absurd for the will to bind itself for the future, nor is it incumbent on any will to consent to anything that is not for the good of the being who wills If then the people promises simply to obey, by that very act it dissolves itself and loses what makes it a people the moment a master exists, there is no longer a Sovereign and from that moment the body politic has ceased to exist

This does not mean that the commands of the rulers cannot pass for general wills, so long as the Sovereign, being free to oppose them, offers no opposition In such a case, universal silence is taken to imply the consent of the people This will be explained later on

CHAPTER II

That Sovereignty Is Indivisible

Sovereignty for the same reason as makes it inalienable is indivisible, for will either is, or is not, general [6] it is the will either of the body of the people, or only of a part of it In the first case, the will, when declared, is an act of Sovereignty and constitutes law in the second, it is merely a particular will, or act of magistracy—at the most a decree

But our political theorists, unable to divide Sovereignty in principle, divide it according to its object into force and will, into legislative power and executive power, into rights of taxation, justice, and war, into internal administration and power of foreign treaty

This error is due to a lack of exact notions concerning the Sovereign authority and to taking for parts of it what are only emanations from it Thus, for example, the acts of declaring war and making peace have been regarded as acts of Sovereignty but this is not the case, as these acts do not constitute law, but merely the application of a law, a particular act which decides how the law applies, as we shall see clearly when the idea attached to the word 'law' has been defined

[6] To be general, a will need not always be unanimous, but every vote must be counted any exclusion is a breach of generality.

CHAPTER III

Whether the General Will Is Fallible

It follows from what has gone before that the general will is always right and tends to the public advantage, but it does not follow that the deliberations of the people are always equally correct Our will is always for our own good, but we do not always see what that is, the people is never corrupted, but it is often deceived, and on such occasions only does it seem to will what is bad

There is often a great deal of difference between the will of all and the general will, the latter considers only the common interest, while the former takes private interest into account, and is no more than a sum of particular wills but take away from these same wills the pluses and minuses that cancel one another,[7] and the general will remains as the sum of the differences

If, when the people, being furnished with adequate information, held its deliberations, the citizens had no communication one with another, the grand total

[7] Every interest, says the Marquis d'Argenson has different principles The agreement of two particular interests is formed by opposition to a third' He might have added that the agreement of all interests is formed by opposition to that of each If there were no different interests, the common interest would be barely felt, as it would encounter no obstacle, all would go on of its own accord, and politics would cease to be an art

of the small differences would always give the general will and the decision would always be good But when factions arise, and partial associations are formed at the expense of the great association, the will of each of these associations becomes general in relation to its members, while it remains particular in relation to the State it may then be said that there are no longer as many votes as there are men, but only as many as there are associations The differences become less numerous and give a less general result Lastly, when one of these associations is so great as to prevail over all the rest, the result is no longer a sum of small differences, but a single difference, in this case there is no longer a general will, and the opinion which prevails is purely particular

It is therefore essential, if the general will is to be able to express itself, that there should be no partial society within the State, and that each citizen should think only his own thoughts [8] which was indeed the sublime and unique system established by the great Lycurgus But if there are partial societies, it is best to have as many as possible and to prevent them from being unequal, as was done by Solon, Numa, and Servius These precautions are the only ones that can guarantee that the general will shall be always enlightened, and that the people shall in no way deceive itself

CHAPTER IV

The Limits of the Sovereign Power

If the State is a moral person whose life is in the union of its members, and if the most important of its cares is the care for its own preservation, it must have a universal and compelling force, in order to move and dispose each part as may be most advantageous to the whole As nature gives each man absolute power over all his members, the social compact gives the body politic absolute power over all its members also, and it is this power which, under the direction of the general will, bears, as I have said, the name of Sovereignty

But, besides the public person, we have to consider the private persons composing it, whose life and liberty are naturally independent of it We are bound then to distinguish clearly between the respective rights of the citizens and the Sovereign,[9] and between the duties the former have to fulfil as subjects, and the natural rights they should enjoy as men

Each man alienates, I admit, by the social compact, only such part of his powers, goods, and liberty as it is important for the community to control but it must also be granted that the Sovereign is sole judge of what is important

Every service a citizen can render the State he ought to render as soon as the Sovereign demands it, but the Sovereign, for its part cannot impose upon its subjects any fetters that are useless to the community, nor can it even wish to do so, for no more by the law of reason than by the law of nature can anything occur without a cause

The undertakings which bind us to the social body are obligatory only because they are mutual, and their nature is such that in fulfilling them we cannot work for others without working for ourselves Why is it that the general will is always in the right, and that all continually will the happiness of each one, unless it is because there is not a man who does not think of 'each' as meaning

[8] In fact,' says Machiavelli, there are some divisions that are harmful to a Republic and some that are advantageous Those which stir up sects and parties are harmful, those attended by neither are advantageous Since, then the founder of a Republic cannot help enmities arising, he ought at least to prevent them from growing into sects' (*History of Florence*, Book VII) [Rousseau quotes the Italian]

[9] Attentive readers, do not, I pray, be in a hurry to charge me with contradicting myself The terminology made it unavoidable, considering the poverty of the language, but wait and see

him, and consider himself in voting for all? This proves that equality of rights and the idea of justice which such equality creates originate in the preference each man gives to himself, and accordingly in the very nature of man It proves that the general will, to be really such, must be general in its object as well as its essence, that it must both come from all and apply to all and that it loses its natural rectitude when it is directed to some particular and determinate object, because in such a case we are judging of something foreign to us, and have no true principle of equity to guide us

Indeed, as soon as a question of particular fact or right arises on a point not previously regulated by a general convention, the matter becomes contentious It is a case in which the individuals concerned are one party, and the public the other, but in which I can see neither the law that ought to be followed nor the judge who ought to give the decision In such a case, it would be absurd to propose to refer the question to an express decision of the general will, which can be only the conclusion reached by one of the parties and in consequence will be, for the other party, merely an external and particular will, inclined on this occasion to injustice and subject to error Thus, just as a particular will cannot stand for the general will, the general will, in turn, changes its nature, when its object is particular and, as general, cannot pronounce on a man or a fact When, for instance, the people of Athens nominated or displaced its rulers, decreed honours to one, and imposed penalties on another, and, by a multitude of particular decrees, exercised all the functions of government indiscriminately, it had in such cases no longer a general will in the strict sense, it was acting no longer as Sovereign, but as magistrate This will seem contrary to current views, but I must be given time to expound my own

It should be seen from the foregoing that what makes the will general is less the number of voters than the common interest uniting them, for, under this system, each necessarily submits to the conditions he imposes on others and this admirable agreement between interest and justice gives to the common deliberations an equitable character which at once vanishes when any particular question is discussed, in the absence of a common interest to unite and identify the ruling of the judge with that of the party.

From whatever side we approach our principle, we reach the same conclusion, that the social compact sets up among the citizens an equality of such a kind, that they all bind themselves to observe the same conditions and should therefore all enjoy the same rights Thus, from the very nature of the compact, every act of Sovereignty, i e every authentic act of the general will, binds or favours all the citizens equally, so that the Sovereign recognizes only the body of the nation, and draws no distinctions between those of whom it is made up What, then, strictly speaking, is an act of Sovereignty? It is not a convention between a superior and an inferior, but a convention between the body and each of its members It is legitimate, because based on the social contract, and equitable, because common to all, useful, because it can have no other object than the general good, and stable, because guaranteed by the public force and the supreme power So long as the subjects have to submit only to conventions of this sort, they obey no one but their own will and to ask how far the respective rights of the Sovereign and the citizens extend, is to ask up to what point the latter can enter into undertakings with themselves, each with all, and all with each

We can see from this that the sovereign power, absolute, sacred, and inviolable as it is, does not and cannot exceed the limits of general conventions, and that every man may dispose at will of such goods and liberty as these conventions leave him, so that the Sovereign never has a right to lay more charges on one subject than on another, because, in that

case, the question becomes particular, and ceases to be within its competency

When these distinctions have once been admitted it is seen to be so untrue that there is, in the social contract, any real renunciation on the part of the individuals, that the position in which they find themselves as a result of the contract is really preferable to that in which they were before Instead of a renunciation they have made an advantageous exchange instead of an uncertain and precarious way of living they have got one that is better and more secure instead of natural independence they have got liberty instead of the power to harm others security for themselves and instead of their strength, which others might overcome, a right which social union makes invincible Their very life which they have devoted to the State is by it constantly protected and when they risk it in the State's defence, what more are they doing than giving back what they have received from it? What are they doing that they would not do more often and with greater danger in the state of nature, in which they would inevitably have to fight battles at the peril of their lives in defence of that which is the means of their preservation? All have indeed to fight when their country needs them but then no one has ever to fight for himself Do we not gain something by running, on behalf of what gives us our security, only some of the risks we should have to run for ourselves, as soon as we lost it?

CHAPTER V

[*The Right of Life and Death. We agree to die in order to be safe*]

CHAPTER VI

Law

By the social compact we have given the body politic existence and life, we have now by legislation to give it movement and will For the original act by which the body is formed and united still in no respect determines what it ought to do for its preservation

What is well and in conformity with order is so by the nature of things and independently of human conventions All justice comes from God, who is its sole source but if we knew how to receive so high an inspiration we should need neither government nor laws Doubtless there is a universal justice emanating from reason alone but this justice to be admitted among us must be mutual Humanly speaking, in default of natural sanctions the laws of justice are ineffective among men they merely make for the good of the wicked and the undoing of the just, when the just man observes them towards everybody and nobody observes them towards him Conventions and laws are therefore needed to join rights to duties and refer justice to its object In the state of nature where everything is common I owe nothing to him whom I have promised nothing, I recognize as belonging to others only what is of no use to me In the state of society all rights are fixed by law, and the case becomes different

But what, after all, is a law? As long as we remain satisfied with attaching purely metaphysical ideas to the word, we shall go on arguing without arriving at an understanding, and when we have defined a law of nature, we shall be no nearer the definition of a law of the State

I have already said that there can be no general will directed to a particular object Such an object must be either within or outside the State If outside, a will which is alien to it cannot be, in relation to it, general, if within, it is part of the State, and in that case there arises a relation between whole and part which makes them two separate beings, of which the part is one, and the whole minus the part the other But the whole minus a part cannot be the whole, and while this relation persists, there can be no whole, but only two unequal parts, and it follows that the will of one is no longer in

any respect general in relation to the other

But when the whole people decrees for the whole people, it is considering only itself, and if a relation is then formed, it is between two aspects of the entire object, without there being any division of the whole In that case the matter about which the decree is made is, like the decreeing will, general This act is what I call a law

When I say that the object of laws is always general, I mean that law considers subjects *en masse* and actions in the abstract, and never a particular person or action Thus the law may indeed decree that there shall be privileges, but cannot confer them on anybody by name It may set up several classes of citizens and even lay down the qualifications for membership of these classes, but it cannot nominate such and such persons as belonging to them, it may establish a monarchical government and hereditary succession, but it cannot choose a king, or nominate a royal family In a word, no function which has a particular object belongs to the legislative power

On this view, we at once see that it can no longer be asked whose business it is to make laws, since they are acts of the general will, nor whether the prince is above the law, since he is a member of the State, nor whether the law can be unjust, since no one is unjust to himself nor how we can be both free and subject to the laws, since they are but registers of our wills

We see further that, as the law unites universality of will with universality of object, what a man, whoever he be, commands of his own motion cannot be a law, and even what the Sovereign commands with regard to a particular matter is no nearer being a law, but is a decree, an act, not of sovereignty, but of magistracy.

I therefore give the name 'Republic' to every State that is governed by laws, no matter what the form of its administration may be for only in such a case does the public interest govern, and the *res publica* rank as a *reality* Every legitimate government is republican,[10] what government is I will explain later on

Laws are, properly speaking, only the conditions of civil association The people, being subject to the laws, ought to be their author the conditions of the society ought to be regulated solely by those who come together to form it But how are they to regulate them? Is it to be by common agreement, by a sudden inspiration? Has the body politic an organ to declare its will? Who can give it the foresight to formulate and announce its acts in advance? Or how is it to announce them in the hour of need? How can a blind multitude, which often does not know what it wills, because it rarely knows what is good for it, carry out for itself so great and difficult an enterprise as a system of legislation? Of itself the people wills always the good, but of itself it by no means always see it The general will is always in the right, but the judgment which guides it is not always enlightened It must be got to see objects as they are, and sometimes as they ought to appear to it, it must be shown the good road it is in search of, secured from the seductive influences of individual wills, taught to see times and spaces as a series, and made to weigh the attractions of present and sensible advantages against the danger of distant and hidden evils The individuals see the good they reject the public wills the good it does not see All stand equally in need of guidance The former must be compelled to bring their wills into conformity with their reason, the latter must be taught to know what it wills If that is done, public enlightenment leads to the union of under-

[10] I understand by this word, not merely an aristocracy or a democracy, but generally any government directed by the general will, which is the law To be legitimate, the government must be, not one with the Sovereign, but its minister In such a case even a monarchy is a Republic This will be made clearer in the following book

standing and will in the social body the parts are made to work exactly together, and the whole is raised to its highest power. This makes a legislator necessary

CHAPTER VII

THE LEGISLATOR

In order to discover the rules of society best suited to nations, a superior intelligence beholding all the passions of men without experiencing any of them would be needed This intelligence would have to be wholly unrelated to our nature, while knowing it through and through, its happiness would have to be independent of us, and yet ready to occupy itself with ours, and lastly, it would have, in the march of time, to look forward to a distant glory, and, working in one century, to be able to enjoy in the next [11] It would take gods to give men laws

What Caligula argued from the facts, Plato, in the dialogue called the *Politicus* argued in defining the civil or kingly man, on the basis of right But if great princes are rare, how much more so are great legislators! The former have only to follow the pattern which the latter have to lay down The legislator is the engineer who invents the machine, the prince merely the mechanic who sets it up and makes it go 'At the birth of societies,' says Montesquieu, the rulers of Republics establish institutions and afterwards the institutions mould the rulers.' [12]

He who dares to undertake the making of a people's institutions ought to feel himself capable, so to speak, of changing human nature, of transforming each individual, who is by himself a complete and solitary whole, into part of a greater whole from which he in a manner receives his life and being, of altering man's constitution for the purpose of strengthening it, and of substituting a partial and moral existence for the physical and independent existence nature has conferred on us all He must, in a word, take away from man his own resources and give him instead new ones alien to him and incapable of being made use of without the help of other men The more completely these natural resources are annihilated the greater and the more lasting are those which he acquires, and the more stable and perfect the new institutions so that if each citizen is nothing and can do nothing without the rest, and the resources acquired by the whole are equal or superior to the aggregate of the resources of all the individuals, it may be said that legislation is at the highest possible point of perfection

The legislator occupies in every respect an extraordinary position in the State If he should do so by reason of his genius he does so no less by reason of his office which is neither magistracy, nor Sovereignty This office, which sets up the Republic, nowhere enters into its constitution, it is an individual and superior function, which has nothing in common with human empire, for if he who holds command over men ought not to have command over the laws, he who has command over the laws ought not any more to have it over men, or else his laws would be the ministers of his passions and would often merely serve to perpetuate his injustices his private aims would inevitably mar the sanctity of his work

When Lycurgus gave laws to his country, he began by resigning the throne It was the custom of most Greek towns to entrust the establishment of their laws to foreigners The Republics of modern Italy in many cases followed this example Geneva did the same and profited by it [13]

[11] A people becomes famous only when its legislation begins to decline We do not know for how many centuries the system of Lycurgus made the Spartans happy before the rest of Greece took any notice of it

[12] Montesquieu, *The Greatness and Decadence of the Romans*, ch 1.

[13] Those who know Calvin only as a theologian much underestimate the extent of his genius. The codification of our wise edicts,

Rome, when it was most prosperous, suffered a revival of all the crimes of tyranny, and was brought to the verge of destruction, because it put the legislative authority and the sovereign power into the same hands

Nevertheless, the decemvirs themselves never claimed the right to pass any law merely on their own authority. 'Nothing we propose to you,' they said to the people, 'can pass into law without your consent Romans, be yourselves the authors of the laws which are to make you happy.'

He, therefore, who draws up the laws has, or should have, no right of legislation, and the people cannot, even if it wishes, deprive itself of this incommunicable right, because, according to the fundamental compact, only the general will can bind the individuals, and there can be no assurance that a particular will is in conformity with the general will, until it has been put to the free vote of the people This I have said already, but it is worth while to repeat it

Thus in the task of legislation we find together two things which appear to be incompatible an enterprise too difficult for human powers, and, for its execution, an authority that is no authority

There is a further difficulty that deserves attention Wise men, if they try to speak their language to the common herd instead of its own, cannot possibly make themselves understood There are a thousand kinds of ideas which it is impossible to translate into popular language Conceptions that are too general and objects that are too remote are equally out of its range each individual, having no taste for any other plan of government than that which suits his particular interest, finds it difficult to realize the advantages he might hope to draw from the continual privations good laws impose. For a young people to be able to relish sound principles of political theory and follow the fundamental rules of statecraft, the effect would have to become the cause; the social spirit, which should be created by these institutions, would have to preside over their very foundation; and men would have to be before law what they should become by means of law. The legislator therefore, being unable to appeal to either force or reason, must have recourse to an authority of a different order, capable of constraining without violence and persuading without convincing

This is what has, in all ages, compelled the fathers of nations to have recourse to divine intervention and credit the gods with their own wisdom, in order that the peoples, submitting to the laws of the State as to those of nature, and recognizing the same power in the formation of the city as in that of man, might obey freely, and bear with docility the yoke of the public happiness.

This sublime reason, far above the range of the common herd, is that whose decisions the legislator puts into the mouth of the immortals, in order to constrain by divine authority those whom human prudence could not move.[14] But it is not anybody who can make the gods speak, or get himself believed when he proclaims himself their interpreter. The great soul of the legislator is the only miracle that can prove his mission. Any man may grave tablets of stone, or buy an oracle, or feign secret intercourse with some divinity, or train a bird to whisper in his ear, or find other vulgar ways of

in which he played a large part, does him no less honour than his *Institute*. Whatever revolution time may bring in our religion, so long as the spirit of patriotism and liberty still lives among us, the memory of this great man will be for ever blessed

[14] 'In truth,' says Machiavelli, 'there has never been, in any country, an extraordinary legislator who has not had recourse to God, for otherwise his laws would not have been accepted there are, in fact, many useful truths of which a wise man may have knowledge without their having in themselves such clear reasons for their being so as to be able to convince others' (*Discourses on Livy*, Bk. V, ch. xi) [Rousseau quotes the Italian.]

imposing on the people He whose knowledge goes no further may perhaps gather round him a band of fools, but he will never found an empire, and his extravagances will quickly perish with him Idle tricks form a passing tie, only wisdom can make it lasting The Judaic law, which still subsists and that of the child of Ishmael which for ten centuries has ruled half the world still proclaim the great men who laid them down and, while the pride of philosophy or the blind spirit of faction sees in them no more than lucky impostures the true political theorist admires, in the institutions they set up, the great and powerful genius which presides over things made to endure

We should not, with Warburton, conclude from this that politics and religion have among us a common object but that, in the first periods of nations, the one is used as an instrument for the other

CHAPTER VIII

[*The People The qualities and characteristics of the people must be considered in setting up a society*]

CHAPTER XII

The Division of the Laws

If the whole is to be set in order, and the commonwealth put into the best possible shape, there are various relations to be considered First, there is the action of the complete body upon itself, the relation of the whole to the whole, of the Sovereign to the State, and this relation, as we shall see, is made up of the relations of the intermediate terms

The laws which regulate this relation bear the name of political laws, and are also called fundamental laws, not without reason if they are wise For, if there is, in each State, only one good system, the people that is in possession of it should hold fast to this, but if the established order is bad, why should laws that prevent men from being good be regarded as fundamental? Besides, in any case, a people is always in a position to change its laws, however good, for, if it choose to do itself harm, who can have a right to stop it?

The second relation is that of the members one to another, or to the body as a whole and this relation should be in the first respect as unimportant, and in the second as important, as possible Each citizen would then be perfectly independent of all the rest, and at the same time very dependent on the city, which is brought about always by the same means as the strength of the State can alone secure the liberty of its members From this second relation arise civil laws

We may consider also a third kind of relation between the individual and the law, a relation of disobedience to its penalty This gives rise to the setting up of criminal laws, which, at bottom, are less a particular class of law than the sanction behind all the rest

Along with these three kinds of law goes a fourth most important of all which is not graven on tablets of marble or brass, but on the hearts of the citizens This forms the real constitution of the State, takes on every day new powers when other laws decay or die out, restores them or takes their place, keeps a people in the ways in which it was meant to go and insensibly replaces authority by the force of habit I am speaking of morality, of custom above all of public opinion, a power unknown to political thinkers, on which none the less success in everything else depends With this the great legislator concerns himself in secret though he seems to confine himself to particular regulations, for these are only the arc of the arch, while manners and morals, slower to arise, form in the end its immovable keystone

Among the different classes of laws, the political, which determine the form of the government, are alone relevant to my subject

BOOK III

Before speaking of the different forms of government, let us try to fix the exact sense of the word, which has not yet been very clearly explained

CHAPTER I

GOVERNMENT IN GENERAL

I warn the reader that this chapter requires careful reading and that I am unable to make myself clear to those who refuse to be attentive

Every free action is produced by the concurrence of two causes one moral, i e the will which determines the act, the other physical, i e the power which executes it When I walk towards an object, it is necessary first that I should will to go there, and, in the second place, that my feet should carry me If a paralytic wills to run and an active man wills not to, they will both stay where they are The body politic has the same motive powers, here too force and will are distinguished, will under the name of legislative power and force under that of executive power Without their concurrence, nothing is, or should be, done

We have seen that the legislative power belongs to the people, and can belong to it alone It may, on the other hand, readily be seen, from the principles laid down above that the executive power cannot belong to the generality as legislature or Sovereign because it consists wholly of particular acts which fall outside the competency of the law, and consequently of the Sovereign, whose acts must always be laws

The public force therefore needs an agent of its own to bind it together and set it to work under the direction of the general will, to serve as a means of communication between the State and the Sovereign, and to do for the collective person more or less what the union of soul and body does for man Here we have what is, in the State, the basis of government, often wrongly confused with the Sovereign, whose minister it is

What then is government? An intermediate body set up between the subjects and the Sovereign, to secure their mutual correspondence, charged with the execution of the laws and the maintenance of liberty, both civil and political

The members of this body are called magistrates or *kings*, that is to say *governors*, and the whole body bears the name *prince* [15] Thus those who hold that the act, by which a people puts itself under a prince, is not a contract, are certainly right It is simply and solely a commission, an employment, in which the rulers, mere officials of the Sovereign, exercise in their own name the power of which it makes them depositaries This power it can limit, modify, or recover at pleasure for the alienation of such a right is incompatible with the nature of the social body, and contrary to the end of association

I call then *government*, or supreme administration, the legitimate exercise of the executive power, and prince or magistrate the man or the body entrusted with that administration

In government reside the intermediate forces whose relations make up that of the whole to the whole, or of the Sovereign to the State This last relation may be represented as that between the extreme terms of a continuous proportion, which has government as its mean proportional The government gets from the Sovereign the orders it gives the people, and, for the State to be properly balanced, there must, when everything is reckoned in, be equality between the product or power of the government taken in itself, and the product or power of the citizens, who are on the one hand sovereign and on the other subject

Furthermore, none of these three terms

[15] Thus at Venice the College, even in the absence of the Doge, is called 'Most Serene Prince.'

can be altered without the equality being instantly destroyed If the Sovereign desires to govern, or the magistrate to give laws, or if the subjects refuse to obey, disorder takes the place of regularity, force and will no longer act together, and the State is dissolved and falls into despotism or anarchy Lastly, as there is only one mean proportional between each relation, there is also only one good government possible for a State But, as countless events may change the relations of a people, not only may different governments be good for different peoples, but also for the same people at different times

In attempting to give some idea of the various relations that may hold between these two extreme terms, I shall take as an example the number of a people, which is the most easily expressible

Suppose the State is composed of ten thousand citizens The Sovereign can only be considered collectively and as a body, but each member, as being a subject, is regarded as an individual thus the Sovereign is to the subject as ten thousand to one, i e each member of the State has as his share only a ten thousandth part of the sovereign authority, although he is wholly under its control If the people numbers a hundred thousand, the condition of the subject undergoes no change, and each equally is under the whole authority of the laws, while his vote, being reduced to one hundred thousandth part, has ten times less influence in drawing them up The subject therefore remaining always a unit, the relation between him and the Sovereign increases with the number of the citizens From this it follows that, the larger the State, the less the libetry

When I say the relation increases, I mean that it grows more unequal Thus the greater it is in the geometrical sense, the less relation there is in the ordinary sense of the word In the former sense, the relation, considered according to quantity, is expressed by the quotient; in the latter, considered according to identity, it is reckoned by similarity

Now, the less relation the particular wills have to the general will, that is, morals and manners to laws, the more should the repressive force be increased The government, then, to be good, should be proportionately stronger as the people is more numerous

On the other hand, as the growth of the State gives the depositaries of the public authority more temptations and chances of abusing their power, the greater the force with which the government ought to be endowed for keeping the people in hand, the greater too should be the force at the disposal of the Sovereign for keeping the government in hand I am speaking, not of absolute force, but of the relative force of the different parts of the State.

It follows from this double relation that the continuous proportion between the Sovereign, the prince, and the people, is by no means an arbitrary idea, but a necessary consequence of the nature of the body politic It follows further that, one of the extreme terms, viz the people, as subject, being fixed and represented by unity, whenever the duplicate ratio increases or diminishes, the simple ratio does the same, and is changed accordingly From this we see that there is not a single unique and absolute form of government, but as many governments differing in nature as there are States differing in size

If, ridiculing this system, any one were to say that, in order to find the mean proportional and give form to the body of the government, it is only necessary according to me, to find the square root of the number of the people, I should answer that I am here taking this number only as an instance, that the relations of which I am speaking are not measured by the number of men alone, put generally by the amount of action, which is a combination of a multitude of causes and that, further, if, to save words, I borrow for a moment the terms of geometry.

I am none the less well aware that moral quantities do not allow of geometrical accuracy

The government is on a small scale what the body politic which includes it is on a great one It is a moral person endowed with certain faculties, active like the Sovereign and passive like the State, and capable of being resolved into other similar relations This accordingly gives rise to a new proportion within which there is yet another, according to the arrangement of the magistracies, till an indivisible middle term is reached, i e a single ruler or supreme magistrate, who may be represented, in the midst of this progression, as the unity between the fractional and the ordinal series

Without encumbering ourselves with this multiplication of terms, let us rest content with regarding government as a new body within the State distinct from the people and the Sovereign, and intermediate between them

There is between these two bodies this essential difference, that the State exists by itself, and the government only through the Sovereign Thus the dominant will of the prince is, or should be nothing but the general will or the law his force is only the public force concentrated in his hands, and, as soon as he tries to base any absolute and independent act on his own authority, the tie that binds the whole together begins to be loosened If finally the prince should come to have a particular will more active than the will of the Sovereign and should employ the public force in his hands in obedience to this particular will, there would be, so to speak, two Sovereigns, one rightful and the other actual, the social union would evaporate instantly, and the body politic would be dissolved

However, in order that the government may have a true existence and a real life distinguishing it from the body of the State, and in order that all its members may be able to act in concert and fulfil the end for which it was set up, it must have a particular personality, a sensibility common to its members, and a force and will of its own making for its preservation This particular existence implies assemblies, councils, power of deliberation and decision, rights, titles, and privileges belonging exclusively to the prince and making the office of magistrate more honourable in proportion as it is more troublesome The difficulties lie in the manner of so ordering this subordinate whole within the whole, that it in no way alters the general constitution by affirmation of its own, and always distinguishes the particular force it possesses, which is destined to aid in its preservation, from the public force, which is destined to the preservation of the State, and, in a word, is always ready to sacrifice the government to the people, and never to sacrifice the people to the government

Furthermore, although the artificial body of the government is the work of another artificial body, and has, we may say, only a borrowed and subordinate life, this does not prevent it from being able to act with more or less vigour or promptitude, or from being, so to speak, in more or less robust health Finally, without departing directly from the end for which it was instituted, it may deviate more or less from it, according to the manner of its constitution

From all these differences arise the various relations which the government ought to bear to the body of the State, according to the accidental and particular relations by which the State itself is modified, for often the government that is best in itself will become the most pernicious, if the relations in which it stands have altered according to the defects of the body politic to which it belongs.

CHAPTER II

The Constituent Principle in the Various Forms of Government

To set forth the general cause of the above differences, we must here distinguish between government and its prin-

ciple, as we did before between the State and the Sovereign

The body of the magistrates may be composed of a greater or a less number of members We said that the relation of the Sovereign to the subjects was greater in proportion as the people was more numerous, and, by a clear analogy, we may say the same of the relation of the government to the magistrates

But the total force of the government being always that of the State, is invariable, so that, the more of this force it expends on its own members, the less it has left to employ on the whole people

The more numerous the magistrates, therefore, the weaker the government This principle being fundamental, we must do our best to make it clear

In the person of the magistrate we can distinguish three essentially different wills first, the private will of the individual, tending only to his personal advantage, secondly, the common will of the magistrates, which is relative solely to the advantage of the prince, and may be called corporate will, being general in relation to the government, and particular in relation to the State, of which the government forms part, and, in the third place, the will of the people or the sovereign will, which is general both in relation to the State regarded as the whole, and to the government regarded as a part of the whole

In a perfect act of legislation, the individual or particular will should be at zero, the corporate will belonging to the government should occupy a very subordinate position, and, consequently, the general or sovereign will should always predominate and should be the sole guide of all the rest

According to the natural order, on the other hand, these different wills become more active in proportion as they are concentrated Thus, the general will is always the weakest, the corporate will second, and the individual will strongest of all so that, in the government, each member is first of all himself, then a magistrate, and then a citizen—in an order exactly the reverse of what the social system requires

This granted, if the whole government is in the hands of one man, the particular and the corporate will are wholly united and consequently the latter is at its highest possible degree of intensity But, as the use to which the force is put depends on the degree reached by the will and as the absolute force of the government is invariable, it follows that the most active government is that of one man

Suppose, on the other hand, we unite the government with the legislative authority, and make the Sovereign prince also, and all the citizens so many magistrates then the corporate will, being confounded with the general will, can possess no greater activity than that will and must leave the particular will as strong as it can possibly be Thus, the government, having always the same absolute force, will be at the lowest point of its relative force or activity

These relations are incontestible and there are other considerations which still further confirm them We can see, for instance, that each magistrate is more active in the body to which he belongs than each citizen in that to which he belongs and that consequently the particular will has much more influence on the acts of the government than on those of the Sovereign, for each magistrate is almost always charged with some governmental function, while each citizen taken singly, exercises no function of Sovereignty Furthermore, the bigger the State grows, the more its real force increases, though not in direct proportion to its growth, but, the State remaining the same, the number of magistrates may increase to any extent, without the government gaining any greater real force for its force is that of the State, the dimension of which remains equal Thus the relative force or activity of the government decreases, while its absolute or real force cannot increase.

Moreover, it is a certainty that prompt-

titude in execution diminishes as more people are put in charge of it: where prudence is made too much of, not enough is made of fortune; opportunity is let slip, and deliberation results in the loss of its object.

I have just proved that the government grows remiss in proportion as the number of the magistrates increases; and I previously proved that, the more numerous the people, the greater should be the repressive force. From this it follows that the relation of the magistrates to the government should vary inversely to the relation of the subjects to the Sovereign; that is to say, the larger the State, the more should the government be tightened, so that the number of the rulers diminish in proportion to the increase of that of the people.

It should be added that I am here speaking of the relative strength of the government, and not of its rectitude: for, on the other hand, the more numerous the magistracy, the nearer the corporate will comes to the general will; while, under a single magistrate, the corporate will is, as I said, merely a particular will. Thus, what may be gained on one side is lost on the other, and the art of the legislator is to know how to fix the point at which the force and the will of the government, which are always in inverse proportion, meet in the relation that is most to the advantage of the State.

CHAPTER III

[*The Division of Governments. The best form of government is relative.*]

BOOK III

CHAPTER IV

[*Democracy. The trouble with democracy is that public affairs are so strongly influenced by private affairs under it. He concludes that democracy is a government for gods.*]

CHAPTER V

[*Aristocracy. There are three forms of aristocracy—natural, elective, and hereditary. The first is only for simple peoples; the third is the worst tyranny; the second is the best. The main difficulty is to keep the elective aristocracy from regarding its own corporate interest too much.*]

CHAPTER VI

[*Monarchy. This form is best for large states where ruling unity is hard to achieve. The greatest disadvantage is succession and how to get rid of a bad king and get a good one.*]

CHAPTER VII

[*Mixed Governments. The mixed form results in a mean strength between the extreme of weakness and strength in simple forms.*]

CHAPTER VIII

[*That All Forms of Government Do Not Fit All Countries. Government depends upon resources, climate, and habits of the people. He concludes that small countries are fittest for tyranny.*]

CHAPTER IX

[*The Works of a Good Government. The population of a country is the most certain mark of a good government. Where population multiplies the most without colonies and naturalization is the best government.*]

CHAPTER X

[*The Abuse of Government and Its Tendency to Degenerate. Governments degenerate when the private will of the government overpowers the general will of the sovereign and forces them to obey, or when the individuals who compose the government try to rule. A tyrant is an il-*

legal ruler, a despot is one who usurps the sovereign power]

CHAPTER XI

[*The Death of The Body Politic Since the state is not a work of nature but of man's art, it degenerates and dies as do the men who make it It is dying when laws become weak rather than strong with age*]

CHAPTERS XII, XIII, XIV

[*How the Sovereign Authority Maintains Itself The only way for the sovereign to maintain itself is for all people to assemble periodically and hence momentarily assert sovereignty It may be even necessary to have no fixed capital but move it from place to place*]

CHAPTER XV

Deputies or Representatives

As soon as public service ceases to be the chief business of the citizens, and they would rather serve with their money than with their persons, the State is not far from its fall When it is necessary to march out to war, they pay troops and stay at home when it is necessary to meet in council, they name deputies and stay at home By reason of idleness and money they end by having soldiers to enslave their country and representatives to sell it

It is through the hustle of commerce and the arts, through the greedy self interest of profit, and through softness and love of amenities that personal services are replaced by money payments Men surrender a part of their profits in order to have time to increase them at leisure Make gifts of money, and you will not be long without chains The word 'finance' is a slavish word, unknown in the city state In a country that is truly free, the citizens do everything with their own arms and nothing by means of money, so far from paying to be exempted from their duties they would even pay for the privilege of fulfilling them themselves I am far from taking the common view I hold enforced labour to be less opposed to liberty than taxes

The better the constitution of a State is, the more do public affairs encroach on private in the minds of the citizens Private affairs are even of much less importance, because the aggregate of the common happiness furnishes a greater proportion of that of each individual so that there is less for him to seek in particular cares In a well ordered city every man flies to the assemblies under a bad government no one cares to stir a step to get to them because no one is interested in what happens there because it is foreseen that the general will will not prevail and lastly because domestic cares are all absorbing Good laws lead to the making of better ones bad ones bring about worse As soon as any man says of the affairs of the State *What does it matter to me?* the State may be given up for lost

The lukewarmness of patriotism, the activity of private interest, the vastness of States conquest and the abuse of government suggested the method of having deputies or representatives of the people in the national assemblies These are what, in some countries, men have presumed to call the Third Estate Thus the individual interest of two orders is put first and second the public interest occupies only the third place

Sovereignty, for the same reason as makes it inalienable, cannot be represented it lies essentially in the general will, and will does not admit of representation it is either the same, or other, there is no intermediate possibility The deputies of the people, therefore, are not and cannot be its representatives they are merely its stewards, and can carry through no definitive acts Every law the people has not ratified in person is null and void—is, in fact, not a law The people of England regards itself as free,

but it is grossly mistaken it is free only during the election of members of parliament As soon as they are elected, slavery overtakes it, and it is nothing The use it makes of the short moments of liberty it enjoys shows indeed that it deserves to lose them

The idea of representation is modern it comes to us from feudal government from that iniquitous and absurd system which degrades humanity and dishonours the name of man In ancient republics and even in monarchies the people never had representatives, the word itself was unknown It is very singular that in Rome, where the tribunes were so sacrosanct, it was never even imagined that they could usurp the functions of the people, and that in the midst of so great a multitude they never attempted to pass on their own authority a single *plebis citum* We can, however form an idea of the difficulties caused sometimes by the people being so numerous, from what happened in the time of the Gracchi, when some of the citizens had to cast their votes from the roofs of buildings

Where right and liberty are everything, disadvantages count for nothing Among this wise people everything was given its just value, its lictors were allowed to do what its tribunes would never have dared to attempt for it had no fear that its lictors would try to represent it

To explain, however, in what way the tribunes did sometimes represent it, it is enough to conceive how the government represents the Sovereign Law being purely the declaration of the general will, it is clear that, in the exercise of the legislative power, the people cannot be represented, but in that of the executive power, which is only the force that is applied to give the law effect, it both can and should be represented We thus see that if we looked closely into the matter we should find that very few nations have any laws However that may be, it is certain that the tribunes, possessing no executive power, could never represent the Roman people by right of the powers entrusted to them, but only by usurping those of the senate

In Greece, all that the people had to do, it did for itself it was constantly assembled in the public square The Greeks lived in a mild climate, they had no natural greed, slaves did their work for them, their great concern was with liberty Lacking the same advantages, how can you preserve the same rights? Your severer climates add to your needs, [16] for half the year your public squares are uninhabitable, the flatness of your languages unfits them for being heard in the open air, you sacrifice more for profit than for liberty, and fear slavery less than poverty

What then? Is liberty maintained only by the help of slavery? It may be so Extremes meet Everything that is not in the course of nature has its disadvantages, civil society most of all There are some unhappy circumstances in which we can only keep our liberty at others' expense, and where the citizen can be perfectly free only when the slave is most a slave Such was the case with Sparta As for you, modern peoples, you have no slaves, but you are slaves yourselves, you pay for their liberty with your own It is in vain that you boast of this preference, 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 I am merely giving the reasons why modern peoples, believing themselves to be free, have representatives, while ancient peoples had none In any case, the moment a people allows itself to be represented, it is no longer free it no longer exists

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

[16] To adopt in cold countries the luxury and effeminacy of the East is to desire to submit to its chains, it is indeed to bow to them far more inevitably in our case than in theirs

strength of a great people [17] may be combined with the convenient polity and good order of a small State.

CHAPTER XVI

That the Institution of Government Is Not a Contract

The legislative power once well established, the next thing is to establish similarly the executive power; for this latter, which operates only by particular acts, not being of the essence of the former, is naturally separate from it. Were it possible for the Sovereign, as such, to possess the executive power, right and fact would be so confounded that no one could tell what was law and what was not; and the body politic, thus disfigured, would soon fall a prey to the violence it was instituted to prevent.

As the citizens, by the social contract, are all equal, all can prescribe what all should do, but no one has a right to demand that another shall do what he does not do himself. It is strictly this right, which is indispensable for giving the body politic life and movement, that the Sovereign, in instituting the government, confers upon the prince.

It has been held that this act of establishment was a contract between the people and the rulers it sets over itself—a contract in which conditions were laid down between the two parties binding the one to command and the other to obey. It will be admitted, I am sure, that this is an odd kind of contract to enter into. But let us see if this view can be upheld.

First, the supreme authority can no more be modified than it can be alienated; to limit it is to destroy it. It is absurd and contradictory for the Sovereign to set a superior over itself; to bind itself to obey a master would be to return to absolute liberty.

Moreover, it is clear that this contract between the people and such and such persons would be a particular act; and from this it follows that it can be neither a law nor an act of Sovereignty, and that consequently it would be illegitimate.

It is plain too that the contracting parties in relation to each other would be under the law of nature alone and wholly without guarantees of their mutual undertakings, a position wholly at variance with the civil state. He who has force at his command being always in a position to control execution, it would come to the same thing if the name 'contract' were given to the act of one man who said to another: 'I give you all my goods, on condition that you give me back as much of them as you please.'

There is only one contract in the State, and that is the act of association, which in itself excludes the existence of a second. It is impossible to conceive of any public contract that would not be a violation of the first.

CHAPTER XVII

The Institution of Government

Under what general idea then should the act by which government is instituted be conceived as falling? I will begin by stating that the act is complex, as being composed of two others—the establishment of the law and its execution.

By the former, the Sovereign decrees that there shall be a governing body established in this or that form; this act is clearly a law.

By the latter, the people nominate the rulers who are to be entrusted with the government that has been established. This nomination, being a particular act, is clearly not a second law, but merely a consequence of the first and a function of government.

The difficulty is to understand how

[17] I had intended to do this in the sequel to this work, when in dealing with external relations I came to the subject of confederations. The subject is quite new, and its principles have still to be laid down.

there can be a governmental act before government exists, and how the people, which is only Sovereign or subject, can, under certain circumstances, become a prince or magistrate

It is at this point that there is revealed one of the astonishing properties of the body politic, by means of which it reconciles apparently contradictory operations, for this is accomplished by a sudden conversion of Sovereignty into democracy, so that, without sensible change, and merely by virtue of a new relation of all to all the citizens become magistrates and pass from general to particular acts, from legislation to the execution of the law

This changed relation is no speculative subtlety without instances in practice it happens every day in the English Parliament, where, on certain occasions the Lower House resolves itself into Grand Committee, for the better discussion of affairs, and thus, from being at one moment a sovereign court, becomes at the next a mere commission so that subsequently it reports to itself, as House of Commons, the result of its proceedings in Grand Committee, and debates over again under one name what it has already settled under another

It is, indeed, the peculiar advantage of democratic government that it can be established in actuality by a simple act of the general will Subsequently, this provisional government remains in power, if this form is adopted, or else establishes in the name of the Sovereign the government that is prescribed by law, and thus the whole proceeding is regular It is impossible to set up government in any other manner legitimately and in accordance with the principles so far laid down

CHAPTER XVIII

How To Check the Usurpations of Government

What we have just said confirms Chapter XVI, and makes it clear that the institution of government is not a contract, but a law, that the depositaries of the executive power are not the people's masters but its officers, that it can set them up and pull them down when it likes, that for them there is no question of contract, but of obedience and that in taking charge of the functions the State imposes on them they are doing no more than fulfilling their duty as citizens, without having the remotest right to argue about the conditions

When therefore the people sets up an hereditary government, whether it be monarchical and confined to one family, or aristocratic and confined to a class, what it enters into is not an undertaking the administration is given a provisional form, until the people chooses to order it otherwise

It is true that such changes are always dangerous and that the established government should never be touched except when it comes to be incompatible with the public good, but the circumspection this involves is a maxim of policy and not a rule of right, and the State is no more bound to leave civil authority in the hands of its rulers than military authority in the hands of its generals

It is also true that it is impossible to be too careful to observe, in such cases, all the formalities necessary to distinguish a regular and legitimate act from a seditious tumult, and the will of a whole people from the clamour of a faction Here above all no further concession should be made to the untoward possibility than cannot, in the strictest logic, be refused it From this obligation the prince derives a great advantage in preserving his power despite the people, without its being possible to say he has usurped it, for, seeming to avail himself only of his rights, he finds it very easy to extend them, and to prevent, under the pretext of keeping the peace, assemblies that are destined to the re establishment of order, with the result that he takes advantage of a silence he does not allow to be broken, or of irregularities he causes to be committed, to assume that he has

the support of those whom fear prevents from speaking, and to punish those who dare to speak Thus it was that the decemvirs, first elected for one year and then kept on in office for a second, tried to perpetuate their power by forbidding the comitia to assemble, and by this easy method every government in the world, once clothed with the public power, sooner or later usurps the sovereign authority

The periodical assemblies of which I have already spoken are designed to prevent or postpone this calamity, above all when they need no formal summoning for in that case, the prince cannot stop them without openly declaring himself a law breaker and an enemy of the State

The opening of these assemblies, whose sole object is the maintenance of the social treaty, should always take the form of putting two propositions that may not be suppressed, which should be voted on separately

The first is 'Does it please the Sovereign to preserve the present form of government?'

The second is 'Does it please the people to leave its administration in the hands of those who are actually in charge of it?

I am here assuming what I think I have shown, that there is in the State no fundamental law that cannot be revoked, not excluding the social compact itself, for if all the citizens assembled of one accord to break the compact, it is impossible to doubt that it would be very legitimately broken Grotius even thinks that each man can renounce his membership of his own State, and recover his natural liberty and his goods on leaving the country [18] It would be indeed absurd if all the citizens in assembly could not do what each can do by himself.

BOOK IV

CHAPTER I

That the General Will is Indestructible

As long as several men in assembly regard themselves as a single body, they have only a single will which is concerned with their common preservation and general well being In this case, all the springs of the State are vigorous and simple and its rules clear and luminous there are no embroilments or conflicts of interests, the common good is everywhere clearly apparent, and only good sense is needed to perceive it Peace, unity, and equality are the enemies of political subtleties Men who are upright and simple are difficult to deceive because of their simplicity, lures and ingenious pretexts fail to impose upon them, and they are not even subtle enough to be dupes When, among the happiest people in the world, bands of peasants are seen regulating affairs of State under an oak, and always acting wisely, can we help scorning the ingenious methods of other nations, which make themselves illustrious and wretched with so much art and mystery?

A State so governed needs very few laws, and, as it becomes necessary to issue new ones, the necessity is universally seen The first man to propose them merely says what all have already felt, and there is no question of factions or intrigues or eloquence in order to secure the passage into law of what every one has already decided to do, as soon as he is sure that the rest will act with him

Theorists are led into error because, seeing only States that have been from the beginning wrongly constituted, they are struck by the impossibility of applying such a policy to them They make great game of all the absurdities a clever rascal or an insinuating speaker might

[18] Provided, of course, he does not leave to escape his obligations and avoid having to serve his country in the hour of need Flight in such a case would be criminal and punishable, and would be, not withdrawal, but desertion

get the people of Paris or London to believe They do not know that Cromwell would have been put to the bells by the people of Berne and the Duc de Beaufort on the treadmill by the Genevese

But when the social bond begins to be relaxed and the State to grow weak, when particular interests begin to make themselves felt and the smaller societies to exercise an influence over the larger the common interest changes and finds opponents opinion is no longer unanimous, the general will ceases to be the will of all, contradictory views and debates arise, and the best advice is not taken without question

Finally, when the State on the eve of ruin, maintains only a vain, illusory, and formal existence, when in every heart the social bond is broken, and the meanest interest brazenly lays hold of the sacred name of 'public good the general will becomes mute all men guided by secret motives, no more give their views as citizens than if the State had never been and iniquitous decrees directed solely to private interest get passed under the name of laws

Does it follow from this that the general will is exterminated or corrupted? Not at all it is always constant, unalterable, and pure but it is subordinated to other wills which encroach upon its sphere Each man, in detaching his interest from the common interest, sees clearly that he cannot entirely separate them, but his share in the public misfortune seems to him negligible beside the exclusive good he aims at making his own Apart from this particular good, he wills the general good in his own interest, as strongly as any one else Even in selling his vote for money he does not extinguish in himself the general will, but only eludes it The fault he commits is that of changing the state of the question, and answering something different from what he is asked Instead of saying, by his vote, 'It is to the advantage of the State,' he says, 'It is of advantage to this or that man or party that this or that view should prevail' Thus the law of public order in assemblies is not so much to maintain in them the general will as to secure that the question be always put to it, and the answer always given by it

I could here set down many reflections on the simple right of voting in every act of Sovereignty—a right which no one can take from the citizens—and also on the right of stating views, making proposals, dividing and discussing, which the government is always most careful to leave solely to its members, but this important subject would need a treatise to itself, and it is impossible to say anything in a single work.

CHAPTER II

VOTING

It may be seen, from the last chapter, that the way in which general business is managed may give a clear enough indication of the actual state of morals and the health of the body politic The more concert reigns in the assemblies, that is, the nearer opinion approaches unanimity, the greater is the dominance of the general will On the other hand, long debates dissensions, and tumult proclaim the ascendancy of particular interests and the decline of the State

This seems less clear when two or more orders enter into the constitution, as patricians and plebeians did at Rome, for quarrels between these two orders often disturbed the comitia, even in the best days of the Republic But the exception is rather apparent than real, for then, through the defect that is inherent in the body politic, there were, so to speak, two States in one, and what is not true of the two together is true of either separately Indeed, even in the most stormy times, the *plebiscita* of the people, when the senate did not interfere with them, always went through quietly and by large majorities The citizens having but one interest, the people had but a single will

At the other extremity of the circle, unanimity recurs, this is the case when the citizens, having fallen into servitude, have lost both liberty and will Fear and flattery then change votes into acclamation, deliberation ceases, and only worship or malediction is left Such was the vile manner in which the senate expressed its views under the emperors It did so sometimes with absurd precautions Tacitus observes that, under Otho, the senators, while they heaped curses on Vitellius, contrived at the same time to make a deafening noise, in order that, should he ever become their master, he might not know what each of them had said

On these various considerations depend the rules by which the methods of counting votes and comparing opinions should be regulated, according as the general will is more or less easy to discover, and the State more or less in its decline

There is but one law which, from its nature, needs unanimous consent This is the social compact, for civil association is the most voluntary of all acts Every man being born free and his own master, no one, under any pretext whatsoever, can make any man subject without his consent To decide that the son of a slave is born a slave is to decide that he is not born a man

If then there are opponents when the social compact is made, their opposition does not invalidate the contract, but merely prevents them from being included in it They are foreigners among citizens When the State is instituted, residence constitutes consent, to dwell within its territory is to submit to the Sovereign [19]

Apart from this primitive contract, the vote of the majority always binds all the rest This follows from the contract itself But it is asked how a man can be both free and forced to conform to wills that are not his own How are the opponents at once free and subject to laws they have not agreed to?

I retort that the question is wrongly put The citizen gives his consent to all the laws, including those which are passed in spite of his opposition, and even those which punish him when he dares to break any of them The constant will of all the members of the State is the general will by virtue of it they are citizens and free.[20] When in the popular assembly a law is proposed, what the people is asked is not exactly whether it approves or rejects the proposal, but whether it is in conformity with the general will, which is their will Each man, in giving his vote, states his opinion on that point, and the general will is found by counting votes When therefore the opinion that is contrary to my own prevails, this proves neither more nor less than that I was mistaken, and that what I thought to be the general will was not so If my particular opinion had carried the day I should have achieved the opposite of what was my will, and it is in that case that I should not have been free

This presupposes, indeed, that all the qualities of the general will still reside in the majority when they cease to do so, whatever side a man may take, liberty is no longer possible.

In my earlier demonstration of how particular wills are substituted for the general will in public deliberation, I have adequately pointed out the practicable methods of avoiding this abuse, and I shall have more to say of them later on I have also given the principles for de

[19] This should of course be understood as applying to a free State, for elsewhere family, goods lack of a refuge, necessity, or violence may detain a man in a country against his will and then his dwelling there no longer by itself implies his consent to the contract or to its violation.

[20] At Genoa, the word 'Liberty' may be read over the front of the prisons and on the chains of the galley slaves This application of the device is good and just It is indeed only malefactors of all estates who prevent the citizen from being free In the country in which all such men were in the galleys, the most perfect liberty would be enjoyed.

termining the proportional number of votes for declaring that will A difference of one vote destroys equality, a single opponent destroys unanimity, but between equality and unanimity there are several grades of unequal division, at each of which this proportion may be fixed in accordance with the condition and the needs of the body politic

There are two general rules that may serve to regulate this relation First, the more grave and important the questions discussed, the nearer should the opinion that is to prevail approach unanimity Secondly, the more the matter in hand calls for speed, the smaller the prescribed difference in the numbers of votes may be allowed to become where an instant decision has to be reached, a majority of one vote should be enough The first of these two rules seems more in harmony with the laws, and the second with practical affairs In any case, it is the combination of them that gives the best proportions for determining the majority necessary.

CHAPTER III

[*Elections The superiority of election by choice over election by lot*]

CHAPTER IV

[*The Roman Comitia Analyzes the continued rôle of the Roman Comitia in permitting the people to pass laws, elect officials, and judge cases*]

CHAPTER V

[*The Tribunate Restores the right relation between the powers of government It stands outside the government*]

CHAPTER VI

[*The Dictatorships To be selected in times of peril but not to be permitted to make laws A dictatorship is to be limited to very short periods of time*]

CHAPTER VII

The Censorship

As the law is the declaration of the general will, the censorship is the declaration of the public judgment public opinion is the form of law which the censor administers, and, like the prince, only applies to particular cases

The censorial tribunal, so far from being the arbiter of the people's opinion, only declares it, and, as soon as the two part company, its decisions are null and void

It is useless to distinguish the morality of a nation from the objects of its esteem, both depend on the same principle and are necessarily indistinguishable There is no people on earth the choice of whose pleasures is not decided by opinion rather than nature Right men's opinions, and their morality will purge itself Men always love what is good or what they find good it is in judging what is good that they go wrong This judgment, therefore is what must be regulated He who judges of morality judges of honour, and he who judges of honour finds his law in opinion

The opinions of a people are derived from its constitution, although the law does not regulate morality, it is legislation that gives it birth When legislation grows weak, morality degenerates, but in such cases the judgment of the censors will not do what the force of the laws has failed to effect

From this it follows that the censorship may be useful for the preservation of morality, but can never be so for its restoration Set up censors while the laws are vigorous, as soon as they have lost their vigour, all hope is gone, no legitimate power can retain force when the laws have lost it

The censorship upholds morality by preventing opinion from growing corrupt, by preserving its rectitude by means of wise applications, and sometimes even by fixing it when it is still uncertain The employment of seconds in duels, which had been carried to wild extremes in the

kingdom of France, was done away with merely by these words in a royal edict 'As for those who are cowards enough to call upon seconds This judgment in anticipating that of the public, suddenly decided it But when edicts from the same source tried to pronounce duelling itself an act of cowardice as indeed it is, then since common opinion does not regard it as such, the public took no notice of a decision on a point on which its mind was already made up

I have stated elsewhere[21] that as public opinion is not subject to any constraint, there need be no trace of it in the tribunal set up to represent it It is impossible to admire too much the art with which this resource, which we moderns have wholly lost was employed by the Romans, and still more by the Lacedaemonians

A man of bad morals having made a good proposal in the Spartan Council, the Ephors neglected it, and caused the same proposal to be made by a virtuous citizen What an honour for the one and what a disgrace for the other, without praise or blame of either! Certain drunkards from Samos[22] polluted the tribunal of the Ephors the next day a public edict gave Samians permission to be filthy An actual punishment would not have been so severe as such an impunity When Sparta has pronounced on what is or is not right, Greece makes no appeal from her judgments

CHAPTER VIII

[Civil Religion]

At first men had no kings save the gods, and no government save theocracy They reasoned like Caligula, and, at that period, reasoned aright It takes a long time for feeling so to change that men can make up their minds to take their equals as masters, in the hope that they will profit by doing so

From the mere fact that God was set over every political society it followed that there were as many gods as peoples Two peoples that were strangers the one to the other and almost always enemies could not long recognize the same master two armies giving battle could not obey the same leader National divisions thus led to polytheism and this in turn gave rise to theological and civil intolerance which, as we shall see hereafter, are by nature the same

The fancy the Greeks had for rediscovering their gods among the barbarians arose from the way they had of regarding themselves as the natural Sovereigns of such peoples But there is nothing so absurd as the erudition which in our days identifies and confuses gods of different nations As if Moloch, Saturn, and Chronos could be the same god! As if the Phoenician Baal, the Greek Zeus, and the Latin Jupiter could be the same! As if there could still be anything common to imaginary beings with different names!

If it is asked how in pagan times, where each State had its cult and its gods, there were no wars of religion, I answer that it was precisely because each State, having its own cult as well as its own government made no distinction between its gods and its laws Political war was also theological, the provinces of the gods were, so to speak, fixed by the boundaries of nations The god of one people had no right over another The gods of the pagans were not jealous gods, they shared among themselves the empire of the world even Moses and the Hebrews sometimes lent themselves to this view by speaking of the God of Israel It is true, they regarded as powerless the gods of the Canaanites, a proscribed people condemned to destruction, whose place they were to take, but remember how they spoke of the divisions of the neighbouring peoples they were forbidden to attack! Is not the possession of what belongs to

[21] I merely call attention in this chapter to a subject with which I have dealt at greater length in my *Letter to M d Alembert*

[22] They were from another island, which the delicacy of our language forbids me to name on this occasion

your god Chamos lawfully your due?' said Jephthah to the Ammonites 'We have the same title to the lands our conquering God has made his own [23] Here, I think, there is a recognition that the rights of Chamos and those of the God of Israel are of the same nature

But when the Jews, being subject to the kings of Babylon, and, subsequently, to those of Syria, still obstinately refused to recognize any god save their own, their refusal was regarded as rebellion against their conqueror, and drew down on them the persecutions we read of in their history, which are without parallel till the coming of Christianity.[24]

Every religion, therefore, being attached solely to the laws of the State which prescribed it, there was no way of converting a people except by enslaving it, and there could be no missionaries save conquerors The obligation to change cults being the law to which the vanquished yielded, it was necessary to be victorious before suggesting such a change So far from men fighting for the gods, the gods, as in Homer, fought for men, each asked his god for victory, and repaid him with new altars The Romans, before taking a city, summoned its gods to quit it, and, in leaving the Tarentines their outraged gods, they regarded them as subject to their own and compelled to do them homage. They left the vanquished their gods as they left them their laws A wreath to the Jupiter of the Capitol was often the only tribute they imposed

Finally when, along with their empire, the Romans had spread their cult and their gods, and had themselves often adopted those of the vanquished, by granting to both alike the rights of the city, the peoples of that vast empire insensibly found themselves with multitudes of gods and cults, everywhere almost the same, and thus paganism throughout the known world finally came to be one and the same religion

It was in these circumstances that Jesus came to set up on earth a spiritual kingdom, which, by separating the theological from the political system, made the State no longer one, and brought about the internal divisions which have never ceased to trouble Christian peoples. As the new idea of a kingdom of the other world could never have occurred to pagans, they always looked on the Christians as really rebels, who, while feigning to submit, were only waiting for the chance to make themselves independent and their masters, and to usurp by guile the authority they pretended in their weakness to respect This was the cause of the persecutions

What the pagans had feared took place Then everything changed its aspect: the humble Christians changed their language, and soon this so called kingdom of the other world turned, under a visible leader, into the most violent of earthly despotisms

However, as there have always been a prince and civil laws, this double power and conflict of jurisdiction have made all good polity impossible in Christian States, and men have never succeeded in finding out whether they were bound to obey the master or the priest.

Several peoples, however, even in Europe and its neighbourhood, have desired without success to preserve or restore the old system: but the spirit of Christianity has everywhere prevailed. The sacred cult has always remained or

[23] 'Nonne ea quae possidet Chamos deus tuus, tibi jure debentur' (Judges xi 24) Such is the text in the Vulgate Father de Carrieres translates Do you not regard yourselves as having a right to what your god possesses' I do not know the force of the Hebrew text but I perceive that, in the Vulgate, Jephthah positively recognizes the right of the god Chamos and that the French translator weakened this admission by inserting an 'according to you' which is not in the Latin

[24] It is quite clear that the Phocian war, which was called the Sacred War, was not a war of religion Its object was the punishment of acts of sacrilege, and not the conquest of unbelievers

again become independent of the Sovereign, and there has been no necessary link between it and the body of the State Mahomet held very sane views, and linked his political system well together, and, as long as the form of his government continued under the caliphs who succeeded him, that government was indeed one, and so far good But the Arabs, having grown prosperous, lettered, civilized, slack, and cowardly, were conquered by barbarians the division between the two powers began again, and, although it is less apparent among the Mahometans than among the Christians, it none the less exists, especially in the sect of Ali, and there are States, such as Persia, where it is continually making itself felt

Among us, the Kings of England have made themselves heads of the Church, and the Czars have done the same but this title has made them less its masters than its ministers, they have gained not so much the right to change it, as the power to maintain it they are not its legislators, but only its princes Wherever the clergy is a corporate body,[25] it is master and legislator in its own country There are thus two powers, two Sovereigns, in England and in Russia, as well as elsewhere

Of all Christian writers, the philosopher Hobbes alone has seen the evil and how to remedy it, and has dared to propose the reunion of the two heads of the eagle, and the restoration throughout of political unity, without which no State or government will ever be rightly constituted But he should have seen that the masterful spirit of Christianity is incompatible with his system, and that the priestly interest would always be stronger than that of the State It is not so much what is false and terrible in his political theory, as what is just and true, that has drawn down hatred on it[26]

I believe that if the study of history were developed from this point of view, it would be easy to refute the contrary opinions of Bayle and Warburton, one of whom holds that religion can be of no use to the body politic, while the other, on the contrary, maintains that Christianity is its strongest support We should demonstrate to the former that no State has ever been founded without a religious basis, and to the latter, that the law of Christianity at bottom does more harm by weakening than good by strengthening the constitution of the State To make myself understood, I have only to make a little more exact the too vague ideas of religion as relating to this subject

Religion, considered in relation to society, which is either general or particular, may also be divided into two kinds the religion of man, and that of the citizen The first, which has neither temples, nor altars, nor rites, and is confined to the purely internal cult of the supreme God and the eternal obligations of morality is the religion of the Gospel pure and simple, the true theism, what may be called natural divine right or law The other, which is codified in a single country, gives it its gods, its own tutelary patrons it has its dogmas, its rites, and its external cult prescribed by law, outside the single nation that follows it, all the world is in its sight infidel, foreign, and barbarous, the duties and rights of man extend for it only as far as its own altars. Of this kind were all the religions

[2] It should be noted that the clergy find their bond of union not so much in formal assemblies, as in the communion of Churches Communion and excommunication are the social compact of the clergy a compact which will always make them masters of peoples and kings All priests who communicate together are fellow citizens even if they come from opposite ends of the earth This invention is a masterpiece of statesmanship there is nothing like it among pagan priests, who have therefore never formed a clerical corporate body.

[26] See, for instance, in a letter from Grotius to his brother (April 11, 1643), what that learned man found to praise and to blame in the *De Cive* It is true that, with a bent for indulgence, he seems to pardon the writer the good for the sake of the bad, but all men are not so forgiving.

of early peoples, which we may define as civil or positive divine right or law

There is a third sort of religion of a more singular kind which gives men two codes of legislation, two rulers, and two countries, renders them subject to contradictory duties, and makes it impossible for them to be faithful both to religion and to citizenship Such are the religions of the Lamas and of the Japanese, and such is Roman Christianity which may be called the religion of the priest It leads to a sort of mixed and anti social code which has no name

In their political aspect, all these three kinds of religion have their defects The third is so clearly bad, that it is waste of time to stop to prove it such All that destroys social unity is worthless all institutions that set man in contradiction to himself are worthless

The second is good in that it unites the divine cult with love of the laws, and, making country the object of the citizens adoration, teaches them that service done to the State is service done to its tutelary god It is a form of theocracy, in which there can be *no pontiff* save the *prince* and no priests save the magistrates To die for one's country then becomes martyrdom, violation of its laws, impiety, and to subject one who is guilty to public execration is to condemn him to the anger of the gods *Sacer estod*

On the other hand, it is bad in that, being founded on lies and error, it deceives men, makes them credulous and superstitious, and drowns the true cult of the Divinity in empty ceremonial It is bad, again, when it becomes tyrannous and exclusive, and makes a people blood thirsty and intolerant so that it breathes fire and slaughter, and regards as a sacred act the killing of every one who does not believe in its gods The result is to place such a people in a natural state of war with all others, so that its security is deeply endangered

There remains therefore the religion of man or Christianity—not the Christianity of to day, but that of the Gospel, which is entirely different By means of this holy, sublime, and real religion all men, being children of one God, recognize one another as brothers, and the society that unites them is not dissolved even at death

But this religion, having no particular relation to the body politic, leaves the laws in possession of the force they have in themselves without making any addition to it, and thus one of the great bonds that unite society considered in severalty fails to operate Nay, more, so far from binding the hearts of the citizens to the State, it has the effect of taking them away from all earthly things I know of nothing more contrary to the social spirit

We are told that a people of true Christians would form the most perfect society imaginable I see in this supposition only one great difficulty that a society of true Christians would not be a society of men

I say further that such a society, with all its perfection, would be neither the strongest nor the most lasting the very fact that it was perfect would rob it of its *bond of union*, the *flaw* that would destroy it would lie in its very perfection.

Every one would do his duty, the people would be law abiding, the rulers just and temperate, the magistrates upright and incorruptible, the soldiers would scorn death, there would be neither vanity nor luxury. So far, so good, but let us hear more

Christianity as a religion is entirely spiritual, occupied solely with heavenly things the country of the Christian is not of this world He does his duty, indeed, but does it with profound indifference to the good or ill success of his cares. Provided he has nothing to reproach himself with, it matters little to him whether things go well or ill here on earth If the State is prosperous, he hardly dares to share in the public happiness, for fear he may grow proud of his country's glory, if the State is languishing, he blesses the hand of God that is hard upon His people.

For the State to be peaceable and for harmony to be maintained all the citizens without exception would have to be good Christians, if by ill hap there should be a single self seeker or hypocrite, a Catiline or a Cromwell, for instance, he would certainly get the better of his pious compatriots Christian charity does not readily allow a man to think hardly of his neighbours As soon as, by some trick, he has discovered the art of imposing on them and getting hold of a share in the public authority you have a man established in dignity it is the will of God that he be respected very soon you have a power, it is God's will that it be obeyed and if the power is abused by him who wields it, it is the scourge wherewith God punishes His children There would be scruples about driving out the usurper public tranquillity would have to be disturbed, violence would have to be employed, and blood spilt all this accords ill with Christian meekness and after all, in this vale of sorrows what does it matter whether we are free men or serfs The essential thing is to get to heaven and resignation is only an additional means of doing so

If war breaks out with another State, the citizens march readily out to battle, not one of them thinks of flight, they do their duty, but they have no passion for victory, they know better how to die than how to conquer What does it matter whether they win or lose Does not providence know better than they what is meet for them Only think to what account a proud, impetuous, and passionate enemy could turn their stoicism! Set over against them those generous peoples who were devoured by ardent love of glory and of their country, imagine your Christian republic face to face with Sparta or Rome the pious Christians will be beaten, crushed, and destroyed, before they know where they are, or will owe their safety only to the contempt their enemy will conceive for them It was to my mind a fine oath that was taken by the soldiers of Fabius, who swore, not to conquer or die, but to come back victorious—and kept their oath Christians would never have taken such an oath, they would have looked on it as tempting God

But I am mistaken in speaking of a Christian republic, the terms are mutually exclusive Christianity preaches only servitude and dependence Its spirit is so favourable to tyranny that it always profits by such a regime True Christians are made to be slaves, and they know it and do not much mind this short life counts for too little in their eyes

I shall be told that Christian troops are excellent I deny it Show me an instance For my part, I know of no Christian troops I shall be told of the Crusades Without disputing the valour of the Crusaders I answer that, so far from being Christians they were the priests' soldiers, citizens of the Church They fought for their spiritual country, which the Church had, somehow or other, made temporal Well understood, this goes back to paganism as the Gospel sets up no national religion, a holy war is impossible among Christians

Under the pagan emperors, the Christian soldiers were brave, every Christian writer affirms it, and I believe it it was a case of honourable emulation of the pagan troops As soon as the emperors were Christian, this emulation no longer existed, and, when the Cross had driven out the eagle, Roman valour wholly disappeared

But setting aside political considerations let us come back to what is right, and settle our principles on this important point The right which the social compact gives the Sovereign over the subject does not, we have seen, exceed the limits of public expediency [27] The sub-

[27] 'In the republic,' says the Marquis d'Argenson, 'each man is perfectly free in what does not harm others This is the invariable limitation, which it is impossible to define more exactly I have not been able to deny myself the pleasure of occasionally quoting from this manuscript, though it is unknown

jects then owe the Sovereign an account of their opinions only to such an extent as they matter to the community Now, it matters very much to the community that each citizen should have a religion That will make him love his duty, but the dogmas of that religion concern the State and its members only so far as they have reference to morality and to the duties which he who professes them is bound to do to others Each man may have, over and above, what opinions he pleases, without its being the Sovereign's business to take cognizance of them, for as the Sovereign has no authority in the other world, whatever the lot of its subjects may be in the life to come, that is not its business, provided they are good citizens in this life

There is therefore a purely civil profession of faith of which the Sovereign should fix the articles, not exactly as religious dogmas, but as social sentiments without which a man cannot be a good citizen or a faithful subject [28] While it can compel no one to believe them, it can banish from the State whoever does not believe them—it can banish him, not for impiety, but as an antisocial being, incapable of truly loving the laws and justice, and of sacrificing, at need, his life to his duty If any one, after publicly recognizing these dogmas, behaves as if he does not believe them, let him be punished by death he has committed the worst of all crimes, that of lying before the law

The dogmas of civil religion ought to be few, simple, and exactly worded, without explanation or commentary The existence of a mighty, intelligent, and beneficent Divinity, possessed of foresight and providence, the life to come, the happiness of the just, the punishment of the wicked, the sanctity of the social contract and the laws these are its positive dogmas Its negative dogmas I confine to one, intolerance, which is a part of the cults we have rejected.

Those who distinguish civil from theological intolerance are, to my mind, mistaken The two forms are inseparable It is impossible to live at peace with those we regard as damned, to love them would be to hate God who punishes them we positively must either reclaim or torment them Wherever theological intolerance is admitted, it must inevitably have some civil effect, [29] and as soon as it has such an effect, the Sovereign is no longer Sov-

to the public, in order to do honour to the memory of a good and illustrious man, who had kept even in the Ministry the heart of a good citizen, and views on the government of his country that were sane and right

[28] Caesar, pleading for Catiline tried to establish the dogma that the soul is mortal Cato and Cicero in refutation did not waste time in philosophizing They were content to show that Caesar spoke like a bad citizen, and brought forward a doctrine that would have a bad effect on the State This, in fact, and not a problem of theology, was what the Roman senate had to judge

[29] Marriage, for instance, being a civil contract, has civil effects without which society cannot even subsist Suppose a body of clergy should claim the sole right of permitting this act a right which every intolerant religion must of necessity claim, is it not clear that in establishing the authority of the Church in this respect it will be destroying that of the prince who will have thenceforth only as many subjects as the clergy choose to allow him? Being in a position to marry or not to marry people, according to their acceptance of such and such a doctrine, their admission or rejection of such and such a formula, their greater or less piety, the Church alone, by the exercise of prudence and firmness will dispose of all inheritances, offices, and citizens, and even of the State itself, which could not subsist if it were composed entirely of bastards But, I shall be told there will be appeals on the ground of abuse, summonses, and decrees, the temporalities will be seized How sad! The clergy, however little, I will not say courage, but sense it has, will take no notice and go its way it will quietly allow appeals, summonses, decrees, and seizures, and, in the end, will remain the master It is not, I think, a great sacrifice to give up a part, when one is sure of securing all.

ereign even in the temporal sphere thenceforth priests are the real masters, and kings only their ministers

Now that there is and can be no longer an exclusive national religion, tolerance should be given to all religions that tolerate others so long as their dogmas contain nothing contrary to the duties of citizenship But whoever dares to say Outside the Church is no salvation,' ought to be driven from the State, unless the State is the Church, and the prince the pontiff Such a dogma is good only in a theocratic government in any other, it is fatal The reason for which Henry IV is said to have embraced the Roman religion ought to make every honest man leave it, and still more any prince who knows how to reason

CHAPTER IX

CONCLUSION

Now that I have laid down the true principles of political right, and tried to give the State a basis of its own to rest on, I ought next to strengthen it by its external relations, which would include the law of nations commerce, the right of war and conquest, public right, leagues, negotiations treaties, etc But all this forms a new subject that is far too vast for my narrow scope I ought throughout to have kept to a more limited sphere.

Hume: The State as Habit, Inclination, and Utility

Hume started his political speculation with a conception of human nature not unlike that of Locke Man's mind is as naked as his body when he comes into this world The sense impressions that grow out of experience make a mind what it becomes But Locke neglected his theory of knowledge when he set up his political society whereas Hume clings tenaciously to it Thus Hume is not concerned with prior rights and social contracts but with habits and utility If the State can be explained as a product of a human habit of social existence, and as being useful to man, what need is there for justifying it by a contract or a promise? Moreover, since the validity of a contract depends upon the moral feeling that one ought to keep his word, the question arises as to why man ought to keep his word The answer to that question is, because political society depends on it So the real question is, why does man enter political society and what does he find good in it Thus society is prior to the contract The following selections are taken from two of Hume's political essays [1]

OF THE ORIGIN OF GOVERNMENT

Man, born in a family, is compelled to maintain society from necessity, from natural inclination, and from habit The same creature, in his further progress, is engaged to establish political society, in order to administer justice, without which there can be no peace among them nor safety, nor mutual intercourse We are therefore, to look upon all the vast apparatus of our government, as having ultimately no other object or purpose but the distribution of justice, or,

[1] *The Philosophical Works of David Hume*, Volume III (1854) Courtesy Little Brown and Company, Boston Essays V and XII in part

in other words, the support of the twelve judges [jurors]. Kings and parliaments, fleets and armies, officers of the court and revenue, ambassadors, ministers, and privy counsellors, are all subordinate in their end to this part of administration. Even the clergy, as their duty leads them to inculcate morality, may justly be thought, so far as regards this world, to have no other useful object of their institution.

All men are sensible of the necessity of justice to maintain peace and order; and all men are sensible of the necessity of peace and order for the maintenance of society. Yet, notwithstanding this strong and obvious necessity, such is the frailty or perverseness of our nature! it is impossible to keep men faithfully and unerringly in the paths of justice. Some extraordinary circumstances may happen, in which a man finds his interests to be more promoted by fraud or rapine, than hurt by the breach which his injustice makes in the social union. But much more frequently he is seduced from his great and important, but distant interests, by the allurement of present, though often very frivolous temptations. This great weakness is incurable in human nature.

Men must, therefore, endeavor to palliate what they cannot cure. They must institute some persons under the appellation of magistrates, whose peculiar office it is to point out the decrees of equity, to punish transgressors, to correct fraud and violence, and to oblige men, however reluctant, to consult their own real and permanent interests. In a word, obedience is a new duty which must be invented to support that of justice, and the ties of equity must be corroborated by those of allegiance.

But still, viewing matters in an abstract light, it may be thought that nothing is gained by this alliance, and that the factitious duty of obedience, from its very nature, lays as feeble a hold of the human mind, as the primitive and natural duty of justice. Peculiar interests and present temptations may overcome the one as well as the other. They are equally exposed to the same inconvenience; and the man who is inclined to be a bad neighbor, must be led by the same motives, well or ill understood, to be a bad citizen or subject. Not to mention, that the magistrate himself may often be negligent, or partial, or unjust in his administration.

Experience, however, proves that there is a great difference between the cases. Order in society, we find, is much better maintained by means of government; and our duty to the magistrate is more strictly guarded by the principles of human nature, than our duty to our fellow-citizens. The love of dominion is so strong in the breast of man, that many not only submit to, but court all the dangers, and fatigues, and cares of government; and men, once raised to that station, though often led astray by private passions, find, in ordinary cases, a visible interest in the impartial administration of justice. The persons who first attain this distinction, by the consent, tacit or express, of the people, must be endowed with superior personal qualities of valor, force, integrity, or prudence, which command respect and confidence; and, after government is established, a regard to birth, rank, and station, has a mighty influence over men, and enforces the decrees of the magistrate. The prince or leader exclaims against every disorder which disturbs his society. He summons all his partisans and all men of probity to aid him in correcting and redressing it; and he is readily followed by all indifferent persons in the execution of his office. He soon acquires the power of rewarding these services; and in the progress of society, he establishes subordinate ministers, and often a military force, who find an immediate and a visible interest in supporting his authority. Habit soon consolidates what other principles of human nature had imperfectly founded; and men, once accustomed to obedience, never think of departing from that path, in which they and their ancestors have constantly trod,

and to which they are confined by so many urgent and visible motives

But though this progress of human affairs may appear certain and inevitable and though the support which allegiance brings to justice be founded on obvious principles of human nature it cannot be expected that men should beforehand be able to discover them or foresee their operation Government commences more casually and more imperfectly It is probable, that the first ascendent of one man over multitudes begun during a state of war where the superiority of courage and of genius discovers itself most visibly where unanimity and concert are most requisite and where the pernicious effects of disorder are most sensibly felt The long continuance of that state, an incident common among savage tribes inured the people to submission, and if the chieftain possessed as much equity as prudence and valor he became, even during peace, the arbiter of all differences, and could gradually by a mixture of force and consent establish his authority The benefit sensibly felt from his influence made it be cherished by the people at least by the peaceable and well disposed among them and if his son enjoyed the same good qualities government advanced the sooner to maturity and perfection, but was still in a feeble state till the further progress of improvement procured the magistrate a revenue, and enabled him to bestow rewards on the several instruments of his administration, and to inflict punishments on the refractory and disobedient Before that period each exertion of his influence must have been particular, and founded on the peculiar circumstances of the case After it, submission was no longer a matter of choice in the bulk of the community, but was rigorously exacted by the authority of the supreme magistrate

In all governments there is a perpetual intestine struggle, open or secret, between Authority and Liberty, and neither of them can ever absolutely prevail in the contest A great sacrifice of liberty must necessarily be made in every government, yet even the authority, which confines liberty, can never, and perhaps ought never, in any constitution to become quite entire and uncontrollable The sultan is master of the life and fortune of any individual, but will not be permitted to impose new taxes on his subjects a French monarch can impose taxes at pleasure, but would find it dangerous to attempt the lives and fortunes of individuals. Religion also, in most countries, is commonly found to be a very intractable principle and other principles or prejudices frequently resist all the authority of the civil magistrate whose power, being founded on opinion can never subvert other opinions equally rooted with that of his title to dominion The government, which, in common appellation, receives the appellation of free is that which admits of a partition of power among several members, whose united authority is no less, or is commonly greater, than that of any monarch but who, in the usual course of administration, must act by general and equal laws, that are previously known to all the members, and to all their subjects In this sense, it must be owned that liberty is the perfection of civil society but still authority must be acknowledged essential to its very existence and in those contests which so often take place between the one and the other, the latter may, on that account, challenge the preference Unless perhaps one may say (and it may be said with some reason) that a circumstance, which is essential to the existence of civil society, must always support itself, and needs be guarded with less jealousy, than one that contributes only to its perfection, which the indolence of men is so apt to neglect, or their ignorance to overlook.

OF THE ORIGINAL CONTRACT

But would we have a more regular, at least a more philosophical refutation of

this principle of an original contract, or popular consent, perhaps the following observations may suffice

All *moral* duties may be divided into two kinds The *first* are those to which men are impelled by a natural instinct or immediate propensity which operates on them, independent of all ideas of obligation, and of all views either to public or private utility Of this nature are love of children, gratitude to benefactors pity to the unfortunate When we reflect on the advantage which results to society from such humane instincts, we pay them the just tribute of moral approbation and esteem but the person actuated by them feels their power and influence antecedent to any such reflection

The *second* kind of moral duties are such as are not supported by any original instinct of nature, but are performed entirely from a sense of obligation, when we consider the necessities of human society, and the impossibility of supporting it, if these duties were neglected It is thus *justice*, or a regard to the property of others, *fidelity*, or the observance of promises, become obligatory, and acquire an authority over mankind For as it is evident that every man loves himself better than any other person, he is naturally impelled to extend his acquisitions as much as possible, and nothing can restrain him in this propensity but reflection and experience, by which he learns the pernicious effects of that license, and the total dissolution of society which must ensue from it His original inclination therefore, or instinct, is here checked and restrained by a subsequent judgment or observation

The case is precisely the same with the political or civil duty of *allegiance* as with the natural duties of justice and fidelity Our primary instincts led us either to indulge ourselves in unlimited freedom, or to seek dominion over others, and it is reflection only which engages us to sacrifice such strong passions to the interests of peace and public order. A small degree of experience and observation suffices to teach us, that society cannot possibly be maintained without the authority of magistrates, and that this authority must soon fall into contempt where exact obedience is not paid to it The observation of these general and obvious interests is the source of all allegiance, and of that moral obligation which we attribute to it

What necessity, therefore, is there to found the duty of *allegiance*, or obedience to magistrates, on that of *fidelity*, or a regard to promises, and to suppose that it is the consent of each individual which subjects him to government, when it appears that both allegiance and fidelity stand precisely on the same foundation, and are both submitted to by mankind, on account of the apparent interests and necessities of human society? We are bound to obey our sovereign, it is said, because we have given a tacit promise to that purpose But why are we bound to observe our promise? It must here be asserted, that the commerce and intercourse of mankind, which are of such mighty advantage, can have no security where men pay no regard to their engagements In like manner may it be said that men could not live at all in society, at least in a civilized society, without laws, and magistrates, and judges, to prevent the encroachments of the strong upon the weak, of the violent upon the just and equitable. The obligation to allegiance being of like force and authority with the obligation to fidelity, we gain nothing by resolving the one into the other The general interests or necessities of society are sufficient to establish both

If the reason be asked of that obedience which we are bound to pay to government, I readily answer, *Because society could not otherwise subsist*, and this answer is clear and intelligible to all mankind Your answer is, *Because we should keep our word* But besides that nobody, till trained in a philosophical system, can either comprehend or relish this answer; besides this, I say, you find yourself em-

barrassed when it is asked, *Why we are bound to keep our word?* Nor can you give any answer but what would immediately, without any circuit, have accounted for our obligation to allegiance

But *to whom is allegiance due, and who is our lawful sovereign?* This question is often the most difficult of any, and liable to infinite discussions When people are so happy that they can answer, *Our present sovereign, who inherits, in a direct line, from ancestors that have governed us for many ages,* this answer admits of no reply even though historians in tracing up to the remotest antiquity the origin of that royal family may find, as commonly happens, that its first authority was derived from usurpation and violence It is confessed that private justice, or the abstinence from the properties of others, is a most cardinal virtue Yet reason tells us that there is no property in durable objects, such as land or houses, when carefully examined in passing from hand to hand, but must, in some period, have been founded on fraud and injustice The necessities of human society neither in private nor public life, will allow of such an accurate inquiry, and there is no virtue or moral duty but what may, with facility, be refined away, if we indulge a false philosophy in sifting and scrutinizing it, by every captious rule of logic, in every light or position in which it may be placed

The questions with regard to private property have filled infinite volumes of law and philosophy, if in both we add the commentators to the original text, and in the end we may safely pronounce, that many of the rules there established are uncertain, ambiguous, and arbitrary The like opinion may be formed with regard to the succession and rights of princes, and forms of government Several cases no doubt occur, especially in the infancy of any constitution, which admit of no determination from the laws of justice and equity, and our historian Rapin pretends, that the controversy between Edward the Third and Philip de Valois was of this nature, and could be decided only by an appeal to heaven, that is, by war and violence

Who shall tell me, whether Germanicus or Drusus ought to have succeeded to Tiberius, had he died while they were both alive, without naming any of them for his successor? Ought the right of adoption to be received as equivalent to that of blood, in a nation where it had the same effect in private families, and had already, in two instances, taken place in the public? Ought Germanicus to be esteemed the elder son, because he was born before Drusus, or the younger, because he was adopted after the birth of his brother? Ought the right of the elder to be regarded in a nation, where he had no advantage in the succession of private families? Ought the Roman empire at that time to be deemed hereditary because of two examples, or ought it even so early, to be regarded as belonging to the stronger or to the present possessor, as being founded on so recent an usurpation?

Commodus mounted the throne after a pretty long succession of excellent emperors, who had acquired their title not by birth, or public election, but by the fictitious rite of adoption The bloody debauchee being murdered by a conspiracy, suddenly formed between his wench and her gallant, who happened at that time to be *Prætorian Præfect,* these immediately deliberated about choosing a master to human kind, to speak in the style of those ages, and they cast their eyes on Pertinax Before the tyrant's death was known, the *Præfect* went secretly to that senator, who, on the appearance of the soldiers, imagined that his execution had been ordered by Commodus He was immediately saluted emperor by the officer and his attendants, cheerfully proclaimed by the populace, unwillingly submitted to by the guards, formally recognized by the senate, and passively received by the provinces and armies of the empire.

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The general obligation, which binds us to government, is the interest and necessities of society; and this obligation is very strong. The determination of it to this or that particular prince, or form of government, is frequently more uncertain and dubious. Present possession has considerable authority in these cases, and greater than in private property; because of the disorders which attend all revolutions and changes of government.

We shall only observe, before we conclude, that though an appeal to general opinion may justly, in the speculative sciences of metaphysics, natural philosophy, or astronomy, be deemed unfair and inconclusive, yet in all questions with regard to morals, as well as criticism, there is really no other standard, by which any controversy can ever be decided. And nothing is a clearer proof, that a theory of this kind is erroneous, than to find, that it leads to paradoxes repugnant to the common sentiments of mankind, and to the practice and opinion of all nations and all ages. The doctrine, which founds all lawful government on an *original contract*, or consent of the people, is plainly of this kind; nor has the most noted of its partisans, in prosecution of it, scrupled to affirm, *that absolute monarchy is inconsistent with civil society, and so can be no form of civil government at all;*[2] and *that the supreme power in a state cannot take from any man, by taxes and impositions, any part of his property, without his own consent or that of his representatives.*[3] What authority any moral reasoning can have, which leads into opinions so wide of the general practice of mankind, in every place but this single kingdom, it is easy to determine.

The only passage I meet with in antiquity, where the obligation of obedience to government is ascribed to a promise, is in Plato's *Crito;* where Socrates refuses to escape from prison, because he had tacitly promised to obey the laws. Thus he builds a *Tory* consequence of passive obedience on a *Whig* foundation of the original contract.

New discoveries are not to be expected in these matters. If scarce any man, till very lately, ever imagined that government was founded on compact, it is certain that it cannot, in general, have any such foundation.

The crime of rebellion among the ancients was commonly expressed by the terms *νεωτερίζειν novas res moliri* [to innovate or to build up new affairs].

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[2] See Locke on Government, chap. vii. § 90.

[3] Locke on Government, chap. xi. § 138 139, 140.

Burke: The State as Shared History and Tradition

Where Locke, and Rousseau in some ways, puts his emphasis upon the State as a conscious and rational creation of man, Hume and Burke join in emphasizing its natural and irrational features. But Hume treats the problem more as a philosopher with a theory of knowledge, whereas Burke emphasizes feelings, passions, and the wisdom of people in history rather than individual wisdom. If man is a rational animal, it is a collective rationalism in which present generations are collectivized with all generations of man who have gone before. Note Burke's idea of English liberties as being an entailed inheritance of the English people, and his refusal to consider government as a problem in arithmetic. The following selection is from REFLECTIONS ON THE FRENCH REVOLUTION.[1]

[LIBERTIES . . . AN ENTAILED INHERITANCE]

You will observe, that, from Magna Charta to the Declaration of Right, it has been the uniform policy of our Constitution to claim and assert our liberties as an entailed inheritance derived to us from our forefathers, and to be transmitted to our posterity,—as an estate specially belonging to the people of this kingdom, without any reference whatever to any other more general or prior right. By this means our Constitution preserves an unity in so great a diversity of its parts. We have an inheritable crown, an inheritable peerage, and a House of Commons and a people inheriting privileges, franchises and liberties from a long line of ancestors.

This policy appears to me to be the result of profound reflection,—or rather the happy effect of following Nature, which is wisdom without reflection, and above it. A spirit of innovation is generally the result of a selfish temper and confined views. People will not look forward to posterity, who never look backward to their ancestors. Besides, the people of England well know that the idea of inheritance furnishes a sure principle of conservation, and a sure principle of transmission, without at all excluding a principle of improvement. It leaves acquisition free; but it secures what it acquires. Whatever advantages are obtained by a state proceeding on these maxims are locked fast as in a sort of family settlement, grasped as in a kind of mortmain forever By a constitutional policy working after the pattern of Nature, we receive, we hold, we transmit our government and our privileges, in the same manner in which we enjoy and transmit our property and our lives. The institutions of policy, the goods of fortune, the gifts of Providence, are handed down to us, and from us, in the same course and order. Our political system is placed in a just correspondence and symmetry with the order of the world, and with the mode of existence decreed to a permanent body composed of transitory parts,—wherein, by the disposition of a stupendous wisdom, moulding together the great mysterious incorporation of the human race, the whole, at one time, is never old or middle-aged or young, but, in a condition of unchangeable constancy, moves on through the varied tenor of perpetual decay, fall, renovation, and progression. Thus, by preserving the

[1] From *Orations and Essays*, by Edmund Burke, (Aldine edition), published by D. Appleton-Century Company, Inc., 1902.

method of Nature in the conduct of the state, in what we improve we are never wholly new, in what we retain we are never wholly obsolete By adhering in this manner and on those principles to our forefathers, we are guided, not by the superstition of antiquaries, but by the spirit of philosophic analogy In this choice of inheritance we have given to our frame of polity the image of a relation in blood binding up the Constitution of our country with our dearest domestic ties, adopting our fundamental laws into the bosom of our family affections, keeping inseparable, and cherishing with the warmth of all then combined and mutually reflected charities, our state our hearths, our sepulchres, and our altars

Through the same plan of a conformity to Nature in our artificial institutions, and by calling in the aid of her unerring and powerful instincts to fortify the fallible and feeble contrivances of our reason, we have derived several other, and those no small benefits from considering our liberties in the light of an inheritance. Always acting as if in the presence of canonized forefathers, the spirit of freedom, leading in itself to misrule and excess is tempered with an awful gravity This idea of a liberal descent inspires us with a sense of habitual native dignity, which prevents that upstart insolence almost inevitably adhering to and disgracing those who are the first acquirers of any distinction By this means our liberty becomes a noble freedom It carries an imposing and majestic aspect It has a pedigree and illustrating ancestors It has its bearings and its ensigns armorial It has its gallery of portraits, its monumental inscriptions, its records, evidences, and titles We procure reverence to our civil institutions on the principle upon which Nature teaches us to revere individual men on account of their age, and on account of those from whom they are descended All your sophisters can not produce anything better adapted to preserve a rational and manly freedom than the course that we have pursued, who have chosen our nature rather than our speculations, our breasts rather than our inventions, for the great conservatories and magazines of our rights and privileges.

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[Majority Rule]

It is said that twenty four millions ought to prevail over two hundred thousand. True, if the constitution of a kingdom be a problem of arithmetic This sort of discourse does well enough with the lamp post for its second to men who may reason calmly it is ridiculous The will of the many, and their interest, must very often differ, and great will be the difference when they make an evil choice A government of five hundred country attorneys and obscure curates is not good for twenty four millions of men, though it were chosen by eight and-forty millions, nor is it the better for being guided by a dozen of persons of quality who have betrayed their trust in order to obtain that power At present, you seem in everything to have strayed out of the high road of Nature The property of France does not govern it Of course property is destroyed, and rational liberty has no existence All you have got for the present is a paper circulation, and a stock-jobbing constitution and as to the future, do you seriously think that the territory of France, upon the republican system of eighty three independent municipalities, (to say nothing of the parts that compose them,) can ever be governed as one body, or can ever be set in motion by the impulse of one mind? When the National Assembly has completed its work, it will have accomplished its ruin. These commonwealths will not long bear a state of subjection to the republic of Paris They will not bear that this one body should monopolise the captivity of the king, and the dominion over the assembly calling itself national Each will keep its own

portion of the spoil of the Church to itself; and it will not suffer either that spoil, or the more just fruits of their industry, or the natural produce of their soil, to be sent to swell the insolence or pamper the luxury of the mechanics of Paris In this they will see none of the equality, under the pretence of which they have been tempted to throw off their allegiance to their sovereign, as well as the ancient constitution of their country There can be no capital city in such a constitution as they have lately made They have forgot, that, when they framed democratic governments they had virtually dismembered their country The person whom they persevere in calling king has not power left to him by the hundredth part sufficient to hold together this collection of republics The republic of Paris will endeavour, indeed to complete the debauchery of the army and illegally to perpetuate the Assembly, without resort to its constituents, as the means of continuing its despotism It will make efforts, by becoming the heart of a boundless paper circulation, to draw everything to itself but in vain All this policy in the end will appear as feeble as it is now violent

If this be your actual situation, compared to the situation to which you were called, as it were by the voice of God and man, I can not find it in my heart to congratulate you on the choice you have made, or the success which has attended your endeavours I can as little recommend to any other nation a conduct grounded on such principles and productive of such effects That I must leave to those who can see further into your affairs than I am able to do, and who best know how far your actions are favourable to their designs The gentlemen of the Revolution Society, who were so early in their congratulations, appear to be strongly of opinion that there is some scheme of politics relative to this country, in which your proceedings may in some way be useful. For your Dr Price, who seems to have speculated himself into no small degree of fervour upon this subject, addresses his auditors in the following very remarkable words—"I can not conclude without recalling particularly to your recollection a consideration which I have more than once alluded to and which probably your thoughts have been all along anticipating, a consideration with which my mind is impressed more than I can express I mean the consideration of the favourableness of the present times to all exertions in the cause of liberty"

It is plain that the mind of this political preacher was at the time big with some extraordinary design, and it is very probible that the thoughts of his audience who understood him better than I do did all along run before him in his reflection and in the whole train of consequences to which it led

Before I read that sermon, I really thought I had lived in a free country, and it was an error I cherished because it gave me a greater liking to the country I lived in I was, indeed, aware that a jealous ever waking vigilance, to guard the treasure of our liberty, not only from invasion, but from decay, and corruption, was our best wisdom and our first duty. However, I considered that treasure rather as a possession to be secured than as a prize to be contended for I did not discern how the present time came to be so very favourable to all exertions in the cause of freedom The present time differs from any other only by the circumstance of what is doing in France If the example of that nation is to have an influence on this I can easily conceive why some of their proceedings which have an unpleasant aspect, and are not quite reconcilable to humanity, generosity, good faith, and justice, are palliated with so much milky good nature towards the actors, and borne with so much heroic fortitude towards the sufferers It is certainly not prudent to discredit the authority of an example we mean to follow. But allowing this, we are led to a very natural question—What

is that cause of liberty, and what are those exertions in its favour, to which the example of France is so singularly auspicious? Is our monarchy to be annihilated with all the laws, all the tribunals, and all the ancient corporations of the kingdom? Is every landmark of the country to be done away in favour of a geometrical and arithmetical constitution? Is the House of Lords to be voted useless? Is Episcopacy to be abolished? Are the Church lands to be sold to Jews and jobbers, or given to bribe new invented municipal republics into a participation in sacrilege? Are all the taxes to be voted grievances, and the revenue reduced to a patriotic contribution or patriotic presents? Are silver shoe buckles to be substituted in the place of the land tax and the malt tax, for the support of the naval strength of this kingdom? Are all orders, ranks, and distinctions to be confounded that out of universal anarchy joined to national bankruptcy, three or four thousand democracies should be formed into eighty three, and that they may all, by some sort of unknown attractive power be organized into one? For this great end is the army to be seduced from its discipline and its fidelity, first by every kind of debauchery, and then by the terrible precedent of a donative in the increase of pay? Are the curates to be seduced from their bishops by holding out to them the delusive hope of a dole out of the spoils of their own order? Are the citizens of London to be drawn from their allegiance by feeding them at the expense of their fellow subjects? Is a compulsory paper currency to be substituted in the place of the legal coin of this kingdom? Is what remains of the plundered stock of public revenue to be employed in the wild project of maintaining two armies to watch over and to fight with each other? If these are the ends and means of the Revolution Society, I admit they are well assorted, and France may furnish them for both with precedents in point.

I see that your example is held out to shame us. I know that we are supposed a dull sluggish race, rendered passive by finding our situation tolerable, and perverted by a mediocrity of freedom from ever attaining to its full perfection. Your leaders in France began by affecting to admire, almost to adore, the British Constitution, but as they advanced, they came to look upon it with a sovereign contempt. The friends of your National Assembly amongst us have full as mean an opinion of what was formerly thought the glory of their country. The Revolution Society has discovered that the English nation is not free. They are convinced that the inequality in our representation is a 'defect in our Constitution so gross and palpible as to make it excellent chiefly in form and theory,"—that a representation in the legislature of a kingdom is not only the basis of all constitutional liberty in it, but of "all legitimate government, that without it a government is nothing but an usurpation,"—that, "when the representation is partial, the kingdom possesses liberty only partially, and if extremely partial, it gives only a semblance, and if not only extremely partial, but corruptly chosen, it becomes a nuisance' Dr Price considers this inadequacy of representation as our fundamental grievance, and though, as to the corruption of this semblance of representation, he hopes it is not yet arrived to its full perfection of depravity, he fears that "nothing will be done towards gaining for us this essential blessing, until some great abuse of power again provokes our resentment, or some great calamity again alarms our fears, or perhaps till the acquisition of a pure and equal representation by other countries, whilst we are mocked with the shadow, kindles our shame" To this he subjoins a note in these words —"A representation chosen chiefly by the Treasury, and a few thousands of the dregs of the people, who are generally paid for their votes."

You will smile here at the consistency of those democratists, who, when they are not on their guard, treat the humbler part of the community with the greatest

contempt, whilst, at the same time, they pretend to make them the depositories of all power It would require a long discourse to point out to you the many fallacies that lurk in the generality and equivocal nature of the terms inadequate representation I shall only say here, in justice to that old fashioned Constitution under which we have long prospered, that our representation has been found perfectly adequate to all the purposes for which a representation of the people can be desired or devised I defy the enemies of our Constitution to show the contrary To detail the particulars in which it is found so well to promote its ends would demand a treatise on our practical Constitution I state here the doctrine of the revolutionists, only that you and others may see what an opinion these gentlemen entertain of the Constitution of their country, and why they seem to think that some great abuse of power, or some great calamity, as giving a chance for the blessing of a Constitution according to their ideas, would be much palliated to their feelings, you see why they are so much enamoured of your fair and equal representation, which being once obtained the same effects might follow You see they consider our House of Commons as only 'a semblance,' 'a form,' "a theory a shadow," 'a mockery," perhaps a nuisance '

These gentlemen value themselves on being systematic, and not without reason They must therefore look on this gross and palpable defect of representation this fundamental grievance (so they call it), as a thing not only vicious in itself but as rendering our whole government absolutely illegitimate, and not at all better than a downright usurpation Another revolution, to get rid of this illegitimate and usurped government, would of course be perfectly justifiable, if not absolutely necessary Indeed, their principle, if you observe it with any attention, goes much further than to an alteration in the election of the House of Commons, for, if popular representation, or choice, is necessary to the legitimacy of all government, the House of Lords is, at one stroke, bastardised and corrupted in blood That House is no representative of the people at all, even in semblance ' or 'in form The case of the crown is altogether as bad In vain the crown may endeavour to screen itself against these gentlemen by the authority of the establishment made on the Revolution The Revolution which is resorted to for a title on their system wants a title itself The Revolution is built according to their theory upon a basis not more solid than our present formalities, as it was made by a House of Lords not representing any one but themselves, and by a House of Commons exactly such as the present that is as they term it by a mere shadow and mockery' of representation

Something they must destroy, or they seem to themselves to exist for no purpose One set is for destroying the civil power through the ecclesiastical another for demolishing the ecclesiastic through the civil They are aware that the worst consequences might happen to the public in accomplishing this double ruin of Church and State but they are so heated with their theories that they give more than hints that this ruin with all the mischiefs that must lead to it and attend it and which to themselves appear quite certain would not be unacceptable to them, or very remote from their wishes A man amongst them of great authority, and certainly of great talents, speaking of a supposed alliance between Church and State says Perhaps we must wait for the fall of the civil powers, before this most unnatural alliance be broken Calamitous, no doubt, will that time be But what convulsion in the political would ought to be a subject of lamentation, if it be attended with so desirable an effect· You see with what a steady eye these gentlemen are prepared to view the greatest calamities which can befall their country!

It is no wonder, therefore, that, with these ideas of everything in their Con

stitution 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 under ground 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 argument 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
Æolus, 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 practise (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 justice, as between their fellows, whether their fellows are in politic 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 favour 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 self defense, the first law of Nature Men can not 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 of infinite modifications, they can not 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 most 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 overcare of a favourite 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 in 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 Ætnam insiluit,' I consider such a frolic rather as an unjustifiable poetic license than as one of the franchises of Parnassus, and whether he were 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

["Distemper of Remedy"]

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 permitt sævos 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 high bred 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 favourite 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 the one to the other without any sort of regard to cause, to person, or to party

In France you are now in the crisis of a revolution, and in the transit from one form of government to another you cannot see that character of men exactly in the same situation in which we see it in this country With us it is militant, with you it is triumphant and you know how it can act, when its power is commensurate to its will I would not be supposed to confine those observations to any description of men, or to comprehend all men of any description within them,—no, far from it! I am as incapable of that injustice as I am of keeping terms with those who profess principles of extremes and who, under the name of religion, teach little else than wild and dangerous politics The worst of these politics of revolution is this they temper and harden the breast, in order to prepare it for the desperate strokes which are sometimes used in extreme occasions But as these occasions may never arrive, the mind receives a gratuitous taint, and the moral sentiments suffer not a little, when no political purpose is served by the depravation This sort of people are so taken up with their theories about the rights of man, that they have totally forgot his nature Without opening one new avenue to the understanding, they have

succeeded in stopping up those that lead to the heart. They have perverted in themselves, and in those that attend to them, all the well-placed sympathies of the human breast.

This famous sermon of the Old Jewry breathes nothing but this spirit through all the political part. Plots, massacres, assassinations, seem to some people a trivial price for obtaining a revolution. A cheap, bloodless reformation, a guiltless liberty, appear flat and vapid to their taste. There must be a great change of scene; there must be a magnificent stage effect; there must be a grand spectacle to rouse the imagination, grown torpid with the lazy enjoyment of sixty years' security, and the still unanimating repose of public prosperity. The preacher found them all in the French Revolution. This inspires a juvenile warmth through his whole frame. His enthusiasm kindles as he advances; and when he arrives at his peroration, it is in a full blaze. Then viewing, from the Pisgah of his pulpit, the free, moral, happy, flourishing, and glorious state of France, as in a birds-eye landscape of a promised land, he breaks out into the following rapture:—

"What an eventful period is this! I am thankful that I have lived to it; I could almost say, 'Lord, now lettest thou thy servant depart in peace, for mine eyes have seen thy salvation.'—I have lived to see a diffusion of knowledge which has undermined superstition and error.—I have lived to see the rights of men better understood than ever, and nations panting for liberty which seemed to have lost the idea of it.—I have lived to see thirty millions of people, indignant and resolute, spurning at slavery, and demanding liberty with an irresistible voice; their king led in triumph, and an arbitrary monarch surrendering himself to his subjects."

Before I proceed further, I have to remark that Dr. Price seems rather to overvalue the great acquisitions of light which he has obtained and diffused in this age. The last century appears to me to have been quite as much enlightened. It had, though in a different place, a triumph as memorable as that of Dr. Price; and some of the great preachers of that period partook of it as eagerly as he has done in the triumph of France. On the trial of the Reverend Hugh Peters for high treason, it was deposed, that, when King Charles was brought to London for his trial, the Apostle of Liberty in that day conducted the triumph. "I saw," says the witness, "his Majesty in the coach with six horses, and Peters riding before the king triumphing." Dr. Price, when he talks as if he had made a discovery, only follows a precedent; for, after the commencement of the king's trial, this precursor, the same Dr. Peters, concluding a long prayer at the royal chapel at Whitehall, (he had very triumphantly chosen his place,) said, "I have prayed and preached these twenty years; and now I may say with old Simeon, 'Lord, now lettest thou thy servant depart in peace, for mine eyes have seen thy salvation.'" Peters had not the fruits of his prayer; for he neither departed so soon as he wished, nor in peace. He became (what I heartily hope none of his followers may be in this country) himself a sacrifice to the triumph which he led as pontiff. They dealt at the Restoration, perhaps, too hardly with this poor good man. But we owe it to his memory and his sufferings, that he had as much illumination and as much zeal, and had as effectually undermined all the superstition and error which might impede the great business he was engaged in, as any who follow and repeat after him in this age, which would assume to itself an exclusive title to the knowledge of the rights of men, and all the glorious consequences of that knowledge.

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["Society Is Indeed a Contract"]

But one of the first and most leading principles on which the commonwealth

and the laws are consecrated is lest the temporary possessors and life-renters in it, unmindful of what they have received from their ancestors, or of what is due to their posterity, should act as if they were the entire masters, that they should not think it amongst their rights to cut off the entail or commit waste on the inheritance, by destroying at their pleasure the whole original fabric of their society hazarding to leave to those who come after them a ruin instead of an habitation,—and teaching these successors as little to respect their contrivances as they had themselves respected the institutions of their forefathers By this unprincipled facility of changing the state as often and as much and in as many ways as there are floating fancies or fashions, the whole chain and continuity of the commonwealth would be broken no one generation could link with the other men would become little better than the flies of a summer

And first of all, the science of jurisprudence, the pride of the human intellect which, with all its defects, redundancies and errors, is the collected reason of ages combining the principles of original justice with the infinite variety of human concerns, as a heap of old exploded errors would be no longer studied Personal self sufficiency and arrogance (the certain attendants upon all those who have never experienced a wisdom greater than their own) would usurp the tribunal Of course no certain laws, establishing invariable grounds of hope and fear, would keep the actions of men in a certain course, or direct them to a certain end Nothing stable in the modes of holding property or exercising function could form a solid ground on which any parent could speculate in the education of his offspring, or in a choice for their future establishment in the world No principles would be early worked into the habits As soon as the most able instructor had completed his laborious course of institution, instead of sending forth his pupil accomplished in a virtuous discipline fitted to procure him attention and respect in his place in society, he would find everything altered, and that he had turned out a *poor* creature to the contempt and derision of the world, ignorant of the true grounds of estimation Who would insure a tender and delicate sense of honour to beat almost with the first pulses of the heart, when no man could know what would be the test of honour in a nation continually varying the standard of its coin No part of life would retain its acquisitions Barbarism with regard to science and literature, unskilfulness with regard to arts and manufactures, would infallibly succeed to the want of a steady education and settled principle and thus the commonwealth itself would in a few generations crumble away be disconnected into the dust and powder of individuality and at length dispersed to all the winds of heaven

To avoid therefore the evils of inconstancy and versatility, ten thousand times worse than those of obstinacy and the blindest prejudice we have consecrated the state that no man should approach to look into its defects or corruptions but with due caution, that he should never dream of beginning its reformation by its subversion, that he should approach to the faults of the state as to the wounds of a father with pious awe and trembling solicitude By this wise prejudice we are taught to look with horror on those children of their country who are prompt rashly to hack that aged parent in pieces and put him into the kettle of magicians, in hopes that by their poisonous weeds and wild incantations they may regenerate the paternal constitution and renovate their father's life

Society is, indeed, a contract. Subordinate contracts for objects of mere occasional interest may be dissolved at pleasure, but the state ought not to be considered as nothing better than a partnership agreement in a trade of pepper and coffee, calico or tobacco, or some other such low concern, to be taken up for a little temporary interest, and to be

dissolved by the fancy of the parties. It is to be looked on with other reverence; because it is not a partnership in things subservient only to the gross animal existence of a temporary and perishable nature. It is a partnership in all science, a partnership in all art, a partnership in every virtue and in all perfection. As the end of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born. Each contract of each particular state is but a clause in the great primeval contract of eternal society, linking the lower with the higher natures, connecting the visible and invisible world, according to a fixed compact sanctioned by the inviolable oath which holds all physical and all moral natures each in their appointed place. This law is not subject to the will of those who, by an obligation above them, and infinitely superior, are bound to submit their will to that law. The municipal corporations of that universal kingdom are not morally at liberty, at their pleasure, and on their speculations of a contingent improvement, wholly to separate and tear asunder the bands of their subordinate community, and to dissolve it into an unsocial, uncivil, unconnected chaos of elementary principles. It is the first and supreme necessity only, a necessity that is not chosen, but chooses, a necessity paramount to deliberation, that admits no discussion and demands no evidence, which alone can justify a resort to anarchy. This necessity is no exception to the rule; because this necessity itself is a part, too, of that moral and physical disposition of things to which man must be obedient by consent or force: but if that which is only submission to necessity should be made the object of choice, the law is broken. Nature is disobeyed, and the rebellious are outlawed, cast forth, and exiled, from this world of reason, and order, and peace, and virtue, and fruitful penitence, into the antagonist world of madness, discord, vice, confusion, and unavailing sorrow.

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AUTHORS	AMERICA	EUROPE	THE EAST
1815	19th cen. Latin America: colonies revolt during Spanish confusion after Napoleon. Long period instability and adjustment.	1815-22 Government by world conference. 1815-48 Metternich system controls central Europe. Liberalism suppressed.	19th cen. Turkey torn apart by wars. British expanding interests in Near East back Turkey against Russia in Crimean War 1853-56.
Jefferson 1743-1826	19th cen. United States: Nationalism grows. Industrial revolution grows with inventions.	1815-48 Era of reform in rest of Europe. Spread of nationalism, liberalism.	Persia pawn between Russia, Britain. Br., Fr., Dutch dominate East Indies.
Madison 1751-1836	1823 Monroe Doctrine ends colonization of America by European powers.	1815-20 Bad economic depression in England. Demands violent for parliamentary reform.	British settle Australia.
Fichte 1762-1814		1821-31 Greek War of Independence. Balkans working free of Turkey.	China and Japan: Economic ills acute. China favors foreign trade; Japan opposes it. Britain, France force trade concessions in China. Banditry, rebellion.
	1828-36 Jackson Administration: Rise of modern party system, extension of suffrage.	1830 Revolutions in Poland, France, Belgium.	1800-28 Persian Wars with Russia.
Austin 1790-1859	1836 Texas wins independence from Mexico.	1830-46 Whigs answer British reform demands. Trade unionism develops briefly.	1824-26; 1852-53; 1885 British-Burmese Wars.
1840		1837-1901 Victoria rules England.	
Carlyle 1795-1881	1845 Annexation of Texas to United States.	1848 Revolutions in France, Italy, Germany, Austria, Hungary, Croatia, Balkans. 1848 France proclaims a republic.	1839-42; 1878-81 British-Afghan Wars.
		1848 Switzerland organized as federal union.	
Tocqueville 1805-1859	1846-48 War with Mexico. U.S. wins California and New Mexico. Rapid western growth.	1849-70 Unification of Italy. Napoleon backs Piedmont against Austria.	
Mill 1806-1873	1848 Gold discovered in California.	1852-70 France's Second Empire: Napoleon III.	
	1848 First Women's Rights convention.	1853-56 Crimean War. Russia loses control of Danube, part of Bessarabia, Black Sea forts.	1853-54 Perry opens Japan to trade.
Lincoln 1809-1865	1850 Slavery compromise in new territories.	1861 Russia frees the serfs.	1857-58 Great Mutiny in India suppressed by British, ends Mogul Empire.
Marx 1818-1883	1857 Dred Scott decision by Supreme Court.	1861 Kingdom of Italy proclaimed. 1862-90 Rise of Prussia and Bismarck.	1858 End of East India Co. British crown takes over government of India.
Engels 1820-1895	1860 Lincoln elected. S. Carolina secedes.	1863-64 Second Polish Revolution. 1868-94 Disraeli vs. Gladstone.	1861-76 Abdul Aziz westernizes Turkey.
1865	1861-65 Civil War in the United States.	19th cen. Revival of Catholicism. Vatican Council 1869 proclaims papal infallibility.	1865-76 Russians advance in central Asia.
Green 1836-1882	1867 British create Dominion of Canada.	1870-71 Franco-Prussian War. France proclaims Third Republic. Paris Commune.	1866-1925 Sun Yat-sen in China, revolutionist.
	1867 U.S. purchases Alaska for $7,200,000.	1871 Foundation of German Empire. Era of reform, commercial expansion.	1869-1912 Meiji Period in Japan develops modern world power on western pattern.
	1869 Br. purchase Northwest Territories.	1873-74 First Spanish Republic shortlived.	1869 Suez canal opened, short route east.

		Late 19th cen. Russia begins to industrialize.	
	1886 AFL organized—labor awakening.	Late 19th cen. France series of crises—Boulanger, Panama, Dreyfus.	1884 Russia at Persian boundary. Br. oppose.
Hobhouse 1864-1929	1887 Interstate Commerce Act begins control of transportation by Federal Government.	1877-78 Russo-Turkish War weakens Turks	1886 First National Congress in India.
	1889 First Pan-American Congress.	Balkans win independence by Treaty of Berlin.	
	1889 Brazil proclaims federal republic.		
1890	1890 Sherman Anti-trust Act.	19th cen. Scandinavian countries retain monarchies, liberalize constitutions	
	1892-93 Severe depression, agrarian unrest.	1893 Independent Labor Party in England.	1889 Japan adopts constitution.
	1896 Bryan-McKinley campaign. Defeat of agrarian radicalism, triumph of capitalism.		1891-95 Sino-Japanese war over Korea.
	1898 Spanish-American War. Hawaii annexed. U.S. wins Guam, Philippines, Porto Rico.	1898 Spanish-American War.	1896-1908 Revival of Young Turk movement.
			1898 Europe grabs Chinese concessions.
			1900 Boxer Rebellion in China
			1901 Commonwealth of Australia created
	1900-08 Progressive era. Pure food law, anti-trust prosecutions, municipal reforms.	1905 Abortive Russian revolution.	1904-05 Russo-Japanese War over Korea
		1905 Separation of Norway from Sweden.	1905 Persian Revolution
	1908 Severe but short lived panic.		1907 New Zealand made British Dominion
Lenin 1870-1924	1912 Wilson elected. More reform tending toward national control over economy.	1910 Portugal proclaims republic.	1910 Nationalist movement grows in India
			1910 Japan annexes Korea
	1912 Alaska given territorial status.	1912-13 Balkan Wars.	1911-12 Chinese Revolution sets up republic
	1914 Adoption of Federal Reserve System.	1914-18 World War I—Germany vs. Allies.	1913 Coup d'état of Young Turks—liberals.
1915	1914 Opening of Panama Canal.	1917 Bolshevik Revolution in Russia.	
	1916 Adoption of national income tax.	1918 Czechoslovakia, Hungary, Poland independent, proclaim republics	
	1917-18 World War I.		
	1918 Prohibition voted into Constitution	1918 Yugoslavia independent kingdom.	
Hoover	1919 Woman suffrage added to Constitution.	1919 General extensions of suffrage.	1920— Civil war in China.
1874-	1920 Election of Harding. Normalcy.	1919, 21, -26 British coal strikes	1923 Turkey proclaims republic. Westernized.
Pius XII 1876-	1921 Beginning of agricultural depression.	1920 League of Nations formed to keep peace	
	1929 Beginning of world depression.		1928 Kuomintang break with Russian Communism.
	1932 F. D. Roosevelt elected. New Deal reforms. Extension of national control over banking, agriculture, securities, labor. Govt. program of relief, public works.		
F. D. Roosevelt 1882-1945		1922 Irish Free State proclaimed.	1931-32 Japanese occupy Manchuria.
Mussolini 1883-1945		1922 Mussolini comes to power in Italy.	
		1924 First labor cabinet in Britain.	1935 Govt. of India Act: Indian government reorganized by British for wider autonomy. Burma, Aden separated from India.
Truman 1884-	1935 New Deal declared unconstitutional.	1930 World economic depression.	
	1936 Roosevelt re elected by landslide.	1933 Hitler seizes power in Germany.	
Hitler 1889-1945	1937 Defeat of court packing plan.	1935 Italy invades Ethiopia.	
	1937 Roosevelt's "quarantine" speech.	1936 Beginning of Spanish Civil War.	1936 Pan-Arab Congress created.
	1938 Lima Declaration. Pan-American mutual assistance pact. Growing talk of war.	1938 Munich talks fail to avert war.	
Spaak 1899-	1941-45 World War II.	1939-45 World War II: Axis vs. Allies.	1937-45 Sino-Japanese War develops into eastern phase of World War II

TWELVE

Nineteenth-Century Liberalism—British and American

WHAT IS LIBERALISM? ANY WORD that ends in *ism* and applies to or attempts to denote a political creed inevitably becomes a battleground littered with conflicting meanings and ambiguities. *Communism, socialism, élitism*—they all are much fought-over words—definition is at your peril. But *liberalism* is one of the most disputed words in the language.

The Origins of Modern Liberalism—The English Strand

Its root *liber* means free, and freedom is surely its essence. Men have assigned queer meanings to freedom—including Tolstoi's definition of freedom for the ox: "loving its own yoke." Rousseau would have "forced men to be free." Kant has a better idea of combining freedom with moral law. Not the pursuit of happiness, he holds, is the end of existence and hence a free man's goal; but, guided by reason, men seek to fulfill their duty as given by their moral consciousness. This produces, by the process of growth, an appreciation of the mutual rights of others, and can be formulated as the Categorical Imperative, like the Golden Rule of Christianity. Therefore, freedom means right to express one's own individual moral responsibility—and to be treated as a moral "end in itself," not as a means to an end. At the same time, moral freedom *means freedom under law—a law that is freely accepted through this reinterpretation of the "General Will,"* which Rousseau had tried less successfully to describe. This gradual evolution of the general will, through law that grows from community life, is not too far from Burke's idea of the organic growth of the nation.

But this view of liberalism, that Kant identified with the republican institutions which would secure equal opportunity for these rights, is not what was generally meant by the word in the nineteenth century. Freedom was defined as freedom *from* state interference—economic *laissez faire*—and often left there. This was indeed the usual definition which went along

with its later development to describe a party in England and other parties founded (professedly) on the same principles elsewhere. Even in this narrow use, however, other overtones of *liberal* were present—*free*, in the sense of emotionally generous, large-handed, magnanimous; *free*, in the sense of being attached to freedom and hence against any form of restraint on human liberties; and so forth.

Perhaps it is necessary to remember, today, that the name liberal is self-invoked to describe men of every persuasion, from those who believe that to be liberal is to demand state control of all monopoly involving either the regulation of all utilities; or, in a more extreme doctrine, the scrapping of large-scale business and a return to small primitive business units as the price of competition; or, at the other extreme, state socialism. Under the guise of warding off *étatisme* or even state regulation, on the other hand, many genuinely monopolistic private interests claim to be "liberal" in battling against "more government interference" or planning. With perhaps the best right, *liberal* is a title claimed by those who fight any encroachment on civil or political liberties, and who wish to extend these as widely as humanity itself—no holds barred. These liberals see no true liberalism except that which would protect even the right of totalitarians—communist or fascist—not only to their views but to organization to spread those views, short of violent methods of a directly illegal character. They are willing to run the risk of political and even personal annihilation rather than violate their own high principles. Yet others feel that the true liberal must fight for the life of liberalism by eternal vigilance against the abuse of its protections by those who would destroy the citadel of freedom from within, by claiming rights that they would never concede, in order to destroy all rights. These last call Lincoln to their aid, as an exemplar, in his suppression of extreme claims on civil liberties to win a civil war.

Who among these is the true liberal?

In a general sense, the word liberal today may well cover them all, so long as they agree on constitutional and democratic procedures—freedom under settled rules of law grounded in consent. To be a liberal is to oppose totalitarianism—but it is *really* to oppose, and not to wear a false mask while seeking to betray.

In order to narrow the word to its original meaning, however, as applied to the growth of a nineteenth-century movement, whose tap root was utilitarianism, let us go back to its historical setting and origins. Even in the nineteenth century, the views of liberals underwent a radical transformation. If the term today is to be used to cover all believers in constitutional democracy, and a government limited by a fundamental law, we should be aware that it is capable of many uses, and abuses, and

that it is not the same term that Cobden and Bright or Gladstone applied to themselves.

The Economic vs. the Moral Interpretation of Liberalism

None can doubt that the impact of the Reformation in religion, the development of modern capitalism that antedated even the Industrial Revolution, and the rise of the middle classes and "businessmen" which accompanied it, all played their part in the origins of liberalism. To attribute liberalism, however, to the predominance of economic causes over all other factors, as does Professor Laski in his *Rise of Liberalism*, is to miss the more sweeping currents that we have noted before and that are admirably studied in such works as Ruggiero's *History of European Liberalism* and in the works of Élie Halévy. De Tocqueville, also, in his magistral *Democracy in America* and in his work on the *Ancien Régime*, traced the spiritual as well as the physical currents that contributed to the climate of liberalism, and the counter-currents, too.

It was an age, after all, in which old bonds were being broken, in which the doctrine of progress seemed to be buttressed by the successes of science. The individual came into his own in times that demanded pioneering in many fields and the breaking of new paths for humanity.

Today many scholars even outside the fold of Roman Catholicism deplore the loss of that unity of Christendom which Henry Adams thought to have reached its apogee in the thirteenth century and to have found its symbol in the great cathedrals of Chartres and Mont Saint Michel.[1] The subsequent division of Europe into national states and the victories of the Newtonian conception of science represent, to this way of thinking, unqualified disasters. Many socialists who view capitalism as the root of all evil are inclined, also, to attribute to the Reformation and to Protestant morality the acquisitive extremes of liberalism that R. H. Tawney has studied in his *Religion and the Rise of Capitalism*, following, with a twist of the original meaning, Max Weber's earlier treatment in *The Protestant Ethic and the Spirit of Capitalism*. But liberalism released spiritual energies other than just the unchained acquisitiveness of "economic man." There had always been acquisitiveness, but never such world-wide opportunities for wealth-creation and for gain. Liberalism unloosed also the last bonds on free inquiry and at the same time set in motion a great current of humanitarian concern over man's inhumanity to man. The beginnings of this flood of sensitivity to human suffering and want were not impressive. They were married to the cold calculations of "enlightened self-interest." There

[1] See *Education of Henry Adams* and *Mont Saint Michel and Chartres*.

is small question that the Age of Reason and the spiritual cynicism, if not obscurantism, of Voltaire were moderated at first only by the attempts like the Romanticist efforts of Rousseau and, in a different vein, those of the Utilitarians to bring in the spirit of humanitarianism and what Bentham called "benevolence." These emotions were considered to be natural attributes of the human spirit, and an effort was made by the Utilitarians and their positivist successors to fit them into the context of a scientific method as rigorous as Newton and his successors had applied to the physical world. Newton's system added the finality of prestige to the physical sciences and gave an overwhelming impetus to the application of the methods of physical science, even of mechanics, to the study of politics and all human relations. Even loving-kindness, the Christian "charity" of Saint Paul, had to be brought under this moral, "felicific" calculus.

On the other hand, to deny to the revival of such movements as Wesleyanism in England or to Hannah More and Wilberforce their effects in what amounted to a "second Puritan revolution," spreading to many other lands and especially to America, would be to miss one of the profound moral dynamics of the times. It was this sense of individual responsibility under a God-fearing and somewhat fundamentalist view of religion that gave a tremendous and almost crusading drive to the British Empire in its days of glory. It helped to carry the sweep of the English-speaking people, particularly, through the far places of the earth. Liberalism was a natural doctrine for the nonconformists and evangelical congregations. The anti-slavery movement and the missionary societies show the deep roots of non-economic moral causes. This liberalism was no mere matter of class interests, parliamentary machinery, or mechanics. It had spiritual currents that were not limited to the individualism of Locke or to the pain-pleasure calculus of Bentham or to the classical economy that started with Adam Smith's *Wealth of Nations* and in his work on the *Moral Sentiments* and that came to its extreme range in the Manchester School with Cobden and Bright. It owed much to the Age of Reason, to the economic setting of the breaking up of mercantilism, to the rise of an industrial bourgeoisie and to the breakdown of that system of imperial control over colonies and planned tariff protection and navigation acts against which the American colonies rebelled. But it owed at least as much to a revival of religious and moral values that bore within themselves the great humanitarian movements of the nineteenth century, including the Factory Acts, the reform of the Poor Laws, and the abolition of slavery. The permanent spiritual heritage of liberalism was, after all, a state of mind and an attitude toward arbitrary or unjust political (or, for that matter, any other kind of) power. It can best be il-

lustrated, perhaps, in the dictum of Lord Acton, whose *History of Freedom* is a shining example of the liberal spirit: "All power tends to corrupt, and absolute power corrupts absolutely."

The questioning of moral values went along with the growth of science. The gradual dulling of the romantic fervor with which Wordsworth, Shelley, and Byron greeted an age of freedom may be judged by the subsequent evolution of English letters.

Decline of Liberal Optimism

By the end of the century, literary prophets in England, at least, had run their course into a spiritual lassitude that came to be known as *fin de siècle*. The general temper is further illustrated in sprightly fashion by Gilbert and Sullivan and, in a less happy mood, by Oscar Wilde. The age of Queen Victoria, in effect, spanned the entire development. It marked a period in which even Kipling's imperialism became a little disillusioned and weary and at the end of which Joseph Chamberlain said of the British Empire, run by the United Kingdom alone, "The weary Titan staggers under the too vast orb of his fate."

After the testy conservatism of Dr. Samuel Johnson and the profounder tones of Edmund Burke, Coleridge, among the litterateurs, and later Bagehot, among the political writers, were the critics of liberalism, but they hardly parallel de Maistre, de Bonald, and the French conservative reaction. Dickens pulled out all the sentimental stops in his treatment of the poor, but remained, withal, complacent. Carlyle's fulminations and rhetoric led him to a combination of hero worship and socialism anticipatory of fascism; and Ruskin abhorred the deadly monotony of factory production to a point that led him into anticipations of the romantic revival of the guild socialists. In France, both Fourier and Saint Simon were trying to escape statism by mechanistic organizations of society for production.

In the United States experiments like Brook Farm, New Icaria, the Oneida Community, and other primitive socialist ventures were borne on the same great moral currents that moved the abolitionists, and later the prohibitionist foes of alcohol. A rising labor and farm unrest and demand for reforms in the economic system, of which Henry George in *Progress and Poverty* is only one example, show other facets of the shift from liberalism as *laissez faire*. The Granger Movement and the Populists, the "Greenbackers" and Bryanism among the economic reformers paralleled a yeasty growth of "Knights of Labor" and the struggles of Altgeld and Debs to give continuing leadership to American radicalism. Marxism had very little to do with shaping these native movements.

The Civil War had placed the Republican Party in the saddle. The sweep of opening a continent meant the growth of "big business" as a natural corollary of the great markets for industries built up behind high tariff protection—particularly for a country still exporting mainly primary products. But Jacksonian democracy had opened the sluice gates of popular suffrage, with woman suffrage already making gains in the radical western frontier states before the end of the nineteenth century. The urban workers were growing in power and in ability to swing elections. Political liberalism was established in the United States. Economic liberalism had won at least the victory of an almost unquestioning acceptance of private enterprise as the magic for expansion, tempered, however, in the United States by state intervention through tariff protection, great public grants, public works, and a growing acceptance of regulation, at least in the field of the utilities.[2] The rise of the city proletariat, the century has been called. There had perhaps always been a city "proletariat," but in the latter part of the nineteenth century it was growing by enormous bounds both in size and in power. That is, if proletariat be defined as a laboring population dependent on employment by others, it was growing to new dimensions with the spread of the factory across continents, following the harnessing of energy by steam, by electricity, and by the combustion engine fed by petroleum.

On the Continent, Germany was pursuing a nationalism that Bismarck had already turned into a state that planned primarily for military strength. Mazzini in Italy had been a great prophet of liberal doctrines, but the momentum of imperialism seized even this unfit country. French thought after Auguste Comte was singularly dominated by the positivist and pseudo-scientific "sociologues" whose teachings we shall treat separately later.

What was it in liberalism that so marked the nineteenth century with a dawn of hope and fervor and that brought it to a close in so different a mood?

Let us consider first the economic and institutional aspects of liberal doctrines. It has often been noted that the dynamics of free enterprise were peculiarly suited to the Industrial Revolution and to the most rapid possible spreading of commercial empires to the ends of the earth. The middle classes found in Parliament a way to power as against the landed gentry and agricultural conservatives.[3] The opening of the American

[2] See Charles Beard, *Contemporary American History*, particularly Chs. II-IV.

[3] For the characteristics of this polarity between urbanism and country see Werner Sombart, *Socialism and Social Development* and *High Capitalism*.

For the political balance, which is interpreted as the true liberal tradition, between the *laissez faire* of the progressive industrial middle class and the conservative

continent was paralleled by the dividing up of the world among the colonial powers, with the later comers at the feast getting what they regarded as very inadequate shares. They became "Have Nots." The older empires of Spain and Portugal were threatened and were in the process of disappearing after the loss of their South American colonies. The French Empire, seemingly exhausted for the better part of a century by the great blood-letting of Napoleon, began to undergo a renaissance at the end of the century. Britain reached the zenith of her empire during this period; and even the United States, despite her old anti-imperialist tradition, spanned the Pacific as far as the Philippines and acquired an almost unwilling hold on the Caribbean and on Puerto Rico from the wreck of Spanish possessions in that area. Russia, in the meantime, had steadily spread to the Pacific and was about to undergo the first challenge from an Oriental power—a challenge that ended in the temporary check of the Russo-Japanese War. She represented, nevertheless, the most solid land mass and the most rapidly increasing population of all the imperial systems, even at the end of the nineteenth century.

It may seem ironic that Castlereagh and Canning should have been the champions of popular revolt in the New World and the protectors of some measure of liberty in the Old against the system of the Holy Alliance which Alexander the First and Metternich were erecting on the Continent. Ironic, because Castlereagh himself was the father of the blackest reaction in England against the doctrine of the French Revolution and a staunch upholder of Tory oppression in the defense of the *status quo*. But, as Canning had said of himself, he was bringing into being by skillfully implanting the seeds of the Monroe Doctrine, "a new world to redress the balance of the old." The imperial interest of Britain, and its perpetual concern to establish a balance of power, made even

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aristocracy backed by agricultural classes see F. Watkins, *Political Tradition of the West*, especially pp. 181–207. Professor Watkins interprets constitutionalism as liberalism, or "the liberal tradition," and equates it with the search for "freedom under law."

"Modern liberalism is the secular form of Western civilization. If law is to serve as a reliable check on the acts of public officials, it is necessary that there should be some external agency strong enough to hold those officials to the performance of their legal duties." (p. xi.)

After the disappearance of this sanction in the decline of the moral authority of the Church over rulers following the Renaissance and Reformation, he thinks, the West narrowly escaped destruction of all restraint on authority through royal absolutism. Now parliamentary institutions, which have afforded power and a sense of awakened political responsibility to a succession of social classes, afford a secular substitute for the authority of the Church. But how do parliamentary institutions constitute an "*external* agency"? Or classes?

The brilliant but rather brittle reasoning of this study of Professor Watkins seems to the authors to illustrate the impossibility of capturing the essence of liberalism or constitutionalism by any *mechanistic* formula.

British Tories the proponents of opposition to the reaction of the Holy Alliance.

British Reformers: The Proto-Utilitarians

"Natural advantage," which had been put to different uses by Hume, was to be turned by Bentham into the calculus of utility and by Adam Smith, in his *Wealth of Nations,* into the first rounded system of *laissez-faire* economics based upon the celebrated passage often quoted:

> All systems of preference or of restraint being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man, or order of men.[4]

But, as Professor S. McKee Rosen in his previously cited *Modern Individualism,* and H. N. Brailsford in his classic, *Shelley, Godwin and Their Circle,* have noted alike, the writings of Paine and Godwin, as well as of Priestley and Price, carried a still stronger current of individualism and the germs of more extreme theories of democracy. Priestley and Price were both, in a sense, disciples of Locke, although the mob that shouted "Down with the Philosophers" while they burned Dr. Priestley's house represented a reaction natural to Englishmen during the period of the terror of the French Revolution.

The good doctor had, by his attacks on corruption and his philosophic treatment of natural utility, combining Locke and Rousseau, inspired in Bentham the classic formula which was later to mark utilitarianism: "The greatest good of the greatest number."[5] Price, on the other hand, in his *Discourse on the Love of our Country,* harked back mainly to the Revolution of 1688 and to Locke for the *right* to overthrow a government that had been guilty of violating the *rights* of the governed and to choose the rulers, as well as to frame the form of government. Price emphasized a doctrine of rights that was not suited to Bentham's use, but

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[4] *Wealth of Nations,* (Canaan edition, Fifth Edition), Vol. II, Bk. IV, Ch. 9, p. 184. It is, of course, true that Adam Smith, through his travels in France, had come to know Turgot and that his major doctrines came from the French Physiocrats, developed and refined with Scotch realism.

[5] Bentham himself says that this basic idea of his whole system came to him in reading Priestley's *Essay on the First Principles of Government* (1768), causing the usually phlegmatic father of utilitarianism to cry out "Eureka" (like Archimedes at his great discovery of the first principle of hydrostatics). He may equally well have absorbed the idea explicitly set forth from Beccaria, the great Italian reformer of penal laws, from whom Bentham certainly borrowed liberally the pain-pleasure calculus, in a variant on Hobbes. See F. C. Montague's Introduction to Bentham's *Fragment on Government,* Oxford, Clarendon Press, 1891, p. 34.

Price's telling use of statistics laid the ground for all subsequent attacks on rotten boroughs and the eventual passage of the Reform Act of 1832. According to Price's figures in his *Essay on Civil Liberty* and later in his *Political Disquisitions,* in the Great Britain whose inhabitants numbered less than six million, "5723 persons, most of them the lowest of the people, elect one half of the House of Commons; and 364 votes choose a ninth part." [6]

The Real Revolutionists: Godwin and Paine

The Corresponding Societies, which were hounded down in the period of reaction, sowed the seeds of later liberalism; but it was the pamphleteering of Paine and, to a degree, the philosophical works of Godwin, that heralded the more extreme equalitarian philosophy of later democratic movements. It must be remembered that even Thomas Jefferson in the United States did not favor universal suffrage but felt that some property qualifications were necessary to give a "stake in the government" to the electors and officials chosen. Godwin would have gone much further. One may recall without cynicism his own complete disregard for property rights and the remarkable facility with which he lived on friends, to the distress of even his son-in-law, Shelley.[7]

It is, however, inherent in Godwin's work on *Political Justice* to think of men as "...creatures eminently capable of justice and virtue." He pushed perfectibility beyond the limits of pure reason suggested by Priestley and Price and gave to the principle of equality his primary emphasis. Following the Stoic doctrine that all men are endowed with reason, he reached beyond the limits of the Stoic philosophies that we have previously examined to conclude that the objective of all society is to eliminate all arbitrary distinctions and to free the natural virtues.

He accepted utility as the sole test of arrangements, but his conclusion is more absolute than that of the later utilitarians, for he believed "Democracy is a system of government according to which every member of society is considered as a man and nothing more." [8]

The natural fruit of Godwin's attack on inequality was his conclusion that property itself was the root of evil and that its proper distribution was the road to accomplishing the political justice which he sought. He expresses in an embryonic form the ultimate conclusions of utopian communism which Karl Marx was later to erect as the end of political

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[6] Quoted by S. M. Rosen, *op. cit.,* p. 27, from Price, *On Civil Liberty* (1736), p. 10. *Cf. Political Disquisitions,* Vol. I, Bk. II, Ch. 4.

[7] See Ford K. Brown, *Life of William Godwin,* and H. N. Brailsford, *op. cit.*

[8] *Political Justice,* Vol. I, Bk. IV, Ch. 2.

society under the formula, "To each according to his needs, and from each according to his ability."

Godwin would have agreed with this formula. He felt that the inheritance of property by the accident of birth was responsible for the servility of mankind. His conclusion, therefore, was that equality of property was necessary to a true democracy. This moral end could be achieved only by weaning the noble propensity for excellency and esteem away from the mere acquisition of wealth—"Wealth acquired by overreaching our neighbors, and spent in insulting them."

Godwin would have relied upon the slow process of educating humanity to accept the utopian changes and would have depended upon eliminating government as a compulsive agency to a degree that may properly be called philosophical anarchism. Thomas Paine was a more directly revolutionary figure. He relied more on Rousseau than on Locke in his idea of popular sovereignty and he found in the French *Declaration of the Rights of Man and of Citizens* of the National Assembly in France the ultimate in political philosophy. He sums up three conclusions that rest upon the French declaration in terms that lend little credence to the theories advanced by Professor Lewis that Tom Paine, more than Jefferson, was the true author of the American Declaration of Independence. For Paine's views go considerably beyond Locke's and the *Declaration* does not:

> I. Men are born, and always continue, free, and equal in respect of their rights. Civil distinctions, therefore, can be founded only on public utility.
>
> II. The end of all political associations is, the preservation of the natural and inprescriptible rights of man; and these rights are liberty, and property, security, and resistance of oppression.
>
> III. The nation is essentially the source of all sovereignty; nor can any individual or any body of men, be entitled to any authority which is not expressly derived from it.[9]

Paine equated rule by hereditary succession with rule by ignorance, and the rule of reason to the democratic forms of a republic. His classic comment on Burke's *Reflections on the French Revolution* was that "He [Burke] pities the plumage, but forgets the dying bird." Paine himself had little pity for either the plumage or the bird lying on the guillotine. Although he very nearly met his own death at the hands of the French terrorists, he continued to feel that democracy required no checks beyond the virtue and wisdom of the people, which would eventually find its true expression when it was unimpaired by inequalities and liberated from the tyranny particularly of exploitation. "Man has no prop-

[9] Rosen, *op. cit.*, p. 28, quoting from Paine's *Works*, p. 107.

erty in man, nor has any generation property in the generations which are to follow," was his pithy summary. The older a government, therefore, far from being the more certain to be right because of the sanction of time and custom and organic growth, as Burke had thought, the more likely it was to be corrupt and in need of tearing down. Although he was not so bitter as Godwin on the inequalities of property, Paine, in his emphasis on purely human rights, is far from the liberalism of Locke and his defense of natural rights of property.

Bentham: The Father of Utilitarian Liberalism

In Bentham, however, we return to the primary emphasis of Locke on property, although without any attempt to make it a natural right. *Right* has given way to *utility* in the theory of Bentham, and utility is capable of many applications. Bentham, the legislator and penal reformer, was not concerned with the doctrine of human rights so basic in the thinking of the philosophers of English radicalism whom we have just examined. He was perfectly willing to lend himself, like a Platonic guardian or philosopher, to any enlightened monarch in need of a code of legislation or a system of penal reforms. His rather amusing but, in some ways, very significant effort to change the nature of prisoners by setting up a kind of "goldfish bowl" (the Panopticon) for scrutinizing their movements at Millbank did not seem to command the enthusiasm of the enlightened tyrants of the period, even of the revolutionary leaders of France, to whom he also offered his invention *gratis*. Nevertheless, he had a considerable exchange with Catherine the Great of Russia, who was an enthusiastic writer of letters and a correspondent with all whom she could bring under her charms, near and far. And he seems to have been given a gold watch by Alexander the First in recognition of a code which he had the temerity to draw up for Russia. He even proffered a constitution to the Turkish despot, Mahomet Ali!

He did initiate, however, the main current of English reform through his insistence upon political freedom in the suffrage, as well as in his attempt to give a reasoned basis for the philosophy of *laissez faire*, which Adam Smith had launched as a contribution to moral philosophy and which Ricardo and James Mill were to turn into the foundations of the "classical" economics of the British school.

Bentham, whose portrait suggests something of the benevolence and complacency of Ben Franklin, was really given future and political importance by his disciples, such as James Mill and Francis Place. He had a curious faculty for drawing around him, in the bachelor quarters of the "Hermitage," a group of radicals who fathered the reform movement in Parliament at Westminster, including the famous *Report of the Poor*

Law Commissioners.[10] Among his friends were Lord Lansdowne and the charming Lord Shelburne, who launched Bentham into influential society; and, abroad, Morellet, Brissot, d'Alembert, and the Swiss philosopher, Dumont, who was also the friend of Mirabeau.

The following quotation from this *Poor Law Report* (1834) will give some idea of the connection which disciples of Bentham, like Edwin Chadwick, brought to bear between the philosophers and the legislation of the period:

> But towards the end of the last century, a period arrived when the accidents of the seasons and other causes occasioned a rise in the price of the necessaries of life. If things had been left to take their course, the consequences in England would have been what they were in Scotland, and what they were with us in those occupations which, from their requiring skill, raise the workman above the region of parish relief. Wages would have risen to meet the depreciation of money, and the labourer would have earned the same amount of raw produce, and a larger amount of manufactured commodities.
>
> But things were not left to take their own course. Unhappily no knowledge is so rare as the knowledge when to do nothing. It requires an acquaintance with general principles, a confidence in their truth, and a patience of the gradual process by which obstacles are steadily but slowly surmounted, which are among the last acquisitions of political science and experience.[11]

Laissez Faire *as a Philosophy*

This quotation is in direct line with the main theories of *laissez faire* that underlay Bentham's *Fragment on Government* (1776), as well as his *Introduction to the Principles of Morals and Legislation,* which was published as early as 1789. At the outset of any study of Bentham, it must be remembered that there is a radical departure from the Stoic foundations that Locke had given to natural right and to the idea of individualism. Like Hobbes, Bentham himself returned to the Sophist traditions on human nature and, therefore, like Hobbes, arrived at a conclusion quite different from the natural right philosophers as to the objectives and nature of political society. Utilitarianism, as Bentham developed it, based its whole conception of the pursuit of self-interest on a mechanical principle which he outlined in the beginning of *The Principles of Morals*

[10] See Graham Wallas' *Francis Place.* Among the earlier disciples of Bentham's were Lind, Wilson, and Romilly. Dumont aided greatly with his writing, both in drafting and in translation. Robert Owen made him a partner in his cooperative venture at New Lanark. Brougham and Cartwright, and Francis Burdett became devoted followers, as did O'Connell, the father of Catholic emancipation. Bentham founded at his own expense the *Westminster Review* (1823) which, through his editorial disciples, Bowring, Southern, and James Mill, spread Bentham's influence and doctrines.

[11] *Administration of Poor Laws, Report from His Majesty's Commissioners,* 1834, pp. 120-121.

and Legislation: "Nature has placed mankind under the governance of two sovereign masters, *pain* and *pleasure*." These were "the springs of human action," as he called his list of pleasures.

In man's effort to avoid pain and to search for pleasure, however, Bentham introduces as a refinement the moral calculus, as it has been called, of "the greatest happiness of the greatest number." [12] It becomes, therefore, the business of the legislator and the aim of all legislation to maximize happiness by a sort of arithmetics of pleasure that would introduce some conception of the long-run pleasure or happiness as opposed to the mere gratification of the moment. At this point, however, Bentham, who was a profound believer in the rational character of humanity, reintroduces that Stoic element as a corrective. He feels that morality can be turned into a sort of scientific experiment in which the individual calculus of pleasure can be harnessed to self-interest in the moral order, as well as in the economic. In fact, he is concerned really only with the economic order, since there is nothing beyond the calculus of rational self-interest, modified by his vague benevolence, to determine what the interests of mankind ultimately are.

This would be his reconciliation, therefore, of an unrestricted self-interest, safeguarded only by maintaining the obligation of contracts but left otherwise to the play of the market, as determining what men wanted. At the same time, he felt, much as Locke had, that the possession of the right to vote would merely strengthen this calculus of self-interest because no man would vote against that system (*laissez faire*) which would maximize his own satisfaction and, consequently, the greatest happiness of the greatest number.

Bentham's Reconciliation of Laissez Faire *with Self-Interest through Suffrage*

Thus, at one and the same time, Bentham could argue for unrestricted property rights, for the free play of economic forces unchecked by any political interference, and, on the political side, universal suffrage (equality), annual parliaments, and a vote by ballot to secure the uncoerced decision of individual preference.[13] It was firmly grounded in

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[12] Bentham was so anxious to give a scientific cast to his whole system that he calls his treatment of morals or ethics *Deontology*, from the Greek τo Δέον (that which should be, that which is right). He gives the appearance of *science* to ethics by terminology.

[13] In a little noticed but significant chapter (XII) in *Principles of the Civil Code* (*Works*, 1843 ed., John Bowring and John Burton, eds., pp. 311-313) Bentham treats "Security and Equality—Means of Reconciliation."

He asks, "Must there, therefore, be constant opposition, an eternal war, between the two rivals, *Security* and *Equality*?" In the previous chapter (XI) Bentham has

his own mind that government was, at best, a necessary evil and that, in the phrase run at the masthead of democratic Jacksonian papers in the United States, "That government is best which governs least." Yet he is equally convinced that the principle of one man, one vote, would produce a responsible government, truly representing the rational political interests of the electorate, one that would not interfere with the automatism of economic laws—a principle which he accepted late and from his own disciples.

It has often been pointed out that these sentiments were naturally acceptable to the disenfranchised middle classes and manufacturing interests of England, who felt that their trading interests were sacrificed to the protectionist ideas of the landholding classes firmly rooted in power by the unreformed British constitution. However, the full carry of the reformers' "one man, one vote," which Bentham himself fully accepted only in 1828, was far from realized in the Reform Bill of 1832, with its very limited enfranchisement of the urban middle classes and freeholders. 1832 was regarded as a year of "peaceful revolution" even more than 1688. Actually, it took the next hundred years in England to realize the simple logic of "one man, one vote" and to extend it also to women. At the same time, the implicit faith that such a democratic system would, of necessity, keep hands off in the complex play of economic forces proved to be a total delusion. As A. V. Dicey pointed out in the *Growth of Law and Opinion in England in the Nineteenth Century*, collectivism made strides that very nearly paralleled the broadening of the suffrage from the Reform Act of 1867 on.

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directed the legislator "In consulting the grand principle of security... with regard to the mass of property which exists... to maintain the distribution which is actually established. This, under the name of justice, is with reason regarded as his first duty: *it is* a general and simple rule applicable to all states, adapted to all plans...."

Having thus summarily disposed of the justice of the *status quo* in property rights by confirming it universally, Bentham proceeds to his reconciliation of this "simple rule" with equality: "Where security and equality are in opposition, there should be no hesitation: equality should give way.... The establishment of equality is a chimera: the only thing which can be done is to diminish inequality." (P. 311.)

But "Time," he says, "is the only mediator between these contrary interests [security and equality]. Would you follow the counsels of equality, without contravening those of security, wait for the natural period... of death." (P. 312.) Then the legislator may dispose of property by death duties tending to equality.

In any case, time also operates for the nation as a whole. "... In a nation which prospers by agriculture, manufactures, and commerce, there is a continual progress towards equality. If the laws do not oppose it—if they do not contain monopolies—if they do not restrain trade and its exchanges—if they do not permit entails—large properties will be seen, without effort, without revolutions, without shock, to subdivide themselves by little and little, and a much greater number of individuals will participate in the advantage of moderate fortunes." (P. 313.)

This has a modern "liberal" ring, except that laws had to *restrain* rather than not "contain" monopolies.

Automatism and Morals

What factors did the economic philosophy of Adam Smith, Bentham, and James Mill leave out that so falsified the hopes of economic *laissez faire* accompanying political democracy? Primarily, the assumption in the *Wealth of Nations* rested upon the idea that "the invisible hand" which, in a fashion almost like that in Mandeville's *Fable of the Bees,* turned "private vice to public benefits," was guided by moral restraints. Yet moral restraint, in spite of Adam Smith's edifying effort to prove the contrary in his earlier work in *The Moral Sentiments,* clashed with the bare self-interest of the economic calculus. Bentham himself was forced to introduce, like a rabbit out of a hat, the sentiment of "benevolence" which would be in some vague way a restraining guide for his other mechanical "springs of human action." Bagehot, in an often quoted phrase, put it that "Adam Smith wrote as if there was a Scotchman in every one of us." The Scotchman might be frugal, God-fearing, and even benevolent. The operations of the economic system, however, were not to be channeled by the feelings of small traders along any such lines.

Large-Scale Organizations Inevitable

Actually, the main products of the Industrial Revolution were *large-scale* organization, more and more impersonal in their contacts between management and workers and relegating ownership to stockholders still more detached from actual contact with the human factor of production. Monopoly inevitably raised its head, in spite of the theoretical protections which Cobden and Bright and the Manchester School thought to find in "free trade" and the absence of tariff barriers. The protections afforded to inventors gave substantial opportunities to monopolies through patent laws. Cartel arrangements extended these protections beyond national boundaries. The advantages of large-scale financial organizations for purchases, for research and marketing, and for ability to raise capital and weather depressions naturally led to the merging of firms to a degree that even before the end of the nineteenth century had produced sizable industrial combinations in England and much larger ones elsewhere, as tariff protection assisted them. Nor was the electorate in most countries willing to operate along the lines of "free trade." The gradual development in the nineteenth century of state intervention to aid infant industries or distressed farmers became the order of the day outside Britain, where it came in after the first two or three decades of the twentieth.

In short, that perfect society which was supposed to be produced by the small independent enterpriser and trader with the maximum efficiency

and production for exchange, corresponding to the most perfect subdivision of labor, had run into a series of brutal political facts. These facts were that nationalism produced artificial barriers to trade (a) in the interests of building up powerful military systems with as much self-sufficiency as possible and (b) through the combination of groups aimed at the promotion of their own self-interest by identifying them with the national interest.

The "full-dinner-pail" argument used by Mark Hannah to sell American tariff protection to labor was simply one variant of many that led to the building up of vested interests behind the barriers that nationalism erected against the kind of world that Cobden and Bright had convinced a considerable part of England was in the interests of British industrialism. The British Dominions themselves became protectionist; and, as the competitive strength of other industrial systems overcame the march of fifty years that Britain had stolen on the rest of the world in the launching of the Industrial Revolution, even Britain began to find the need once more of protecting her agricultural interest and, in the 'twenties and 'thirties of the twentieth century, even her shaken industrial structure.

J. S. Mill and the Liberal Dilemma

But a deeper dilemma involving the impossibility of teaching nationalistic societies the utopian political gospel of "Manchesterdom" underlay liberalism and emerged in the writings of John Stuart Mill. A. D. Lindsay has phrased it in one way by saying that utilitarian liberalism demanded an "Atomistic individualism (that) can make no distinction between the whole and each and every individual. This strain takes all manner of curious forms. There is the curious optimistic theory that man's 'natural interests' are harmonious; that if only artificial restrictions are taken away, and men destroy the artificial disharmonies introduced by kings and priests who have perverse interests not shared by other people, or if only rent or capital or whatever social institution is particularly disliked is abolished, all will be well." [14]

Kinship of Liberal Automatism to Marxism

In other words, one side of liberalism in the utilitarian manner lends itself to the idea that there is a natural harmony of men's interest which underlies *laissez faire*. As Lindsay points out with great acuteness, the same kind of natural harmony underlies the basic thinking of communism, except that the former emphasizes the protection of property

[14] *The Modern Democratic State*, Vol. I, pp. 82-83. This observation obviously bears on the automatism also of Marxism, i.e., remove private property and all will be well.

and the latter finds property to be the source of all evil, whose removal will produce a utopian harmony of interests. At the same time, as Lindsay also points out, "Bentham conceived it to be the business of his legislator —a mortal god standing over the individuals whose foolish desires he does not share—to create an artificial harmony of interests and, at the same time, promote the good of all. Marx, who turned Bentham as well as Hegel upside down, taught that the abolition of capitalism and the communalization of the means of production would do the trick." [15]

With his usual insight, the Master of Balliol has shown that all these theories have their origins in Hobbes, whom Marx himself called "the father of us all." They differ from Hobbes, Lindsay says, "only in their woolly optimism." [16] Basically, they go back to treating politics as a branch of physics with individuals as its "atoms." The solutions for producing social harmony are based on the assumption that it is natural and can be produced by a mechanical formula, like *laissez faire* (or communism). They must, however, like Rousseau, reintroduce a legislator who will set up the conditions under which this natural harmony is given a chance to function in conformity with some political general will. Bentham and his followers turn to universal suffrage and the calculus of "each man to count for one and none to count for more than one," which became the battle cry of the Chartists and the banner of all the devotees of extreme democracy, from Jackson's brand in the United States to the battle of the suffrages that was fought to a (temporarily) successful conclusion in every European country after the end of World War I. Marx, as we shall see, had no confidence in the formula of democracy but adopted the dictatorship of the proletariat as the *deus ex machina,* his version of "The Legislator," which would set up the conditions for a free society after a period of the most rigid collectivist discipline and the abolition of private property.

Men Not Economic Automatons

But the truth of the matter was that political man did *not* automatically behave in the field of legislation as utilitarian doctrines demanded that he should, any more than economic values and developments were guided by rigid "laws." When a man possessed the vote, he used it to protect not his abstract interest as a consumer interested in getting the cheapest bargains for the output of his own labor, but to promote what he was led to believe were his interests as a producer or, sometimes, his social or religious or racial interests, which were not calculated in direct economic terms at all. It is, for instance, difficult to explain the voting on

[15] *Ibid.,* p. 83.
[16] *Ibid.*

imperial issues in England as a sanction, on the one side, for simple exploitation of natives or, on the other, for the economic liberalism of Gladstone. Pride of empire and identification with the symbols of Britain's power played important roles. Liberalism in Gladstone's time became identified with anti-imperialism, though it never in practice lived up to its moral professions. Class interests oftentimes produced alignments that were not so much economic as moral or, in a broader sense, political in character. Above all, they did not operate in terms of the arithmetic of "pain-pleasure" choices based on the assumption of absolute equality and the uniform identity of interest of individuals. "Free Trade" and "Imperial Preferences" were slogans that were supposed to represent a calculated economic interest. But each side had moral and almost religious overtones far beyond "no tax on food" or tariff protectionism.

Political Equality and Economic Pressures from Groups

There was, moreover, a basic conflict in the very presuppositions of liberalism. Political equality was introduced to defend and to further the protection not only of civil liberty but of individual self-interest. At the same time, the theory of *laissez faire* would have protected forever basic economic inequalities by demanding that they be left outside the range of political evaluation through legislation. Legislation inevitably under any system attempts to produce an artificial harmony of interest, even if it be by coercion. The difficulty in democratic legislation arises in the attempt to combine this artificial harmony through legislation with consent. Quite certainly, as Dicey's study on *Law and Opinion in England in the Nineteenth Century* showed, an electorate that could make its wishes felt in equal terms through legislation would not rest content with *laissez faire,* but would demand the promotion of group interest and the curbing of the impact of the forms of inequality which that electorate thought to be painful to the dominant interest of majority groups. This led not only to the paternalism that so horrified Dicey, but to collectivism in a very wide range of economic life and to the growth of an increasing demand for eliminating inequalities. Above all, *it is group interest rather than atomistic individual interest that became the basis of legislation.* To call this political process merely one of *class* interest is a great oversimplification.

One may almost trace this evolution of liberalism in the writings of J. S. Mill, who was driven by the inner dilemma of its profession of political equality and its sanction of economic inequalities of the grossest type to evolve a philosophy different from *laissez faire.* In a natural but rather curious way, Bentham's concern was from the beginning with *law*

and *legislation*. In that area he was concerned with the stock problem of politics, which is to produce a society that can be stable and yet rest upon a conception of justice. His disciple, Austin, (or certainly Austin's own disciples) reduced the theory of sovereignty to an apology for the sanctity of law based upon *command*, and in so doing recaptured most of the flavor of Hobbes. On the other hand, the reformist group of Bentham's disciples, who were concerned with *justice* through achieving the greatest good of the greatest number, aimed to alter fundamentally the structure of English society in politics, with inevitable repercussions on the economic distribution of wealth.

From Mechanism to Reform

The economists among his disciples–for example, James Mill, Senior, and Ricardo–may be left to one side for the moment in consideration of the great impetus given to the reform movement in England by political disciples of Bentham, such as Francis Place, John Cam Hobhouse, MacIntosh, and even T. B. Macaulay at a later time. These men shared Bentham's belief in mechanisms, but they applied the mechanisms as J. S. Mill did later to the area of political representation and the reform of local government and administration. The Civil Service reforms come out of this current. Great moral reforms like the abolition of slavery and the attack through the Factory Laws on the misery wrought by the Industrial Revolution owe their source to a deeper moral concern than Bentham's. Nevertheless, in the course of the fusion of movements in the nineteenth century, liberalism gradually took on the moral overtones and the humane tradition of broader reform movements, just as J. S. Mill in his own person accomplished the same evolution. It turned perforce to the trade unions for support, just as the Tories eventually courted the agricultural vote by proposing tariff preferences to protect English farmers.

John Stuart Mill

J. S. Mill, in his *Essay on Liberty* and *On Representative Government*, carries this reformist strain through a logical development of utilitarian theory, away from economic *laissez faire* over into the regulatory state that eventually becomes difficult to distinguish from democratic socialism. To the end of his life, Mill remained true to the individualism of the utilitarians in his emphasis upon political liberty, upon the need for representing the rational individual in as adequate a manner as possible, and in his hope that private property might still afford a dynamic for the economic system. But on the last question, his own doubts and self-analysis produced a remarkable transformation that can be traced not only in his

political writings but in his *Autobiography*. The state comes to have more and more positive duties and to move away from the "night watchman" idea of earlier utilitarian theory. Economics in the manner of the "dismal philosophy," as it has been called, of his father James Mill, and of Ricardo and other disciples of Bentham, has to make its peace with moral imperatives that can be realized only through political action and organization of great interest groups as well as political parties.

It remained for Herbert Spencer and his peculiar doctrine of evolution to recapture something of the "rugged individualism" of the early utilitarians and to attempt to restore in his *Social Statics* a philosophy of ruthless *laissez faire*. But the mainstream of English thought and the great current of political practice everywhere had set away from the idea that the State must keep its hands off economic activity to the end that a true harmony of interests might develop. *Laissez faire* made many strange converts, including the high tariff advocates in the United States who, despite professions of this philosophy, turned to the Supreme Court to protect them from government "interference" in other matters.

John Stuart Mill himself was never willing to go so far as the later English Idealists, particularly Bernard Bosanquet, in seeing the necessity for a general will to impose common moral standards on society. He remained hopeful that the enlightened individual, if given appropriate political freedom, would achieve that automatic adjustment of interests which is, after all, the keynote of earlier liberalism. This led him to oppose not only "prohibition" (of alcoholic beverages), but also many other types of legislation limiting individual freedom.

Mill, even in his essay *On Liberty*, notes that state public education may be needed, rather than private, in a society that is "... in so backward a state that it could not or would not provide for itself any proper institutions of education unless the government undertook the task...." In that case, he admits, "... the government may, as the less of two great evils, take upon itself the business of schools and universities, as it may that of joint stock companies, when private enterprise, in a shape fitted for undertaking great works of industry, does not exist in the country." But it is clear from the rest of this passage that he preferred voluntary to state action: "But in general, if the country contains a sufficient number of persons qualified to provide education under government auspices, the same persons would be able and willing to give an equally good education on the voluntary principle, under the assurance of remuneration afforded by a law rendering education compulsory, combined with State aid to those unable to defray the expense." [17]

[17] *On Liberty*, p. 161. (This and following citations from Mill are taken from the Everyman Edition of his *Utilitarianism, On Liberty, Representative Government*.)

His sweet reasonableness, which owed much to his remarkable wife and co-author, did not prevent him from making reservations on important limits on democratic liberty and on responsible representation. He did not believe that mass democracy increased liberty or that society was improved by "... advancing toward the Chinese ideal of making all people alike." For Mill, the preservation of independence of mind against "the ascendancy of public opinion," which he correctly foretold would increase with the expansion of technical progress in transportation and all media of communication, requires superhuman effort on the "intelligent part of the public." "... It is not easy to see how it can stand its ground." [18]

J. S. Mill on Liberty

On Liberty is a preachment and a prayer. It remains the most inspiring statement in print of the eternal truths of the true liberalism that cherishes difference and protects eccentricity so as to realize von Humboldt's necessary conditions of human development, which Mill loves to quote: "freedom, and variety of situations." Without these, there can be no full development of the individual's own maximum potentialities. He is ground into a powder of atomized likeness and poured into moulds that he does not help to shape. A sentence like "Mankind speedily become unable to conceive diversity, when they have been for some time unaccustomed to see it," [19] shows how great is the temptation to quote Mill, because he can scarcely be improved.

Similarly, representative government, he admits, is possible only among highly developed peoples. Success depends upon a willingness to grow up to representative government, to preserve it, and to fulfill the duties and discharge the functions which it imposes on them. Lack of education, passivity to tyranny, or a complete lack of obedience, all indicate a realistic need for a period of discipline of unlimited monarchy, which Mill hopes will be simply one of tutelage.[20]

Political liberty for Mill is what we more often today call "civil liberty," i.e., the protection of the citizen against arbitrary action by government through "obtaining a recognition of certain immunities, called political liberties or rights, which it was to be regarded as a breach of duty in the ruler to infringe...." The active character of protection against infringement involved something like Locke's "right of revolution": "specific resistance, or general rebellion, was held to be justifiable."

[18] See *On Liberty*, especially "Of Individuality." "Comparatively speaking, they now read the same things, listen to the same things, see the same things, go to the same places, have their hopes and fears directed to the same objects...," pp. 130-131.

[19] *Ibid.*, p. 131.

[20] *On Representative Government*, Ch. IV, pp. 218 ff.

He regards the share of the citizen in voting and acting through representatives so chosen (which we usually call today *political* liberty) as a second way of setting limits on the power of rulers: "... the establishment of constitutional checks, by which the consent of the community, or of a body of some sort, supposed to represent its interests, was made a necessary condition to some of the more important acts of the governing power." [21]

But the very essence of Mill's concern for the protection of individual opinion in all its shades comes out in his well-argued case for proportional representation—in particular, the Hare system of the single transferrable vote.[22] He feels that the ideal system would reflect all the differing types of opinion with mathematical accuracy in the legislature.

Significance of Party

But he missed, in a significant fashion, the insight that Burke had shown, and that Bagehot was to restate, of the necessity for a disciplined party as the controlling organ of government and a vehicle of political responsibility. In this matter, English practice went beyond the niceties of Mill's theory of representation, where the emphasis was all on reflecting the *differences* of society. Practice demonstrated the unique capacity of the British parliamentary system to promote a *coherent program* for democratic action. The current of liberalism, however, consistently broadened the base of consent by its insistence upon consulting every man on his own views of his own interests. The British party system, with its strong integrating and disciplinary effect, held together this individualism in a teamwork that managed to run an empire and to elicit, through general elections, a wide popular education and support on fundamental issues.

Impact of the Doctrine of Evolutionary Survival

The theory of automatic progress and the reliance upon mechanics, both in economics and politics, had suffered some rude shocks during the intervening period between Bentham's piece, *Fragment on Government*, criticizing the commentaries of Blackstone, and J. S. Mill's *Autobiography*. Malthus, with his theory that population tends to multiply up to the limits of circumstance, had laid a ground for the theory of evolution, which Darwin eventually developed with his theory of mutations as the origin of the species and his idea of survival by natural selection. There was, in some sense, again a determinism and an automatism in his process; but the theory of progress through the inevitability of

[21] *On Liberty*, p. 66.
[22] *On Representative Government*, pp. 261 ff.

right reason applied to enlightened self-interest received a secondary shock from this general biological "law." This law could scarcely imply a benevolent reason at work in the universe if nature itself was working out a pitiless survival-nature "red in tooth and claw," as Thomas Huxley described it in his celebrated Romanes Lecture. Huxley himself felt that human society in establishing moral conditions based on Christian ethics made a complete break with the order of nature in previous evolution. The scene was shifted to something approaching Hobbes' original state of nature, in which men and nations struggled for supremacy, emphasizing the conflict of interests rather than their identity—to whatever degree the new "natural law" of survival applied. "Social Darwinism" was a natural next step.

Fichte and the Prelude to Nazism

There was a change of temper, too, on the Continent. In politics, Fichte, in Germany, had given the philosophic groundwork for that ruthless nationalism of which Hitler became the legitimate heir. Hegel, in his dialectic process of evolving reality from the world of the spirit, nevertheless talked in terms of the conflict between thesis and antithesis as the nature of the historical process before the synthesis of their new resolution of forces. In the European world that was to dominate human history for a considerable period, the fundamental doctrine of liberalism —i.e., the natural identity and harmony of self-interest—gave place to a world of struggle which Nietzsche was to describe in terms of repudiation of Christian morality through the philosophy of the "superman." The intellectual climate in a great part of the world was changing back to the Sophists, emphasizing not the enlightened calculus of pain and pleasure of Bentham, which had in it much of the Stoic rationalism, but the more direct and animal qualities of human nature that Hobbes had emphasized, including the lust for power.

T. H. Green and Moral Obligation

That is not to say that the liberal tradition did not remain dominant in English thought. In T. H. Green, for instance, *The Principles of Moral Obligation* still go back to the individual as the ultimate unit. But they give a philosophical justification of a new rôle for the State, that of the "hindering the hindrance to the good life," that shifts the ground, as J. S. Mill had already begun to do, toward the later liberalism of Hobhouse and the reform movement of the early nineteen hundreds. Two quotations from Green may serve to show the basic nature of this shift, which still retains the liberal's belief in the moral ultimacy of the individual, but recognizes that government plays a necessary rôle to permit and assure

the conditions for mutual freedom: "... The claim or right of the individual to have certain powers secured to him by society, and the counterclaim of society to exercise certain powers over the individual, alike rest on the fact that these powers are necessary to the fulfilment of man's vocation as a moral being, to an effectual self-devotion to the work of developing the perfect character in himself and others." [23]

This leads on to Green's idea of the State itself as "a body of persons, recognized by each other as having rights, and possessing certain institutions for the maintenance of those rights." [24] This view obviously does not recognize the ethical claims of any state to obedience which does not itself recognize these mutual rights through its institutions. It would declare war on all totalitarianism and absolutism as contrary to the very conditions of free moral actions. *This is the permanent core of the liberal tradition:* its ethical analysis of the nature of freedom.

At the same time, Green saw that a purely *negative* state could neither protect nor really implement these basic rights in modern society. The State must receive the positive support of its citizens to realize a *positive* program. Government was not, therefore, a necessary evil, but a necessary condition of good; and, therefore, good government was a positive moral concern for the good man.[25]

An important factor in support of the conception of the enlarged rôle of government was the emergence of labor as an articulate force of its own. In conformity with this new combination of idealism and liberalism, the labor movement in Britain developed, through the Fabian Society, a socialism that still owes its main inspiration to the moral idealism of nineteenth-century liberalism rather than to Marx. In the economic sphere, however, its emphasis was all on collectivism and state control. Leaders like Ramsay MacDonald and the Webbs laid the ground for labor party policy in a socialism that is at once liberal in its political traditions and collectivist in its economic objectives.[26]

L. T. Hobhouse: Can Democratic Liberalism Plan? Must It Plan?

The puzzle that remains from tracing the course of liberalism from this primarily British experience is a deep one: Can political democracy, with its insistence upon equality in voting and the abolition of privileges, be compatible with the dynamics of a private property system that rests

[23] *Lectures on the Principles of Political Obligation,* in T. H. Green's *Philosophical Works,* Vol. II, London, 1895, p. 41.

[24] *Ibid.,* p. 137.

[25] See Readings.

[26] See Dr. Adam Ulam's forthcoming work, ***The Influence of British Idealism on the Labour Party*** (Harvard University Press).

on profit and upon inequalities of reward? Can the existence of an area of control over human life in the sphere of production and distribution avoid becoming the complete regulation by the State of the whole economy? L. T. Hobhouse in his political writings, particularly in *Liberalism,* restated the case for democratic control by at least partial (or conditional) planning. But he did not face the main question.

In its modern form, this question is whether democracy can exist in industrial societies without over-all planning; or, on the other hand, whether economic planning carried to its logical conclusion does not, in turn, demand totalitarian controls and the destruction of democracy. The first flush of liberal optimism raised few such questions in the minds of Bentham's disciples. However, a previous note has showed they occurred to the Master, so far as the conflict between equality and security were concerned. But just as he thought to reform criminals by the simple mechanical procedure of erecting an ideal prison, so he expected the mechanics of his codifications of legislation and of the double system of reform in politics and economics to eliminate the main destructive clashes of interest in human society. Only constructive competition would remain.

Though there is a sort of "mechanics" to every system of politics, it is not so simple as this. Honesty compels the student of politics to admit that there are deeply ingrained factors of human nature, to which psychologists have drawn striking attention, that bear out many of the more pessimistic views of Hobbes and the Sophists about human nature, which force on politics the recognition of aggressive factors, often irrational at least in their origins, that are always present. Marxism and liberalism alike took too automatic or mechanistic and too limited a view of this version of "original sin." The problem of erecting a rule of law between states that would rest on nothing more than the recognition of common interest among them was, after all, the basic weakness of a system of national sovereigntics such as Bentham's disciple, Austin, was content to describe and analyze. Austin's famous definition of sovereignty was: "If a *determinate* human superior, *not* in a habit of obedience to a like superior, receive *habitual* obedience from the *bulk* of a given society, that determinate superior is sovereign in that society, and the society (including the superior) is a society political and independent." [27]

Liberalism and International Relations

On this basis, international law could extend only to the area of agreement maintained by mutual consent among sovereign states. There was

[27] *The Province of Jurisprudence Determined,* Second London Edition, 1861, p. 170. See Readings. Italics have been added by editors to show key words.

no common sovereign to impose a world system that would receive the habitual obedience of mankind everywhere. Sanctions were lacking. Nor was it to be wondered that under such conditions the pressure for survival among states should falsify the enlightened self-interest of individuals which was automatically to achieve an economic world market along lines laid down by Cobden and Bright. Indeed, the heaviest pressure toward economic planning and thence toward totalitarianism has risen precisely from the uncontrolled struggle of national states, particularly that of Russia's total state capitalist economy, to exert or to increase their power. Beyond that, the problem of strictly *national* planning tended to increase areas of conflict and power politics. And beyond this lay factors like population pressure and the emergence of myths of race superiority or the revival of Roman grandeur or the extension of world communism from its center in Moscow. In every instance it was a far cry from automatic progress and a fit seed-bed for theories like those of cyclical decline which Spengler and his ilk reintroduced in the twentieth century; though for proof, as Arnold Toynbee in his monumental *Study of History* puts it, "Spengler adopted a metaphor and then proceeded to treat it as a demonstrated scientific fact." [28]

There was yet another puzzle in the economic side of liberalism that had deep significance. Marx and his followers, as we shall see, proposed to eliminate all the evils of human nature by the simple device of destroying private property and with it the exploitation of man by man. Unhappily, human nature is more complex and its deadly sins number more, perhaps, than the traditional seven, of which greed is only one.

But is private property and the system of rewards determined by the play of the market a sin? Or a virtue? To this question liberalism had an answer that has not yet received an equally satisfactory rebuttal from its collectivist assailants: The compulsion of having to earn one's living according to an economic system depending upon market and rewards in a competitive society, inadequate as it was to deal with problems like mass unemployment and cyclical fluctuations in the economy, nevertheless had the virtue of offering both a carrot to the donkey and of using a stick where the carrot was not enough. The theory of individual reward had as a supplement the punishment of failure through depriving the individual of livelihood itself. The possession of the vote reintroduces a problem that was not, after all, successfully solved by the democracies of antiquity: Will the democracy demand the right of livelihood without accepting the corollary duties necessary to produce its livelihood? Is this the pleasant but fatal path opened by the "Welfare State"? Russian

[28] See Popper, *The Open Society and Its Enemies*, for a critique of what he calls "historicism" and a criticism of "utopian" general planning.

communism under the dictatorship *over* the proletariat found an adequate answer in terms of force: You *must* work, as and where you are told, in order to eat. Capitalist societies have so far managed to offer both incentives and a degree of discomfort attached to idleness (except for the self-imposed discomfort of the really "idle" rich) sufficient to insure a dynamic. There is a real question as to whether democracy may not prove the method of exploitation in reverse: in terms of so great an extension of social security and of state control of the economy that the dynamics of private enterprise and of individual responsibility may be lost—to be restored only through tyranny.

Private property and private initiative, competition in a market among products even where it is limited as among firms, all, on the record, seem to unleash human energy and to make dictatorship less likely.

The emphasis on individual enterprise, originally sponsored by the utilitarians to break through the regimentation of the old mercantilist system, still has a compelling hold on the facts of human nature in its insistence upon forcing the individual to save not only his own soul but his own body. What will take the place of that compulsion and this attraction of running one's own shop, and making what others will pay for your product? If education and social discipline do not supply an incentive powerful enough, there is danger that the answer may be found in compulsion—in the coercion of, by, and for a planning state.

(... *W. Y. E.*)

READINGS

IN THE PERIOD covered by the writers in this chapter classical liberalism developed to its highest point and the reaction against it set in. If we take the period from Adam Smith's birth in 1723 to T. H. Green's death in 1882, it is quite clear that the events and ideas of the period are the ones that most directly affect our own lives and thoughts. Industrial development, empire, extension of popular government, legal reform, general welfare legislation, and the growth of the civil service in England were all characteristic of the period. The utility principle of Hume and Bentham, *laissez faire* in the economic realm by Adam Smith, the legal ideas of Bentham and Austin, the conception of liberty as revised by Mill, and the idealistic strain in Green, were the leading speculative products. The same events or facts were also accompanied by other lines of thought, which are treated in the next chapter. The most dominant characteristic of the ideas presented in this chapter is that they are in one way or another directed at unshackling the individual so he could at

last be free. And what was it that shackled the individual spirit? To be sure, there was the State, which circumscribed economic man, but there were also traditions and superstitions that enslaved all but a few, the antiquated legal forms of the type Dickens portrayed in *Bleak House,* the dead weight of public opinion. Finally the dogma of an atomistic individualism itself led T. H. Green to try to free man from it, by making the drive for freedom recognize the social conditions under which man could be truly free.

Looking back over these writers and the history of the period, those who believe that ideas influence behavior, rather than being simply derivatives of behavior, can take some comfort. Adam Smith's *laissez faire* influenced profoundly nineteenth- and twentieth-century England and the academic doctrines of America. Bentham's utility-based reformism had a direct influence on extending the suffrage in England; Austin, writing in the utilitarian tradition, laid bare by his analytical method the outlines of a rational system of jurisprudence, and before the end of the nineteenth century England had sweeping legal reforms; Mill likewise had great influence on improving the electoral system and in directing attention to areas of oppression, such as the rights of women, and certain private interferences with freedom. And Green profoundly influenced a whole Oxford generation in the direction of giving selflessly to public service. Some idea of the practical reform value of the principle of utility may be gained by noting that all but Smith and Green of this group were disciples of Bentham, and that, on the whole, the principle of utility reinforced Smith's arguments. Or to put it another way, *laissez faire* and utility joined forces. These ideas influenced action in both England and the United States but, as has been noted, their influence came later in the United States and was less direct. For one thing, the principle of utility did not replace the natural-rights doctrine in the United States to anywhere near the same extent that it did in England.

Adam Smith was born in 1723 at Kircaldy, Scotland, and was educated at Glasgow and Oxford. He taught at Edinburgh and Glasgow. His main field was philosophy, especially ethics. About 1748, he met Hume, and the close friendship that followed influenced the thoughts of both men. In 1759, Smith published his *Theory of Moral Sentiments,* which led to his selection as tutor for the young Duke of Buccleuch, whom he accompanied on continental travels. He spent the years 1764-66 in France, where he came into contact with physiocrats such as Quesnay, who actually coined the phrase *laissez faire.* Smith secured a pension which enabled him to undertake his greatest work, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776). In 1778, Smith was appointed commissioner of customs for Scotland; he made Edinburgh his home for

the rest of his life. In 1787, he was elected lord rector of the University of Glasgow. He died in 1790 at the age of sixty-seven, five years after the first steam spinning machine was set up in a cotton factory.

Men influence other men by personal contact or by their writings. Jeremy Bentham's influence over his fellow men depended heavily on both means. Born in London in 1748, he was educated at Oxford, where he heard Blackstone's lectures. His study of law did not lead to the bench or bar but to a life of study, writing, and informal teaching. The principle of utility upon which he based the whole moral and legal system was by no means entirely original, but the practical reforming use he made of it was uniquely his. Bentham spent much time abroad, especially in France, where several of his works first appeared in the French language. The utilitarians can almost be considered as a reforming sect, and Bentham was the personal center of a group that included James and John Stuart Mill, John Austin, George Grote, and others less well known. In 1823, he founded the *Westminster Review* to spread his "philosophic radicalism." Bentham was something of a recluse and did not participate directly in the public service of his time, but he influenced government through his writings and disciples more than if he had participated directly. He died in 1832, the very year of passage of the great Reform Bill, which started the modernization of the British electoral system. In that same year Andrew Jackson was elected for a second term; in France, King Louis Philippe was in the second year of his reign; and Karl Marx, a reformer of more revolutionary character, was fourteen years old.

John Austin was born in 1790, probably in Ipswich, where his father owned cotton mills. He entered the army at an early age and served until 1812, when he resigned his commission to study law. But the practice of law had little interest for him and he retired in 1825. In the following year he accepted appointment as the first professor of jurisprudence at the newly founded University College of London. He spent two years in preparation before he delivered his first lectures. In the course of this preparation Austin went to Germany to study modern Roman law; the influence of this study is to be seen in his analytical method. His lectures, which make up his published work on jurisprudence, are the first English attempt to deal analytically and critically with a legal system, using Roman law and English common law only as examples. Austin's lectures attracted very few people and he gave up in discouragement. He served on a Royal Commission on criminal law and on a commission to hear complaints and grievances from the natives of Malta. In his later years he came to distrust the overextension of democracy and in his last work, *A Plea For The Constitution,* he supported government by property owners. Austin's influence upon all subsequent English political specula-

tion has been very great, but rather for his jurisprudence than for his later political theories. He died in 1859.

John Stuart Mill was the last of the orthodox utilitarians. In his later years he abandoned much of the atomistic individualism that characterized the Benthamites. Born in London in 1806 and subjected to a rigorous education at the hands of his father, James Mill, he was deeply involved in scholastic logic by the time he was twelve. He traveled in France with relatives of Jeremy Bentham and studied law under John Austin. He entered the India Office as a clerk and by the time he retired in 1858 he was the head of his department. Most of his writings and participation in intellectual activities took place while he was in the public service. Mill was the moving spirit of the Speculative Society, which included Macaulay, Thirlwall, and Wilberforce. He became editor of the new *London Review* in 1835 and continued when it merged with the *Westminster Review*, which Bentham had founded. Mill's major works were in the field of political economy, logic, and political reform. He was influenced by Comte, Ricardo, Malthus, de Tocqueville, and, of course, most of all, by his father and Bentham. On the whole, his life was serene and good. He married, relatively late in life, the widow of a friend. His devotion to her and acknowledgment of her share in his work are fully recorded in his *Autobiography* (1873). In 1865 he was elected to the House of Commons, where he served until 1868. In Parliament he worked for woman suffrage and became an advocate of proportional representation. He died in 1873, in the thirty-sixth year of the reign of Queen Victoria, in the next to the last year of Gladstone's first ministry, and in the year when legal reform in England finally became a reality.

Although Mill in his later years drew back from the extreme individualism that was implicit in much of his training, it remained for T. H. Green to pick up a more social and idealistic tradition such as Kant and Hegel had developed in Germany, and to assert its validity for true liberalism. Green was born in Yorkshire and was educated at Rugby and at Balliol College, Oxford. From 1878 until his death he was Whyte Professor of Moral Philosophy at Oxford. Many of his writings, made up of his class lectures, were published after his death. His teachings were a powerful influence in England in the later nineteenth century, and his personal example of participation in practical municipal life brought universities more in touch with the people. Green died in 1882, a relatively young man.

In a sense, each writer represented in this chapter emphasizes an aspect of that totality we call liberalism—economic freedom, freedom of individual reason, a clear legal system, civil and political freedom, and the freedom that is only possible in an organized society. Significantly, there

is no writing on freedom from religious oppression. That battle had been won in England and in the United States, although a reading of Samuel Butler's *Way of All Flesh* will reveal that such oppression still existed in nineteenth century Britain, but essentially in a nonpolitical form. Except as a sort of generally accepted moral foundation, Christianity made little direct contribution to nineteenth-century liberalism. One other thing can be noted about these writers: None based his analysis upon a concept of classes, class conflicts, or class leadership. The heritage of the British Labour Party, through its Fabian leadership, drew more heavily on the moral philosophy of Mill and Green than on the revolutionary and "scientific" communism of Karl Marx.

Smith: Economy and the State

Adam Smith's important work is best considered against a background of the relation between government and the economy of his day. Government policy had long favored the dominant economic interests, which were agricultural and trading. The economic interests discriminated against were industrial and labor. Smith, after making studies of human nature and the economy as a related system instead of many different economies came to the conclusion that the greatest wealth would accrue to a people who let nature take its course through competition motivated by the acquisitive instinct, the play of the market, and the maximum natural division of labor. Governmental interference and national protection could only be detrimental, for they upset a natural harmony of interests which sought their harmony automatically in the course of conflict. Governmental regulation upset this harmony to the detriment of new industrial enterprise. This attack on mercantilism and the old colonial system was triumphant in England after the repeal of the Corn Laws (1846) and Navigation Acts (1849), and in the gradual emancipation of British colonies under what came to be known as Dominion Self Rule (British North America Act for Canada in 1862).[1]

BOOK I

CHAPTER II

[Division of Labor]

This division of labor, from which so many advantages are derived, is not originally the effect of any human wisdom, which foresees and intends that general opulence to which it gives occasion. It is the necessary, though very slow and gradual, consequence of a certain propensity in human nature which has in view no such extensive utility; the propensity to truck, barter, and exchange one thing for another.

Whether this propensity be one of those original principles in human nature, of which no further account can be given,

[1] Selections are from Adam Smith, *Inquiry Into The Nature and Causes of The Wealth of Nations* (1776).

or whether, as seems more probable, it be the necessary consequence of the faculties of reason and speech, it belongs not to our present subject to inquire. It is common to all men, and to be found in no other race of animals, which seem to know neither this nor any other species of contracts. Two greyhounds, in running down the same hare, have sometimes the appearance of acting in some sort of concert. Each turns her toward his companion, or endeavors to intercept her when his companion turns her toward himself. This, however, is not the effect of any contract, but of the accidental concurrence of their passions in the same object at that particular time. Nobody ever saw a dog make a fair and deliberate exchange of one bone for another with another dog. Nobody ever saw one animal by its gestures and natural cries signify to another, this is mine, that yours; I am willing to give this for that. When an animal wants to obtain something either of a man or of another animal, it has no other means of persuasion but to gain the favor of those whose service it requires. A puppy fawns upon its dam, and a spaniel endeavors by a thousand attractions to engage the attention of its master who is at dinner, when it wants to be fed by him. Man sometimes uses the same arts with his brethren, and when he has no other means of engaging them to act according to his inclinations, endeavors by every servile and fawning attention to obtain their goodwill. He had not time, however, to do this upon every occasion. In civilized society he stands at all times in need of the co-operation and assistance of great multitudes, while his whole life is scarce sufficient to gain the friendship of a few persons. In almost every other race of animals, each individual, when it is grown up to maturity, is entirely independent, and in its natural state has occasion for the assistance of no other living creature. But man has almost constant occasion for the help of his brethren, and it is in vain for him to expect it from their benevolence only. He will be more likely to prevail if he can interest their self-love in his favor, and show them that it is for their own advantage to do for him what he requires of them. Whoever offers to another a bargain of any kind, proposes to do this: Give me that which I want, and you shall have this which you want, is the meaning of every such offer; and it is in this manner that we obtain from one another the far greater part of those good offices which we stand in need of. It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity, but to their self-love, and never talk to them of our own necessities, but of their advantages. Nobody but a beggar chooses to depend chiefly upon the benevolence of his fellow-citizens. Even a beggar does not depend upon it entirely. The charity of well-disposed people, indeed, supplies him with the whole fund of his subsistence. But though this principle ultimately provides him with all the necessaries of life which he has occasion for, it neither does nor can provide him with them as he has occasion for them. The greater part of his occasional wants are supplied in the same manner as those of other people, by treaty, by barter, and by purchase. With the money which one man gives him he purchases food. The old clothes which another bestows upon him he exchanges for other old clothes which suit him better, or for lodging, or for food, or for money, with which he can buy either food, clothes, or lodging, as he has occasion.

As it is by treaty, by barter, and by purchase, that we obtain from one another the greater part of those mutual good offices which we stand in need of, so it is this same trucking disposition which originally gives occasion to the division of labor. In a tribe of hunters or shepherds a particular person makes bows and arrows, for example, with more readiness and dexterity than any other. He frequently exchanges them for cattle or for

venison with his companions, and he finds at last that he can in this manner get more cattle and venison than if he himself went to the field to catch them. From a regard to his own interest, therefore, the making of bows and arrows grows to be his chief business, and he becomes a sort of armorer. Another excels in making the frames and covers of their little huts or movable houses. He is accustomed to be of use in this way to his neighbors, who reward him in the same manner with cattle and with venison, till at last he finds it his interest to dedicate himself entirely to this employment, and to become a sort of house carpenter. In the same manner a third becomes a smith or a brazier, a fourth a tanner or dresser of hides or skins, the principal part of the clothing of the savages. And thus the certainty of being able to exchange all that surplus part of the produce of his own labor, which is over and above his own consumption, for such parts of the produce of other men's labor as he may have occasion for, encourages every man to apply himself to a particular occupation, and to cultivate and bring to perfection whatever talent or genius he may possess for that particular species of business.

The difference of natural talents in different men is, in reality, much less than we are aware of, and the very different genius which appears to distinguish men of different professions, when grown up to maturity, is not upon many occasions so much the cause as the effect of the division of labor. The difference between the most dissimilar characters, between a philosopher and a common street porter, for example, seems to arise not so much from nature, as from habit, custom, and education. When they came into the world, and for the first six or eight years of their existence, they were, perhaps, very much alike, and neither their parents nor playfellows could perceive any remarkable difference. About that age, or soon after, they come to be employed in very different occupations. The difference of talents comes then to be taken notice of, and widens by degrees, till at last the vanity of the philosopher is willing to acknowledge scarce any resemblance. But without the disposition to truck, barter, and exchange every man must have procured to himself every necessary and convenience of life which he wanted. All must have had the same duties to perform, and the same work to do, and there could have been no such difference of employment as could alone give occasion to any great difference of talents.

As it is this disposition which forms that difference of talents so remarkable among men of different professions, so it is this same disposition which renders that difference useful. Many tribes of animals acknowledged to be all of the same species, derive from nature a much more remarkable distinction of genius, than what, *antecedent to custom and education* appears to take place among men. By nature a philosopher is not in genius and disposition half so different from a street porter, as a mastiff is from a greyhound, or a greyhound from a spaniel, or this last from a shepherd's dog. Those different tribes of animals, however, though all of the same species, are of scarce any use to one another. The strength of the mastiff is not in the least supported either by the swiftness of the greyhound, or by the sagacity of the spaniel, or by the docility of the shepherd's dog. The effects of those different geniuses and talents, for want of the power or disposition to barter and exchange, cannot be brought into a common stock, and do not in the least contribute to the better accommodation and convenience of the species. Each animal is still obliged to support and defend itself, separately and independently, and derives no sort of advantage from that variety of talents with which nature has distinguished its fellows. Among men, on the contrary, the most dissimilar geniuses are of use to one another, the different produces of their respective talents, by the general disposition to truck, barter, and exchange, being brought, as it were, into a

common stock, where every man may purchase whatever part of the produce of other men's talents he has occasion for

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BOOK IV

CHAPTER IX

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[Government Interference]

The greatest and most important branch of the commerce of every nation it has already been observed, is that which is carried on between the inhabitants of the town and those of the country The inhabitants of the town draw from the country the rude produce which constitutes both the materials of their work and the fund of their subsistence, and they pay for this rude produce by sending back to the country a certain portion of it manufactured and prepared for immediate use The trade which is carried on between these two different sets of people consists ultimately in a certain quantity of rude produce exchanged for a certain quantity of manufactured produce The dearer the latter therefore, the cheaper the former, and whatever tends in any country to raise the price of manufactured produce, tends to lower that of the rude produce of the land, and thereby to discourage agriculture The smaller the quantity of manufactured produce which any given quantity of rude produce, or what comes to the same thing which the price of any given quantity of rude produce is capable of purchasing, the smaller the exchangeable value of that given quantity of rude produce, the smaller the encouragement which either the landlord has to increase its quantity by improving, or the farmer by cultivating the land What ever, besides, tends to diminish in any country the number of artificers and manufacturers, tends to diminish the home market, the most important of all markets for the rude produce of the land and thereby still further to discourage agriculture

Those systems, therefore, which, preferring agriculture to all other employments, in order to promote it, impose restraints upon manufactures and foreign trade, act contrary to the very end which they propose, and indirectly discourage that very species of industry which they mean to promote. They are so far, perhaps, more inconsistent than even the *mercantile system* That system, by encouraging manufactures and foreign trade more than agriculture, turns a certain portion of the capital of the society from supporting a more advantageous, to support a less advantageous species of industry But still it really and in the end encourages that species of industry which it means to promote Those agricultural systems on the contrary, really and in the end discourage their own favorite species of industry

It is thus that every system which endeavors either, by extraordinary encouragements, to draw toward a particular species of industry a greater share of the capital of the society than what would naturally go to it, or, by extraordinary restraints, to force from a particular species of industry some share of the capital which would otherwise be employed in it, is in reality subversive of the great purpose which it means to promote. It retards, instead of accelerating, the progress of the society toward real wealth and greatness, and diminishes, instead of increasing, the real value of the annual produce of its land and labor

All systems either of preference or of restraint, therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man, or order of men The sovereign is completely discharged from a duty in the attempting to perform

which he must always be exposed to innumerable delusions and for the proper performance of which no human wisdom or knowledge could ever be sufficient, the duty of superintending the industry of private people, and of directing it toward the employments most suitable to the interest of the society According to the system of natural liberty, the sovereign has only three duties to attend to three duties of great importance, indeed, but plain and intelligible to common understandings first, the duty of protecting the society from the violence and invasion of other independent societies, secondly, the duty of protecting, as far as possible, every member of the society from the injustice or oppression of every other member of it or the duty of establishing an exact administration of justice and thirdly the duty of erecting and maintaining certain public works and certain public institutions which it can never be for the interest of any individual, or small number of individuals, to erect and maintain because the profit could never repay the expense to any individual or small number of individuals, though it may frequently do much more than repay it to a great society

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BOOK V

CHAPTER I

[Protection of Property]

The second duty of the sovereign, that of protecting as far as possible, every member of the society from the injustice or oppression of every other member of it or the duty of establishing an exact administration of justice, requires two very different degrees of expense in the different periods of society

Among nations of hunters, as there is scarce any property, or at least none that exceeds the value of two or three days' labor, so there is seldom any established magistrate, or any regular administration of justice Men who have no property can injure one another only in their persons or reputations But when one man kills, wounds beats, or defames another though he to whom the injury is done suffers, he who does it receives no benefit It is otherwise with the injuries to property The benefit of the person who does the injury is often equal to the loss of him who suffers it Envy malice or resentment are the only passions which can prompt one man to injure another in his person or reputation But the greater part of men are not very frequently under the influence of those passions and the very worst men are so only occasionally As their gratification, too, how agreeable soever it may be to certain characters, is not attended with any real or permanent advantage it is in the greater part of men commonly restrained by prudential considerations Men may live together in society with some tolerable degree of security, though there is no civil magistrate to protect them from the injustice of those passions But avarice and ambition in the rich, in the poor the hatred of labor and the love of present ease and enjoyment are the passions which prompt to invade property, passions much more steady in their operation, and much more universal in their influence Wherever there is great property, there is great inequality For one very rich man, there must be at least five hundred poor, and the affluence of the few supposes the indigence of the many The affluence of the rich excites the indignation of the poor who are often both driven by want, and prompted by envy, to invade his possessions It is only under the shelter of the civil magistrate that the owner of that valuable property, which is acquired by the labor of many years, or perhaps of many successive generations, can sleep a single night in security He is at all times surrounded by unknown enemies, whom though he never provoked, he can never appease, and from whose injustice he can be protected only by the powerful arm of the civil magistrate continually held up to

chastise it The acquisition of valuable and extensive property, therefore, necessarily requires the establishment of civil government Where there is no property or at least none that exceeds the value of two or three days labor, civil government is not so necessary

Civil government supposes a certain subordination But as the necessity of civil government gradually grows up with the acquisition of valuable property, so the principal causes which naturally introduce subordination gradually grow up with the growth of that valuable property

. . . . .

[Classes]

Birth and fortune are evidently the two circumstances which principally set one man above another They are the two great sources of personal distinction, and are therefore the principal causes which naturally establish authority and subordination among men Among nations of shepherds both those causes operate with their full force The great shepherd or herdsman, respected on account of his great wealth and of the great number of those who depend upon him for subsistence, and revered on account of the nobleness of his birth and of the immemorial antiquity of his illustrious family has a natural authority over all the inferior shepherds or herdsmen of his horde or clan He can command the united force of a greater number of people than any of them His military power is greater than that of any of them In time of war they are all of them naturally disposed to muster themselves under his banner, rather than under that of any other person, and his birth and fortune thus naturally procure to him some sort of executive power By commanding, too the united force of a greater number of people than any of them, he is best able to compel any one of them who may have injured another to compensate the wrong He is the person, therefore, to whom all those who are too weak to defend themselves naturally look up for protection It is to him that they naturally complain of the injuries which they imagine have been done to them, and his interposition in such cases is more easily submitted to, even by the person complained of, than that of any other person would be His birth and fortune thus naturally procure him some sort of judicial authority

It is in the age of shepherds, in the second period of society that the inequality of fortune first begins to take place, and introduces among men a degree of authority and subordination which could not possibly exist before It thereby introduces some degree of that civil government which is indispensably necessary for its own preservation, and it seems to do this naturally, and even independent of the consideration of that necessity The consideration of that necessity comes, no doubt, afterward to contribute very much to maintain and secure that authority and subordination The rich, in particular, are necessarily interested to support that order of things which can alone secure them in the possession of their own advantages Men of inferior wealth combine to defend those of superior wealth in the possession of their property, in order that men of superior wealth may combine to defend them in the possession of theirs All the inferior shepherds and herdsmen feel that the security of their own herds and flocks depends upon the security of those of the great shepherd or herdsman, that the maintenance of their lesser authority depends upon that of his greater authority, and that upon their subordination to him depends his power of keeping their inferiors in subordination to them They constitute a sort of little nobility, who feel themselves interested to defend the property and to support the authority of their own little sovereign, in order that he may be able to defend their property and to support their authority Civil government, so far as it is instituted for the security of property, is in reality instituted for the defence of the rich against the poor, or of

those who have some property against those who have none at all.

. . . . .

[Public Expenses]

The expense of defending the society, and that of supporting the dignity of the chief magistrate, are both laid out for the general benefit of the whole society It is reasonable, therefore, that they should be defrayed by the general contribution of the whole society, all the different members contributing, as nearly as possible, in proportion to their respective abilities

The expense of the administration of justice, too, may, no doubt, be considered as laid out for the benefit of the whole society There is no impropriety, therefore, in its being defrayed by the general contribution of the whole society The persons, however, who give occasion to this expense are those who, by their injustice in one way or another, make it necessary to seek redress or protection from the courts of justice The persons again most immediately benefited by this expense are those whom the courts of justice either restore to their rights or maintain in their rights The expense of the administration of justice, therefore, may very properly be defrayed by the particular contribution of one or other or both of those two different sets of persons, according as different occasions may require, that is, by the fees of court It can not be necessary to have recourse to the general contribution of the whole society except for the conviction of those criminals who have not themselves any estate or fund sufficient for paying those fees

Those local or provincial expenses of which the benefit is local or provincial (what is laid out, for example, upon the police of a particular town or district) ought to be defrayed by a local or provincial revenue, and ought to be no burden upon the general revenue of the society It is unjust that the whole society should contribute toward an expense of which the benefit is confined to a part of the society

The expense of maintaining good roads and communications is, no doubt, beneficial to the whole society, and may, therefore, without any injustice, be defrayed by the general contribution of the whole society This expense, however, is most immediately and directly beneficial to those who travel or carry goods from one place to another, and to those who consume such goods The turnpike tolls in England, and the duties called peages in other countries, lay it altogether upon those two different sets of people, and thereby discharge the general revenue of the society from a very considerable burden

The expense of the institutions for education and religious instruction, is likewise, no doubt, beneficial to the whole society and may, therefore, without injustice, be defrayed by the general contribution of the whole society This expense, however, might perhaps with equal propriety, and even with some advantage be defrayed altogether by those who receive the immediate benefit of such education and instruction, or by the voluntary contribution of those who think they have occasion for either the one or the other

When the institutions or public works which are beneficial to the whole society, either cannot be maintained altogether or are not maintained altogether by the contribution of such particular members of the society as are most immediately benefited by them, the deficiency must in most cases be made up by the general contribution of the whole society The general revenue of the society, over and above defraying the expense of defending the society, and of supporting the dignity of the chief magistrate, must make up for the deficiency of many particular branches of revenue....

Bentham: The Principle of Utility

Bentham was seeking a scientific base for ethical or moral preferences Following Hume, he rejected Locke's ideas of natural rights and an innate moral sense He noted that man derived pleasure from some things and pain from others, so he concluded that the good was what gave pleasure and the bad was what gave pain By this touchstone he judged the state, political action, law, imprisonment—in fact all social activities. The test of legislation became the "greatest happiness principle." The effect of this new ethics was that of a powerful solvent clearing away the corrosion of custom and irrational practices. It had the practical advantage of being easy to understand and apply Its weakness lay in its gross oversimplification of human nature Its strength lay in its use as a tool for practical reform [1]

CHAPTLR 1

OF THL PRINCIPLE OF UTILITY

I. Nature has placed mankind under the governance of two sovereign masters, *pain* and *pleasure* It is for them alone to point out what we ought to do, as well as to determine what we shall do On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne They govern us in all we do, in all we say in all we think every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it In words a man may pretend to abjure their empire but in reality he will remain subject to it all the while The *principle of utility* recognises this subjection, and assumes it for the foundation of that system, the object of which is to rear the fabric of felicity by the hands of reason and of law Systems which attempt to question it, deal in sounds instead of sense, in caprice instead of reason, in darkness instead of light

But enough of metaphor and declamation it is not by such means that moral science is to be improved

II The principle of utility is the foundation of the present work it will be proper therefore at the outset to give an explicit and determinate account of what

[1] From *An Introduction to the Principles of Morals and Legislation*, by Jeremy Bentham Published by Oxford University Press 1928

[2] Note by the Author July 1822
To this denomination has of late been added, or substituted the *greatest happiness* or *greatest felicity* principle this for shortness instead of saying it length *that principle* which states the greatest happiness of all those whose interest is in question as being the right and proper and only right and proper and universally desirable end of human action of human action in every situation and in particular in that of a functionary or set of functionaries exercising the powers of Government The word *utility* does not so clearly point to the ideas of *pleasure* and *pain* as the words *happiness* and *felicity* do nor does it lead us to the consideration of the *number*, of the interests affected to the *number*, as being the circumstance, which contributes, in the largest proportion to the formation of the standard here in question the *standard of right and wrong*, by which alone the propriety of human conduct in every situation, can with propriety be tried This want of a sufficiently manifest connexion between the ideas of *happiness* and *pleasure* on the one hand, and the idea of *utility* on the other, I have every now and then found operating, and with but too much efficiency, as a bar to the acceptance, that might otherwise have been given, to this principle

is meant by it. By the principle[3] of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question or, what is the same thing in other words, to promote or to oppose that happiness I say of every action whatsoever, and therefore not only of every action of a private individual, but of every measure of government

III By utility is meant that property in any object whereby it tends to produce benefit, advantage pleasure, good, or happiness (all this in the present case comes to the same thing) or (what comes again to the same thing) to prevent the happening of mischief, pain, evil or unhappiness to the party whose interest is considered if that party be the community in general, then the happiness of the community if a particular individual, then the happiness of that individual

IV The interest of the community is one of the most general expressions that can occur in the phraseology of morals no wonder that the meaning of it is often lost When it has a meaning it is this The community is a fictitious *body* composed of the individual persons who are considered as constituting as it were its *members* The interest of the community then is what—the sum of the interests of the several members who compose it

V It is in vain to talk of the interest of the community, without understanding what is the interest of the individual[4] A thing is said to promote the interest or to be *for* the interest, of an individual, when it tends to add to the sum total of his pleasures or, what comes to the same thing to diminish the sum total of his pains

VI An action then may be said to be conformable to the principle of utility, or, for shortness sake to utility, (meaning with respect to the community at large) when the tendency it has to augment the happiness of the community is greater than any it has to diminish it

VII A measure of government (which is but a particular kind of action performed by a particular person or persons) may be said to be conformable to or dictated by the principle of utility, when in like manner the tendency which it has to augment the happiness of the community is greater than any which it has to diminish it

VIII When an action or in particular a measure of government, is supposed by a man to be conformable to the principle of utility it may be convenient, for the purpose of discourse, to imagine a kind of law or dictate, called a law or dictate of utility and to speak of the action in question as being conformable to such law or dictate

IX A man may be said to be a partizan of the principle of utility, when the approbation or disapprobation he annexes to any action, or to any measure, is determined by and proportioned to the tendency which he conceives it to have to augment or to diminish the happiness of the community or in other words, to its conformity or unconformity to the laws or dictates of utility

[3] The word principle is derived from the Latin principium which seems to be compounded of the two words *primus*, first, or chief, and *capium*, a termination which seems to be derived from *capio* to take, as in *mancipium*, *municipium*, to which are analogous, *auceps*, *forceps*, and others It is a term of very vague and very extensive significance it is applied to anything which is conceived to serve as a foundation or beginning to any series of operations in some cases, of physical operations but of mental operations in the present case

The principle here in question may be taken for an act of the mind a sentiment, a sentiment of approbation a sentiment which, when applied to an action, approves of its utility, as that quality of it by which the measure of approbation or disapprobation bestowed upon it ought to be governed.

[4] Interest is one of those words, which not having any superior *genus*, cannot in the ordinary way be defined.

X Of an action that is conformable to the principle of utility one may always say either that it is one that ought to be done, or at least that it is not one that ought not to be done One may say also, that it is right it should be done, at least that it is not wrong it should be done that it is a right action, at least that it is not a wrong action When thus interpreted, the words *ought*, and *right* and *wrong*, and others of that stamp, have a meaning when otherwise, they have none

XI Has the rectitude of this principle been ever formally contested? It should seem that it had, by those who have not known what they have been meaning Is it susceptible of any direct proof? it should seem not for that which is used to prove every thing else, cannot itself be proved a chain of proofs must have their commencement somewhere To give such proof is as impossible as it is needless

XII Not that there is or ever has been that human creature breathing however stupid or perverse, who has not on many, perhaps on most occasions of his life, deferred to it By the natural constitution of the human frame, on most occasions of their lives men in general embrace this principle, without thinking of it if not for the ordering of their own actions, yet for the trying of their own actions, as well as of those of other men There have been, at the same time not many, perhaps, even of the most intelligent, who have been disposed to embrace it purely and without reserve There are even few who have not taken some occasion or other to quarrel with it, either on account of their not understanding always how to apply it, or on account of some prejudice or other which they were afraid to examine into or could not bear to part with For such is the stuff that man is made of in principle and in practice, in a right track and in a wrong one, the rarest of all human qualities is consistency

XIII When a man attempts to combat the principle of utility, it is with reasons drawn, without his being aware of it from that very principle itself [5] His argu

[5] The principle of utility, (I have heard it said) is a dangerous principle it is dangerous on certain occasions to consult it' This is as much as to say, what? that it is not consonant to utility, to consult utility in short, that it is *not* consulting it, to consult it

Addition by the Author, July 1822

Not long after the publication of the Fragment on Government, anno 1776, in which, in the character of an all comprehensive and all commanding principle, the principle of *utility* was brought to view, one person by whom observation to the above effect was made was *Alexander Wedderburn*, at that time Attorney or Solicitor General, afterwards successively Chief Justice of the Common Pleas and Chancellor of England, under the successive titles of Lord Loughborough and Earl of Rosslyn It was made—not indeed in my hearing but in the hearing of a person by whom it was almost immediately communicated to me So far from being self contradictory, it was a shrewd and perfectly true one By that distinguished functionary, the state of the Government was thoroughly understood by the obscure individual, at that time not so much as supposed to be so his disquisitions had not been as yet applied, with any thing like a comprehensive view, to the field of Constitutional Law, nor therefore to those features of the English Government by which the greatest happiness of the ruling *one* with or without that of a favoured few are now so plainly seen to be the only ends to which the course of it has at any time been directed The *principle of utility* was an appellative, at that time employed—employed by me, as it had been by others, to designate that which, in a more perspicuous and instructive manner, may, as above, be designated by the name of the *greatest happiness principle* This principle (said Wedderburn) is a dangerous one' Saying so, he said that which to a certain extent, is strictly true a principle, which lays down, as the only *right* and justifiable end of Government, the greatest happiness of the greatest number—how can it be denied to be a dangerous one? dangerous it unquestionably is, to every government which has for its *actual* end or object, the greatest happiness of a certain *one*, with or without the addition of some comparatively small number of others, whom it is matter of pleasure or accommodation to

ments, if they prove any thing prove not that the principle is *wrong*, but that, according to the applications he supposes to be made of it, it is *misapplied* Is it possible for a man to move the earth? Yes, but he must first find out another earth to stand upon

XIV To disprove the propriety of it by arguments is impossible, but, from the causes that have been mentioned, or from some confused or partial view of it, a man may happen to be disposed not to relish it Where this is the case, if he thinks the settling of his opinions on such a subject worth the trouble, let him take the following steps, and at length, perhaps, he may come to reconcile himself to it

1 Let him settle with himself, whether he would wish to discard this principle altogether, if so, let him consider what it is that all his reasonings (in matters of politics especially) can amount to?

2 If he would, let him settle with himself, whether he would judge and act without any principle, or whether there is any other he would judge and act by?

3 If there be, let him examine and satisfy himself whether the principle he thinks he has found is really any separate intelligible principle, or whether it be not a mere principle in words, a kind of phrase, which at bottom expresses neither more nor less than the mere averment of his own unfounded sentiments that is, what in another person he might be apt to call caprice?

4 If he is inclined to think that his own approbation or disapprobation, annexed to the idea of an act, without any regard to its consequences, is a sufficient foundation for him to judge and act upon, let him ask himself whether his sentiment is to be a standard of right and wrong, with respect to every other man or whether every man's sentiment has the same privilege of being a standard to itself?

5 In the first case, let him ask himself whether his principle is not despotical, and hostile to all the rest of human race?

6 In the second case, whether it is not anarchial, and whether at this rate there are not as many different standards of right and wrong as there are men? and whether even to the same man, the same thing, which is right to-day, may not (without the least change in its nature) be wrong to-morrow? and whether the same thing is not right and wrong in the same place at the same time? and in either case, whether all argument is not at an end? and whether, when two men have said, I like this,' and 'I don't like it,' they can (upon such a principle) have any thing more to say?

7 If he should have said to himself No for that the sentiment which he proposes as a standard must be grounded on reflection, let him say on what particulars the reflection is to turn? if on particulars having relation to the utility of the act then let him say whether this is not deserting his own principle, and borrowing assistance from that very one in opposition to which he sets it up or if not on those particulars, on what other particulars?

8 If he should be for compounding the matter, and adopting his own principle in part, and the principle of utility in part, let him say how far he will adopt it?

9 When he has settled with himself where he will stop, then let him ask himself how he justifies to himself the adopt

him to admit, each of them to a share in the concern, on the footing of so many junior partners *Dangerous* it therefore really was, to the interest—the sinister interest—of all those functionaries, himself included, whose interest it was to maximize delay vexation, and expense in judicial and other modes of procedure, for the sake of the profit, extractible out of the expense In a Government which had for its end in view the greatest happiness of the greatest number, Alexander Wedderburn might have been Attorney General and then Chancellor but he would not have been Attorney General with £15 000 a year, nor Chancellor, with a peerage with a veto upon all justice, with £25 000 a year, and with 500 sinecures at his disposal, under the name of Ecclesiastical Benefices, besides *et cæteras*

ing it so far? and why he will not adopt it any farther?

10 Admitting any other principle than the principle of utility to be a right principle, a principle that it is right for a man to pursue, admitting (what is not true) that the word *right* can have a meaning without reference to utility, let him say whether there is any such thing as a *motive* that a man can have to pursue the dictates of it if there is, let him say what that motive is, and how it is to be distinguished from those which enforce the dictates of utility if not, then lastly let him say what it is this other principle can be good for?

Austin: Law, Ethics, and the State

At first glance it may seem that Austin simply presents a nineteenth century version of Hobbes' LEVIATHAN, *but he does more than that Austin divorces law from morals in order to get rid of the fuzzy thinking that arises when questions of fact and value are confused He sets himself steadfastly to the task of stating the logical "What is" of any legal system Values, to be legally recognized, must assert themselves through legal forms The goals he sets are high in the testing of any legal system· clarity, predictability, precision, and certainty He does not define sovereignty to glorify Hobbes' "mortal god" but in order to make sense out of a legal system where the State is the lawgiver Austin shares with other utilitarians the fault of pushing ideas to their logical extreme He builds on Hobbes' analysis of human nature, as Bentham did In consequence, so far as* legal sovereignty *goes, he finds it difficult to escape Hobbes' absolutist conclusions.*[1]

LECTURE V

[CLASSES OF LAWS]

. . . . .

Accordingly, I distribute laws proper, with such improper laws as are closely analogous to the proper, under three capital classes

The first comprises the laws (properly so called) which are set by God to his human creatures

The second comprises the laws (properly so called) which are set by men as political superiors, or by men, as private persons, in pursuance of legal rights

The third comprises laws of the two following species 1 The laws (properly so called) which are set by men to men, but not by men as political superiors, nor by men, as private persons, in pursuance of legal right 2 The laws which are closely analogous to laws proper, but are merely opinions or sentiments held or felt by men in regard to human conduct. —I put laws of these species into a common class, and I mark them, with the common name to which I shall advert immediately, for the following reason No law of either species is a direct or circuitous command of a monarch or sovereign number in the character of political superior In other words, no law of either

[1] From *Lectures on Jurisprudence,* by John Austin, Third Edition revised and edited by Robert Campbell Published by John Murray, London 1870 Lectures V and VI in part

species is a direct or circuitous command of a monarch or sovereign number to a person or persons in a state of subjection to its author Consequently, laws of both species may be aptly opposed to laws of the second capital class For every law of that second capital class is a direct or circuitous command of a monarch or sovereign number in the character of political superior that is to say, a direct or circuitous command of a monarch or sovereign number to a person or persons in a state of subjection to its author

Laws comprised by these three capital classes I mark with the following names

I name laws of the first class *the law* or *laws of God,* or *the Divine law* or *laws*

For various reasons which I shall produce immediately, I name laws of the second class *positive law,* or *positive laws*

For the same reasons, I name laws of the third class *positive morality, rules of positive morality,* or *positive moral rules*

My reasons for using the two expressions '*positive* law' and '*positive* morality,' are the following

There are two capital classes of human laws The first comprises the laws (properly so called) which are set by men as political superiors, or by men, as private persons, in pursuance of legal rights The second comprises the laws (proper and improper) which belong to the two species mentioned on the preceding page

As merely distinguished from the second, the first of those capital classes might be named simply *law* As merely distinguished from the first, the second of those capital classes might be named simply *morality* But both must be distinguished from the law of God and, for the purpose of distinguishing both from the law of God, we must qualify the names *law* and *morality* Accordingly, I style the first of those capital classes '*positive* law ' and I style the second of those capital classes '*positive* morality ' By the common epithet *positive,* I denote that both classes flow from human sources By the distinctive names *law* and *morality,* I denote the difference between the human sources from which the two classes respectively emanate

Strictly speaking every law properly so called is a *positive* law For it is *put* or set by its individual or collective author or it exists by the *position* or institution of its individual or collective author

But as opposed to the law of nature (meaning the law of God), human law of the first of those capital classes is styled by writers on jurisprudence *positive* law This application of the expression '*positive* law ' was manifestly made for the purpose of obviating confusion confusion of human law of the first of those capital classes with that Divine law which is the measure or test of human

And in order to obviate similar confusion I apply the expression '*positive* morality to human law of the second capital class For the name *morality* when standing unqualified or alone, may signify the law set by God, or human law of that second capital class If you say that an act or omission violates *morality,* you speak ambiguously You may mean that it violates the law which I style '*positive* morality,' or that it violates the Divine law which is the measure or test of the former

Again The human laws or rules which I style *positive* morality, I mark with that expression for the following additional reason

I have said that the name *morality,* when standing unqualified or alone, may signify positive morality, or may signify the law of God But the name *morality* when standing unqualified or alone, is perplexed with a further ambiguity It may import indifferently either of the two following senses—1 The name *morality,* when standing unqualified or alone, may signify positive morality which is good or worthy of approbation, or positive morality as it would be if it were good or worthy of approbation In other words, the name *morality,* when standing unqualified or alone, may signify positive morality which agrees with its measure or test, or positive morality as it would be

if it agreed with its measure or test 2 The name *morality*, when standing unqualified or alone, may signify the human laws, which I style positive morality as considered without regard to their goodness or badness For example, Such laws of the class as are peculiar to a given age, or such laws of the class as are peculiar to a given nation, we style the *morality* of that given age or nation whether we think them good or deem them bad Or, in case we mean to intimate that we approve or disapprove of them, we name them the *morality* of that given age or nation, and we qualify that name with the epithet *good* or *bad*

Now, by the name '*positive* morality I mean the human laws which I mark with that expression, as considered without regard to their goodness or badness Whether human laws be worthy of praise or blame, or whether they accord or not with their measure or test they are rules of *positive* morality,' in the sense which I give to the expression But, in consequence of that ambiguity which I have now attempted to explain, I could hardly express my meaning with passable distinctness by the unqualified name *morality*

. . . . .

LECTURE VI

[SOVEREIGNTY]

I shall finish, in the present lecture, the purpose mentioned above by explaining the marks or characters which distinguish positive laws, or laws strictly so called And, in order to an explanation of the marks which distinguish positive laws, I shall analyze the expression *sovereignty*, the correlative expression *subjection*, and the inseparably connected expression *independent political society* With the ends or final causes for which governments *ought* to exist, or with their different degrees of fitness to attain or approach those ends, I have no concern I examine the notions of *sovereignty* and *independent political society*, in order that I may finish the purpose to which I have adverted above in order that I may distinguish completely the appropriate province or jurisprudence from the regions which lie upon its confines, and by which it is encircled It is necessary that I should examine those notions, in order that I may finish that purpose For the essential difference of a positive law (or the difference that severs it from a law which is not a positive law) may be stated thus Every positive law, or every law simply and strictly so called, is set by a sovereign person, or a sovereign body of persons, to a member or members of the independent political society wherein that person or body is sovereign or supreme Or (changing the expression) it is set by a monarch, or sovereign number, to a person or persons in a state of subjection to its author Even though it sprung directly from another fountain or source, it *is* a positive law, or a law strictly so called, by the institution of that present sovereign in the character of political superior Or (borrowing the language of Hobbes) 'the legislator is he, not by whose authority the law was first made, but by whose authority it continues to be a law.'

Having stated the topic or subject appropriate to my present discourse, I proceed to distinguish sovereignty from other superiority or might, and to distinguish society political and independent from society of other descriptions.

The superiority which is styled sovereignty, and the independent political society which sovereignty implies, is distinguished from other superiority, and from other society, by the following marks or characters —1 The *bulk* of the given society are in a *habit* of obedience or submission to a *determinate* and *common* superior let that common superior be a certain individual person, or a certain body or aggregate of individual persons

2 That certain individual, or that certain body of individuals, is *not* in a habit of obedience to a determinate human superior Laws (improperly so called) which opinion sets or imposes, may permanently affect the conduct of that certain individual or body To express or tacit commands of other determinate parties, that certain individual or body may yield occasional submission But there is no determinate person, or determinate aggregate of persons, to whose commands express or tacit, that certain individual or body renders habitual obedience

[Austin's Definition]

Or the notions of sovereignty and independent political society may be expressed concisely thus—If a *determinate* human superior, *not* in a habit of obedience to a like superior, receive *habitual* obedience from the *bulk* of a given society, that determinate superior is sovereign in that society, and the society (including the superior) is a society political and independent

To that determinate superior, the other members of the society are *subject* or on that determinate superior, the other members of the society are *dependent* The position of its other members towards that determinate superior, is *a state of subjection*, or *a state of dependence* The mutual relation which subsists between that superior and them, may be styled *the relation of sovereign and subject*, or *the relation of sovereignty and subjection*

Hence it follows, that it is only through an ellipsis, or an abridged form of expression, that the *society* is styled *independent* The party truly independent (independent, that is to say, of a determinate human superior), is not the society, but the sovereign portion of the society that certain member of the society, or that certain body of its members, to whose commands, expressed or intimated, the generality or bulk of its members render habitual obedience Upon that certain person, or certain body of persons the other members of the society are *dependent* or to that certain person, or certain body of persons, the other members of the society are *subject* By 'an independent political society,' or 'an independent and sovereign nation' we mean a political society consisting of a sovereign and subjects, as opposed to a political society which is merely subordinate that is to say, which is merely a limb or member of another political society and which therefore consists entirely of persons in a state of subjection

In order that a given society may form a society political and independent, the two distinguishing marks which I have mentioned above must unite The *generality* of the given society must be in a *habit* of obedience to a *determinate* and *common* superior whilst that determinate person, or determinate body of persons must *not* be habitually obedient to a determinate person or body It is the union of that positive, with this negative mark, which renders that certain superior sovereign or supreme, and which renders that given society (including that certain superior) a society political and independent

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[Sovereignty in United States]

The supreme government of the United States of America, agrees (I believe) with the foregoing general description of a supreme federal government I believe that the common government, or the government consisting of the congress and the president of the United States, is merely a subject minister of the United States governments I believe that none of the latter is properly sovereign or supreme, even in the state or political society of which it is the immediate chief And, lastly, I believe that the sovereignty of each of the states, and also of the larger state arising from the federal union, resides in the states' governments *as forming one aggregate body* meaning by a state's government, not its ordinary

legislature, but the body of its citizens which appoints its ordinary legislature, and which, the union apart, is properly sovereign therein. If the several immediate chiefs of the several United States, were respectively single individuals, or were respectively narrow oligarchies, the sovereignty of each of the states, and also of the larger state arising from the federal union, would reside in those several individuals, or would reside in those several oligarchies, *as forming a collective whole.*

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[Limits on Sovereign Power]

From the various shapes which sovereignty may assume, or from the various possible forms of supreme government, I proceed to the limits, real and imaginary, of sovereign or supreme power.

Subject to the slight correctives which I shall state at the close of my discourse, the essential difference of a positive law (or the difference that severs it from a law which is not a positive law) may be put in the following manner.—Every positive law, or every law simply and strictly so called, is set, directly or circuitously, by a sovereign person or body, to a member or members of the independent political society wherein that person or body is sovereign or supreme. Or (changing the expression) it is set, directly or circuitously, by a monarch or sovereign number, to a person or persons in a state of subjection to its author.

Now it follows from the essential difference of a positive law, and from the nature of sovereignty and independent political society, that the power of a monarch properly so called, or the power of a sovereign number in its collegiate and sovereign capacity, is incapable of *legal* limitation. A monarch or sovereign number bound by a legal duty, were subject to a higher or superior sovereign: that is to say, a monarch or sovereign number bound by a legal duty, were sovereign and not sovereign. Supreme power limited by positive law, is a flat contradiction in terms.

Nor would a political society escape from legal despotism, although the power of the sovereign were bounded by legal restraints. The power of the superior sovereign immediately imposing the restraints, or the power of some other sovereign superior to that superior, would still be absolutely free from the fetters of positive law. For unless the imagined restraints were ultimately imposed by a sovereign not in a state of subjection to a higher or superior sovereign, a series of sovereigns ascending to infinity would govern the imagined community. Which is impossible and absurd.

Monarchs and sovereign bodies have attempted to oblige themselves, or to oblige the successors to their sovereign powers. But in spite of the laws which sovereigns have imposed on themselves, or which they have imposed on the successors to their sovereign powers, the position that 'sovereign power is incapable of legal limitation' will hold universally or without exception.

The immediate author of a law of the kind, or any of the sovereign successors to that immediate author, may abrogate the law at pleasure. And though the law be not abrogated, the sovereign for the time being is not constrained to observe it by a legal or political sanction. For if the sovereign for the time being were legally bound to observe it, that present sovereign would be in a state of subjection to a higher or superior sovereign.

As it regards the successors to the sovereign or supreme powers, a law of the kind amounts, at the most, to a rule of positive morality. As it regards its immediate author, it is merely a law by a metaphor. For if we would speak with propriety, we cannot speak of a law set by a man to himself: though a man may adopt a principle as a guide to his own conduct, and may observe it as he would observe it if he were bound to observe it by a sanction.

The laws which sovereigns affect to im-

pose upon themselves, or the laws which sovereigns affect to impose upon their fol lowers, are merely principles or maxims which they adopt as guides, or which they commend as guides to their successors in sovereign power A departure by a sov ereign or state from a law of the kind in question, is not illegal If a law which it sets to its subjects conflict with a law of the kind, the former is legally valid, or legally binding

For example The sovereign Roman people solemnly voted or resolved, that they would never pass, or even take into consideration, what I will venture to de nominate a *bill of pains and penalties* For though, at the period in question the Roman people were barbarians, they keenly felt a truth which is often forgotten by legislators in nations boasting of re finement namely, that punishment ought to be inflicted agreeably to prospective rules, and not in pursuance of particular and *ex post facto* commands This sol emn resolution or vote was passed with the forms of legislation and was inserted in the twelve tables in the following im perative terms *privilegia ne inroganto* But although the resolution or vote was passed with the forms of legislation, al though it was clothed with the expressions appropriate to a law, and although it was inserted as a law in a code or body of statutes, it scarcely was a law in the proper acceptation of the term, and cer tainly was not a law simply and strictly so called By that resolution or vote, the sovereign people adopted, and com mended to their successors in the sover eignty, an ethical principle or maxim The present and future sovereign which the resolution affected to oblige, was not bound or estopped by it Privileges en acted in spite of it by the sovereign Roman people, were not illegal The Roman tribunals might not have treated them as legally invalid acts, although they conflicted with the maxim, wearing the guise of a law, *privilegia ne irroganto*

Again By the authors of the union be tween England and Scotland, an attempt was made to oblige the legislature, which in consequence of that union is sovereign in both countries It is declared in the Articles and Act that the preservation of the Church of England, and of the Kirk of Scotland is a fundamental condi tion of the union or in other words that the Parliament of Great Britain shall not abolish those churches or make an essential change in their structures or con stitutions Now, so long as the bulk of either nation shall regard its established church with love and respect the aboli tion of the church by the British Parlia ment would be an *immoral* act, for it would violate positive morality which ob tains with the bulk of the nation, or would shock opinions and sentiments which the bulk of the nation holds As suming that the church establishment is commended by the revealed law, the abolition would be *irreligious* or, assum ing that the continuance of the establish ment were commended by general utility the abolition, as generally pernicious would also amount to a *sin* But no man talking with a meaning, would call a parliamentary abolition of either or both of the churches an *illegal* act For if the parliament for the time being be sovereign in England and Scotland, it cannot be bound legally by that condi tion of the union which affects to confer immortality upon those ecclesiastical in stitutions That condition of the union is not a positive law, but is counsel or advice offered by the authors of the union to future supreme legislatures

By the two examples which I have now adduced, I am led to consider the mean ings of the epithet *unconstitutional*, as it is contradistinguished in the epithet *illegal*, and as it is applied to conduct of a monarch, or to conduct of a sovereign number in its collegiate and sovereign capacity The epithet *unconstitutional*, as thus opposed and applied, is sometimes used with a meaning which is more gen eral and vague, and is sometimes used with a meaning which is more special and definite I will begin with the former

1. In every, or almost every, independent political society there are principles or maxims which the sovereign habitually observes, and which the bulk of the society, or the bulk of its influential members, regard with feelings of approbation. Not unfrequently, such maxims are expressly adopted, as well as habitually observed, by the sovereign or state. More commonly, they are not expressly adopted by the sovereign or state, but are simply imposed upon it by opinions prevalent in the community. Whether they are expressly adopted by the sovereign or state or are simply imposed upon it by opinions prevalent in the community, it is bound or constrained to observe them by merely moral sanctions. Or (changing the phrase) in case it ventured to deviate from a maxim of the kind in question, it would not and could not incur a legal pain or penalty, but it probably would incur censure, and might chance to meet with resistance, from the generality or bulk of the governed.

Now, if a law or other act of a monarch or sovereign number conflict with a maxim of the kind to which I have adverted above, the law or other act may be called *unconstitutional* (in that more general meaning which is sometimes given to the epithet). For example. The *ex post facto* statutes which are styled acts of attainder, may be called *unconstitutional* though they cannot be called *illegal*. For they conflict with a principle of legislation which parliament has habitually observed, and which is regarded with approbation by the bulk of the British community.

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[Political Liberty]

But if sovereign or supreme power be incapable of legal limitation, or if every supreme government be legally absolute, wherein (it may be asked) doth political liberty consist, and how do the supreme governments which are commonly deemed free, differ from the supreme governments which are commonly deemed despotic?

I answer, that political or civil liberty is the liberty from legal obligation which is left or granted by a sovereign government to any of its own subjects: and that since the power of the government is incapable of legal limitation, the government is legally free to abridge their political liberty, at its own pleasure or discretion. I say it is *legally* free to abridge their political liberty, at its own pleasure or discretion. For a government may be hindered by *positive morality* from abridging the political liberty which it leaves or grants to its subjects: and it is bound by the *law of God*, as known through the principle of utility, not to lord them with legal duties which general utility condemns.—There are kinds of liberty from legal obligation, which will not quadrate with the foregoing description: for persons in a state of nature are independent of political duty, and independence of political duty is one of the essentials of sovereignty. But *political* or *civil* liberty supposes political society, or supposes a πολις or *civitas*: and it is the liberty from legal obligation which is left by a state to its subjects, rather than the liberty from legal obligation which is inherent in sovereign power.

Political or civil liberty has been erected into an idol, and extolled with extravagant praises by doting and fanatical worshippers. But political or civil liberty is not more worthy of eulogy than political or legal restraint. Political or civil liberty, like political or legal restraint, may be generally useful, or generally pernicious, and it is not as being liberty, but as conducing to the general good, that political or civil liberty is an object deserving applause.

To the ignorant and bawling fanatics who stun you with their pother about liberty, political or civil liberty seems to be the principal end for which government ought to exist. But the final cause or purpose for which government ought to exist is the furtherance of the common weal to

the greatest possible extent. And it must mainly attain the purpose for which it ought to exist, by two sets of means: *first*, by conferring such rights on its subjects as general utility commends, and by imposing such relative duties (or duties corresponding to the rights) as are necessary to the enjoyment of the former: *secondly*, by imposing such absolute duties (or by imposing such duties without corresponding rights) as tend to promote the good of the political community at large, although they promote not specially the interests of determinate parties. Now he who is clothed with a legal right, is also clothed with a political liberty: that is to say, he has the liberty from legal obligation, which is necessary to the enjoyment of the right. Consequently, in so far as it attains its appropriate purpose by conferring rights upon its subjects, government attains that purpose through the medium of political liberty. But since it must impose a duty wherever it confers a right, and should also impose duties which have no corresponding rights, it is less through the medium of political liberty, than through that of legal restraint, that government must attain the purpose for which it ought to exist. To say that political liberty ought to be its principal end, or to say that its principal end ought to be legal restraint, is to talk absurdly: for each is merely a mean to that furtherance of the common weal, which is the only ultimate object of good or beneficent sovereignty. But though both propositions are absurd, the latter of the two absurdities is the least remote from the truth.—As I shall show hereafter, political or civil liberties rarely exist apart from corresponding legal restraints. Where persons in a state of subjection are free from legal duties, their liberties (generally speaking) would be nearly useless to themselves, unless they were protected in the enjoyment of their liberties, by legal duties on their fellows: that is to say, unless they had legal rights (importing such duties on their fellows) to those political liberties which are left them by the sovereign government. I am legally free, for example, to move from place to place, in so far as I can move from place to place consistently with my legal obligations: but this my political liberty would be but a sorry liberty, unless my fellow-subjects were restrained by a political duty from assaulting and imprisoning my body. Through the ignorance or negligence of a sovereign government, some of the civil liberties which it leaves or grants to its subjects, may not be protected against their fellows by answering legal duties: and some of those civil liberties may perhaps be protected sufficiently by religious and moral obligations. But, speaking generally, a political or civil liberty is coupled with a legal right to it: and, consequently, political liberty is fostered by that very political restraint from which the devotees of the idol liberty are so fearfully and blindly averse.

Mill: Liberty in State and Society

John Stuart Mill's ESSAY ON LIBERTY *stands with Milton's* AREOPAGITICA *as a great classic of the English tradition of liberty and tolerance Unlike Locke's liberty, which demands protection because it is a natural right of the individual, Mill's liberty demands protection because it is useful to the individual and to some extent to society Mill's formula is simple, almost too simple, for he divides all human acts into those that affect other people and those that do not The former may be rightfully regulated, the latter may not Perhaps the greater value in Mill's ideas comes from his recognition of the way new ideas are developed and tested by the freedom to get themselves accepted in the market place, as Mr Justice Holmes was to say later. One can make a good case that the noblest statement of classic liberalism is to be found in Mill's essay, part of which follows* [1]

INTRODUCTORY

[ACTS WHICH CONCERN OTHERS]

The object of this Essay is to assert one very simple principle, as entitled to gov ern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penal ties, or the moral coercion of public opinion That principle is that the sole end for which mankind are warranted individually or collectively in interfering with the liberty of action of any of their number, is self protection That the only purpose for which power can be right fully exercised over any member of a civilised community, against his will, is to prevent harm to others His own good, either physical or moral is not a sufficient warrant He cannot rightfully be com pelled to do or forbear because it will be better for him to do so, because it will make him happier, because in the opin ions of others, to do so would be wise, or even right These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreat ing him, but not for compelling him, or visiting him with any evil in case he do otherwise To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to some one else The only part of the conduct of any one, for which he is amenable to society, is that which concerns others In the part which merely concerns himself, his inde pendence is, of right, absolute Over him self, over his own body and mind, the individual is sovereign

It is, perhaps, hardly necessary to say that this doctrine is meant to apply only to human beings in the maturity of their faculties We are not speaking of children, or of young persons below the age which the law may fix as that of manhood or womanhood Those who are still in a state to require being taken care of by others, must be protected against their own ac tions as well as against external injury For the same reason, we may leave out of consideration those backward states of society in which the race itself may be considered as in its nonage. The early difficulties in the way of spontaneous progress are so great, that there is seldom any choice of means for overcoming them, and a ruler full of the spirit of improve ment is warranted in the use of any ex

[1] Taken from *Utilitarianism, Liberty and Representative Government*, by John Stuart Mill published by E P Dutton & Co, Inc New York, 1932, Everyman's Library

pedients that will attain an end perhaps otherwise unattainable Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement and the means justified by actually effecting that end Liberty as a principle has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion Until then there is nothing for them but implicit obedience to an Akbar or a Charlemagne if they are so fortunate as to find one But as soon as mankind have attained the capacity of being guided to their own improvement by conviction or persuasion (a period long since reached in all nations with whom we need here concern ourselves) compulsion either in the direct form or in that of pains and penalties for non compliance is no longer admissible as a means to their own good, and justifiable only for the security of others

[Principle of Utility]

It is proper to state that I forego any advantage which could be derived to my argument from the idea of abstract right as a thing independent of utility I regard utility as the ultimate appeal on all ethical questions, but it must be utility in the largest sense grounded on the permanent interests of a man as a progressive being Those interests, I contend authorise the subjection of individual spontaneity to external control only in respect to those actions of each which concern the interest of other people If any one does an act hurtful to others there is a *prima facie* case for punishing him, by law, or where legal penalties are not safely applicable, by general disapprobation There are also many positive acts for the benefit of others, which he may rightfully be compelled to perform, such as to give evidence in a court of justice to bear his fair share in the common defence, or in any other joint work necessary to the interest of the society of which he enjoys the protection, and to perform certain acts of individual beneficence such as saving a fellow creature's life, or interposing to protect the defenceless against ill usage things which whenever it is obviously a man's duty to do, he may rightfully be made responsible to society for not doing A person may cause evil to others not only by his actions but by his inaction and in either case he is justly accountable to them for the injury The latter case it is true requires a much more cautious exercise of compulsion than the former To make any one answerable for doing evil to others is the rule to make him answerable for not preventing evil is comparatively speaking the exception Yet there are many cases clear enough and grave enough to justify that exception In all things which regard the external relations of the individual, he is *de jure* amenable to those whose interests are concerned and, if need be, to society as their protector There are often good reasons for not holding him to the responsibility, but these reasons must arise from the special expediencies of the case either because it is a kind of case in which he is on the whole likely to act better, when left to his own discretion than when controlled in any way in which society have it in their power to control him or because the attempt to exercise control would produce other evils greater than those which it would prevent When such reasons as these preclude the enforcement of responsibility, the conscience of the agent himself should step into the vacant judgment seat and protect those interests of others which have no external protection judging himself all the more rigidly because the case does not admit of his being made accountable to the judgment of his fellow creatures

[Region of Human Liberty]

But there is a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest, comprehending all that portion of a person's life and conduct which affects

only himself, or if it also affects others, only with their free, voluntary, and undeceived consent and participation. When I say only himself, I mean directly, and in the first instance; for whatever affects himself, may affect others through himself; and the objection which may be grounded on this contingency, will receive consideration in the sequel. This, then, is the appropriate region of human liberty. It comprises, first, the inward domain of consciousness; demanding liberty of conscience in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological. The liberty of expressing and publishing opinions may seem to fall under a different principle, since it belongs to that part of the conduct of an individual which concerns other people; but, being almost of as much importance as the liberty of thought itself, and resting in great part on the same reasons, is practically inseparable from it. Secondly, the principle requires liberty of tastes and pursuits; of framing the plan of our life to suit our own character; of doing as we like, subject to such consequences as may follow: without impediment from our fellow-creatures, so long as what we do does not harm them, even though they should think our conduct foolish, perverse, or wrong. Thirdly, from this liberty of each individual, follows the liberty, within the same limits, of combination among individuals; freedom to unite, for any purpose not involving harm to others: the persons combining being supposed to be of full age, and not forced or deceived.

No society in which these liberties are not, on the whole, respected, is free, whatever may be its form of government; and none is completely free in which they do not exist absolute and unqualified. The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. Each is the proper guardian of his own health, whether bodily, *or* mental and spiritual. Mankind are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest.

Though this doctrine is anything but new, and, to some persons, may have the air of a truism, there is no doctrine which stands more directly opposed to the general tendency of existing opinion and practice. Society has expended fully as much effort in the attempt (according to its lights) to compel people to conform to its notions of personal as of social excellence. The ancient commonwealths thought themselves entitled to practise, and the ancient philosophers countenanced, the regulation of every part of private conduct by public authority, on the ground that the State had a deep interest in the whole bodily and mental discipline of every one of its citizens; a mode of thinking which may have been admissible in small republics surrounded by powerful enemies, in constant peril of being subverted by foreign attack or internal commotion, and to which even a short interval of relaxed energy and self-command might so easily be fatal that they could not afford to wait for the salutary permanent effects of freedom. In the modern world, the greater size of political communities, and, above all, the separation between spiritual and temporal authority (which placed the direction of men's consciences in other hands than those which controlled their worldly affairs), prevented so great an interference by law in the details of private life; but the engines of moral repression have been wielded more strenuously against divergence from the reigning opinion in self-regarding, than even in social matters; religion, the most powerful of the elements which have entered into the formation of moral feeling, having almost always been governed either by the ambition of a hierarchy, seeking control over every department of human conduct, or by the spirit of Puritanism. And some of those modern reformers who have placed themselves in strongest opposition to the

religions of the past, have been noway behind either churches or sects in their assertion of the right of spiritual domination M Comte, in particular, whose social system, as unfolded in his *Systeme de Politique Positive*, aims at establishing (though by moral more than by legal appliances) a despotism of society over the individual, surpassing anything contemplated in the political ideal of the most rigid disciplinarian among the ancient philosophers

[Power of Society]

Apart from the peculiar tenets of individual thinkers, there is also in the world at large an increasing inclination to stretch unduly the powers of society over the individual, both by the force of opinion and even by that of legislation, and as the tendency of all the changes taking place in the world is to strengthen society, and diminish the power of the individual this encroachment is not one of the evils which tend spontaneously to disappear but, on the contrary, to grow more and more formidable The disposition of mankind, whether as rulers or as fellow citizens, to impose their own opinions and inclinations as a rule of conduct on others, is so energetically supported by some of the best and by some of the worst feelings incident to human nature, that it is hardly ever kept under restraint by anything but want of power, and as the power is not declining, but growing, unless a strong barrier of moral conviction can be raised against the mischief, we must expect, in the present circumstances of the world, to see it increase

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CHAPTER II

[Liberty of Thought and Discussion]

It still remains to speak of one of the principal causes which make diversity of opinion advantageous, and will continue to do so until mankind shall have entered a stage of intellectual advancement which at present seems at an incalculable distance We have hitherto considered only two possibilities that the received opinion may be false, and some other opinion consequently, true, or that, the received opinion being true, a conflict with the opposite error is essential to a clear apprehension and deep feeling of its truth But there is a commoner case than either of these, when the conflicting doctrines, instead of being one true and the other false, share the truth between them, and the nonconforming opinion is needed to supply the remainder of the truth, of which the received doctrine embodies only a part Popular opinions, on subjects not palpable to sense, are often true but seldom or never the whole truth They are a part of the truth sometimes a greater, sometimes a smaller part, but exaggerated, distorted, and disjointed from the truths by which they ought to be accompanied and limited Heretical opinions, on the other hand, are generally some of these suppressed and neglected truths, bursting the bonds which kept them down, and either seeking reconciliation with the truth contained in the common opinion, or fronting it as enemies, and setting themselves up, with similar exclusiveness, as the whole truth The latter case is hitherto the most frequent, as, in the human mind, one sidedness has always been the rule, and many sidedness the exception Hence, even in revolutions of opinion, one part of the truth usually sets while another rises Even progress, which ought to superadd, for the most part only substitutes, one partial and incomplete truth for another, improvement consisting chiefly in this, that the new fragment of truth is more wanted, more adapted to the needs of the time, than that which it displaces Such being the partial character of prevailing opinions, even when resting on a true foundation, every opinion which embodies somewhat of the portion of truth which the common

opinion omits, ought to be considered precious, with whatever amount of error and confusion that truth may be blended. No sober judge of human affairs will feel bound to be indignant because those who force on our notice truths which we should otherwise have overlooked, overlook some of those which we see. Rather, he will think that so long as popular truth is one-sided, it is more desirable than otherwise that unpopular truth should have one-sided assertors too; such being usually the most energetic, and the most likely to compel reluctant attention to the fragment of wisdom which they proclaim as if it were the whole.

Thus, in the eighteenth century, when nearly all the instructed, and all those of the uninstructed who were led by them, were lost in admiration of what is called civilisation, and of the marvels of modern science, literature, and philosophy, and *while greatly overrating the amount of unlikeness* between the men of modern and those of ancient times, indulged the belief that the whole of the difference was in their own favour; with what a salutary shock did the paradoxes of Rousseau explode like bombshells in the midst, dislocating the compact mass of one-sided opinion, and forcing its elements to recombine in a better form and with additional ingredients. Not that the current opinions were on the whole farther from the truth than Rousseau's were; on the contrary, they were nearer to it; they contained more of positive truth, and very much less of error. Nevertheless there lay in Rousseau's doctrine, and has floated down the stream of opinion along with it, a considerable amount of exactly those truths which the popular opinion wanted; and these are the deposit which was left behind when the flood subsided. The superior worth of simplicity of life, the enervating and demoralising effect of the trammels and hypocrisies of artificial society, are ideas which have never been entirely absent from cultivated minds since Rousseau wrote; and they will in time produce their due effect, though at present needing to be asserted as much as ever, and to be asserted by deeds, for words, on this subject, have nearly exhausted their power.

[Two Sides]

In politics, again, it is almost a commonplace, that a party of order or stability, and a party of progress or reform, are both necessary elements of a healthy state of political life; until the one or the other shall have so enlarged its mental grasp as to be a party equally of order and of progress, knowing and distinguishing what is fit to be preserved from what ought to be swept away. Each of these modes of thinking derives its utility from the deficiencies of the other; but it is in a great measure the opposition of the other that keeps each within the limits of reason and sanity. Unless opinions favour*able to democracy and to aristocracy, to* property and to equality, to co-operation *and to competition, to* luxury *and to* abstinence, to sociality and individuality, to liberty and discipline, and all the other standing antagonisms of practical life, are expressed with equal freedom, and enforced and defended with equal talent and energy, there is no chance of both elements obtaining their due; one scale is sure to go up, and the other down. Truth, in the great practical concerns of life, is so much a question of the reconciling and combining of opposites, that very few have minds sufficiently capacious and impartial to make the adjustment with an approach to correctness, and it has to be made by the rough process of a struggle between combatants fighting under hostile banners. On any of the great open questions just enumerated, if either of the two opinions has a better claim than the other, not merely to be tolerated, but to be encouraged and countenanced, it is the one which happens at the particular time and place to be in a minority. That is the opinion which, for the time being, represents the neglected interests, the side of human well-being

which is in danger of obtaining less than its share I am aware that there is not, in this country, any intolerance of differences of opinion on most of these topics They are adduced to show, by admitted and multiplied examples, the universality of the fact, that only through diversity of opinion is there, in the existing state of human intellect, a chance of fair play to all sides of the truth When there are persons to be found who form an exception to the apparent unanimity of the world on any subject, even if the world is in the right, it is always probable that dissentients have something worth hearing to say for themselves, and that truth would lose something by their silence

[Absolute Truth]

It may be objected "But *some* received principles, especially on the highest and most vital subjects, are more than half truths The Christian morality, for instance, is the whole truth on that subject, and if any one teaches a morality which varies from it, he is wholly in error" Is this is of all cases the most important in practice, none can be fitter to test the general maxim But before pronouncing what Christian morality is or is not, it would be desirable to decide what is meant by Christian morality If it means the morality of the New Testament, I wonder that any one who derives his knowledge of this from the book itself, can suppose that it was announced, or intended, as a complete doctrine of morals The Gospel always refers to a pre existing morality, and confines its precepts to the particulars in which that morality was to be corrected, or superseded by a wider and higher, expressing itself, moreover, in terms most general, often impossible to be interpreted literally, and possessing rather the impressiveness of poetry or eloquence than the precision of legislation To extract from it a body of ethical doctrine, has never been possible without eking it out from the Old Testament, that is, from a system elaborate indeed, but in many respects barbarous, and intended only for a barbarous people St Paul, a declared enemy to this Judaical mode of interpreting the doctrine and filling up the scheme of his Master, equally assumes a pre existing morality, namely that of the Greeks and Romans, and his advice to Christians is in a great measure a system of accommodation to that, even to the extent of giving an apparent sanction to slavery What is called Christian, but should rather be termed theological, morality, was not the work of Christ or the Apostles, but is of much later origin, having been gradually built up by the Catholic church of the first five centuries, and though not implicitly adopted by moderns and Protestants, has been much less modified by them than might have been expected For the most part, indeed, they have contented themselves with cutting off the additions which had been made to it in the Middle Ages, each sect supplying the place by fresh additions, adapted to its own character and tendencies That mankind owe a great debt to this morality, and to its early teachers, I should be the last person to deny, but I do not scruple to say of it that it is, in many important points, incomplete and one sided, and that unless ideas and feelings, not sanctioned by it, had contributed to the formation of European life and character, human affairs would have been in a worse condition than they now are Christian morality (so called) has all the characters of a reaction, it is, in great part, a protest against Paganism Its ideal is negative rather than positive, passive rather than active, Innocence rather than Nobleness, Abstinence from Evil, rather than energetic Pursuit of Good, in its precepts (as has been well said) 'thou shalt not" predominates unduly over "thou shalt" In its horror of sensuality, it made an idol of asceticism, which has been gradually compromised away into one of legality It holds out the hope of heaven and the threat of hell, as the appointed and appropriate motives to a virtuous life: in this falling far below

the best of the ancients, and doing what lies in it to give to human morality an essentially selfish character, by disconnecting each man's feelings of duty from the interests of his fellow creatures, except so far as a self interested inducement is offered to him for consulting them It is essentially a doctrine of passive obedience, it inculcates submission to all authorities found established, who indeed are not to be actively obeyed when they command what religion forbids, but who are not to be resisted, far less rebelled against, for any amount of wrong to ourselves And while, in the morality of the best Pagan nations, duty to the State holds even a disproportionate place, infringing on the just liberty of the individual, in purely Christian ethics, that grand department of duty is scarcely noticed or acknowledged It is in the Koran, not the New Testament, that we read the maxim—"A ruler who appoints any man to an office, when there is in his dominions another man better qualified for it, sins against God and against the State" What little recognition the idea of obligation to the public obtains in modern morality is derived from Greek and Roman sources, not from Christian, as, even in the morality of private life, whatever exists of magnanimity, high mindedness, personal dignity, even the sense of honour, is derived from the purely human, not the religious part of our education, and never could have grown out of a standard of ethics in which the only worth, professedly recognised, is that of obedience

I am as far as any one from pretending that these defects are necessarily inherent in the Christian ethics in every manner in which it can be conceived, or that the many requisites of a complete moral doctrine which it does not contain do not admit of being reconciled with it Far less would I insinuate this of the doctrines and precepts of Christ himself I believe that the sayings of Christ are all that I can see any evidence of their having been intended to be, that they are irreconcilable with nothing which a comprehensive morality requires, that everything which is excellent in ethics may be brought within them, with no greater violence to their language than has been done to it by all who have attempted to deduce from them any practical system of conduct whatever But it is quite consistent with this to believe that they contain, and were meant to contain, only a part of the truth, that many essential elements of the highest morality are among the things which are not provided for, nor intended to be provided for, in the recorded deliverances of the Founder of Christianity, and which have been entirely thrown aside in the system of ethics erected on the basis of those deliverances by the Christian Church And this being so, I think it a great error to persist in attempting to find in the Christian doctrine that complete rule for our guidance which its author intended it to sanction and enforce, but only partially to provide. I believe, too, that this narrow theory is becoming a grave practical evil, detracting greatly from the moral training and instruction which so many well meaning persons are now at length exerting themselves to promote I much fear that by attempting to form the mind and feelings on an exclusively religious type, and discarding those secular standards (as for want of a better name they may be called) which heretofore coexisted with and supplemented the Christian ethics, receiving some of its spirit, and infusing into it some of theirs, there will result and is even now resulting, a low, abject, servile type of character, which, submit itself as it may to what it deems the Supreme Will, is incapable of rising to or sympathising in the conception of Supreme Goodness I believe that other ethics than any which can be evolved from exclusively Christian sources, must exist side by side with Christian ethics to produce the moral regeneration of mankind, and that the Christian system is no exception to the rule, that in an imperfect state of the human mind the interests of truth require a diversity of opinions It is

not necessary that in ceasing to ignore the moral truths not contained in Christianity men should ignore any of those which it does contain Such prejudice, or oversight, when it occurs, is altogether an evil, but it is one from which we cannot hope to be always exempt, and must be regarded as the price paid for an inestimable good The exclusive pretension made by a part of the truth to be the whole, must and ought to be protested against, and if a reactionary impulse should make the protesters unjust in their turn, this one sidedness, like the other, may be lamented, but must be tolerated If Christians would teach infidels to be just to Christianity, they should themselves be just to infidelity It can do truth no service to blink the fact, known to all who have the most ordinary acquaintance with literary history, that a large portion of the noblest and most valuable moral teaching has been the work, not only of men who did not know, but of men who knew and rejected, the Christian faith

I do not pretend that the most unlimited use of the freedom of enunciating all possible opinions would put an end to the evils of religious or philosophical sectarianism Every truth which men of narrow capacity are in earnest about, is sure to be asserted inculcated and in many ways even acted on, as if no other truth existed in the world, or at all events none that could limit or qualify the first I acknowledge that the tendency of all opinions to become sectarian is not cured by the freest discussion, but is often heightened and exacerbated thereby, the truth which ought to have been, but was not, seen, being rejected all the more violently because proclaimed by persons regarded as opponents But it is not on the impassioned partisan, it is on the calmer and more disinterested bystander, that this collision of opinions works its salutary effect Not the violent conflict between parts of the truth, but the quiet suppression of half of it, is the formidable evil, there is always hope when people are forced to listen to both sides, it is when they attend only to one that errors harden into prejudices, and truth itself ceases to have the effect of truth, by being exaggerated into falsehood And since there are few mental attributes more rare than that judicial faculty which can sit in intelligent judgment between two sides of a question, of which only one is represented by an advocate before it, truth has no chance but in proportion as every side of it, every opinion which embodies any fraction of the truth not only finds advocates, but is so advocated as to be listened to

We have now recognised the necessity to the mental well being of mankind (on which all their other well being depends) of freedom of opinion, and freedom of the expression of opinion, on four distinct grounds, which we will now briefly recapitulate First, if any opinion is compelled to silence, that opinion may, for aught we can certainly know, be true To deny this is to assume our own infallibility

Secondly, though the silenced opinion be an error, it may, and very commonly does, contain a portion of truth, and since the general or prevailing opinion on any subject is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied

Thirdly even if the received opinion be not only true, but the whole truth, unless it is suffered to be, and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of a prejudice, with little comprehension or feeling of its rational grounds And not only this, but, fourthly, the meaning of the doctrine itself will be in danger of being lost, or enfeebled, and deprived of its vital effect on the character and conduct the dogma becoming a mere formal profession, inefficacious for good, but cumbering the ground, and preventing the growth of any real and heartfelt conviction, from reason or personal experience.

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[PRESENT DANGER]

There has been a time when the element of spontaneity and individuality was in excess, and the social principle had a hard struggle with it The difficulty then was to induce men of strong bodies or minds to pay obedience to any rules which required them to control their impulses To overcome this difficulty, law and discipline, like the Popes struggling against the Emperors, asserted a power over the whole man, claiming to control all his life in order to control his character—which society had not found any other sufficient means of binding But society has now fairly got the better of individuality, and the danger which threatens human nature is not the excess, but the deficiency, of personal impulses and preferences Things are vastly changed since the passions of those who were strong by station or by personal endowment were in a state of habitual rebellion against laws and ordinances, and required to be rigorously chained up to enable the persons within their reach to enjoy any particle of security In our times, from the highest class of society down to the lowest every one lives as under the eye of a hostile and dreaded censorship Not only in what concerns others, but in what concerns only themselves, the individual or the family do not ask themselves—what do I prefer? or, what would suit my character and disposition? or, what would allow the best and highest in me to have fair play, and enable it to grow and thrive? They ask themselves, what is suitable to my position? what is usually done by persons of my station and pecuniary circumstances? or (worse still) what is usually done by persons of a station and circumstances superior to mine? I do not mean that they choose what is customary in preference to what suits their own inclination It does not occur to them to have any inclination, except for what is customary Thus the mind itself is bowed to the yoke even in what people do for pleasure, conformity is the first thing thought of, they like in crowds, they exercise choice only among things commonly done peculiarity of taste, eccentricity of conduct, are shunned equally with crimes until by dint of not following their own nature they have no nature to follow their human capacities are withered and starved they become incapable of any strong wishes or native pleasures, and are generally without either opinions or feelings of home growth, or properly their own Now is this, or is it not, the desirable condition of human nature?

It is so, on the Calvinistic theory According to that, the one great offence of man is self will All the good of which humanity is capable is comprised in obedience You have no choice, thus you must do, and no otherwise "whatever is not a duty, is a sin Human nature being radically corrupt, there is no redemption for any one until human nature is killed within him To one holding this theory of life crushing out any of the human faculties, capacities, and susceptibilities, is no evil man needs no capacity, but that of surrendering himself to the will of God and if he uses any of his faculties for any other purpose but to do that supposed will more effectually, he is better without them This is the theory of Calvinism, and it is held, in a mitigated form, by many who do not consider themselves Calvinists, the mitigation consisting in giving a less ascetic interpretation to the alleged will of God, asserting it to be his will that mankind should gratify some of their inclinations, of course not in the manner they themselves prefer, but in the way of obedience, that is, in a way prescribed to them by authority, and, therefore, by the necessary condition of the case, the same for all

[TRUE LIBERATION]

In some such insidious form there is at present a strong tendency to this narrow theory of life, and to the pinched and hidebound type of human character which it patronises Many persons, no

doubt, sincerely think that human beings thus cramped and dwarfed are as their Maker designed them to be, just as many have thought that trees are a much finer thing when clipped into pollards, or cut out into figures of animals, than as nature made them But if it be any part of religion to believe that man was made by a good Being it is more consistent with that faith to believe that this Being gave all human faculties that they might be cultivated and unfolded, not rooted out and consumed, and that he takes delight in every nearer approach made by his creatures to the ideal conception embodied in them, every increase in any of their capabilities of comprehension of action, or of enjoyment There is a different type of human excellence from the Calvinistic. a conception of humanity as having its nature bestowed on it for other purposes than merely to be abnegated 'Pagan self assertion" is one of the elements of human worth, as well as "Christian self denial" [1] There is a Greek ideal of self development, which the Platonic and Christian ideal of self government blends with, but does not supersede It may be better to be a John Knox than an Alcibiades, but it is better to be a Pericles than either, nor would a Pericles, if we had one in these days, be without anything good which belonged to John Knox

It is not by wearing down into uniformity all that is individual in themselves, but by cultivating it, and calling it forth, within the limits imposed by the rights and interests of others, that human beings become a noble and beautiful object of contemplation, and as the works partake the character of those who do them, by the same process human life also becomes rich, diversified, and animating, furnishing more abundant aliment to high thoughts and elevating feelings, and strengthening the tie which binds every individual to the race, by making the race infinitely better worth belonging to In proportion to the development of his individuality, each person becomes more valuable to himself, and is therefore capable of being more valuable to others There is a greater fulness of life about his own existence, and when there is more life in the units there is more in the mass which is composed of them As much compression as is necessary to prevent the stronger specimens of human nature from encroaching on the rights of others cannot be dispensed with, but for this there is ample compensation even in the point of view of human development The means of development which the individual loses by being prevented from gratifying his inclinations to the injury of others, are chiefly obtained at the expense of the development of other people And even to himself there is a full equivalent in the better development of the social part of his nature, rendered possible by the restraint put upon the selfish part To be held to rigid rules of justice for the sake of others, develops the feelings and capacities which have the good of others for their object But to be restrained in things not affecting them good, by their mere displeasure, develops nothing valuable, except such force of character as may unfold itself in resisting the restraint If acquiesced in, it dulls and blunts the whole nature To give any fair play to the nature of each, it is essential that different persons should be allowed to lead different lives In proportion as this latitude has been exercised in any age, has that age been noteworthy to posterity Even despotism does not produce its worst effects, so long as individuality exists under it, and whatever crushes individuality is despotism, by whatever name it may be called, and whether it professes to be enforcing the will of God or the injunctions of men

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[Despotism of Custom]

There is one characteristic of the present direction of public opinion peculiarly

[1] Sterlings *Essays.*

calculated to make it intolerant of any marked demonstration of individuality The general average of mankind are not only moderate in intellect, but also moderate in inclinations they have no tastes or wishes strong enough to incline them to do anything unusual, and they consequently do not understand those who have, and class all such with the wild and intemperate whom they are accustomed to look down upon Now, in addition to this fact which is general, we have only to suppose that a strong movement has set in towards the improvement of morals, and it is evident what we have to expect In these days such a movement has set in, much has actually been effected in the way of increased regularity of conduct and discouragement of excesses, and there is a philanthropic spirit abroad, for the exercise of which there is no more inviting field than the moral and prudential improvement of our fellow creatures These tendencies of the times cause the public to be more disposed than at most former periods to prescribe general rules of conduct, and endeavour to make every one conform to the approved standard And that standard, express or tacit, is to desire nothing strongly Its ideal of character is to be without any marked character, to maim by compression, like a Chinese lady's foot, every part of human nature which stands out prominently, and tends to make the person markedly dissimilar in outline to commonplace humanity

As is usually the case with ideals which exclude one half of what is desirable, the present standard of approbation produces only an inferior imitation of the other half Instead of great energies guided by vigorous reason, and strong feelings strongly controlled by a conscientious will, its result is weak feelings and weak energies, which therefore can be kept in outward conformity to rule without any strength either of will or of reason. Already energetic characters on any large scale are becoming merely traditional There is now scarcely any outlet for energy in this country except business. The energy expended in this may still be regarded as considerable. What little is left from that employment is expended on some hobby, which may be a useful, even a philanthropic hobby, but is always some one thing, and generally a thing of small dimensions The greatness of England is now all collective; individually small, we only appear capable of anything great by our habit of combining; and with this our moral and religious philanthropists are perfectly contented. But it was men of another stamp than this that made England what it has been; and men of another stamp will be needed to prevent its decline

The despotism of custom is everywhere the standing hindrance to human advancement, being in unceasing antagonism to that disposition to aim at something better than customary, which is called, according to circumstances, the spirit of liberty, or that of progress or improvement The spirit of improvement is not always a spirit of liberty, for it may aim at forcing improvements on an unwilling people, and the spirit of liberty, in so far as it resists such attempts, may ally itself locally and temporarily with the opponents of improvement, but the only unfailing and permanent source of improvement is liberty, since by it there are as many possible independent centres of improvement as there are individuals. The progressive principle, however, in either shape, whether as the love of liberty or of improvement, is antagonistic to the sway of Custom, involving at least emancipation from that yoke, and the contest between the two constitutes the chief interest of the history of mankind The greater part of the world has, properly speaking, no history, because the despotism of Custom is complete This is the case over the whole East Custom is there, in all things, the final appeal, justice and right mean conformity to custom, the argument of custom no one, unless some tyrant intoxicated with power, thinks of resisting And we see the result Those nations must once have had originality,

they did not start out of the ground populous, lettered, and versed in many of the arts of life; they made themselves all this, and were then the greatest and most powerful nations of the world What are they now? The subjects or dependents of tribes whose forefathers wandered in the forests when theirs had magnificent palaces and gorgeous temples, but over whom custom exercised only a divided rule with liberty and progress A people, it appears, may be progressive for a certain length of time, and then stop when does it stop? When it ceases to possess individuality If a similar change should befall the nations of Europe, it will not be in exactly the same shape the despotism of custom with which these nations are threatened is not precisely stationariness It proscribes singularity, but it does not preclude change, provided all change together We have discarded the fixed costumes of our forefathers, every one must still dress like other people, but the fashion may change once or twice a year We thus take care that when there is a change, it shall be for change's sake, and not from any idea of beauty or convenience, for the same idea of beauty or convenience would not strike all the world at the same moment, and be simultaneously thrown aside by all at another moment But we are progressive as well as changeable we continually make new inventions in mechanical things, and keep them until they are again superseded by better, we are eager for improvement in politics, in education, even in morals, though in this last our idea of improvement chiefly consists in persuading or forcing other people to be as good as ourselves It is not progress that we object to, on the contrary, we flatter ourselves that we are the most progressive people who ever lived It is individuality that we war against we should think we had done wonders if we had made ourselves all alike, forgetting that the unlikeness of one person to another is generally the first thing which draws the attention of either to the imperfection of his own type, and the superiority of another, or the possibility, by combining the advantages of both, of producing something better than either We have a warning example in China—a nation of much talent and, in some respects, even wisdom, owing to the rare good fortune of having been provided at an early period with a particularly good set of customs, the work, in some measure, of men to whom even the most enlightened European must accord, under certain limitations, the title of sages and philosophers They are remarkable too, in the excellence of their apparatus for impressing, as far as possible, the best wisdom they possess upon every mind in the community and securing that those who have appropriated most of it shall occupy the posts of honour and power Surely the people who did this have discovered the secret of human progressiveness, and must have kept themselves steadily at the head of the movement of the world On the contrary, they have become stationary—have remained so for thousands of years, and if they are ever to be farther improved it must be by foreigners They have succeeded beyond all hope in what English philanthropists are so industriously working at—in making a people all alike, all governing their thoughts and conduct by the same maxims and rules, and these are the fruits The modern *regime* of public opinion is, in an unorganised form, what the Chinese educational and political systems are in an organised, and unless individuality shall be able successfully to assert itself against this yoke, Europe, notwithstanding its noble antecedents and its professed Christianity, will tend to become another China.

[Diversity of Character]

What is it that has hitherto preserved Europe from this lot? What has made the European family of nations an improving, instead of a stationary portion of mankind? Not any superior excellence in them, which, when it exists, exists as the effect not as the cause, but their re-

markable diversity of character and cul ture Individuals, classes, nations, have been extremely unlike one another they have struck out a great variety of paths each leading to something valuable, and although at every period those who trav elled in different paths have been intol erant of one another, and each would have thought it an excellent thing if all the rest could have been compelled to travel his road, their attempts to thwart each other's development have rarely had any permanent success, and each has in time endured to receive the good which the others have offered Europe is, in my judgment, wholly indebted to this plu rality of paths for its progressive and many-sided development But it already begins to possess this benefit in a consid erably less degree It is decidedly advanc ing towards the Chinese ideal of making all people alike M de Tocqueville, in *his last important work, remarks how* much more the Frenchmen of the present day resemble one another than did those even of the last generation The same re mark might be made of Englishmen in a far greater degree In a passage already quoted from Wilhelm von Humboldt he points out two things as necessary condi tions of human development, because nec essary to render people unlike one another, namely, freedom, and variety of situations The second of these two con ditions is in this country every day dimin ishing The circumstances which surround different classes and individuals, and shape their characters, are daily becoming more assimilated Formerly, different ranks, different neighbourhoods, different trades and professions, lived in what might be called different worlds, at pres ent to a great degree in the same Com paratively speaking, they now read the same things, listen to the same things, see the same things, go to the same places, have their hopes and fears directed to the same objects, have the same rights and liberties, and the same means of asserting them Great as are the differences of position which remain, they are nothing to those which have ceased And the assimilation is still proceeding All the political changes of the age promote it, since they all tend to raise the low and to lower the high Every extension of edu cation promotes it, because education brings people under common influences, and gives them access to the general stock of facts and sentiments Improvement in the means of communication promotes it, by bringing the inhabitants of distant places into personal contact, and keeping up a rapid flow of changes of residence between one place and another The increase of commerce and manufactures pro motes it, by diffusing more widely the ad vantages of easy circumstances, and open ing all objects of ambition, even the highest, to general competition, whereby the desire of rising becomes no longer the character of a particular class, but of all classes A more powerful agency than *even all these, in bringing about a gen*eral similarity among mankind, is the complete establishment, in this and other free countries, of the ascendancy of pub lic opinion in the State As the various social eminences which enabled persons entrenched on them to disregard the opinion of the multitude gradually become levelled, as the very idea of resisting the will of the public, when it is positively known that they have a will, dis appears more and more from the minds of practical politicians, there ceases to be any social support for nonconformity—any substantive power in society which, itself opposed to the ascendancy of numbers, is interested in taking under its protection opinions and tendencies at variance with those of the public

The combination of all these causes forms so great a mass of influences hostile to Individuality, that it *is not easy to see* how it can stand its ground It will do so with increasing difficulty, unless the intelligent part of the public can be made to feel its value—to see that it is good there should be differences, even though not for the better, even though, as it may appear to them, some should be for the

worse If the claims of Individuality are ever to be asserted the time is now, while much is still wanting to complete the enforced assimilation It is only in the earlier stages that any stand can be successfully made against the encroachment The demand that all other people shall resemble ourselves grows by what it feeds on If resistance waits till life is reduced *nearly* to one uniform type, all deviations from that type will come to be considered impious, immoral, even monstrous and contrary to nature Mankind speedily become unable to conceive diversity, when they have been for some time unaccustomed to see it

CHAPTER IV

[Limits of Authority]

What, then, is the rightful limit to the sovereignty of the individual over himself? Where does the authority of society begin? How much of human life should be assigned to individuality, and how much to society?

Each will receive its proper share, if each has that which more particularly concerns it To individuality should belong the part of life in which it is chiefly the individual that is interested, to society, the part which chiefly interests society.

Though society is not founded on a contract, and though no good purpose is answered by inventing a contract in order to deduce social obligations from it, every one who receives the protection of society owes a return for the benefit, and the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest. This conduct consists, first, in not injuring the interests of one another, or rather certain interests, which, either by express legal provision or by tacit understanding ought to be considered as rights, and secondly, in each person's bearing his share (to be fixed on some equitable principle) of the labours and sacrifices incurred for defending the society or its members from injury and molestation These conditions society is justified in enforcing, at all costs to those who endeavour to withhold fulfilment Nor is this all that society may do The acts of an individual may be hurtful to others, or wanting in due consideration for their welfare, without going to the length of violating any of their constituted rights The offender may then be justly punished by opinion, though not by law As soon as any part of a person's conduct affects prejudicially the interests of others, society has jurisdiction over it and the question whether the general welfare will or will not be promoted by interfering with it, becomes open to discussion. But there is no room for entertaining any such question when a person's conduct affects the interests of no persons besides himself, or needs not affect them unless they like (all the persons concerned being of full age, and the ordinary amount of understanding) In all such cases, there should be perfect freedom, legal and social, to do the action and stand the consequences

It would be a great misunderstanding of this doctrine to suppose that it is one of selfish indifference, which pretends that human beings have no business with each other's conduct in life, and that they should not concern themselves about the well doing or well being of one another, unless their own interest is involved. Instead of any diminution, there is need of a great increase of disinterested exertion to promote the good of others. But disinterested benevolence can find other instruments to persuade people to their good than whips and scourges, either of the literal or the metaphorical sort .

Green: The State as Guarantor of Liberty

What many of the utilitarian and natural rights liberals forgot was that man is a social and political animal and that a liberty which puts man outside of the society to which he cleaves is no liberty at all. Likewise in their assault upon government they made it something artificial and threatening without realizing that many liberties are guarded effectively only when there is a good State. ¶ *Green went back to the perennial question stated so eloquently by Rousseau, why* ought *men obey. His answer is essentially that of ancient Greece: Because it is a condition for self-fulfillment. Political society is again natural, and organic and spirit is higher than sensation or matter.* ¶ *The following is from* THE PRINCIPLES OF POLITICAL OBLIGATION.[1]

[MORAL LIFE]

6. The condition of a moral life is the possession of will and reason. Will is the capacity in a man of being determined to action by the idea of a possible satisfaction of himself. An act of will is an action so determined. A state of will is the capacity as determined by the particular objects in which the man seeks self-satisfaction; and it becomes a character in so far as the self-satisfaction is habitually sought in objects of a particular kind. Practical reason is the capacity in a man of conceiving the perfection of his nature as an object to be attained by action. All moral ideas have their origin in reason, i.e. in the idea of a possible self-perfection to be attained by the moral agent. This does not mean that the moral agent in every stage of his progress could state this idea to himself in an abstract form, any more than in every stage in the acquisition of knowledge about nature a man can state to himself in an abstract form the conception of the unity of nature, which yet throughout conditions the acquisition of his knowledge. Ideas do not first come into existence, or begin to operate, upon the formation of an abstract expression for them. This expression is only arrived at upon analysis of a concrete experience, which they have rendered possible. Thus we only learn to express the idea of self-perfection in that abstract form upon an analysis of an experience of self-improvement which we have ourselves gone through, and which must have been gone through by those with whom we are connected by the possession of language and an organisation of life, however elementary: but the same analysis shows that the same idea must have been at work to make such experience possible. In this idea all particular moral ideas—all ideas of particular forms of conduct as estimable—originate, though an abstract expression for the latter is arrived at much sooner than such an expression for the idea in which they originate. They arise, as the individual's conception of the society on the well-being of which his own depends, and of the constituents of that well-being, becomes wider and fuller; and they are embodied in the laws, institutions, and social expectation, which make conventional morality. This embodiment, again, constitutes the moral progress of mankind. This progress, however, is only a *moral* progress in so far as it tends to bring about the harmony of will and reason, in the only form in which it can really exist, viz. in the characters of per-

[1] From *The Works of Thomas Hill Green*, edited by R. L. Nettleship. Published by Longmans, Green & Co., Ltd., 1886. Volume II.

sons. And this result is actually achieved, in so far as upon habits disciplined by conformity to conventional morality there supervenes an intelligent interest in some of the objects contributory to human perfection, which that conventional morality subserves, and in so far as that interest becomes the dominant interest of the character.

[Value of Civil Life]

7. The value then of the institutions of civil life lies in their operation as giving reality to these capacities of will and reason, and enabling them to be really exercised. In their general effect, apart from particular aberrations, they render it possible for a man to be freely determined by the idea of a possible satisfaction of himself, instead of being driven this way and that by external forces, and thus they give reality to the capacity called will: and they enable him to realise his reason, i.e. his idea of self-perfection, by acting as a member of a social organisation in which each contributes to the better-being of all the rest. So far as they do in fact thus operate they are morally justified, and may be said to correspond to the 'law of nature,' the 'jus naturæ,' according to the only sense in which that phrase can be intelligibly used.

[Natural Rights]

8. There has been much controversy as to what the *jus naturæ* ('Naturrecht') really is, or whether there is such a thing at all. And the controversy, when it comes to be dealt with in English, is further embarrassed by the fact that we have no one term to represent the full meaning of 'jus' or 'Recht,' as a system of correlative rights and obligations, actually enforced or that should be enforced by law. But the essential questions are: (1) whether we are entitled to distinguish the rights and obligations which are anywhere actually enforced by law from rights and obligations which really exist though not enforced; and (2), if we are entitled to do so, what is to be our criterion of rights and obligations which are really valid, in distinction from those that are actually enforced.

9. No one would seriously maintain that the system of rights and obligations, as it is anywhere enforced by law—the 'jus' or 'Recht' of any nation—is all that it ought to be. Even Hobbes holds that a law, though it cannot be unjust, may be pernicious. But there has been much objection to the admission of *natural* rights and obligations. At any rate the phrase is liable to misinterpretation. It may be taken to imply that rights and obligations can exist in a 'state of nature'—a state in which every individual is free to do as he likes—; that legal rights and obligations derive their authority from a voluntary act by which individuals contracted themselves out of this state; and that the individual retains from the state of nature certain rights with which no legal obligations ought to conflict. Such a doctrine is generally admitted to be untenable; but it does not follow from this that there is not a true and important sense in which natural rights and obligations exist,—the same sense as that in which duties may be said to exist though unfulfilled. There is a system of rights and obligations which *should be* maintained by law, whether it is so or not, and which may properly be called 'natural', not in the sense in which the term 'natural' would imply that such a system ever did exist or could exist independently of force exercised by society over individuals, but 'natural' because necessary to the end which it is the vocation of human society to realise.

[Moral Duties Unenforceable]

10. The 'jus naturæ,' thus understood, is at once distinguished from the sphere of moral duty, and relative to it. It is distinguished from it because admitting of enforcement by law. Moral duties do not admit of being so enforced. The question

sometimes put, whether moral duties should be enforced by law, is really an unmeaning one; for they simply cannot be enforced. They are duties to act, it is true, and an act can be enforced: but they are duties to act from certain dispositions and with certain motives, and these cannot be enforced. Nay, the enforcement of an outward act, the moral character of which depends on a certain motive and disposition, may often contribute to render that motive and disposition impossible: and from this fact arises a limitation to the proper province of law in enforcing acts, which will have to be further considered below. When obligations then are spoken of in this connection, as part of the 'jus naturæ' correlative to rights, they must always be understood not as moral duties, not as relative to states of will, but as relative to outward acts, of which the performance or omission can and should be enforced. There is a moral duty to discharge such obligations, and to do so in a certain spirit, but the obligation is such as that with which law has to do or may have to do, is relative to an outward act merely, and does not amount to a moral duty. There is a moral duty in regard to obligations, but there can be no obligation in regard to moral duties. Thus the 'jus naturæ'—the system of rights and obligations, as it should become no less than as it actually is maintained—is distinct from morality in the proper sense. But it is relative to it. This is implied in saying that there is a moral duty in regard to actual obligations, as well as in speaking of the system of rights and obligations as it should become. If such language is justifiable, there must be a moral ground both for conforming to, and for seeking to develope and improve, established 'Recht'; a moral ground which can only lie in the moral end served by that established system.

11. Thus we begin the ethical criticism of law with two principles:—(1) that nothing but external acts can be matter of 'obligation' (in the restricted sense); and (2) that, in regard to that which can be made matter of obligation, the question what should be made matter of obligation—the question how far rights and obligations, as actually established by law, correspond to the true 'jus naturæ'—must be considered with reference to the moral end, as serving which alone law and the obligations imposed by law have their value.

[Intent]

12. Before proceeding, some remarks have to be made as to what is implied in these principles. (*a*) Does the law, or is it possible that it should, confine its view to external acts? What exactly is meant by an external act? In the case of obligations which I am legally punishable for disregarding, the law, in deciding whether punishment is or is not due, takes account of much beside the external act; and this implies that much beside external action is involved in legal obligation. In the case where the person or property of another is damaged by me, the law does not inquire merely whether the act of damage was done, and done by means of my bodily members, but whether it was done intentionally; and if not done with the direct intention of inflicting the damage, whether the damage arose in a manner that might have been foreseen out of something which I did intend to do: whether, again, if it was done quite accidentally the accident was due to culpable negligence. This, however, does not show that the law can enforce or prevent anything but external action, but only that it is *action* which it seeks to enforce or prevent, for without intention there is no action. We talk indeed of a man acting against his will, but if this means acting against intention it is what it is impossible to do. What I call an act done against my will is either (1) an act done by someone else using my body, through superior force, as a means: in which case there is an act, but it is not mine (e.g. if another uses my hand to pull the trigger of a gun by which someone

is shot), or (2) a natural event in which my limbs are affected in a certain way which causes certain results to another person (e g if the rolling of a ship throws me against another person who is thus thrown into the water), or (3) an act which I do under the influence of some strong inducement (e g the fear of death) but which is contrary to some strong wish In this case the act is mine, but mine because I intend it, because it is not against my will as = intention In saying then, that the proper, because the only possible function of law is to enforce the performance of or abstinence from external actions, it is implied that its function is to produce or prevent certain intentions, for without intention on the part of someone there is no act

13 But if an act necessarily includes intention what is the nature of the restriction implied in calling it external? An external action is a determination of will as exhibited in certain motions of the bodily members which produce certain effects in the material world not a determination of the will as arising from certain motives and a certain disposition All that the law can do is to enjoin or forbid determinations of will as exhibited in such motions &c It does indeed present a motive for it enforces its injunctions and prohibitions primarily by fear —by its threat of certain consequences if its commands are disobeyed This enforcement is not an exercise of physical force in the strict sense, for in this sense no force can produce an action, since it can not produce a determination of will and the only way in which the law or its administrators employ such force is not in the production but in the prevention of action (as when a criminal is locked up or the police prevent mischievous persons from assaulting us or breaking into our houses) But though, in enforcing its commands by threats, the law is presenting a motive, and thus, according to our distinction, affecting action on its inner side, it does this solely for the sake of the external act It does not regard the relation of the act to the motive fear as of any intrinsic importance If the action is performed without this motive ever coming into play under the influence of what the moralist counts higher motives, the purpose of the law is equally satisfied Indeed it is always understood that its purpose is most thoroughly served when the threat of pains and penalties has ceased to be necessary, and the obligations correlative to the relations of individuals and of societies are fulfilled from other motives Its business is to maintain certain conditions of life—to see that certain actions are done which are necessary to the maintenance of those conditions others omitted which would interfere with them It has nothing to do with the motive of the actions or omissions, on which however, the moral value of them depends

[Legal Obligations]

14 It appears, then that legal obligations—obligations which can possibly form the subject of positive law—can only be obligations to do or abstain from certain acts not duties of acting from certain motives or with a certain disposition It is not a question whether the law should or should not oblige to anything but performance of outward acts It simply can not oblige to anything else, because the only means at its command for obtaining the fulfilment of obligations are (1) threats of pain and offers of reward by means of which it is possible indeed to secure the general performance of certain acts but not their performance from the motive even of fear of the pain threatened or hope of the reward offered, much less from any higher motive, (2) the employment of physical force, (*a*) in restraining men disposed to violate obligations, (*b*) in forcibly applying the labour or the property of those who violate obligations to make good the breach, so far as is possible, (as, e g when the magistrate forestalls part of a man's wages to provide for a wife whom he has deserted, or when

the property of a debtor is seized for the benefit of his creditors)

15 Only outward acts, then *can* be matter of legal obligation, but what sort of outward acts *should* be matter of legal obligation? The answer to this question arises out of the above consideration of the means which law employs to obtain the fulfilment of obligations combined with the view of law as relative to a moral end, i e the formation of a society of persons, acting from a certain disposition, from interest in the society as such Those acts only should be matter of legal injunction or prohibition of which the performance or omission, irrespectively of the motive from which it proceeds, is so necessary to the existence of a society in which the moral end stated can be realised, that it is better for them to be done or omitted from that unworthy motive which consists in fear or hope of legal consequences than not to be done at all

16 We distinguish, then, the system of rights actually maintained and obligations actually enforced by legal sanctions (Recht or jus) from the system of relations and obligations which *should be* maintained by such sanctions (Natur recht), and we hold that those actions or omissions should be made obligations which when made obligations, serve a certain moral end, that this end is the ground or justification or rationale of legal obligation, and that thus we obtain a general rule, of both positive and negative application, in regard to the proper matter or content of legal obligation For since the end consists in action proceeding from a certain disposition, and since action done from apprehension of legal consequences does not proceed from that disposition, no action should be enjoined or prohibited by law of which the injunction or prohibition interferes with actions proceeding from that disposition, and every action should be so enjoined of which the performance is found to produce conditions favourable to action proceeding from that disposition, and of which the legal injunction does not interfere with such action

[Examples]

17 Does this general rule give any real guidance in the difficulties which practically arise in regard to the province of law—as to what should be required by law, and what left to the inclination of individuals? What cases are there or have there been of enactments which on this principle we can pronounce wrong? Have attempts ever been made by law to enforce acts as virtuous which lose their virtue when done under fear of legal penalties? It would be difficult, no doubt, to find instances of attempts to enforce by law actions of which we should say that the value lies in the disposition from which they are done, actions, e g of disinterested kindness, because the clear conception of virtue as depending not on outward results, but on disposition, is but slowly arrived at and has never been reflected in law But without any strictly moral object at all laws have been made which check the development of the moral disposition This has been done (*a*) by legal requirements of religious observance and profession of belief, which have tended to vitiate the religious source of morality, (*b*) by prohibitions and restraints, unnecessary, or which have ceased to be necessary, for maintaining the social conditions of the moral life, and which interfere with the growth of self reliance, with the formation of a manly conscience and sense of moral dignity,—in short, with the moral autonomy which is the condition of the highest goodness, (*c*) by legal institutions which take away the occasion for the exercise of certain moral virtues (e g. the Poor law which takes away the occasion for the exercise of parental forethought, filial reverence, and neighbourly kindness).

[Criticism of Utility]

18. Laws of this kind have often been objected to on the strength of a one sidec

view of the function of laws; the view, viz. that its only business is to prevent interference with the liberty of the individual. And this view has gained undue favour on account of the real reforms to which it has led. The laws which it has helped to get rid of were really mischievous, but mischievous for further reasons than those conceived of by the supporters of this theory. Having done its work, the theory now tends to become obstructive, because in fact advancing civilisation brings with it more and more interference with the liberty of the individual to do as he likes, and this theory affords a reason for resisting all positive reforms, all reforms which involve an action of the state in the way of promoting conditions favourable to moral life. It is one thing to say that the state in promoting these conditions must take care not to defeat its true end by narrowing the region within which the spontaneity and disinterestedness of true morality can have play; another thing to say that it has no moral end to serve at all, and that it goes beyond its province when it seeks to do more than secure the individual from violent interference by other individuals. The true ground of objection to 'paternal government' is not that it violates the 'laissez faire' principle and conceives that its office is to make people good, to promote morality, but that it rests on a misconception of morality. The real function of government being to maintain conditions of life in which morality shall be possible, and morality consisting in the disinterested performance of self-imposed duties, 'paternal government' does its best to make it impossible by narrowing the room for the self-imposition of duties and for the play of disinterested motives.

[Criteria for Existing Law]

19. The question before us, then, is. In what ways and how far do the main obligations enforced and rights maintained by law in all civilised societies contribute to the moral end described; viz. to establish those conditions of life in which a true i.e. a disinterested or unselfish morality shall be possible? The answer to this question will be a theory of the 'jus naturæ'; i.e. it will explain how far positive law is what it should be, and what is the ground of the duty to obey it; in other words, of political obligation. There are two things from which such a theory must be distinguished. (1) It is not an inquiry into the process by which actual law came to be what it is: nor (2) is it an inquiry how far actual law corresponds to and is derived from the exercise of certain original or natural rights. (1) It is not the former, because the process by which the law of any nation and the law in which civilised nations agree has come to be what it is, has not been determined by reference to that end to which we hold that law ought to be directed and by reference to which we criticise it. That is to say, the process has not been determined by any such conscious reference on the part of the agents in the process. No doubt a desire for social good as distinct from private pleasure, for what is good on the whole as distinct from what is good for the moment, has been a necessary condition of it; but (*a*), as an agent in the development of law, this has not reached the form of a conception of moral good according to that definition of it by which the value of law is to be estimated; and (*b*) in bringing law to its present state it has been indistinguishably blended with purely selfish passions and with the simple struggle for existence.

20. (2) A true theory of 'jus naturæ,' a rationale of law or ideal of what it should be, is not to be had by inquiring how far actual law corresponds to, and is derived from, the exercise of certain original or natural rights, if that is taken to mean that we know, or can ascertain, what rights are natural on grounds distinct from those on which we determine what laws are justifiable, and that then we can proceed to ascertain what laws are justifiable by deduction from such rights.

'Natural rights,' so far as there are such things, are themselves relative to the moral end to which perfect law is relative. A law is not good because it enforces 'natural rights,' but because it contributes to the realisation of a certain end. We only discover what rights are natural by considering what powers must be secured to a man in order to the attainment of this end. These powers a perfect law will secure to their full extent. Thus the consideration of what rights are 'natural' (in the only legitimate sense) and the consideration what laws are justifiable form one and the same process, each presupposing a conception of the moral vocation of man.

21. The doctrine here asserted, that all rights are relative to moral ends or duties, must not be confused with the ordinary statement that every right implies a duty, or *that rights and duties are correlative.* This of course is true in the sense that possession of a right by any person both implies an obligation on the part of someone else, and is conditional upon the recognition of certain obligations on the part of the person possessing it. But what is meant is something different, viz. that the claim or right of the individual to have certain powers secured to him by society, and the counter-claim of society to exercise certain powers over the individual, alike rest on the fact that these powers are necessary to the fulfilment of man's vocation as a moral being, to an effectual self-devotion to the work of developing the perfect character in himself and others.

[Criticism of Contract Theory]

22. This, however, is not the ground on which the claim in question has generally been asserted. Apart from the utilitarian theory, which first began to be applied politically by Hume, the ordinary way of justifying the civil rights of individuals (i.e. the powers secured to them by law as against each other), as well as the rights of the state against individuals (i.e. the powers which, with the general approval of society, it exercises against them), has been to deduce them from certain supposed prior rights, called natural rights. In the exercise of these natural rights, it has been supposed, men with a view to their general interest established political society. From that establishment is derived both the system of rights and obligations *maintained* by law as between man and man, and the right of the state to the submission of its subjects. If the question, then, is raised, why I ought to respect the legal rights of my neighbours, to pay taxes, or have my children vaccinated, serve in the army if the state requires it, and generally submit to the law, the answer according to this theory will be that if I fail to do so, I shall directly or indirectly be violating the natural rights of other men; directly in those cases where the legal rights of my neighbours are also natural rights, as they very well may be (e.g. rights of liberty or personal safety); indirectly where this is not the case, because, although the rights of the state itself are not natural, and many rights exercised by individuals would not only not be secured but would not exist at all but for legal enactment, yet the state itself results from a covenant which originally, in the exercise of their natural rights, men made with each other, and to which all born under the state and sharing the advantages derived from it must be considered parties. There is a natural right, therefore, on the part of each member of a state to have this compact observed, with a corresponding obligation to observe it; and this natural right of all is violated by any individual who refuses to obey the law of the state or to respect the rights, not in themselves natural, which the state confers on individuals.

23. This, on the whole, was the form in which the ground of political obligation, the justification of established rights, was presented throughout the seventeenth century, and in the eighteenth till the rise of the 'utilitarian' theory of obligation. Special adaptations of it were made

by Hobbes and others. In Hobbes, perhaps, may be found an effort to fit an anticipation of the utilitarian theory of political obligation into the received theory which traced political obligation, by means of the supposition of a primitive contract, to an origin in natural right. But in him as much as anyone the language and framework of the theory of compact is retained, even if an alien doctrine may be read between the lines. Of the utilitarian theory of political obligation more shall be said later. It may be presented in a form in which it would scarcely be distinguishable from the doctrine just now stated, the doctrine, viz. that the ground of political obligation, the reason why certain powers should be recognised as belonging to the state and certain other powers as secured by the state to individuals, lies in the fact that these powers are necessary to the fulfilment of man's vocation as a moral being, to an effectual self-devotion to the work of developing the perfect character in himself and others. Utilitarianism proper, however, recognises no vocation of man but the attainment of pleasure and avoidance of pain. The only reason why civil rights should be respected—the only justification of them—according to it, would be that more pleasure is attained or pain avoided by the general respect for them; the ground of our consciousness that we ought to respect them, in other words their ultimate sanction, is the fear of what the consequences would be if we did not. This theory and that which I deem true have one negative point in common. They do not seek the ground of actual rights in a prior natural right, but in an end to which the maintenance of the rights contributes. They avoid the mistake of identifying the inquiry into the ultimate justifiability of actual rights with the question whether there is a prior right to the possession of them. The right to the possession of them, if properly so called, would not be a mere power, but a power recognised by a society as one which should exist. This recognition of a power, in some way or other, as that which should be, is always necessary to render it a right. Therefore when we had shown that the rights exercised in political society were derived from prior 'natural' rights, a question would still remain as to the ground of those natural rights. We should have to ask why certain powers were recognised as powers which should be exercised, and thus became these natural rights.

24. Thus, though it may be possible and useful to show how the more seemingly artificial rights are derived from rights more simple and elementary, how the rights established by law in a political society are derived from rights that may be called natural, not in the sense of being prior to society, but in the sense of being prior to the existence of a society governed by written law or a recognised sovereign, still such derivation is no justification of them. It is no answer to the question why they should be respected; because this question remains to be asked in regard to the most primitive rights themselves. Political or civil rights, then, are not to be explained by derivation from natural rights, but in regard to both political and natural rights, in any sense in which there can be truly said to be natural rights, the question has to be asked, how it is that certain powers are recognised by men in their intercourse with each other as powers that should be exercised, or of which the possible exercise should be secured.

[RIGHTS]

25. I have tried to show in lectures on morals that the conception expressed by the 'should be' is not identical with the conception of a right possessed by some man or men, but one from which the latter conception is derived. It is, or implies on the part of whoever is capable of it, the conception of an ideal, unattained, condition of himself, as an absolute end. Without this conception the recognition of a power as a right would be impossible.

A power on the part of anyone is so recognised by others, as one which should be exercised, when these others regard it as in some way a means to that ideal good of themselves which they alike conceive: and the possessor of the power comes to regard it as a right through consciousness of its being thus recognised as contributory to a good in which he too is interested. No one therefore can have a right except (1) as a member of a society, and (2) of a society in which some common good is recognised by the members of the society as their own ideal good, as that which should be for each of them. The capacity for being determined by a good so recognised is what constitutes personality in the ethical sense; and for this reason there is truth in saying that only among persons, in the ethical sense, can there come to be rights; (which is quite compatible with the fact that the logical disentanglement of the conception of rights precedes that of the conception of the legal person; and that the conception of the moral person, in its abstract and logical form, is not arrived at till after that of the legal person).

Conversely, everyone capable of being determined by the conception of a common good as his own ideal good, as that which unconditionally should be (of being in that sense an end to himself), in other words, every moral person, is capable of rights; i.e. of bearing his part in a society in which the free exercise of his powers is secured to each member through the recognition by each of the others as entitled to the same freedom with himself. To say that he is capable of rights, is to say that he ought to have them, in that sense of 'ought' in which it expresses the relation of man to an end conceived as absolutely good, to an end which, whether desired or no, is conceived as intrinsically desirable. The moral capacity implies a consciousness on the part of the subject of the capacity that its realisation is an end desirable in itself, and rights are the condition of realising it. Only through the possession of rights can the power of the individual freely to make a common good his own have reality given to it. Rights are what may be called the negative realisation of this power. That is, they realise it in the sense of providing for its free exercise, of securing the treatment of one man by another as equally free with himself, but they do not realise it positively, because their possession does not imply that in any active way the individual makes a common good his own. The possession of them, however, is the condition of this positive realisation of the moral capacity, and they ought to be possessed because this end (in the sense explained) ought to be attained.

26. Hence on the part of every person ('person' in the moral sense explained) the claim, more or less articulate and reflected on, to rights on his own part is co-ordinate with his recognition of rights on the part of others. The capacity to conceive a common good as one's own, and to regulate the exercise of one's powers by reference to a good which others recognise, carries with it the consciousness that powers should be so exercised; which means that there should be rights, that powers should be regulated by mutual recognition. There ought to be rights, because the moral personality,—the capacity on the part of an individual for making a common good his own,—ought to be developed; and it is developed through rights; i.e. through the recognition by members of a society of powers in each other contributory to a common good, and the regulation of those powers by that recognition.

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29. The capacity, then, on the part of the individual of conceiving a good as the same for himself and others, and of being determined to action by that conception, is the foundation of rights; and rights are the condition of that capacity being realised. No right is justifiable or should be a right except on the ground that directly

or indirectly it serves this purpose. Conversely every power should be a right, i.e. society should secure to the individual every power, that is necessary for realising this capacity. Claims to such powers as are directly necessary to a man's acting as a moral person at all—acting under the conception of a good as the same for self and others—may be called in a special sense personal rights (though they will include more than Stephen includes under that designation); they may also be called, if we avoid misconceptions connected with these terms, 'innate' or 'natural' rights. They are thus distinguished from others which are (1) only indirectly necessary to the end stated, or (2) are so only under special conditions of society; as well as from claims which rest merely on legal enactment and might cease to be enforced without any violation of the 'jus naturæ.'

30. The objection to calling them 'innate' or 'natural,' when once it is admitted on the one side that rights are not arbitrary creations of law or custom but that there are certain powers which ought to be secured as rights, on the other hand that there are no rights antecedent to society, none that men brought with them into a society which they contracted to form, is mainly one of words. They are 'innate' or 'natural' in the same sense in which according to Aristotle the state is natural; not in the sense that they actually exist when a man is born and that they have actually existed as long as the human race, but that they arise out of, and are necessary for the fulfilment of, a moral capacity without which a man would not be a man. There cannot be innate rights in any other sense than that in which there are innate duties, of which, however, much less has been heard. Because a group of beings are capable each of conceiving an absolute good of himself and of conceiving it to be good for himself as identical with, and because identical with, the good of the rest of the group, there arises for each a consciousness that the common good should be the object of action, i.e. a duty, and a claim in each to a power of action that shall be at once secured and regulated by the consciousness of a common good on the part of the rest, i.e. a right. There is no ground for saying that the right arises out of a primary human capacity, and is thus 'innate,' which does not apply equally to the duty.

31. The dissociation of innate rights from innate duties has gone along with the delusion that such rights existed apart from society. Men were supposed to have existed in a state of nature, which was not a state of society, but in which certain rights attached to them as individuals, and then to have formed societies by contract or covenant. Society having been formed, certain other rights arose through positive enactment; but none of these, it was held, could interfere with the natural rights which belonged to men antecedently to the social contract or survived it.

Such a theory can only be stated by an application to an imaginary state of things, prior to the formation of societies as regulated by custom or law, of terms that have no meaning except in relation to such societies. 'Natural right,' as = right in a state of nature which is not a state of society, is a contradiction. There can be no right without a consciousness of common interest on the part of members of a society. Without this there might be certain powers on the part of individuals, but no recognition of these powers by others as powers of which they allow the exercise, nor any claim to such recognition; and without this recognition or claim to recognition there can be no right.

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[THE STATE]

132. It is the necessity of a supreme coercive power to the existence of a state that gives plausibility to the view that the action of merely selfish passions may lead to the formation of states. They have been motive causes, it would seem, in the proc-

esses by which this 'imperium' has been established; as, e.g., the acquisition of military power by a tribal chieftain, the conquest of one tribe by another, the supersession of the independent prerogatives of families by a tyrant which was the antecedent condition of the formation of states in the ancient world, the supersession of feudal prerogatives by the royal authority which served the same purpose in modern Europe. It is not, however, supreme coercive power, simply as such, but supreme coercive power exercised in a certain way and for certain ends, that makes a state; *viz.* exercised according to law, written or customary, and for the maintenance of rights. The abstract consideration of sovereignty has led to these qualifications being overlooked. Sovereignty = supreme coercive power, indeed, but such power as exercised in and over a state, which means with the qualifications specified; but the mischief of beginning with an inquiry into sovereignty before the idea of a state has been investigated, is that it leads us to adopt this abstract notion of sovereignty, as merely supreme coercive power, and then, when we come to think of the state as distinguished by sovereignty, makes us suppose that supreme coercive power is all that is essential to a state, forgetting that it is rather the state that makes the sovereign, than the sovereign that makes the state. Supposing one man had been master of all the slaves in one of the states of the American Union, there would have been a multitude of men under one supreme coercive power, but the slaves and the master would have formed no state, because there would have been no recognised rights of slave against slave enforced by the master, nor would dealings between master and slaves have been regulated by any law. The fact that sovereign power, as implied in the fact of its supremacy, can alter any laws, is apt to make us overlook the necessity of conformity to law on the part of the sovereign, if he is to be the sovereign of a state. A power that altered laws otherwise than according to law, according to a constitution, written or unwritten, would be incompatible with the existence of a state, which is a body of persons, recognised by each other as having rights, and possessing certain institutions for the maintenance of those rights. The office of the sovereign, as an institution of such a society, is to protect those rights from invasion, either from without, from foreign nations, or from within, from members of the society who cease to behave as such. Its supremacy is the society's independence of such attacks from without or within. It is an agency of the society or the society itself acting for this end. If the power, existing for this end, is used on the whole otherwise than in conformity either with a formal constitution or with customs which virtually serve the purpose of a constitution, it is no longer an institution for the maintenance of rights and ceases to be the agent of a state. We only count Russia a state by a sort of courtesy on the supposition that the power of the Czar, though subject to no constitutional control, is so far exercised in accordance with a recognised tradition of what the public good requires as to be on the whole a sustainer of rights.

It is true that, just as in a state, all law being derived from the sovereign, there is a sense in which the sovereign is not bound by any law, so there is a sense in which all rights are derived from the sovereign, and no power which the sovereign refuses to allow can be a right; but it is only in the sense that, the sovereign being the state acting in a certain capacity, and the state being an institution for the more complete and harmonious maintenance of the rights of its members, a power claimed as a right, but which the state or sovereign refuses to allow, cannot be really compatible with the general system of rights. In other words, it is true only on the supposition that a state is made a state by the functions which it fulfils of maintaining the rights of its members as a whole or a system, in such a way that none gains at the expense of another (no

one has any power guaranteed to him through another's being deprived of that power). Thus the state, or the sovereign as a characteristic institution of the state, does not create rights, but gives fuller reality to rights already existing. It secures and extends the exercise of powers, which men, influenced in dealing with each other by an idea of common good, had recognized in each other as being capable of direction to that common good, and had already in a certain measure secured to each other in consequence of that recognition. It is not a state unless it does so.

133. It may be said that this is an arbitrary restriction of the term 'state.' If any other word, indeed, can be found to express the same thing, by all means let it be used instead. But some word is wanted for the purpose, because as a matter of fact societies of men, already possessing rights, and whose dealings with each other have been regulated by customs conformable to those rights, but not existing in the form to which the term 'state' has just been applied (i.e. not having a systematic law in which the rights recognised are harmonised, and which is enforced by a power strong enough at once to protect a society against disturbance within and aggression from without), have come to take on that form. A word is needed to express that form of society, both according to the idea of it which has been operative in the minds of the members of the societies which have undergone the change described (an idea only gradually taking shape as the change proceeded), and according to the more explicit and distinct idea of it which we form in reflecting on the process. The word 'state' is the one naturally used for the purpose. The exact degree to which the process must have been carried before the term 'state' can be applied to the people in which it has gone on, cannot be precisely determined, but as a matter of fact we never apply it except in cases where it has gone some way, and we are justified in speaking of the state according to its idea as the society in which it is completed.

134. It is a mistake then to think of the state as an aggregation of individuals under a sovereign,—equally so whether we suppose the individuals as such, or apart from what they derive from society, to possess natural rights, or suppose them to depend on the sovereign for the possession of rights. A state presupposes other forms of community, with the rights that arise out of them, and only exists as sustaining, securing, and completing them. In order to make a state there must have been families of which the members recognised rights in each other (recognised in each other powers capable of direction by reference to a common good); there must further have been intercourse between families, or between tribes that have grown out of families, of which each in the same sense recognised rights in the other. The recognition of a right being very short of its definition, the admission of a right in each other by two parties, whether individuals, families, or tribes, being very different from agreement as to what the right consists in—what it is a right to do or acquire, the rights recognised need definition and reconciliation in a general law. When such a general law has been arrived at, regulating the position of members of a family towards each other and the dealings of families or tribes with each other; when it is voluntarily recognised by a community of families or tribes, and maintained by a power strong enough at once to enforce it within the community and to defend the integrity of the community against attacks from without, then the elementary state has been formed.

[New Rights Develop]

135. That, however, is the beginning, not the end, of the state. When once it has come into being, new rights arise in it (1) through the claim for recognition on the part of families and tribes living on the same territory with those which

in community form the state, but living at first in some relation of subjection to them. A common humanity, of which language is the expression, necessarily leads to the recognition of some good as common to these families with those which form the state. This is in principle the recognition of rights on their part; and the consequent embodiment of this recognition in the laws of the state is their admission as members of it. (Instances of this process are found in the states of Greece and the early history of Rome.) (2) The same thing may happen in regard to external communities ('external' territorially), whether these have been already formed into states or no. It may happen through the conquest of one by another, through their submission to a common conqueror, as under the Roman empire, or through voluntary combination, as with the Swiss cantons and the United States of America. However the combination may arise, it results in new rights as between the combined communities within the system of a single state. (3) The extended intercourse between individuals, which the formation of the state renders possible, leads to new complications in their dealings with each other, and with it to new forms of right, especially in regard to property,—rights as far removed from any obvious foundation on the *suum cuique* principle as the right of a college to the great tithes of a parish for which it does nothing. (4) The administration of the state gives rise to rights, to the establishment of powers necessary for its administration. (5) New situations of life may arise out of the extended dealings of man with man which the state renders possible (e.g. through the crowding of population in certain localities) which make new modes of protecting the people a matter virtually of right. And, as new rights arise in the state once formed, so further purposes are served. It leads to a development and moralisation of man beyond the stage which they must have reached before it could be possible.

136. ... What I am now concerned to point out is that, however necessary a factor force may have been in the process by which states have been formed and transformed, it has only been such a factor as co-operating with those ideas without which rights could not exist. I say 'could not *exist*,' not 'could not be recognised,' because rights are made by recognition. There is no right 'but thinking makes it so'; none that is not derived from some idea that men have about each other. Nothing is more real than a right, yet its existence is purely ideal, if by 'ideal' is meant that which is not dependent on anything material but has its being solely in consciousness. It is to these ideal realities that force is subordinate in the creation and development of states. The force of conquest from without, the force exercised within communities by such agents as the early Greek tyrants or the royal suppressors of feudalism in Modern Europe, has only contributed to the formation of states in so far as its effects have taken a character which did not belong to them as effects of force; a character due to their operation in a moral world, in which rights already existed, resting on the recognition by men of each other as determined, or capable of being determined, by the conception of a common good. It is not indeed true that only a state can produce a state, though modern history might seem to favour that notion. As a matter of fact, the formation of modern states through feudalism out of an earlier tribal system has been dependent on ideas derived from the Roman state, if not on institutions actually handed down from it; and the improvement and development of the state-system which has taken place since the French Revolution has been through agencies which all presuppose and are determined by the previous existence of states. But the Greek states, so far as we know, were a first institution of the kind, not a result of propagation from previously existing states. But the action which brought them into being was only effectual for its purpose, because the idea of

right, though only in the form of family or tribal right, was already in operation

. . . . .

[Functions of The State]

209 The capacity for rights, then, being a capacity for spontaneous action regulated by a conception of a common good, either so regulated through an interest which flows directly from that conception, or through hopes and fears which are affected by it through more complex channels of habit and association, is a capacity which cannot be generated—which on the contrary is neutralized—by any influences that interfere with the spontaneous action of social interests Now any direct enforcement of the outward conduct, which ought to flow from social interests, by means of threatened penalties—and a law requiring such conduct necessarily implies penalties for disobedience to it—does interfere with the spontaneous action of those interests, and consequently checks the growth of the capacity which is the condition of the beneficial exercise of rights For this reason the effectual action of the state, *i e* the community as acting through law, for the promotion of habits of true citizenship, seems necessarily to be confined to the removal of obstacles Under this head, however, there may and should be included much that most states have hitherto neglected, and much that at first sight may have the appearance of an enforcement of moral duties, *e g* the requirement that parents have their children taught the elementary arts To educate one's children is no doubt a moral duty, and it is not one of those duties, like that of paying debts, of which the neglect directly interferes with the rights of someone else It might seem, therefore, to be a duty with which positive law should have nothing to do, any more than with the duty of striving after a noble life On the other hand, the neglect of it does tend to prevent the growth of the capacity for beneficially exercising rights on the part of those whose education is neglected and it is on this account, not as a purely moral duty on the part of a parent, but as the prevention of a hindrance to the capacity for rights on the part of children, that education should be enforced by the state It may be objected, indeed, that in enforcing it we are departing in regard to the parents from the principle above laid down that we are interfering with the spontaneous action of social interests, though we are doing so with a view to promoting this spontaneous action in another generation But the answer to this objection is, that a law of compulsory education, if the preferences, ecclesiastical or otherwise, of those parents who show any practical sense of their responsibility are duly respected, is from the beginning only felt as compulsion by those in whom, so far as this social function is concerned, there is no spontaneity to be interfered with and that in the second generation, though the law with its penal sanctions still continues, it is not felt as a law, as an enforcement of action by penalties, at all

210 On the same principle the freedom of contract ought probably to be more restricted in certain directions than is at the present the case The freedom to do as they like on the part of one set of men may involve the ultimate disqualification of many others, or of a succeeding generation, for the exercise of rights This applies most obviously to such kinds of contract or traffic as affect the health and housing of the people, the growth of population relatively to the means of subsistence, and the accumulation or distribution of landed property In the hurry of removing those restraints on free dealing between man and man, which have arisen partly perhaps from some confused idea of maintaining morality, but much more from the power of class interests we have been apt to take too narrow a view of the range of persons—not one generation merely, but succeeding generations

—whose freedom ought to be taken into account, and of the conditions necessary to their freedom ('freedom' here meaning their qualification for the exercise of rights). Hence the massing of population without regard to the conditions of health; unrestrained traffic in deleterious commodities; unlimited upgrowth of the class of hired laborers in particular industries which circumstances have suddenly stimulated, without any provision against the danger of an impoverished proletariate in following generations. Meanwhile, under pretense of allowing freedom of bequest and settlement, a system has grown up which prevents the landlords of each generation from being free either in the government of their families or in the disposal of their land, and aggravates the tendency to crowd into towns, as well as the difficulties of providing healthy house-room, by keeping land in a few hands. It would be out of place here to consider in detail the remedies for these evils, or to discuss the question how far it is well to trust to the initiative of the state or of the individuals in dealing with them. It is enough to point out the directions in which the state may remove obstacles to the realisation of the capacity for beneficial exercise of rights, without defeating its own object by vitiating the spontaneous character of that capacity.

[Ideal of Goodness]

251. For the convenience of analysis, we may treat the obligations correlative to rights, obligations which it is the proper office of law to enforce, apart from moral duties and from the virtues which are tendencies to fulfil those duties. I am properly *obliged* to those actions and forbearances which are necessary to the general freedom, necessary if each is not to interfere with the realisation of another's will. My *duty* is to be interested positively in my neighbour's well-being. And it is important to understand that, while the enforcement of obligations is possible, that of moral duties is impossible. But the establishment of obligations by law or authoritative custom, and the gradual recognition of moral duties, have not been separate processes. They have gone on together in the history of man. The growth of the institutions by which more complete equality of rights is gradually secured to a wider range of persons, and of those interests in various forms of social well-being by which the will is moralised, have been related to each other as the outer and inner side of the same spiritual development, though at a certain stage of reflection it comes to be discovered that the agency of force, by which the rights are maintained, is ineffectual for eliciting the moral interests. The result of the twofold process has been the creation of the actual content of morality; the articulation of the indefinite consciousness that there is something that should be—a true well-being to be aimed at other than any pleasure or succession of pleasures—into the sentiments and interests which form an 'enlightened conscience.' It is thus that when the highest stage of reflective morality is reached, and upon interests in this or that mode of social good there supervenes an interest in an ideal of goodness, that ideal has already a definite filling; and the man who pursues duty for duty's sake, who does good for the sake of being good or in order to realise an idea of perfection, is at no loss to say what in particular his duty is, or by what particular methods the perfection of character is to be approached.

THIRTEEN

Foundations of Totalitarianism: Marxism

IT IS NOW TIME TO TAKE STOCK OF some of the points that have emerged in considering liberalism in its contribution to the theory of the *constitutional state* before proceeding to consider the attack on the liberal state made in the name either of the communist revolution of Marx, the *élitist* philosophy of Mosca and Pareto, the nationalist state in arms of Fichte, the racial state of Hitler, or the "heroic-leader state," heralded by Carlyle and struttingly posed by Mussolini.

Liberalism and Constitutionalism—Summary Review

Looking back to Greek theory, we may remember that the embryonic form of nearly all these variations on the end of political society, in terms of types of the state, had already been presented by Plato and Aristotle. What is worth remembering, however, is that Greek theory contributed to the idea of constitutionalism primarily the notion of political liberty, that is, the sharing of the citizen in the control of the government. Aristotle added to the idea and practice of Greek democracy the conception of a balanced participation of classes in the rule of the state. This idea laid the foundations for Polybius, whose more clear-cut separation of powers and ideas of checks and balances were realized in Rome. The notion of *stability* as a fundamental aim of the state is not as some authorities have asserted, essentially the mark of the political theory of antiquity; nor has modern political thought tended contrarywise to emphasize only the *dynamics* of politics. On the contrary, various writers of antiquity, including Aristotle, stress the revolutionary factors in society quite as much as any modern writers; and many modern writers have been just as much concerned to achieve a more or less fixed stability as the aim of the state. But it is true that the emphasis of classic thought rested upon avoiding those cyclical factors of decline which an examination of history has often led political theorists to generalize into a law of politics.

Every constitution aims as a first principle at establishing stability on

a just basis for the form of government that it represents. Ordinarily this is done by laying down the *purposive* objectives of political organization, explicit or implicit, in terms of the treatment of liberty, justice, and rights, i.e., the moral ends of society. But along with these, as one may see in the Preamble of the Constitution of the United States and in the practice of every state, goes an attempt to provide for "the common defense" and the "general welfare" through the *organization of power.* Both elements are present: the moral *consensus juris,* to use Cicero's phrase, and the "organic" necessities that he called *utilitatis communio.* Elsewhere the author has called this theory of politics "co-organic."

Rome added to the Greek conception of the organization of power and the participation of citizens in that power, the fundamental idea of *rights,* both in the system of Roman law and in the Stoic influences that shaped and reformed that law. Rome also gave imposing solidarity to the political structure through its effort to establish a system of checks and balances and to separate powers.

These rights in Roman law, although they were not and, perhaps, could not be set beyond the reach either of the popular assemblies in the period of the Republic or of Caesar's edicts in the days of the Empire, were nevertheless fundamental conceptions of Roman citizenship. In that way they came to represent a considerable limitation on the arbitrary use of power throughout the whole history of Rome as a political system.

The struggle between the Church and the State and the contribution of the Church fathers like St. Augustine and the medievalists like Thomas Aquinas further developed the idea of rights which were presumed to rest on a natural law superior to the man-made law of the state and owing its restraining power to a divine sanction. Medieval monarchy had moral restraints upon it of this character, as Professor McIlwain's works have shown. When Bodin came to state the basis for royal monarchy in the nation state, he still recognized these restraints from higher laws.

When the issue between Church and State had been resolved, at least for a time, by the separation of their functions and the emergence of the nation state, the effort to establish limits on political power shifted back to natural rights of a non-theological character. The impact of science and the growth of a deistic (Stoic) view of nature may be traced in Locke's effort to give this rationale of natural rights a statement which was later turned to direct use by the American colonists in their Declaration of Independence. Locke, too, revived the separation of powers, just as Harrington had elaborated the mixed state and the balance of classes in his *Oceana.* The mechanics of organizing power occupied the increasing attention of thinkers like Montesquieu and the founding fathers of the American Constitution, whose range was by no means limited to the

Federalist Papers, but may be found in the debates of the Federal Constitutional Convention and the ratifying conventions in the states.[1]

Constitutionalism and Human Nature

Running through all these developments in the history of political thought, focused on the emergence of what we may call "constitutionalism," a thread of unity has shown itself in the conception of human nature. It is this Stoic idea of human nature as rational and endowed with a claim to rights that underlies the efforts at erecting both the political liberty of popular participation in government and the civil liberty that is protected by law in the hands of the courts and through limitations, both written and unwritten, in constitutional practice. In general, this constitutionalist theory has assumed human beings to be reasonable, just as Aristotle did in urging the sharing of the entire citizenry in the deliberative function. The Stoic development of this idea of the immanent reason operative in all humanity buttressed the Roman conception of natural law, reappeared in stronger form in Christian doctrines of the brotherhood of men and their sharing in a divine order. Locke, and his liberal successors in the later nineteenth century who stressed liberty, reintroduced under the guise of a scientific description of humanity this idea of the Stoics, with overtones once more of Christian doctrines.

The idea of constitutionalism, therefore, has emphasized throughout this evolution the ultimacy of the human individual person as a moral unit and the necessity for eliciting his free consent in the support of a government and a system of law that can be called "just." Only on these terms can obedience to a system of laws be morally justified.

The Authoritarian Case: Élitism and a Low View of Human Nature

But what of the authoritarian doctrines which had also been developed alongside and in opposition to these notions of democracy and constitutional morality? They stemmed at the outset from Plato's low estimate of the wisdom of the people and his élitist conception of the rôle of the ruling class. The Sophists, who were Plato's chief enemies in some respects, would have found no reason to expect ideal justice from the hands of any ruling class, but would have argued, as their successors did, that autocratic government was the only path to security and a conventional

[1] See Max Farrand, *Records of the Federal Constitutional Convention;* Jonathon Elliot, *Debates in the Several State Conventions on the Adoption of the Federal Constitution;* James Madison, *Debates in the Federal Convention of 1787,* Gaillard Hunt's edition; and Charles Borgeaud, *The Adoption and Amendment of the Original State Constitutions.*

order able to liberate man from the anarchy of his animal nature. Plato would have found the possibility of reason only in a few; the Sophists would have found reason to be shared to the limited degree that it was possible in the many, but in a low degree. To the Sophists, reason played only the rôle of establishing the convenience of an adjustment to the brutal necessity of environment. It imposed pragmatic efforts for survival upon all men, but did not limit the propensities of human nature. Dictatorship was the natural outcome of a humanity that could escape civil war only by the surrender of its primitive and self-destructive liberty. Liberty necessarily meant license to this Sophist way of thought, since individual reason could not limit the blind drives of passion and egoism, but could only seek their control by surrender to Leviathan.

We have seen the interplay of the Sophists' view of human nature in the theories of Machiavelli and his ilk and the part that they played in the reasoning of Hobbes. Fear and force, the lust for power, and unlimited egoism led to a world in which anarchy gives place, of necessity, to despotism. Since human beings are not capable of imposing rational limitations and common standards of justice on an animal nature of this sort, by the Sophists' hypothesis, only dictatorship can bring about the law and order and personal security, which is, after all, the first condition of human society. International society, too, must remain, by this analysis, in Hobbes' "state of nature" until such time as an all-powerful world sovereign can be set up, either from the despairing and worldwide need for self-preservation or through some great Khan's new ability to conquer the rest of mankind, using mass propaganda methods but with planes and tanks and weapons of mass destruction more terrible than any possible scourge of the Tatar horsemen's hordes.

How Right Was Hobbes?

It has been the fashion of liberalism to reject the whole argument of Hobbes and his predecessors as basically immoral and, therefore, wrong. Honesty requires, however, an acknowledgment that the material conditions of human societies and those elements in human nature which persist in spite of all religions demand their proper place in the scientific appraisal of political institutions and behavior. Liberalism can not merely ignore the power factors in politics. They constitute what the author has elsewhere called the "organic context" of political action.[2] Moral purpose must be set within the matrix of necessity, grounded as much in the heritage of the past as in the material conditions and struggle for survival of actual human societies. Power politics is a brutal fact that demands

[2] See W. Y. Elliott, *Pragmatic Revolt in Politics* (1928), especially Parts IV and V.

recognition in any adequate theory of the nature of political institutions. Any idealistic formulation must take it into account if idealism is not to be merely utopian.

It is this stubborn and recalcitrant need for what is often called "realism" in the assessment of actual political situations that sometimes gives the high-toned liberalism of, for example, John Stuart Mill the flavor of an exhortation, rather than of prescription for actual political societies. By leaving out of account, for instance, the basic truth that the first business of government is to govern, Mill is able to erect a theory of representation that puts its entire emphasis upon an adequate reflection of the differences in men's views. In reality, a theory of representation or, for that matter, of other political institutions, must first of all meet the test proposed by Plato and Aristotle and stressed by the line of writers who descend from the Sophists: Can the political society which results meet its first test of *survival?* Every political society must obviously be able (a) to keep internal order; (b) to protect itself against external conquest or overturn; (c) to meet the conditions of economic adequacy for the preservation of the state and the livelihood of its citizens.

Constitutionalism Must Combine Moral Justice with Adequate Force

Modern constitutionalism, therefore, has the task of finding a political vehicle strong enough to bear the primary burdens of defense, law and order, fiscal stability, and economic balance in which the rapidly developing new factors of productive know-how and scientific and industrial dynamics bulk ever larger. Only if these conditions are met can the fundamental moral values of society be realized through the protection of individual rights, with the concomitant constitutional protection for civil and political liberties prescribed above. Often this is summed up by a somewhat hysterical effort to rethink the conditions of democratic society in what we call "the atomic age." But the compulsion is real: unless atomic energies can be harnessed to peace, not war, democracy's chances of survival may be small.

Marxism: The Attack on Democratic Liberalism

Marx, who derived, as he himself confesses, his own materialism from Hobbes, "the father of us all," like all other great political thinkers compounded his system both of freedom and of necessity. The *necessity* he attributes to the material conditions that determine the evolution of all human society, centering his analysis on the techniques of production. In capitalist society, to whose analysis he applies the rigid economic determinism of the classical English economists (with one significant differ-

ence [3]), Marx conceives of human nature along the lines we have traced from the Sophists. Driven by the "inevitable" law of its own destruction, the unlimited egoism and ruthless exploitation which Marx attributes to the private profit system result in a dictatorship. Indeed, they result in a concentration of control by what amounts to a "capitalist" dictatorship, which can, in turn, be overthrown, according to the Marxian dialectic, only by another dictatorship. The characteristic of the first dictatorship, however, is more and more concentrated control over the instruments of production exercised by an ever narrowing circle of the "bourgeois" exploiters. The big fish (big business) swallow the little fish (small business) until only the biggest fish (international capitalism, narrowly controlled) is left. This condition becomes so intolerable, on the Marxian reading of "inevitable" historic evolution, and the base of its support so narrow that it inevitably produces its own overthrow by the proletariat which it has dispossessed and enslaved. Proletarian leaders will be called forth inevitably—if they will just read Marx. This dictatorship of the proletarian élite represents the element of fatal necessity. It has nothing "scientific" about it, except the assertion by Marx that it is a necessary part of the dialectic of history through class struggle. The dictatorship of the proletariat is Marx's substitute for the Leviathan which Hobbes produced from the social contract and by which men escape an anarchic state of nature.[4] It brings about the sort of "general will," infallibly right like Rousseau's, also by "forcing men to be free." The true will of society, according to Marx, is to be found not in misguided majorities or in democratic shams like Rousseau's popular assembly. It is in the enlightened will of the proletarian *élite* (the revolutionary dictators) who understand the Marxian process of history and fulfill it.

Freedom: Is It Fatally Determined as the End of the World Process?

Without, for the moment, going into the pseudo-scientific use of the inverted Hegelian dialectic by which Marx reaches these conclusions, it is useful to note that he imports freedom into his analysis *as the end of this deterministic evolution.* It has often been noted that there is an illogical stopping point in the whole process of the eternal dialectic, as much

[3] The difference, a leap (which bears no logical relation to the presuppositions of the system, except in terms of an arbitrary interpolation into the "dialectic") by proletarian revolution and dictatorship over into the realm of freedom and indeterminism when the means of production have been "socialized," private property and its conditioning of human behavior abolished, and "educated" man set free.

[4] It is quite usual to point out that Marx need not preach nor the proletariat organize for revolution if the overthrow of capitalism is really fatally determined. But determinism has often gone hand-in-hand with the most active crusading (the Moslems), if only to "speed up" the process!

in Marx as in Hegel. The process of history comes to an abrupt termination with Hegel in *"der Gang Gottes in der Welt"* (the March of God in the World), which Hegel equates with the Prussian state. Similarly, Marx, by a transcendent act of faith, leaps from necessity into freedom, with the appearance of the true and ultimate communist society into which the state has been transformed since all need for coercion has disappeared; the state in Marx's phrase, will then have "withered away." *Why* the economic interpretation should stop here; *why* from slavery, perfect freedom is fatally produced; *why* the state necessarily withers away—these are all questions to which the dialectic has only one real answer—and that is self-contradictory. The only flaw in nature and human nature is the maladjustment caused by private ownership. Remove that, and perfection is possible. But the materialist logic and theory of history are much broader than the mere question of ownership. Why should their causality ever stop in world history? Why should a mere change to collective ownership change the causality of the *modes* or *means* of production? Mass production would still control politics, even under collectivism.

At this utopian period, human nature, freed from the necessity of its bourgeois fate and from its load of original sin (capitalism) by the disappearance of private property, changes abruptly into that rational and purposive order of freedom that corresponds to the Stoic views. A. D. Lindsay, in his little work on Karl Marx's *Capital*, quotes a typical passage from Marx that illustrates this transition:

> There can be freedom in this sphere [of production] only to the extent that men in society, the associated producers, govern rationally the material given them by nature, and bring it under their common control, instead of being governed by it as by a blind force. . . .[5]

Rationality has been denied to capitalism and to democratic political institutions by Marx. Yet the supreme rationality of communist anarchism is swallowed at a gulp, after "common control" has been established. If rationality is possible at the end stage, why not at the beginning or, indeed, at every stage of civilized development?

Freedom and the Materialistic (Economic) Interpretation of History as a Philosophy

Materialistic determinism, which of necessity acts as a blind force, suddenly gives way to the realm of free and rational action that we have called *purpose*. Essentially, this, the first basing point of Marx's doctrine, is religious in character, rather than scientific, as it is represented to be. Every revolutionary social creed (and of them Marxism is perhaps the

[5] Quoted from the third volume of Marx's *Capital* by Lindsay, *op. cit.*, p. 36.

most important modern example) contains an assault on sin (which for Marx is identified only with exploitation and the system of private capital) and, at the same time, a vision of the perfect society which serves as its religious myth. Both hate and love are given full play. Scapegoats, according to the oldest anthropological patterns, are offered, and the Messianic gospel of salvation and a better world play an equally important rôle.[6]

The elements of Marx's theory deserve a careful formulation in order to understand their widespread appeal, their contribution to the struggle of modern political doctrines, and their inadequacies as scientific or moral philosophy, if not as slogans to capture great sections of the "backward" masses of humanity.

Origins of Marx's Materialism

It is worth noting that Marx started on his own academic career in the 1830's by a study of the Greek materialists—Democritus and his followers—and that he was thoroughly familiar with their atomic materialism, as well as with that of the master, Epicurus.[7] His doctoral thesis was an examination of these materialistic systems. It is fair to say that he never escaped the impress of this metaphysical doctrine, even though he turned to Hegel, as did many of the young German philosophers of his generation, for the systematization of his metaphysical apparatus.

Marxist materialism was rooted not only in the Greeks and in Hobbes. His materialistic interpretation was, of course, greatly strengthened by the influence of eighteenth century French materialists like Holbach; but its most immediate roots came from Feuerbach, who was himself an "inverted Hegelian," since his whole interpretation of history was materialistic.

Whereas Hegel had found in his system of "panlogism" the supremacy of the *idea* (or reason) as the governing factor in the process of history, Marx, in his own words, set "Hegel right side up" by basing the dialectic on the *material conditions* of society. As early as 1844, he gave a clear statement to the philosophy that later became identified with his thinking and that of Engels under the name of the "materialistic" interpretation of history:

> ... Legal relations as well as forms of state could neither be understood by themselves, nor explained by the so-called general progress of the human mind, but that they are rooted in the material conditions of

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[6] Later examples will be given of the like bivalence of hate and the myth of future happiness in the Nazi and Fascist systems and in modern Russian Sovietism.

[7] He says, e.g., in *Capital*, Vol. III (Charles H. Kerr & Co. edition of Untermann's translation, 1909), p. 703: "Usury lives apparently in the pores of production in the same way as the gods live in the spaces between worlds, according to Epicurus."

> life, which are summed up by Hegel and after the fashion of the English and French of the eighteenth century under the name "civic society," the anatomy of that civic society is to be sought in political economy [8]

Engels had already persuaded his collaborator of the validity of this thesis that was to run through the rest of their joint productions. It is the basic philosophical theme of the *Communist Manifesto* of 1848, and, in spite of occasional denials of its importance to the system, it is basic to his whole theory of capitalism [9]

Undoubtedly, it would be doing less than justice to Marx and Engels to say that the theory of economic determinism which they evolved paid no attention to anything other than the material factors of production in the theory of society by which they proposed to explain the interaction of politics and economics Both Marx and Engels insist upon the historical conditions that characterize a particular system of economics, and they seem to make allowance for other factors in explaining the causes of any particular period Nevertheless, *for capitalist society* the economic factors are controlling and the determinism is rigid The political factors will be governed by the evolution of the *control* of the *instruments of production* which work out according to the law of rigid necessity, assumed to be primarily materialistic in character Above all, the material conditions determine the psychological or cultural development, not vice versa.[10]

Ownership is not itself a purely *material* factor, though it is the key It is not the *means of production* that is really basic to the dialectic, but *control* over the instruments of production That this point is lost sight

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[8] Preface to *A Contribution to the Critique of Political Economy*, by Karl Marx, trans from the Second German Edition by N I Stone (1904) p 11

In the social production which men carry on they enter into definite relations that are indispensable and independent of their will these relations of production *(Produktionsverhaltnisse)* correspond to a definite stage of development of their *material forces of production (Produktionskrafte)* The sum total of these relations of production constitutes the economic structure of society—the real foundation on which rise legal and political superstructures and to which correspond definite forms of social consciousness The *mode of production (Produktionsweise)* in material life determines *(bedingt)* the general character of the social, political and spiritual processes of life" Quoted from *Critique of Political Economy*, p 11, by Mandell Morton Bober in *Karl Marx's Interpretation of History* (Harvard Economic Studies, Vol XXXI, Harvard University Press, 1927), p 12

[9] For Engels' efforts later to deny that he and Marx meant that "the economic factor is the sole element" (rather than merely the dominant principle"), see Garnet V Portus *Marx and Modern Thought*, especially pp 43 46

[10] The interesting question of whether, without the labors of Marx, Engels, and their disciples and the particular form that they gave to their myth, the evolution of revolutionary socialism would have followed its modern development might perplex Marxists, but only for a moment They would probably say of Marx as someone did of God 'If he did not exist, it would be necessary to invent him" Is it *materialism* that rouses the worker to throw off his chains? What happens to materialism in the process of history, thereafter?

of in most Marxian exposition, including that of the "founding fathers" of Marxism, does not eliminate it from the operation of the theory.

The irony of history in Russia has produced the very concentration of control under communism which Marx thought would mark the last stages of capitalism. The resulting character of society most closely resembles his analysis of monopoly capitalism: Soviet Russia shows the only complete monopoly capitalism in the world today; there, too, is the greatest concentration of control in the fewest hands; nowhere else in the industrial world do there exist such discrepancies of power; such a real proletariat barred from enjoying its full share of production and kept near a subsistence level; such complete control of all information media for propaganda; and such blatant and perhaps necessary exploitation of other countries by the baldest type of imperialism. According to Marx, this concentration under monopoly capitalism would call for a revolution by the dispossessed. But in Russia the dispossessed are held down by the very dictatorship over the proletariat that professes to have rescued them; and other countries are grimly promised the same "liberation."

On the other hand, it is clear that Marx believes necessity leaves off and freedom begins with the period of true communism which marks the end of the class struggle.

This concept of class in Marx can hardly be called a logical deduction from his economic interpretation. It is true that he has shown with what appears to him to be a ruthlessly logical deduction from his basic premises that the exploitation of labor by the capitalist *bourgeoisie* must produce a dispossessed class. The whole hypothesis, however, depends upon the complete fatalism of grinding down laborers to a subsistence wage—a theory that depended more upon the peculiar use that Marx made of the iron law of wages of the individualist economists and on his own rigid assumptions than on any check with empirical facts. The entire struggle of labor to improve its position through organization and political methods falsified this rigid analysis. It also falsified the class doctrine of a "*lumpenproletariat*," where there was an equality in misery. The very nature of technological processes which Marx put as the controlling factor in social organization produced vast differences in skills among laborers and differences of function in what became increasingly an engineering type of civilization. Nor did it in the least prevent the growth of a tremendous diversification of functions among professional and white-collar classes generally, in which the idea of a simple proletarian equality of economic reward or function was completely false. The instruments of production themselves determined an entirely different evolution of structure—insofar as they influenced it—from that which Marx anticipated.

But it is also striking that the essential point of emphasis is *control over the instruments of production.* It would follow the Marxian pattern only if sufficient numbers of society could be induced to accept his myth to vest such control in the dictatorship, which he assumed would operate in the interests of the proletariat and would educate the proletariat into freedom. But control is a political and not an economic category. It involves many factors other than the economic determinism or even the political motivation which Marx assumed would mark the class struggle. The question of efficient organization and production, if made the sole test of a society, might indicate an entirely different type of control. If men were motivated only by economic self-interest, they would by no means fall into so simple a pattern as the gross over-simplification of class structure which Marx elaborated.

It is clear, then, that Marx does not envisage economic determinism as governing his ultimate stage of human society and that the process of historical dialectic of thesis, antithesis, and synthesis, which he has taken over from Hegel, marks only the transition of society which is under the grip of the machine *before its liberation from the exploiting tendencies* of evil (that is, capitalistic) human nature. He states this in the passage already quoted in part from the third volume of *Capital,* in the clearest possible form:

> The realm of freedom begins in actuality where labour, determined by necessity and external purposiveness, ceases; it lies therefore in the nature of things beyond the sphere of purely material production.[11]

The assumption that a dictatorship would be the only method of liberating men from the machine forgot the essential reservation as to who will deliver them from the dictatorship. The essence of dialectic, in short, for Marxism was that the process would come to an end and that in that respect this liberation was not a part of the true historical process, but an apocalyptic process, in which there was no continuing element of original sin. The full parallel to Christian salvation and heaven as a state of mind, as well as a state of being, was reached in Marx's idea of the necessary withering away of the state.

So much for the economic determinism and the materialistic theory of history that is basic to all Marx's thinking.

The Class Struggle—Exploitation and the Labor Theory of Value

The second point in Marx's doctrine is his identification of exploitation by the owners of the instruments of production through the surplus-value

[11] Quoted by A. D. Lindsay, *Karl Marx's Capital,* p. 56.

theory of profit as the sole basis of class struggle. The elements of this analysis go back to classical economics that have their roots in Locke's "labor theory" of value. Marx turns this concept also upside down. In analyzing the labor theory which some of the classical economists like Ricardo had made a basic part of their system, that is, the identification of "labor" only with "laborer," he extended the idea of the laborer, as Lindsay has pointed out, to the "collective laborer."

In spite of the fact that so much has been written upon the Marxian labor theory of value, it is difficult to extract the true meaning of Marx, even from his own writings and those of Engels. In essence, Marx is attempting to say that the laborer alone *creates the whole product that he makes.* Therefore, what the entrepreneur (the capitalist) sells the product *for* represents, insofar as the capitalist realizes a profit, a surplus value over what the laborer gets for making it. Therefore all profit is exploitation of the laborer to the degree that a profit system exists and functions successfully. This over-simplified formula is also presumed to account for the building up of imperialistic expansion. Since capitalism in a single country does not give back to the laborer enough to balance in buying power his powers of collective production, says Marx, and Lenin after him (*State and Revolution, Imperialism*), capitalism is always striving to expand its controlled markets abroad to make up for these self-limitations at home.

It is true that Marx, in common with such classical economists as Ricardo and McCulloch, begins by talking about a theory of value which would also explain how market prices are made. But they are alike attempting to get at what Adam Smith calls the "natural value"—what McCulloch calls the "real cost"—under a set of abstract assumptions. Ricardo in particular was evidently conscious of the inadequacy of the dogma of the labor theory of value to explain exchange value.[12] In the hands of some of its exponents among the classical economists, the labor theory of value was hardly more than Locke's affirmation of the too simple theory already noted, whose aim was to justify private property rights. When the more refined theory gets over into scientific economics, it is really dealing more with ideal prices than with what a commodity or a product will actually be exchanged for. Exchange value necessarily brings in elements that differ from the labor that has gone into the product. The simplest analysis will show that differing degrees of skill affect the *quality* of a product in other than *quantitative terms of labor;* and that the whole theory of exchange value needs to be supplemented by the factor of demand, in which some marginal utility or other analysis must be brought into the picture.

[12] See the analysis of this problem in Eric Roll, *History of Economic Thought.*

This is not Marx's real concern. He does not believe in allowing the consumer any freedom of choice, on the ground that to do so would permit a stultifying of the process of production by warping it into an exchange system bound to produce inequalities of reward because there are inequalities of advantage. His system would fatally involve state allocation of all goods. Yet Marx himself sees the necessity for going on to something more than the individual laborer as the basis for determining the ideal value that a product *should* have. He proposes to give it that "true value" by eliminating all profit (that is, surplus value or exploitation). Marx really is attempting to say that "the labor power of all the individuals is consciously applied as one single social labor power." In short, his collective laborer can come into existence only "when production will be under the conscious and prearranged control of society." This will permit society to "establish a direct relation between the quantity of social labor time employed in the production of definite articles and the quantity of social need which these articles are to satisfy." [18] In effect, this is, as A. D. Lindsay points out, a method of saying that in the last analysis, society determines the value, or should determine it. But it remains true, in spite of Lindsay's effort to rationalize the theory expressed in *Capital,* that Marx's analysis of the profit motive and its evils depends upon a very inadequate analysis of the factors that actually go into production and exchange in capitalist society—and it was capitalist society that he professed to be scientifically analyzing. Nor does his theory fit a collectivist economy: To substitute socially or governmentally imposed values for the device of a free market does not insure that the laborer gets the full "value" of the product. "Social" values may be and inevitably will be quite different from his concept of full value to the laborer.

Anyone who is familiar with the wage factor of modern industry (except the most highly automatic and mechanized) knows that it usually represents by far the greatest factor in the cost side of production. It enters into any exchange value to the degree that the system does not operate at a loss, not only in the labor actually expended in the process of manufacture, for example, but also in the labor that has gone into building the plant and the equipment and the labor that have gone into the raw materials and their processing up to the stage of manufacture, and in the labor that has gone into the creation of plant capital and all organizing expenses employed in financing the plant, whether under private capitalism, state capitalism, or socialism. But labor cannot be defined in such a way as to exhaust (a) the factors of saving which have required storing up past labor rather than currently expending it to the full, as

[18] *Capital,* p. 221. See Ch. III, "The Labour Theory of Value," in A. D. Lindsay's *Karl Marx's Capital.*

Marx's analysis would require, or (b) the skill of invention, of management and organization of production, and the development of marketing that permits large-scale operation and savings by technical processes. All these factors require an extension of the idea of labor beyond the term "laborer" or, alternatively, the admission that *even in the productive stages alone* of creating value, there are contributions which cannot properly be described as labor in the Marxian sense. The risk factor occurs even in socialistic production to the degree that labor may be wastefully employed and may create either no value or no exchangeable value.

The Mythology of Marx: Profit = The Only Original Sin

Lindsay's effort to explain Marx by relying upon the collective laborer to solve the dilemma can apply only to the ideal society; whereas the great burden of Marx's attack that used the labor theory of value fell upon discrediting existing capitalist society and was intended to fit into his scientific economics, rather than into the utopian aspects of his theory. But the gap is fatal not simply in terms of economic analysis, but also in the analysis of human nature. Private property and the risk-taking system of the capitalist system, which may involve losses as well as profits, serve Marx as a sort of personal devil for his explanation of the vices of capitalism. It is the *only,* as well as the *original* sin. Its elimination through the erection of the dictatorship of the proletariat, which socializes the instruments of production, serves to purge human nature of all evil. Marx repeats the fallacy of Rousseau: collective action is necessarily good, even infallible.

This, of course, is a most wild and improbable tale. It is as far from a scientific description of human behavior as it is from an adequate account of political ethics. There are at least seven deadly sins and not the least of them is the lust for power, of which economic power (greed) is only one and certainly not the most evil manifestation. Actually, the subordination of human beings to a state-controlled totalitarian dictatorship involves opportunities for exploitation, for arbitrary and cruel slavery, for the embodiment of the worst elements of human egoism, vanity, and sadism, far beyond the operations of the worst features of so-called "wage slavery," even in its most unchecked and flagrant form. But it is on this simple analysis of the evil of human nature residing in the profit motive alone that Marx erects his whole structure of the inevitability of class warfare.

It would be idle to deny the struggle of the rich and the poor; it is one of the oldest themes of politics. Disraeli's phrase about "two nations warring in the bosom of a state, the rich and the poor" is hardly more than a paraphrase of Plato. At the same time, the nature of class includes

many factors other than economics and does not permit the rigid simplification of the Marxian analysis into the proletariat and the bourgeoisie. Rigid economic classes exist far more in primitive economies, in fact, than they do in industrialized economies, e.g., far more in Egypt than in Sweden or any Western European country. The structure of every society, and particularly of modern society, has shown real distinctions between what Aristotle called the middle class and either the possessors of great wealth (the plutocracy) or the possessors of little or nothing (the proletariat). The proletariat itself is a Marxian myth that finds no real correspondence in the ranks of modern labor, with its tremendous range of skills. Their opportunity to save and to become managers or owners makes them bourgeoisie, in temperament, at least. Their hold on the ballot has demonstrated its ability to secure collective ownership where it can win the support of the electorate. Except in the most formalized caste systems, the lines between classes tend to be fluid and the distinctions shade off from skilled to unskilled workers at various levels. Allowance must be made for professional groups, for white-collar groups, including a vast bureaucracy, for the difference between peasants, farm laborers, farm owners or managers, and industrial workers, between the small owner and the worker in mass industries. There is a further diffusion of the ownership of property and participation in its control even by those who do not own property in the form of real estate, bonds, shares, or other tangible assets, but who, nevertheless, participate in the property of the state through an infinite number of public services and forms of social security. All these deviations from the simple proletariat-vs.-bourgeoisie dichotomy break down the simple analysis of Marx and destroy its adequacy as a scientific description of facts.

The fact is that Marx is the greatest of all myth-makers in the modern period. His description fitted a sufficient number of workmen in industrial societies, before the days when trade unions afforded them secure claims on a fair percentage of productive effort, to afford a slogan on which to found a political revolution. But the appeal of the *Communist Manifesto* to the working men of the world to unite, for "you have nothing but your chains to lose; you have a world to win" was, in effect, only an invitation to change masters. The collectivist state still had to run the industries and to make the economy self-supporting. In practice it has shown a tendency to force savings and to squeeze the present for future capital investments that made it a far harder task-master than any capitalist system with an ultimate dependence on satisfying immediate consumers' wants.

The stern logic of unrestricted emphasis on production, which Marx in the third volume of *Capital* points out as an end in itself, dictated

not a withering away of the state but the erection of a new class of managers more absolute in its powers than any system of management under private capitalists, as witness Russia. Managers of the so-called Marxian dictatorship there became a ruling class that genuinely realized what management had never achieved under capitalistic democracies: they controlled with absolute and ruthless methods not alone the instruments of production but all the coercive and terroristic powers of an irresponsible state. They created the one completely effective "monopoly capitalism."

The analysis of class structure along economic lines had been clearly foreshadowed by Thomas Hodgkins, whose influence on Marx the latter himself admitted. So, too, had James Madison analyzed economic interest as the basis of what in the Tenth *Federalist* paper he called faction. But the lines between economic interests are not drawn in the simple "class" terms of Hodgkins or Marx. Western farmers did not unite with southern cotton growers on many basic political issues, even when both depended on export markets. Both remained impervious to efforts to mobilize them for the ends of some of the "class-conscious" city workers. Social class, too, is far from corresponding to purely economic factors. It may be compounded of tradition, of racial factors, of religious beliefs, and so forth, all of which play a rôle entirely different from the mere split between manual laborers (or those who don't possess tools) and all the rest, that Marx counted on.

On the other hand, many of the socialists of Marx's own time, such as Sismondi and Proudhon, took a much more realistic view than did Marx of both the limits of purely economic class analysis and the proposed remedies. Like Saint Simon, they were concerned to work out a distribution of property along more balanced lines, rather than a complete abolition of private property. In short, they gave to property an importance in the formation of class only somewhat more emphatic than had already been made by Aristotle, Harrington, and James Madison. It was not the only basis of class structure, even from a socialist point of view. Though Proudhon begins with the celebrated maxim, *"La propriété, c'est le vol,"* he winds up with a distributivist scheme for small proprietors, not unlike that of Sismondi or Harrington.

Are Classes Economic Only? According to Marx?

What is more, as the previous analysis may already have served to indicate, the class structure of society for political purposes is rarely, if ever, as simple as the economic analysis of Marx would indicate. Social classes, even in a country with a rigid caste system like India, do not correspond to the simplicity of bourgeoisie vs. proletariat. And in more

industrial societies, the elaborate cross-affiliations of classes and their impossibility to group even in logical sub-classes completely defy the effort to lump them according to Marxian terms. To take only a few examples, teachers and white-collar workers are concerned even in economic terms far more with their relations as consumers than as producers in the strict Marxian sense. The "pressure groups" of modern society show this variety. In some measure, every professional man controls at least part of his own tools, and semiprofessional skills proliferate throughout a whole society. The widespread existence of either independent small traders or the salaried employees of distribution trades buttress the weight of classes which often feel a greater identity of interests with management than with highly organized or even unorganized industrial and unskilled labor. The widespread existence of savings in many forms (life insurance, bonds, stocks, bank deposits, homes, and so forth), as well as direct ownership or participating enjoyments in the right of property, tend further to blur the lines of economic cleavage which Marx, toiling away in the British Museum to attack the injustices of the society of the early industrial revolution and its economic apologists, attempted with savage irony and burning indignation to sharpen or harden into revolution. Marx, the revolutionist, wanted workmen's organizations; but he wanted them to make a revolution, not to win democratic victories that would soften the clash of classes. That he softened his own attitude on this point later on does not prevent his most powerful group of modern followers from sticking to the original party line of the *Manifesto,* on this point at least. Lenin and Stalin never flinch at violent revolution.

Most of all, the logic of Marx leads straight to the substitution of state managers under a dictatorship for private managers who are subject to all manner of legal restraints under democratic controls—to the influences of competition, and to an increasing awareness of public responsibility through criticism and through the representation of public interest on boards of directors. The result of democratic capitalism is an extremely mixed form of economy, including a trade union movement that is certainly not powerless to enforce claims on something more than a subsistence level of wages. This "system," on the record, has produced a dynamics of production in modern capitalist societies which even the laborers themselves seldom seem willing to overturn in order to substitute their own responsibility or that of the government for the mixed form of management under public scrutiny and control that is the essence of modern capitalism. Apparently labor does not *want,* except in bankrupt or war-exhausted societies, to take over responsibilities of running individual businesses. And even in these phases of social disintegration, the result is not for long one of syndicalist control of factories by the workers,

but state-trusts which exercise the most ruthless control over labor to get production as planned. So if Marx's remedy of collective control over business through a dictatorship of the proletariat is put through by communist leaders, labor has learned that it merely gets real *masters,* instead of the present managers with whom it bargains on at least equal terms. Marx himself refused to confront the future evolution of planning under the dictatorship, much less under ultimate communism. Logic, applied to his myth, would have destroyed it.

Imperialism and Nationalism

Imperialism, the third great strain of Marxian analysis of capitalist structure, turns out, also, to have a somewhat different character in fact from that attributed to it by Marx and Lenin. The classic socialist analysis, which begins with the *Communist Manifesto* and echoes through the present-day pronouncements of Stalin in his electioneering speeches and in the columns of *Pravda* and *Izvestia,* or the diatribes of the Cominform, describes imperialism as produced by the fatal law of capitalist monopoly.[14] This is brought about by two aspects of capitalism:

1. The first is the working out of the surplus value that the capitalist withholds from labor in order to make his profits. This, of course, accepting at its face value the Marxian theory of exploitation, results in the claim that the laborer himself is deprived of the full fruits of his labor, since he cannot buy as much as he produces (on the assumption that the whole "value" of the product is "labor" value). There is always a tendency, therefore, according to the Marxian scheme, for any national economy to expand production beyond the possibilities of the national market. This is not merely a theory of under-consumption, as Rosa Luxembourg and Karl Liebknecht would interpret it to be. According to Marx and Engels, it is a fatality in the very nature of capitalism that produces crises and drives capital on to seek new markets to control.

The obvious result, therefore, of the need for foreign markets is a continuous expansion of capitalist exploitation over backward peoples and new areas. According to this theme, it is more a question of the flag following this exploiting trade, rather than of trade following the flag. Marx would have applied to capitalist economy the imperative, "expand or perish," that Machiavelli applied to empires. He would have identified the government as an agent of the exploiters in expanding their hold on markets. This theory of economic imperialism is the stock in trade of critics who have assailed British imperialism and who have felt that

[14] See Joseph A. Schumpeter, "The Communist Manifesto in Sociology and Economics," *Journal of Political Economy,* Vol. LVII, No. 5, June, 1949.

"dollar diplomacy" was following rapidly on this same trail. Even to give huge sums of capital and food to Europe, including Russia itself, is "dollar imperialism."

This analysis of the ruthless necessity for capitalist expansion into backward areas had two interesting sides which need to be recalled. One, it was far less the need for markets for goods than the need to secure sources for raw materials that led to the acquisition of most colonial outposts. Markets for goods in many cases required no control to develop; in others, a growing industrialization, abetted by the foreign capitalists themselves, limited possibilities for exports. Capitalism formed cartels to plan foreign markets and fight tariff-protected nationalism as well as to exploit it. The whole native purchasing power of Africa was negligible in volume compared to any national market of developed countries. But the raw materials, food products, and mineral wealth of Africa were not negligible. The need for secure possession, like the strategic significance of naval bases and airfields, was produced not by the nature of capitalism (international) but by power rivalries not inherent in capitalism and which state socialism, to say the least, does not appear to lessen, unless all states are to be brought under the domination of one—a still worse imperialism! Russian total state-monopoly capitalism is the one instance where the Marxian logic has been put into effect. That result has not followed from the search for markets but from the need to exploit and enslave satellite economies to bolster up the over-strained economy of Russia.

Marxist Revolution Succeeds only in "Backward" Countries

The second point to be remarked about the Marxian analysis, extended by Lenin, is that by a supreme irony, it is precisely in backward countries, and primarily by playing on the suppressed *nationalism* of these colonial or backward peoples, that communism has come into power, or threatens to do so. The Marxian analysis would have predicted that only countries which were industrially mature, with the logic of concentration of wealth fulfilled by the nature of the inevitable process, would be "ripe for revolution." Quite the reverse has been the case, since Russia first set the pattern. It is rather in those countries where *a middle class has never developed*, which have never achieved mass industrialization and withal a literate electorate that Red Revolution achieved its triumphs. The dialectic was falsified by history. No free middle-class state has so far even reverted to communism, except by outside pressure amounting to conquest. Marxist revolution succeeds in pre-capitalist societies with no middle class, or where one has been destroyed by war. Precisely among backward peoples brought into contact with industrial civilization, Marx-

ist slogans won their greatest influence and some real victories, as in large areas of Asia. Russia's methods with her own backward peoples were round: they were overwhelmed by colonization and enslaved to Great Russia's needs, set by Moscow's Politburo. But Russia could pose, unblushingly cynical, as the liberator of Chinese and of other "backward peoples" with great plausibility by promising to the national leaders support against Western "domination," even Western trade. The testing of Russian control over these wide areas will come, however, when Russia has to fill the place of the West in aid and trade.

Monopoly Capitalism and Imperialism

2. The second strain of imperialism in its relation to capitalism arose from the analysis of monopoly which Lenin developed at considerable length from its origins in Marx and Engels. The earlier doctrines of the *Communist Manifesto* and *Capital* had emphasized the cannibalistic nature of capitalist enterprise in its tendency to suppress competition and to concentrate wealth in fewer and fewer hands. There was, in some measure, an inherent contradiction between the idea that all capitalists were bound into an international class solidarity against the exploited proletariat to form a "black international" or a "gold international" of capitalism, which was one strand of Marxian theory, and, on the other hand, the assumption that there was a continuous struggle for supremacy between the great groups of capitalists which led to the exploitation of national loyalties and the creation of rivalries leading to war. Lenin emphasized the latter strand in his analysis of monopoly capitalism in its relation to imperialism. What he left out was that the supreme type of monopoly capitalism, which really fulfilled the Marxian analysis of complete capitalist concentration, is the state capitalism of any totalitarian system and, in particular, the Russian. There, power politics backs the power of economics *directly and completely* because the state has assumed complete responsibility for the entire economic life of its citizens. Just as successful planning demands internal purges to get full production as planned, so it demands quite as much the assurance of favorable foreign trade conditions to advance the nationally planned system. If force is available, it will be used to this end, though "cold war" may serve. The struggle of such a capitalism to extend its control, in the incidence of planning, necessarily involves the direct and indirect use of the state's force and induces the most deadly national rivalries, because it is the state which is directly responsible for the trading and for the economic results involved. The struggle is not mitigated by cross alliances of different groups as it is in capitalist countries, operating for their own profit, rather than for national advantage. Market and natural advantages are not limiting

factors. They must simply be overcome by other means. Every economic deal becomes incidental to power politics under the arch monopoly of state capitalism. Russian planning of Eastern Europe or Korea aptly illustrates this character of *state* capitalism under dictatorship.

Further, the behavior of democratic capitalistic systems in contrast to the totalitarian, including communist, systems in the period since Marx wrote has seemed to show that the extension of genuine imperialism, i.e., *the control of one people by another contrary to the will of the first,* has been produced far less by a struggle for markets than by the direct struggle for power on the part of systems whose very nature dedicates them to expansion. The Nazi aims were not economic but geopolitical world power. Japan's aims were masked as a "co-prosperity sphere for Asia." Her real aims were imperial rule, subject to limitation only by counterforce. The history of the British Empire, on the other hand, in the late nineteenth and certainly the twentieth century, when industrialism reached its full swing and international finance its maximum operation in London, has been a steady spectacle of imperial recession. The evolution of the British Commonwealth has been an attempt to substitute economic linkages and voluntary political relations for military subordination.

Is the Capitalistic United States Imperialistic?

Nor can the Marxian analysis find much comfort in the history of the capitalist development of the United States. The record shows that the greatest world power devoted to capitalism has consistently put aside what would have been easy opportunities to enforce political subordination on areas of great economic interest to this country. It is, of course, possible to explain that this has all been done according to the tortuous logic of Marxism, because capitalism was "immature" in the United States; just as it is possible by the same logic to assail the gift or loans of many billions of dollars to impoverished countries with no strings attached as an effort at economic imperialism and American penetration. But to the detached observer, a comparison of the actual results of looting by totalitarian countries of areas subject to their control can hardly be called "economic liberation" and the American performance "economic imperialism" without completely perverting these two terms for purposes of propaganda. Of course, this is a characteristic of the Marxian "double talk," starting from the system's own inverted definitions.

That ought not, however, to lead us to ignore the real weight of Marx's analysis and the reasons that it has appealed to so large a part of the world. If it had been true that economic power was the *only* or the *ultimately controlling* factor in the evolution of human society, much of

Marx's analysis would have been accurate, though his remedies would not have helped matters. Since it is true that economic power is a very large factor in all human equations, Marx's contribution remains a substantial one.

Marx's Real Contribution

Essentially, the contribution of Marx was to point out that the egoistic impulses of human nature, *if unchecked by any collective will or purpose,* were capable of producing a monstrosity heartless and ruthless in its exploitation. His mistake lay in assuming literally that "money is the root of all evil." Egoism is not limited to profit-making; nor is it mainly displayed in economic relations. Its political roots lie much deeper in human nature. He effectively proved that capitalism unchecked by social and political action would not work out the automatic harmonies expected by the Benthamites; and, in this sense, he may be said to have dealt a death blow to the rigidly *laissez-faire* economics which he identified falsely with capitalism.

On the other hand, as Durbin's *Politics of Democratic Socialism* shows so well, Marx's assumptions that only economic power counted and that political remedies through democratic action were illusory proved on the subsequent record to be almost completely wrong. The extension of the suffrage enabled every possible interest of labor, as well as of other economic interests of society, to secure adequate representation and often more than adequate legislative and administrative action to equalize the scales of real power as between the laborer and the manager. Indeed, if there had not been balancing interests in society to prevent the scales from being tipped by sheer weight of numbers under the democratic process, the advantage would have been overwhelmingly with labor, and, in some instances, has actually been so. Consumers', farmers', and other interests, through representatives elected on a geographical basis of community by national parties, have mediated in this economic struggle. The party mechanism has afforded a method of aligning the limited interests either of labor or of so-called capital into programs which must reconcile broader reaches of both interest and national purpose. Constitutional democracy, in short, has extended the regulatory and umpiring functions of government in a way that falsifies the oversimplified Marxian analysis of the power struggle.

The shattering impact of war and the destruction and stagnation that followed in its wake, including the effects of inevitable inflation, have done much more than has the trend toward monopoly in capitalism to wipe out the middle classes that are a normal requisite for healthy constitutional democracy. But these wars were not produced by class struggles

in the Marxian sense. They arose from the clash of power systems bent on the realization of *national* myths, in which the Russian myth took its place along with the others. They were struggles over who would rule whom, *directly,* not by trade. It is equally true that the tendency of modern society to produce the greatest variety of skills and to rebuild middle classes where the element of security is possible, reasserts itself and affords the ground for developing the conditions of democratic control once more, if forcible overthrow or terror can be eliminated.

If the destruction of that security occurs, it will be because the myth of Marx has been turned to ends quite different from those envisaged in its own professed system: modern Russia has every opportunity to prove in a peaceful way the superiority of planned economics, under what is at least a dictatorship *over* the proletariat. Resort to war or to measures that lead inevitably to war, though they may be done under the spurious guise of "liberating" the "oppressed" proletariat of other nations, can in fact only come as the result of extending the power politics that would center world control in Moscow, the oldest as well as the newest and most real threat of totalitarian imperialism.

Socialism is a Constitutional and Democratic Régime

Socialist as opposed to *communist* systems have, of course, pursued a different logic, in effect repudiating the apocalyptic necessity for world revolution and the violent overthrow of all possessing classes.[15] They have instead insisted upon the methods of democratic persuasion and of achieving power through convincing the electorate of the soundness of their economic theories or the necessity of the nationalization of key industries for lack of good private management or of available private capital. From the days when Robert Owen proposed a cooperative socialism and inspired the interesting experiments, of which the New Icaria and Brook Farm were two examples out of many, there has been another main strand of thinking in socialist doctrines. This more Christian and more cooperative approach would achieve the transformation of property to collectivist control not through the class struggle and war to the knife which orthodox communists embrace. It would rather depend upon the education of human nature and the gradual conquest of political power to transform the state through democratic means. The Chartist movement in England and a considerable part of the Gotha program of the German Workingman's Party looked to the conquest of political power through the organization of universal suffrage, the secret ballot, the right

[15] See *Need for Constitutional Reform,* W. Y. Elliott, chapter on "Some Much Abused Terms," for definitions of socialism and communism, in their economic and political meanings.

of free associations, and other parts of what is now an accepted democratic program.

Fabian socialism in England and the main currents of German social democracy looked in this direction. The very name *Fabian* suggests the strategy of that famous Roman general, Fabius Cunctator (the Delayer), who prevented Hannibal from ever reaping the fruits of his victories by his delaying tactics and his conviction that gradual methods long enough pursued would bring ultimate success. Shaw's famous Fabian debates and essays furnish an example of the strategy that guided such leaders of the British labor parties as the Webbs, Ramsay MacDonald, Snowden, Henderson, and their successors, Attlee, Morrison, Bevin, and Cripps. This strategy has led finally to electoral victory and political power in Britain.

On the continent, Fourier and Saint Simon proposed a more mechanistic solution that would transform society and thus eliminate much of the power struggle and the need for politics. But their proposals, too, looked to persuasion rather than to class war as the means.

One may disagree with the socialist's effort to prove that wholesale collectivism and bureaucratic control of industries can prove to be an adequate substitute for the dynamics of the private enterprise and the extension of industrial frontiers through non-bureaucratic methods. One cannot deny, however, that the British type of socialism and similar party alignments in Sweden and many other European countries are in essence both democratic and constitutional. They do not attempt to win power by violence or intimidation and they permit the protected existence under constitutional guarantees of political opposition able to overturn them at the polls. They appeal, in short, to the judgment of an electorate which has the right, never present under totalitarian communism, to turn out the government and to adopt a different economic strategy for the state. Whether the pressure of state planning, if it is to be continuous and uninterrupted, will limit civil and political liberties is still an open question. The evidence so far is that it does not do so of necessity, but the conditions are not set for a complete trial and the experiment is very young.

Socialist Elements in All Modern Democracies

A certain deposit of socialist doctrine that does not owe its inspiration to Marx is manifest in every government of the world today:

(1) The idea of a minimum level of social security that does not permit the individual to starve as long as he will accept work is now well grounded in all modern legislation.

(2) The regulation of profits through rates in all genuine public serv-

ices or utilities is an equally well-accepted article of democratic faith, since to permit an unlimited opportunity for profit in these essential needs (where monopolies are economically natural and efficient) would be tantamount to devolving on private interests the right to tax, which, in Chief Justice Marshall's words, "involves the power to destroy."

(3) Public ownership of natural resources and their combination in such experiments as the Tennessee Valley Authority no longer shock the less conservative tradition of capitalism. The demand is legitimately made that such experiments should be cost-accounted so as to prove their own economic superiority in areas where private industries might equally well function. But in the absence of large-scale and controlled private development, public investment for the development of water-power resources, navigation, flood control, and in the application of some new industries such as atomic power to social use is widely accepted. Atomic energy and its development present an obvious field where only national control and eventually international control can handle a problem so fraught with such complex and dangerous possibilities to mankind.

(4) Progressive income taxation and extremely heavy taxes on inheritance, even though subject to party struggle and periodic revision, are now an accepted feature of modern democratic society. To this extent, Aristotle's demand for the limitations of extreme wealth has been applied or is in the process of being applied still further to the area of inherited wealth.

The Case for Private Capitalism

Private capitalism, for its part, retains a vigor and variety that display the inadequacies of both the communist's and the socialist's analysis. Figures are often pointed out to show the concentration of industrial control in a relatively small number of corporations in the United States. But the actual profit returns of those corporations is spread widely through large segments of the population to constitute what Aristotle would have called the middle class. The vitality of productive efficiency of the modern form of corporations has been proved in the sternest testing ground of war, and its resiliency to the changes necessary to resume peacetime production have also been adequately demonstrated. If a high level of production of economic goods be taken as the testing fruit of a system, and their widespread sharing by the population be the economic end of society, rather than merely an equality of levelling *down* of incomes, then systems founded on private enterprise can show the most favorable comparison to the totalitarian and controlled systems. If the factor of production for war and of preparation for war could be eliminated, the comparison would be perhaps even more favorable. If economic tests, as

Marx proposed, be the only tests, there is no question as to superiority, on the record to date, of our mixed form of regulated capitalism. It is not mere geography that has put about half the world's industrial production in the free system of the United States.

Yet the combination of private enterprise with social security offers some real difficulties, it must be admitted. What economic system does not? Some of these have already emerged in a full-employment economy, where control of prices and wage rates on a balanced basis in any nation seems to present grave difficulties. The unwillingness of labor to accept conditions of employment in industries like coal mining or iron foundries under conditions of full employment or complete social security must lead to finding other incentives or to a comparative reversal of wage structures. If the unorganized classes, like public servants, teachers, and white-collar workers, are unduly depressed during the course of this adjustment, or through inflation, there will be grave dangers of a fascist reaction, if one may judge from the record of the twentieth century.[16] Capitalism, too, has its problems; state aid to investment to avoid depressions may be a major one. But they all seem to be less difficult to cure than the eternal problems of a bureaucratic mechanism striving to control the whole economic life of a country through every method, which in the completely planned systems includes purges and terror.

Whether democratic and constitutional methods can afford a resolution of the tremendous pressures generated in a dynamic economic system in a day of power politics is and must remain an open question, even though the record to date is good. If the answer is in the negative and totalitarian communism or fascism wins the day, there is certainly no prospect of the state's "withering away" under either system. It is not without significance that this concept, basic to the whole quasi-religious aspect of the thought of Marx, has almost completely disappeared from Russian literature. It is quietly treated as a part of the "immaturity" of communist doctrines and now seems to be taboo as a subject for real discussion or exposition, by the "party line."

The constitutional and democratic state, on its part, must establish a sufficient and an efficient vehicle for governmental control of the wider swings of great cyclical depressions. It cannot permit inflation to produce the catastrophe of deflation with tens of millions unnecessarily unemployed. By its compensatory spending and investment, by its banking, financial, and fiscal policies, by its planned public works and taxing policies, it must find ways effectively to hold within limits the play of blind economic forces, and to regulate them sufficiently to produce a high de-

[16] On the ideology and the tactics of fascism, see W. Y. Elliott, *The Pragmatic Revolt in Politics*, especially chapter on Mussolini.

gree of general economic security. Marx's attack on capitalism and the underlying problem that produced his attack have at least forced capitalist societies to go as far as the "compensatory spending" remedies proposed by J. M. Keynes, whether they always approve and understand what they are doing or not. Democratic reform has been the answer, not violent revolution, in all societies with a developed economy and a free political system.

(... *W.Y.E.*)

READINGS

THE HISTORY of the period covered by these writers is essentially the same as that covered by the writers in the previous chapter. But since the writers here have closer ties with the Continent, a few facts about continental Europe in the nineteenth century should be noted. The simplest thing that can be said is that Napoleon dominated the opening years and Bismarck the closing years of the century. Between these two periods there were few great wars but a plenitude of social turmoil. Reform movements were common but many were abortive. The old forms and customs of the *ancien régime* were still strong and only slowly and grudgingly did they accommodate themselves to the new ideas and the new economics. Every issue supposedly settled by the French Revolution was re-opened during the course of the century. Legitimacy, human rights, State and Church, militarism, nationalism, and many more were all elements of the nineteenth-century scene in Europe.

The French Revolution ended in Bonapartism; Bonapartism ended, temporarily, with the Congress of Vienna in 1814–1815. The Congress of Vienna tried to settle all outstanding European problems. Austria, under the leadership of Metternich, emerged as the dominant European power, and through alliance with Russia, Prussia, and Great Britain took steps to prevent any further revolutionary uprisings in Europe. These powers had learned no lesson from the English or French revolutions and they tried to restore old aristocratic régimes and feudal burdens.

In the years that followed, the most important trends were the efforts toward unification by the German states and by the small countries of the Italian peninsula. Alongside this tendency and effort to unify was the attempt to establish constitutional governments to replace those supported by Metternich. And, characteristically, the more repressive the measures to stop unification and internal reform, the more radical became the demand for both. Germany was finally unified into a Prussian-dominated state under the leadership of Bismarck, and Italy was unified by Victor Emannuel and Cavour. The final unification in each case was accomplished by the Franco-Prussian War of 1871.

Workers' movements sprang up in all countries, and, as if to illustrate the interconnectedness of all things, such movements had to decide whether they were workers first and nationalists second or vice versa. Bismarck, for example, made just enough concessions to reform to secure the support of workers' movements for unification. But during this time grievances, both real and imaginary, were building up more pressures which one day would have to be released. Sporadic, violent outbreaks like the Paris Commune of 1871, when radicals tried to capture control of the French government, were indicative of the new political elements that were gaining power. Germany became the dominant state in Europe following the Franco-Prussian War. The new order of things created in Europe during the course of the nineteenth century produced conflicts which led first to World War I and then to World War II.

Nothing seems to be so effective in welding a people into a national state as the concept of fatherland which is the basis of nationalism. Fichte was neither the first nor the last nationalist, but he was eloquent and he put national qualities and aspirations over everything, including the State. Carlyle, a discontented Englishman, saw redemption from the masses in heroic figures who could transcend the pettiness of dull, common people. Marx and Engels, and later Lenin, spoke the claim for the right of the dispossessed to rule and finally to transform society itself. Hitler and Mussolini were the crowning achievements of an irrational compound of nationalism, hero-worship, class consciousness, and the unleashing of the demonic fury of men who reject all traditional values, and who, at the same time, turn their faces squarely back to a less civilized past.

Johann Gottlieb Fichte was born in 1762 in Upper Lusatia. After his education in theology at Jena and Leipzig, he taught in Zurich, Leipzig, and finally became professor of philosophy and first rector of the University of Berlin. He first became famous by winning the praise of Kant for a work entitled *Critique of All Revelation* (1792). French victories over the Prussians in 1806 drove Fichte from Berlin to Koenigsberg to Copenhagen and back to Berlin in 1807. His writings became more nationalistic as he tried to develop a national spirit in a Prussia that had been crushed by Napoleon. This aspect of his writings was stressed by the Nazis. Fichte died in 1814, the year of Napoleon's defeat and the Congress of Vienna.

The cross-fertilization of ideas is indicated by the fact that Thomas Carlyle, a Scot, studied deeply in the German philosophy of such writers as Goethe, Fichte, and Kant. Born in Dumfriesshire in 1795, of Calvinist parents, he prepared for the ministry but abandoned it after five years; thereafter he was never able to accept any orthodox creed. He wrote in favor of social reform, and his classic work, *French Revolution* (1837)

was a warning to England of what would happen if reforms were not undertaken. Carlyle knew John Stuart Mill and knew and influenced Ralph Waldo Emerson. In much of his work he deplored materialism and insisted upon the reality of the spiritual. In one work, *Past and Present* (1843), he contrasted the disorder of modern society, unawakened to spiritual realities, with the order of the twelfth century. In *Latter Day Pamphlets* (1850) he expressed disgust with liberal panaceas. Carlyle died in 1881, and thus lived to see some of the most important of British reforms adopted. However, such pedestrian reforms were no comfort to a man of Carlyle's temperament.

The intellectual tradition that binds the next three writers transcends national boundaries. Karl Marx was a German Jew who did much of his work in England; Friedrich Engels, also a German, spent many years in England; and Nikolai Lenin was a Russian who spent many years in exile inside and outside of his native land.

Marx was born at Treves in Prussia in 1818. After studying law at Bonn and Berlin he became interested in philosophy and took a degree at Jena. In 1842 he became editor of the *Rheinische Zeitung*, a radical bourgeois paper, which was suppressed the next year. He then went to Paris, where he met Engels, with whom he started a lifelong collaboration. Marx was expelled from France in 1845, at the request of Prussia, and went to Brussels. While there, he and Engels helped to organize a workers' party. Later, when a small "congress" of workers met in London in 1847, they asked Marx and Engels to prepare a statement for them, and that statement became known as the *Communist Manifesto* (1848). Except for a brief return to Cologne as an editor, Marx spent the remainder of his life in London, where he supported himself much of the time as a correspondent for the *New York Tribune*. Most of his life in London was spent in a struggle with poverty and sickness, but despite these handicaps he carried on prodigious research and writing activities and kept in close touch with workers' movements on the Continent. Marx died in 1883, after having alienated most of his friends and most workers' movements.

Marx's close associate, Friedrich Engels, was born in Barmen, the son of a well-to-do textile manufacturer. He studied in a classical school before serving an apprenticeship. But in these years his spare time was spent in philosophical studies. He first went to England in 1842, where he worked in his father's factory in Manchester. After 1844 he collaborated with Marx in most of his work. Engels participated in the Revolution of 1848 in Germany but returned to England in 1850, where he was in his father's business until 1870. After that he lived a literary life in London. He spent a great deal of his time, after Marx died, in editing the latter's works. Engels died in 1895.

Thirteen years before Marx died, the third of this Marxian triumvirate was born at Simbirsk in Russia. Nikolai Lenin is the pseudonym for Vladimir Ilych Ulyanov. Lenin, as he is known to history, was the son of a schoolmaster. He was drawn to the revolutionary cause early in life by the execution of his elder brother for participating in a plot against Tsar Alexander III. Lenin was educated at the University of Kazan as a lawyer, but his studies were interrupted periodically when he was banished for revolutionary activity. It was at the university that he first became a student of Marx. In 1894 he moved to St. Petersburg, where he began propaganda work. From 1897 to 1900 he was exiled in Siberia, but there he managed to write *The Development of Capitalism in Russia* (1899). Between 1900 and 1917, except for a brief return during the 1905 uprising, he was in exile from Russia. He was joined by Leon Trotsky, and the two began editing the journal *Iskra* (*The Spark*), a revolutionary publication. When the Bolshevik cause finally gained power in Russia, it did so under the guidance of Lenin, who thus undertook to put Marxian principles into operation in a country for which they were scarcely designed. For Russia, far from being an advanced industrial state, was a state that had scarcely been touched by the industrial developments of Western Europe and the United States. Five or six years after the November revolution of 1917, Lenin's health broke down and he was forced to retire from active administration. He died in 1924 at Gorki, and since then he has been virtually deified in the Soviet Union. The best biography of Lenin, revealing his unbending and ruthless will to power *for Lenin*, is that of D. Shub.

The last pair of writers presented here have many things in common, not least of which is that both rose to the head of states unified in the late nineteenth century and that they both died violent deaths in 1945. Benito Mussolini was born in 1883 at Predappio, Fonli province, in the Romagna. His father was a blacksmith, his mother a schoolteacher. Mussolini was a socialist journalist in Switzerland and Austria. In Austria he was converted to Irredentism and became acquainted with the writings of Nietzsche. He fought in World War I and afterwards became the leader of a little group of ex-soldiers (*Fasci di Combattimento*). This was the beginning of the Fascist movement. By the famous march on Rome in 1922 he gained control of the Italian government, and by 1928 his power was quite complete. Mussolini went to war against France and England when victory seemed certain. By 1943 he was repudiated by the King and by the Fascist Grand Council. He then set up a puppet régime in North Italy. He was captured and shot by Italian partisans in 1945.

In 1889 Adolf Hitler was born in Braunau, Upper Austria. He renounced Austrian citizenship by serving in the Bavarian Army in World

War I. After the war he organized the National Socialist party and attempted a *coup d'état* in Munich in 1923. For this he was imprisoned; during his imprisonment he wrote *Mein Kampf* (*My Struggle*) In 1933, Hitler's party gained control of the German government, and in 1939 his invasion of Poland started World War II. He died, presumably a suicide, in 1945 as the armies of the Soviet Union and the Western Allies closed in on Berlin. Thus one stream of totalitarian thought and activity has been partially dammed, at least for a time. The other, *communism*, appears to gain in volume in proportion to the measure of weakness and disintegration following World War II.

Fichte: On Nationalism

It is probably no accident that the countries that have had a long struggle for national unity have produced the most extreme rationale for national feeling But Fichte was not simply a blind patriot. On the contrary, he was an exponent of Kantian idealism and liberal democracy, and his identification with the latter cause made him a hero of the Revolution of 1848 There was, however, a strong plea for nationalism in his writings, as is indicated by the following selection This was what made him a hero of the conservative nationalists who formed the German Empire of 1871 The most interesting aspect of Fichte's nationalism is that national loyalties transcend state lines No doubt Fichte meant this as an argument for German unity despite political disunity, but Hitler could use the same argument to appeal to people of German extraction even though they were citizens of other states This kind of appeal always has racial overtones It is interesting to note how Fichte explains national loyalty by man's desire for immortality [1]

["Eternal Continuance of the People"]

115 The noble-minded man's belief in the eternal continuance of his influence even on this earth is thus founded on the hope of the eternal continuance of the people from which he has developed, and on the characteristic of that people as indicated in the hidden law of which we have spoken, without admixture of, or corruption by, any alien element which does not belong to the totality of the functions of that law This characteristic is the eternal thing to which he entrusts the eternity of himself and of his continuing influence, the eternal order of things in which he places his portion of eternity, he must will its continuance, for it alone is to him the means by which the short span of his life here below is extended into continuous life here below His belief and his struggle to plant what is permanent, his conception in which he

[1] From *Addresses to The German Nation*, by J G Fichte, translated by R F Jones and G H Turnbull Published by Open Court Publishing Co, 1922. Pp 135 ff.

comprehends his own life as an eternal life, is the bond which unites first his own nation, and then, through his nation, the whole human race, in a most intimate fashion with himself and brings all their needs within his widened sympathy until the end of time This is his love for his people, respecting, trusting, and rejoicing in it, and feeling honoured by descent from it The divine has appeared in it, and that which is original has deemed this people worthy to be made its vesture and its means of directly influencing the world, for this reason there will be further manifestations of the divine in it Hence, the noble minded man will be active and effective, and will sacrifice him self for his people Life merely as such the mere continuance of changing existence, has in any case never had any value for him, he has wished for it only as the source of what is permanent But this permanence is promised to him only by the continuous and independent existence of his nation In order to save his nation he must be ready even to die that it may live, and that he may live in it the only life for which he has ever wished

[Love and Eternity]

116 So it is Love that is truly love and not a mere transitory lust, never clings to what is transient, only in the eternal does it awaken and become kindled, and there alone does it rest Man is not able to love even himself unless he conceives himself as eternal, apart from that he cannot even respect much less approve of, himself Still less can he love anything outside himself without taking it up into the eternity of his faith and of his soul and binding it thereto He who does not first regard himself as eternal has in him no love of any kind, and, moreover, cannot love a fatherland, a thing which for him does not exist He who regards his invisible life as eternal but not his visible life as similarly eternal, may perhaps have a heaven and therein a fatherland, but here below he has no fatherland, for this, too, is regarded only in the image of eternity—eternity visible and made sensuous—and for this reason also he is unable to love his fatherland. If none has been handed down to such a man, he is to be pitied But he to whom a fatherland has been handed down, and in whose soul heaven and earth, visible and invisible meet and mingle, and thus, and only thus, create a true and enduring heaven—such a man fights to the last drop of his blood to hand on the precious possession unimpaired to his posterity

So it always has been, although it has not always been expressed in such general terms and so clearly as we express it here What inspired the men of noble mind among the Romans, whose frame of mind and way of thinking still live and breathe among us in their works of art, to struggles and sacrifices, to patience and endurance for the fatherland? They themselves express it often and distinctly It was their firm belief in the eternal continuance of their Roma, and their confident expectation that they themselves would eternally continue to live in this eternity in the stream of time In so far as this belief was well founded, and they themselves would have comprehended it if they had been entirely clear in their own minds, it did not deceive them To this very day there still lives in our midst what was truly eternal in their eternal Roma they themselves live with it, and its consequences will continue to live to the very end of time

[Fatherland over State]

117 People and fatherland in this sense, as a support and guarantee of eternity on earth and as that which can be eternal here below, far transcend the State in the ordinary sense of the word, viz, the social order as comprehended by mere intellectual conception and as established and maintained under the guidance of this conception The aim of the State is positive law, internal peace, and a condition of affairs in which every

one may by diligence earn his daily bread and satisfy the needs of his material existence, so long as God permits him to live All this is only a means, a condition, and a framework for what love of fatherland really wants, viz, that the eternal and the divine may blossom in the world and never cease to become more and more pure, perfect, and excellent That is why this love of fatherland must itself govern the State and be the supreme, final and absolute authority Its first exercise of this authority will be to limit the State's choice of means to secure its immediate object—internal peace To attain this object, the natural freedom of the individual must, of course, be limited in many ways If the only consideration and intention in regard to individuals were to secure internal peace, it would be well to limit that liberty as much as possible to bring all their activities under a uniform rule, and to keep them under unceasing supervision Even supposing such strictness were unnecessary, it could at any rate do no harm, if this were the sole object It is only the higher view of the human race and of peoples which extends this narrow calculation Freedom, including freedom in the activities of external life, is the soil in which higher culture germinates a legislation which keeps the higher culture in view will allow to freedom as wide a field as possible, even at the risk of securing a smaller degree of uniform peace and quietness, and of making the work of government a little harder and more troublesome

[Freedom]

118 To illustrate this by an example It has happened that nations have been told to their face that they do not need so much freedom as many other nations do It may even be that the form in which the opinion is expressed is considerate and mild, if what is really meant is that the particular nation would be quite unable to stand so much freedom, and that nothing but extreme severity could prevent its members from destroying each other But, when the words are taken as meaning what they say, they are true only on the supposition that such a nation is thoroughly incapable of having original life or even the impulse towards it Such a nation—if a nation could exist in which there were not even a few men of noble mind to make an exception to the general rule—would in fact need no freedom at all, for this is needed only for the higher purposes that transcend the State It needs only to be tamed and trained, so that the individuals may live peaceably with each other and that the whole may be made into an efficient instrument for arbitrary purposes in which the nation as such has no part Whether this can be said with truth of any nation at all we may leave undecided, this much is clear, that an original people needs freedom, that this is the security for its continuance as an original people, and that, as it goes on, it is able to stand an ever increasing degree of freedom without the slightest danger This is the first matter in respect of which love of fatherland must govern the State itself

[Higher Patriotism]

119 Then, too, it must be love of fatherland that governs the State by placing before it a higher object than the usual one of maintaining internal peace property, personal freedom, and the life and well being of all For this higher object alone, and with no other intention does the State assemble an armed force When the question arises of making use of this, when the call comes to stake everything that the State, in the narrow conception of the word, sets before itself as object, viz, property, personal freedom life, and well being, nay, even the continued existence of the State itself, when the call comes to make an original decision with responsibility to God alone, and without a clear and reasonable idea that what is intended will surely be attained—for this is never possible in such

matters—then, and then only, does there live at the helm of the State a truly original and primary life, and at this point and not before, the true sovereign rights of government enter, like God, to hazard the lower life for the sake of the higher In the maintenance of the traditional constitution, the laws, and civil prosperity there is absolutely no real true life and no original decision Conditions and circumstances, and legislators perhaps long since dead, have created these things, succeeding ages go on faithfully in the paths marked out, and so in fact they have no public life of their own, they merely repeat a life that once existed In such times there is no need of any real government But, when this regular course is endangered, and it is a question of making decisions in new and unprecedented cases, then there is need of a life that lives of itself What spirit is it that in such cases may place itself at the helm, that can make its own decisions with sureness and certainty, untroubled by any hesitation? What spirit has an undisputed right to summon and to order everyone concerned, whether he himself be willing or not, and to compel anyone who resists, to risk everything including his life? Not the spirit of the peaceful citizen s love for the constitution and the laws, but the devouring flame of higher patriotism which embraces the nation as the vesture of the eternal, for which the noble minded man joyfully sacrifices himself, and the ignoble man, who only exists for the sake of the other, must likewise sacrifice himself It is not that love of the citizen for the constitution, that love is quite unable to achieve this, so long as it remains on the level of the understanding Whatever turn events may take, since it pays to govern they will always have a ruler over them Suppose the new ruler even wants to introduce slavery (and what is slavery if not the disregard for, and suppression of, the characteristic of an original people?—but to that way of thinking such qualities do not exist), suppose he wants to introduce slavery Then, since it is profitable to preserve the life of slaves, to maintain their numbers and even their well being, slavery under him will turn out to be bearable if he is anything of a calculator Their life and their keep, at any rate, they will always find Then what is there left that they should fight for? After those two things it is peace which they value more than anything But peace will only be disturbed by the continuance of the struggle. They will, therefore, do anything just to put an end to the fighting, and the sooner the better, they will submit, they will yield, and why should they not? All they have ever been concerned about, and all they have ever hoped from life, has been the continuation of the habit of existing under tolerable conditions The promise of a life here on earth extending beyond the period of life here on earth—that alone it is which can inspire men even unto death for the fatherland

[Protestants]

120 So it has been hitherto Wherever there has been true government, wherever bitter struggles have been endured, wherever victory has been won in the face of mighty opposition, there it has been that promise of eternal life which governed and struggled and won the victory Believing in that promise the German Protestants, already mentioned in these addresses, entered upon the struggle Do you think they did not know that peoples could be governed by that old belief too, and held together in law and order, and that under the old belief men could procure a comfortable existence? Why, then, did their princes decide upon armed resistance, and why did the peoples enthusiastically make such resistance? It was for heaven and for eternal bliss that they willingly poured out their blood But what earthly power could have penetrated to the Holy of holies in their souls and rooted out their belief—a belief which had been revealed to them once for all, and on which alone they

based their hope of bliss? Thus it was not their own bliss for which they fought, this was already assured to them it was the bliss of their children and of their grandchildren as yet unborn and of all posterity as yet unborn These, too, should be brought up in that same doctrine, which had appeared to them as the only means of salvation These, too, should partake of the salvation that had dawned for them This hope alone it was that was threatened by the enemy For it, for an order of things that long after their death should blossom on their graves, they so joyfully shed their blood Let us admit that they were not entirely clear in their own minds, that they made mistakes in their choice of words to denote the noblest that was in them, and with their lips did injustice to their souls, let us willingly confess that their confession of faith was not the sole and exclusive means of becoming a partaker of the heaven beyond the grave, none the less it is eternally true that more heaven on this side of the grave a braver and more joyful look from earth upwards, and a freer stirring of the spirit have entered by their sacrifice into the whole life of succeeding ages To this very day the descendants of their opponents, just as much as we ourselves, their own descendants, enjoy the fruits of their labours

[To Be a German]

121 In this belief our earliest common forefathers, the original stock of the new culture, the Germans, as the Romans called them, bravely resisted the oncoming world dominion of the Romans Did they not have before their eyes the greater brilliance of the Roman provinces next to them and the more refined enjoyments in those provinces, to say nothing of laws and judges seats and lictors' axes and rods in superfluity? Were not the Romans willing enough to let them share in all these blessings? In the case of several of their own princes, who did no more than intimate that war against such benefactors of mankind was rebellion, did they not experience proofs of the belauded Roman clemency? To those who submitted the Romans gave marks of distinction in the form of kingly titles high commands in their armies, and Roman fillets, and if they were driven out by their countrymen, did not the Romans provide for them a place of refuge and a means of subsistence in their colonies? Had they no appreciation of the advantages of Roman civilization, *e g*, of the superior organization of their armies, in which even an Arminius did not disdain to learn the trade of war? They cannot be charged with ignorance or lack of consideration of any one of these things Their descendants, as soon as they could do so without losing their freedom, even assimilated Roman culture, so far as this was possible without losing their individuality Why, then did they fight for several generations in bloody wars, that broke out again and again with ever renewed force? A Roman writer puts the following expression into the mouth of their leaders What was left for them to do, except to maintain their freedom or else to die before they became slaves" Freedom to them meant just this remaining Germans and continuing to settle their own affairs independently and in accordance with the original spirit of their race, going on with their development in accordance with the same spirit and propagating this independence in their posterity All those blessings which the Romans offered them meant slavery to them, because then they would have to become something that was not German they would have to become half Roman They assumed as a matter of course that every man would rather die than become half a Roman, and that a true German could only want to live in order to be, and to remain, just a German and to bring up his children as Germans

They did not all die, they did not see slavery they bequeathed freedom to their children It is their unyielding resistance which the whole modern world has to

thank for being what it now is Had the Romans succeeded in bringing them also under the yoke and in destroying them as a nation, which the Roman did in every case, the whole development of the human race would have taken a different course, a course that one cannot think would have been more satisfactory It is they whom we must thank—we, the immediate heirs of their soil their language, and their way of thinking—for being Germans still, for being still borne along on the stream of original and independent life It is they whom we must thank for everything that we have been as a nation since those days, and to them we shall be indebted for everything that we shall be in the future, unless things have come to an end with us now and the last drop of blood inherited from them has dried up in our veins To them the other branches of the race, whom we now look upon as foreigners, but who by descent from them are our brothers, are indebted for their very existence When our ancestors triumphed over Roma the eternal, not one of all these peoples was in existence, but the possibility of their existence in the future was won for them in the same fight

[Power of the Soul]

122 These men, and all others of like mind in the history of the world, won the victory because eternity inspired them, and this inspiration always does, and always must, defeat him who is not so inspired It is neither the strong right arm nor the efficient weapon that wins victories, but only the power of the soul He who sets a limit to his sacrifices, and has no wish to venture beyond a certain point, ceases to resist as soon as he finds himself in danger at this point, even though it be one which is vital to him and which ought not to be surrendered He who sets no limit whatever for himself, but on the contrary stakes everything he has, including the most precious possession granted to dwellers here below, namely, life itself, never ceases to resist, and will undoubtedly win the victory over an opponent whose goal is more limited. A people that is capable of firmly beholding the countenance of that vision from the spiritual world, independence, even though it be only its highest representatives and leaders who are capable of perceiving it—a people capable of being possessed by love of this vision, as our earliest forefathers were, will undoubtedly win the victory over a people that is used, as were the Roman armies, only as the tool of foreign ambition to bring independent people under the yoke; for the former have everything to lose, and the latter merely something to gain. But the way of thinking which regards war as a game of chance, where the stakes are temporal gain or loss and which fixes the amount to be staked on the cards even before it begins the game—such a way of thinking is defeated even by a whim Think, for example, of a Mahomet —not the Mahomet of history, about whom I confess I have no opinion, but the Mahomet of a well known French poet[1] He takes it firmly into his head once for all that he is one of those exceptional beings who are called to lead the obscure and common folk of the earth, and in accordance with this preliminary assumption all his notions, no matter how mean and limited they may be in reality, of necessity seem to him, just because they are his own, great and sublime ideas full of blessings for mankind, all who set themselves against these notions seem to him obscure and common people, enemies of their own good, evil-minded, and hateful Then, in order to justify this conceit of himself as a divine call, he lets this thought absorb his whole life, he must stake everything on it, and cannot rest until he has trodden underfoot all who refuse to think as highly of him as he does of himself, and until he sees his own belief in his divine mission

[1] [The reference is apparently to Voltaire's tragedy *Mahomet*]

reflected in the whole contemporary world. I will not say what would happen to him if a spiritual vision, true and clear to itself, entered the lists against him, but he is sure to be victorious over those gamesters with limited stakes, for he stakes everything against them and they do not stake everything. No spirit drives them, but he is driven by a spirit, though it be but a raving one, the violent and powerful spirit of his own conceit.

[State as Means to the Higher Purpose]

123. From all this it follows that the State, merely as the government of human life in its progress along the ordinary peaceful path, is not something which is primary and which exists for its own sake, but is merely the means to the higher purpose of the eternal, regular, and continuous development of what is purely human in this nation. It follows, too, that the vision and the love of this eternal development, and nothing else, should have the higher supervision of State administration at all times, not excluding periods of peace, and that this alone is able to save the people's independence when it is endangered. In the case of the Germans, among whom as an original people this love of fatherland was possible and, as we firmly believe, did actually exist up to the present time, it has been able up to now to reckon with great confidence on the security of what was most vital to it. As was the case with the ancient Greeks alone, with the Germans the State and the nation were actually separated from each other, and each was represented for itself, the former in the separate German realms and principalities, the latter represented visibly in the imperial connection and invisibly—by virtue of a law, not written, but living and valid in the minds of all, a law whose results struck the eye everywhere—in a mass of customs and institutions. Wherever the German language was spoken, everyone who had first seen the light of day in its domain could consider himself as in a double sense a citizen, on the one hand, of the State where he was born and to whose care he was in the first instance commended, and, on the other hand, of the whole common fatherland of the German nation. To everyone it was permitted to seek out for himself in the whole length and breadth of this fatherland the culture most congenial to him or the sphere of action to which his spirit was best adapted; and talent did not root itself like a tree in the place where it first grew up, but was allowed to seek out its own place. Anyone who, because of the turn taken by his own development, became out of harmony with his immediate environment, easily found a willing reception elsewhere, found new friends in place of those he had lost, found time and leisure to make his meaning plainer and perhaps to win over and to reconcile even those who were offended with him, and so to unite the whole. No German-born prince ever took upon himself to mark out for his subjects as their fatherland, with mountains or rivers as boundaries, the territory over which he ruled, and to regard his subjects as bound to the soil. A truth not permitted to find expression in one place might find expression in another, where it might happen that those truths were forbidden which were permitted in the first. So, in spite of the many instances of one-sidedness and narrowness of heart in the separate States, there was nevertheless in Germany, considered as a whole, the greatest freedom of investigation and publication that any people has ever possessed. Everywhere the higher culture was, and continued to be, the result of the interaction of the citizens of all German States: and then this higher culture gradually worked its way down in this form to the people at large, which thus never ceased, broadly speaking, to educate itself by itself. This essential security for the continuance of a German nation was, as we have said, not impaired by any man of German spirit seated at the helm

of government; and though with respect to other original decisions things may not always have happened as the higher German love of fatherland could not but wish, at any rate there has been no act in direct opposition to its interests; there has been no attempt to undermine that love or to extirpate it and put a love of the opposite kind in its place.

[Foreign Control]

124. But what if the original guidance of that higher culture, as well as of the national power which may not be used except to serve that culture and its continuance, the utilization of German property and blood—what if this should pass from the control of the German spirit to that of another? What would then be the inevitable results?

This is the place where there is special need of the disposition which we invoked in our first address—the disposition not to deceive ourselves wilfully about our own affairs, and the courage to be willing to behold the truth and confess it to ourselves. Moreover, it is still permitted to us, so far as I know, to speak to each other in the German language about the fatherland, or at least to sigh over it, and, in my opinion, we should not do well if we anticipated of our own accord such a prohibition, or if we were ready to restrain our courage, which without doubt will already have taken counsel with itself as to the risk to be run, with the chains forged by the timidity of some individuals.

Picture to yourselves, then, the new power, which we are presupposing, as well-disposed and as benevolent as ever you may wish; make it as good as God Himself; will you be able to impart to it divine understanding as well? Even though it wish in all earnestness the greatest happiness and well-being of everyone, do you suppose that the greatest well-being it is able to conceive will be the same thing as German well-being? In regard to the main point which I have put before you to-day, I hope I have been thoroughly well understood by you; I hope that several, while they listened to me, thought and felt that I was only expressing in plain words what has always lain in their minds; I hope that the other Germans who will some day read this will have the same feeling—indeed, several Germans have said practically the same thing before I did, and the unconscious basis of the resistance that has been repeatedly manifested to a purely mechanical constitution and policy of the State has been the view of things which I have presented to you. Now, I challenge all those who are acquainted with the modern literature of foreign countries to show me one of their poets or legislators who in recent times has ever betrayed a glimmering of anything similar to the view that regards the human race as eternally progressing, and that refers all its activities in this world solely to this eternal progress. Even in the period of their boldest flights of political creation, was there a single one who demanded more from the State than the abolition of inequalities, the maintenance of peace within their borders and of national reputation without, or, in the extremest case, domestic bliss? If, as we must conclude from all these indications, this is their highest good, they will not attribute to us any higher needs or any higher demands on life. Assuming they always display that beneficent disposition towards us and are free from any selfishness or desire to be greater than we are, they will think they have provided splendidly for us if we are given everything that they themselves know to be desirable. But the thing for which alone the nobler men among us wish to live is then blotted out of public life; and as soon as the people, which has always shown itself responsive to the stirrings of the noble mind and which we were entitled to hope might be elevated in a body to that nobility, is treated as those to whom we are referring want to be treated, it is degraded and dishonoured, and, by its con-

fluence with a people of a lower species, it is blotted out of the universe.

125. But he, in whom those higher demands on life remain alive and powerful and who has a feeling that their right is divine, feels himself set back, much against his will, into those early days of Christianity, when it was said: "Resist not evil; but whosoever shall smite thee on the right cheek, turn to him the other also; and if any man will take away thy coat, let him have thy cloke also." The latter is well said, for, so long as he sees that thou still hast a cloke, he seeks to pick a quarrel with thee so as to take this from thee also, and only when thou art quite naked wilt thou escape his attention and be left in peace. To such a man the earth becomes a hell and a place of horror, just because of his higher mind, which does him honour. He wishes he had never been born; he wishes that his eyes may be closed to the light of day, and the sooner the better; his days are filled with everlasting sorrow until he descends to the grave, and for those whom he loves he can wish no greater boon than a dull and contented mind, so that with less suffering they may live for an eternal life beyond the grave.

These addresses lay before you the sole remaining means, now that the others have been tried in vain, of preventing this annihilation of every nobler impulse that may break out among us in the future, and of preventing this degradation of our whole nation. They propose that you establish deeply and indelibly in the hearts of all, by means of education, the true and all-powerful love of fatherland, the conception of our people as an eternal people and as the security for our own eternity.

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Marx and Engels: Utopia in a Classless Society

A thoroughly honest analysis of social phenomena cannot be simple, for man in all his social ramifications is too complex. A dogma, to be valuable for propaganda purposes, must be simple at the expense of being true. Despite Marx's elaborate paraphernalia of learning and the true and profound insights he had in his rôle of prophet, he regularly sacrificed truth and all its complexity to propaganda value and his myth. The classic statement of the communist position remains the MANIFESTO [1] *of 1848, which was a propaganda document designed to appeal to the workers of the world. Likewise, Marx's* CRITIQUE OF THE GOTHA PROGRAMME [2] *was designed to win a political victory. Marx was weakest in his political theory, his conception of political man and the political state. And this weakness arose precisely because his analysis, to be readily understandable and to unite the workers, had to be too simple. His whole position, politically, is probably summed up by his conception of government as the executive committee of the ruling class, and hence simply derivative in nature.*

MANIFESTO OF THE COMMUNIST PARTY

A spectre is haunting Europe—the spectre of Communism. All the powers of old Europe have entered into a holy alliance to exorcise this spectre: Pope and Czar, Metternich and Guizot, French Radicals and German police-spies.

Where is the party in opposition that has not been decried as communistic by its opponents in power? Where the Opposition that has not hurled back the branding reproach of Communism, against the more advanced opposition parties, as well as against its reactionary adversaries?

Two things result from this fact:

I. Communism is already acknowledged by all European powers to be itself a power.

II. It is high time that Communists should openly, in the face of the whole world, publish their views, their aims, their tendencies, and meet this nursery tale of the spectre of Communism with a manifesto of the party itself.

To this end, Communists of various nationalities have assembled in London, and sketched the following manifesto, to be published in the English, French, German, Italian, Flemish and Danish languages.

I

[BOURGEOIS AND PROLETARIANS]

The history of all hitherto existing society is the history of class struggles.

Freeman and slave, patrician and plebeian, lord and serf, guild-master and journeyman, in a word, oppressor and oppressed, stood in constant opposition to one another, carried on an uninterrupted, now hidden, now open fight, a fight that each time ended, either in a revolutionary reconstitution of society at large, or in the common ruin of the contending classes.

In the earlier epochs of history, we find

[1] From *The Communist Manifesto*, by Karl Marx and F. Engels. 50th Anniversary Edition. Published by International Publishers, Inc., New York.

[2] From *Critique of The Gotha Programme*, by Karl Marx. Vol. XI, Marxist Library. Published by International Publishers, Inc., New York.

almost everywhere a complicated arrange ment of society into various orders a manifold gradation of social rank In an cient Rome we have patricians knights plebeians, slaves, in the Middle Ages feudal lords, vassals, guild masters, jour neymen, apprentices, serfs, in almost all of these classes, again, subordinate grada tions

The modern bourgeois society that has sprouted from the ruins of feudal society, has not done away with class antagonisms It has but established new classes, new conditions of oppression, new forms of struggle in place of the old ones

Our epoch, the epoch of the bour geoisie, possesses, however, this distinctive feature It has simplified the class antag onisms Society as a whole is more and more splitting up into two great hostile camps, into two great classes directly fac ing each other–bourgeoisie and prole tariat

From the serfs of the Middle Ages spring the chartered burghers of the earli est towns From these burgesses the first elements of the bourgeoisie were devel oped

The discovery of America, the round ing of the Cape, opened up fresh ground for the rising bourgeoisie The East Indian and Chinese markets, the colonisa tion of America, trade with the Colonies the increase in the means of exchange and in commodities generally gave to commerce, to navigation, to industry, an impulse never before known, and thereby, to the revolutionary element in the tot tering feudal society, a rapid develop ment

The feudal system of industry, in which industrial production was monopolised by closed guilds, now no longer sufficed for the growing wants of the new mar kets The manufacturing system took its place The guild masters were pushed aside by the manufacturing middle class, division of labour between the different corporate guilds vanished in the face of division of labour in each single work shop

Meantime the markets kept ever grow ing the demand ever rising Even manu facture no longer sufficed Thereupon, steam and machinery revolutionised in dustrial production The place of manu facture was taken by the giant, modern industry, the place of the industrial middle class, by industrial millionaires– the leaders of whole industrial armies, the modern bourgeois

Modern industry has established the world market, for which the discovery of America paved the way This market has given an immense development to com merce, to navigation, to communication by land This development has, in its turn, reacted on the extension of indus try, and in proportion as industry, com merce, navigation, railways extended, in the same proportion the bourgeoisie de veloped increased its capital, and pushed into the background every class handed down from the Middle Ages

We see, therefore, how the modern bourgeoisie is itself the product of a long course of development, of a series of revo lutions in the modes of production and of exchange

Each step in the development of the bourgeoisie was accompanied by a cor responding political advance of that class An oppressed class under the sway of the feudal nobility, it became an armed and self governing association in the mediæval commune, here independent urban re public (as in Italy and Germany), there taxable "third estate" of the monarchy (as in France), afterwards, in the period of manufacture proper, serving either the semi feudal or the absolute monarchy as a counterpoise against the nobility, and, in fact, corner stone of the great mon archies in general–the bourgeoisie has at last, since the establishment of modern industry and of the world market, con quered for itself, in the modern represen tative state, exclusive political sway The executive of the modern state is but a committee for managing the common af fairs of the whole bourgeoisie.

The bourgeoisie has played a most revolutionary rôle in history.

The bourgeoisie, wherever it has got the upper hand, has put an end to all feudal, patriarchal, idyllic relations It has pitilessly torn asunder the motley feudal ties that bound man to his "natural superiors," and has left no other bond between man and man than naked self interest, than callous "cash payment" It has drowned the most heavenly ecstasies of religious fervour, of chivalrous enthusiasm, of philistine sentimentalism, in the icy water of egotistical calculation It has resolved personal worth into exchange value, and in place of the numberless indefeasible chartered freedoms, has set up that single, unconscionable freedom—Free Trade In one word for exploitation, veiled by religious and political illusions, it has substituted naked, shameless, direct, brutal exploitation

The bourgeoisie has stripped of its halo every occupation hitherto honoured and looked up to with reverent awe. It has converted the physician, the lawyer, the priest, the poet, the man of science, into its paid wage labourers

The bourgeoisie has torn away from the family its sentimental veil, and has reduced the family relation to a mere money relation

The bourgeoisie has disclosed how it came to pass that the brutal display of vigour in the Middle Ages, which reactionaries so much admire, found its fitting complement in the most slothful indolence It has been the first to show what man's activity can bring about It has accomplished wonders far surpassing Egyptian pyramids, Roman aqueducts, and Gothic cathedrals, it has conducted expeditions that put in the shade all former migrations of nations and crusades.

The bourgeoisie cannot exist without constantly revolutionising the instruments of production, and thereby the relations of production, and with them the whole relations of society. Conservation of the old modes of production in unaltered form, was, on the contrary, the first condition of existence for all earlier industrial classes Constant revolutionising of production, uninterrupted disturbance of all social conditions, everlasting uncertainty and agitation distinguish the bourgeois epoch from all earlier ones. All fixed, fast-frozen relations, with their train of ancient and venerable prejudices and opinions, are swept away, all newformed ones become antiquated before they can ossify All that is solid melts into air, all that is holy is profaned, and man is at last compelled to face with sober senses his real conditions of life and his relations with his kind.

The need of a constantly expanding market for its products chases the bourgeoisie over the whole surface of the globe It must nestle everywhere, settle everywhere, establish connections everywhere

The bourgeoisie has through its exploitation of the world market given a cosmopolitan character to production and consumption in every country. To the great chagrin of reactionaries, it has drawn from under the feet of industry the national ground on which it stood. All old established national industries have been destroyed or are daily being destroyed They are dislodged by new industries, whose introduction becomes a life and death question for all civilised nations, by industries that no longer work up indigenous raw material, but raw material drawn from the remotest zones, industries whose products are consumed, not only at home, but in every quarter of the globe. In place of the old wants, satisfied by the production of the country, we find new wants, requiring for their satisfaction the products of distant lands and climes In place of the old local and national seclusion and self-sufficiency, we have intercourse in every direction, universal interdependence of nations. And as in material, so also in intellectual production The intellectual creations of individual nations become common property. National one-sidedness and narrow mindedness become more and more

impossible, and from the numerous national and local literatures there arises a world literature

The bourgeoisie, by the rapid improvement of all instruments of production, by the immensely facilitated means of communication, draws all nations, even the most barbarian, into civilisation The cheap prices of its commodities are the heavy artillery with which it batters down all Chinese walls, with which it forces the barbarians' intensely obstinate hatred of foreigners to capitulate It compels all nations, on pain of extinction, to adopt the bourgeois mode of production, it compels them to introduce what it calls civilisation into their midst, *i e*, to become bourgeois themselves In a word, it creates a world after its own image

The bourgeoisie has subjected the country to the rule of the towns It has created enormous cities, has greatly increased the urban population as compared with the rural, and has thus rescued a considerable part of the population from the idiocy of rural life Just as it has made the country dependent on the towns, so it has made barbarian and semi barbarian countries dependent on the civilised ones, nations of peasants on nations of bourgeois, the East on the West

More and more the bourgeoisie keeps doing away with the scattered state of the population, of the means of production, and of property It has agglomerated population, centralised means of production, and has concentrated property in a few hands The necessary consequence of this was political centralisation Independent, or but loosely connected provinces, with separate interests, laws, governments and systems of taxation, became lumped together into one nation, with one government, one code of laws, one national class interest, one frontier and one customs tariff

The bourgeoisie, during its rule of scarce one hundred years, has created more massive and more colossal productive forces than have all preceding generations together Subjection of nature's forces to man, machinery, application of chemistry to industry and agriculture, steam navigation, railways, electric telegraphs, clearing of whole continents for cultivation, canalisation of rivers, whole populations conjured out of the ground – what earlier century had even a presentiment that such productive forces slumbered in the lap of social labour?

We see then that the means of production and of exchange, which served as the foundation for the growth of the bourgeoisie, were generated in feudal society At a certain stage in the development of these means of production and of exchange, the conditions under which feudal society produced and exchanged the feudal organisation of agriculture and manufacturing industry, in a word, the feudal relations of property became no longer compatible with the already developed productive forces, they became so many fetters They had to be burst asunder they were burst asunder

Into their place stepped free competition, accompanied by a social and political constitution adapted to it, and by the economic and political sway of the bourgeois class

A similar movement is going on before our own eyes Modern bourgeois society with its relations of production, of exchange and of property, a society that has conjured up such gigantic means of production and of exchange, is like the sorcerer who is no longer able to control the powers of the nether world whom he has called up by his spells For many a decade past the history of industry and commerce is but the history of the revolt of modern productive forces against modern conditions of production, against the property relations that are the conditions for the existence of the bourgeoisie and of its rule It is enough to mention the commercial crises that by their periodical return put the existence of the entire bourgeois society on trial, each time more threateningly In these crises a great part not only of the existing products, but also of the previously created productive

forces, are periodically destroyed. In these crises there breaks out an epidemic that, in all earlier epochs, would have seemed an absurdity—the epidemic of over-production. Society suddenly finds itself put back into a state of momentary barbarism; it appears as if a famine, a universal war of devastation had cut off the supply of every means of subsistence; industry and commerce seem to be destroyed. And why? Because there is too much civilisation, too much means of subsistence, too much industry, too much commerce. The productive forces at the disposal of society no longer tend to further the development of the conditions of bourgeois property; on the contrary, they have become too powerful for these conditions, by which they are fettered, and no sooner do they overcome these fetters than they bring disorder into the whole of bourgeois society, endanger the existence of bourgeois property. The conditions of bourgeois society are too narrow to comprise the wealth created by them. And how does the bourgeoisie get over these crises? On the one hand by enforced destruction of a mass of productive forces; on the other, by the conquest of new markets, and by the more thorough exploitation of the old ones. That is to say, by paving the way for more extensive and more destructive crises, and by diminishing the means whereby crises are prevented.

The weapons with which the bourgeoisie felled feudalism to the ground are now turned against the bourgeoisie itself.

But not only has the bourgeoisie forged the weapons that bring death to itself; it has also called into existence the men who are to wield those weapons—the modern working class—the proletarians.

In proportion as the bourgeoisie, *i.e.*, capital, is developed, in the same proportion is the proletariat, the modern working class, developed—a class of labourers, who live only so long as they find work, and who find work only so long as their labour increases capital. These labourers, who must sell themselves piecemeal, are a commodity, like every other article of commerce, and are consequently exposed to all the vicissitudes of competition, to all the fluctuations of the market.

Owing to the extensive use of machinery and to division of labour, the work of the proletarians has lost all individual character, and, consequently, all charm for the workman. He becomes an appendage of the machine, and it is only the most simple, most monotonous, and most easily acquired knack, that is required of him. Hence, the cost of production of a workman is restricted, almost entirely, to the means of subsistence that he requires for his maintenance, and for the propagation of his race. But the price of a commodity, and therefore also of labour, is equal to its cost of production. In proportion, therefore, as the repulsiveness of the work increases, the wage decreases. Nay more, in proportion as the use of machinery and division of labour increases, in the same proportion the burden of toil also increases, whether by prolongation of the working hours, by increase of the work exacted in a given time, or by increased speed of the machinery, etc.

Modern industry has converted the little workshop of the patriarchal master into the great factory of the industrial capitalist. Masses of labourers, crowded into the factory, are organised like soldiers. As privates of the industrial army they are placed under the command of a perfect hierarchy of officers and sergeants. Not only are they slaves of the bourgeois class, and of the bourgeois state; they are daily and hourly enslaved by the machine, by the over-looker, and, above all, by the individual bourgeois manufacturer himself. The more openly this despotism proclaims gain to be its end and aim, the more petty, the more hateful and the more embittering it is.

The less the skill and exertion of strength implied in manual labour, in other words, the more modern industry develops, the more is the labour of men superseded by that of women. Differences

of age and sex have no longer any distinctive social validity for the working class. All are instruments of labour, more or less expensive to use, according to their age and sex.

No sooner has the labourer received his wages in cash, for the moment escaping exploitation by the manufacturer than he is set upon by the other portions of the bourgeoisie, the landlord, the shop keeper, the pawnbroker, etc.

The lower strata of the middle class—the small tradespeople, shopkeepers and retired tradesmen generally, the handicraftsmen and peasants—all these sink gradually into the proletariat, partly because their diminutive capital does not suffice for the scale on which modern industry is carried on, and is swamped in the competition with the large capitalists, partly because their specialised skill is rendered worthless by new methods of production. Thus the proletariat is recruited from all classes of the population.

The proletariat goes through various stages of development. With its birth begins its struggle with the bourgeoisie. At first the contest is carried on by individual labourers, then by the work people of a factory, then by the operatives of one trade, in one locality, against the individual bourgeois who directly exploits them. They direct their attacks not against the bourgeois conditions of production, but against the instruments of production themselves; they destroy imported wares that compete with their labour, they smash machinery to pieces, they set factories ablaze, they seek to restore by force the vanished status of the workman of the Middle Ages.

At this stage the labourers still form an incoherent mass scattered over the whole country, and broken up by their mutual competition. If anywhere they unite to form more compact bodies, this is not yet the consequence of their own active union, but of the union of the bourgeoisie, which class, in order to attain its own political ends, is compelled to set the whole proletariat in motion, and is moreover still able to do so for a time. At this stage, therefore, the proletarians do not fight their enemies, but the enemies of their enemies, the remnants of absolute monarchy, the landowners, the non-industrial bourgeois, the petty bourgeoisie. Thus the whole historical movement is concentrated in the hands of the bourgeoisie; every victory so obtained is a victory for the bourgeoisie.

But with the development of industry the proletariat not only increases in number, it becomes concentrated in greater masses, its strength grows, and it feels that strength more. The various interests and conditions of life within the ranks of the proletariat are more and more equalised, in proportion as machinery obliterates all distinctions of labour, and nearly everywhere reduces wages to the same low level. The growing competition among the bourgeois, and the resulting commercial crises, make the wages of the workers ever more fluctuating. The unceasing improvement of machinery, ever more rapidly developing, makes their livelihood more and more precarious; the collisions between individual workmen and individual bourgeois take more and more the character of collisions between two classes. Thereupon the workers begin to form combinations (trade unions) against the bourgeoisie, they club together in order to keep up the rate of wages; they found permanent associations in order to make provision beforehand for these occasional revolts. Here and there the contest breaks out into riots.

Now and then the workers are victorious, but only for a time. The real fruit of their battles lies not in the immediate result, but in the ever-expanding union of the workers. This union is furthered by the improved means of communication which are created by modern industry, and which place the workers of different localities in contact with one another. It was just this contact that was needed to centralise the numerous local struggles, all of the same character, into one national struggle between classes. But every

class struggle is a political struggle. And that union, to attain which the burghers of the Middle Ages, with their miserable highways, required centuries, the modern proletarians, thanks to railways, achieve in a few years.

This organisation of the proletarians into a class, and consequently into a political party, is continually being upset again by the competition between the workers themselves. But it ever rises up again, stronger, firmer, mightier. It compels legislative recognition of particular interests of the workers, by taking advantage of the divisions among the bourgeoisie itself. Thus the ten-hour bill in England was carried.

Altogether, collisions between the classes of the old society further the course of development of the proletariat in many ways. The bourgeoisie finds itself involved in a constant battle. At first with the aristocracy; later on, with those portions of the bourgeoisie itself whose interests have become antagonistic to the progress of industry; at all times with the bourgeoisie of foreign countries. In all these battles it sees itself compelled to appeal to the proletariat, to ask for its help, and thus, to drag it into the political arena. The bourgeoisie itself, therefore, supplies the proletariat with its own elements of political and general education, in other words, it furnishes the proletariat with weapons for fighting the bourgeoisie.

Further, as we have already seen, entire sections of the ruling classes are, by the advance of industry, precipitated into the proletariat, or are at least threatened in their conditions of existence. These also supply the proletariat with fresh elements of enlightenment and progress.

Finally, in times when the class struggle nears the decisive hour, the process of dissolution going on within the ruling class, in fact within the whole range of old society, assumes such a violent, glaring character, that a small section of the ruling class cuts itself adrift, and joins the revolutionary class, the class that holds the future in its hands. Just as, therefore, at an earlier period, a section of the nobility went over to the bourgeoisie, so now a portion of the bourgeoisie goes over to the proletariat, and *in particular*, a portion of the bourgeois ideologists, who have raised themselves to the level of comprehending theoretically the historical movement as a whole.

Of all the classes that stand face to face with the bourgeoisie today, the proletariat alone is a really revolutionary class. The other classes decay and finally disappear in the face of modern industry; the proletariat is its special and essential product.

The lower middle class, the small manufacturer, the shopkeeper, the artisan, the peasant, all these fight against the bourgeoisie, to save from extinction their existence as fractions of the middle class. They are therefore not revolutionary, but conservative. Nay more, they are reactionary, for they try to roll back the wheel of history. If by chance they are revolutionary, they are so only in view of their impending transfer into the proletariat; they thus defend not their present, but their future interests; they desert their own standpoint to adopt that of the proletariat.

The "dangerous class," the social scum (*Lumpenproletariat*), that passively rotting mass thrown off by the lowest layers of old society, may, here and there, be swept into the movement by a proletarian revolution, its conditions of life, however, prepare it far more for the part of a bribed tool of reactionary intrigue.

The social conditions of the old society no longer exist for the proletariat. The proletarian is without property; his relation to his wife and children has no longer anything in common with bourgeois family relations; modern industrial labour, modern subjection to capital, the same in England as in France, in America as in Germany, has stripped him of every trace of national character. Law, morality, religion, are to him so many bourgeois prejudices, behind which lurk in ambush just as many bourgeois interests.

All the preceding classes that got the upper hand, sought to fortify their already acquired status by subjecting society at large to their conditions of appropriation. The proletarians cannot become masters of the productive forces of society, except by abolishing their own previous mode of appropriation, and thereby also every other previous mode of appropriation. They have nothing of their own to secure and to fortify; their mission is to destroy all previous securities for, and insurances of, individual property.

All previous historical movements were movements of minorities, or in the interest of minorities. The proletarian movement is the self-conscious, independent movement of the immense majority, in the interest of the immense majority. The proletariat, the lowest stratum of our present society, cannot stir, cannot raise itself up, without the whole superincumbent strata of official society being sprung into the air.

Though not in substance, yet in form, the struggle of the proletariat with the bourgeoisie is at first a national struggle. The proletariat of each country must, of course, first of all settle matters with its own bourgeoisie.

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Bourgeois marriage is in reality a system of wives in common and thus, at the most, what the Communists might possibly be reproached with is that they desire to introduce, in substitution for a hypocritically concealed, an openly legalised community of women. For the rest, it is self-evident, that the abolition of the present system of production must bring with it the abolition of the community of women springing from that system, *i.e.*, of prostitution both public and private.

The Communists are further reproached with desiring to abolish countries and nationality.

The workingmen have no country. We cannot take from them what they have not got. Since the proletariat must first of all acquire political supremacy, must rise to be the leading class of the nation, must constitute itself *the* nation, it is, so far, itself national, though not in the bourgeois sense of the word.

National differences and antagonisms between peoples are vanishing gradually from day to day, owing to the development of the bourgeoisie, to freedom of commerce, to the world market, to uniformity in the mode of production and in the conditions of life corresponding thereto.

The supremacy of the proletariat will cause them to vanish still faster. United action, of the leading civilised countries at least, is one of the first conditions for the emancipation of the proletariat.

In proportion as the exploitation of one individual by another is put an end to, the exploitation of one nation by another will also be put an end to. In proportion as the antagonism between classes within the nation vanishes, the hostility of one nation to another will come to an end.

The charges against Communism made from a religious, a philosophical, and, generally, from an ideological standpoint, are not deserving of serious examination.

Does it require deep intuition to comprehend that man's ideas, views, and conceptions, in one word, man's consciousness, changes with every change in the conditions of his material existence, in his social relations and in his social life?

What else does the history of ideas prove, than that intellectual production changes its character in proportion as material production is changed? The ruling ideas of each age have ever been the ideas of its ruling class.

When people speak of ideas that revolutionise society, they do but express the fact that within the old society the elements of a new one have been created, and that the dissolution of the old ideas keeps even pace with the dissolution of the old conditions of existence.

When the ancient world was in its last throes, the ancient religions were overcome by Christianity. When Christian

ideas succumbed in the 18th century to rationalist ideas, feudal society fought its death-battle with the then revolutionary bourgeoisie. The ideas of religious liberty and freedom of conscience, merely gave expression to the sway of free competition within the domain of knowledge.

"Undoubtedly," it will be said, "religion, moral, philosophical and juridical ideas have been modified in the course of historical development. But religion, morality, philosophy, political science, and law, constantly survived this change."

"There are, besides, eternal truths, such as Freedom, Justice, etc., that are common to all states of society. But Communism abolishes eternal truths, it abolishes all religion, and all morality, instead of constituting them on a new basis; it therefore acts in contradiction to all past historical experience."

What does this accusation reduce itself to? The history of all past society has consisted in the development of class antagonisms, antagonisms that assumed different forms at different epochs.

But whatever form they may have taken, one fact is common to all past ages, *viz.*, the exploitation of one part of society by the other. No wonder, then, that the social consciousness of past ages, despite all the multiplicity and variety it displays, moves within certain common forms, or general ideas, which cannot completely vanish except with the total disappearance of class antagonisms.

The Communist revolution is the most radical rupture with traditional property relations; no wonder that its development involves the most radical rupture with traditional ideas.

But let us have done with the bourgeois objections to Communism.

We have seen above, that the first step in the revolution by the working class, is to raise the proletariat to the position of ruling class, to establish democracy.

The proletariat will use its political supremacy to wrest, by degrees, all capital from the bourgeoisie, to centralise all instruments of production in the hands of the state, *i.e.*, of the proletariat organised as the ruling class; and to increase the total of productive forces as rapidly as possible.

Of course, in the beginning, this cannot be effected except by means of despotic inroads on the rights of property, and on the conditions of bourgeois production; by means of measures, therefore, which appear economically insufficient and untenable, but which, in the course of the movement, outstrip themselves, necessitate further inroads upon the old social order, and are unavoidable as a means of entirely revolutionising the mode of production.

These measures will of course be different in different countries.

Nevertheless in the most advanced countries, the following will be pretty generally applicable.

1. Abolition of property in land and application of all rents of land to public purposes.

2. A heavy progressive or graduated income tax.

3. Abolition of all right of inheritance.

4. Confiscation of the property of all emigrants and rebels.

5. Centralisation of credit in the hands of the state, by means of a national bank with state capital and an exclusive monopoly.

6. Centralisation of the means of communication and transport in the hands of the state.

7. Extension of factories and instruments of production owned by the state; the bringing into cultivation of waste lands, and the improvement of the soil generally in accordance with a common plan.

8. Equal obligation of all to work. Establishment of industrial armies, especially for agriculture.

9. Combination of agriculture with manufacturing industries; gradual abolition of the distinction between town and country, by a more equable distribution of the population over the country.

10. Free education for all children in

public schools Abolition of child factory labour in its present form Combination of education with industrial production, etc.

When, in the course of development, class distinctions have disappeared, and all production has been concentrated in the hands of a vast association of the whole nation, the public power will lose its political character Political power, properly so called, is merely the organised power of one class for oppressing another If the proletariat during its contest with the bourgeoisie is compelled, by the force of circumstances, to organise itself as a class; if, by means of a revolution, it makes itself the ruling class, and, as such sweeps away by force the old conditions of production, then it will, along with these conditions, have swept away the conditions for the existence of class antagonisms, and of classes generally, and will thereby have abolished its own supremacy as a class

In place of the old bourgeois society, with its classes and class antagonisms, we shall have an association, in which the free development of each is the condition for the free development of all

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IV

Position of the Communists in Relation to the Various Existing Opposition Partils

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The Communists fight for the attainment of the immediate aims, for the enforcement of the momentary interests of the working class, but in the movement of the present, they also represent and take care of the future of that movement In France the Communists ally themselves with the Social Democrats, against the conservative and radical bourgeoisie, reserving, however, the right to take up a critical position in regard to phrases and illusions traditionally handed down from the great Revolution

In Switzerland they support the Radicals, without losing sight of the fact that this party consists of antagonistic elements, partly of Democratic Socialists, in the French sense, partly of radical bourgeois

In Poland they support the party that insists on an agrarian revolution as the prime condition for national emancipation, that party which fomented the insurrection of Cracow in 1846

In Germany they fight with the bourgeoisie whenever it acts in a revolutionary way, against the absolute monarchy, the feudal squirearchy, and the petty bourgeoisie

But they never cease, for a single instant, to instil into the working class the clearest possible recognition of the hostile antagonism between bourgeoisie and proletariat, in order that the German workers may straightway use, as so many weapons against the bourgeoisie, the social and political conditions that the bourgeoisie must necessarily introduce along with its supremacy, and in order that after the fall of the reactionary classes in Germany, the fight against the bourgeoisie itself may immediately begin

The Communists turn their attention chiefly to Germany, because that country is on the eve of a bourgeois revolution that is bound to be carried out under more advanced conditions of European civilisation and with a much more developed proletariat than what existed in England in the 17th and in France in the 18th century, and because the bourgeois revolution in Germany will be but the prelude to an immediately following proletarian revolution

In short, the Communists everywhere support every revolutionary movement against the existing social and political order of things.

In all these movements they bring to the front, as the leading question in each case, the property question, no matter what its degree of development at the time.

Finally, they labour everywhere for the

union and agreement of the democratic parties of all countries

The Communists disdain to conceal their views and aims They openly declare that their ends can be attained only by the forcible overthrow of all existing social conditions Let the ruling classes tremble at a Communist revolution The proletarians have nothing to lose but their chains They have a world to win

Workingmen of all countries, unite!

CRITIQUE OF THE GOTHA PROGRAMME

[*After 1848 two workers' movements developed in Germany One group was known as the Social Democratic Worker's Party of Germany (Eisenachers) and was under the leadership of Wilhelm Liebknecht and August Bebel The other group was the General Association of German Workers, led by Ferdinand Lassalle One main point that divided the two groups was cooperation with Bismarck The Eisenachs refused cooperation, the Lassalle group sought to bargain with Bismarck for reforms in exchange for support of national unification The two groups met at Gotha May 22 27, 1875, for the purpose of reconciling their differences In advance of the meeting, Marx, in London, received a copy of the proposed joint declaration He wrote a stinging criticism of the Programme and sent it to W Bracke with a request that it be given to other leaders of the Eisenach party The original manuscript of the* CRITIQUE *has not been preserved, the one we have was found among Engel's papers and first published by him in 1891*

The CRITIQUE *shows the divergence within socialist ranks over the whole problem of revolutionary change as against gradual change within the national state But of even more doctrinal importance is the difference between what Marx conceived of as scientific socialism, and what he condemned as opportunism and vague generalizations. Marx's venom is directed especially against Lassalle, who was later accused of collaboration with Bismarck, though Liebknecht probably prepared the Gotha Programme*]

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3 "The emancipation of labour demands the promotion of the instruments of labour to the common property of society, and the co operative regulation of the total labour with equitable distribution of the proceeds of labour"

'Promotion of the instruments of labour to the common property" ought obviously to read their "conversion into the common property," but this only in passing

What are the "proceeds of labour"? The product of labour or its value? And in the latter case, is it the total value of the product or only that part of the value which labour has newly added to the value of the means of production consumed?

The 'proceeds of labour" is a loose notion which Lassalle has put in the place of definite economic conceptions

What is equitable distribution"?

Do not the bourgeois assert that the present day distribution is 'equitable"? And is it not, in fact, the only "equitable" distribution on the basis of the present-day mode of production? Are economic relations regulated by legal conceptions or do not, on the contrary, legal relations arise from economic ones? Have not also the socialist sectarians the most varied notions about equitable" distribution?

To understand what idea is meant in this connection by the phrase 'equitable distribution," we must take the first paragraph and this one together The latter implies a society wherein "the instruments of labour are common property, and the total labour is co operatively regulated," and from the first paragraph we learn that "the proceeds of labor belong undiminished with equal right to all members of society"

To all members of society"? To those who do not work as well? What remains then of the "undiminished proceeds of

labour"? Only to those members of society who work? What remains then of the "equal right" of all members of society?

But "all members of society" and "equal right" are obviously mere phrases. The kernel consists in this, that in this communist society every worker must receive the "undiminished" Lassallean "proceeds of labour."

Let us take first of all the words "proceeds of labour" in the sense of the product of labour, then the co-operative proceeds of labour are the *total social product.*

From this is then to be deducted:

First, cover for replacement of the means of production used up.

Secondly, additional portion for expansion of production.

Thirdly, reserve or insurance fund to provide against mis-adventures, disturbances through natural events, etc.

These deductions from the "undiminished proceeds of labour" are an economic necessity and their magnitude is to be determined by available means and forces, and partly by calculation of probabilities, but they are in no way calculable by equity.

There remains the other part of the total product, destined to serve as means of consumption.

Before this is divided among the individuals, there has to be deducted from it:

First, the general costs of administration not belonging to production.

This part will, from the outset, be very considerably restricted in comparison with present-day society and it diminishes in proportion as the new society develops.

Secondly, that which is destined for the communal satisfaction of needs, such as schools, health services, etc.

From the outset this part is considerably increased in comparison with present-day society and it increases in proportion as the new society develops.

Thirdly, funds for those unable to work, etc., in short, what is included under so-called official poor relief today.

Only now do we come to the "distribution" which the programme, under Lassallean influence, alone has in view in its narrow fashion, namely that part of the means of consumption which is divided among the individual producers of the co-operative society.

The "undiminished proceeds of labour" have already quietly become converted into the "diminished" proceeds, although what the producer is deprived of in his capacity as a private individual benefits him directly or indirectly in his capacity as a member of society.

Just as the phrase "undiminished proceeds of labour" has disappeared, so now does the phrase "proceeds of labour" disappear altogether.

Within the co-operative society based on common ownership of the means of production, the producers do not exchange their products; just as little does the labour employed on the products appear here *as the value* of these products, as a material quality possessed by them, since now, in contrast to capitalist society, individual labour no longer exists in an indirect fashion but directly as a component part of the total labour. The phrase "proceeds of labour," objectionable even today on account of its ambiguity, thus loses all meaning.

What we have to deal with here is a communist society, not as it has *developed* on its own foundations, but, on the contrary, as it *emerges* from capitalist society; which is thus in every respect, economically, morally and intellectually, still stamped with the birthmarks of the old society from whose womb it emerges. Accordingly the individual producer receives back from society—after the deductions have been made—exactly what he gives to it. What he has given to it is his individual amount of labour. For example, the social working day consists of the sum of the individual labour hours; the individual labour time of the individual producer is the part of the social labour day contributed by him, his share in it. He receives a certificate from society that he

has furnished such and such an amount of labour (after deducting his labour for the common fund), and with this certificate he draws from the social stock of means of consumption as much as the same amount of labour costs The same amount of labour which he has given to society in one form, he receives back in another

Here obviously the same principle prevails as that which regulates the exchange of commodities, as far as this is exchange of equal values Content and form are changed, because under the altered circumstances no one can give anything except his labour, and because, on the other hand, nothing can pass into the ownership of individuals except individual means of consumption But as far as the distribution of the latter among the individual producers is concerned the same principle prevails as in the exchange of commodity equivalents so much labour in one form is exchanged for an equal amount of labour in another form

Hence, *equal right* here is still in principle—*bourgeois right*, although principle and practice are no longer in conflict, while the exchange of equivalents in commodity exchange only exists on the *average* and not in the individual case

In spite of this advance this *equal right* is still stigmatised by a bourgeois limitation The right of the producers is *proportional* to the labour they supply the equality consists in the fact that measurement is made with an *equal standard*, labour

But one man is superior to another physically or mentally and so supplies more labour in the same time or can labour for a longer time and labour, to serve as a measure, must be defined by its duration or intensity, otherwise it ceases to be a standard of measurement This *equal* right is an unequal right for unequal labour It recognises no class differences, because everyone is only a worker like everyone else, but it tacitly recognises unequal individual endowment and thus productive capacity as natural privileges *It is therefore a right of inequality in its content, like every right.* Right by its very nature can only consist in the application of an equal standard; but unequal individuals (and they would not be different individuals if they were not unequal) are only measurable by an equal standard in so far as they are brought under an equal point of view, are taken from one *definite* side only, *e g*, in the present case are regarded *only as workers* and nothing more seen in them, everything else being ignored Further, one worker is married, another not, one has more children than another and so on and so forth Thus with an equal output, and hence an equal share in the social consumption fund, one will in fact receive more than another, one will be richer than another, and so on To avoid all these defects, right, instead of being equal, would have to be unequal

But these defects are inevitable in the first phase of communist society as it is when it has just emerged after prolonged birth pangs from capitalist society Right can never be higher than the economic structure of society and the cultural development thereby determined

In a higher phase of communist society, after the enslaving subordination of individuals under division of labour, and therewith also the antithesis between mental and physical labour, has vanished; after labour, from a mere means of life, has itself become the prime necessity of life, after the productive forces have also increased with the all round development of the individual, and all the springs of co operative wealth flow more abundantly —only then can the narrow horizon of bourgeois right be fully left behind and society inscribe on its banners from each according to his ability, to each according to his needs!

I have dealt more at length with the 'undiminished proceeds of labour" on the one hand, and with "equal right" and "equitable distribution' on the other in order to show what a crime it is to attempt, on the one hand, to force on our

party again, as dogmas, ideas which in a certain period had some meaning but have now become obsolete rubbishy phrases, while on the other, perverting the realistic outlook, which has cost so much effort to instill into the party, but which has now taken root in it, by means of ideological nonsense about "right" and other trash common among the democrats and French Socialists.

Quite apart from the analysis so far given, it was in general incorrect to make a fuss about so-called *"distribution"* and put the principal stress on it.

The distribution of the means of consumption at any time is only a consequence of the distribution of the conditions of production themselves. The latter distribution, however, is a feature of the mode of production itself. The capitalist mode of production, for example, rests on the fact that the material conditions of production are in the hands of non-workers in the form of property in capital and land, while the masses are only owners of the personal condition of production, *viz.*, labour power. Once the elements of production are so distributed, then the present-day distribution of the means of consumption results automatically. If the material conditions of production are the co-operative property of the workers themselves, then this likewise results in a different distribution of the means of consumption from the present one. Vulgar socialism (and from it in turn a section of democracy) has taken over from the bourgeois economists the consideration and treatment of distribution as independent of the mode of production and hence the presentation of socialism as turning principally on distribution. After the real position has long been made clear, why go back again?

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I come now to the democratic section.

A. *"The free basis of the state."*

First of all, according to II, the German Workers' Party strives for the "free state."

Free state—what is this?

It is by no means the aim of the workers, who have got rid of the narrow mentality of humble subjects, to set the state free. In the German empire the "state" is almost as "free" as in Russia. Freedom consists in converting the state from an organ standing above society into one completely subordinated to it, and today also the forms of the state are more free or less free to the extent that they restrict the "freedom of the state."

The German Workers' Party—at least if it adopts the programme—shows that its socialist ideas are not even skin-deep, in that, instead of treating existing society (and this holds good of any future one) as the *basis* of the existing state (or of the future state in the case of future society) it treats the state rather as an independent entity that possesses its own *intellectual, moral and free basis.*

And what of the riotous misuse which the programme makes of the words *"present-day state," "present-day society,"* and of the still more riotous misconception that it achieves in regard to the state to which it addresses its demands?

"Present-day society" is capitalist society, which exists in all civilised countries, more or less free from mediæval admixture, more or less modified by the special historical development of each country and more or less developed. On the other hand, the "present-day state" changes with a country's frontier. It is different in the Prusso-German empire from what it is in Switzerland, it is different in England from what it is in the United States. *"The* present-day state" is therefore a fiction.

Nevertheless, the different states of the different civilised countries, in spite of their manifold diversity of form, all have this in common, that they are based on modern bourgeois society, only one more or less capitalistically developed. They have, therefore, also certain essential features in common. In this sense it is possible to speak of the "present-day state," in contrast to the future in which its

present root, bourgeois society, will have died away

The question then arises what transformation will the state undergo in communist society? In other words what social functions will remain in existence there that are analogous to the present functions of the state? This question can only be answered scientifically and one does not get a flea hop nearer to the problem by a thousandfold combination of the word people with the word state

Between capitalist and communist society lies the period of the revolutionary transformation of the one into the other There corresponds to this also a political transition period in which the state can be nothing but *the revolutionary dictatorship of the proletariat*

Now the programme does not deal with this nor with the future state in communist society

Its political demands contain nothing beyond the old familiar democratic litany universal suffrage, direct legislation, people's justice, a people's militia, etc They are a mere echo of the bourgeois People's Party, of the League of Peace and Freedom They are all demands which, in so far as they are not exaggerated in fanciful presentation, have already been *realised* Only the state to which they belong does not lie within the frontiers of the German empire, but in Switzerland, the United States, etc This sort of "state of the future" is a present day state although existing outside the "framework" of the German empire

But one thing has been forgotten Since the German Workers' Party expressly declares that it acts within "the present-day national state," hence *its own state*, the Prusso German empire—its demands would indeed otherwise be largely meaningless, since one only demands what one has not got—it should not have forgotten the chief thing, namely that all those pretty little toys rest on the recognition of the so-called sovereignty of the people and hence there is only room for them in a *democratic republic*.

Since one has not the courage—and wisely, for the circumstances demand caution—to demand the democratic republic, as the French workers' programmes under Louis Philippe and under Louis Napoleon did, one should not have taken refuge either in the subterfuge, neither 'honourable" nor "worthy," of demanding things which have meaning only in a democratic republic from a state which is nothing but a police guarded military despotism, embellished with parliamentary forms, alloyed with a feudal admixture, bureaucratically constructed and already influenced by the bourgeoisie, and then to assume this state into the bargain that one thinks one will be able to extort these things from it "by legal means."

Even vulgar democracy, which sees the millennium in the democratic republic and has no suspicion that it is precisely in this last state form of bourgeois society that the class struggle has to be fought out to a conclusion—even it towers mountains above this kind of democratism within the limits of what is permitted by the police and what is logically impermissible

That, in fact, by the word "state" the government machinery is understood, or the state in so far as it forms a special organism separated from society through division of labour, is already shown by the words "the German Workers' Party demands *as the economic basis of the state* a single progressive income tax, etc" Taxes are the economic basis of the government machinery and of nothing else In the state of the future as it exists in Switzerland, this demand has been pretty well fulfilled Income tax presupposes the various sources of income of the various social classes, and hence capitalist society It is, therefore, not extraordinary that the Liverpool financial reformers, bourgeois headed by Gladstone's brother, are putting forward the same demand as the programme....

Lenin: Practitioner of Marxism

The most dramatic single aspect of the work of Marx and Engels is that thirty-four years after Marx died his principles were used to guide a revolution and to develop a state It was, however, neither Marx nor Engels who put the principles to the test of practice That job fell to Lenin and Trotsky Lenin had to compromise Marxian orthodoxy with the practical considerations of ruling This was not too hard to do, because Marx gave so little attention to the business of governing that Lenin could fill in what was omitted rather than be guilty of revisionism Hence he wrote his STATE AND REVOLUTION *and demonstrated that he was not guilty of heresy, as charged Lenin had real reason to understand the difference between the concept of dictatorship of the proletariat and the reality of dictatorship over the proletariat Similarly, his work on* IMPERIALISM *reflected the adaptation of Marx to concrete historical situations One of the most interesting things about the writings of Lenin and all other loyal Marxists is the lengths to which they go in proving that they are the real or orthodox Marxians Only an understanding of this fact will explain why communists hate socialists so intensely Orthodoxy hates heresy more than it hates non belief—a trait not peculiar to Marxism* [1]

THE STATE AND REVOLUTION

CHAPTER I

CLASS SOCIETY AND THE STATE

1 *The State as the Product of the Irreconcilability of Class Antagonisms*

Marx's doctrines are now undergoing the same fate, which, more than once in the course of history, has befallen the doctrines of other revolutionary thinkers and leaders of oppressed classes struggling for emancipation During the lifetime of great revolutionaries, the oppressing classes have invariably meted out to them relentless persecution, and received their teaching with the most savage hostility, most furious hatred, and a ruthless campaign of lies and slanders After their death, however, attempts are usually made to turn them into harmless saints, canonizing them, as it were, and investing their name with a certain halo by way of consolation to the oppressed classes, and with the object of duping them while at the same time emasculating and vulgarizing the real essence of their revolutionary theories and blunting their revolutionary edge At the present time the bourgeoisie and the opportunists within the Labor Movement are cooperating in this work of adulterating Marxism They omit, obliterate, and distort the revolutionary side of its teaching its revolutionary soul, and push to the foreground and extol what is, or seems acceptable to the bourgeoisie All the Socialist Chauvinists are now "Marxists — save the mark! And more and more do German bourgeois professors, erstwhile specialists in the demolition of Marx speak now of the "National German Marx, who forsooth, has educated the splendidly organized working class for the present predatory war

In these circumstances, when the dis

[1] From *The State and Revolution* (Ch I, and Ch II in part) and *Imperialism* (Ch VII in part) by N Lenin Published by Vanguard Press

tortion of Marxism is so widespread, our first task is to resuscitate the real nature of Marx's teaching on the subject of the State For this purpose it will be necessary to quote copiously from the works of Marx and Engels themselves Of course, long extracts will make our text cumbersome and will in no way add to its lucidity, but we cannot possibly avoid them All, or at any rate all the most essential passages in the works of Marx and Engels on the subject of the State must be given as fully as possible in order that the reader may form an independent and complete view of the ideas of the founders of scientific Socialism and their development, and in order that their distortions by the present predominant Kautsky school may be proved in black and white and rendered plain to all

Let us begin with the most popular of Engels works, The Origin of the Family Private Property and the State the sixth edition of which was published in Stuttgart as far back as 1894 Summarizing his historical analysis Engels says

> "The State in no way constitutes a force imposed on Society from outside Nor is the State the reality of the Moral Idea 'the image and reality of Reason as Hegel asserted The State is the product of Society at a certain stage of its development The State is tantamount to an acknowledgment that the given society has become entangled in an insoluble contradiction with itself, that it has broken up into irreconcilable antagonisms of which it is powerless to rid itself And in order that these antagonisms, these classes with their opposing economic interests may not devour one another and Society itself in their sterile struggle, some force standing, seemingly, above Society, becomes necessary so as to moderate the force of their collisions and to keep them within the bounds of order And this force arising from Society, but placing itself above it, which gradually separates itself from it –this force is the State –(Pages 117-118 of 6th German Edition)

Here, we have, expressed in all its clearness, the basic idea of Marxism on the question of the historical role and meaning of the State The State is the product and the manifestation of the irreconcilability of class antagonisms When, where and to what extent the State arises, depends directly on when, where and to what extent the class antagonisms of a given society cannot be objectively reconciled And, conversely, the existence of the State proves that the class antagonisms *are* irreconcilable

[State and Class Reconciliation]

It is precisely on this most important and fundamental point that distortions of Marxism arise along two main lines

On the one hand, the middle class (bourgeois) and particularly the lower middle class (petty bourgeois), ideologists compelled by the pressure of indisputable historical facts to recognize that the State only exists where there are class antagonisms and class struggles, 'correct' Marx in such a way as to make it appear that the State is an organ for the *reconciliation* of classes According to Marx, the State can neither arise nor maintain itself if a reconciliation of classes is possible But with the middle class and philistine professors and publicists, the State (and this frequently on the strength of benevolent references to Marx) becomes a mediator and conciliator of classes According to Marx, the State is the organ of class *domination*, the organ of oppression of one class by another Its aim is the creation of order which legalizes and perpetuates this oppression by moderating the collisions between the classes But in the opinion of the lower middle class politicians, the establishment of order is equivalent to the reconciliation of classes, and not to the oppression of one class by another To moderate their collisions does not mean, according to them, to deprive

the oppressed class of certain definite means and methods in its struggle for throwing off the yoke of the oppressors, but to conciliate it

For instance, when, in the Revolution of 1917, the question of the real meaning and role of the State arose, in all its importance, as a practical question demanding immediate action on a wide mass scale, all the Socialist-Revolutionaries and Mensheviks rattled down, suddenly and without reservation, to the lower middle class theory of the "conciliation of classes by the State" Innumerable resolutions and articles by publicists of both these parties were saturated through and through with this purely middle class and philistine theory of conciliation That the State is the organ of domination of a definite class which *cannot* be reconciled to its social antipodes—this the lower middle class democracy is never able to understand Their attitude towards the State is one of the most telling proofs that our Socialist Revolutionaries and Mensheviks are not Socialists at all (which we, Bolsheviks, have always maintained), but only lower middle class democrats with a phraseology very nearly Socialist

On the other hand, the distortion of Marx by the Kautsky school is far more subtle "Theoretically," there is no denial that the State is the organ of class domination, or that the class antagonisms are irreconcilable But what is forgotten or overlooked is this —If the State is the product of the irreconcilable character of class antagonisms, if it is a force standing above society and "separating itself gradually from it then it is clear that the liberation of the oppressed class is impossible without a violent revolution, and without the destruction of the machinery of State power, which has been created by the governing class and in which this 'separation' is embodied This inference, theoretically quite self evident, was drawn by Marx, as we shall see later, with the greatest precision from a concrete historical analysis of the problems of Revolution And it is exactly this inference which Kautsky—we shall show this fully in our subsequent remarks—has "forgotten" and distorted

[State as Force]

Engels continues —

> "As compared with the ancient gentilic (tribal or clan) organization, the State is distinguished, first of all, by the grouping of the subjects of the State according to territorial divisions"

Such a grouping seems "natural" to us, but it came after a prolonged and costly struggle against the old form of tribal, gentilic Society

> "The second distinguishing feature is the establishment of a public power which is no longer identical with the *population and which is organized* as an armed force
>
> "This distinct public power is necessary, because a self acting armed organization of the population has become impossible with the break up of Society into classes This public authority exists in every State It consists not only of armed men, but also of material additions in the shape of prisons and repressive institutions of all kinds which were unknown in the gentilic (clan) form of Society."

Engels develops the conception of that 'force which is termed the State—a force arising from Society, but placing itself above it and becoming more and more divorced from it What does this force consist of, in the main? It consists of special bodies of armed men who have at their command prisons, etc

We are justified in speaking of special bodies of armed men, because the public power peculiar to every State 'is not identical' with the armed population, with its "self acting armed organization Like all revolutionary thinkers, Engels tries to draw the attention of the class conscious workers to that very fact which to prevailing philistinism appears least of

all worthy of attention, most common and sanctified by solid, indeed, one might say, petrified prejudices. A standing army and police are the chief instruments of force of the State authority: but can it, then, be otherwise?

From the point of view of the vast majority of Europeans at the end of the 19th century to whom Engels addressed himself and who had neither lived through nor observed at close quarters a single important revolution, this could not be otherwise. They could not understand what was meant by this "self-acting armed organization of the population."

To the question, whence arose the necessity for forming special bodies of armed men (police and standing army) standing above Society and becoming divorced from it, the Western European and Russian philistines are inclined to answer with a few phrases, borrowed from Spencer, about the complexity of social life, the differentiation of functions and so forth.

Such a reference seems "scientific" and effectively dulls the senses of the average man, obscuring the most important and basic fact, viz.: the break up of Society into irreconcilably antagonistic classes. Without such a split the "self-acting armed organization of the population" might have differed from the primitive organization of a herd of monkeys merely grasping sticks, or of primitive man, or races united in a clan form of society, by its complexity, its high technique, and so forth, but would still have been possible. It cannot, however, exist now, because Society, in the period of civilization, is broken up into antagonistic and, indeed, *irreconcilably* antagonistic classes, the "self-acting" arming of which would lead to armed struggles between them. The State is, therefore, formed, a special force is created in the form of special bodies of armed men, and every revolution, in shattering the State machinery, demonstrates to us how the governing class aims at the restoration of the special bodies of armed men at *its* service, and how the oppressed class tries to create a new organization of a similar nature, capable of serving not the exploiting, but the exploited class.

In the above discussion, Engels poses theoretically the very same question which is presented to us in a practical, palpable form, on a mass scale, by every great revolution, viz.: the question of the relation between "special bodies of armed men" and the "self-acting armed organization of the population." We shall see how this question is illustrated concretely by the experience of the European and Russian revolutions.

But let us return to Engels.

He points out that sometimes (for instance, here and there in North America) this public power is weak (he has in mind here rare exceptions in capitalist society and parts of North America in its pre-Imperialist days, where the free colonist predominated), but that in general, it tends to become stronger:—

> "The above-mentioned public force increases with the intensification of class antagonisms within the State, and with the growth in size and population of the adjacent States. One has but to glance at present-day Europe in which the class struggle and rivalry in conquests have screwed up that public force to such a pitch that it threatens to swallow up the whole of Society and even the State itself...."

This was written as far back as the beginning of the 'nineties of last century, Engels' last Preface being dated June 16th, 1891. The turn towards Imperialism, in the shape both of a complete domination of the trusts and of the all-powerful large banks, and of a colonial policy on a grand scale and so forth, had only just begun in France, and was even weaker in North America and in Germany. Since then the "rivalry in conquests" has made gigantic advances—especially as, by the beginning of the second decade of the 20th century, the whole world had been

finally divided up between these "rival conquerors," that is, between the great predatory Powers Military and naval armaments then grew to monstrous proportions, and the predatory war of 1914-17 for the domination of the world by England or Germany, for the division of the spoils, bids fair to bring about "the swallowing up" of all the forces of society by the rapacious State power, and lead to a complete catastrophe

Already in 1891 Engels was able to point to "rivalry in conquests" as one of the most important features of the foreign policy of the Great Powers but in 1914-1917, when this rivalry, many times intensified, had given birth to an Imperialist war, the rascally Social Chauvinists cover up their defence of the policy of grab of "their" capitalist classes by phrases about the "defence of the Fatherland," or "the defence of the Republic and the Revolution" and so on, and so on!

[State as Instrument of Exploitation]

For the maintenance of a special public force standing above society, taxes and State loans are indispensable

> "Wielding public power and the right to exact taxes, the officials [Engels writes] are raised as organs of society, *above* society The free voluntary respect enjoyed by the organs of the tribal (clan) society is no longer sufficient for them, even could they win it"

Special laws are enacted regarding the sanctity and the inviolability of the officials "The most insignificant police servant" has more authority than the representative of the clan, but even the head of a civilized State might well envy the Elder of a clan in respect of the "spontaneous, unforced regard on the part of society" enjoyed by that Elder

Here is the question raised of the privileged position of the officials as organs of the State power and the fundamental problem that has to be answered is this What is it that places them above society? We shall see how this theoretical problem was solved practically by the Paris Commune in 1871 and how it was slurred over in a reactionary manner in 1912 by Kautsky

> "Since the State arose out of the need of keeping in check the antagonisms of classes, since at the same time it arose as a *result* of the collisions of these classes, it is, as a general rule, the State of the most powerful and economically predominant class, which by means of the State also becomes the predominant class politically, thereby obtaining new means for the oppression and exploitation of the oppressed class"

It was not only the ancient and feudal States which were organs of exploitation of the slaves and serfs but the

> "modern representative State, too, is the means of exploitation of wage labor by capital By way of exceptions, however, there are periods when the warring classes attain such an equilibrium of strength that the State power for a time becomes, to an extent, independent of both classes and appears as a mediator between them ."

Such for instance, were the absolute monarchies of the 17th and 18th centuries the Bonapartism of the First and Third Empires in France, and the Bismarck regime in Germany

Such, we may add, is now the Kerensky Government in Republican Russia after it has initiated the persecution of the revolutionary proletariat, at a moment when the Soviets, thanks to the leadership of the lower middle class democrats, have already become impotent whilst the capitalist class is not yet strong enough to dissolve them

> "In a democratic Republic [Engels continues] wealth uses its power indirectly, but so much the more effectively,

first, by means of direct bribery of officials [as in America]; second, by means of an alliance between the Government and the Stock Exchange" [as in France and America].

At the present time, Imperialism and the domination of the banks have reduced to a fine art both these methods of defending and practically asserting the omnipotence of wealth in democratic Republics of all descriptions. If, for instance, in the very first months of the Russian Democratic Republic—one might say during the honeymoon of the union of the "Socialist"-Revolutionaries and Mensheviks with the bourgeoisie in the Coalition Ministry, M. Paltchinski obstructed every measure of restraint against the capitalists and war-profiteering, or the plunder of the public treasury by army contractors; and if, after his resignation, M. Paltchinski (replaced, of course, by an exactly similar Paltchinski) was "rewarded" by the capitalists with a "cushy" little job carrying a salary of 120,000 roubles (£12,000) per annum, what was this? Direct or indirect bribery? A league of the Government with the capitalist syndicates, or "only" friendly relations? What is the precise role played by Tchernoff, Tseretelli, Avksentieff and Skobeleff? Are they the "direct," or "only" the indirect allies of the millionaire thieves who are plundering the public treasury? The omnipotence of "wealth" is also more "secure" in a democratic republic, because it does not depend on the bad political form of capitalism. The democratic republic is the best possible political form for capitalism, and, therefore, once capital has gained control (through the Paltchinskis, Tchernoffs, Tseretellis and Co.) of this very best form, it establishes its power so securely, so firmly that no change of persons, or institutions or parties, in the bourgeois republic can shake it.

We must also note that Engels quite definitely regards universal suffrage as a means of capitalist domination. Universal suffrage, he says (summing up obviously the long experience of German Social-Democracy), is "an index of the maturity of the working class; it cannot and never will, give anything more in the present state." The lower middle class democrats such as our Socialist-Revolutionaries and Mensheviks and also their twin brothers, the Social-Chauvinists and opportunists of Western Europe, all expect a "great deal" from this universal suffrage. They themselves think and instil into the minds of the people the wrong idea that universal suffrage in the "present state" is really capable of expressing the will of the majority of the laboring masses and of securing its realization.

Here we can only note this wrong idea, and point out that this perfectly clear, exact and concrete statement by Engels is distorted at every step in the propaganda and agitation of the "official" (that is, opportunist) Socialist parties. A detailed exposure of all the falseness of this idea, which Engels simply brushes aside, is given in our further account of the views of Marx and Engels on the "modern" State.

A general summary of his views is given by Engels in the most popular of his works in the following words:—

"Thus, the State has not always existed. There were societies which did without it, which had no idea of the State or of State power. At a given stage of economic development which was necessarily bound up with the break up of society into classes, the State became a necessity, as a result of this division. We are now rapidly approaching a stage in the development of production, in which the existence of these classes is not only no longer necessary, but is becoming a direct impediment to production. Classes will vanish as inevitably as they inevitably arose in the past. With the disappearance of classes the State, too, will inevitably disappear. When organizing production anew on the basis of a free and equal association of the producers, Society will banish

the whole State machine to a place which will then be the most proper one for it—to the museum of antiquities side by side with the spinning-wheel and the bronze axe."

It is not often that we find this passage quoted in the propagandist literature of contemporary Social-Democracy. But even when we do come across it, it is generally quoted as some sacred or ritual formula, that is, merely to show official respect for Engels, without any attempt to gauge the width and the depth of the revolutionary act pre-supposed by this "banishment of the whole State machine to the museum of antiquities." And often one cannot even trace the least comprehension of what Engels calls the State machine.

[Withering Away of the State and Revolution by Force]

Engels' words regarding the "withering away" of the State enjoy such a popularity, are so often quoted, and reveal so clearly the essence of the common adulteration of Marxism in an opportunist sense that we must examine them in detail. Let us give the whole argument from which they are taken.

"The proletariat takes control of the State authority and, first of all, converts the means of production into State property. But by this very act it destroys itself, as a proletariat, destroying at the same time all class differences and class antagonisms, and with this, also, the State. Past and present Society, which moved amidst class antagonisms, had to have the State, that is, an organization of the exploiting class for the support of its external conditions of production, therefore, in particular, for the forcible retention of the exploited class in such conditions of oppression (such as slavery, serfdom, wage-labor), as are determined by the given methods of production. The State was the official representative of the whole of Society, its embodiment in a visible corporation; but it was only in so far as it was the State of that class which, in the given epoch, alone represented the whole of society. In ancient times it was the State of the slave-owners—the only citizens of the State; in the middle ages it was the State of the feudal nobility: in our own times it is the State of the capitalists. When, ultimately, the State really becomes the representative of the whole of society, it will make itself superfluous. From the time when, together with class domination and the struggle for individual existence, resulting from the present anarchy in production, those conflicts and excesses which arise from this struggle will all disappear—from that time there will, therefore, be no need for the State. The first act of the State, in which it really acts as the representative of the whole of Society, namely, the assumption of control over the means of production on behalf of Society, is also its last independent act as a State. The interference of the authority of the State with social relations will then become superfluous in one field after another, and finally will cease of itself. The authority of the Government over persons will be replaced by the administration of things and the direction of the processes of production. The State will not be 'abolished'; it will wither away. It is from this point of view that we must appraise the phrase, 'a free popular State' —a phrase which, for a time, had a right to be employed as a purely propaganda slogan, but which in the long run is scientifically untenable. It is also from this point of view that we must appraise the demand of the so-called anarchists that the State 'should be abolished overnight.' "—Herr Eugen Dühring's *Umwälzung der Wissenschaft*, pp. 302-303, 3rd German Edition.

Without fear of committing an error, it can be said that the only point in this

argument by Engels so singularly rich in ideas, which has become an integral part of Socialist thought among modern Socialist parties has been that, according to Marx, the State withers away' in contradiction to the Anarchist teaching of the "abolition" of the State To emasculate Marxism in such a manner is simply to reduce it to opportunism, for such an "interpretation' only leaves the semi articulate conception of a slow, even, continuous change free from leaps and storms, free from revolution The current popular conception, if one may say so, of the "withering away' of the State undoubtedly means a quenching, if not negation, of revolution Yet, such an "interpretation" is a most vulgar distortion of Marxism, advantageous only to the capitalist classes and based theoretically on the neglect of the most important conditions and considerations pointed out in the very passage summarizing Engels' ideas, which we have just quoted in full

In the first place, at the very outset of his argument, Engels says that in assuming State power, the proletariat "by that very act destroys the State as such It is not the custom to reflect on what this really means Generally, it is either ignored altogether or it is considered as a piece of 'Hegelian weakness on Engels part As a matter of fact, however, these words express succinctly the experience of one of the greatest proletarian revolutions—the Paris Commune of 1871, of which we shall speak in greater detail in its own place In reality, Engels speaks here of the *destruction* of the capitalist State by the proletarian revolution, while the words about its withering away refer to the remains of a *proletarian* State *after* the Socialist revolution The capitalist State does not wither away, according to Engels, but is *destroyed* by the proletariat in the course of the revolution Only the proletarian State or semi State withers away after the revolution

Second, the State is a "particular power of suppression" This splendid and extremely profound definition of Engels is given by him here with complete lucidity. It follows therefrom that the "particular power of suppression' of the proletariat by the capitalist class of the millions of workers by a handful of rich, must be replaced by a "particular power of suppression" of the capitalist class by the proletariat (the dictatorship of the proletariat) It is just this that constitutes the destruction of the State as such It is just this that constitutes the "act" of taking possession of the means of production on behalf of Society And it is obvious that such a substitution of one (capitalist) "particular power' by another (proletarian) "particular power" could in no way take place in the form of a "withering away"

Third in using the term, "withering away,' Engels refers quite clearly and definitely to the period *after* "the taking over of the means of production by the State on behalf of the whole society," that is, after the Socialist Revolution. We all know that the proletarian form of the State" is then an absolutely complete democracy But it never enters the head of any of the opportunists who shamelessly distort Marx that Engels deals here with the withering away of the democracy At first sight this seems very strange. But it will only be unintelligible to one who has not reflected on the fact that democracy is also a State and that, consequently, democracy will also disappear when the State disappears Only a revolution can 'destroy' the capitalist State. The State in general, that is, most complete democracy, can only wither away.

Fourth, having formulated his famous proposition that the State withers away," Engels at once explains concretely that this proposition is directed equally against the opportunists and the anarchists In doing this, however, Engels draws, in the first place, that deduction from his proposition, which is directed against the opportunists

One can wager that out of every ten thousand persons who have read or heard of the "withering away" of the State,

9,990 do not know at all, or do not remember that Engels did not direct his conclusions from this proposition against the anarchists alone And out of the remaining ten nine do not know the meaning of a "free popular State" nor the reason why an attack on this watchword contains an attack on the opportunists This is how history is written! This is how a great revolutionary doctrine is imperceptibly adulterated and adapted to current philistinism! The reference to the anarchists has been repeated thousands of times has been vulgarized in the crudest fashion possible until it has acquired the strength of a prejudice, whereas the reference to the opportunists has been hushed up and "forgotten"

"A free popular State" was the demand and current watchword in the program of the German Social Democrats of the 'seventies There is no political substance in this watchword other than a pompous middle class circumlocution of the idea of democracy In so far as it pointed in "lawful" manner at a democratic republic, Engels was prepared "for a time" to justify it from a propaganda point of view But this watchword was really opportunist for it not only took an exaggerated view of the attractiveness of bourgeois democracy, but also implied a lack of understanding of the Socialist criticism of the State in general We are in favor of a democratic republic as the best form of the State for the proletariat under capitalism but we have no right to forget that wage slavery is the lot of the people even in the most democratic middle class republic Furthermore, every State is a "particular power of suppression" of the oppressed class Consequently, no State is either "free' or 'popular" Marx and Engels explained this repeatedly to their party comrades in the 'seventies

Fifth, in the same work of Engels, from which everyone remembers his argument on 'withering away" of the State, there is also a disquisition on the nature of a violent revolution, and the historical appreciation of its role becomes, with Engels, a veritable panegyric of a revolution by force This, of course, no one remembers To talk or even to think of the importance of this idea, is not considered respectable by our modern Socialist parties, and in the daily propaganda and agitation among the masses it plays no part whatever Yet it is indissolubly bound up with the "withering away" of the State in one harmonious whole Here is Engels argument

> That force also plays another part in history (other than that of a perpetuation of evil), namely a *revolutionary* part, that, as Marx says, it is the midwife of every old society when it is pregnant with a new one, that force is the instrument and the means by which social movements hack their way through and break up the dead and fossilized political forms—of all this not a word by Herr Duhring Duh with sighs and groans, does he admit the possibility that for the overflow of the system of exploitation force may, perhaps, be necessary, but most unfortunate if you please, because all use of force, forsooth, demoralizes its user! And this is said in face of the great moral and intellectual advance which has been the result of every victorious revolution! And this is said in Germany where a violent collision—which might perhaps be forced on the people—should have, at the very least this advantage that it would destroy the *spirit of subservience* which has been permeating the national mind ever since the degradation and humiliation of the Thirty Years' War And this turbid, flabby, impotent, parson's mode of thinking dares offer itself for acceptance to the most revolutionary party history has ever known!" (p 193, 3rd German Edition)

How can this eulogy of a revolution by force, which Engels used to propound to the German Social Democrats between 1878-94, that is, up to the very day of

his death, be reconciled with the theory of the "withering away" of the State, and combined into one doctrine? Usually the two views are combined by a process of eclecticism, by an unprincipled, sophistic, arbitrary selection sometimes of passages here and there (to oblige the powers that be)—and in ninety-nine cases out of a hundred (if not more often), it is the idea of the withering away of the State that is specially emphasized. Dialectics is replaced by eclectics—this is the most usual, the most widespread method used in the official Social-Democratic literature of our day in respect of Marxist teachings. Such a substitution is, of course, not new; one can see it even in the history of classic Greek philosophy. In the process of camouflaging Marxism as opportunism, the substitution of eclecticism for dialectics is the best method of deceiving the masses. It gives an illusory satisfaction. It seems to take into account all sides of the process, all the tendencies of development, all the contradictory factors and so forth, whereas, in reality, it offers no consistent revolutionary view of the process of social development at all.

We have already said above and shall show more fully at a later stage that the teaching of Marx and Engels regarding the inevitability of a violent revolution refers to the capitalist State. It cannot be replaced by the proletarian State (the dictatorship of the proletariat) through mere "withering away," but, in accordance with the general rule, can only be brought about by a violent revolution. The hymn of praise sung in its honour by Engels and fully corresponding to the repeated declarations of Marx (see the concluding passages of the "Poverty of Philosophy" and the "Communist Manifesto," with its proud and open declaration of the inevitability of a violent revolution; also Marx's "Criticism of the Gotha Programme of 1875," in which, thirty years after, he mercilessly castigates its opportunist character)—this praise is by no means a mere "impulse," a mere declamation, or a mere polemical sally. The necessity of systematically fostering among the masses this and only this point of view about violent revolution lies at the root of the whole of Marx's and Engels' teaching, and it is just the neglect of such propaganda and agitation both by the present predominant social-chauvinists and the Kautskian schools that brings their betrayal of it into prominent relief.

The substitution of a proletarian for the capitalist State is impossible without a violent revolution, while the abolition of the proletarian State, that is, of all States, is only possible through "withering away."

Marx and Engels gave a full and concrete illustration of these views in their study of each revolutionary situation separately, by an analysis of the lessons of the experience of each individual revolution....

CHAPTER II

THE EXPERIENCE OF 1848–51

. . . . .

4. *The Highest Phase of Communist Society.*

Marx continues:

"In the highest phase of Communist society, after the disappearance of the enslavement of man caused by his subjection to the principle of division of labor; when, together with this, the opposition between brain and manual work will have disappeared; when labor will have ceased to be a mere means of supporting life and will itself have become one of the first necessities of life; when with the all-round development of the individual, the productive forces, too, will have grown to maturity, and all the forces of social wealth will be pouring an uninterrupted torrent—only then will it be possible wholly to pass beyond the narrow horizon of bourgeois laws, and only then will society be able to inscribe on

its banner: 'From each according to his ability; to each according to his needs'"

Only now can we appreciate the full justice of Engels' observations when he mercilessly ridiculed all the absurdity of combining the words 'freedom" and "State' While the State exists there can be no freedom When there is freedom there will be no State

The economic basis for the complete withering away of the State is that high stage of development of Communism when the distinction between brain and manual work disappears, consequently when one of the principal sources of modern *social* inequalities will have vanished —a source, moreover, which it is impossible to remove immediately by the mere conversion of the means of production into public property, by the mere expropriation of the capitalists

This expropriation will make it possible gigantically to develop the forces of production And seeing how incredibly even now, capitalism *retards* this development, how much progress could be made even on the basis of modern technique at the level it has reached, we have a right to say, with the fullest confidence, that the expropriation of the capitalists will result inevitably in a gigantic development of the productive forces of human society But how rapidly this development will go forward, how soon it will reach the point of breaking away from the division of labor, of the destruction of the antagonism between brain and manual work, of the transformation of work into a 'first necessity of life'—this we do not and *cannot* know

Consequently, we are right in speaking solely of the inevitable withering away of the State, emphasizing the protracted nature of this process, and its dependence upon the rapidity of development of the *higher phase* of Communism, leaving quite open the question of lengths of time, or the concrete forms of this withering away, since material for the solution of such questions is not available

The State will be able to wither away completely when society has realized the formula "From each according to his ability, to each according to his needs", that is when people have become accustomed to observe the fundamental principles of social life, and their labor is so productive, that they will voluntarily work *according to their abilities* "The narrow horizon of bourgeois law,' which compels one to calculate with the pitilessness of a Shylock, whether one has not worked half an hour more than another whether one is not getting less pay than another—this narrow horizon will then be left behind There will then be no need for any exact calculation by society of the quantity of products to be distributed to each of its members each will take freely according to his needs'

From the capitalist point of view, it is easy to declare such a social order 'a pure Utopia, and to sneer at the Socialists for promising each the right to receive from society without any control of the labor of the individual citizens, any quantity of truffles motor cars, pianos, and so forth Even now most bourgeois 'savants deliver themselves of such sneers, but thereby they only display at once their ignorance and their material interest in defending capitalism Ignorance—for it has never entered the head of any Socialist to promise that the highest phase of Communism will actually arrive, while the *anticipation* of the great Socialists that it *will* arrive, assumes *neither the present* productive powers of labor, *nor the present* unthinking "man in the street capable of spoiling, without reflection, the stores of social wealth and of demanding the impossible As long as the 'highest phase of Communism has not arrived, the Socialists demand the *strictest* control, *by society and by the State,* of the quantity of labor and the quantity of consumption, only this control must *start* with the expropriation of the capitalists, with the control of the workers over the capitalists, and must be carried out, not by a government of

bureaucrats, but by a government of the *armed workers.*

The interested defence of capitalism by the capitalist ideologists (and their hangers-on like Tseretelli, Tchernoff & Co.) consists just in that they *substitute* their disputes and discussions about the far future for the essential, imperative questions *of the day:* the expropriation of the capitalists, the conversion of *all* citizens into workers and employees of *one* huge "syndicate"—the whole State—and the complete subordination of the whole of the work of this syndicate to a really democratic State—to the *State consisting of the Councils of Workers' and Soldiers' Deputies.* In reality, when a learned professor, and in his train, some philistine, and in his wake, Messrs. Tseretelli and Tchernoff, talk of unreasonable Utopias, of the demagogic promises of the Bolsheviks, of the impossibility of "bringing in" Socialism, it is the highest stage or phase of Communism which they have in mind, and which no one has not only promised, but ever even thought of trying to "bring in," because, in any case, it is altogether impossible to "bring it in."

And here we come to that question of the scientific difference between Socialism and Communism, upon which Engels touched in his discussion cited above on the incorrectness of the name "Social-Democrat." The political difference between the first, or lower, and the higher phase of Communism will in time, no doubt, be tremendous; but it would be ridiculous to emphasize it now, under capitalism, and only, perhaps, some isolated anarchist could invest it with primary importance—that is, if there are still people amongst the anarchists who have learned nothing from the Plekanoff-like conversion of the Kropotkins, the Graves, the Cornelisens, and other "leading lights" of anarchism to Social-Chauvinism or Anarcho-"Jusquauboutism" as one of the few anarchists still preserving their honor (Gay) has expressed it.

But the scientific difference between Socialism and Communism is clear. That which is generally called Socialism is termed by Marx the first or lower phase of Communist society. In so far as the means of production become public property, the word Communism is also applicable here, providing that we do not forget that it is not full Communism. The great importance of Marx's explanation is this: that here, too, he consistently applies materialist dialectics, the theory of evolution, looking upon Communism as something which evolves *out of* capitalism.

Instead of artificially elaborate and scholastic definitions and profitless disquisitions on the meanings of words ("what Socialism is," "what Communism is"), Marx gives us an analysis of what may be called the stages in the economic growth of Communism.

In its first phase or first stage Communism *cannot* as yet be economically mature and quite free of all tradition and of all taint of capitalism. Hence we see the interesting phenomenon of the first phase of Communism retaining "the narrow horizon of bourgeois law." Bourgeois law, in respect of the distribution of articles of consumption, presupposes inevitably the capitalist State, for law is nothing without the organization for *forcing* people to obey it. Consequently, for a certain time not only bourgeois law, but even the capitalist State may remain under Communism without the capitalist class.

This may appear to some a paradox, a piece of intellectual subtlety of which Marxism is often accused by people who would not put themselves out to study its extraordinarily profound teachings. But, as a matter of fact, the Old surviving in the New confronts us in life at every step in nature as well as in Society. It is not Marx's own sweet will which smuggled a scrap of bourgeois law into Communism; he simply indicated what is economically and politically inevitable in a society issuing from the *womb of capitalism.*

Democracy is of great importance in the working class struggle for freedom against the capitalists. But democracy is

not a limit one may not overstep; it is merely one of the stages in the course of development from feudalism to capitalism, and from capitalism to Communism

Democracy implies equality The immense significance of the struggle of the proletariat for equality and the power of attraction of such a battle cry are obvious, if we but rightly interpret it as meaning the *annihilation of classes* But the equality of democracy is *formal* equality—no more, and immediately after the attainment of the equality of all members of society in respect of the ownership of the means of production, that is, of equality of labor and equality of wages, there will inevitably arise before humanity the question of going further from equality which is formal to equality which is real, and of realizing in life the formula, "From each according to his ability, to each according to his needs" By what stages, by means of what practical measures humanity will proceed to this higher aim —this we do not and cannot know But it is important that one should realize how infinitely mendacious is the usual capitalist representation of Socialism as something lifeless, petrified, fixed once for all In reality, it is only with Socialism that there will commence a rapid, genuine, real mass advance in which first the majority and then the *whole* of the population will take part—an advance in all domains of social and individual life

Democracy is a form of the State—one of the varieties of the State, and, consequently, like every State, it stands as an organized, systematic application of force against mankind That is its one aspect But, on the other hand, it is the formal recognition of the equality of all citizens, the equal right of all to determine the structure and administration of the State Out of this formal recognition there arises, in its turn, a stage in the development of democracy, when it first rallies the proletariat as a revolutionary class against capitalism, and gives it an opportunity to crush to break to atoms, to wipe off the face of the earth the capitalist government machine—even the republican variety· the standing army, police, and bureaucracy Second, it enables it to substitute for all this a more democratic, but still a *State* machinery in the shape of armed masses of the working class, which then become transformed into a universal participation of the people in a militia.

Here "quantity passes into quality" Such a degree of democracy carries with it the abandonment of the framework of capitalist society, and the beginning of its Socialist reconstruction If *everyone* really takes part in the administration of the State, capitalism cannot retain its hold As a matter of fact, capitalism, as it develops, itself prepares the ground for everyone to be able really to take part in the administration of the State.

We may class as part of this preparation of the ground the universal literacy of the population, already realized in most of the more progressive capitalist countries, then the education and discipline inculcated upon millions of workers by the huge, complex, and socialized apparatus of the post, railways, big factories, large scale commerce, banking and so on, and so forth

With such an *economic* groundwork it is quite possible, immediately, within twenty four hours, to pass to the overthrow of the capitalists and bureaucrats, and to replace them, in the control of production and distribution, in the business of apportioning labor and products, by the armed workers, or the people in arms The question of control and bookkeeping must not be confused with the question of the scientifically educated staff of engineers agriculturists and so on These gentlemen work to day owing allegiance to the capitalists they will work even better to-morrow, owing it to the armed workers Bookkeeping and control —these are the chief things necessary for the smooth and correct functioning of the *first phase* of Communist society. *All* the citizens are here transformed into the hired employees of the State, which then is the armed workers. *All* the citizens

become the employes and workers of *one* national State "syndicate ' It simply re solves itself into a question of all working to an equal extent, of all carrying out regularly the measure of work appor tioned to them, and of all receiving equal pay.

The bookkeeping and control necessary for this have been simplified by capitalism to the utmost, till they have become the extraordinarily simple operations of watching, recording and issuing receipts, within the reach of anybody who can read and write and knows the first four arith metical rules [2] When the majority of the citizens themselves begin everywhere to keep such accounts and maintain such control over the capitalists now converted into employees, and over the intellectual gentry, who still retain capitalist habits this control will, indeed, become universal, pervading *rational*, it will be ubiquitous, and there will be no way of escaping it

The whole of society will have become one office and one factory, with equal work and equal pay But this "factory' discipline, which the proletariat will ex tend to the whole of society on the defeat of capitalism and the overthrow of the exploiters, is by no means our ideal, and is far from our final aim It is but a foot-hold as we press on to the radical cleans ing of society from all the brutality and foulness of capitalist exploitation we leave it behind as we move on

When all, or be it even only the greater part of society, have learned how to gov ern the State, have taken this business into their own hands, have established a con trol over the insignificant minority of capitalists, over the gentry with capitalist leanings, and workers thoroughly demor alized by capitalism—from this moment the need for any government begins to vanish The more complete the democracy, the nearer the moment when it ceases to be necessary The more democratic the "State" consisting of armed workers, which is ' no longer really a State in the ordinary sense of the term," the more rapidly does every form of the State begin to decay For when all have learned to manage, and really do manage, socialized production, when all really do keep ac count and control of the idlers, gentlefolk, swindlers and such like "guardians of capitalist traditions," the escape from such general registration and control will in evitably become so increasingly difficult, so much the exception, and will probably be accompanied by such swift and severe punishment (for the armed workers are very practical people, not sentimental in tellectuals, and they will scarcely allow anyone to trifle with them), that very soon the *necessity* of observing the simple, fundamental rules of any kind of social life will become a habit The door will then be wide open for the transition from the first phase of Communist society to its second higher phase, and along with it to the complete withering away of the State.

[2] When most of the functions of the State are reduced to this bookkeeping and control by the workers themselves, it ceases to be a 'political' State Then ' the public functions are converted from political into simple ad ministrative functions "...

IMPERIALISM

CHAPTER VII

IMPERIALISM AS A SPECIAL STAGE OF CAPITALISM

. Imperialism emerged as the develop ment and direct continuation of the essen tial qualities of capitalism in general But capitalism only became capitalist imperial ism at a definite and a very high stage of its development, when certain of its essen tial qualities began to be transformed into their opposites, when the features of a period of transition from capitalism to a higher social and economic structure be gan to take shape and be revealed all along the line

The feature that is economically essen tial in this process is the substitution of capitalist monopolies for capitalist free competition. Free competition is the fun

damental quality of capitalism, and of commodity production generally. Monopoly is exactly the opposite of free competition; but we have seen this latter beginning to be transformed into monopoly beneath our very eyes, creating big industry and eliminating small, replacing big industry by still bigger industry, finally leading to such a concentration of production and capital that monopoly has been and is the result: cartels, combines and trusts, and, fusing with them, the power of a dozen or so banks manipulating thousands of millions. At the same time monopoly, which has sprung from free competition, does not drive the latter out of existence, but co-exists over it and with it, thus giving rise to a number of very acute and very great contradictions, antagonisms and conflicts. Monopoly is the transition from capitalism to a more highly developed order.

If it were necessary to give the briefest possible definition of imperialism it would be defined as the monopoly stage of capitalism. Such a definition would include the essential feature; for, on the one hand, finance-capital is the banking capital of the few biggest monopolist banks, fused with the capital of the monopolist groups of manufacturers; and, on the other, the division of the world is a transition from a colonial policy, ceaselessly extended without encountering opposition in regions not as yet appropriated by any capitalist power, to a colonial policy of monopolized territorial possession—the sharing out of the world being completed.

But very brief definitions, although convenient because they summarize the principal data, are nevertheless insufficient if the important features of the phenomenon defined are to be characterized. And so, without forgetting the conditional and relative value of all definitions, which can never include all the manifestations of a phenomenon in its process of development, we must give a definition of imperialism embracing its five essential features:

(1) The concentration of production and capital, developed so highly that it creates monopolies which play a decisive role in economic life.

(2) The fusion of banking capital with industrial capital and the creation, on the basis of this financial capital, of a financial oligarchy.

(3) The export of capital, which has become extremely important, as distinguished from the export of commodities.

(4) The formation of international capitalist monopolies which share out the world amongst themselves.

(5) The territorial division of the whole earth completed by the greatest capitalist powers.

Imperialism is capitalism in that phase of its development in which the domination of monopolies and finance-capital has established itself; in which the export of capital has acquired very great importance; in which the division of the world among the big international trusts has begun; in which the partition of all the territories of the earth amongst the great capitalist powers has been completed.

We shall see later how imperialism may and must be defined if consideration is given not only to the economic factors—to which the above definition is limited—but also to the historical place of this phase of capitalism as an aspect of capitalism in general or of the relations between imperialism and the two fundamental tendencies of the working class movement. The point to be noted just now is that imperialism, as we understand it, undeniably represents a particular phase of capitalist development. To convince the reader of this fact we have deliberately quoted as often as possible *bourgeois* economists, who are obliged to recognize beyond dispute the facts of modern capitalist economy. With the same object we have produced detailed statistics which reveal the extent to which banking capital has developed, etc., showing how the transition from quantity to quality, from adult capitalism to imperialism, has expressed itself. Needless to say, the boundaries of all transition stages, both in nature and

in society, are arbitrary and shifting and it would consequently be absurd to discuss the exact year or the decade in which imperialism "definitely" became established.

In this matter of defining imperialism it is chiefly with Karl Kautsky, the principal Marxist theoretician of the period of the Second International—that is, of the twenty five years between 1889 and 1914—that issue must be joined

Kautsky, in 1915 and even from November, 1914, decisively attacked the fundamental ideas expressed in our definition of imperialism. Kautsky said that imperialism must be considered not as a "phase" or as an economic stage, but as a policy; more precisely as the policy "preferred" by finance capital, that imperialism cannot be "identified" with "contemporary capitalism", that if capitalism must be taken to include "all the phenomena of contemporary capitalism"—the trusts, the cartels, protectionism, the hegemony of the financiers, and colonial policy—then the statement that imperialism is necessary to capitalism becomes reduced to "the most stale tautology", because imperialism then becomes "naturally a vital necessity for capitalism," and so on We shall most exactly express Kautsky's thought by quoting his definition of imperialism, which is directly opposed to the ideas which we set forth (Kautsky having known for a long time of the arguments used for many years by the German Marxians in defence of these ideas, and having known the ideas to exist as a tendency in Marxism) Kautsky's definition states

"Imperialism is the product of highly developed industrial capitalism It is the tendency of every industrial capitalist nation to annex or to bring under its control all the big *agrarian* regions (Kautsky's italics) irrespective of what nations inhabit those regions."

This definition is entirely wrong, because it is one sided, *i e.*, it selects the national question (admittedly of the greatest importance, by itself, and in its relation to imperialism) and it relates this question arbitrarily and *inaccurately* to industrial capital *alone*, in the countries which annex other nations, while at the same time it emphasizes, in an equally arbitrary and inaccurate manner, the annexation of *agrarian* regions

Imperialism is a tendency to annexations—this is what the political part of Kautsky's definition amounts to It is true, but very incomplete, for politically imperialism is a tendency to violence and reaction in general But here we interest ourselves in the *economic* aspect of the question, as introduced by Kautsky in *his* definition On this point he commits crying errors Imperialism is characterized *not* by industrial capital, but by finance-capital It is not by accident that the particularly rapid development of *finance*-capital in France, coinciding with the weakening of industrial capital, provoked, from 1880 and onwards, an extreme extension of annexationist (colonial) policy.

And it is characteristic of imperialism to strive to annex not only agricultural regions, but even highly-industrialized regions (German appetites about Belgium, French appetites for Lorraine), because (1) the fact that the world is already partitioned obliges those contemplating a new partition to stretch out their hands to *every* territory, and (2) because the rivalry of several great powers striving for hegemony, *i e*, for the conquest of territory, not so much for their own advantage as to weaken the adversary and undermine his hegemony—this is an essential feature of imperialism (*e g.*, Belgium is chiefly necessary to Germany as a base for operations against England, England needs Bagdad as a base for operations against Germany, etc).

Kautsky refers more especially—and many times—to English writers who, he alleges, have established the purely political meaning of the word "imperialism" in Kautsky's sense Let us refer to Hobson's book, *Imperialism*, which appeared in 1902.

"The new Imperialism differs from the old, first in substituting for the ambition

of a single growing empire the theory and the practice of competing empires each motived by similar lusts of political aggrandizement and commercial gain, secondly, in the dominance of financial or investing over mercantile interests

We thus see that Kautsky is absolutely wrong in referring to English writers (unless he means to quote the most vulgar English imperialist writers, or the direct apologists for imperialism) We see that Kautsky, while pretending to defend Marxism, is really taking a step to the rear as compared with the *liberal* Hobson, who justly takes account of two historical concrete" peculiarities of modern imperialism (1) the competition between *several* imperialisms and (2) the supremacy of the financier over the merchant

Yet if it were chiefly a question of the annexation of agricultural countries by industrial countries, the most important role would be played by the merchant

But Kautsky's definition is not only false and foreign to Marxism It serves as a basis for a whole system, which breaks away all along the line from Marxian theory and practice, of which we shall speak again later The verbal debate raised by Kautsky as to whether the modern stage of capitalism should be called "imperialism or the finance capital stage is of no importance Call it what you will, it matters little The important fact is that Kautsky detaches the policy of imperialism from its economics speaks of annexations as being a policy preferred by finance capital, and opposes to it another bourgeois policy which he alleges to be possible on the same basis of finance capital It appears from this that monopolies *in economics, are* compatible with methods which are neither monopolistic, nor violent, nor annexationist in politics It appears from this that the territorial division of the world, which was completed during the period of finance capital and which determines the peculiarity of the present forms of rivalry between the great capitalist States, is compatible with a non-imperialist policy.

The result is a slurring over and a concealment of the most profound contradictions of the latest stage of capitalism, instead of an exposure of their depth The result is bourgeois reformism instead of Marxism

Kautsky enters into controversy with Cunow, the German apologist of imperialism and annexations whose cynical and crude argument runs as follows Imperialism is modern capitalism, the development of capitalism is inevitable and progressive, therefore imperialism is progressive, therefore, we should bow down before it and chant its praises Something like the caricature which was drawn about 1894 95 by the Russian *Narodniki* (populists) against the Marxists

If the Marxists, they used to say to us, consider capitalism in Russia to be inevitable and a progressive move, why don't they open a public house and begin to encourage capitalism!

Kautsky's 'reply to Cunow is as follows 'Imperialism is not modern capitalism It is only one of the forms of its policy This policy we can and should fight against, we can and should fight against imperialism, annexations, etc '

The reply looks good But it amounts in effect to nothing but a more cunning, more disguised (and, therefore, more dangerous) propaganda of reconciliation For the struggle" against the policy of the trusts and banks, unless it strikes at the economic basis of the trusts and banks reduces itself to nothing but bourgeois reformism and pacifism, to innocent and benevolent expression of pious hopes To avoid mentioning existing contradictions to forget the most important of them instead of revealing them in their full depth—this is Kautsky's theory

'From a purely economic point of view," writes Kautsky, "it is not impossible that capitalism will yet go through a new phase, that of the extension of the policy of the cartels to foreign policy, or of ultra imperialism ' That is, of a super-imperialism, of the union of world imperialisms and not of their struggles, a phase when

wars shall cease under capitalist rule, a phase of 'the exploitation of the earth by finance capital internationally united'

We shall have to dwell on this "theory of ultra-imperialism" to show how definitely and utterly it breaks with Marxism According to the plan of the present essay, let us consult in this matter the exact economic data relating to it Is "ultra-imperialism" possible "from the purely economic point of view?"

If the "purely economic point of view" means pure abstraction, all that can be said resolves itself into the following proposition the evolution of capitalism tends to monopolies, hence it tends to a united world monopoly, to a universal trust This is undeniable, but it is also completely devoid of meaning

If, on the other hand, we are discussing the "purely economic" conditions of the period of finance capital, considered as an actual historical period at the beginning of the 20th century, then lifeless abstractions about imperialism are best refuted by the concrete economic realities of the present world situation (Kautsky's line of argument on 'ultra-imperialism," encourages, amongst other things, that profoundly mistaken idea, which only brings grist to the mill of the apologists of imperialism, that the domination of finance-capital *weakens* the inequalities and contradictions of world economy, whereas in reality it *strengthens* them)

R. Calwer attempted in his little book, *An Introduction to World Economics,* to summarize the main purely economic data required to understand in a concrete way, the internal relations of world economy at the end of the 19th and beginning of the 20th centuries He divides the world into five "main economic areas," as follows: (1) Central Europe (the whole of Europe with the exception of Russia and Britain); (2) Britain, (3) Russia; (4) Eastern Asia; (5) America, and he includes the colonies in the "areas' of the State to which they belong, "setting on one side a small number of countries not yet situated in these areas, such as Persia, Afghanistan, Arabia, Morocco and Abyssinia"

[For a summary of these economic data, see table at foot of page]

We notice three areas of highly developed capitalism—that is, with a high development of means of transport, of trade and of industry They are the Central European, the British areas, and the American *Amongst them are three States* which dominate the world Germany, Britain, the United States Imperialist rivalry and the struggle between them have become very keen because Germany only has a restricted area and few colonies (the creation of "Central Europe" being not yet achieved, and it is being fashioned in a life and death struggle)

For the moment the distinctive feature of Europe is political division. In the British and American areas, on the other hand, political concentration is very highly developed, but there is a tremendous disproportion between the immense colonies of the one and the insignificant

CHIEF ECONOMIC AREAS	*Area* in millions of sq km	*Pop* in millions	*Transport* Rlys in thous of km	*Transport* Merch fleet in mills of tons	*Trade* Impt & expt in mlds of mks	*Industry* Output of coal in mls of tons	*Industry* Output of iron in mls of tons	*Industry* No of cotton spindles (mls)
Central Europe	27 6 [23 6]	388 [146]	204	8	41	251	15	26
British	28 9 [28 4]	398 [355]	140	11	25	249	9	51
Russian	22 6	131	63	1	3	16	3	7
Eastern Asia	12	389	8	1	2	8	00.2	2
America	30	148	379	6	14	245	14	19

The figures in brackets show the area and population of the colonies.

colonies of the other In the colonies, capitalism is only beginning to develop The struggle for South America becomes more and more bitter

There are two areas of weak capitalist development Russia and Eastern Asia In the former the density of population is not great, in the latter it is very high In the former, political concentration is very high, in the latter it does not exist The partition of China is only beginning and the competition between Japan and the U S A in connection therewith is continually gaining in intensity

Compare the ideas of Kautsky about 'peaceful ultra imperialism with this stern reality, with the vast diversity of economic and political conditions with the extreme disproportion of the rate of development of different countries with the violent struggles of the imperialist States As for the international cartels in which Kautsky sees the embryo of ultra imperialism, do they not provide us with an example of the partition of the world and of its re partition—of the transition from peaceful sharing out to warlike sharing out and *vice versa*? American and other finance capital which has peacefully shared out the world with the participation of Germany—in the international railway combine, for example, or in the international merchant marine—is it not now re dividing the world on the basis of new alignments of forces resulting from changes which are by no means of a peaceful nature?

Finance capital and the trusts are aggravating instead of diminishing the differences between the rates of development of different parts in the world economy When the alignments of forces are modified, where, *under capitalism*, can the solution of contradictions be found, if not in the resort to force?

We have in railway statistics some remarkably exact data on the different rates of development of capitalism and finance capital in world economy In the last decades of capitalist development, the total length of railways, expressed in thousands of kilometers, has altered as follows

	1890		1913		Increase	
Europe	224		346		122	
U S A	268		411		143	
Colonies (total)	82		220		138	
Independent or semi dependent states of Asia and America	43	125	137	347	94	222
	617		1 104			

The development of railway lines has therefore been more rapid in the colonies and in the independent or semi independent States of Asia and America Here finance capital of the four or five biggest capitalist States reigns undisputed Two hundred thousand kilometers of new railway lines in the colonies and in the other countries of Asia and America represent more than 40 milliards of marks in capital newly invested under particularly advantageous conditions with special guarantees of a good return, and with fruitful orders for the steel works etc, etc

Capitalism is growing with the greatest rapidity of all in the colonies and in transoceanic countries Amongst the latter *new* imperialist powers are emerging (*e g*, Japan) The struggle of world imperialisms is becoming aggravated The tribute levied by finance capital on the most profitable colonial and transoceanic enterprises is increasing In the process of sharing out this booty, an exceptionally large part comes back to countries which as far as increase of production is concerned, do not stand at the top of the list In the case of the great powers considered with their colonies, the total length of railways (in thousands of kilometers) was as follows

	1890	1913	Increase
U S A	268	413	145
British Empire	107	208	101
Russia	32	78	46
Germany	43	68	25
France	41	63	22
Total	491	830	339

Eighty per cent of the total existing railways are, therefore, concentrated in the hands of the five greatest powers But the concentration of the *ownership* of

these railways, that of finance capital, is much greater still, French and English millionaires, for example, being the possessors of an enormous number of stocks and shares in American, Russian and other railways Thanks to "its" colonies, Britain has increased its length of railways by 100,000 kilometers, four times as much as Germany. Meanwhile the development of productive forces in Germany during the same lapse of time, and especially the development of the coal and iron industries, has been much more rapid than in England—not to mention France and Russia.

In 1892, Germany produced 4,200,000 tons of pig iron, and Britain 6,800,000 tons, in 1912, Germany produced 17,600,000 tons and Britain 9,000,000 tons. Germany had, therefore, an overwhelming superiority over England in this matter

We ask, was there *under capitalism* any means of remedying the disproportion between the development of production and the accumulation of capital on the one side, and the division of colonies and spheres of influence by finance-capital on the other side—other than by the resort to arms?

Carlyle: Heroes as Rulers

It is not a far cry from hero-worship to a doctrine of supermen and a great-man theory of history Carlyle was profoundly discontented with the age in which he lived Compared with golden ages and great leaders of the past, the contemporary scene was dull and contemporary humankind was unheroic and stuffy. Carlyle probably would not have recognized a real hero if he had seen one, for it is doubtful that heroes such as he worshiped live any place except in the mind It is perhaps significant that Carlyle had little influence in Victorian England but that he did influence profoundly a man like Nietzsche and to some extent a man like Emerson People who are discontented with their age and who have little in the way of internal resources for the deeper satisfactions of spiritual richness are most likely to turn to heroes for inspiration Such ages and times do overwhelm even rich civilizations Complexity and fear prove too much for rational leadership and further the ripeness for the "Leader." Carlyle would not have liked Hitler and the riff-raff who tried to transvalue values, but Hitler could only come to power among a people who were economically stricken, poorly led by democratic parties, and so spiritually destitute as to fall easy prey to a superman whose promise would solve their problems [1]

[The Hero as King]

We come now to the last form of Heroism; that which we call Kingship. The Commander over Men; he to whose will our wills are to be subordinated, and loyally surrender themselves, and find their welfare in doing so, may be reckoned the most important of Great Men. He is practically the summary for us of *all* the various figures of Heroism, Priest, Teacher whatsoever of earthly or of spiritual dignity we can fancy to reside in a man

[1] From *Heroes and Hero Worship*, by Thomas Carlyle, 1840. Lecture VI, in part

embodies itself here, to *command* over us, to furnish us with constant practical teaching, to tell us for the day and hour what we are to *do* He is called *Rex* Regulator, *Roi* our own name is still better, King, *Konning*, which means *Can*ning Able man

Numerous considerations, pointing towards deep, questionable, and indeed unfathomable regions, present themselves here on the most of which we must resolutely for the present forbear to speak at all As Burke said that perhaps fair *Trial by Jury* was the soul of Government, and that all legislation, administration parliamentary debating, and the rest of it, went on, in order to bring twelve impartial men into a jury box,'—so, by much stronger reason may I say here, that the finding of your *Ableman* and getting him invested with the *symbols of ability*, with dignity, worship (*worth*ship), royalty, kinghood, or whatever we call it, so that *he* may actually have room to guide according to his faculty of doing it,—is the business well or ill accomplished, of all social procedure whatsoever in this world! Hustings speeches, Parliamentary motions, Reform Bills, French Revolution, all mean at heart this, or else nothing Find in any country the Ablest Man that exists there, raise *him* to the supreme place, and loyally reverence him you have a perfect government for that country, no ballot box, parliamentary eloquence, voting, constitution building, or other machinery whatsoever can improve it a whit It is in the perfect state, an ideal country The Ablest Man, he means also the truest hearted, justest, the Noblest Man what he *tells us to do* must be precisely the wisest, fittest, that we could anywhere or anyhow learn,—the thing which it will in all ways behove us, with right loyal thankfulness, and nothing doubting, to do! Our *doing* and life were then, so far as government could regulate it, well regulated, that were the ideal of constitutions

Alas, we know very well that Ideals can never be completely embodied in practice Ideals must ever lie a very great way off and we will right thankfully content ourselves with any not intolerable approximation thereto! Let no man, as Schiller says, too querulously 'measure by a scale of perfection the meagre product of reality' in this poor world of ours We will esteem him no wise man we will esteem him a sickly, discontented, foolish man And yet, on the other hand, it is never to be forgotten that Ideals do exist that if they be not approximated to at all, the whole matter goes to wreck! Infallibly No bricklayer builds a wall *perfectly* perpendicular, *mathematically* this is not possible, a certain degree of perpendicularity suffices him, and he like a good bricklayer, who must have done with his job, leaves it so And yet if he sway *too much* from the perpendicular, above all, if he throw plummet and level quite away from him, and pile brick on brick heedless, just as it comes to hand—! Such bricklayer, I think, is in a bad way *He* has forgotten himself but the Law of Gravitation does not forget to act on him, he and his wall rush down into confused welter of ruin!—

This is the history of all rebellions French Revolutions, social explosions in ancient or modern times You have put the too *Un*able Man at the head of affairs! The too ignoble, unvaliant, fatuous man You have forgotten that there is any rule, or natural necessity whatever, of putting the Able Man there Brick must lie on brick as it may and can Unable Simulacrum of Ability, *quack*, in a word, must adjust himself with quack, in all manner of administration of human things,—which accordingly he unadministered, fermenting into unmeasured masses of failure, of indigent misery in the outward, and in the inward or spiritual, miserable millions stretch out the hand for their due supply, and it is not there The law of gravitation' acts, Nature's laws do none of them forget to act The miserable millions burst-forth into Sansculottism, or some other sort of madness bricks and bricklayer lie as a fatal chaos!—

Much sorry stuff, written some hundred years ago or more, about the 'Divine right of Kings,' moulders unread now in the Public Libraries of this country. Far be it from us to disturb the calm process by which it is disappearing harmlessly from the earth, in those repositories! At the same time, not to let the immense rubbish go without leaving us, as it ought, some soul of it behind—I will say that it did mean something; some thing true, which it is important for us and all men to keep in mind. To assert that in whatever man you chose to lay hold of (by this or the other plan of clutching at him); and clapt a round piece of metal on the head of, and called King,—there straightway came to reside a divine virtue, so that *he* became a kind of god, and a Divinity inspired him with faculty and right to rule over you to all lengths: this,—what can we do with this but leave it to rot silently in the Public Libraries? But I will say withal, and that is what these Divine-right men meant, That in Kings, and in all human Authorities, and relations that men god-created can form among each other, there is verily either a Divine Right or else a Diabolic Wrong; one or the other of these two! For it is false altogether, what the last Sceptical Century taught us, that this world is a steam-engine. There *is* a God in this world; and a God's-sanction, or else the violation of such, does look-out from all ruling and obedience, from all moral acts of men. There is no act more moral between men than that of rule and obedience. Woe to him that claims obedience when it is not due; woe to him that refuses it when it is! God's law is in that, I say, however the Parchment-laws may run: there is a Divine Right or else a Diabolic Wrong at the heart of every claim that one man makes upon another.

It can do none of us harm to reflect on this: in all the relations of life it will concern us; in Loyalty and Royalty, the highest of these. I esteem the modern error, That all goes by self-interest and the checking and balancing of greedy knaveries, and that, in short, there is nothing divine whatever in the association of men, a still more despicable error, natural as it is to an unbelieving century, than that of a 'divine right' in people *called* Kings. I say, Find me the true *Könning*, King, or Able-man, and he *has* a divine right over me. That we knew in some tolerable measure how to find him, and that all men were ready to acknowledge his divine right when found: this is precisely the healing which a sick world is everywhere, in these ages, seeking after! The true King, as guide of the practical, has ever something of the Pontiff in him,—guide of the spiritual, from which all practice has its rise. This too is a true saying, That the *King* is head of the *Church*.—But we will leave the Polemic stuff of a dead century to lie quiet on its bookshelves.

Certainly it is a fearful business, that of having your Able-man to *seek*, and not knowing in what manner to proceed about it! That is the world's sad predicament in these times of ours. They are times of revolution, and have long been. The bricklayer with his bricks, no longer heedful of plummet or the law of gravitation, have toppled, tumbled, and it all welters as we see! But the beginning of it was not the French Revolution; that is rather the *end*, we can hope. It were truer to say, the *beginning* was three centuries farther back: in the Reformation of Luther. That the thing which still called itself Christian Church had become a Falsehood, and brazenly went about pretending to pardon men's sins for metallic coined money, and to do much else which in the everlasting truth of Nature it did *not* now do: here lay the vital malady. The inward being wrong, all outward went ever more and more wrong. Belief died away; all was Doubt, Disbelief. The builder *cast away* his plummet; said to himself, "What is gravitation? Brick lies on brick there!" Alas, does it not still sound strange to many of us, the assertion that there *is* a God's-truth in

the business of god created men, that all is not a kind of grimace, an 'expediency,' diplomacy, one knows not what!—

From that first necessary assertion of Luther's, "You, self styled *Papa,* you are no Father in God at all, you are—a Chimera, whom I know not how to name in polite language! "—from that onwards to the shout which rose round Camille Desmoulins in the Palais Royal, *"Aux armes!"* when the people had burst up against *all* manner of Chimeras—I find a natural historical sequence That shout too, so frightful half infernal, was a great matter Once more the voice of awakened nations,—starting confusedly, as out of nightmare, as out of death sleep, into some dim feeling that Life was real, that God's world was not an expediency and diplomacy! Infernal,—yes, since they would not have it otherwise Infernal, since not celestial or terrestrial! Hollowness, insincerity *has* to cease, sincerity of some sort has to begin Cost what it may, reigns of terror horrors of French Revolution or what else we have to return to truth Here is a Truth, as I said a Truth clad in hellfire, since they would not but have it so!—

. . .

To me, in these circumstances, that of 'Hero worship' becomes a fact inexpressibly precious, the most solacing fact one sees in the world at present There is an everlasting hope in it for the management of the world Had all traditions, arrangements, creeds, societies that men ever instituted, sunk away, this would remain The certainty of Heroes being sent us, our faculty, our necessity, to reverence Heroes when sent it shines like a polestar through smoke clouds, dust clouds, and all manner of down rushing and conflagration

Hero worship would have sounded very strange to those workers and fighters in the French Revolution Not reverence for Great Men, not any hope or belief, or even wish, that Great Men could again appear in the world! Nature, turned into a 'Machine,' was as if effete now; could not any longer produce Great Men—I can tell her, she may give up the trade altogether, then, we cannot do without Great Men!—But neither have I any quarrel with that of 'Liberty and Equality,' with the faith that, wise great men being impossible, a level immensity of foolish small men would suffice It was a natural faith then and there "Liberty and Equality, no Authority needed any longer Hero worship, reverence for *such* Authorities, has proved false, is itself a falsehood, no more of it! We have had such *forgeries,* we will now trust nothing So many base plated coins passing in the market, the belief has now become common that no gold any longer exists,—and even that we can do very well without gold! " I find this, among other things in that universal cry of Liberty and Equality and find it very natural, as matters then stood

And yet surely it is but the *transition* from false to true Considered as the whole truth, it is false altogether,—the product of entire sceptical blindness, as yet only *struggling* to see Hero worship exists forever, and everywhere not Loyalty alone, it extends from divine adoration down to the lowest practical regions of life 'Bending before men,' if it is not to be a mere empty grimace, better dispensed with than practised, is Hero worship—a recognition that there does dwell in that presence of our brother something divine, that every created man, as Novalis said, is a 'revelation in the Flesh ' They were Poets too, that devised all those graceful courtesies which make life noble' Courtesy is not a falsehood or grimace, it need not be such And Loyalty, religious Worship itself, are still possible, nay still inevitable

May we not say, moreover, while so many of our late Heroes have worked rather as revolutionary men, that nevertheless every Great Man, every genuine man, is by the nature of him a son of Order, not of Disorder? It is a tragical position for a true man to work in revo

lutions He seems an anarchist, and indeed a painful element of anarchy does encumber him at every step,—him to whose whole soul anarchy is hostile, hateful His mission is Order, every man's is He is here to make what was disorderly, chaotic, into a thing ruled regular He is the missionary of Order Is not all work of man in this world a *making of Order?* The carpenter finds rough trees, shapes them, constrains them into square fitness, into purpose and use We are all born enemies of Disorder it is tragical for us all to be concerned in image breaking and down pulling, for the Great Man, *more* a man than we, it is doubly tragical

Thus too all human things, maddest French Sansculottisms, do and must work towards Order I say, there is not a *man* in them, raging in the thickest of the madness, but is impelled withal, at all moments, towards Order His very life means that, Disorder is dissolution, death. No chaos but it seeks a *centre* to revolve round While man is man, some Cromwell or Napoleon is the necessary finish of a Sansculottism—Curious in those days when Hero worship was the most incredible thing to every one, how it does come out nevertheless, and assert itself practically, in a way which all have to credit Divine *right,* take it on the great scale, is found to mean divine *might* withal! While old false Formulas are getting trampled everywhere into destruction, new genuine Substances unexpectedly unfold themselves indestructible In rebellious ages, when Kingship itself seems dead and abolished, Cromwell, Napoleon step forth again as Kings. The history of these men is what we have now to look at, as our last phasis of Heroism The old ages are brought back to us, the manner in which Kings were made, and Kingship itself first took rise, is again exhibited in the history of these Two.

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The Duce's Ego: A Rendezvous with Destiny

Mussolini made the trains run on time, and to people in all lands who attached transcendent importance to predictable arrivals and departures he seemed quite a hero Many Americans did not escape, the United States Ambassador to Italy, Richard Washburn Child, translated and wrote a laudatory introduction to My Autobiography *The following brief excerpt from this remarkable book, which, incidentally, was serialized in* The Saturday Evening Post, *shows more of the real intellectual roots of fascism than some of the more sophisticated utterances of a troubled soul like Gentile* [1]

[The Church Question]

The Roman [Lateran] Question has been once more under discussion Both historical forces have strengthened their concepts Journalistic controversies and objective discussions have demonstrated that the problem is not ripe and may be insoluble Perhaps two mentalities and two worlds are confronting each other in a century old historic and impracticable opposition One has its roots in the religion of the fathers and lives by the ethical forces of the Civis Romanus

[1] From *My Autobiography,* by Benito Mussolini, published by Charles Scribner's Sons, New York, 1928, pp 307 ff

the other has the universal character of equality of brothers in God.

To-day, with the highest loyalty, Fascism understands and values the Church and its strength: such is the duty of every Catholic citizen. But politics, the defense of national interests, the battles over ourselves and others, must be the work of the modern Fascist Italians who want to see the immortal and irreplaceable Church of Saint Peter respected, and do not wish ever to confound themselves with any political force which has no disclosed outline and knows no patriotism. Whatever the errors of its representatives may be, nobody thinks of taking away from the Church its universal character, but everybody is right in complaining about certain disavowals of some Italian Catholics, and may justly resent political approval of certain middle-European currents, upon which Italy places even now her most ample reservations. Faith in Italy has been strengthened. Fascism gives impulse and vigor to the religion of the country. But it will never be able for any reason to renounce the sovereign rights of the state and of the functions of the state.

En Route

Some readers of my autobiographic record may attribute to these pages of mine the character of a completed life story. If they have believed that story completed they are mistaken. It is absurd to believe that one can conclude a life of battles at the age of forty-five.

Detailed memoirs of intimate and personal character are the attributes of old age and the chimney-corner. I have no intention of writing any "memoirs." They only represent the consciousness of a definitely completed cycle. They do not appear of much importance to a man who is in the most vigorous ardor of his activities!

I was the leader of the revolution and chief of the government at thirty-nine. Not only have I not finished my job, but I often feel that I have not even begun it.

The better part comes toward me. I go toward it at this moment. But I take pride in affirming that I have laid solid foundations for the building of Fascism. Many ask me what my policy in the future will be, and where my final objective lies.

My answers are here. I ask nothing for myself, nor for mine: no material goods, no honors, no testimonials, no resolutions of approval which presume to consecrate me to History. My objective is simple: I want to make Italy great, respected, and feared: I want to render my nation worthy of her noble and ancient traditions. I want to accelerate her evolution toward the highest forms of national co-operation: I want to make a greater prosperity forever possible for the whole people. I want to create a political organization to express, to guarantee, and to safeguard our development. I am tireless in my wish to see newly born and newly reborn Italians. With all my strength, with all my energies, without pause, without interruption, I want to bring to them their fullest opportunities. I do not lose sight of the experience of other peoples, but I build with elements of our own and in harmony with our own possibilities, with our traditions, and with the energy of the Italian people. I have made a profound study of the interests, the aspirations and the tendencies of our masses. I push on toward better forces of life and progress. I weigh them, I launch them, I guide them. I desire our nation to conquer again, with Fascist vigor, some decades or perhaps a century of lost history. Our garrison is the party, which has demonstrated its irreplaceable strength. I have trust in young people. Their spiritual and material life is guided by attentive, quick minds and by ardent hearts. I do not reject advice even from opponents whenever they are honest. I cover with my contempt dishonest and lying opponents, slanderers, deniers of the country and every one who drowns

every sense of dignity, every sentiment of national and human solidarity in the filthy cesspool of low grudges. Defeated ones who cluck to the wind, survivors of a building which has toppled forever, accomplices in the ruin and shame into which the country was to have been dragged, sometimes do not even have the dignity of silence.

I am strict with my most faithful followers. I always intervene where excesses and intemperance are revealed. I am near to the heart of the masses and listen to its beats. I read its aspiration and interests. I know the virtue of the race. I probe it in its purity and soundness. I will fight vice and degeneracy and will put them down. The so-called "Liberal institutions" created at other times because of a fallacious appearance of protection are destroyed and divested of their phrases and false idealisms by the new force of Fascism with its idealism planted on realities.

Air and light, strength and energy, shine and vibrate in the infinite sky of Italy! The loftiest civic and national vision to-day leads this people to its goal, this people which is living in its great new springtime. It animates my long labors. I am forty-five and I feel the vigor of my work and my thought. I have annihilated in myself all self-interest: I, like the most devoted of citizens, place upon myself and on every beat of my heart, service to the Italian people. I proclaim myself their servant. I feel that all Italians understand and love me; I know that only he is loved who leads without weakness, without deviation, and with disinterestedness and full faith.

Therefore, going over what I have already done I know that Fascism, being a creation of the Italian race, has met and will meet historical necessities, and so, unconquerable, is destined to make an indelible impression on the twentieth century of history.

Hitler: Race over State

The writings of Hitler, like those of Mussolini, do not gain a place in this book by any innate quality they possess. Neither man was capable of sustained intellectual activity. There is a rave quality about their writings that is more a product of hysteria than thought. Nevertheless, the fact that their writings and actions appealed to as many people as they did is a sufficient commentary on a social illness with deep-rooted causes. This does entitle Hitler to a place. From the brief excerpt from MEIN KAMPF *that follows may be gained some idea of Hitler's political thought.*[1]

[THE NAZI VIEW OF THE STATE]

Thus the presumption for the existence of a higher humanity is not the State, but the nationality which possesses the essential ability.

This ability will always be present in principle, and it has only to be aroused to practical materialization by definite external conditions. Nations, or rather races, which are culturally and creatively talented harbor in themselves these useful qualities, even if for the moment unfavorable external conditions do not permit a materialization of these latent tendencies. Therefore it is also an unbe-

[1] From *Mein Kampf*, by Adolf Hitler, translated by Ralph Manheim. Published by Houghton Mifflin Company, Boston, 1939. Vol. II, pp. 593 ff.

lievable offense to portray the Germans of the pre Christian era as 'cultureless,' as barbarians This they never were Only the harshness of their Nordic home forced them into circumstances which prevented a development of their creative energies If without any classical civilization, they had come to the more favorable areas of the South and if, from the material of the inferior nations, they had received the preliminary technical means then the culture forming abilities slumbering in them would have grown into most radiant bloom exactly as was the case, for example, with the Hellenes But this culture creating primeval force itself has its source not only in their Nordic climate The Laplander, brought to the South, would have just as little a culture creating effect as the Eskimo No, it is just the Aryan who is endowed with this glorious, creatively active ability, no matter whether he harbors it in a latent condition or whether he presents it to an awakening life, depending on whether favorable circumstances permit this or inhospitable Nature prevents it

From this results the following conclusion

The State is a means to an end Its end is the preservation and the promotion of a community of physically and psychically equal living beings This very preservation comprises first the racial stock and thereby it permits the free development of all the forces slumbering in this race Again and again a part of them will primarily serve the preservation of the physical life and only another part will serve the promotion of a further mental development But actually the one always creates the presumption for the other

States that do not serve this purpose are faulty specimens, even miscarriages. The fact of their existence makes as little difference as perhaps the success of a filibuster community is able to justify robbery.

We National Socialists, as the protagonists of a new view of life, must never stand on the famous 'ground—and false at that—of facts' In this case we would no longer be the fighters for a new great idea, but the coolies of the present lie We must sharply distinguish between the State as a vessel and the race as the content This vessel has meaning only if it is able to preserve and to protect the contents, in the reverse case it is useless

Thus the highest purpose of the folkish State is the care for the preservation of those racial primal elements which, supplying culture, create the beauty and dignity of a higher humanity We, as Aryans, are therefore able to imagine a State only to be the living organism of a nationality which not only safeguards the preservation of that nationality, but which, by a further training of its spiritual and ideal abilities, leads it to the highest freedom

What today one tries to force upon us as a State is mostly only the product of deepest human aberration with untold misery as a consequence

We National Socialists know that with this opinion we stand as revolutionaries in the world of today, and that we are branded as such But our thinking and acting must not be determined by the applause or the rejection of our time, but by the binding obligation to a truth which we have realized Then we may be convinced that the higher insight of posterity will not only understand but also affirm and ennoble our procedure of today

From this results, for us National Socialists, the measure for the evaluation of a State This value will be a relative one from the viewpoint of the individual nationality, an absolute one from that of mankind itself That means, in other words

The quality of a State cannot be evaluated according to the cultural height or the significance of power of this State in the frame of the rest of the world, but exclusively according to the degree of the quality of this institution with regard to the nationality involved in that particular case.

A State can be called a model if it answers not only to the living conditions of the nationality it represents, but if it practically keeps this nationality alive by its very existence—no matter what general cultural importance is due to this State formation in the frame of the rest of the world. For the task of a State is not to create abilities, but only to make the road free for those forces that exist. *Therefore, reversely, a State can be called bad if, with all cultural height, it consecrates the bearer of this culture in its composition to doom.* For through this it practically destroys the presumption for the continuation of this culture, which it has not created, but which is the fruit of a culture-creating nation, safeguarded by the living integration through the State. The State, thus, does not represent a content, but a form. *Therefore, the actual, momentary cultural height of a people is not the scale for measuring the quality of the State* in which it lives....

FOURTEEN

The Democratic Constitutional State

WHAT IS THE PLACE OF THE ABSOLUTE in ethics and politics? Any absolute has to be grounded on the absolute in metaphysics, because it must be related to the nature of ultimate reality. This is the puzzle that has wrecked almost every political philosophy. Either the philosophy has fallen into absolute relativism (positivism, logical positivism, anarchism) or it has seized the other horn of the dilemma and insisted upon absolutes that lead toward totalitarianism (Plato, Hegel, Marx, and so forth).

A test case can be shown in the analysis of Marxism, which has contradictory absolutes deeply imbedded in its system: On the one hand, it has the absolute of the "world process" under the determinism of economic materialism. Such a determinism has no room for any variety of freedom or any ethical values related to human personality. Human beings are precisely like the rest of the order of nature—the puppets of mechanical law. In the Sophists and Hobbes, men are also the sports of chance.

On the other hand, Marx's whole system unconsciously rests on implicit assumptions of freedom and equality as absolute values. It is only to achieve freedom and equality in the ultimate period of the withering away of the state that the whole deterministic dialectic is inverted on bald assumptions, self-contradictory in their essence. Absolute freedom is to be won by going through absolute determinism, including the dictatorship of the proletariat and the class struggle. These determined elements of the dialectic are mechanical, produced entirely by the conditions of production as the prime materialistic factor in the world process.

This self-contradictory aspect of Marx has often been remarked, but the contrary assumption of democratic theory as to the place of freedom in the world process should be put in its simplest terms to be made completely clear:

I. The world process, if it is to contain freedom for human beings, is a perpetually creative process, mutually adjusting human beings to the

environment and the environment to human beings, *in the light of values that human beings themselves both discover and project voluntarily.* They *discover* these values because they cannot alter the basic conditions of the universe and its laws by any act of human will. At the same time, they can adjust themselves and alter many aspects of their external environment by the rational, free attention which holds together past experiences, systematizes their effects, and creates a value pattern in terms of man's own logic and his inner will to strive for a greater perfection of understanding and of rational action.

A voluntaristic element in the world process forever destroys the rigid determinism that Marx and others assume to govern the entire evolution of human institutions. Classes are created by man's sense of shared values and not by the rigid determinism of an economic process. An appeal to history seems to demonstrate that there has never been and never will be any such simple class structure as Marx has to produce by his Procrustean determinism. The conditions of economic production help to shape the alignments of human society, without any question. They do not make skilled laborers, professional people, technicians, and administrators (who are a part of any process of production) feel like Marxian proletarians. Nor do they prevent unskilled laborers from sharing many other values in a complex industrial society with others who are not laborers of their type or purely technical grouping. Workers of all sorts divide among themselves on religious, or national, or other lines of deeper community than economic function.

Once this insight has been achieved, no student of history can follow the blind lead of Marxian mythology or any other determinism. One of Alfred North Whitehead's greatest contributions was that he showed in many of his works the creative process of reality and the human rôle therein. If one accepts therefore the Marxian ends, the ethical absolutes of freedom and equality, one would have to repudiate at the outset the whole pseudo-scientific apparatus of his dialectical materialism and the class struggle as means. They are completely exclusive and self-contradictory.

But what about the absolutes of democracy? Can there be any?

II. Freedom has sometimes been stated to be the only absolute of democracy because it is grounded upon the most direct and fundamental insight that human beings have into their own experience. The right to choose between alternatives, to learn from experience, and to avoid a mechanical repetition of past errors, to project a system of values into future experience by shaping institutions to that end—all these characterize the "creative" view of the world process. That process cannot be

thought of as rolling out a mechanically pre-written scroll. It is made up of the infinite choices of human beings within the context of physical necessity, but reacting upon necessity and past history through scientific invention and political creativeness.

The one condition, therefore, of all fruitful human development is self-development toward moral responsibility. This does imply the autonomy of the ethical activity of individuals and with it the ultimacy of all real moral personality. That is an ethical absolute, as a *principle,* because it is the *necessary condition* of any real ethics at all.

Moral personality cannot be forced on those who are incapable of exercising responsibility. Mankind cannot be forced to be free, either by political mechanics (Rousseau) or by economic determinism (Marx). Cretins, criminals, or habitual and perhaps psychopathic characters, people too primitive or ill-endowed to exercise the rights of citizenship in a complex society, children of immature years, cannot be treated as having full moral responsibility—though all but the hopelessly stunted or individually blasted natures may be aimed in this direction and may in time achieve moral responsibility. This is the insight that led Kant to put moral personality as an ultimate for any ethical system. It is strengthened and universalized by the Christian concept of *"agape"* (love) and the sonship of man to a divine principle which implies potentially a universal brotherhood of all men.

But to state the right to freedom as the sole moral absolute, without stating its necessary corollary of duties, would leave democracy on the level of pure anarchy.

What is the possibility of a common moral consensus among free men and how is a morally binding *community* to be achieved?

According to a deterministic interpretation, community can only be achieved by a mechanical process. It would become absolute in a class, a nation, or some arbitrary unit that would sum up the mechanics of world process. It is obvious that all such efforts to destroy the voluntary basis of community destroy both freedom and the possibility of any truly moral community. Nor could true community ever emerge: There is no reason to expect the dictatorship of the proletariat ever to produce freedom as its "antithesis," rather than its usual historical antithesis of dictatorship of some other character—fascist or mere oligarchy.

How then can free men create a free community?

Again Kant's insight into the nature of moral law based upon rationality and a good will offers the beginnings of a solution. The essence of rational choice among human beings is the acceptance by reason of common elements in human experience and the derivation of common values from them. A structure of science to deal with man's environment is the

first witness of this rational process and its characteristics. But not less impressive is the structure of common institutions that human experience produces on a commonly accepted basis, in which the dialectic is one of persuasion and of testing out results through common counsel. It was in this sense that Kant spoke of the two greatest experiences of humanity—the starry heavens without (science in relation to the external world), and the moral law within.

Atomistic individualism (either of Locke's natural rights or of utilitarianism) can never achieve a philosophy beyond that of absolute *rights*. It has characteristically assumed either the possibility of pure anarchy or the utilitarian resolution of all differences of interest through some mechanical harmony like that of the division of labor, the free market, and the like. But actual moral consensus rests on a fundamental prerequisite to "work out" any real moral agreement which will subsume individual differences. It must be based upon a *good will*—that is a willingness to examine the relation of one's own immediate and uncriticized interest both in the light of a rational structure of values, and in a willingness to subsume these values in the largest sense under the divine principle of the universe (God's will), as far as it can be humanly determined, and under the needs of other like wills to achieve a shared community.

Religion has always insisted upon the primacy of God's will, with all the resultant problem of the relations of Church to State—if God's will is to be made absolute by dogma and its hierarchical interpretation.

Rousseau may represent the claims for the primacy of the civic community by his assertion of the absolute character of the political "General Will." Logically, this general will carries with it the moral primacy of a civic religion. This is *étatisme* and begets state totalitarianism.

Kant attempted the most fruitful reconciliation of individual freedom with the moral claims of both religion and state as communities. He pointed to Rousseau's fundamental insight that the general will could only exist through "asking the right question" of oneself, and showed that this was the true condition of the *good will*. Nor was there any contradiction between the moral dictates of the "right question"—namely, "Is my action willed for the good of humanity?" and the true claims of religion—"to love one's neighbor as one's self." Can my action be universalized in relation to ethical and political activity? Is this not also religious morality? Only through the assumption of a divine will would the human will be "good"—i.e., aimed at perfection. And only through an endless process of education of that will (immortality) could the imperfect process be related to the ideal of perfection. Christian doctrine makes this personal immortality; evolutionary science thinks of racial continuity and development in a world of time.

Kant's profound insight on this point must serve as the basis for all constitutional democracy It is impossible to have freedom without conceding it to others, and without the humility of spirit that accepts the need for common action and a common search for the good

This, in the shortest possible way, summarizes the very basis of constitutional morality and the necessary behavior of free men in truly democratic societies It is a spiritual faith deeply grounded in actual experience and proved in the ability to reach common solutions wherever this willingness is maintained The absolute value of freedom, therefore, requires an absolute corollary of respect for the freedom of others and a desire to achieve through common action the growth and protection of all human development toward responsible freedom It seeks for a common ground through agreement rather than by the imposition of a false unity through force It denies the validity of any absolute imposed by force, and as the condition of its very life must maintain channels for free agreement It cannot force men to be free, but it must not allow them to be enslaved—by treachery from within or attack from without

Problems of the Constitutional and Democratic State

A restatement of the case for constitutional democracy demands that we reconsider the values which democracy represents in our own time This step requires first of all that these ethical and purposive objectives ("ideals") be reconciled with the possibilities shown by a scientifically objective analysis of the setting of modern democracy Political theory, we have seen, must always gear its ethical ideals into the actual institutions of the time and into real human nature

It is therefore worthwhile at the outset to approach the analysis of the scientific factors, the ascertainable facts, before undertaking the restatement of the moral position (values) One may list as bearing on the success of democracy three major problems which require restatement to fit the context of our times

I The contributions which *modern psychology and philosophy* have made between them to a *more thorough understanding of human nature* and *its political possibilities* This involves a study of the *so called scientific method applied to politics,* particularly to the understanding of *group life in relation to government*

II. The *nature of institutional democracy* and *its relation to planning in the economic sphere.*

(a) *Is democracy necessarily pluralistic?*

(b) *How much planning of the national economy is necessary for any modern industrial state?*

(c) *Is such planning compatible with democratic mechanisms (represen-*

tation) and values? What bearing have the operations of pressure groups on the protection of constitutional rights and on realizing a program of public interest?

III. The ethical basis of the *struggle between democracy and totalitarianism in its bearing on international relations:* The question of how *national security* and, indeed, *national survival* affect *democratic mechanisms* bears directly on the nature and prospects of this struggle.

The questions that have to be answered on this count may be conveniently focused on two points:

(a) Can a world order capable of controlling not only atomic energy but also the resort to war by individual states be grounded on democratic consent?

(b) What type of world organization is compatible with the existence of the democratic and constitutional state?

Let us examine what modern political thinking along lines that profess to be scientific can contribute to these "organic" factors in the setting of a democratic doctrine of "constitutionalism."

I. Sciences and Politics

The method that we have been following to date has been to examine the development of the political ideas of typical and important thinkers in their institutional setting, making the effort to analyze how moral values in human society have been shaped by and have, in turn, reshaped the organic context within which each type of society has evolved. For example, it was clear that the Greek city state not only limited the range of political thinking and gave it a focus upon the intense and self-sufficient life of the city state (*polis*), but that, in turn, the wide-ranging philosophical insight and moral ideas of Plato and Aristotle, our exemplars, have tended to shape all subsequent examinations and many of the institutional forms of politics. Symbols and myths are as much a part of the true study of political institutions as is the scientific study of factors such as weapons, methods of warfare, economic institutions, the environmental setting, and the traditional matrix of social institutions which any given period inherits from the past. Both sides of the problem, the symbols and the organic factors, are capable of being treated by an analysis that can be called "scientific," in the sense that the study aims at as complete and as objective an understanding of all the factors involved as is possible. Religion itself may be studied in this way as part of the historical process, though that is not to say that science can plumb the true nature of religious values or the mystic experience of goodness or of God.

Yet it is clear that no matter how detached and objective the student of politics attempts to be in this realm of description and analysis; no

matter how carefully he strives to follow the "scientific" method applied alike by Aristotle (parts of the *Politics*), Machiavelli, and Francis Bacon, any attempt at expressing the value system which one chooses to live by reaches over into the realm of moral philosophy. The methods of the physical sciences are not applicable to this effort. They can test the *working* of values, but not their ultimate nature in the moral conscience. In the last analysis, humanism and the scientific method between them do not supply the *real grounds* on which ultimate moral values rest.[1] In effect, the greatest moral values that humanity has cherished have been religious in character, depending upon the revelation of the highest spiritual insights into the divine order that are possible for humanity. However, it is true that the coherence and validity of these values, in turn, have been subjected to the testing of experience and to rational criticism, and that in this latter step, science plays a necessary part.

Let us for the moment, however, leave to one side the problem of value on which democratic ideals rest and consider what help we may get from the scientific analysis of those factors in the statement of political behavior in modern times which were outlined above.

We have seen in the study of past politics how great a rôle scientific conceptions of the nature of the universe and the laws which govern it have played in shaping political doctrines. The earliest Greek philosophers were attempting to explain the universe in terms of physical properties and physical laws. In the last chapter, we saw the materialism of the Greek atomistic materialists reflecting itself in the whole approach of Marx to the causal forces of an industrial society and, through that analysis, to politics. The whole idea of gravitational pulls and checks and balances, first obscurely realized in the early scientific speculations of the Greeks, especially the Atomists,' and eventually reduced to a system by Sir Isaac Newton, had the most profound effect on political dogmas for achieving stable societies, including the formation of the American Constitution.[2] The nineteenth century produced not only a great extension of the realm conquered by the physical sciences, but also the doctrines of biological and human evolution (Darwinism) and the beginnings of an effort at a rationalized system of psychology.

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[1] See Lawrence Hyde, *The Learned Knife* and *The Prospects of Humanism*, for a searching analysis of the limits of the social sciences and of humanism in this respect. The proposition that science cannot supply those values would be accepted by Erich Fromm (*Escape from Freedom, Man for Himself*) but not that humanism cannot. See also Popper, *The Open Society and its Enemies*, and F. S. C. Northrop, *The Logic of the Sciences and the Humanities*.

[2] See, e.g., Carl Becker, *The Declaration of Independence*, on the influence of Newtonian physics and G. Salvemini, 'Political Ideas of the Eighteenth Century,' in *The Constitution Reconsidered*.

"Scientific" Positivism

Psychology *as a scientific study* is the novelty, not the philosophy of psychology; efforts to explain the workings of the human mind fill many of Plato's dialogues and have occupied philosophy ever since. Machiavelli and Hobbes had developed views as to what made men "tick." An analysis of "the springs of human action" underlies Marx no less than Bentham, though it may be less explicitly stated, and is overlaid by the ponderous disguise of the materialistic and economic interpretation of history and dialectics. The associationist (sensationalist) psychology based on perception (of sensations) which Hume had developed from Locke gave to English thinking as a whole its decidedly empiricist flavor, already nascent in Francis Bacon. The method of experimentation and of accenting inductive reasoning was natural to such a psychological attitude and reflected itself in philosophy. But psychology *as a separate scientific and partly experimental method* begins with the new attitude of *positivism.* For positivism aims at explaining all human conduct in terms of scientific laws, removing all final causes and metaphysical grounds for what today is called a "behaviorist" approach.

The positivism that in modern times has been associated with the name of Auguste Comte no doubt had very ancient roots, many of them going back to the Sophists themselves. But the assertion of the adequacy of human nature to erect a purely scientific guide carried rationalism beyond the limits of the Sophists and perhaps further than the intention of the Stoics as well. Comte's contempt for metaphysics was exceeded only by his conviction that all the religions were grounded upon superstitions unworthy of the scientific age. His three stages of humanity show what he thought to be a logical development of civilized progress from the primitive animistic or "religious" stage through the metaphysical stage on to the positivistic or scientific stage, where man found an answer to all the questions of existence through applying the methods which had gained such prestige in the physical sciences. It followed that the true modern philosopher (the scientist), by understanding the laws of human society, could erect a system, rational and self-completing, without the aid of either metaphysical speculation or of religious value. This led naturally to an *élite* of scientists as the ruling class.[3]

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[3] Professor Catlin in his *Story of the Political Philosophers* notes (p. 746) that in Comte's *Essays,* for example, in his "Plan of the Scientific Operations necessary for Reorganizing Society," (1820), Comte complains that the "...anarchical state of intellect, when erected into a fundamental principle, is a manifest obstacle to the Reorganization of Society.... The 'Sovereignty of the People' tends to dismember the body politic by placing power in the least capable hands.... In Astronomy, Physics, Chemistry, and Physiology there is no such thing as liberty of conscience." It follows that the "Scien-

It may seem oddly ironical that the great founder of positivism should have allowed religion its revenge by proposing as the outcome of his speculation the erection of a new "*religion of humanity*." But this new *religion* took on a different sense for Comte, as it did (without open acknowledgment) for Marx. Comte wished to achieve the moral overtones and loyalties and the discipline of religious faith without an appeal to other-worldly values or to any of the beliefs that he would have regarded as the "myths" of theism. Marx, too, who had called religion "the opiate of the people," himself came to erect a sort of human religion of "the final communism" by way of compensation. Critics of both Comte [4] and Marx have felt that the religious ends of their systems stated in terms of purely worldly and human values, were just as much adventures of myth-making as any religion. Though their own "scientific" religions were deprived of many of the spiritual values which reliance upon a divine order superior to human will affords, they were intended to serve many of the purposes of religion, perhaps even the sedative value that was attributed to it by Marxists in the famous phrase noted above, for religions have been known to serve that end.

It is hardly too much to say that the prevailing temper and method in most of the modern social sciences after about 1850 was not only *scientific* in its effort to work out laws comparable to those of physics, but was *positivistic* in the Comtean tradition of denying the need for any values outside these systems. It became, under the impact of Darwinism, less and less mechanistic in tone, however, and more empiricist and geneticist (historical method of Savigny *et al.*).

It is beyond the scope of this inquiry to attempt to trace the ramifications of Comte's principle and method in the enormous and jargon-confused range of sociological studies or of the kindred discipline of cultural anthropology.[5] Both have produced remarkably little scientific, i.e. predictable, results as real fruit, after all their promises and academic fanfare. But cultural anthropology at least is soundly grounded on attempts to understand the total cultures of societies. So long as it does not make the mistake of explaining the more complex modern societies always in terms of primitivism, it is both a valid discipline and a useful key to aspects of universal features of human nature. When it attempts to

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tific Class in our day possess the two fundamental elements of spiritual Government, Capacity and Authority in matters of Theory."

[4] See, e.g., J. S. Mills' comments on Comte in his *Autobiography* and in *August Comte and Positivism* (1865), in which he calls the scheme for a scientific society the "Completest system of spiritual and temporal despotism which ever yet emanated from a human brain."

[5] See W. R. Dennes, *Method and Presuppositions of Group Psychology;* and Edward Shils, *Present State of American Sociology*, for general analyses.

oversimplify even primitive man, however, it runs the risk of distorting truth in the interests of so called scientific method

The study of human nature in the realm where it has always had its greatest importance for politics, namely, psychology as the study of man's behavior, requires that some attention be given to the development of modern systems of psychology and their effect on politics. There the results of ways of thought have manifestly affected political philosophy and all philosophy.

"Sociological" Psychology and Politics

In a broad sense, psychology as "sociological psychology" might well be extended to include the writings of thinkers like Mosca, Pareto, and others who have attempted to work out an *elitist* theory or a theory of the political ruling class, as well as to the "sociology of knowledge" school of Mannheim and his followers Let us take the sociological school of *élitists* first

Pareto, who began his career as an engineer and mathematician, and who then extended his studies into economics and eventually into a general sociology,[6] has had a very great vogue among those who are searching for an explanation of human behavior that will fit the observable facts of politics[7] His emphasis on the persisting "residues" that he felt were present in all human society, and on extracting from these permanent factors of human nature the "derivations," from which institutional differences of society arose, afforded a spurious appearance of scientific analysis[8] He goes back to Machiavelli for a description of human leaders

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[6] See his *Treatise of General Sociology* (1916) for his most extensive effort to show the non logical factors in human conduct and to show up the 'false" rationalizations of the idealistic interpretations of human action along with the doctrines of automatic progress

[7] For the influence of G Sorel on Pareto see W Y Elliott, *Pragmatic Revolt in Politics*, chapter on Sorel and the Myth of the General Strike"

[8] Accepted at face value by L J Henderson, the late Harvard biochemist and amateur on sociology in his commentary on Pareto and by numerous local disciples of Henderson Professor Henderson like others, however found difficulty in applying the test of results to Pareto "What concrete techniques for advancing either the working knowledge of actual societies or the means of social control did Pareto produce?" The answer is still wanting

The Elton Mayo—Roethlisberger—T N Whitehead group of explorers into the field of industrial management and relations at the Harvard Business School profess to find that their studies of adjustment and manipulation of workers through a combination of diathetic techniques which lean heavily on psychiatric interviews result in conclusions that bear out Pareto But two factors should be noted (a) the area of worker adjustment in production is limited, though undoubtedly useful, in the scope of its use to the area outside real conflict of interest between employer and employee organizations, (b) the breadth of Pareto's schemata of *residues* and *derivations* can catch anything, but really holds little or nothing in its wide meshes MacDougall's *instincts*, in his *Social Psychology*, would have applied just as well, or as ill

in terms of "lions and foxes," giving appropriate animal characteristics to each. From this he concludes that societies are always ruled by the types of leaders which fit their "residues." It is small wonder that fascism, by a little twisting of texts and suppression of the historical emphasis, found in Pareto a ready-made apologist for its own idea of "the leadership principle" and of its own application of his notions of the *élite* and the ruling class.

Mosca himself, in the latest revision of his ideas, attempted to avoid the application of his doctrines to fascism by pointing out that the ruling class must be able to recruit itself continuously and that it must represent a broader segment of the society than merely the rulers themselves. He does not call for a one-party system or the other trappings of totalitarianism. Indeed, it will be obvious from the later treatment of the "leader principle" by Freudian psychology that Mosca and Pareto do not offer a theory that is completely fashioned for totalitarianism. They were attacking the materialistic determinism of Marx's followers by showing that *every* society produces a ruling class, and not simply through the jejune operation of so-called "economic" causality. They joined forces with the anti-rationalist explanations of social action produced by the followers of Freud, but they did not lay the ground for an absolute dependence of a crippled society on absolute leaders. The "circulation of *élites*," according to Pareto, demands that the rulers be successful in manipulating their followers. They must give the people, who are never merely passive, what the people want, and, in that sense, endeavor to win consent. Clever manipulators will vie with each other to gain popular support.

Mosca carries this competition among aspiring leaders a stage further by assuming a perpetual competition of *élites* for support, by which the true ruling class is forced to broaden its base. Robert Michels, following the broad lines of Ostrogorski's earlier analysis, stresses the *oligarchical* nature of all political leadership, as much among democratic bosses of party machines as in franker oligarchies.

But all this *élitist* theory, which comes to little more than the emphasis placed by Aristotle on the "political class" or "ruling class" (*το πολίτευμα*) which possessed *το κύριον* (the supreme power) as the distinguishing mark of types of states, leaves room for a competition of *élites*. *Élitism* of this school does not mean the authoritarian assertion that there can and should be only *one* type of *élite*, embodied in a *one*-party system, and supported by terror and repression of all opposition. Mosca, indeed, clearly indicates that competition among *élites* is the healthy condition for maintaining an *élite* capable of meeting the requirements for a ruling class—notably broad support. None of them, however, adequately stresses

the need for the ruling political class to meet the external competition with ruling classes of other states, on which the survival of their own system must depend. Machiavelli, the inspirer of these Italians, never forgot the external competition.

These systems of general political sociology, although they are grounded on an emphasis on the *non*-rational factors of human behavior and, consequently, offer a primarily *psychological* approach to political manipulation, do not attempt to do justice to the nature of the myths that are used by the manipulators. Does the ruling class *create* the social myth which it relies on for legitimacy? Pareto, indeed, insists on some connection with his residues. But he does not in any case *explain* the differences in myths or their real driving force, or what part popular acceptance or rejection plays. His method is also quite *unhistorical* in its lack of relation of the ruling class, the myth, or the residues, to the particular historical setting. His criticism of intellectualistic reasoning is useful, but still his own intellectual construction is a work of reason—and not a very coherent or compelling one.

Much of the principle of hierarchy which Auguste Comte stressed for his priestly rulers of society, present in any *élitist* philosophy, has been a part of political thought from the time of Plato on. Its reappearance in the Italian school merely emphasizes once more the factors of human nature stressed by Machiavelli.

How much foundation does a scientific study of human nature afford for a philosophy of the "leader principle" supported by a hierarchical ruling class?

"Scientific" Psychology and its Political Implications

The study of so-called "scientific" psychology may be divided into three main schools which have commanded widespread attention and have had applications to social psychology. The first broad school of psychology that attained scientific pretensions operated in a positivist atmosphere but was generally distinguished by an experimental method. This empiricist psychology, of which William James was a prophet in the United States and L. T. Hobhouse a pioneer in England, followed the method of studying behavior in terms of interpreting actual experiences. Hobhouse and others turned to experiments upon animals and, in some measure, on human beings. Pavlov, in Russia, developed the method to a really scientific discipline, rather strictly limited to neural reflexes and their stimuli. A great deal of genuine insight resulted from the connection between neurology and psychology, which produced the effort to determine what types of actions might be called reflexes and what types were more in the nature of adjustments through trial and error that

involved an active thinking process. The "conditioning" factors in habits were thus much better understood. One sub-school of empiricism, in the interpretation of its experiments, ruled out consciousness as playing any direct part and, in effect, attempted to reduce human as well as animal reactions to a series of reflexes and their conditioning by organic needs and environmental factors. This school can be called, for purposes of identification, "Behaviorism." In the hands of Dr. Watson, it led to involved efforts to interpret all human conduct in terms of mechanical adjustments. Rats in a maze were to give the clues for studying human conduct.

This was a view of the nature of psychology quite contrary to that of the scientific experimenters like Hobhouse, who in his masterly work on *Development and Purpose* retained a rôle not only for the rational direction of conduct, but also for the purposive moral factor in human behavior. Experimental psychology was a necessary tool for the understanding of reflexes and the mechanical sides of human responses to stimuli and the sensory world. But it did not explain the realm of human action governed by complex ideas, nor did it explain the growth of values.

Psychoanalysis and Politics

The impact of the analysis of motives, however, was given a much more profound reorientation through the emphasis placed by a second psychological school upon the rôle of the unconscious or the subconscious and the irrational factors in human conduct. This was the psychoanalytical school, whose founder was undoubtedly Freud.

The philosophers Schopenhauer (*Die Welt als Wille und Vorstellung*) and von Hartmann had already explored the great rôle that the unconscious plays in the process of human thought and in carrying the heritage of the race. Freud's emphasis on the drives and mechanisms which he connected in his earlier writings almost entirely with sex impulses was broadened by other schools of psychoanalytical treatment, such as Adler's, into an emphasis on the feelings of inferiority and insecurity in human personality arising from fear and vanity and the protective mechanisms that these developed. Jung added still other factors, including the "racial unconscious" of a somewhat mysterious (if not mystic) character, to the Freudian apparatus.

An extremely significant contribution to the study of the effect not only of repressions but also of any other psychological twists in the human personality was made by these schools. The study of the conflict between the blind aggressive drive of the *Id*, as Freud called it, and the compensatory activity of the *Ego* created a whole technique of eliciting from the neurotic personalities of patients an insight into the unconscious motiva-

tion which really governed their actions and took rationalized forms of quite different character. Not only by the interpretation of dreams, but also by the drawing out of psychosomatic experiences (chiefly sexual) and invoking the recapture of the uncontrolled flow of association of ideas and memories, particularly of early childhood, these schools attempted to free the individual of suppressed factors of unconscious experience which were disrupting the adjustments of the individual to a normal environment. Guilt sense from the Oedipus complex, for Freud, produced morality. His early analyses rested on the assumption that hysterical personalities had always some connection with an actual sexual shock in childhood. His latest efforts were to trace all human actions back to two "instincts—life and death." The whole emphasis of psychiatry of this order was, in general, to adjust the individual to his environment, the given environment, rather than to change the environment, and so to free him of his guilt sense. The natural result was to discredit the rational control on which Plato and Aristotle had laid such emphasis—(*enkrateia*) or self control. The unconscious motives were set forth as the dominant part of human character. Earlier psychiatry tended to deplore "repressions," in characteristic popular language: "Let yourself go!" Later clinical analyses, less bold in theoretical assumptions, reinstated conscious reason as master, attempting to understand the drives and mechanisms in order better to achieve a "clarification" and control. Still others, like Karen Horney (*The Neurotic Personality of Our Times*) look to sweeping environmental controls to remove basic feelings of insecurity, with a reasoning not unlike that of Hobbes.

On this basis of the earlier and more ambitious type of theory, based on Freud's analysis, most leaders and a great part of political action could be interpreted in terms of obsessive thinking. Lincoln, for example, emerges in Professor Harold Lasswell's study [9] as the victim of an obsessive mother-complex whose actions can all be interpreted by the psychoanalyst and traced back to a twisted and obsessive personality. It never seems to occur to this school of thought that precisely what is not explained is the nature of Lincoln as a great and enduring leader, whose steadfastness could unite a nation and whose humble and beautiful character could become the basis of a human as well as a national legend. The drives were probably present; though the clinical evidence is deduced from external behavior and inadequate data. But the significant thing was the form taken by their resolution, just as is the case in great art, which may be similarly run back to conflicts in the human personality.[10]

[9] For example, Harold Lasswell, *Psychopathology and Politics* and *Politics: Who Gets What, How and Why.*

[10] See Robert Graves, *Dreams and Poetry* and *On English Poetry.*

It is of great significance that Freud himself in some of his later writings returned to the origins of our study, the wisdom of Plato, for a more mature setting for his own theories of psychology. The Eros and the Psyche which Plato had made the subject of some of the most profound dialogues, the *Symposium* and the *Gorgias* and the *Meno*, offer a more real insight in the attachment of the soul to a divine beauty or to a *common* "first or highest love" as the basis of true friendship and the release of the imprisoned lower self. It is noteworthy that a mature and sophisticated psychologist like Fritz Künkel had already reached the basis of Christian or certainly Stoic ethics as the solution for the central plight of egocentricity in a series of well-documented studies abounding in clinical material as well as in philosophical insight.

What the psychiatrists and, in particular, the psychoanalysts generally pointed toward, however, was the dependence of lonely and crippled souls on a savior who represented the "transference" or the "contact person" for their sense of guilt and incompleteness and who thus became, in a literal sense, their master. Many an attempted psychoanalysis has left the subject in this crippled dependence on the analyst himself, without reaching the desired freedom through "clarification" and objectivity. The significance of this for mass neuroses seems clear: the "leader principle" offered a messianic solution for the psychically ill society in the person of a Führer or a Duce, a Lenin or a Stalin.

Mr. E. F. M. Durbin, in his interesting study of the *Politics of Democratic Socialism,* has tried to bring together the fruits of the study which he and Dr. Bowlby, a British practicing psychoanalyst, had already explored in their joint work, *Personal Aggressiveness and War.* The essence of this case, in the attempt to work out a balance between the causes of peaceful cooperation and the aggressive aspects of human character, deserves restatement:

Fundamentally, the psychoanalytical method has brought to light permanent drives in the human ego originating in the subconscious id that are very different from the analysis of human nature given, for instance, by Marx. These aggressive characteristics are rooted in the blind drives of the individual toward satisfactions of deep-seated desires for possessiveness, often oriented toward sex, but not exclusively aimed toward satisfaction of this relatively simple and primal desire. The studies which Dr. Zuckerman and others have made (for instance, *The Social Life of Monkeys and Apes*) can be supplemented by studies of child psychology, such as those made by Professor Susan Isaac in *Social Development of Young Children,* and by a considerable literature of social anthropology, in which the name of Malinowski is merely one example. Freud takes this line in *Civilization and Its Discontents,* though A. Kardiner and others,

in *The Psychological Frontiers of Society*, take a more restricted view of the nature of aggression as a primary driving force.

The counterpart of aggressive tendencies of the ego, primitive sociability, needs also to be recognized, though it need not be turned into the apotheosis that Prince Kropotkin made in his poetic studies of *Mutual Aid*. Modern psychologists like Fritz Künkel have adequately shown how this purposive side affords the true balancing factor in human relations in the escape from egocentricity. The French positivists, like Bentham himself, were forced to include in their "science of morals" what they called "sentiments of sociality" (for example, Durkheim and Duguit echoing Rousseau), which played much the same rôle as Bentham's "benevolence" in watering down egoism.

Religious vs. Scientific Approach to Human Experience

On the other hand, the religious approach to the reformation of character is essentially a reorientation in terms of "conversion" [11] from the blind will of the ego to a will informed and chastened by the understanding of divine principles, creating an attitude of prayer, rather than the imposition of human magic. The difference may be stated in another way by comparing the attitude of Christian or, for that matter, Buddhist or Taoist morality with the superman of Nietzsche or with Goethe's *Faust*. Faust, in one of the oldest human legends, sells his soul to the devil in order to reach the complete gratification (the pain-pleasure analysis that we have looked at before) of his human appetites. This is to impose man's will on his environment, as Adam attempted to do in the Garden of Eden allegory, by attempting through eating the fruit of the forbidden tree—the knowledge of good and evil—to become "as God." To command nature in terms of a magic formula is the next step in the revolt of Lucifer.

A great deal of science in its purely manipulative aspects runs the risk of attempting this magic solution, without the humility that characterizes the greatest scientific minds in their approach to the universe, the hem of whose mantle they may barely lift by any methods of the physical sciences—or any others, unless there be truth in the claims of the mystics to identification with the divine principle of the universe.

Primitive Animism and Freudian Analysis

But to return to the aggressive aspects of human nature, which do persist and must be canalized into other outlets if they are not to be destructive. Modern psychiatry finds that they, too, are directed through the primitive animism which attributes a simple causality to the malice

[11] See A. D. Nock, *Conversion*.

of neighboring or opposing groups, and makes scapegoats of them in situations where obviously these groups play only a minor part in the actual causes of evil. Marxists, for instance, attribute all evil to the capitalistic system or capitalistic class; whereas many capitalists, on their part, think that the world would be perfect if one could get rid of subversive movements and "socialist nonsense." Hitler's régime made a scapegoat of the Jews and of the "system" in a way quite paralleling the Soviet system, which fastened on "international capitalists" and the profit system. The Russians have variously found their enemies among internal groups like the Kulaks (the more well-to-do peasants) or the Trotskyites, and the "industrial" party. These groups are accordingly purged for alleged sabotage, in the manner described by Kravchenko.[12]

Almost any society in wartime tends to attribute all the ills of the world to its enemies and to root out ruthlessly similar tendencies within the warring nation. The Marxian effort to turn the entire world into a battleground for a civil war increases the intensity of this struggle, since it allows no possible compromise and accepts the logic of complete extirpation for all groups, except the embattled workers who follow the party line.

Literary Examples of the Modern Breakup of Individual Moral Responsibility

The combination of these two factors—individual aggression, which is deeply rooted in the nature of human life and is probably ground in by a long struggle for survival, and social and primitive animism, which finds "scapegoats" to explain all its difficulties in terms of a sort of personal devil—account for most of the explosive possibilities of human societies, at least to the satisfaction of the psychiatrist. As Eric Fromm has brought out in his interesting analysis of the *Escape from Freedom*,[13] the individual in modern society suffers an increased burden of a feeling of loneliness or alone-ness and insignificance in terms of the *Great Society*, as Graham Wallas has called it, with which he is surrounded. He is deluged by a rain of blows from all types of advertising and propaganda that attempt to "use" him. He feels conscious of his inability to protect his livelihood as a single individual. Fromm finds that the attraction of the individual to a hero like Mickey Mouse, or, for that matter, Charlie Chaplin, is a deep recognition of the lonely "little man's" likeness to these somewhat touching characters whose improbable escapes from the most potentially tragic situations give the individual a release in "a happy ending." The tre-

[12] See his *I Chose Freedom*.

[13] See also *Man for Himself* for an excellent critique of the limits of so-called scientific method as applied to social sciences and humanities.

mendous volume of escapist literature tends to bear out this analysis. A hero who struts the stage in a more epic guise may also serve. Communism, too, appealed to these lonely souls by its emphasis on a conspiratorial struggle to "free" humanity into a world of ultimate brotherhood.

For that matter the literature of the period between the two World Wars was in some ways a recognition and confirmation of the disintegration of the individual personality, whether through reducing it to the "stream of consciousness" that William James had first described and that James Joyce, Gertrude Stein, and Virginia Woolf followed in their works, or through feeling the futility and savage hopelessness that could at best face death with an uncompromising snarl and a clenched fist in the manner of the heroes of Hemingway, or perhaps with the trappings of the Existentialists of the school of Sartre, or through being pathetic and damned in the manner of Scott Fitzgerald, or through pursuing with the resigned but fascinated detachment the complete disintegration of a society and the individuals within it, in the manner of Proust. All these were ways of acknowledging the lack of an integrating belief or way of life. Briffault, the anthropologist, like most of the litterateurs of this disillusion, in his *Europa* and other works, tends to follow the *ignis fatuus* of Marxism in order to deliver humanity from the blind greed and egocentricity which he portrays in the sophisticated and perverse persons of his drama. Here, again, is expressed the hope that science will somehow find, as Marxism professes to, and following Hobbes' lead, the simple clue, the panacea for all human misery that will deliver human beings from the ignoble morass into which they have fallen. This attitude shows the psychological roots of Marxism that have been much more profoundly and subtly traced by Koestler in *The Yogi and the Commissar* and *Darkness at Noon*. It is of great significance that the most revealing and searching criticism of the inadequacy of the Marxian substitute for religion, which is precisely a parallel to the civic religion of August Comte, has come from the talented pens of disillusioned Marxists like Koestler; one has only to mention the names of Ignatio Silone, André Malraux, and Max Eastman, to document this assertion.

But on a far deeper analysis of the human plight, one may turn to the works of the theological philosopher, for example, Kierkegaard, who describes in most moving fashion the basic helplessness of the individual without the support of religion and divine guidance. Julien Benda, in his searching analysis of the failure of the intellectual in *La Trahison des Clercs*, leads up to the kind of description of this feeling, though he does not seek its solution in the same realm to which Julian Green has turned. In a memorable passage in *Personal Record 1928–1939*, Julian Green depicts the inner isolation of his contemporaries: "I knew that we counted

for little in comparison with the universe, I knew that we were nothing; but to be so immeasurably nothing seems in some way both to overwhelm and at the same time to reassure. Those figures, those dimensions, beyond the range of human thought, are utterly overpowering. Is there anything whatsoever to which we can cling? Amid that chaos of illusions into which we are cast headlong, there is one thing that stands out as true, and that is—Love. All the rest is nothingness, an empty void. We peer down into a huge dark abyss. And we are afraid." [14]

As Eric Fromm points out, this is the pervasive attitude in the most sensitive, if not the most intelligent, contemporary writers, of whom there are a dozen other examples, like Kafka, in his *The Castle,* or, for that matter, the writings of Dostoievski and Chekhov. They all lead to a search for a solution in terms of some sort of salvation—Dostoievski, for example, in a mystic Slav revival, which serves the Kremlin well for more exoteric uses today.

Religion in various forms offers a deep and abiding sense of security to those who are capable of finding this road. But to the masses of men surrounded by the new *hybris* (insolence against the Gods, to the Greeks) of scientific achievement in mastering time and space, the easier solution is to turn to a *personal* leader—a Duce, or a Führer, a Stalin or a Lenin. In the period in which the "mass man" has been offered as the description of our times and in which the great interpretations of history have laid little emphasis on the forces of individual leadership, but have depended rather on a materialistic interpretation of history, it is not without significance that there should, nevertheless, have appeared a galaxy of personal leaders unparalleled since perhaps the period centering in the thirteenth century. Men somewhat like those Greek worthies celebrated by Plutarch as great legislators and "founding fathers" of systems have appeared in our own times and have striven for supremacy in capturing the human soul. Despite their shattering failures, Hitler and Mussolini must remain large-scale figures on the canvas of our contemporary history. No one can deny stature of a parallel character to Lenin and Stalin, who are still successful by the test of survival of systems. Sun Yat Sen in China and Gandhi in India represent epic leadership for their people and have founded new myths. Their lesser imitators, like Atatürk in Turkey and Tito in Yugoslavia, at least attempt to impose national patterns of a revolutionary character on their peoples.

For that matter, in the United States since the time of Lincoln, probably no presidential leader has equaled the impact of Wilson or of Franklin D. Roosevelt. The latter, particularly, came to symbolize in one personality a new approach, for good or ill, to the problem of democracy

[14] P. 70

and of world leadership for his country: he was able to commit his country to policies, including peace settlements, almost like a totalitarian leader, because of his hold on mass support.

On the psychological analysis, offered, among others, by Fromm, the individual lays down his burdens on such a leadership. If the society is neurotic, that is, incapable of finding solutions of compromise and adjustment which will permit a healthy life and a feeling of security to its members, the transfer of responsibility to the leader is absolute. This is accomplished by, on the one hand, a masochistic tendency toward self-abasement that goes far to explain the acceptance by a great part of the German people of a *régime* as ruthless and as completely contrary to the best German traditions as that of Hitler.

This masochism is undoubtedly supplemented by a sadistic tendency toward enemies which comes from the reflection of a failure to achieve a real integration of the schizophrenic personality of the leader. The leader and his abject followers seek to impose, by the most absolute terror and with a maximum of physical and mental suffering, the subjection of the inner conflicts within his own soul and his own people and, for that matter, on that portion of humanity that the leader has himself not truly mastered. It is necessary to crush opposition to gain some sense of reassurance and offer at least a palliative to that deep personal insecurity with which the "leader" is attempting to deal by externalizing it.

Summary of Inadequacies of the Psychological Approach

This flight from freedom, as if it were a matter of "laying down one's life" as a burden on the leader, is the deep psychological cause of fascism, according to the psychiatric analysis. Now, undoubtedly, there is a great deal of truth in this explanation; but it suffers from what seem to be two characteristic shortcomings of the purely psychological approach:

(1) The psychologist, as a scientist, tends to impose upon the social problem of a mass neurosis an analysis which depends too exclusively upon the factors of frustration *in the individual,* particularly in his subconscious. Fromm, in some measure, escapes this charge because he is concerned with all the conditions of insecurity that assail the individual, and many of these conditions are part of the environment and the social structure in which the individual's life is set. Just as much as the Marxian analysis of social ills and maladjustment is set too simply in the purely *material* conditions of a society, the oversimplification, in terms of childhood experiences, offered by the psychoanalytical school, is an inadequate explanation of the causes of the *social* insecurity in modern society and its manifestations in so-called "mass neuroses." Nor is the remedy simply an adjustment of the individual's temperament to a more detached and

rational objectivity which will make him willing to compromise with his environment and to accept solutions on the basis of cooperation (rather than aggression) with his fellows. The conditions which produce mass neurosis often require a more fundamental remedy, even a change in the whole environmental structure, so that the individual may enjoy a security which does not demand adjustment to conditions that inevitably produce neurosis. In other words, feelings of guilt and frustration derived from inner psychological maladjustments offer far from complete explanations of the profound social maladjustments which generate dictatorships.

A healthy society, it is true, is the product of healthy individuals. But sometimes the conditions of social health get out of the control of individuals and require the finding of new institutional solutions and broad-scale social readjustments. There is still a place for a Solon in modern society, just as there is the necessity for an active citizenship to create these conditions of social security, while maintaining the dynamics of individual responsibility.

Even as a purely *scientific* explanation, therefore, the psychoanalytical approach tends to reduce what is a tremendously complicated and interrelated series of causes to a formula of an individual character just as, on the other hand, Marxism attempts to find all the causes of human maladjustment in the mechanical explanation of what it regards as a perverted system of production and economic control. Each is at best a partial approach and each has a sufficient degree of validity to disprove the adequacy of the other as a total explanation. At the same time, the mere combination of the two, even assuming that their basic premises were not contradictory, would not include many factors of social instability that had not already been explored by Aristotle in his study of the causes of revolution.

(2) The second major shortcoming of the psychoanalytical approach is that like all analyses based upon the assumption that scientific description and the methods of the physical sciences can themselves determine *values,* psychological science can at best only prevent us from being misled by false rationalization. It cannot supply the deeper integration of personality which is the work of an *ethical* value system, forming a *good* human will.

Some realization of this fundamental shortcoming in the purely analytical method manifests itself even in the latest writings of Freud, and in his significant return to the Platonic doctrine of the nature of reason. Even more, psychologists like Fritz Künkel have come to recognize as the resolution of the positive stages of an analysis the necessity for a "clarification" in which the escape from egocentricity can

scarcely be distinguished from the acceptance of the ethics of classical religious systems and, in particular, the ethics of Christianity or stoicism

Whether one accepts the necessity for a religious basis for ultimate values or not, the important thing to note is that the restraining and reorientation of the individual will can only be accomplished in terms of an inner light coming from the moral conscience and recognition of the responsibility of the moral personality This can only come within a universe of accepted values which the individual comes to trust by inner experience as the only harmonious way to freedom The whole process implies the renunciation of self will and the inadequacy of the "magic formula" as a method of escape or of integration Has rationalistic humanism been able to supply this well spring of human values to create a true moral community?

That does not in the least mean that the school of psychoanalysis and the insights which it provides into the irrational factors and the persistently aggressive characteristics of basic human nature do not provide a method, and a valuable method, for the study of political behavior that is essential to any mature understanding of human nature and institutions It is interesting to notice that this study of human nature confirms the views of Machiavelli and Hobbes on the traits which they have described in human psychology vanity, aggressive lust for power, response to fear, and so forth At the same time, it is necessary to add at once that these are not a total description of human nature or even of the dominant features in human nature Just as Pareto's more or less arbitrary selection of a half dozen 'residues" far from exhausts the whole range of deep culture traits that some psychologists have described as "instincts"—for example, William MacDougall, *Social Psychology*—so the grouping of unconscious drives and mechanistic tropisms on which a great deal of psychoanalytical theory is based far from describes the whole of human nature Cooperation, mutual aid, benevolence, or Christian charity, as the word is used by St Paul, as well as the play of rational human purposes, the acceptance of discipline, and the ability to sacrifice for an ideal cause—all these are equally present in human beings. Indeed, the behavior of any society can furnish examples as numerous and as compelling for these traits as for the more unlovely sides of human nature stressed by Freud and his followers The latter may not be neglected, and they can be understood the better by the light thrown into the obscure regions of the unconscious by Freud and his followers But they are a part of "the cave," in Plato's terms, from which there are exits other than psychoanalysis—and they do not explain the world outside the cave.

Social Psychology

Both the schools of psychology that we have so far discussed, namely the experimental (behaviorist), and the psychoanalytical school, are in essence approaches to human psychology in terms of the individual. There are many variations on the theme of individualistic psychology that for limitations of space it is impossible to discuss here—for example the interesting work of Koehler and others on the so-called Gestalt (total pattern or configuration) school of psychology.

The student of politics, however, is forced, also, to take into account the impact of a very wide range of psychological analysis applied to human society and particularly to political institutions that may be summed up under the term "social psychology." This is the third school of psychology we have selected for treatment. In considerable measure, this type of psychology has been connected with the positivistic French school. Its chief exponents were Levy Brühl and Durkheim. The studies of Levy Brühl or Espinas in *The Mentality of Lower Societies* led into the assumptions of a group morality or *imposed* morality independent of the individual wills and paralleling the behavior of animal and insect societies. In the behavior of primitive peoples, Levy Brühl discerned what he took to be the controlling importance of "collective representations" that governed the pattern of tribal behavior and of the thinking processes of primitive peoples. This view drew considerable support from certain cultural anthropological studies [15] and from some aspects of the studies of the development of languages.

The theories of Emile Durkheim, presented chiefly in his works on *Suicide* and on the *Division of Social Labor,* tended to emphasize still further the interpretation of group morality as something independent of the individual consciousness. This group psychology, as it was sometimes called, had further development in the works of Wundt, and in the United States, where it gained at least the partial adherence of an important figure like John Dewey.[16]

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[15] See Ruth Benedict, *Patterns of Culture;* R. R. Marrett, "Pre-Animist Religion," in *The Threshold of Religion* and other citations contained in Ernst Cassirer, *The Myth of the State,* Part I.

[16] See W. Y. Elliott, *Pragmatic Revolt in Politics,* Sections III and IV, and W. R. Dennes, *The Methods and Presuppositions of Group Psychology.* Dewey's chief work on social psychology is to be found in his *Human Nature and Conduct.* See Talcott Parsons, *Structure of Social Action,* for a summary view of the common ground of Max Weber, Emile Durkheim, Pareto, and Alfred Marshall, which Professor Parsons sums up as a "voluntaristic theory of action," resting on three assumptions:

(1) hereditary and environmental elements conditioning social action,

(2) the logico-experimental side of factors of social action which involve the means-end relationship, and

The theories of Durkheim and his disciples tended to shift the whole study of morality to the study of group life and group psychology. His nephew, Marcel Mauss, summarized Durkheim's views: "In the same way that psychologically a man thinks, stretches, acts, feels at the same time with his entire body, in the same way this community of bodies and spirits, which a society [association or group] is, feels, acts, lives, and *wills to live* with all the bodies and all the spirits of these men . . . thus we may arrive at a science of bodies and souls of societies." [17]

A considerable part of this interpretation of morality as imposed by social habit and custom and by the nature of the "collective representations" that governed the nature of behavior goes back to David Hume's emphasis on custom and habit. Walter Bagehot in England spoke of customs that "cake hard," and Walter Lippmann in his *Public Opinion* treated a great part of social thinking in terms of "stereotypes." Graham Wallas in England, too, attempted to do justice to the part played by "will organizations" informing social behavior and institutions, though he never lost sight of the individual as a moral unit. Morris Ginsberg in his *Introduction to the Psychology of Society* and R. M. MacIver in *Community* and in *Society* emphasized the importance of groups in the formation of all human conduct, though neither attributed in any sense a real "will," comparable to the individual will, to the group. Among the best-balanced treatments of political problems is MacIver's *The Modern State* and *The Web of Government.*

II. Institutional Democracy and Planning

The importance of the strain of social psychology which attributed *real* will to groups may be noted with respect to pluralism and law.

Pluralism, as a political philosophy which attacked the whole basis of the State as a sovereign community exercising control over its members and over internal groups with moral validity, drew most of its inspiration from the idea that many other types of groups had wills as real as the State's. Indeed, if one allows to the state itself a true general will in the manner of Rousseau or of Hegel or of Dr. Bosanquet, there can be little ground for denying real wills to other types of associations such as the Church and, perhaps, professional associations and labor unions. It is on this basis that Mr. Laski erected the whole structure of his earlier

(3) "the whole group of elements clustering about the ultimate value system in so far as it is integrated and not reducible to the random ends of utilitarianism."

The first two of these factors are what I have called the "organic" and the third the "co" or purposive in my theory of the "co-organic" character of societies. (*The Pragmatic Revolt in Politics*) (W.Y.E.)

[17] Quoted by G. E. G. Catlin, *op. cit.*, p. 750. I have taken the liberty of inserting an explanatory bracket in the translation.

theory of pluralism, which attacked and attempted to discredit the idea of the State as possessed of a peculiar moral authority, *no matter how organized.*[18]

Actually, the use of the term "will" in the same sense that it is applied to the will of an individual person is inappropriate to describe what is more properly an *organization of wills* that make up the State or, for that matter, other associations governed by a shared general purpose. That the character of the purpose of the democratic and constitutional state is different both in kind and in degree from those of other associations within it, must be a cardinal point for any modern democratic political theory.[19] Very little is heard today of the pluralism which attempted to discredit the whole concept of the rule of law by erecting a theory of group anarchy to take the place of the philosophical and individualistic theory of anarchy advocated by William Godwin.

Pluralism and Planning: The Case of Mr. Laski

The emphasis on planning, particularly economic, which we will discuss later, as a necessary condition of the successful functioning of the modern state, is entirely incompatible with true pluralism. Mr. Laski, e.g., as he has made his pilgrimage over toward Marxism, has had to burn the bridges of pluralism behind him, though he has never acknowledged it. He remains a pluralist toward the capitalist state founded in inequality. But he is more monistic than the idealists in defending a world state, based on economic equality, as the ideal end of society and the necessary condition of true freedom. Even short of the world state, the socialist nation state under planning becomes an embodiment of a very Austinian sort of sovereignty. To document this, one has only to compare the elaborate mechanism which he set up in Part II of the *Grammar of Politics* for democratizing the control of industry with the sterner emphasis on the need for disciplined social planning in *The State in Theory and Practice,* that would involve, he fears, repression of "dissent" in an inevitable reaction by Tories bent on preserving the *status quo.* The machinery for taking power and controlling its centers cannot leave self-determination even to sectors of labor, but must achieve administrative and policy organization through a powerful state, whose government may not be flouted and should not be, once it is rightly organized. In short, a plan is of no use if it cannot be enforced as a plan. He is even prepared to envisage, "grimly," the inevitability of a showdown that may mean revolution, or at least the short-cutting of politically democratic methods, to achieve the end of economic equality. He de-

[18] See the chapters on Mr. Laski in *The Pragmatic Revolt in Politics,* by W. Y. Elliott.
[19] A. D. Lindsay, *Theory of the Modern Democratic State,* Vol. I.

plores revolution and prefers constitutional action. But economic equality is an absolute value for him. All means to that end are strongly implied to be legitimate, ultimately, because they are necessary. One would say that Marx had swallowed Laski, if it were not so evident that Laski, who has swallowed many systems, still holds on to his admiration for the "liberalism" of Mr. Justice Oliver Wendell Holmes and can never be strangled by a straight party line.

Nevertheless, it is evident that he has taken from Marx one absolute value, economic equality. He has tried to add to this by the most direct implication another value, which can be described as testing an economic system by its capacity to exploit to the full all the potentialities of its productive power.[20] On this test he damns the capitalism of the United States and Britain alike, because class relations hinder "the full use of productive power by society," while, by implication, he finds the Marxian dictatorship and state-planning of Russia the answer. To any detached observer it would seem that, while no system can probably ever achieve the ideal absolute of full potential production, nevertheless on any reasonable comparison with any state-planned system, certainly with the Russian, the United States runs no danger of being classed as a relative failure. Production is also a matter of dynamics, and the profit system and the free energies liberated by a system of market-controlled enterprise look to have the better of the comparison. Our worst depressions look mild beside the slave conditions, low living standards, and mass starvation involved in Russian periods of breakdown, marked by "purges." To argue that the relative progress made by Russia in production since 1917 [21] is greater than that of capitalist countries is to assume that this expansion and industrialization of a backward state in a naturally rich country covering parts of two continents could have taken place only under dictatorial planning. In any case, there may well be criteria of a good system other than "full production relative to potentialities." On that test, heads must roll if there is any failure; and that way lies the totalitarian state.

But the more important point is that by erecting a theoretical absolute to condemn capitalism for its "fatal" inability to consume what it produces (on the Marxian analysis of profit as theft from labor), Mr. Laski erects a deterministic necessity for a period of "diminishing returns," for inevitable revolution, and *for the inevitability, also, of a Marxian dic-*

[20] "Ultimately, therefore, the denial of the argument upon which this book is based must be built upon the ability to show that the present phase of class-relations is no hindrance to the full use of its productive power by society." *The State in Theory and Practice*, p. 160.

[21] For a useful corrective to the idea that all Russia's economic progress, particularly industrial, has been since 1917, see George Soloveytchik, *Russia in Perspective.*

tatorship to harness society to full 'socialist" production Need one point out that these absolutes are all myths—Marx's and Laski's? Men do not live by absolutes, but by the best practical adjustments to their problems that they can work out—a piece of pragmatism that Mr Laski could recognize if he had not left off pragmatism for Marxian determinism and absolutes Once the ownership of the means of production has been socialized Mr Laski no longer has any doubts about the rightness and justice of state coercion What rights exist then, against "full production goals?

Passing by the fact that so far the parliamentary system in England has survived the ordeal of Labor's taking power for socialism better than Mr Laski's gloomy forecast would have led one to expect, the point is that Labor, once in democratic power, cannot be prepared to allow each sector of the economy to be run by the laborers in that sector Pluralism affords no answer Where a complex situation like coal mining and the need for its modernization has forced a hold up in the total program of Socialist Labor it becomes apparent that Labor must find a solution for increased production or lose political power If Britain were to be thrown back in its whole recovery by a failure to get increased production in a key area like coal, socialism would be discredited and Britain would face the choice of a freer economy or a more authoritarian regime—the latter more likely In any event socialism, under such a contingency, would hardly give way to pluralism."[2]

A "One-World" Sovereignty or International Pluralism?

On the international front too, a similar set against pluralism *as a normative and constructive political theory* is apparent Yet, as hard fact, pluralism more nearly characterizes relations *among* states than *within* them *The Pragmatic Revolt in Politics* pointed out many years ago that actually, as a description of fact national sovereignty introduced a real area of pluralism into international law No *one* law existed, sanctioned adequately or habitually obeyed to control sovereign states in their relations with each other Here Hobbes state of nature reigned, modified by balances of power and a limited area of commonly accepted international private and public law that never effectively ruled out resort to force Is the situation revealed by the basic division in the United Nations different today? How shall the divided West escape the fate of divided Greece?

Mr Laski himself during the thirties, when Russia offered the "Lit

[2] See *State in Theory and Practice*, pp 296 to end See also the searching analysis of this development in Laski's thinking in *Democracy in Crisis* and in later works by G L G Catlin, *op cit*, pp 663 676

vinov front," was one of the most vigorous champions of turning the League into a real super- and world-state. This would be to erect a supreme and single ultimate arbiter for world law with the full sanction of coercive force as one-world sovereign—the crowning antithesis to genuine pluralism. And the principle of "federating authority" would itself have to be given *juridical* outlines, where the ultimate powers of sanctions and of determining the control of force would tend to become unitary, related to a single world-state, rather than one that was pluralistic in that it depended on the pressures and self-limitation of various groups for the limits of law and the use of force.

Group Psychology and Representation As They Affect Democratic Unity and Planning

The theory of the real essence of groups as wills or "corporate persons" has had a broad application to law, over and above its theoretical implications for pluralism. About it have revolved the nebulous theories of pluralism, ranging from Sorel's anarchic syndicalism to Mr. G. D. H. Cole's versions of Guild Socialism.[23] There has developed around it also a whole juristic literature dealing with corporate responsibility, especially for criminal actions and for actions in excess of the powers granted by charter. The concrete bearing of legal doctrines of corporate personality may be found in key areas of controversy like that centering in the famous House of Lords' decision in the Scots' Free Church case, which would have limited the Church in Scotland to its original doctrines, for purposes of legal rights affecting property, funds, and church discipline. This narrow interpretation of the nature of a religious organization, based on the "fiction" theory of corporate personality in law, did not fit the facts. Equally, a narrow construction of corporate responsibility in terms of the status granted only by a charter given by the state would prevent effective responsibility being exacted from unincorporated labor unions.[24]

But important as are these applications or misapplications of doctrines of corporate personality, derived from concepts of the nature of groups that are rooted in social psychology, their most basic application is to theories of representation: If the reality of groups takes up the moral responsibility of individuals, the simple theory of territorial representation on the basis of "one man, one vote," is not adequate. It is group

[23] See W. Y. Elliott, *The Pragmatic Revolt in Politics*, Ch. VI, and G. D. H. Cole, *Guild Socialism Restated*.

[24] This, despite the Supreme Court's dictum in the second Coronado Coal Company case. See analysis of this decision in the *Pragmatic Revolt in Politics*. This whole subject of corporate personality, especially the theory of Maitland, is analyzed in the work cited in the chapter on "Moral and Legal Theories of Corporate Personality."

representation that is needed. This approach takes two general forms: (1) functional representation, (2) pressure group analysis as a "scientific" key to the real dynamics of democracy. So the "group theory" runs.

Functional Representation

Functional representation, in its essence, challenges the principle that a territorial community furnishes the best unit for selecting the interests and combining the purposes that representative machinery should aim to incorporate. Representation as a concept, though analyzed with great skill by John Stuart Mill, left many unanswered questions. Proportional representation itself, on the Hare system of the single transferable vote advocated by Mill, still required districts of a convenient and suitable size and territorial nature—"constituencies," in the English term.

Let us note at the outset that Mill did not consider representation, as so many advocates of functional representation do, as the channel for reflecting only the different *interests* of a society. "One person with a belief is a social power equal to ninety-nine who have only interests. They who can succeed in creating a general persuasion that a certain form of government, or social fact of any kind, deserves to be preferred, have made nearly the most important step which can possibly be taken toward ranging the powers of society on its side." And he calls the effect on St. Paul of the stoning to death of the proto-martyr to witness: "... Would any one have supposed that the party of that stoned man were then and there the strongest power in society? And has not the event proved that they were so? Because theirs was the most powerful of then existing beliefs." [25]

Public opinion, then, is the great force he seeks to harness, and harness in its true nature by the play of free persuasion to moral purposes through representation. No man can be represented by any other man if representation means the complete transfer to one personality by another of complete power to make all decisions and attitudes on public policy. To bear the *personam* (which comes from the mask worn by actors, in its Latin derivation) of any other human being is outside the limits of transferability. The best that can be claimed for a representative, whether chosen by territorial units or by occupational or functional (interest) groups is that the person so selected carries the support of the required plurality or majority of that group *on a program* which the candidate has announced and defended. The representative, if he be chosen on the basis of a narrow but intense interest, e.g., the promotion of the occupational interests of the worker, cannot carry more than a rough

[25] J. S. Mill, *Considerations on Representative Government*, Chapter I, "Forms of Government" (p. 183, Everyman Edition).

approximation of the most general support on even that limited range of interest. Producers of any given commodity may not all see alike. Indeed, the history of trade associations bears out a remarkable range of differing opinions on the *true* interests, e.g., of even *sections* of the textile industry—converters, mills, distributors, and so forth—with still wider differences between rayon and cotton or woolen, to say nothing of the clothing, manufacturers, wholesalers, and retailers. It is impossible to reach a genuine consensus on the interests of something called the textile industry as a whole.[26]

Nor is it different with engineers, or trade unions, craft or industrial farmers, bankers or butchers, bakers or candlestick makers.

When a representative is chosen, he must, after all, represent his constituency, no matter whether it be based on functional lines of interest or on territorial community, *on the whole range of government policy with which he is called on to deal.* In a legislature, the community of interest that men may find as producers of the same type will have little bearing on the whole range of taxes, of spending, of foreign policy, of agricultural or industrial policy as a whole. For example, it may be nice to get a tariff or subsidy for the particular interest concerned; but if everyone gets a tariff, there isn't much advantage. Men's interests as consumers and taxpayers, as potential soldiers or defeated subjects of a conquering foreign state, may be vastly more relevant than the realization, even if made possible by log-rolling, of a particular interest. Sometimes their religious or national or racial interests dominate their actions.

But the argument for functional representation does not rest on anything quite so simple or impossible of realization as the extreme form of voting by occupational groups instead of territorial. It is true that the Soviet idea for a time led to a general re-examination of this possibility. Advisory economic parliaments were tried in Germany and in one or two other states. The Italian Fascists set up corporative forms for "representation." But the industries and unions which were to be forced to collaborate thus had no real freedom to choose whom they liked, nor had their "elected" (selected) leaders any real control of policy after selection.

It was often seriously argued from the Soviet model that workers in factories could choose better representation than they could in a neighborhood ward or precinct and that, in turn, these could choose others at higher levels. But this indirect representation in fact simply put democratic choice further back along the "chain of command" and dissipated

[26] It is hoped that on this one point a personal note may be pardoned. This conclusion is based on sustained and painful efforts to this end by the War Production Board during the period 1944-1945, when the author was serving as Vice Chairman for Civilian Requirements. (W.Y.E.)

it in favor of oligarchic hierarchy. In the Russian system, quite as much as in the Fascist and Nazi systems, it was of small account in any case because of the complete one-party control of all policy by the *élite* oligarchy of the party "cells" that dominated policy at every stage and level.

G. D. H. Cole, however, in his fashion, and the Webbs in theirs, each tried to suggest a different solution: with Cole, representation, as outlined in his *Social Theory*, would give the citizen votes for all his major interests—e.g., for education, for production, for sanitation, for cultural activities, for all the major economic aspects of each function of government. He would choose a representative for each function. The Webbs proposed two parliaments, one for strictly political purposes—defense, foreign affairs, and so forth, and the other a "social" or "economic" parliament.[27] Actually, either of these solutions runs into a perfectly insuperable objection: the object of representation is to assure *democratic responsibility and a means of continuous control of policy through representatives.* Policy in any modern state means a *program* that is coherent and not self-defeating by inner contradictions, covering the whole range of government. This may be called *"programmatic responsibility."* Tax policy must not defeat the aim of the state to stimulate production, i.e., "pump priming" must take hold; foreign policy must provide the necessary security for the investment of capital and for foreign trade. Even more, a nation's whole policy must not lead to national bankruptcy *by avoidable wars, or lead to defeat and national ruin.*

If policy demands a program, only party responsibility can furnish and fulfill one. We shall presently consider the relation of planning to party control and the implications of "total planning" for one-party control. Democracy requires the protection of minorities, therefore, *more than one party.* But one party must be, in any effective democracy, vested with power for a program, under a limited mandate. Democracies, too, must have integrated programs in order to balance budgets and, for that matter, to survive. Unless a party can be afforded, by the electoral process and parliamentary machinery, stable support to carry out its mandate (program), no form of representative machinery can be called responsible. For there can be no responsibility without power to fulfill promises. The first business of government is to govern.

Neither the system of Cole's plural voting for many functional representatives nor the indirect system of elections (which Cole calls, after *Punch*, "Sydney Webbicalismus") to two parliaments, not in any way

[27] For Cole, see *Guild Socialism Restated*, and for the Webbs, see *Proposed Constitution for the Socialist Commonwealth of Great Britain.*

integrated, takes into account in the least the need for a real party control over the whole of government functions. Each system would produce a chaotic possibility of "Pull devil, pull Baker!" in its legislative processes, where "log-rolling" would surpass anything known in territorially elected systems and party discipline could only be brought about by totalitarian methods. How would the Webbs' two parliaments be brought together? If by a sort of joint super-cabinet to tie together the two aspects of policy that can never really be separated, how could responsibility be achieved when there is no *common* electorate? In Cole's case, he thinks of his top organ, the *Great Commune,* as more of a court than a parliament. But this is an error typical of Marxian and a great part of Fabian thought: *failure to realize that politics covers a vastly greater span than administration.*

The assumption that all interests will be reconciled by *functional* groupings in terms of interests is a basic misunderstanding of the nature of *interest.* Purposes are needed to secure a broader range than that of interest groups for any stable and responsible party organization. *How* can differing interests generate a coherent program? It is to larger purposes that can really be shared that we must look for unifying factors That is the nub of the matter: to multiply the representation of interests is to multiply differences and to increase the difficulty of securing a *common* program.

Pressure Groups and Democratic Politics

A second aspect of this application of so-called "group" or "social" theory or psychology has come to occupy a major place in the study of modern politics, particularly in the United States. "Pressure politics," as it is called, is so obviously a great part of the life of a modern democracy that it may be wondered that its analysis in terms of political science came so late. "Faction," to use Madison's term in the Tenth Federalist paper, is an old story. And faction essentially means a group promoting its own interest, chiefly, as Madison noted, an economic interest. Party may often be based on faction in this sense, as Professor A. N. Holcombe has shown in his analysis of *Political Parties of To-day.* Yet, generally, a national party must combine *many factions* of narrower occupational and sectional interests. The Republican Party, e.g., has changed radically from Lincoln's time to the present. It has never been only a party of high tariffs and business privilege. It has had to carry along Western radicalism among farmers, whose economic interests certainly did not dictate high tariffs so far as they grew export crops. But they stayed Republican in the main from the heritage of Civil War days and the struggle

over railroads and "free" territory; just as even an industrialized South carries a hang-over from Reconstruction days which, added to the problem of "white supremacy," serves to maintain (to date) a solid South for the Democratic party. The solidarity of the South for the Democratic party was threatened far more in 1948 by the rooted objections of the so-called "States-Rights" party (Dixiecrats) to President Truman's Civil Rights program than by economic issues. Economic factors are never the whole story and often are not controlling.

Party, in short, to win office on a national scale must produce a purposive cement to hold together in case of defeat. The alignment of economic interests is too unclear and too complex to pin the tag of the same party on the basis of economic interest alone. Passions and traditions, racial and religious rivalries, and sometimes the sheer efficiency of party machines or the "color" (political and dramatic leadership) of candidates may prove to be equally powerful factors. One may not be able to "fool all of the people all of the time," but politics often succeeds in making queer bed-fellows, in terms of simple economic interests. Allowing that winning office and control of patronage and public spending are themselves powerful economic incentives, they require to be supplemented by emotional attitudes, some of which may be traditional, some in terms of moral idealism (propaganda parties or small, single-purpose groups with no possible chance of winning), and some of a very nonrational character—prejudices, habit, love of a fight, personal rivalries, and so forth.

But the very stuff of daily political activity, as any congressman or bureaucrat can testify, comes from the impact of groups; not all, but most are economic groups, attempting to promote their own aim. This aspect of politics did not go unremarked, even before it reached its twentieth-century importance, as the scope of governmental activity began to impinge more and more widely and directly on economic life and activities of every type. But it was emphasized by the coming of the regulatory state, when the first stage of the "public interest" concept was extended to monopolies and public services, e.g., railroads. This occurred roughly from 1880 on in the United States—the time of the Granger movement.

A. F. Bentley and The Process of Government (*Group Pressures*)

A. F. Bentley was to give a classic and pioneering study of politics in terms of group pressures in the formation of public policy in his *Process of Government*. For Bentley, as much as for Auguste Comte, the individual outside his group relations—his social self—is nonexistent

Bentley's own parallel to this was to state that the individual "... stated for himself, and invested with an extra-social unity of his own, is a fiction." [28]

In other words, the group is the only dynamic reality because, for Bentley, individuals act only through groups. He therefore reduces the whole play of politics to a study of the resolution of group forces. Later on, this comes to be known as "pressure politics" and to be interpreted in terms of the resolution of mechanical forces, represented *only* by group action.

A whole school of analysis of politics in these terms developed in the United States particularly, where the fertile ground for pressure politics lay ready for the seed through the effectiveness of lobbying in a system marked by the separation of powers, by bicameral legislature, by the growth of federal centralization that brought economic interests and their lobbies to Washington, and by the effective use of propaganda techniques and publicity campaigns in the interests of identifying the self-interest of groups with the public interest. The difficulty of getting strong party control and responsibility maximized the importance of pressure groups.

Few of the more sophisticated later students of politics in the United States employed Bentley's method of analysis without a recognition of its limits. E. Pendleton Herring, whose earlier analytical *Group Representation before Congress* had shown how fruitful were the methods of group analysis in terms of pressures to the understanding of realistic politics, in his later work, especially in *Public Administration and the Public Interest,* became genuinely concerned to see how there could be an integration in terms of public policy that stressed the public interest, rather than the mechanistic resolution of forces involved in group interest. In general, the same thing can be said of the work of other students whose contributions to this field were worthy of any note. The work of Merle Fainsod and Lincoln Gordon, *Government and the American Economy,* is an outstanding example. But the analysis rarely escaped limiting the nature of public interest to a resultant, if not the mere aggregate, of separate group interests. Honorable exceptions are the excellent analyses of party systems in relation to pressure groups by both E. E. Schattschneider and by V. O. Key. There was, apparently, a peculiar seductiveness in the appearance of scientific method in counting groups, rather than heads. There is at least what looks like such a simple economy of effort.

It is important to analyze Bentley's assumption, however, in terms of its adequacy as a description of fact and as a useful scientific method. At

[28] *Process of Government,* p. 215.

the outset it is clear that groups vary enormously in the intensity of the hold they exercise over their own members and the degree to which they can elicit active and general support from their membership. The Anti-Saloon League, for instance, by dint of organizing a body of crusading zealots, was eventually able to turn the prohibition movement into a constitutional amendment, the Eighteenth, and one of the most drastic sort. This group was in no sense bound together by a purely economic interest. It was a group aimed at achieving certain objectives that it regarded as moral in the highest degree. The generalized economic arguments that it used were of far less importance than the picture of the devastating effects of "demon Rum." Since, however, it was known to command the fanatical loyalty of at least a substantial and active group of voters, particularly in the more "biblical belts" of the United States, its power over legislators and public officials was very great. It never polled more than 100,000 or so votes in a presidential election as a ticket, but it was able to throw its weight between the parties most effectively and to punish candidates who had the temerity to vote "wet."

In striking contrast to the "dry" movement were the early efforts to organize labor for political purposes. Although measures affecting labor directly came to be championed with increasing success as labor organizations became conscious of their voting power on broad national issues affecting the success of parties, the delivery of the so-called "labor vote" has remained extremely difficult. Recent election returns appeared to indicate that, e.g., John L. Lewis could deliver the miners in a strike and could often punish candidates who opposed measures generally thought to be directly favorable to labor. On the other hand, he seemed quite unable to deliver the miners' vote against President Roosevelt, when he personally attempted to lead the United Mine Workers in that direction.

Religious Groups in Politics

What of the efforts to line up voters through groups of a religious character? The Federal Council of Churches has been able to exercise a considerable influence on politics, but nothing like the overwhelming control that it might have achieved had its membership been in any sense really behind its program. In short, most pressure groups do not have the capacity, possessed in a real measure by political parties, of maintaining a certain solidarity of opinion among their membership on questions of elections or of broad national policy. Their intervention is effective only on matters which directly and closely concern the immediate interests of the group. Even on these questions there is no possibility of delivery support *en bloc*. Broader party program or moral issues may seem more

important to men as citizens *with one vote*, than group interests of a narrow and sometimes conflicting or doubtful economic character.

The reason for this is not hard to see. Certain types of group loyalties, in effect, cancel each other out. A Catholic may vote as he interprets his religious beliefs rather than his economic status or his traditional party loyalties—or he may not. The essence of democracy is that there should be freedom of the individual to choose which loyalty or which economic interest he will give his decisive support. Constitutionalism has as its first duty to protect this moral right of every individual citizen to freedom from coercive absorption by any group.

Problem of Planning—Summarized

A. Planning and the Means of Democratic Policy Formation: Parties and Programmatic Responsibility

In order to make a majority effective and to integrate into a common program the policies of many diverse pressure groups, the great organ of policy formation has inevitably turned out to be party. We have already noted Burke's definition of party, "Party is a body of men united, for promoting by their joint endeavors the national interest, upon some particular principle in which they are all agreed." This has been regarded by the "economic interpretation" school or the "pressure group" school as too idealistic a description, since it stresses common principles rather than an aggregate of interests. But in a real sense, common principles are necessary to hold parties together on a national scale and to integrate interests. "Interests," said Woodrow Wilson in a prophetic vein during the fight for the League of Nations, "never unite men; interests can only divide." It is to *purpose* that efforts to unite men must look. Purpose differs from interest in that purpose implies a critically worked-out scheme of moral values that takes its meaning from a whole way of life—what Aristotle stressed as "the good life." Interest is a particular end that has not been integrated into a larger scheme of values.

We shall see in the restatement of the case for democracy in the succeeding chapter what part a party system must play in creating a government that is strong enough not only to plan to the degree that planning is necessary, but also to carry out its plan, in spite of the pressures of minorities and special interest groups which any plan, or even any general philosophy of economic life is bound to produce. At the same time, a party must afford a "government" which is responsible to the best embodiment of a majority will or purpose that society can create. General elections are always fought between parties. They at least profess to be fought about

issues of principle. Parties appeal mainly to moral loyalties in order to hold together during periods of defeat. The words of the sentinel in Gilbert and Sullivan's "Iolanthe" in his somewhat melancholy rendition of

> That ev'ry boy and ev'ry gal
> That's born into the world alive
> Is either a little Liberal
> Or else a little Conservative

are no doubt an oversimplification of the division of human nature into two camps. At the same time, it is worth noting that expressions like "conservative" and "progressive" and "right" and "left" have marked the history of politics. They do in general terms give a psychological basis, resting on human nature and temperament, for broad divisions of the proper rôle of the state and the character of public policy. Matthew Arnold called them "The Children of the Ideal" versus "The Children of the *Status Quo*."

Unless interest groups were first to go through the filter of a party program, which of necessity must try to reconcile the conflicting interests of sections and economic special interests in terms of the program of at least a *nationally* integrated purpose, politics would be no more than a perpetual display of "log-rolling," "back-scratching," and other unedifying aspects of pressure group politics which one now sees most painfully illustrated in the formation, for instance, of tariff legislation (see, e.g., Schattschneider: *Politics, Pressures and the Tariff*, and V. O. Key, Jr., *Politics, Parties, and Pressure Groups*). In point of fact, the end of any legislative session in Congress shows the working of party leadership to produce something like a program of legislation. Often bills which have been advanced through the committee stage by heavy pressures are killed by the leadership either of the House or of the Senate (sometimes by the agreement of both), unless they conform to the general policy that the party represents. It is true that these general principles are sometimes not those professed in party platforms. But there is an inner logic in the reconciliation of interests which the party leadership must attempt to work out in the congressional system, even though it is less disciplined and less obvious than the integration of a program under the British parliamentary system. The President has the power through his veto to protect the "public interest" (read *purpose*). His positive leadership, as the sole elective official responsible to the entire country, naturally places him at the head of his party. This position devolves upon him more than any other official the responsibility for getting a coherent program. This we have called "programmatic" responsibility. It is the essence of the case for party government as a method of checking and subordinating pressure groups

to a purpose broader and more universally shared in the nation than the objective of any single pressure group.

When a pressure group becomes so widespread in interests as to achieve a national program and to foster a national policy that requires the control of government, it of necessity becomes a political party with broader purposes. The Labour Party in England is an example of this development of the trade-union movement. Various efforts of a similar character have made their appearance in the United States in third-party movements and the efforts of the Political Action Committee of the Congress of Industrial Organizations to dominate the Democratic Party. But in such a case any party necessarily has to set up objectives broader than the immediate interests of the trade-union movement. Either the party forces an expansion of the interest group program or a new party is created. Such a new party tends to adopt an attitude that can be summarized as a program of social democracy, usually socialistic in its objectives and reflecting this attitude in foreign policy as well as domestically; but it cannot win the broad support needed to organize a national government on the narrow basis of its original program.

Political parties also tend to develop external alliances with like-minded groups in other nations (witness the Second International of Socialist Parties). Conservative parties often make common cause of a less formal sort, but since they have also tended to be intensely nationalistic, such *ententes* are not very effective, except for military aid and balance of power politics. Pushed by the fear of a communism, which intrinsically endangers their democratic basis of support and sometimes renders political action futile, the more reactionary groups in national politics tend to become fascist in character. The Axis powers were the product of such an alliance. The Comintern, or Third International of Communism, given an official rebirth by Moscow after its supposed disbanding to follow a common or "united front" policy with the democracies to fight fascism, is another. The Moscow-centered and controlled character of the latter is clear, but Tito in Yugoslavia has shown that even this discipline has its limits.

B. Battle of the "Planners" vs. the "No-Planners"

The standing puzzle of our times is the degree to which planning of the economic order of a society is compatible with democratic control and responsibility. This involves at the outset an estimate (a) of the degree to which national economy *must* be planned to meet the conditions of survival for a modern industrial state, (b) the degree to which planning is affected by economic and national security factors outside the control of any single state, (c) the compatibility of such planning with the demo-

cratic mechanism, including (1) the right of free association (involving the functioning of pressure groups) and (2) the protection of constitutional rights, not only of persons but also of property.

The battle of the planners is also being fought out on the ideological level. The great champions of the incompatibility of planning with democracy and, hence, the necessity of return to some type of so-called "free economy" have rested their case on the arguments made familiar to this generation by Hayek and Von Mises. Reduced to the simplest terms, these arguments claim that interference with the "natural order" of a market economy, ruled by consumers' preference, with all the concomitants familiar to the classical economics, places government on a steep and slippery slope that leads straight toward totalitarian policies and control. To put the state in the business of controlling the price structure leads, according to these critics of planning, by insidious and inevitable degrees to a control of investment and the elements of production, the rationing of consumer goods, and ultimately to the absolute control of manpower, including forced labor. They build the logic of these steps up from wartime experience and the history of planning in totalitarian states. The argument they advance may be simply summed up by saying that if you push the natural economic factors in here, they bulge out there, and that more controls are generated by each step of restraint.

The opponents of this line of reasoning do not concede in the first place that planning is an all-or-nothing kind of operation. They point out that the logic of Mr. Lippmann in his *Good Society* is one that makes an absolute dilemma of this sort inevitable, since it insists that the essence of a plan is a program of action, "to which the people *must* thereafter conform." They would deny that planning must be in such absolute terms; they would restrict the rôle of planning to something like setting the strategic controls of the conditions of an economy, possibly socializing the major industries of the society, but not pushing controls into the realm of total planning like that of Russia. They would urge further that planning of this sort is neither irreversible nor incapable of being changed, as new factors develop or as the public changes support on the basis of the success of the experiment.

Mr. Lippmann is convinced that the whole conception of a fundamental law and of the rôle of law demands methods of solution for economic problems that are essentially those of compromise and really of judicial decision rather than of legislative fiat. He is impressed by the fact that planning cannot be made effective unless coercive sanctions can be employed to force the acceptance of a plan. Wartime experience is not entirely relevant, since under those conditions a democratic government receives what amounts to a mandate for a course of conscription for the

duration. Even under those circumstances the ability of the legislative body to interrupt or to overturn the planning by a change of policy is sometimes brought into play with drastic effects on the efficiency of the plan in its original conception.

The critics of Mr. Lippmann's views and of those of Hayek [29] range themselves all the way from economists like Barbara Wootton [30] to students of politics like Herman Finer.[31] Mrs. Wootton feels that democratic consent is not too difficult to achieve for the sort of planning that goes with the control of an economy along lines of socialism. If she adduces, as does Dr. Finer also, many examples of the accepted planning by democracies, she resolutely refuses to see in planning the necessity for total planning. It may be added that the economist's view shows remarkably little understanding of the politics of planning or of the problems administration and policy formation involved.

The essence of the matter may be summed up by saying that on grounds of present experience, *total* planning, including the operation of the entire economic system by government, must involve totalitarian politics, since it is impossible to accomplish a five-year plan to control a whole economy in detail that can be interrupted in midstream by a complete reversal in policies. On the other hand, partial planning can and may be attempted by democratic means, and the degree to which it is done may well vary with the degree to which party discipline and social coherence are present in the electorate. The experience of England under the Labour Government would appear to show a very wide latitude for accomplishing socialistic objectives through democratic action. It is true at the same time that the limits of democratic action appear to have been reached when the question of coercing labor through forced draft of manpower or the imposition of production goals is attempted by the state. The stick seems to be necessary for the donkey, to use the famous analogy of the carrot and the stick that has been popularized by writings such as the incisive analyses of the London *Economist* in dealing with the problems before Britain.

C. Dangers and Defects of Total Planning

The defects of planning where the state undertakes the entire control of the economic order arise partly from those factors of planning which require adjustment by a multitude of individual agents. This adjustment is not always produced automatically by changing over from the private employers' judgment of market to a state blueprint for industry. In fact,

[29] *Road to Serfdom.*
[30] *Plan or No Plan.*
[31] *Road to Reaction.*

bureaucratic planning sometimes increases the difficulty. It is wholly likely, for instance, that the efficiency of the United States in wartime production depended upon minimizing the elements of a direct chain of command to manufacturers by simply giving them a procurement goal through a contract and setting the conditions for their securing the necessary materials and manpower, where these were scarce. In this way, the incentives of the private enterprise system were still brought into play. Its habitual behavior in improvising and finding new means of action showed distinct superiority to a system of production like the Russian, where state trusts operated under perpetual fear of purges and in a mass of often contradictory directives and failures to produce essential bottleneck items on which elements of the plan depended. Bureaucracy tends to play safe and pass the buck under any system. Paralysis of several vital parts of a great economic organism from fear may be more inevitable under a state of terror. Terror cannot create technicians; indeed, it tends to prevent their development or to thwart their effectiveness. On the other hand, the Russian system, no doubt, could force more rapid and drastic reorganization of its industries to deliver the maximum war potential from what resources it had, because less regard for effects and political resistances was possible in a system so controlled, and with masses of slave labor.

Planning Must Control Manpower = Labor

There is a necessity in a totally planned system of carrying the workmen along, including the technicians and actual operators of machines or hand workers. Their *morale* is a problem even for a Gestapo or an M.V.D. During wartime many patriotic incentives are available for democratic as well as totalitarian planning, when the success of every production program depends upon conveying the desperate sense of urgency back to the men who are actually producing. In peacetime socialistic planning in a democracy, episodes like the Grimethorpe miners in England show that there is at least an equal necessity for convincing the workers of the reasonableness and necessity of production goals, unless incentives of other types, such as consumers' goods and the ability to buy things that miners want, are introduced as part of the planning system. The private enterprise system relies more on the latter, but it runs some risks of inflationary factors' getting out of hand. Appeals to patriotism do not normally seem to produce the necessary results by way either of incentives or of curbing inflation. The totalitarian answer is simpler. In the case of Russia, the production system combines fear with special incentives. The level of production is necessarily conditioned by the morale of labor and its training and ability to produce. M.V.D. methods assure this production at a low level. The methods of the Pharaohs in the building of

the pyramids can certainly accomplish *some* level of performance through fear and *may* be applicable to mass production. The evidence so far in hand has suggested that totalitarian planning has never achieved the dynamics of a high or really efficient level of production comparable to a freer system; further, that its over-all rationalization of planned objectives makes at least as many and far more serious mistakes in forecasting and implementing plans than does the freer piece-meal but rapid and individualistic adjustment of a system which operates through only the conditional planning attempted in the United States.

Let it be also agreed that planning for certain definite purposes seems to be essential in the face of shortages whose inflationary effects could otherwise destroy an entire economic mechanism. Unless those shortages can be themselves cured by production available within a system and without complete disruption of price levels, controls varying in extent and degree but in general like those of wartime may well be a part of any future program for stabilizing national economies.

The dilemma of planning can be stated, therefore, in some such terms as this: every modern state must plan much of its economic life in order to survive. It cannot successfully avoid planning its defense policies and, increasingly, those policies control its most basic decisions in the economic order. For instance, the United States is in some measure forced by considerations of its strategic position in the world to bolster up Western Europe and the Far East at great cost to its own citizens and to its resources, and even with arms. This must produce the most painful effects on its whole economy, so long as there is a growing threat that Russian Communism will overrun those portions of the world if the major capitalistic and democratic power defaults in necessary leadership at this time. *Can planning on this scale be done by constitutional democracies?* The results, so far, are encouraging. But continued success will require strong executive leadership and an altogether new degree of Congressional unification of policy control over committees and between the two Houses.

III. Planning and International Security

All elements of a budget are naturally geared to strategic considerations when the issue of survival itself is at stake. During World War II, what had already been regarded as a staggering national debt for the United States, namely, seventy billion dollars, was increased by at least 200 per cent, and an additional expenditure of roughly another one hundred billion dollars was covered by taxation from current income. Expenditures of this magnitude naturally involve warping an entire economy into a war economy. If there is no prospect of permanent peace, this

major factor continues to force a sort of fiscal planning which is quite contrary to sound capitalist economics.

Planning in a World of "Cold War"

The conditions of security, particularly in the possession of weapons like the A-bomb, guided missiles, and means of bacteriological warfare, also control the behavior of a society that intends to survive. Security needs may limit the protection of individual rights which a liberal society has been accustomed to take for granted in a drastic and almost unforeseen fashion. The research of scientists suddenly becomes hedged about with factors which are more than merely irritating to those who are accustomed to working in the atmosphere of exchange of ideas and publication of experiments.[32] The complete loyalty of a bureaucracy necessary in such a world always at war or on the brink of it raises problems of the limits of political and civil liberty, wherever that "liberty" consists in claims to the right of alignment with communist parties that are obviously potential fifth columnists. The question of whether even a convinced "fellow traveler" can be trusted to keep security regulations essential to national safety makes office-holding a very different question from that of outlawing a political party as *a party*.[33]

The logic for forcing the creation of a one-world system of law in order to control the weapons of mass-destruction and prevent the apocalyptic future foreseen by scientists and laymen alike involves some assumptions about either the ability to force such a system on Russia, or the willingness of other systems to have Russia force a one-world communism controlled by Moscow on them. Agreements with the rulers of Russia, not backed by sanctions, appear to have very little value. On atomic energy control, even a paper agreement has proved to be impossible. In either case, military planning would become the dominant factor in all planning, and the consequences for the protection of a democratic order, until this primary problem of national security has been assured, are as painful as they are easy to foresee.

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[32] See "Should the Scientists Resist Military Intrusion?" in *The American Scholar*, Summer, 1947, by Albert Einstein, W. Y. Elliott, Alan T. Waterman, Douglas P. Adams, Robert K. Merton, and Aldous Huxley.

For the problems involved see the symposium published by the University of Virginia, *Institute of Public Administration*, of the American Political Science Association's December 1948 meeting—*The Control of Foreign Policy Commitments in the United States*, by W. Y. Elliott, Arthur Holcombe, Paul Hoffman, *et al.*; and "The Control of Foreign Policy in the United States," by W. Y. Elliott in the *Political Quarterly* (British), summer issue, 1949.

[33] See the testimony, in the Hearings of the House Un-American Activities Committee, on this point of J. Edgar Hoover (F.B.I.), of William C. Bullitt, of Raymond Moley, and of W. Y. Elliott, *a propos* the Mundt-Nixon Bill (Hearings, 1948, 80th Congress).

The other factors that force some planning in a wholly interdependent modern society depend not simply on power politics abroad but on the maintenance of a high level of employment at home. They also make for the necessity to plan and to establish the necessary controls for planning. The United States was in 1946-47 challenged to show that its own system could, without price and rationing controls, accomplish the delivery of large quantities of scarce commodities and products to the rest of the world without destroying its own economic soundness as a system. It appears to be probable that even the most ardent advocates of going back to freedom of contract and market to accomplish the productive dynamics of the American system are willing to accept the continuation of some controls such as those for housing, rent, and control over the amount of goods permitted to be exported, and where. Planning for such an implementation of foreign aid from the United States demands some special instrument and vehicle which can exercise many of the functions and some of the powers that were vested in the government in wartime to procure directly vast amounts of goods, to control this procurement and its disposition by powers of allocation, to exercise economic pressure on other systems by the control of our financial and other aid, and to reestablish the necessary controls over scarcities which cannot be rapidly cured to make this effective.[34]

It may be argued that this is an abnormal world produced only by the threat of war. The fact would seem to be that it is a world whose distress comes in great part as a result of war, but also one in which this distress and scarcity are likely to continue to exist not only because of the threat of a future war, but also because of the organization of the major part of the world along lines of state trading and power politics.

Even with the factors that would normally be present if all the rest of the world were capitalist, democracies would require, it appears, protection of natural resources, minerals, timber, fuel energy, and the assurance of access to the necessary materials for a great and complicated industrial civilization.

Further, the control of production in such times to prevent the breakdown of the whole economy by industrial warfare and perpetual strikes in critical areas of production or transportation would exist under any type of world society.

These factors would indicate that some large measure of planning is not optional to the modern state and that the degree of planning is largely a function of forces that are not under the control of any single

[34] See the discussions on this point in the *Final Report* and *Supplement* (No. 11) of the (Colmer) House Special Committee on Post War Economic Policy and Planning, and the *Final Report* of the Select Committee on Foreign Aid (Herter).

state. Planning at least *the conditions of an economy* appears to be a necessary part of national survival under present circumstances. No one questions the need for planning the control of atomic energy so long as there is any power left in the world which might threaten peace: when will that time be past? Planning with wartime controls that tend to go far toward totalitarian controls seems to be inevitable if no secure régime of international peace and order can be established. These are the "organic" factors that surround and limit our freedom of choice by a large area of necessity.

What, then, can be done to avoid being pushed over into full totalitarian economic planning, with what appears to be the inevitable consequence of totalitarian politics? This would mean the suppression of democratic liberties, and the loss of constitutional protection for property and individual rights and the ability to organize free associations and free parties. The world would enter once more a period like those we have previously reviewed.

Democratic Leadership: The Challenge

It seems clear that as at many other phases of the world's history the answer to this question will depend primarily on the ability of leadership in a democracy to secure the necessary popular mandate and the necessary support from other democracies to organize the world on a peacetime basis. Scientists like Einstein demand the imposition of this order by a world state apparently without seeming fully to understand that to do so may be to demand a war to end war. Unless it is thought that the Russian system can be *persuaded* to an acceptance of the world on a *democratic* and an "open" basis, contrary to its whole *raison d'être* and consistent past behavior, compulsion would be needed to achieve a world order on other terms than the dictates of Moscow.

That the combination of well over two hundred million people in Western Europe now outside the Soviet zone of direct influence or certainly of direct control, with the resources of all Africa and much of the rest of the world at their disposal, could become in time a formidable and adequate barrier against the glacial flow of the communist ice age is certainly possible. That an independent China, India, and the newer nations emerging from colonialism in the Middle and in the Far East may find an order sufficient for strong and peaceful development seems less possible. This combination could not only "contain" the geopolitical "heartland of the world," to use McKinder's phrase, but also reverse the tide and at length at least neutralize a civilization so weak in economic potential as Russia now is and will be for fifteen years without further

conquests—at least this is also possible. But the omens in the East are bad, and the West will not unite, *now*, in time.

To the detached observer who has noted the impact of sheer military solidarity in past empires and the going down of smaller units one by one through their failure to combine in time, the prospects are not hopeful. Our study of the Greek city state or the Italian parallel in the days of Machiavelli document this story. *The need to unite did not produce unity.*

The minimum political organization that democracies should undertake, therefore, under such a challenge, would be to strengthen those elements of political unification and solidarity which make planning possible. Historically, this has meant a trend toward an increase, through more party discipline, in the powers of the executive departments under some such form as the temporary dictatorship in Rome or the grant of emergency powers familiar to all modern governments. Only if the steps taken succeed in their ultimate objectives of rendering the world more secure, more stable, and more peaceful in prospect is this trend likely to be restrained. The price of failure seems to be to follow the model of Caesarism.

In order to survive, therefore, democracy must today emphasize those factors of strength without which the protection of its constitutional essence may well be lost forever, certainly until a new age of human wisdom and moral restraint appears. That means at the very minimum a strengthening of the ability of government to grapple with the crucial issues of survival previously discussed, increased ability to attract to the service of government the highest order of talent and wisdom in the society, and a mechanism of government that will permit integrated and long-range planning of the *conditions* of the sphere wisely left to private economy.

We may well be living in an era like that which marked Plato's time from that of the previous century in Athens. The gains of democracies and their proved ability to plan in crisis and to withstand the grueling test of war are too recent to be doubted. Whether they can be maintained, fortified, and extended to all humanity, and how much of humanity is ready for them, are questions whose answers depend upon the abilities and leadership which can be marshalled to meet the undoubted challenge confronting the world in what has come to be called an Atomic Age.

(... *W.Y.E.*)

READINGS

THE GREAT WEAKNESS of nineteenth century liberalism was that its tendency toward exalting atomistic individualism neglected dependence of man on society. The weakness of the non-liberal approach was that it had a tendency to exalt social dependence and solidarity at the expense of the individual. This is not to suggest that constitutional democracy is simply a synthesis of the two positions, but that there is some truth in each which the student cannot overlook. Marx used a lot of unnecessary and falsely "scientific" rigmarole to call attention to an important truth —the importance of man's economic environment in shaping his attitudes—Bentham used a lot of unnecessary rigmarole (also pseudo-scientific) in calling attention to the fact that the individual is a very good judge of what is good for him. Both made the same mistake of trying *by incantation* to peddle a partial truth as an absolute truth. True democracy can be tested by its rejection of false "magic."

The danger of pushing atomistic individualism to an extreme after the manner of Hebert Spencer does not now seem to be the most imminent threat to a more realistic understanding of man and his need for government. On the other hand, the extreme collective position does seem to be a threat. If this threat is to be met, the middle position will have to draw strength from those thinkers and those actions which have refused to be pushed toward either extreme. One of the handicaps of the constitutional and democratic position is that it is complex and lends itself well to propaganda purposes only when it is warped and twisted into the simplicity of getting democracy by holding honest elections.

Since there is no classic statement of the theory of a constitutional political democracy, the most that can be done in a book of this kind is to present some of the writings that seem to be reasonably sure of inclusion in any statement of democratic theory. No such presentation can possibly be complete or satisfactory. That the writings here presented come predominantly from English and American writers simply confirm the well-known fact that only in these two countries have stable governments, ruling vast areas, been able to meet social problems reasonably well and still preserve a comfortable area for unimpeded individual liberty. That several of these selections come, not from thinkers as such, but from men of affairs indicates the extent to which statesmen have to settle problems on a piece-meal basis. And the only assurance that these pragmatic settlements will be in the right direction is that the statesmen are supported by a people who not only have a sense of direction but also a scheme of values which they do not easily give up.

In the selections that follow, five presidents of the United States are represented; Madison, Jefferson, Lincoln, Herbert Hoover, and Franklin D. Roosevelt.

James Madison, Virginian (1751-1836) is often called the Father of the United States Constitution because of his activity in the Constitutional Convention of 1787, because he kept the most complete record of that convention, and because he collaborated with Alexander Hamilton and John Jay in writing the famous Federalist Papers to explain the Constitution. It is his work in connection with the Constitution, not his two terms as fourth president, that entitles Madison to a place in this chapter and to a place in any book that deals with constitutional democracy.

We have already encountered Jefferson in Chapter 10, where his "Declaration of Independence" stresses individualism and the artificial nature of political society. Now we see him as the third president and first effective party organizer. Like Madison, Jefferson's claims to a prominent place in any consideration of constitutional democracy rests upon other considerations than his having been president. But unlike Madison, Jefferson's administration adds to his claim.

Abraham Lincoln of Illinois (1809-1865) was the only president whose election was ever contested by force. To this challenge he set his face in a strong determination to reunite the country under the Constitution. His place in the annals of the democratic and constitutional idea rest entirely upon his acts and his words as sixteenth president of the United States. No president ever faced such an ordeal and so his victory must be called the greatest. The real victory was not his military defeat of the South but his preservation of constitutional democracy when it would have been so easy to subvert it. Considering the circumstances, Lincoln's blending of the individual rights with the needs of the "great society" represents an unsurpassed example of the high art of constitutional democratic statesmanship—really epic leadership for democracy.

Like Lincoln, the thirty-second president of the United States, Franklin D. Roosevelt (1882-1945) achieved his place among the immortals of democracy after he became president in 1932. Roosevelt assumed leadership of the United States on March 4, 1933, by constitutional means, which was the same year Hitler assumed leadership of Germany by unconstitutional means. Moreover, their lives ended in 1945 under equally different circumstances. Perhaps as no other president, Franklin Roosevelt was forced to come to grips with the inadequacies of atomistic individualism in a crisis. No sooner had he gained some victory over this extreme than he was forced to come to grips with the extreme and irrational collective solidarity of a foreign foe, of whom Hitler was more than the symbol. The immediate resolution of both conflicts is a matter of history, in

which the name of Roosevelt is writ large. The ultimate resolution is not yet in sight, since a new foe threatens to assume the leadership of totalitarian forces.

Herbert Hoover (1874-) was the thirty-first president of the United States. His administration cut across the high point of the prosperity of the 1920's and the low point of the depression in the early 'thirties. His tenacity in clinging to an extreme individualism is often used to explain his failure adequately to cope with the economic crisis that confronted him. This interpretation is not entirely borne out by the record of measures he advocated and put into effect. Whatever may be the final historical verdict on Hoover, he has done much to keep alive an emphasis upon human freedom in the economic realm that must find some place in any final theory of constitutional democracy.

Of the remaining writers in this chapter, one was French and the remainder are British. In 1831 a young French magistrate, Alexis de Tocqueville (1805-1859) came to the United States to study prisons. Nine months later he returned to France and wrote *Democracy In America*. His insistence upon using the word "democracy," a radical word, made it difficult for him to find a publisher, but he finally did and his work became a classic. Tocqueville was elected to the Academy of Moral and Political Science in 1838, and served in the Chamber of Deputies before and after the Revolution of 1848. In 1849 he was vice-president of the Assembly and acted as Minister of Foreign Affairs for a few months.

John Stuart Mill we have met before, in Chapter 12. If anyone can be said to have bridged the gap between the simple tenets of the utilitarian individualism and the new democracy, it was Mill. He believed that forms of government are important and the constitutional position assumes this also.

To L. T. Hobhouse (1864-1929), British philosopher and sociologist, goes credit for having made a restatement of the liberal position which took into consideration both the social and individualistic side of man. Moreover, he did considerable work in advancing the usefulness of science and the scientific method in the study of man. He was educated at Oxford, taught there, served on the *Manchester Guardian*, and in 1907 became Martin White Professor of Sociology at the University of London.

The final selection in this chapter is by E. F. M. Durbin, a contemporary British writer. Here we present his statement of the positive value of political democracy. This may be taken as one statement of the value of constitutional democracy by a moderate socialist.

Taken as a whole, the most characteristic features of these writings are their moderateness, their rationalism, and their tendency to square pretty well with our common-sense observations of human nature. Collec-

tively, as singly, their greatest weakness as propaganda is that they present only a simple and coherent doctrine in their unity on the nature of human rights, and the workings of responsible democracy They do not and cannot prescribe a "magic" formula So long as reason can play a real rôle in society, this may be a strength, not a weakness.

Jefferson: Diversity and Unity

One of the foundation stones of constitutional democracy is the belief that opposition to the government of the day is not treason Every four years the people of the United States split up into two great groups and fight a word battle for control of the gov ernment Thus governments are handed on by peaceful methods, and after the mantle passes the country is pulled together into a tolerable unity "We are all Republicans, we are all Federal ists" states an attitude which must underlie all constitutional democracy One should note also the spirit of humility in which Jefferson accepts the power of high office Such humility can come only from a sense of inward strength and from a sense of the limitations that keep man from being all wise Jefferson was the first president elected by party organization and campaigning The following is his first inaugural address [1]

JEFFERSON'S FIRST INAUGURAL ADDRESS

MARCH 4, 1801

Friends and Fellow Citizens

Called upon to undertake the duties of the first executive office of our country I avail myself of the presence of that por tion of my fellow citizens which is here assembled to express my grateful thanks for the favor with which they have been pleased to look toward me, to declare a sincere consciousness that the task is above my talents, and that I approach it with those anxious and awful presenti ments which the greatness of the charge and the weakness of my powers so justly inspire A rising nation spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry engaged in commerce with na tions who feel power and forget right, advancing rapidly to destinies beyond the reach of mortal eye—when I contemplate these transcendent objects, and see the honor the happiness and the hopes of this beloved country committed to the issue and the auspices of this day I shrink from the contemplation and humble my self before the magnitude of the under taking Utterly indeed, should I despair did not the presence of many whom I here see remind me that in the other high authorities provided by our Constitution I shall find resources of wisdom, of virtue, and of zeal on which to rely under all difficulties To you, then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable

[1] From *Messages and Papers of The Presidents*, compiled by J D Richardson, Washington, D C, 1903 Vol I, pp 321 ff

us to steer with safety the vessel in which we are all embarked amidst the conflicting elements of a troubled world

During the contest of opinion through which we have passed the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely and to speak and to write what they think but this being now decided by the voice of the nation, announced according to the rules of the Constitution, all will of course, arrange themselves under the will of the law, and unite in common efforts for the common good All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable that the minority possess their equal rights, which equal law must protect, and to violate would be oppression Let us, then, fellow citizens unite with one heart and one mind Let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things And let us reflect that, having banished from our land that religious intolerance under which mankind so long bled and suffered we have yet gained little if we countenance a political intolerance as despotic as wicked, and capable of as bitter and bloody persecutions During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore that this should be more felt and feared by some and less by others, and should divide opinions as to measures of safety But every difference of opinion is not a difference of principle We have called by different names brethren of the same principle We are all Republicans, we are all Federalists If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it I know, indeed, that some honest men fear that a republican government can not be strong, that this Government is not strong enough, but would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm on the theoretic and visionary fear that this Government, the world's best hope, may by possibility want energy to preserve itself? I trust not I believe this on the contrary, the strongest Government on earth I believe it the only one where every man, at the call of the law would fly to the standard of the law, and would meet invasions of the public order as his own personal concern Sometimes it is said that man can not be trusted with the government of himself Can he, then, be trusted with the government of others? Or have we found angels in the forms of kings to govern him? Let history answer this question

Let us, then with courage and confidence pursue our own Federal and Republican principles our attachment to union and representative government kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe, too high minded to endure the degradations of the others, possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation, entertaining a due sense of our equal right to the use of our own faculties, to the acquisitions of our own industry, to honor and confidence from our fellow citizens resulting not from birth, but from our actions and their sense of them, enlightened by a benign religion, professed, indeed, and practiced in various forms, yet all of them inculcating honesty, truth, temperance, gratitude, and the love of man, acknowledging and adoring an overruling Providence, which by all its dispensations proves that it delights in the happiness of man here and his greater happiness hereafter—with all these blessings, what more is necessary to make us a

happy and a prosperous people? Still one thing more, fellow-citizens—a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

About to enter, fellow citizens, on the exercise of duties which comprehend everything dear and valuable to you, it is proper you should understand what I deem the essential principles of our Government, and consequently those which ought to shape its Administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political, peace, commerce, and honest friendship with all nations, entangling alliances with none, the support of the State governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against antirepublican tendencies; the preservation of the General Government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad, a jealous care of the right of election by the people—a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority, the vital principle of republics, from which is no appeal but to force, the vital principle and immediate parent of despotism; a well disciplined militia, our best reliance in peace and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense, that labor may be lightly burthened; the honest payment of our debts and sacred preservation of the public faith; encouragement of agriculture and of commerce as its handmaid; the diffusion of information and arraignment of all abuses at the bar of the public reason; freedom of religion; freedom of the press; and freedom of person under the protection of the habeas corpus, and trial by juries impartially selected. These principles form the bright constellation which has gone before us and guided our steps through an age of revolution and reformation. The wisdom of our sages and blood of our heroes have been devoted to their attainment. They should be the creed of our political faith, the text of civic instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.

I repair, then, fellow citizens, to the post you have assigned me. With experience enough in subordinate offices to have seen the difficulties of this the greatest of all, I have learnt to expect that it will rarely fall to the lot of imperfect man to retire from this station with the reputation and the favor which bring him into it. Without pretensions to that high confidence you reposed in our first and greatest revolutionary character, whose preeminent services had entitled him to the first place in his country's love and destined for him the fairest page in the volume of faithful history, I ask so much confidence only as may give firmness and effect to the legal administration of your affairs. I shall often go wrong through defect of judgment. When right, I shall often be thought wrong by those whose positions will not command a view of the whole ground. I ask your indulgence for my own errors, which will never be intentional, and your support against the errors of others, who may condemn what they would not if seen in all its parts. The approbation implied by your suffrage is a great consolation to me for the past, and my future solicitude will be to retain the good opinion of those who have be

stowed it in advance, to conciliate that of others by doing them all the good in my power, and to be instrumental to the happiness and freedom of all

Relying, then, on the patronage of your good will, I advance with obedience to the work, ready to retire from it whenever you become sensible how much better choice it is in your power to make And may that Infinite Power which rules the destinies of the universe lead our councils to what is best, and give them a favorable issue for your peace and prosperity.

Madison: On The Constitution

The fight for ratification of the Constitution of 1787 was nothing if it was not intense New York was a key state that had to be carried, not to meet a two thirds requirement but to assure territorial unity to the new union The sides were evenly matched To expound the new document, Alexander Hamilton, John Jay, and James Madison wrote a series of letters to New York newspapers giving a careful analysis of it When collected, these papers became and yet remain the greatest book on American political thought In the Tenth Federalist, which follows, Madison takes a realistic look at the conditions under which freedom and government are possible and finds in the new Constitution a set of rules which will contain and direct the eternal conflicts of man Madison misunderstands the logic of a party system, but he understands the nature of pressure groups and a reasonably satisfactory method of dealing with them, while maintaining a large amount of individual freedom [1]

THE FEDERALIST. No X

To the People of the State of New York

Among the numerous advantages promised by a well constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction The friend of popular governments never finds himself so much alarmed for their character and fate as when he contemplates their propensity to this dangerous vice He will not fail therefore, to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it The instability, injustice, and confusion introduced into the public councils, have, in truth, been the mortal diseases under which popular governments have everywhere perished, as they continue to be the favourite and fruitful topics from which the adversaries to liberty derive their most specious declamations The valuable improvements made by the American constitutions on the popular models, both ancient and modern, cannot certainly be too much admired, but it would be an unwarrantable partiality, to contend that they have as effectually obviated the danger on this side, as was wished and expected Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty, that our governments are too unstable, that the public good is disregarded in the conflicts of rival parties, and that

[1] From Tenth Federalist Paper

measures are too often decided not according to the rules of justice and the rights of the minor party but by the superior force of an interested and overbearing majority However anxiously we may wish that these complaints had no foundation, the evidence of known facts will not permit us to deny that they are in some degree true It will be found, indeed, on a candid review of our situation, that some of the distresses under which we labour have been erroneously charged on the operation of our governments, but it will be found at the same time, that other causes will not alone account for many of our heaviest misfortunes, and, particularly, for that prevailing and increasing distrust of public engagements, and alarm for private rights which are echoed from one end of the continent to the other These must be chiefly, if not wholly, effects of the unsteadiness and injustice with which a factious spirit has tainted our public administrations

By a faction, I understand a number of citizens, whether amounting to a majority or minority of the whole who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community

There are two methods of curing the mischiefs of faction the one, by removing its causes, the other, by controlling its effects

There are again two methods of removing the causes of faction the one by destroying the liberty which is essential to its existence, the other, by giving to every citizen the same opinions, the same passions, and the same interests

It could never be more truly said than of the first remedy, that it was worse than the disease Liberty is to faction what air is to fire, an aliment without which it instantly expires But it could not be less folly to abolish liberty, which is essential to political life, because it nourishes faction, than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency

The second expedient is as impracticable as the first would be unwise As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed As long as the connection subsists between his reason and his self love, his opinions and his passions will have a reciprocal influence on each other, and the former will be objects to which the latter will attach themselves The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests The protection of these faculties is the first object of government From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results, and from the influence of these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties

The latent causes of faction are thus sown in the nature of man, and we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice, an attachment of different leaders ambitiously contending for preeminence and power, or to persons of other descriptions whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to cooperate for their common good So strong is this propensity of mankind to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite them

most violent conflicts But the most com mon and durable source of factions has been the various and unequal distribu tion of property Those who hold and those who are without property have ever formed distinct interests in society Those who are creditors, and those who are debtors, fall under a like discrimination A landed interest, a manufacturing inter est, a mercantile interest, a moneyed in terest, with many lesser interests, grow up of necessity in civilised nations and di vide them into different classes actuated by different sentiments and views The regulation of these various and interfer ing interests forms the principal task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operations of the government

No man is allowed to be a judge in his own cause, because his interest would cer tainly bias his judgment and not im probably, corrupt his integrity With equal, nay, with greater reason a body of men are unfit to be both judges and par ties at the same time, yet what are many of the most important acts of legislation but so many judicial determinations not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? And what are the dif ferent classes of legislators but advocates and parties to the causes which they de termine? Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other Justice ought to hold the balance between them Yet the parties are, and must be, themselves the judges, and the most numerous party, or in other words, the most powerful fac tion must be expected to prevail Shall domestic manufactures be encouraged, and in what degree, by restrictions on for eign manufactures? are questions which would be differently decided by the landed and the manufacturing classes, and probably by neither with a sole re gard to justice and the public good The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impar tiality, yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice Every shilling with which they overbur den the inferior number is a shilling saved to their own pockets

It is in vain to say that enlightened statesmen will be able to adjust these clashing interests, and render them all subservient to the public good Enlight ened statesmen will not always be at the helm Nor, in many cases, can such an adjustment be made at all without taking into view indirect and remote considera tions, which will rarely prevail over the immediate interest which one party may find in disregarding the rights of another or the good of the whole

The inference to which we are brought is, that the *causes* of faction cannot be removed, and that relief is only to be sought in the means of controlling its *effects*

If a faction consists of less than a ma jority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote It may clog the administration, it may convulse the society, but it will be unable to execute and mask its violence under the forms of the Constitution When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our in quiries are directed Let me add that it is the great desideratum by which this form of government can be rescued from the opprobrium under which it has so long laboured, and be recommended to the esteem and adoption of mankind.

By what means is this object obtain able? Evidently by one of two only

Either the existence of the same passion or interest in a majority at the same time must be prevented, or the majority, having such co-existent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together, that is, in proportion as their efficacy becomes needful.

From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert result from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians, who have patronised this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalised and assimilated in their possessions, their opinions, and their passions.

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union.

The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.

The effect of the first difference is, on the one hand, to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may, by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests, of the people. The question resulting is, whether small or extensive republics are more favourable to the election of proper guardians of the public weal; and it is clearly decided in favour of the latter by two obvious considerations:

In the first place, it is to be remarked that, however small the republic may be, the representatives must be raised to a certain number, in order to guard against the cabals of a few; and that, however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude. Hence the number of representatives in the two cases not being in proportion to that of the two constituents, and being proportionally greater in the small republic, it follows that, if the proportion of fit characters be not less in the large than in the small republic, the former will

present a greater option, and consequently a greater probability of a fit choice.

In the next place, as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practise with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre in men who possess the most attractive merit and the most diffusive and established character.

It must be confessed that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the State legislatures.

The other point of difference is, the greater number of citizens and extent of territory which may be brought within the compass of republican than of democratic government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other. Besides other impediments, it may be remarked that, where there is a consciousness of unjust or dishonourable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary.

Hence, it clearly appears, that the same advantage which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over a small republic—is enjoyed by the Union over the States composing it. Does the advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and to schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union increase this security? Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the Union gives it the most palpable advantage.

The influence of factious leaders may kindle a flame within their particular States, but will be unable to spread a general conflagration through the other States. A religious sect may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire face of it must secure the national councils against any danger from that source. A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will

be less apt to pervade the whole body of the Union than a particular member of it, in the same proportion as such a malady is more likely to taint a particular county or district, than an entire State

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government And according to the degree of pleasure and pride we feel in being republicans, ought to be our zeal in cherishing the spirit and supporting the character of Federalists

PUBLIUS.

Tocqueville: The Real Advantages of Democracy

Tocqueville possessed that most necessary of qualities for the honest and effective critic and analyst This quality is a sense of detachment unaccompanied by a sense of indifference No great critic lacks it In the task of writing a monumental critique of the American system, Tocqueville was aided by the fact that he was French and not American But this alone is not enough to account for the quality of his work He had a keen, philosophical, and detached mind, but he was not indifferent. Tocqueville saw faults in America, and in democracy, which most Americans do not see, or, seeing, do not recognize. He also noted many things that Americans simply take for granted and hence never bother to analyze The chapter from which the following selection is taken is entitled 'The Real Advantages That American Society Derives From Democratic Government" It is interesting to note how much more profound is his analysis than most of the gibberish one hears about democracy these days.[1]

CHAPTER XIV

THE REAL ADVANTAGES THAT AMERICAN SOCIETY DERIVES FROM DEMOCRATIC GOVERNMENT

.. The political institutions of the United States appear to me to be one of the forms of government which a democracy may adopt, but I do not regard the American Constitution as the best, or as the only one, which a democratic people may establish In showing the advantages which the Americans derive from the government of democracy, I am therefore very far from meaning or from believing, that similar advantages can only be obtained from the same laws

The defects and the weaknesses of a democratic government may be discovered very readily, they are demonstrated by the most flagrant instances, while its beneficial influence is less perceptibly exercised A single glance suffices to detect its evil consequences, but its good qualities can only be discerned by long observation The laws of the American democracy are frequently defective or incomplete, they sometimes attack vested rights, or give a sanction to others which are dangerous to the community; but even if they were good, the frequent changes which they undergo would be an evil. How comes it, then, that the American republics prosper and maintain their position?

[1] From *Democracy in America* by Alexis de Tocqueville, translated by Henry Reeve Published by D Appleton Century and Company, 1901 Volume I, Chapter XIV.

In the consideration of laws a distinction must be carefully observed between the end at which they aim and the means by which they are directed to that end, between their absolute and their relative excellence. If it be the intention of the legislator to favour the interests of the minority at the expense of the majority, and if the measures he takes are so combined as to accomplish the object he has in view with the least possible expense of time and exertion, the law may be well drawn up, although its purpose be bad; and the more efficacious it is, the greater is the mischief which it causes.

Democratic laws generally tend to promote the welfare of the greatest possible number; for they emanate from the majority of the citizens, who are subject to error, but who can not have an interest opposed to their own advantage. The laws of an aristocracy tend, on the contrary, to concentrate wealth and power in the hands of the minority, because an aristocracy, by its very nature, constitutes a minority. It therefore may be asserted, as a general proposition, that the purpose of a democracy in the conduct of its legislation is useful to a greater number of citizens than that of an aristocracy. This is, however, the sum total of its advantages.

Aristocracies are infinitely more expert in the science of legislation than democracies ever can be. They are possessed of a self-control which protects them from the errors of temporary excitement, and they form lasting designs which they mature with the assistance of favourable opportunities. Aristocratic government proceeds with the dexterity of art; it understands how to make the collective force of all its laws converge at the same time to a given point. Such is not the case with democracies, whose laws are almost always ineffective or inopportune. The means of democracy are therefore more imperfect than those of aristocracy, and the measures which it unwittingly adopts are frequently opposed to its own cause; but the object it has in view is more useful.

Let us now imagine a community so organized by nature, or by its constitution, that it can support the transitory action of bad laws, and that it can await, without destruction, the general tendency of the legislation: we shall then be able to conceive that a democratic government, notwithstanding its defects, will be most fitted to conduce to the prosperity of this community. This is precisely what has occurred in the United States; and I repeat, what I have before remarked, that the great advantage of the Americans consists in their being able to commit faults which they may afterward repair.

An analogous observation may be made respecting public officers. It is easy to perceive that the American democracy frequently errs in the choice of the individuals to whom it intrusts the power of the administration; but it is more difficult to say why the State prospers under their rule. In the first place, it is to be remarked that if in a democratic State the governors have less honesty and less capacity than elsewhere, the governed, on the other hand, are more enlightened and more attentive to their interests. As the people in democracies is more incessantly vigilant in its affairs and more jealous of its rights, it prevents its representatives from abandoning that general line of conduct which its own interest prescribes. In the second place, it must be remembered that if the democratic magistrate is more apt to misuse his power, he possesses it for a shorter period of time. But there is yet another reason which is still more general and conclusive. It is no doubt of importance to the welfare of nations that they should be governed by men of talents and virtue: but it is perhaps still more important that the interests of those men should not differ from the interests of the community at large; for, if such were the case, virtues of a high order might become useless, and talents might be turned to a bad account. I say that it is important that the interests of the persons in authority should not conflict with or oppose the interests

of the community at large; but I do not insist upon their having the same interests as the whole population, because I am not aware that such a state of things ever existed in any country.

No political form has been discovered hitherto which is equally favourable to the prosperity and the development of all the classes into which society is divided. These classes continue to form, as it were, a certain number of distinct nations in the same nation; and experience has shown that it is no less dangerous to place the fate of these classes exclusively in the hands of any one of them than it is to make one people the arbiter of the destiny of another. When the rich alone govern, the interest of the poor is always endangered; and when the poor make the laws, that of the rich incurs very serious risks. The advantage of democracy does not consist, therefore, as has sometimes been asserted, in favouring the prosperity of all, but simply in contributing to the well-being of the greatest possible number.

The men who are intrusted with the direction of public affairs in the United States are frequently inferior, both in point of capacity and of morality, to those whom aristocratic institutions would raise to power. But their interest is identified and confounded with that of the majority of their fellow-citizens. They may frequently be faithless and frequently mistaken, but they will never systematically adopt a line of conduct opposed to the will of the majority; and it is impossible that they should give a dangerous or an exclusive tendency to the government.

The maladministration of a democratic magistrate is a mere isolated fact, which only occurs during the short period for which he is elected. Corruption and incapacity do not act as common interests, which may connect men permanently with one another. A corrupt or an incapable magistrate will not concert his measures with another magistrate, simply because that individual is as corrupt and as incapable as himself; and these two men will never unite their endeavours to promote the corruption and inaptitude of their remote posterity. The ambition and the manœuvres of the one will serve, on the contrary, to unmask the other. The vices of a magistrate, in democratic states, are usually peculiar to his own person.

But under aristocratic governments public men are swayed by the interest of their order, which, if it is sometimes confounded with the interests of the majority, is very frequently distinct from them. This interest is the common and lasting bond which unites them together; it induces them to coalesce, and to combine their efforts in order to attain an end which does not always insure the greatest happiness of the greatest number; and it serves not only to connect the persons in authority, but to unite them to a considerable portion of the community, since a numerous body of citizens belongs to the aristocracy, without being invested with official functions. The aristocratic magistrate is therefore constantly supported by a portion of the community, as well as by the Government of which he is a member.

The common purpose which connects the interest of the magistrates in aristocracies with that of a portion of their contemporaries indentifies it with that of future generations; their influence belongs to the future as much as to the present. The aristocratic magistrate is urged at the same time toward the same point by the passions of the community, by his own, and I may almost add by those of his posterity. Is it, then, wonderful that he does not resist such repeated impulses? And, indeed, aristocracies are often carried away by the spirit of their order without being corrupted by it; and they unconsciously fashion society to their own ends, and prepare it for their own descendants.

The English aristocracy is perhaps the most liberal which ever existed, and no body of men has even uninterruptedly furnished so many honourable and en-

lightened individuals to the government of a country It can not, however, escape observation that in the legislation of England the good of the poor has been sacrificed to the advantage of the rich, and the rights of the majority to the privileges of the few The consequence is, that England, at the present day, combines the extremes of fortune in the bosom of her society, and her perils and calamities are almost equal to her power and her renown

In the United States, where the public officers have no interests to promote connected with their caste the general and constant influence of the Government is beneficial, although the individuals who conduct it are frequently unskilful and sometimes contemptible There is indeed, a secret tendency in democratic institutions to render the exertions of the citizens subservient to the prosperity of the community, notwithstanding their private vices and mistakes, while in aristocratic institutions there is a secret propensity which, notwithstanding the talents and the virtues of those who conduct the government leads them to contribute to the evils which oppress their fellow creatures In aristocratic governments public men may frequently do injuries which they do not intend, and in democratic states they produce advantages which they never thought of

There is one sort of patriotic attachment which principally arises from that instinctive, disinterested, and undefinable feeling which connects the affections of man with his birthplace This natural fondness is united to a taste for ancient customs, and to a reverence for ancestral traditions of the past, those who cherish it love their country as they love the mansion of their fathers They enjoy the tranquility which it affords them, they cling to the peaceful habits which they have contracted within its bosom, they are attached to the reminiscences which it awakens, and they are even pleased by the state of obedience in which they are placed This patriotism is sometimes stimulated by religious enthusiasm, and then it is capable of making the most prodigious efforts It is in itself a kind of religion, it does not reason, but it acts from the impulse of faith and of sentiment By some nations the monarch has been regarded as a personification of the country and the fervour of patriotism being converted into the fervour of loyalty they took a sympathetic pride in his conquests, and gloried in his power At one time, under the ancient monarchy, the French felt a sort of satisfaction in the sense of their dependence upon the arbitrary pleasure of their king and they were wont to say with pride, We are the subjects of the most powerful king in the world

But, like all instinctive passions, this kind of patriotism is more apt to prompt transient exertion than to supply the motives of continuous endeavour It may save the State in critical circumstances, but it will not infrequently allow the nation to decline in the midst of peace While the manners of a people are simple and its faith unshaken while society is steadily based upon traditional institutions whose legitimacy has never been contested, this instinctive patriotism is wont to endure

But there is another species of attachment to a country which is more rational than the one we have been describing It is perhaps less generous and less ardent, but it is more fruitful and more lasting it is coeval with the spread of knowledge, it is nurtured by the laws, it grows by the exercise of civil rights and, in the end, it is confounded with the personal interest of the citizen A man comprehends the influence which the prosperity of his country has upon his own welfare, he is aware that the laws authorize him to contribute his assistance to that prosperity, and he labours to promote it as a portion of his interest in the first place, and as a portion of his right in the second

But epochs sometimes occur, in the course of the existence of a nation, at which the ancient customs of a people

are changed, public morality destroyed, religious belief disturbed, and the spell of tradition broken, while the diffusion of knowledge is yet imperfect, and the civil rights of the community are ill secured, or confined within very narrow limits. The country then assumes a dim and dubious shape in the eyes of the citizens; they no longer behold it in the soil which they inhabit, for that soil is to them a dull inanimate clod; nor in the usages of their forefathers, which they have been taught to look upon as a debasing yoke; nor in religion, for of that they doubt; nor in the laws, which do not originate in their own authority; nor in the legislator, whom they fear and despise. The country is lost to their senses, they can neither discover it under its own nor under borrowed features, and they intrench themselves within the dull precincts of a narrow egotism. They are emancipated from prejudice without having acknowledged the empire of reason; they are neither animated by the instinctive patriotism of monarchical subjects nor by the thinking patriotism of republican citizens; but they have stopped half-way between the two, in the midst of confusion and of distress.

In this predicament, to retreat is impossible; for a people can not restore the vivacity of its earlier times, any more than a man can return to the innocence and the bloom of childhood; such things may be regretted, but they can not be renewed. The only thing, then, which remains to be done is to proceed, and to accelerate the union of private with public interests, since the period of disinterested patriotism is gone by forever.

I am certainly very far from averring that, in order to obtain this result, the exercise of political rights should be immediately granted to all the members of the community. But I maintain that the most powerful, and perhaps the only, means of interesting men in the welfare of their country which we still possess is to make them partakers in the Government. At the present time civic zeal seems to me to be inseparable from the exercise of political rights; and I hold that the number of citizens will be found to augment or to decrease in Europe in proportion as those rights are extended.

In the United States the inhabitants were thrown but as yesterday upon the soil which they now occupy, and they brought neither customs nor traditions with them there; they meet each other for the first time with no previous acquaintance; in short, the instinctive love of their country can scarcely exist in their minds; but every one takes as zealous an interest in the affairs of his township, his county, and of the whole State, as if they were his own, because every one, in his sphere, takes an active part in the government of society.

The lower orders in the United States are alive to the perception of the influence exercised by the general prosperity upon their own welfare; and simple as this observation is, it is one which is but too rarely made by the people. But in America the people regards this prosperity as the result of its own exertions; the citizen looks upon the fortune of the public as his private interest, and he cooperates in its success, not so much from a sense of pride or of duty, as from what I shall venture to term cupidity.

It is unnecessary to study the institutions and the history of the Americans in order to discover the truth of this remark, for their manners render it sufficiently evident. As the American participates in all that is done in his country, he thinks himself obliged to defend whatever may be censured; for it is not only his country which is attacked upon these occasions, but it is himself. The consequence is, that his national pride resorts to a thousand artifices, and to all the petty tricks of individual vanity.

Nothing is more embarrassing in the ordinary intercourse of life than this irritable patriotism of the Americans. A stranger may be very well inclined to praise many of the institutions of their country, but he begs permission to blame

some of the peculiarities which he observes —a permission which is, however in exorably refused America is therefore a free country in which, lest anybody should be hurt by your remarks, you are not allowed to speak freely of private in dividuals or of the State, of the citizens or of the authorities, of public or of private undertakings, or, in short, of anything at all except it be of the climate and the soil, and even then Americans will be found ready to defend either the one or the other, as if they had been contrived by the inhabitants of the country

In our times option must be made between the patriotism of all and the government of a few, for the force and activity which the first confers are irrec oncilable with the guarantees of tran quility which the second furnishes

After the idea of virtue, I know no higher principle than that of right or, to speak more accurately these two ideas are commingled in one The idea of right is simply that of virtue introduced into the political world It is the idea of right which enabled men to define anarchy and tyranny and which taught them to remain independent without arrogance, as well as to obey without servility The man who submits to violence is debased by his compliance, but when he obeys the mandate of one who possesses that right of authority which he acknowl edges in a fellow creature, he rises in some measure above the person who delivers the command There are no great men without virtue, and there are no great nations—it may almost be added that there would be no society—without the notion of rights, for what is the condition of a mass of rational and intelligent beings who are only united together by the bond of force

I am persuaded that the only means which we possess at the present time of inculcating the notion of rights and of rendering it, as it were, palpable to the senses, is to invest all the members of the community with the peaceful exercise of certain rights this is very clearly seen in children, who are men without the strength and the experience of manhood When a child begins to move in the midst of the objects which surround him, he is instinctively led to turn everything which he can lay his hands upon to his own purposes he has no notion of the property of others but as he gradually learns the value of things, and begins to perceive that he may in his turn be deprived of his possessions he becomes more cir cumspect and he observes those rights in others which he wishes to have respected in himself The principle which the child derives from the possession of his toys is taught to the man by the objects which he may call his own In America those com plaints against property in general which are so frequent in Europe are never heard, because in America there are no paupers, and as every one has property of his own to defend every one recognises the principle upon which he holds it

The same thing occurs in the political world In America the lowest classes have conceived a very high notion of political rights, because they exercise those rights and they refrain from attacking those of other people, in order to insure their own from attack While in Europe the same classes sometimes recalcitrate even against the supreme power, the American submits without a murmur to the authority of the pettiest magistrate

This truth is exemplified by the most trivial details of national peculiarities In France very few pleasures are exclusively reserved for the higher classes, the poor are admitted wherever the rich are received, and they consequently behave with propriety, and respect whatever con tributes to the enjoyments in which they themselves participate In England, where wealth has a monopoly of amusement as well as of power, complaints are made that whenever the poor happen to steal into the inclosures which are reserved for the pleasures of the rich, they commit acts of wanton mischief can this be wondered at, since care has been taken that they should have nothing to lose?

The government of democracy brings the notion of political rights to the level of the humblest citizens, just as the dissemination of wealth brings the notion of property within the reach of all the members of the community, and I confess that, to my mind, this is one of its greatest advantages I do not assert that it is easy to teach men to exercise political rights, but I maintain that, when it is possible, the effects which result from it are highly important, and I add that if there ever was a time at which such an attempt ought to be made, that time is our own It is clear that the influence of religious belief is shaken, and that the notion of divine rights is declining, it is evident that public morality is vitiated and the notion of moral rights is also disappearing these are general symptoms of the substitution of argument for faith, and of calculation for the impulses of sentiment If, in the midst of this general disruption, you do not succeed in connecting the notion of rights with that of personal interest, which is the only immutable point in the human heart, what means will you have of governing the world except by fear? When I am told that, since the laws are weak and the populace is wild, since passions are excited and the authority of virtue is paralyzed, no measures must be taken to increase the rights of the democracy, I reply, that it is for these very reasons that some measures of the kind must be taken, and I am persuaded that governments are still more interested in taking them than society at large, because governments are liable to be destroyed and society can not perish

I am not, however, inclined to exaggerate the example which America furnishes In those States the people were invested with political rights at a time when they could scarcely be abused, for the citizens were few in number and simple in their manners As they have increased, the Americans have not augmented the power of the democracy, but they have, if I may use the expression, extended its dominions.

It can not be doubted that the moment at which political rights are granted to a people that before has been without them is a very critical, though it be a necessary one A child may kill before he is aware of the value of life, and he may deprive another person of his property before he is aware that his own may be taken away from him The lower orders, when first they are invested with political rights, stand, in relation to those rights, in the same position as the child does to the whole of Nature, and the celebrated adage may then be applied to them, Homo puer robustus This truth may even be perceived in America The States in which the citizens have enjoyed their rights longest are those in which they make the best use of them

It can not be repeated too often that nothing is more fertile in prodigies than the art of being free, but there is nothing more arduous than the apprenticeship of liberty Such is not the case with despotic institutions despotism often promises to make amends for a thousand previous ills; it supports the right, it protects the oppressed, and it maintains public order. The nation is lulled by the temporary prosperity which accrues to it, until it is roused to a sense of its own misery. Liberty, on the contrary, is generally established in the midst of agitation, it is perfected by civil discord, and its benefits can not be appreciated until it is already old

It is not always feasible to consult the whole people, either directly or indirectly, in the formation of the law, but it can not be denied that, when such a measure is possible, the authority of the law is very much augmented This popular origin, which impairs the excellence and the wisdom of legislation, contributes prodigiously to increase its power. There is an amazing strength in the expression of the determination of a whole people, and when it declares itself the imagination of those who are most inclined to contest it is overawed by its authority The truth of this fact is very well known by parties, and they consequently strive to make out

a majority whenever they can If they have not the greater number of voters on their side, they assert that the true majority abstained from voting and if they are foiled even there, they have recourse to the body of those persons who had no votes to give

In the United States, except slaves, servants, and paupers in the receipt of relief from the townships there is no class of persons who do not exercise the elective franchise, and who do not indirectly contribute to make the laws Those who design to attack the laws must consequently either modify the opinion of the nation or trample upon its decision

A second reason, which is still more weighty, may be further adduced in the United States every one is personally interested in enforcing the obedience of the whole community to the law, for as the minority may shortly rally the majority to its principles, it is interested in professing that respect for the decrees of the legislator which it may soon have occasion to claim for its own However irksome an enactment may be, the citizen of the United States complies with it, not only because it is the work of the majority, but because it originates in his own authority, and he regards it as a contract to which he is himself a party

In the United States, then, that numerous and turbulent multitude does not exist which always looks upon the law as its natural enemy, and accordingly surveys it with fear and with distrust It is impossible, on the other hand, not to perceive that all classes display the utmost reliance upon the legislation of their country, and that they are attached to it by a kind of parental affection

I am wrong, however, in saying all classes, for as in America the European scale of authority is inverted, the wealthy are there placed in a position analogous to that of the poor in the Old World, and it is the opulent classes which frequently look upon the law with suspicion I have already observed that the advantage of democracy is not, as has been sometimes asserted, that it protects the interests of the whole community, but simply that it protects those of the majority In the United States, where the poor rule, the rich have always some reason to dread the abuses of their power This natural anxiety of the rich may produce a sullen dissatisfaction but society is not disturbed by it, for the same reason which induces the rich to withhold their confidence in the legislative authority makes them obey its mandates, their wealth which prevents them from making the law, prevents them from withstanding it Among civilized nations revolts are rarely excited, except by such persons as have nothing to lose by them, and if the laws of a democracy are not always worthy of respect, at least they always obtain it for those who usually infringe the laws have no excuse for not complying with the enactments they have themselves made, and by which they are themselves benefited, while the citizens whose interests might be promoted by the infraction of them are induced, by their character and their stations, to submit to the decisions of the legislature, whatever they may be Besides which, the people in America obeys the law not only because it emanates from the popular authority, but because that authority may modify it in any points which may prove vexatious a law is observed because it is a self imposed evil in the first place, and an evil of transient duration in the second

On passing from a country in which free institutions are established to one where they do not exist, the traveller is struck by the change, in the former all is bustle and activity, in the latter everything is calm and motionless In the one, amelioration and progress are the general topics of inquiry, in the other, it seems as if the community only aspired to repose in the enjoyment of the advantages which it has acquired Nevertheless, the country which exerts itself so strenuously to promote its welfare is generally more wealthy and more prosperous than that which appears to be so contented with its lot, and when we compare them together, we can scarcely

conceive how so many new wants are daily felt in the former, while so few seem to occur in the latter

If this remark is applicable to those free countries in which monarchical and aristocratic institutions subsist, it is still more striking with regard to democratic republics In these States it is not only a portion of the people which is busied with the amelioration of its social condition, but the whole community is engaged in the task, and it is not the exigencies and the convenience of a single class for which a provision is to be made, but the exigencies and the convenience of all ranks of life

It is not impossible to conceive the surpassing liberty which the Americans enjoy, some idea may likewise be formed of the extreme equality which subsists among them, but the political activity which pervades the United States must be seen *in order to be understood* No sooner do you set foot upon American soil than you are stunned by a kind of tumult, a confused clamour is heard on every side, and a thousand simultaneous voices demand the immediate satisfaction of their social wants Everything is in motion around you, here, the people of one quarter of a town are met to decide upon the building of a church, there, the election of a representative is going on, a little farther the delegates of a district are posting to the town in order to consult upon some local improvements, or in another place the labourers of a village quit their ploughs to deliberate upon the project of a road or a public school Meetings are called for the sole purpose of declaring their disapprobation of the line of conduct pursued by the Government, while in other assemblies the citizens salute the authorities of the day as the fathers of their country Societies are formed which regard drunkenness as the principal cause of the evils under which the State labours, and which solemnly bind themselves to give a constant example of temperance [2]

The great political agitation of the American legislative bodies, which is the only kind of excitement that attracts the attention of foreign countries, is a mere episode or a sort of continuation of that universal movement which originates in the lowest classes of the people and extends successively to all the ranks of society It is impossible to spend more efforts in the pursuit of enjoyment

The cares of political life take a most prominent place in the occupation of a citizen in the United States, and almost the only pleasure of which an American has any idea is to take a part in the Government, and to discuss the part he has taken This feeling pervades the most trifling habits of life, even the women frequently attend public meetings and listen to political harangues as a recreation after their household labours. Debating clubs are to a certain extent a substitute for theatrical entertainments an American can not converse, but he can discuss, and *when he attempts to talk he falls into a* dissertation He speaks to you as if he was addressing a meeting, and if he should chance to warm in the course of the discussion, he will infallibly say, "Gentlemen,' to the person with whom he is conversing

In some countries the inhabitants display a certain repugnance to avail themselves of the political privileges with which the law invests them, it would seem that they set too high a value upon their time to spend it on the interests of the community, and they prefer to withdraw within the exact limits of a wholesome egotism marked out by four sunk fences and a quickset hedge But if an American were condemned to confine his activity to his own affairs, he would be robbed of one half of his existence, he would feel an immense void in the life which he is accustomed to lead, and his

[2] At the time of my stay in the United States the Temperance Societies already consisted of more than 270,000 members, and their effect had been to diminish the consumption of fermented liquors by 500,000 gallons per annum in the State of Pennsylvania alone

wretchedness would be unbearable.[3] I am persuaded that, if ever a despotic government is established in America, it will find it more difficult to surmount the habits which free institutions have engendered than to conquer the attachment of the citizens to freedom

This ceaseless agitation which democratic government has introduced into the political world influences all social intercourse I am not sure that upon the whole this is not the greatest advantage of democracy. And I am much less inclined to applaud it for what it does than for what it causes to be done

It is incontestable that the people frequently conducts public business very badly, but it is impossible that the lower orders should take a part in public business without extending the circle of their ideas, and without quitting the ordinary routine of their mental acquirements The humblest individual who is called upon to co operate in the government of society acquires a certain degree of self-respect, and as he possesses authority, he can command the services of minds much more enlightened than his own He is canvassed by a multitude of applicants, who seek to deceive him in a thousand different ways, but who instruct him by their deceit He takes a part in political undertakings which did not originate in his own conception, but which give him a taste for undertakings of the kind New ameliorations are daily pointed out in the property which he holds in common with others, and this gives him the desire of improving that property which is more peculiarly his own He is perhaps neither happier nor better than those who came before him, but he is better informed and more active I have no doubt that the democratic institutions of the United States, joined to the physical constitution of the country, are the cause (not the direct, as is so often asserted, but the indirect cause) of the prodigious commercial activity of the inhabitants It is not engendered by the laws, but the people learns how to promote it by the experience derived from legislation

When the opponents of democracy assert that a single individual performs the duties which he undertakes much better than the government of the community, it appears to me that they are perfectly right The government of an individual, supposing an equality of instruction on either side, is more consistent, more persevering, and more accurate than that of a multitude, and it is much better qualified judiciously to discriminate the characters of the men it employs If any deny what I advance they have certainly never seen a democratic government, or have formed their opinion upon very partial evidence. It is true that even when local circumstances and the disposition of the people allow democratic institutions to subsist, they never display a regular and methodical system of government Democratic liberty is far from accomplishing all the projects it undertakes with the skill of an adroit despotism It frequently abandons them before they have borne their fruits, or risks them when the consequences may prove dangerous, but in the end it produces more than any absolute government, and if it do fewer things well, it does a greater number of things Under its sway the transactions of the public administration are not nearly so important as what is done by private exertion Democracy does not confer the most skilful kind of government upon the people, but it produces that which the most skilful governments are frequently unable to awaken, namely, an all pervading and restless activity, a superabundant force, and an energy which is inseparable from it, and which may, under favourable circumstances, beget the most amazing benefits These are the true advantages of democracy.

[3] The same remark was made at Rome under the first Cæsars Montesquieu somewhere alludes to the excessive despondency of certain Roman citizens who, after the excitement of political life, were all at once flung back into the stagnation of private life.

In the present age, when the destinies of Christendom seem to be in suspense, some hasten to assail democracy as its foe while it is yet in its early growth; and others are ready with their vows of adoration for this new deity which is springing forth from chaos: but both parties are very imperfectly acquainted with the object of their hatred or of their desires; they strike in the dark, and distribute their blows by mere chance.

We must first understand what the purport of society and the aims of government are held to be. If it be your intention to confer a certain elevation upon the human mind, and to teach it to regard the things of this world with generous feelings, to inspire men with a scorn of mere temporal advantage, to give birth to living convictions, and to keep alive the spirit of honourable devotedness; if you hold it to be a good thing to refine the habits, to embellish the manners, to cultivate the arts of a nation, and to promote the love of poetry, of beauty, and of renown; if you would constitute a people not unfitted to act with power upon all other nations, nor unprepared for those high enterprises which, whatever be the result of its efforts, will leave a name forever famous in time—if you believe such to be the principal object of society, you must avoid the government of democracy, which would be a very uncertain guide to the end you have in view.

But if you hold it to be expedient to divert the moral and intellectual activity of man to the production of comfort, and to the acquirement of the necessaries of life; if a clear understanding be more profitable to man than genius; if your object be not to stimulate the virtues of heroism, but to create habits of peace; if you had rather witness vices than crimes and are content to meet with fewer noble deeds, provided offences be diminished in the same proportion; if, instead of living in the midst of a brilliant state of society, you are contented to have prosperity around you; if, in short, you are of opinion that the principal object of a Government is not to confer the greatest possible share of power and of glory upon the body of the nation, but to insure the greatest degree of enjoyment and the least degree of misery to each of the individuals who compose it—if such be your desires, you can have no surer means of satisfying them than by equalizing the conditions of men, and establishing democratic institutions.

But if the time be passed at which such a choice was possible, and if some superhuman power impel us toward one or the other of these two governments without consulting our wishes, let us at least endeavour to make the best of that which is allotted to us; and let us so inquire into its good and its evil propensities as to be able to foster the former and repress the latter to the utmost.

Lincoln: Justice under the Union

As nearly as any one event, Lincoln's election and subsequent inauguration touched off the Civil War. There was almost no hope of a peaceful resolution of the North South tensions, but as long as there was any hope Lincoln explored it In so doing he revealed a deeper understanding of the nature of political society than most political philosophers What was there in the background of the prairie lawyer that prepared him for this great statement—this act of hopeful imagination in the face of great adverse odds? By many he was called appeaser, but it is possible that his true strength lay in the fact that he could utter no other message than the one he did Four years of bloody war and another election campaign separated the two addresses presented here Already Lincoln understood war and the limitations of military victory better than most lesser people before or since The expressions here recorded are a tribute to Lincoln. That Lincoln was at the helm is a tribute to any system of government that is capable of seeking and accepting its leadership from remote and humble places[1]

LINCOLN'S FIRST INAUGURAL ADDRESS

4 March 1861

Fellow Citizens of the United States — In compliance with a custom as old as the Government itself, I appear before you to address you briefly, and to take in your presence the oath prescribed by the Constitution of the United States to be taken by the President 'before he enters on the execution of his office'

I do not consider it necessary at present for me to discuss those matters of administration about which there is no special anxiety or excitement

Apprehension seems to exist among the people of the Southern States that by the accession of a Republican administration their property and their peace and personal security are to be endangered There has never been any reasonable cause for such apprehension Indeed, the most ample evidence to the contrary has all the while existed and been open to their inspection. It is found in nearly all the published speeches of *him* who now addresses you I do but quote from one of those speeches when I declare that I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists I believe I have no lawful right to do so, and I have no inclination to do so' Those who nominated and elected me did so with full knowledge that I had made this and many similar declarations, and had never recanted them And, more than this, they placed in the platform for my acceptance. and as a law to themselves and to me, the clear and emphatic resolution which I now read·

Resolved, That the maintenance inviolate in the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend, and we denounce the lawless invasion by armed force of the soil of any State or Terri

[1] From Lincoln's First and Second Inaugural *Messages and Papers of The Presidents,* compiled by J D Richardson, Washington, D C, 1913 Vol VI, pp 5 ff and 277 ff

tory no matter under what pretext, as among the gravest of crimes

I now reiterate these sentiments, and, in doing so, I only press upon the public attention the most conclusive evidence of which the case is susceptible, that the property, peace, and security of no section are to be in any wise endangered by the now incoming administration I add, too, that all the protection which, consistently with the Constitution and the laws, can be given, will be cheerfully given to all the States when lawfully demanded, for whatever cause—as cheerfully to one section as to another

There is much controversy about the delivering up of fugitives from service or labor The clause I now read is as plainly written in the Constitution as any other of its provisions

> No person held to service or labor in one State under the laws thereof, escaping into another, shall in consequence of any law or regulation therein be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due

It is scarcely questioned that this provision was intended by those who made it for the reclaiming of what we call fugitive slaves, and the intention of the lawgiver is the law All members of Congress swear their support to the whole Constitution—to this provision as much as to any other To the proposition, then, that slaves whose cases come within the terms of this clause 'shall be delivered up', their oaths are unanimous Now, if they would make the effort in good temper, could they not with nearly equal unanimity frame and pass a law by means of which to keep good that unanimous oath?

There is some difference of opinion whether this clause should be enforced by national or by State authority, but surely that difference is not a very material one If the slave is to be surrendered, it can be of but little consequence to him or to others by which authority it is done And should anyone in any case be content that his oath shall go unkept on a merely unsubstantial controversy as to how it shall be kept?

Again, in any law upon this subject, ought not all the safeguards of liberty known in civilized and humane jurisprudence to be introduced, so that a free man be not in any case, surrendered as a slave? And might it not be well at the same time to provide by law for the enforcement of that clause in the Constitution which guarantees that 'the citizen of each State shall be entitled to all privileges and immunities of citizens in the several States'?

I take the official oath to day with no mental reservations, and with no purpose to construe the Constitution or laws by any hypercritical rules. And, while I do not choose now to specify particular Acts of Congress as proper to be enforced, I do suggest that it will be much safer for all, both in official and private stations, to conform to and abide by all those Acts which stand unrepealed than to violate any of them, trusting to find impunity in having them held to be unconstitutional.

It is seventy two years since the first inauguration of a President under our National Constitution During that period fifteen different and greatly distinguished citizens have, in succession, administered the executive branch of the government. They have conducted it through many perils and generally with great success. Yet, with all this scope of precedent, I now enter upon the same task for the brief constitutional term of four years under great and peculiar difficulty A disruption of the Federal Union, heretofore only menaced, is now formidably attempted

I hold that, in contemplation of universal law and of the Constitution, the Union of these States is perpetual, Perpetuity is implied, if not expressed, in the fundamental law of all national governments It is safe to assert that no government proper ever had a provision in its organic law for its own termination Continue to execute all the express provisions of our National Constitution, and

the Union will endure forever—it being impossible to destroy it except by some action not provided for in the instrument itself.

Again, if the United States be not a government proper, but an association of States in the nature of contract merely, can it as a contract be peaceably unmade by less than all the parties who made it? One party to a contract may violate it—break it, so to speak; but does it not require all to lawfully rescind it?

Descending from these general principles, we find the proposition that in legal contemplation the Union is perpetually confirmed by the history of the Union itself. The Union is much older than the Constitution. It was formed, in fact, by the Articles of Association in 1774. It was matured and continued by the Declaration of Independence in 1776. It was further matured and the faith of all the then thirteen States expressly plighted and engaged that it should be perpetual, by the Articles of Confederation in 1778. And, finally, in 1787 one of the declared objects for ordaining and establishing the Constitution was 'to form a more perfect Union'.

But if the destruction of the Union by one or by a part only of the States be lawfully possible, the Union is less perfect than before the Constitution, having lost the vital element of perpetuity.

It follows from these views that no State upon its own mere motion can lawfully get out of the Union; that resolves and ordinances to that effect are legally void; and that acts of violence, within any State or States, against the authority of the United States are insurrectionary or revolutionary, according to circumstances.

I therefore consider that, in view of the Constitution and the laws, the Union is unbroken; and to the extent of my ability I shall take care, as the Constitution itself expressly enjoins upon me, that the laws of the Union be faithfully executed in all the States. Doing this I deem to be only a simple duty on my part; and I shall perform it so far as practicable, unless my rightful masters, the American people, shall withhold the requisite means, or in some authoritative manner direct the contrary. I trust this will not be regarded as a menace, but only as the declared purpose of the Union that it will constitutionally defend and maintain itself.

In doing this there needs to be no bloodshed or violence; and there shall be none, unless it be forced upon the national authority. The power confided to me will be used to hold, occupy, and possess the property and places belonging to the Government, and to collect the duties and imposts; but beyond what may be necessary for these objects, there will be no invasion, no using of force against or among the people anywhere. Where hostility to the United States, in any interior locality, shall be so great and universal as to prevent competent resident citizens from holding the Federal offices, there will be no attempt to force obnoxious strangers among the people for that object. While the strict legal right may exist in the government to enforce the exercise of these offices, the attempt to do so would be so irritating, and so nearly impracticable withal, that I deem it better to forego for the time the uses of such offices.

The mails, unless repelled, will continue to be furnished in all parts of the Union. So far as possible, the people everywhere shall have that sense of perfect security which is most favorable to calm thought and reflection. The course here indicated will be followed unless current events and experience shall show a modification or change to be proper, and in every case and exigency my best discretion will be exercised according to circumstances actually existing, and with a view and a hope of a peaceful solution of the national troubles and the restoration of fraternal sympathies and affections.

That there are persons in one section or another who seek to destroy the Union at all events, and are glad of any pretext to do it, I will neither affirm nor deny; but if there be such, I need address no

word to them To those, however, who really love the Union may I not speak?

Before entering upon so grave a matter as the destruction of our national fabric, with all its benefits, its memories, and its hopes, would it not be wise to ascertain precisely why we do it? Will you hazard so desperate a step while there is any possibility that any portion of the ills you fly from have no real existence? Will you, while the certain ills you fly to are greater than all the real ones you fly from—will you risk the commission of so fearful a mistake?

All profess to be content in the Union if all constitutional rights can be maintained Is it true, then, that any right, plainly written in the Constitution, has been denied? I think not Happily the human mind is so constituted that no party can reach to the audacity of doing this Think, if you can of a single instance in which a plainly written provision of the Constitution has ever been denied If by the mere force of numbers a majority should deprive a minority of any clearly written constitutional right, it might, in a moral point of view, justly revolution—certainly would if such a right were a vital one But such is not our case All the vital rights of minorities and of individuals are so plainly assured to them by affirmations and negations, guaranties and prohibitions in the Constitution that controversies never arise concerning them But no organic law can ever be framed with a provision specifically applicable to every question which may occur in practical administration No foresight can anticipate, nor any document of reasonable length contain, express provisions for all possible questions Shall fugitives from labor be surrendered by national or by State authority? The Constitution does not expressly say *May* Congress prohibit slavery in the Territories? The Constitution does not expressly say *Must* Congress protect slavery in the Territories? The Constitution does not expressly say

From questions of this class spring all our constitutional controversies, and we divide upon them into majorities and minorities If the minority will not acquiesce, the majority must, or the Government must cease There is no other alternative, for continuing the Government is acquiescence on one side or the other

If a minority in such case will secede rather than acquiesce, they make a precedent which in turn will divide and ruin them, for a minority of their own will secede from them whenever a majority refuses to be controlled by such minority For instance, why may not any portion of a new confederacy a year or two hence arbitrarily secede again, precisely as portions of the present Union now claim to secede from it? All who cherish disunion sentiments are now being educated to the exact temper of doing this

Is there such perfect identity of interests among the States to compose a new Union as to produce harmony only, and prevent renewed secession?

Plainly the central idea of secession is the essence of anarchy A majority held in restraint by constitutional checks and limitations and always changing easily with deliberate changes of popular opinions and sentiments, is the only true sovereign of a free people Whoever rejects it does, of necessity, fly to anarchy or to despotism Unanimity is impossible, the rule of a minority, as a permanent arrangement, is wholly inadmissible, so that, rejecting the majority principle, anarchy or despotism in some form is all that is left.

I do not forget the position assumed by some that constitutional questions are to be decided by the Supreme Court, nor do I deny that such decisions must be binding, in any case, upon the parties to a suit, as to the object of that suit, while they are also entitled to a very high respect and consideration in all parallel cases by all other departments of the government. And, while it is obviously possible that such decision may be erroneous in any given case, still the evil effect following it, being limited to that particular case, with the chance that it may be overruled

and never become a precedent for other cases, can better be borne than could the evils of a different practice At the same time, the candid citizen must confess that if the policy of the government, upon vital questions affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, in ordinary litigation between parties in personal actions the people will have ceased to be their own rulers having to that extent practically resigned the government into the hands of that eminent tribunal Nor is there in this view any assault upon the court or the judges It is a duty from which they may not shrink to decide cases properly brought before them, and it is no fault of theirs if others seek to turn their decisions to political purposes

One section of our country believes slavery is right, and ought to be extended, while the other believes it is wrong, and ought not to be extended This is the only substantial dispute The fugitive slave clause of the Constitution and the law for the suppression of the foreign slave trade are each as well enforced, perhaps, as any law can ever be in a community where the moral sense of the people imperfectly supports the law itself The great body of the people abide by the dry legal obligation in both cases, and a few break over in each This, I think, cannot be perfectly cured, and it would be worse in both cases after the separation of the sections than before The foreign slave trade, now imperfectly suppressed, would be ultimately revived, without restriction, in one section, while fugitive slaves, now only partially surrendered, would not be surrendered at all by the other

Physically speaking, we cannot separate We cannot remove our respective sections from each other, nor build an impassable wall between them A husband and wife may be divorced and go out of the presence and beyond the reach of each other, but the different parts of our country cannot do this They cannot but remain face to face, and intercourse, either amicable or hostile, must continue between them Is it possible, then, to make that intercourse more advantageous or more satisfactory after separation than before? Can aliens make treaties easier than friends can make laws? Can treaties be more faithfully enforced between aliens than laws can among friends? Suppose you go to war, you cannot fight always, and when, after much loss on both sides, and no gain on either, you cease fighting, the identical old questions as to terms of intercourse are again upon you

This country, with its institutions, belongs to the people who inhabit it When ever they shall grow weary of the existing government, they can exercise their constitutional right of amending it, or their revolutionary right to dismember or overthrow it I cannot be ignorant of the fact that many worthy and patriotic citizens are desirous of having the national Constitution amended While I make no recommendation of amendments, I fully recognize the rightful authority of the people over the whole subject, to be exercised in either of the modes prescribed in the instrument itself, and I should under existing circumstances, favor rather than oppose a fair opportunity being afforded the people to act upon it I will venture to add that to me the convention mode seems preferable, in that it allows amendments to originate with the people themselves, instead of only permitting them to take or reject propositions originated by others not especially chosen for the purpose, and which might not be precisely such as they would wish to either accept or refuse I understand a proposed amendment to the Constitution—which amendment, however, I have not seen—has passed Congress, to the effect that the Federal Government shall never interfere with the domestic institutions of the States, including that of persons held to service. To avoid misconstruction of what I have said, I depart from my purpose not to speak of particular amendments so far as to say that, holding such a provision to now be implied constitutional law, I

have no objection to its being made express and irrevocable.

The chief magistrate derives all his authority from the people, and they have conferred none upon him to fix terms for the separation of the States. The people themselves can do this also if they choose; but the executive, as such, has nothing to do with it. His duty is to administer the present government, as it came to his hands, and to transmit it, unimpaired by him, to his successor.

Why should there not be a patient confidence in the ultimate justice of the people? Is there any better or equal hope in the world? In our present differences is either party without faith of being in the right? If the Almighty Ruler of nations, with His eternal truth and justice, be on your side of the North, or on yours of the South, that truth and that justice will surely prevail by the judgment of this great tribunal of the American people.

By the frame of the government under which we live, this same people have wisely given their public servants but little power for mischief; and have, with equal wisdom, provided for the return of that little to their own hands at very short intervals. While the people retain their virtue and vigilance, no administration, by any extreme of wickedness or folly, can very seriously injure the government in the short space of four years.

My countrymen, one and all, think calmly and well upon this whole subject. Nothing valuable can be lost by taking time. If there be an object to hurry any of you in hot haste to a step which you would never take deliberately, that object will be frustrated by taking time; but no good object can be frustrated by it. Such of you as are now dissatisfied still have the old Constitution unimpaired, and, on the sensitive point, the laws of your own framing under it; while the new administration will have no immediate power, if it would, to change either. If it were admitted that you who are dissatisfied hold the right side in the dispute, there still is no single good reason for precipitate action. Intelligence, patriotism, Christianity, and a firm reliance on Him who has never yet forsaken this favored land, are still competent to adjust in the best way all our present difficulty.

In your hands, my dissatisfied fellow-countrymen, and not in mine, is the momentous issue of civil war. The government will not assail you. You can have no conflict without being yourselves the aggressors. You have no oath registered in heaven to destroy the government, while I shall have the most solemn one to 'preserve, protect, and defend' it.

I am loath to close. We are not enemies, but friends. We must not be enemies. Though passion may have strained, it must not break, our bonds of affection. The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union when again touched, as surely they will be, by the better angels of our nature.

LINCOLN'S SECOND INAUGURAL ADDRESS

MARCH 4, 1865

FELLOW-COUNTRYMEN:—At this second appearing to take the oath of the presidential office there is less occasion for an extended address than there was at the first. Then a statement somewhat in detail of a course to be pursued seemed fitting and proper. Now, at the expiration of four years, during which public declarations have been constantly called forth on every point and phase of the great contest which still absorbs the attention and engrosses the energies of the nation, little that is new could be presented. The progress of our arms, upon which all else chiefly depends, is as well known to the public as to myself, and it is, I trust, reasonably satisfactory and encouraging to all. With high hope for the future, no prediction in regard to it is ventured.

On the occasion corresponding to this four years ago all thoughts were anxiously directed to an impending civil war. All dreaded it, all sought to avert it. While the inaugural address was being delivered from this place, devoted altogether to *saving* the Union without war, insurgent agents were in the city seeking to *destroy* it without war—seeking to dissolve the Union and divide effects by negotiation. Both parties deprecated war, but one of them would *make* war rather than let the nation survive, and the other would *accept* war rather than let it perish, and the war came.

One eighth of the whole population was colored slaves, not distributed generally over the Union, but localized in the southern part of it. These slaves constituted a peculiar and powerful interest. All knew that this interest was somehow the cause of the war. To strengthen, perpetuate, and extend this interest was the object for which the insurgents would rend the Union even by war, while the Government claimed no right to do more than to restrict the territorial enlargement of it. Neither party expected for the war the magnitude or the duration which it has already attained. Neither anticipated that the *cause* of the conflict might cease with or even before the conflict itself should cease. Each looked for an easier triumph, and a result less fundamental and astounding. Both read the same Bible and pray to the same God, and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces, but let us judge not, that we be not judged. The prayers of both could not be answered. That of neither has been answered fully. The Almighty has His own purposes. "Woe unto the world because of offenses; for it must needs be that offenses come, but woe to that man by whom the offense cometh." If we shall suppose that American slavery is one of those offenses which, in the providence of God, must needs come, but which, having continued through His appointed time, He now wills to remove, and that He gives to both North and South this terrible war as the woe due to those by whom the offense came, shall we discern therein any departure from those divine attributes which the believers in a living God always ascribe to Him? Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue until all the wealth piled by the bondsman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said, "The judgments of the Lord are true and righteous altogether."

With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.

Mill: The Ideally Best Polity

It was characteristic of the utilitarians that they had a childish faith in the power of solving problems by devising better governmental gadgets But good government is never simply a matter of getting good men Gadgets and forms have to be reckoned with Mill here brings the two considerations together and finds a more basic justification for representative government For representative government is the form that permits the most extensive participation by the people in the sovereign power This is good for the government because it is good for the citizens [1]

That the Ideally Best Form of Government Is Representative Government

It has long (perhaps throughout the entire duration of British freedom) been a common saying that if a good despot could be ensured, despotic monarchy would be the best form of government I look upon this as a radical and most pernicious misconception of what good government is, which, until it can be got rid of, will fatally vitiate all our speculations on government

The supposition is that absolute power, in the hands of an eminent individual, would ensure a virtuous and intelligent performance of all the duties of government Good laws would be established and enforced bad laws would be reformed, the best men would be placed in all situations of trust, justice would be as well administered, the public burthens would be as light and as judiciously imposed, every branch of administration would be as purely and as intelligently conducted, as the circumstances of the country and its degree of intellectual and moral cultivation would admit I am willing, for the sake of the argument, to concede all this, but I must point out how great the concession is, how much more is needed to produce even an approximation to these results than is conveyed in the simple expression, a good despot Their realisation would in fact imply, not merely a good monarch but an all seeing one He must be at all times informed correctly in considerable detail, of the conduct and working of every branch of administration, in every district of the country and must be able, in the twenty-four hours per day which are all that is granted to a king as to the humblest labourer, to give an effective share of attention and superintendence to all parts of this vast field or he must at least be capable of discerning and choosing out, from among the mass of his subjects not only a large abundance of honest and able men fit to conduct every branch of public administration under supervision and control, but also the small number of men of eminent virtues and talents who can be trusted not only to do without that supervision, but to exercise it themselves over others So extraordinary are the faculties and energies required for performing this task in any supportable manner, that the good despot whom we are supposing can hardly be imagined as consenting to undertake it, unless as a refuge from intolerable evils, and a transitional preparation for something beyond But the argument can do without even this immense item in the account Suppose the difficulty vanquished What should we then have? One man of superhuman

[1] Taken from *Utilitarianism, Liberty and Representative Government*, by John Stuart Mill, published by E P Dutton & Co, Inc, New York, 1910, Everyman's Library Chapter III, in part, from Representative Government

mental activity managing the entire affairs of a mentally passive people Their passivity is implied in the very idea of absolute power The nation as a whole, and every individual composing it, are without any potential voice in their own destiny They exercise no will in respect to their collective interests All is decided for them by a will not their own, which it is legally a crime for them to disobey What sort of human beings can be formed under such a regimen? What development can either their thinking or their active faculties attain under it? On matters of pure theory they might perhaps be allowed to speculate so long as their speculations either did not approach politics, or had not the remotest connection with its practice On practical affairs they could at most be only suffered to suggest, and even under the most moderate of despots, none but persons of already admitted or reputed superiority could hope that their suggestions would be known to, much less regarded by, those who had the management of affairs A person must have a very unusual taste for intellectual exercise in and for itself, who will put himself to the trouble of thought when it is to have no outward effect, or qualify himself for functions which he has no chance of being allowed to exercise The only sufficient incitement to mental exertion, in any but a few minds in a generation, is the prospect of some practical use to be made of its results It does not follow that the nation will be wholly destitute of intellectual power The common business of life, which must necessarily be performed by each individual or family for themselves, will call forth some amount of intelligence and practical ability, within a certain narrow range of ideas There may be a select class of *savants*, who cultivate science with a view to its physical uses, or for the pleasure of the pursuit There will be a bureaucracy, and persons in training for the bureaucracy, who will be taught at least some empirical maxims of government and public administration There may be, and often has been, a systematic organisation of the best mental power in the country in some special direction (commonly military) to promote the grandeur of the despot But the public at large remain without information and without interest on all the greater matters of practice, or, if they have any knowledge of them, it is but a *dilettante* knowledge, like that which people have of the mechanical arts who have never handled a tool Nor is it only in their intelligence that they suffer Their moral capacities are equally stunted Wherever the sphere of action of human beings is artificially circumscribed, their sentiments are narrowed and dwarfed in the same proportion The food of feeling is action even domestic affection lives upon voluntary good offices Let a person have nothing to do for his country, and he will not care for it It has been said of old, that in a despotism there is at most but one patriot, the despot himself, and the saying rests on a just appreciation of the effects of absolute subjection, even to a good and wise master Religion remains and here at least, it may be thought, is an agency that may be relied on for lifting men's eyes and minds above the dust at their feet But religion, even supposing it to escape perversion for the purposes of despotism, ceases in these circumstances to be a social concern, and narrows into a personal affair between an individual and his Maker, in which the issue at stake is but his private salvation Religion in this shape is quite consistent with the most selfish and contracted egoism, and identifies the votary as little in feeling with the rest of his kind as sensuality itself

A good despotism means a government in which, so far as depends on the despot, there is no positive oppression by officers of state, but in which all the collective interests of the people are managed for them, all the thinking that has relation to collective interests done for them, and in which their minds are formed by, and consenting to, this abdication of their own energies Leaving things to the Government, like leaving them to Providence,

is synonymous with caring nothing about them, and accepting their results, when disagreeable, as visitations of Nature. With the exception, therefore, of a few studious men who take an intellectual interest in speculation for its own sake the intelligence and sentiments of the whole people are given up to the material interests and, when these are provided for to the amusement and ornamentation of private life But to say this is to say if the whole testimony of history is worth anything that the era of national decline has arrived that is if the nation had ever attained anything to decline from If it has never risen above the condition of an Oriental people, in that condition it continues to stagnate But if like Greece or Rome, it had realised anything higher, through the energy patriotism and enlargement of mind which as national qualities are the fruits solely of freedom it relapses in a few generations into the Oriental state And that state does not mean stupid tranquillity with security against change for the worse it often means being overrun conquered and reduced to domestic slavery either by a stronger despot, or by the nearest barbarous people who retain along with their savage rudeness the energies of freedom

Such are not merely the natural tendencies but the inherent necessities of despotic government from which there is no outlet, unless in so far as the despotism consents not to be despotism, in so far as the supposed good despot abstains from exercising his power, and though holding it in reserve allows the general business of government to go on as if the people really governed themselves However little probable it may be, we may imagine a despot observing many of the rules and restraints of constitutional government He might allow such freedom of the press and of discussion as would enable a public opinion to form and express itself on national affairs He might suffer local interests to be managed, without the interference of authority, by the people themselves He might even surround himself with a council or councils of government, freely chosen by the whole or some portion of the nation, retaining in his own hands the power of taxation, and the supreme legislative as well as executive authority Were he to act thus, and so far abdicate as a despot, he would do away with a considerable part of the evils characteristic of despotism Political activity and capacity for public affairs would no longer be prevented from growing up in the body of the nation, and a public opinion would form itself not the mere echo of the government. But such improvement would be the beginning of new difficulties This public opinion, independent of the monarch's dictation, must be either with him or against him, if not the one it will be the other. All governments must displease many persons, and these having now regular organs, and being able to express their sentiments, opinions adverse to the measures of government would often be expressed. What is the monarch to do when these unfavourable opinions happen to be in the majority? Is he to alter his course? Is he to defer to the nation? If so, he is no longer a despot, but a constitutional king, an organ or first minister of the people, distinguished only by being irremovable. If not, he must either put down opposition by his despotic power, or there will arise a permanent antagonism between the people and one man, which can have but one possible ending Not even a religious principle of passive obedience and 'right divine' would long ward off the natural consequences of such a position. The monarch would have to succumb, and conform to the conditions of constitutional royalty, or give place to some one who would The despotism, being thus chiefly nominal would possess few of the advantages supposed to belong to absolute monarchy, while it would realise in a very imperfect degree those of a free government, since however great an amount of liberty the citizens might practically enjoy, they could never forget that they held it on sufferance, and

by a concession which under the existing constitution of the state might at any moment be resumed, that they were legally slaves, though of a prudent, or indulgent, master

It is not much to be wondered at if impatient or disappointed reformers, groaning under the impediments opposed to the most salutary public improvements by the ignorance the indifference, the intractableness the perverse obstinacy of a people and the corrupt combinations of selfish private interests armed with the powerful weapons afforded by free institutions should at times sigh for a strong hand to bear down all these obstacles, and compel a recalcitrant people to be better governed But (setting aside the fact, that for one despot who now and then reforms an abuse, there are ninety nine who do nothing but create them) those who look in any such direction for the realisation of their hopes leave out of the idea of good government its principal element, the improvement of the people themselves One of the benefits of freedom is that under it the ruler cannot pass by the people s minds and amend their affairs for them without amending them If it were possible for the people to be well governed in spite of themselves, their good government would last no longer than the freedom of a people usually lasts who have been liberated by foreign arms without their own co operation It is true, a despot may educate the people and to do so really, would be the best apology for his despotism But any education which aims at making human beings other than machines, in the long run makes them claim to have the control of their own actions The leaders of French philosophy in the eighteenth century had been educated by the Jesuits Even Jesuit education, it seems, was sufficiently real to call forth the appetite for freedom Whatever invigorates the faculties, in however small a measure, creates an increased desire for their more unimpeded exercise, and a popular education is a failure, if it educates the people for any state but that which it will certainly induce them to desire, and most probably to demand

I am far from condemning, in cases of extreme exigency the assumption of absolute power in the form of a temporary dictatorship Free nations have, in times of old, conferred such power by their own choice, as a necessary medicine for diseases of the body politic which could not be got rid of by less violent means But its acceptance, even for a time strictly limited, can only be excused, if, like Solon or Pittacus, the dictator employs the whole power he assumes in removing the obstacles which debar the nation from the enjoyment of freedom A good despotism is an altogether false ideal, which practically (except as a means to some temporary purpose) becomes the most senseless and dangerous of chimeras Evil for evil a good despotism, in a country at all advanced in civilization, is more noxious than a bad one, for it is far more relaxing and enervating to the thoughts, feelings and energies of the people The despotism of Augustus prepared the Romans for Tiberius If the whole tone of their character had not first been prostrated by nearly two generations of that mild slavery, they would probably have had spirit enough left to rebel against the more odious one

There is no difficulty in showing that the ideally best form of government is that in which the sovereignty, or supreme controlling power in the last resort, is vested in the entire aggregate of the community, every citizen not only having a voice in the exercise of that ultimate sovereignty, but being, at least occasionally, called on to take an actual part in the government, by the personal discharge of some public function, local or general

To test this proposition it has to be examined in reference to the two branches into which, as pointed out in the last chapter, the inquiry into the goodness of a government conveniently divides itself, namely, how far it promotes the good

management of the affairs of society by means of the existing faculties, moral, intellectual, and active of its various members, and what is its effect in improving or deteriorating those faculties

The ideally best form of government, it is scarcely necessary to say, does not mean one which is practicable or eligible in all states of civilisation but the one which, in the circumstances in which it is practicable and eligible, is attended with the greatest amount of beneficial consequences, immediate and prospective A completely popular government is the only polity which can make out any claim to this character It is pre eminent in both the departments between which the excellence of a political constitution is divided It is both more favourable to present good government and promotes a better and higher form of national character, than any other polity whatsoever

Its superiority in reference to present well being rests upon two principles, of as universal truth and applicability as any general propositions which can be laid down respecting human affairs The first is, that the rights and interests of every or any person are only secure from being disregarded when the person interested is himself able, and habitually disposed, to stand up for them The second is, that the general prosperity attains a greater height, and is more widely diffused, in proportion to the amount and variety of the personal energies enlisted in promoting it

Putting these two propositions into a shape more special to their present application, human beings are only secure from evil at the hands of others in proportion as they have the power of being, and are, self *protecting*, and they only achieve a high degree of success in their struggle with Nature in proportion as they are self *dependent*, relying on what they themselves can do either separately or in concert, rather than on what others do for them

The former proposition—that each is the only safe guardian of his own rights and interests—is one of those elementary maxims of prudence, which every person, capable of conducting his own affairs, implicitly acts upon, wherever he himself is interested Many, indeed, have a great dislike to it as a political doctrine, and are fond of holding it up to obloquy, as a doctrine of universal selfishness To which we may answer, that whenever it ceases to be true that mankind, as a rule, prefer themselves to others, and those nearest to them to those more remote, from that moment Communism is not only practicable, but the only defensible form of society, and will, when that time arrives be assuredly carried into effect. For my own part, not believing in universal selfishness, I have no difficulty in admitting that Communism would even now be practicable among the *elite* of mankind, and may become so among the rest But as this opinion is anything but popular with those defenders of existing institutions who find fault with the doctrine of the general predominance of self-interest, I am inclined to think they do in reality believe that most men consider themselves before other people It is not, however, necessary to affirm even thus much in order to support the claim of all to participate in the sovereign power We need not suppose that when power resides in an exclusive class, that class will knowingly and deliberately sacrifice the other classes to themselves it suffices that, in the absence of its natural defenders, the interest of the excluded is always in danger of being overlooked, and, when looked at, is seen with very different eyes from those of the persons whom it directly concerns. In this country, for example, what are called the working classes may be considered as excluded from all direct participation in the government I do not believe that the classes who do participate in it have in general any intention of sacrificing the working classes to themselves They once had that intention; witness the persevering attempts so long made to keep down wages by law But in the present day their ordinary disposition is the very opposite they willingly make

considerable sacrifices, especially of their pecuniary interests, for the benefit of the working classes, and err rather by too lavish and indiscriminating beneficence, nor do I believe that any rulers in history have been actuated by a more sincere desire to do their duty towards the poorer portion of their countrymen Yet does Parliament, or almost any of the members composing it, ever for an instant look at any question with the eyes of a working man? When a subject arises in which the labourers as such have an interest, is it regarded from any point of view but that of the employers of labour? I do not say that the working men's view of these questions is in general nearer to the truth than the other, but it is sometimes quite as near, and in any case it ought to be respectfully listened to, instead of being as it is, not merely turned away from, but ignored On the question of strikes, for instance, it is doubtful if there is so much as one among the leading members of either House who is not firmly convinced that the reason of the matter is unqualifiedly on the side of the masters, and that the men's view of it is simply absurd Those who have studied the question know well how far this is from being the case, and in how different, and how infinitely less superficial a manner the point would have to be argued, if the classes who strike were able to make themselves heard in Parliament

It is an adherent condition of human affairs that no intention, however sincere, of protecting the interests of others can make it safe or salutary to tie up their own hands Still more obviously true is it, that by their own hands only can any positive and durable improvement of their circumstances in life be worked out Through the joint influence of these two principles, all free communities have both been more exempt from social injustice and crime, and have attained more brilliant prosperity, than any others, or than they themselves after they lost their freedom Contrast the free states of the world, while their freedom lasted, with the contemporary subjects of monarchical or oligarchical despotism the Greek cities with the Persian satrapies, the Italian republics and the free towns of Flanders and Germany, with the feudal monarchies of Europe, Switzerland, Holland, and England, with Austria or ante revolutionary France Their superior prosperity was too obvious ever to have been gainsaid while their superiority in good government and social relations is proved by the prosperity, and is manifest besides in every page of history If we compare, not one age with another, but the different governments which co existed in the same age, no amount of disorder which exaggeration itself can pretend to have existed amidst the publicity of the free states can be compared for a moment with the contemptuous trampling upon the mass of the people which pervaded the whole life of the monarchical countries or the disgusting individual tyranny which was of more than daily occurrence under the systems of plunder which they called fiscal arrangements and in the secrecy of their frightful courts of justice

It must be acknowledged that the benefits of freedom, so far as they have hitherto been enjoyed, were obtained by the extension of its privileges to a part only of the community, and that a government in which they are extended impartially to all is a desideratum still unrealised But though every approach to this has an independent value, and in many cases more than an approach could not, in the existing state of general improvement, be made the participation of all in these benefits is the ideally perfect conception of free government In proportion as any, no matter who, are excluded from it, the interests of the excluded are left without the guarantee accorded to the rest, and they themselves have less scope and encouragement than they might otherwise have to that exertion of their energies for the good of themselves and of the community, to which the general prosperity is always proportioned.

Thus stands the case as regards present

well-being; the good management of the affairs of the existing generation. If we now pass to the influence of the form of government upon character, we shall find the superiority of popular government over every other to be, if possible, still more decided and indisputable.

This question really depends upon a still more fundamental one, viz., which of two common types of character, for the general good of humanity, it is most desirable should predominate—the active, or the passive type: that which struggles against evils, or that which endures them: that which bends to circumstances, or that which endeavours to make circumstances bend to itself.

The commonplaces of moralists, and the general sympathies of mankind, are in favour of the passive type. Energetic characters may be admired, but the acquiescent and submissive are those which most men personally prefer. The passiveness of our neighbours increases our sense of security, and plays into the hands of our wilfulness. Passive characters, if we do not happen to need their activity, seem an obstruction the less in our own path. A contented character is not a dangerous rival. Yet nothing is more certain than that improvement in human affairs is wholly the work of the uncontented characters; and, moreover, that it is much easier for an active mind to acquire the virtues of patience than for a passive one to assume those of energy.

Of the three varieties of mental excellence, intellectual, practical, and moral, there never could be any doubt in regard to the first two which side had the advantage. All intellectual superiority is the fruit of active effort. Enterprise, the desire to keep moving, to be trying and accomplishing new things for our own benefit or that of others, is the parent even of speculative, and much more practical, talent. The intellectual culture compatible with the other type is of that feeble and vague description which belongs to a mind that stops at amusement, or at simple contemplation. The test of real and vigorous thinking, the thinking which ascertains truths instead of dreaming dreams, is successful application to practice. Where that purpose does not exist, to give definiteness, precision, and an intelligible meaning to thought, it generates nothing better than the mystical metaphysics of the Pythagoreans or the Vedas. With respect to practical improvement, the case is still more evident. The character which improves human life is that which struggles with natural powers and tendencies, not that which gives way to them. The self-benefiting qualities are all on the side of the active and energetic character: and the habits and conduct which promote the advantage of each individual member of the community must be at least a part of those which conduce most in the end to the advancement of the community as a whole.

But on the point of moral preferability, there seems at first sight to be room for doubt. I am not referring to the religious feeling which has so generally existed in favour of the inactive character, as being more in harmony with the submission due to the divine will. Christianity as well as other religions has fostered this sentiment; but it is the prerogative of Christianity, as regards this and many other perversions, that it is able to throw them off. Abstractedly from religious considerations, a passive character, which yields to obstacles instead of striving to overcome them, may not indeed be very useful to others, no more than to itself, but it might be expected to be at least inoffensive. Contentment is always counted among the moral virtues. But it is a complete error to suppose that contentment is necessarily or naturally attendant on passivity of character; and useless it is, the moral consequences are mischievous. Where there exists a desire for advantages not possessed, the mind which does not potentially possess them by means of its own energies is apt to look with hatred and malice on those who do. The person bestirring himself with hopeful prospects to improve his circumstances is the one

who feels good will towards others engaged in, or who have succeeded in, the same pursuit And where the majority are so engaged, those who do not attain the object have had the tone given to their feelings by the general habit of the country, and ascribe their failure to want of effort or opportunity, or to their personal ill luck But those who, while desiring what others possess, put no energy into striving for it, are either incessantly grumbling that fortune does not do for them what they do not attempt to do for themselves, or overflowing with envy and ill will towards those who possess what they would like to have

In proportion as success in life is seen or believed to be the fruit of fatality or accident, and not of exertion in that same ratio does envy develop itself as a point of national character The most envious of all mankind are the Orientals In Oriental moralists, in Oriental tales the envious man is remarkably prominent In real life, he is the terror of all who possess anything desirable, be it a palace, a handsome child, or even good health and spirits the supposed effect of his mere look constitutes the all pervading superstition of the evil eye Next to Orientals in envy, as in activity, are some of the Southern Europeans The Spaniards pursued all their great men with it, embittered their lives, and generally succeeded in putting an early stop to their successes [2] With the French, who are essentially a southern people, the double education of despotism and Catholicism has, in spite of their impulsive temperament, made submission and endurance the common character of the people, and their most received notion of wisdom and excellence and if envy of one another, and of all superiority, is not more rife among them than it is, the circumstance must be ascribed to the many valuable counteracting elements in the French character, and most of all to the great individual energy which, though less persistent and more intermittent than in the self helping and struggling Anglo Saxons, has nevertheless manifested itself among the French in nearly every direction in which the operation of their institutions has been favourable to it

There are, no doubt in all countries, really contented characters, who not merely do not seek but do not desire, what they do not already possess, and these naturally bear no ill will towards such as have apparently a more favoured lot But the great mass of seeming content ment is real discontent, combined with indolence or self indulgence, which, while taking no legitimate means of raising it self, delights in bringing others down to its own level And if we look narrowly even at the cases of innocent contentment we perceive that they only win our admiration when the indifference is solely to improvement in outward circumstances and there is a striving for perpetual advancement in spiritual worth, or at least a disinterested zeal to benefit others The contented man, or the contented family, who have no ambition to make any one else happier, to promote the good of their country or their neighbourhood, or to improve themselves in moral excellence, excite in us neither admiration nor approval We rightly ascribe this sort of contentment to mere unmanliness and want of spirit The content which we approve is an ability to do cheerfully without what cannot be had, a just appreciation of the comparative value of different objects of desire, and a willing renunciation of the less when incompatible with the greater These, however, are excellences more natural to the character, in proportion as it is actively engaged in the attempt to improve its own or some other lot He who is con

[2] I limit the expression to past time, because I would say nothing derogatory of a great, and now at last a free, people, who are entering into the general movement of European progress with a vigour which bids fair to make up rapidly the ground they have lost. No one can doubt what Spanish intellect and energy are capable of and their faults as a people are chiefly those for which freedom and industrial ardour are a real specific

tinually measuring his energy against difficulties learns what are the difficulties insuperable to him, and what are those which, though he might overcome, the success is not worth the cost. He whose thoughts and activities are all needed for, and habitually employed in, practicable and useful enterprises, is the person of all others least likely to let his mind dwell with brooding discontent upon things either not worth attaining, or which are not so to him. Thus the active, self-helping character is not only intrinsically the best, but is the likeliest to acquire all that is really excellent or desirable in the opposite type.

The striving, go-ahead character of England and the United States is only a fit subject of disapproving criticism on account of the very secondary objects on which it commonly expends its strength. In itself it is the foundation of the best hopes for the general improvement of mankind. It has been acutely remarked that whenever anything goes amiss the habitual impulse of French people is to say, "Il faut de la patience;" and the English people, "What a shame." The people who think it a shame when anything goes wrong—who rush to the conclusion that the evil could and ought to have been prevented, are those who, in the long run, do most to make the world better. If the desires are low placed, if they extend to little beyond physical comfort, and the show of riches, the immediate results of the energy will not be much more than the continual extension of man's power over material objects; but even this makes room, and prepares the mechanical appliances, for the greatest intellectual and social achievements; and while the energy is there, some persons will apply it, and it will be applied more and more, to the perfecting not of outward circumstances alone, but of man's inward nature. Inactivity, unaspiringness, absence of desire, are a more fatal hindrance to improvement than any misdirection of energy; and are that through which alone, when existing in the mass, any very formidable misdirection by an energetic few becomes possible. It is this, mainly, which retains in a savage or semi-savage state the great majority of the human race.

Now there can be no kind of doubt that the passive type of character is favored by the government of one or a few, and the active self-helping type by that of the Many. Irresponsible rulers need the quiescence of the ruled more than they need any activity but that which they can compel. Submissiveness to the prescriptions of men as necessities of nature is the lesson inculcated by all governments upon those who are wholly without participation in them. The will of superiors, and the law as the will of superiors, must be passively yielded to. But no men are mere instruments or materials in the hands of their rulers who have will or spirit or a spring of internal activity in the rest of their proceedings: and any manifestation of these qualities, instead of receiving encouragement from despots, has to get itself forgiven by them. Even when irresponsible rulers are not sufficiently conscious of danger from the mental activity of their subjects to be desirous of repressing it, the position itself is a repression. Endeavour is even more effectually restrained by the certainty of its impotence than by any positive discouragement. Between subjection to the will of others, and the virtues of self-help and self-government, there is a natural incompatibility. This is more or less complete, according as the bondage is strained or relaxed. Rulers differ very much in the length to which they carry the control of the free agency of their subjects, or the supersession of it by managing their business for them. But the difference is in degree, not in principle; and the best despots often go the greatest lengths in chaining up the free agency of their subjects. A bad despot, when his own personal indulgences have been provided for, may sometimes be willing to let the people alone; but a good despot insists on doing them good, by making them do their own business in a better way than

they themselves know of. The regulations which restricted to fixed processes all the leading branches of French manufactures were the work of the great Colbert

Very different is the state of the human faculties where a human being feels himself under no other external restraint than the necessities of nature, or mandates of society which he has his share in imposing, and which it is open to him, if he thinks them wrong, publicly to dissent from, and exert himself actively to get altered No doubt, under a government partially popular, this freedom may be exercised even by those who are not partakers in the full privileges of citizenship But it is a great additional stimulus to any one's self help and self reliance when he starts from even ground, and has not to feel that his success depends on the impression he can make upon the sentiments and dispositions of a body of whom he is not one It is a great discouragement to an individual, and a still greater one to a class, to be left out of the constitution, to be reduced to plead from outside the door to the arbiters of their destiny, not taken into consultation within The maximum of the invigorating effect of freedom upon the character is only obtained when the person acted on either is, or is looking forward to becoming, a citizen as fully privileged as any other What is still more important than even this matter of feeling is the practical discipline which the character obtains from the occasional demand made upon the citizens to exercise, for a time and in their turn, some social function It is not sufficiently considered how little there is in most men's ordinary life to give any largeness either to their conceptions or to their sentiments Their work is a routine, not a labour of love, but of self interest in the most elementary form, the satisfaction of daily wants, neither the thing done, nor the process of doing it, introduces the mind to thoughts or feelings extending beyond individuals, if instructive books are within their reach, there is no stimulus to read them, and in most cases the individual has no access to any person of cultivation much superior to his own Giving him something to do for the public, supplies, in a measure, all these deficiences If circumstances allow the amount of public duty assigned him to be considerable, it makes him an educated man Notwithstanding the defects of the social system and moral ideas of antiquity, the practice of the dicastery and the ecclesia raised the intellectual standard of an average Athenian citizen far beyond anything of which there is yet an example in any other mass of men, ancient or modern The proofs of this are apparent in every page of our great historian of Greece, but we need scarcely look further than to the high quality of the addresses which their great orators deemed best calculated to act with effect on their understanding and will A benefit of the same kind, though far less in degree, is produced on Englishmen of the lower middle class by their liability to be placed on juries and to serve parish offices; which, though it does not occur to so many, nor is so continuous, nor introduces them to so great a variety of elevated considerations, as to admit of comparison with the public education which every citizen of Athens obtained from her democratic institutions, must make them nevertheless very different beings, in range of ideas and development of faculties, from those who have done nothing in their lives but drive a quill, or sell goods over a counter Still more salutary is the moral part of the instruction afforded by the participation of the private citizen, if even rarely, in public functions He is called upon, while so engaged, to weigh interests not his own, to be guided, in case of conflicting claims, by another rule than his private partialities, to apply, at every turn, principles and maxims which have for their reason of existence the common good and he usually finds associated with him in the same work minds more familiarised than his own with these ideas and operations, whose study it will be to supply reasons to his understanding, and

stimulation to his feeling for the general interest. He is made to feel himself one of the public, and whatever is for their benefit to be for his benefit. Where this school of public spirit does not exist, scarcely any sense is entertained that private persons, in no eminent social situation, owe any duties to society, except to obey the laws and submit to the government. There is no unselfish sentiment of identification with the public. Every thought or feeling, either of interest or of duty, is absorbed in the individual and in the family. The man never thinks of any collective interest, of any objects to be pursued jointly with others, but only in competition with them, and in some measure at their expense. A neighbour, not being an ally or an associate, since he is never engaged in any common undertaking for joint benefit, is therefore only a rival. Thus even private morality suffers, while public is actually extinct. Were this the universal and only possible state of things, the utmost aspirations of the lawgiver or the moralist could only stretch to make the bulk of the community a flock of sheep innocently nibbling the grass side by side.

From these accumulated considerations it is evident that the only government which can fully satisfy all the exigencies of the social state is one in which the whole people participate; that any participation, even in the smallest public function, is useful; that the participation should everywhere be as great as the general degree of improvement of the community will allow; and that nothing less can be ultimately desirable than the admission of all to a share in the sovereign power of the state. But since all cannot, in a community exceeding a single small town, participate personally in any but some very minor portions of the public business, it follows that the ideal type of a perfect government must be representative.

Hobhouse: Liberalism Restated

What happens when an experimental scientist, influenced by the philosophic tradition of idealism, undertakes to restate the doctrine of nineteenth century liberalism? The answer is to be found in Hobhouse's chapter on "The Heart of Liberalism" One mistake of earlier liberalism was the assumption, usually implicit, that only the State and its visible engines of coercion were a threat to man's liberty Hobhouse not only shows that there are other threats but that the State may be the only instrument for the regulation of many coercions But the most important part of his restatement is to assert that liberty of the individual is not so much a right of the individual as it is a positive good for society Hobhouse expounds an organic view of society in which he attempts partially to redeem organic theories and to reconcile them with the views of a more traditional liberalism His argument depends upon belief in the existence of rational impulse which nothing in his scientific work had destroyed[1]

The Heart of Liberalism

The teaching of Mill brings us close to the heart of Liberalism We learn from him, in the first place, that liberty is no mere formula of law, or of the restriction of law There may be a tyranny of custom a tyranny of opinion, even a tyranny of circumstance, as real as any tyranny of government and more pervasive Nor does liberty rest on the self assertion of the individual There is scope abundant for Liberalism and illiberalism in personal conduct Nor is liberty opposed to discipline, to organization, to strenuous conviction as to what is true and just Nor is it to be identified with tolerance of opposed opinions The Liberal does not meet opinions which he conceives to be false with toleration, as though they did not matter He meets them with justice, and exacts for them a fair hearing as though they mattered just as much as his own He is always ready to put his own convictions to the proof, not because he doubts them, but because he believes in them For, both as to that which he holds for true and as to that which he holds for false he believes that one final test applies Let error have free play and one of two things will happen Either as it develops as its implications and consequences become clear, some elements of truth will appear within it They will separate themselves out, they will go to enrich the stock of human ideas they will add something to the truth which he himself mistakenly took as final, they will serve to explain the root of the error, for error itself is generally a truth misconceived, and it is only when it is explained that it is finally and satisfactorily confuted Or, in the alternative no element of truth will appear In that case the more fully the error is understood the more patiently it is followed up in all the windings of its implications and consequences, the more thoroughly will it refute itself The cancerous growth cannot be extirpated by the knife The root is always left, and it is only the evolution of the self protecting anti toxin that works the final cure Exactly parallel is the logic of truth The more the truth is developed

[1] From *Liberalism*, by L T Hobhouse, published by Oxford University Press (Home University Library), 1911, Chapter VI

in all its implications, the greater is the opportunity of detecting any element of error that it may contain; and, conversely, if no error appears, the more completely does it establish itself as the whole truth and nothing but the truth. Liberalism applies the wisdom of Gamaliel in no spirit of indifference, but in the full conviction of the potency of truth. If this thing be of man, *i. e.* if it is not rooted in actual verity, it will come to nought. If it be of God, let us take care that we be not found fighting against God.

Divergences of opinion, of character, of conduct are not unimportant matters. They may be most serious matters, and no one is called on in the name of Liberalism to overlook their seriousness. There are, for example, certain disqualifications inherent in the profession of certain opinions. It is not illiberal to recognize such disqualifications. It is not illiberal for a Protestant in choosing a tutor for his son to reject a conscientious Roman Catholic who avows that all his teaching is centred on the doctrine of his Church. It would be illiberal to reject the same man for the specific purpose of teaching arithmetic, if he avowed that he had no intention of using his position for the purpose of religious propagandism. For the former purpose the divergence of religious opinion is an inherent disqualification. It negates the object propounded, which is the general education of the boy on lines in which the father believes. For the latter purpose the opinion is no disqualification. The devout Catholic accepts the multiplication table, and can impart his knowledge without reference to the infallibility of the Pope. To refuse to employ him is to impose an extraneous penalty on his convictions. It is not illiberal for an editor to decline the services of a member of the opposite party as a leader writer, or even as a political reviewer or in any capacity in which his opinions would affect his work. It is illiberal to reject him as a compositor or as a clerk, or in any capacity in which his opinions would not affect his work for the paper. It is not illiberal to refuse a position of trust to the man whose record shows that he is likely to abuse such a trust. It is illiberal—and this the "moralist" has yet to learn—to punish a man who has done a wrong in one relation by excluding him from the performance of useful social functions for which he is perfectly fitted, by which he could at once serve society and re-establish his own self-respect. There may, however, yet come a time when Liberalism, already recognized as a duty in religion and in politics, will take its true place at the centre of our ethical conceptions, and will be seen to have its application not only to him whom we conceive to be the teacher of false opinions, but to the man whom we hold a sinner.

The ground of Liberalism so understood is certainly not the view that a man's personal opinions are socially indifferent, nor that his personal morality matters nothing to others. So far as Mill rested his case on the distinction between self-regarding actions and actions that affect others, he was still dominated by the older individualism. We should frankly recognize that there is no side of a man's life which is unimportant to society, for whatever he is, does, or thinks may affect his own well-being, which is and ought to be matter of common concern, and may also directly or indirectly affect the thought, action, and character of those with whom he comes in contact. The underlying principle may be put in two ways. In the first place, the man is much more than his opinions and his actions. Carlyle and Sterling did not differ "except in opinion." To most of us that is just what difference means. Carlyle was aware that there was something much deeper something that opinion just crassly formulates, and for the most part formulates inadequately, that is the real man. The real man is something more than is ever adequately expressed in terms which his fellows can understand; and just as his essential humanity lies deeper than all distinctions of rank, and class, and

colour, and even, though in a different sense, of sex, so also it goes far below those comparatively external events which make one man figure as a saint and another as a criminal This sense of ultimate oneness is the real meaning of equality as it is the foundation of social solidarity and the bond which, if genuinely experienced, resists the disruptive force of all conflict, intellectual, religious, and ethical

But, further, while personal opinions and social institutions are like crystallized results, achievements that have been won by certain definite processes of individual or collective effort human personality is that within which lives and grows, which can be destroyed but cannot be made, which cannot be taken to pieces and repaired, but can be placed under conditions in which it will flourish and expand, or, if it is diseased, under conditions in which it will heal itself by its own recuperative powers The foundation of liberty is the idea of growth Life is learning but whether in theory or practice what a man genuinely learns is what he absorbs, and what he absorbs depends on the energy which he himself puts forth in response to his surroundings Thus to come at once to the real crux, the question of moral discipline, it is of course possible to reduce a man to order and prevent him from being a nuisance to his neighbours by arbitrary control and harsh punishment This may be to the comfort of the neighbours, as is admitted, but regarded as a moral discipline it is a contradiction in terms It is doing less than nothing for the character of the man himself It is merely crushing him, and unless his will is killed the effect will be seen if ever the superincumbent pressure is by chance removed It is also possible, though it takes a much higher skill, to teach the same man to discipline himself, and this is to foster the development of will, of personality, of self-control, or whatever we please to call that central harmonizing power which makes us capable of directing our own lives

Liberalism is the belief that society can safely be founded on this self directing power of personality, that it is only on this foundation that a true community can be built, and that so established its foundations are so deep and so wide that there is no limit that we can place to the extent of the building Liberty then becomes not so much a right of the individual as a necessity of society It rests not on the claim of A to be let alone by B, but on the duty of B to treat A as a rational being It is not right to let crime alone or to let error alone, but it is imperative to treat the criminal or the mistaken or the ignorant as beings capable of right and truth, and to lead them on instead of merely beating them down The rule of liberty is just the application of rational method It is the opening of the door to the appeal of reason, of imagination, of social feeling, and except through the response to this appeal there is no assured progress of society

Now, I am not contending that these principles are free from difficulty in application At many points they suggest difficulties both in theory and in practice, with some of which I shall try to deal later on Nor, again, am I contending that freedom is the universal solvent, or the idea of liberty the sole foundation on which a true social philosophy can be based On the contrary, freedom is only one side of social life. Mutual aid is not less important than mutual forbearance the theory of collective action no less fundamental than the theory of personal freedom But, in an inquiry where all the elements are so closely interwoven as they are in the field of social life, the point of departure becomes almost indifferent Wherever we start we shall, if we are quite frank and consistent, be led on to look at the whole from some central point, and this, I think, has happened to us in working with the conception of 'liberty For, beginning with the right of the individual, and the antithesis between personal freedom and social control, we have been led on to a point at which we

regard liberty as primarily a matter of social interest, as something flowing from the necessities of continuous advance in those regions of truth and of ethics which constitute the matters of highest social concern At the same time, we have come to look for the effect of liberty in the firmer establishment of social solidarity, as the only foundation on which such solidarity can securely rest We have, in fact, arrived by a path of our own at that which is ordinarily described as the organic conception of the relation between the individual and society—a conception towards which Mill worked through his career, and which forms the starting point of T H Green s philosophy alike in ethics and in politics

The term organic is so much used and abused that it is best to state simply what it means A thing is called organic when it is made up of parts which are quite distinct from one another, but which are destroyed or vitally altered when they are removed from the whole Thus, the human body is organic because its life depends on the functions performed by many organs, while each of these organs depends in turn on the life of the body, perishing and decomposing if removed therefrom Now, the organic view of society is equally simple It means that, while the life of society is nothing but the life of individuals as they act one upon another, the life of the individual in turn would be something utterly different if he could be separated from society A great deal of him would not exist at all Even if he himself could maintain physical existence by the luck and skill of a Robinson Crusoe, his mental and moral being would, if it existed at all, be something quite different from anything that we know By language, by training, by simply living with others, each of us absorbs into his system the social atmosphere that surrounds us In particular, in the matter of rights and duties which is cardinal for Liberal theory, the relation of the individual to the community is everything His rights and his duties are alike defined by the common good What, for example, is my right? On the face of it, it is something that I claim But a mere claim is nothing I might claim anything and everything If my claim is of right it is because it is sound, well grounded, in the judgment of an impartial observer But an impartial observer will not consider me alone. He will equally weigh the opposed claims of others He will take us in relation to one another, that is to say, as individuals involved in a social relationship. Further, if his decision is in any sense a rational one, it must rest on a principle of some kind, and again, as a rational man, any principle which he asserts he must found on some good result which it serves or embodies, and as an impartial man he must take the good of every one affected into account That is to say, he must found his judgment on the common good. An individual right, then, cannot conflict with the common good, nor could any right exist apart from the common good.

The argument might seem to make the individual too subservient to society. But this is to forget the other side of the original supposition. Society consists wholly of persons It has no distinct personality separate from and superior to those of its members It has, indeed, a certain collective life and character The British nation is a unity with a life of its own But the unity is constituted by certain ties that bind together all British subjects, which ties are in the last resort feelings and ideas, sentiments of patriotism or kinship, a common pride, and a thousand more subtle sentiments that bind together men who speak a common language, have behind them a common history, and understand one another as they can understand no one else The British nation is not a mysterious entity over and above the forty odd millions of living souls who dwell together under a common law Its life is their life, its well being or ill-fortune their well-being or ill fortune Thus, the common good to which each man's rights are subordinate

is a good in which each man has a share This share consists in realizing his capacities of feeling of loving of mental and physical energy and in realizing these he plays his part in the social life or, in Green's phrase, he finds his own good in the common good

Now, this phrase, it must be admitted, involves a certain assumption, which may be regarded as the fundamental postulate of the organic view of society It implies that such a fulfilment or full development of personality is practically possible not for one man only but for all members of a community There must be a line of development open along which each can move in harmony with others Harmony in the full sense would involve not merely absence of conflict but actual support There must be for each then, possibilities of development such as not merely to permit but actively to further the development of others Now, the older economists conceived a natural harmony, such that the interests of each would, if properly understood and unchecked by outside interference, inevitably lead him in courses profitable to others and to society at large We saw that this assumption was too optimistic The conception which we have now reached does not assume so much It postulates not that there is an actually existing harmony requiring nothing but prudence and coolness of judgment for its effective operation, but only that there is a possible ethical harmony, to which, partly by discipline, partly by the improvement of the conditions of life, men might attain, and that in such attainment lies the social ideal To attempt the systematic proof of this postulate would take us into the field of philosophical first principles It is the point at which the philosophy of politics comes into contact with that of ethics. It must suffice to say here that, just as the endeavour to establish coherent system in the world of thought is the characteristic of the rational impulse which lies at the root of science and philosophy, so the impulse to establish harmony in the world of feeling and action—a harmony which must include all those who think and feel—is of the essence of the rational impulse in the world of practice To move towards harmony is the persistent impulse of the rational being even if the goal lies always beyond the reach of accomplished effort

These principles may appear very abstract remote from practical life, and valueless for concrete teaching But this remoteness is of the nature of first principles when taken without the connecting links that bind them to the details of experience To find some of these links let us take up again our old Liberal principles, and see how they look in the light of the organic, or, as we may now call it the harmonic conception We shall readily see, to begin with, that the old idea of equality has its place For the common good includes every individual It is founded on personality and postulates free scope for the development of personality in each member of the community This is the foundation not only of equal rights before the law, but also of what is called equality of opportunity It does not necessarily imply actual equality of treatment for all persons any more than it implies original equality of powers[2] It does, I think, imply that whatever inequality of actual treatment, of income, rank, office, consideration, there be in a good social system, it would rest, not on the interest of the favoured individual as such, but on the common good If the existence of millionaires on the one hand and of paupers on the other is just, it must be because such contrasts are the result of an economic system which upon the whole works out for the common good, the good of the pauper being included therein as well as the good of the millionaire that is to say, that when we have well weighed the good and the evil of all parties concerned we can find no alternative open to us which could

[2] An absurd misconception fostered principally by opponents of equality for controversial purposes.

do better for the good of all. I am not for the moment either attacking or defending any economic system. I point out only that this is the position which according to the organic or harmonic view of society must be made good by any rational defence of grave inequality in the distribution of wealth. In relation to equality, indeed, it appears, oddly enough, that the harmonic principle can adopt wholesale, and even expand, one of the "Rights of Man" as formulated in 1789—"Social distinctions can only be founded upon common utility." If it is really just that A should be superior to B in wealth or power or position, it is only because when the good of all concerned is considered, among whom B is one, it turns out that there is a net gain in the arrangement as compared with any alternative that we can devise.

If we turn from equality to liberty, the general lines of argument have already been indicated, and the discussion of difficulties in detail must be left for the next chapter. It need only be repeated here that on the harmonic principle the fundamental importance of liberty rests on the nature of the "good" itself, and that whether we are thinking of the good of society or the good of the individual. The good is something attained by the development of the basal factors of personality, a development proceeding by the widening of ideas, the awakening of the imagination, the play of affection and passion, the strengthening and extension of rational control. As it is the development of these factors in each human being that makes his life worth having, so it is their harmonious interaction, the response of each to each, that makes of society a living whole. Liberty so interpreted cannot, as we have seen, dispense with restraint; restraint, however, is not an end but a means to an end, and one of the principal elements in that end is the enlargement of liberty.

But the collective activity of the community does not necessarily proceed by coercion or restraint. The more securely it is founded on freedom and general willing assent, the more it is free to work out all the achievements in which the individual is feeble or powerless while combined action is strong. Human progress, on whatever side we consider it, is found to be in the main social progress, the work of conscious or unconscious co-operation. In this work voluntary association plays a large and increasing part. But the State is one form of association among others, distinguished by its use of coercive power, by its supremacy, and by its claim to control all who dwell within its geographical limits. What the functions of such a form of association are to be we shall have to consider a little further in connection with the other questions which we have already raised. But that, in general, we are justified in regarding the State as one among many forms of human association for the maintenance and improvement of life is the general principle that we have to point out here, and this is the point at which we stand furthest from the older Liberalism. We have, however, already seen some reason for thinking that the older doctrines led, when carefully examined, to a more enlarged conception of State action than appeared on the surface; and we shall see more fully before we have done that the "positive" conception of the State which we have now reached not only involves no conflict with the true principle of personal liberty, but is necessary to its effective realization.

There is, in addition, one principle of historic Liberalism with which our present conception of the State is in full sympathy. The conception of the common good as it has been explained can be realized in its fullness only through the common will. There are, of course, elements of value in the good government of a benevolent despot or of a fatherly aristocracy. Within any peaceful order there is room for many good things to flourish. But the full fruit of social progress is only to be reaped by a society in which the generality of men and women are not only passive recipients but practical contributors. To make the

rights and responsibilities of citizens real and living, and to extend them as widely as the conditions of society allow, is thus an integral part of the organic conception of society and the justification of the democratic principle It is, at the same time, the justification of nationalism so far as nationalism is founded on a true interpretation of history For, inasmuch is the true social harmony rests on feeling and makes use of all the national ties of kinship, of neighbourliness of congruity of character and belief and of language and mode of life the best healthiest, and most vigorous political unit is that to which men are by their own feelings strongly drawn Any breach of such unity, whether by forcible disruption or by compulsory inclusion in a larger society of alien sentiments and laws tends to mutilate- or, at lowest to cramp—the spontaneous development of social life National and personal freedom are growths of the same root, and their historic connection rests on no accident, but on ultimate identity of idea

Thus in the organic conception of society each of the leading ideals of historic Liberalism has its part to play The ideal society is conceived as a whole which lives and flourishes by the harmonious growth of its parts, each of which in developing on its own lines and in accordance with its own nature tends on the whole to further the development of others There is some elementary trace of such harmony in every form of social life that can maintain itself, for if the conflicting impulses predominated society would break up, and when they do predominate society does break up At the other extreme, true harmony is an ideal which it is perhaps beyond the power of man to realize, but which serves to indicate the line of advance But to admit this is to admit that the lines of possible development for each individual or, to use a more general phrase, for each constituent of the social order are not limited and fixed There are many possibilities, and the course that will in the end make for social harmony is only one among them, while the possibilities of disharmony and conflict are many The progress of society like that of the individual depends, then, ultimately on choice It is not natural, in the sense in which a physical law is natural, that is, in the sense of going forward automatically from stage to stage without backward turnings, deflections to the left, or fallings away on the right It is natural only in this sense, that it is the expression of deep seated forces of human nature which come to their own only by an infinitely slow and cumbersome process of mutual adjustment Every constructive social doctrine rests on the conception of human progress The heart of Liberalism is the understanding that progress is not a matter of mechanical contrivance, but of the liberation of living spiritual energy Good mechanism is that which provides the channels wherein such energy can flow unimpeded, unobstructed by its own exuberance of output, vivifying the social structure, expanding and ennobling the life of mind.

Roosevelt: Government in Economic Crisis

When Franklin D Roosevelt took the presidential oath in 1933 the country had hit the low point in an economic depression which began in October of 1929 Many had denied that the central government had power to deal with the crisis, and because the crisis was national state governments could not deal with it Both hope and faith were at low point, and the only source of new hope and revived faith was the fact that a new president was to take over How would he interpret the powers of government—with or without vision and imagination? And could he make a more stirring appeal than one compounded of specific remedies? Could he appeal to men's spirits and lift their hopes? The answer is to be found in the first inaugural of Franklin D Roosevelt, which follows But the answer is not wholly in what follows, because it is not possible here to recreate the conditions that existed when the message was uttered Nevertheless, he must have tapped the deeper strength of people, because they rallied to his offer of leadership within the constitutional framework [1]

F. D. ROOSEVELT'S FIRST INAUGURAL ADDRESS

March 4, 1933

President Hoover, Mr Chief Justice, my friends

This is a day of national consecration, and I am certain that my fellow Americans expect that on my induction into the Presidency I will address them with a candor and a decision which the present situation of our nation impels

This is pre eminently the time to speak the truth, the whole truth frankly and boldly Nor need we shrink from honestly facing conditions in our country today This great nation will endure as it has endured, will revive and will prosper

So first of all let me assert my firm belief that the only thing we have to fear is fear itself—nameless, unreasoning unjustified terror which paralyzes needed efforts to convert retreat into advance

In every dark hour of our national life a leadership of frankness and vigor has met with that understanding and support of the people themselves which is essential to victory I am convinced that you will again give that support to leadership in these critical days

In such a spirit on my part and on yours we face our common difficulties They concern, thank God, only material things. Values have shrunken to fantastic levels; taxes have risen, our ability to pay has fallen, government of all kinds is faced by serious curtailment of income, the means of exchange are frozen in the currents of trade, the withered leaves of industrial enterprise lie on every side; farmers find no markets for their produce the savings of many years in thousands of families are gone

More important, a host of unemployed citizens face the grim problem of existence, and an equally great number toil with little return Only a foolish optimist can deny the dark realities of the moment

Yet our distress comes from no failure of substance We are stricken by no plague of locusts Compared with the perils which our forefathers conquered because they believed and were not afraid, we have still much to be thankful for Nature still

[1] First Inaugural, March 4, 1933.

offers her bounty and human efforts have multiplied it Plenty is at our doorstep, but a generous use of it languishes in the very sight of the supply

Primarily, this is because the rulers of the exchange of mankind's goods have failed through their own stubbornness and their own incompetence, have admitted their failure and abdicated Practices of the unscrupulous money changers stand indicted in the court of public opinion rejected by the hearts and minds of men

True they have tried but their efforts have been cast in the pattern of an outworn tradition Faced by failure of credit they have proposed only the lending of more money

Stripped of the lure of profit by which to induce our people to follow their false leadership they have resorted to exhortations pleading tearfully for restored confidence They know only the rules of a generation of self seekers

They have no vision and when there is no vision the people perish

The money changers have fled from their high seats in the temple of our civilization We may now restore that temple to the ancient truths

The measure of the restoration lies in the extent to which we apply social values more noble than mere monetary profit

Happiness lies not in the mere possession of money, it lies in the joy of achievement, in the thrill of creative effort

The joy and moral stimulation of work no longer must be forgotten in the mad chase of evanescent profits These dark days will be worth all they cost us if they teach us that our true destiny is not to be ministered unto but to minister to our selves and to our fellow men

Recognition of the falsity of material wealth as the standard of success goes hand in hand with the abandonment of the false belief that public office and high political position are to be valued only by the standards of pride of place and personal profit, and there must be an end to a conduct in banking and in business which too often has given to a sacred trust the likeness of callous and selfish wrongdoing

Small wonder that confidence languishes for it thrives only on honesty, on honor, on the sacredness of obligations on faithful protection, on unselfish performance Without them it cannot live

Restoration calls, however, not for changes in ethics alone This nation asks for action, and action now

Our greatest primary task is to put people to work This is no unsolvable problem if we face it wisely and courageously

It can be accomplished in part by direct recruiting by the government itself treating the task as we would treat the emergency of a war but at the same time through this employment, accomplishing greatly needed projects to stimulate and reorganize the use of our natural resources

Hand in hand with this, we must frankly recognize the overbalance of population in our industrial centers and by engaging on a national scale in the redistribution, endeavor to provide a better use of the land for those best fitted for the land

The task can be helped by definite efforts to raise the values of agricultural products and with this the power to purchase the output of our cities

It can be helped by preventing realistically the tragedy of the growing loss, through foreclosure, of our small homes and our farms

It can be helped by insistence that the Federal State and local governments act forthwith on the demand that their cost be drastically reduced

It can be helped by the unifying of relief activities which today are often scattered uneconomical and unequal It can be helped by national planning for and supervision of all forms of transportation and of communications and other utilities which have a definitely public character.

There are many ways in which it can be helped, but it can never be helped

merely by talking about it We must act, and act quickly

Finally, in our progress toward a re sumption of work we require two safe guards against a return of the evils of the old order there must be a strict super vision of all banking and credits and in vestments there must be an end to speculation with other people s money and there must be provision for an ade quate but sound currency

These are the lines of attack I shall presently urge upon a new Congress in special session detailed measures for their fulfillment and I shall seek the immediate assistance of the several States

Through this program of action we address ourselves to putting our own na tional house in order and making income balance outgo

Our international trade relations, though vastly important, are, in point of time and necessity, secondary to the estab lishment of a sound national economy

I favor as a practical policy the putting of first things first I shall spare no effort to restore world trade by international economic readjustment but the emergency at home cannot wait on that accomplish ment

The basic thought that guides these specific means of national recovery is not narrowly nationalistic

It is the insistence as a first considera tion, upon the interdependence of the various elements in, and parts of, the United States—a recognition of the old and permanently important manifestation of the American spirit of the pioneer

It is the way to recovery It is the im mediate way It is the strongest assurance that the recovery will endure

In the field of world policy I would dedicate this nation to the policy of the good neighbor—the neighbor who reso lutely respects himself and because he does so, respects the rights of others—the neighbor who respects his obligations and respects the sanctity of his agreements in and with a world of neighbors

If I read the temper of our people correctly, we now realize as we have never before, our interdependence on each other, that we cannot merely take but we must give as well, that if we are to go forward we must move as a trained and loyal army willing to sacrifice for the good of a common discipline, because, without such discipline, no progress is made, no leadership becomes effective

We are, I know, ready and willing to submit our lives and property to such discipline because it makes possible a leadership which aims at a larger good

This I propose to offer, pledging that the larger purposes will bind upon us all as a sacred obligation with a unity of duty hitherto evoked only in time of armed strife

With this pledge taken, I assume un hesitatingly the leadership of this great army of our people, dedicated to a dis ciplined attack upon our common prob lems

Action in this image and to this end is feasible under the form of government which we have inherited from our an cestors

Our Constitution is so simple and prac tical that it is possible always to meet extraordinary needs by changes in em phasis and arrangement without loss of essential form

That is why our constitutional system has proved itself the most superbly enduring political mechanism the modern world has produced It has met every stress of vast expansion of territory, of foreign wars, of bitter internal strife, of world relations

It is to be hoped that the normal balance of executive and legislative au thority may be wholly adequate to meet the unprecedented task before us But it may be that an unprecedented demand and need for undelayed action may call for temporary departure from that normal balance of public procedure

I am prepared under my constitutional duty to recommend the measures that a stricken nation in the midst of a stricken world may require

These measures, or such other measures as the Congress may build out of its experience and wisdom I shall seek within my constitutional authority, to bring to speedy adoption

But in the event that the Congress shall fail to take one of these two courses, and in the event that the national emergency is still critical, I shall not evade the clear course of duty that will then confront me

I shall ask the Congress for the one remaining instrument to meet the crisis—broad executive power to wage a war against the emergency as great as the power that would be given me if we were in fact invaded by a foreign foe

For the trust reposed in me I will re turn the courage and the devotion that befit the time I can do no less

We face the arduous days that lie before us in the warm courage of national unity, with the clear consciousness of seeking old and precious moral values, with the clean satisfaction that comes from the stern performance of duty by old and young alike

We aim at the assurance of a rounded and permanent national life

We do not distrust the future of essen tial democracy The people of the United States have not failed In their need they have registered a mandate that they want direct vigorous action

They have asked for discipline and direction under leadership They have made me the present instrument of their wishes In the spirit of the gift I take it

In this dedication of a nation we humbly ask the blessing of God May He protect each and every one of us! May He guide me in the days to come!

Hoover: The Fifth Freedom

There was a time when economic freedom transcended all other freedoms For a period, the Supreme Court of the United States seldom permitted it to be sacrificed to any lesser freedom A state might not regulate hours of work in a factory, but it could de prive a person of freedom of speech Then economic freedom underwent some limitations And there were those who reacted by justifying economic freedom as a natural right to get what you can out of your fellow men Herbert Hoover has not made this mistake He sees personal liberty dependent upon economic liberty, and so personal liberty is the final end Whether one agrees with his emphasis or not, there is new ground for rethink ing this connection, as old as Aristotle, between economic and personal freedom No treatment of constitutional democracy as it has developed could omit a statement on the rôle of economic freedom.[1]

THE FIFTH FREEDOM

THE PRESIDENT of the United States on January 6, 1942, stated that we seek everywhere in the world the four old freedoms freedom of speech and expres sion, freedom of religion, freedom from fear freedom from want

Soon thereafter I called attention to the fact that there is a Fifth Freedom—economic freedom—without which none of the other four freedoms will be realized

I have stated many times over the years

[1] From *Addresses upon the American Road World War II, 1941 1945*, by Herbert Hoover D Van Nostrand Company Inc, N Y, 1946

that to be free, men must choose their jobs and callings bargain for their own wages and salaries, save and provide by private property for their families and old age And they must be free to engage in enterprise so long as each does not injure his fellowmen And that requires laws to prevent abuse And when I use the term Fifth Freedom," I use it in this sense only, not in the sense of laissez faire or economic exploitation Exploitation is the negation of freedom The Fifth Freedom does not mean going back to abuses

Laws to prevent men doing economic injury to their fellows were universal in civilized countries long before the first World War In the United States for example, the State and Federal Governments had established regulation of banks, railroads, utilities coinage, prevention of combinations to restrain trade government support to credit in times of stress, public works, tariffs limitations on hours of labor and in other directions

The key of such government action to economic freedom is that government must not destroy but promote freedom When Governments exert regulation of economic life, they must do so by definite statutory rules of conduct imposed by legislative bodies that all men may read as they run and in which they may have at all times the protection of the courts No final judicial or legislative authority must be delegated to bureaucrats, or at once tyranny begins

When Government violates these principles, it sooner or later weakens constitutional safeguards of personal liberty and representative government

When Government goes into business in competition with citizens, bureaucracy always relies upon tyranny to win And bureaucracy never develops that competence in management which comes from the mills of competition Its conduct of business inevitably lowers the living standards of the people Nor does bureaucracy ever discover or invent A Milliken Ford or Edison never came from a bureaucracy

And inherent in bureaucracy is the grasping spirit of more and more power It always resents criticism and sooner or later begins directly or indirectly to limit free speech and free press Intellectual and spiritual freedom will not long survive the passing of economic freedom One of the illusions of our time is that we can have totalitarian economics and the personal freedoms Ten nations on the Continent of Europe tried it and wound up with dictators and no liberty

The first trench in the battle for the Five Freedoms is to maintain them in America That rests upon fidelity not only to the letter, but to the spirit of constitutional government Failure of Congress to assert its responsibilities or for the Executive to take steps beyond the authority of Congress is a direct destruction of the safeguards of freedom We badly need a complete overhaul of our governmental relations to the Fifth Freedom if it is to be preserved

The Fifth Freedom in no way inhibits social reforms and social advancement In fact, it furnishes the increasing resources upon which such progress can be built And itself flourishes upon the advancing social aspirations of our people Social advancement was part of the whole American concept during the whole of our national life The greatest of all social advances was free education Next came concern for public health We have always held it an obligation to prevent suffering from misfortune, to care for widows, orphans, and old age, and those upon whom disaster falls

The methods have gradually improved from the ancient work house, the asylum, and the county hospital to more systematic and more inclusive action And that more inclusive action has only been possible with the growing wealth born from the Fifth Freedom For many years in the United States, our States and the nation have been gradually developing protection to children, to women, limitation of hours, and safeguards of health in industry From these 48 laboratories we have seen the development of such actions as

public health control hospitalization, care of children, workmen's compensation, unemployment and health insurance, old age, widows', and orphans pensions They are not new ideas As we expand in these purposes, there are safeguards to liberty that can and must be preserved

One of these safeguards is where personal insurance for any purpose is given by the Government it must be contributory Even where subsidized by the Federal Government, it should be administered by the States to limit the growth of centralized bureaucracy and political action

Liberty has its greatest protection from local not centralized government

Another concept in all social insurance or pensions must be that the responsibility of the people as a whole is to provide only a reasonable subsistence basis Beyond that the citizen must look after himself if initiative and self respect are to be maintained Today our measures in these matters badly need vigorous overhauling to make them comport with these fundamental principles to put them upon a pay as you go basis, to make them inclusive of everybody, and to make them synchronize and not destroy private institutions and efforts

A system devoted to development of individuality and personal freedom is a complicated business It can destroy its own purposes by foolish action

Today we are faced with the relation of personal liberty to total war. Our people must be mobilized for that immediate purpose

We must sacrifice much economic freedom to win the war That is economic Fascism for Fascist economics were born of just these measures in the last war But there are two vast differences in the application of this sort of economic system at the hands of democracies or at the hands of dictators First, in democracies we strive to keep free speech, free press, free worship trial by jury, and the other personal liberties alive And, second, we want so to design our actions that these Fascist economic measures are not frozen into life but shall thaw out after the war

Even the temporary suspension of economic liberty creates grave dangers because liberty rapidly atrophies from disuse Vested interests and vested habits grow around its restrictions It would be a vain thing to fight the war and lose our own liberties If we would have them return, we must hold furiously to the ideals of economic liberty We must challenge every departure from them There are just two tests Is this departure necessary to win the war? How are we going to restore these freedoms after the war?

We have no right to complain of necessary sacrifices Our soldiers and sailors are deprived of all their freedoms except the right to grouse a little But they will expect their freedoms back when they come home

Under the stress of reconstruction after the war, our liberties will be slow in coming back, but the essential thing in this sort of question is the direction in which we travel We must establish the direction now.

Durbin: The Case for Political Democracy

In recent years it has become fashionable to say that political democracy, suffrage, holding office, majority rule, and the like are not enough Man, to be free and equal, must also have economic democracy, or else the political democracy means nothing. Most people have accepted this argument at its face value, and political rights have been given a second place, wherein they have little value unless they are accompanied by economic democracy Durbin, in the following selection, takes issue with that point of view and asserts the inherent value of plain, simple, old political democracy. This point of view is needed as a corrective and in the interests of keeping first things first [1]

The Essence of Democracy

If the method of dictatorship is an unlikely way to secure social justice, what alternative method is open to us?

I wish to argue that the only conceivable route to a better social order lies in the pathway of democracy, and that the political method of democratic government is an essential principle, not an accidental accompaniment, of any just society

If by the 'socialist commonwealth' we mean a society in which a larger measure of social justice has been established through the instrumentality of a planned economy, then I believe that the democratic method is an inherent part of socialism, and cannot be separated from it—any more than batting can be separated from cricket or love from life They are all necessary parts of a complex whole

I am now concerned to argue the validity of this contention, but before I do so, it is necessary to make clear the sense in which I use the term democracy'

Democracy is an ambiguous term in political discussion Many people use it in such a way as to make it synonymous with the phrase 'the good society' A community is a 'true democracy only if all cause for sighing and weeping have passed away Before such persons will call any society a democracy, it must be completely free from social inequalities and economic insecurity J A Hobson uses the term in this sense when he says effective political democracy is unattainable without economic equality' In this use the term 'democracy' becomes identified with the conception of a social justice itself, and is therefore remote from the political practice of any present society.

By using the word in this way it is possible to say, quite rightly, that we have not got 'democracy' in Britain, or America or France, or Sweden In none of these countries has inequality, or insecurity, or class antagonism, passed wholly away Democracy, in its Utopian sense, does not yet exist within these nations. They only possess 'capitalist democracy,' or '*political* democracy' They do not possess 'economic democracy' or 'true democracy or 'real democracy.'

Now it is perfectly open to anyone to use terms as they please. If some people choose to mean by democracy' what other people mean by 'Utopia' there is nothing to stop them doing so The moon will still be the moon even if we call it the sun Utopia by any other name will smell as sweet, and look as remote But it is not in Utopia, nor in the perfect society, that I am, for the moment, interested I wish to discuss a narrower thing, a single po

[1] From *The Politics of Democratic Socialism* by E F M Durbin, London, 1940 By permission of Routledge and Kegan Paul Ltd

litical habit, a method of taking political decisions, a practicable and actual condi tion of certain societies In short, what I want to consider is the significance or value of what the Utopian 'democrats' would call 'mere political democracy' In what does that consist? Of what value is it? By what arguments can it be justified or criticized?

It is obvious that the institution of mere political democracy' must exist in some real sense, even in a capitalist so ciety, since it is possible to distinguish capitalist democracies' from 'capitalist dictatorships' Even in his most fanatical moments the Communist has not denied the *possibility* of making the distinction, although he used to deny the *importance* of making it There must be therefore some sense in which democracy is compatible with capitalism and consequently with economic inequality It is with this limited form of political democracy, its meaning and value, that I am here con cerned

In what does 'democracy' in this sense consist?

I believe the correct answer to this question to be that political democracy consists in the possession by any society of *three* characteristic habits or institu tions

1 The *first* and most typical of these characteristics is the ability of the people to choose a government

Disagreement between individuals is of the very essence of human personality As long as we are different persons, there will be some of us who like one thing and some who do not, some who desire one order of society and some another, some who believe justice to be realized in one set of circumstances and some who disagree with that judgment

Now the course of action taken at any moment, and the form of society thus brought slowly into existence, are determined largely by the decisions of the Government The Government has its hands upon the controls of the 'apparatus of coercion,' and is therefore the *immediate* authority determining social policy The nature of the decisions taken by the Government will depend upon the char acter of the persons forming it Conse quently there can be no control of the form of society by us, the common people, unless it is possible to change the per sonnel of the Government and of the legislature That is the first and most obvious characteristic of political de mocracy—the existence of a government responsible to the people, and the dependence of it and of the membership of the legislative assembly upon the free vote of the people

In our own history we have found that the essential thing to attain and preserve is the power of the people to *dismiss* a government from office This negative power is in reality an important positive power, because ordinary men and women are moved more deeply by the disapproval of measures they dislike in practice, than by their less definite conception of what they desire in the future Political change in democracies is more frequently induced by a slow accumulation of resentment against an existing government or insti tution, than by the growth of a positive idea of new social forms Experience is more real than imagination, to unimagi native people

Every practising politician appreciates this fact The enthusiasts composing the party machine through which he has to work may be animated by the clear vision of a new society, but they are, at the best, a small minority of the surrounding elec toral masses, and the masses are rarely inspired by Christian s clear vision, from a great distance, of the Celestial City This is not to say that constructive social im agination is not powerful in the affairs of men, but only that democracies proceed to realize the prophets vision by careful processes of empirical test By the slow testing of ideas and of institutional ex periments, by rejecting all those of which they disapprove and insisting upon the gradual extension of the things they find by experience that they like, an intelligent

electorate unconsciously constructs a society that in large measure contents it. Little as we reformists of the Left may like it, the absence of a reforming or revolutionary zeal in our communities is a tribute to the fundamental, and often unrecognizable, ways in which society has been adapted to suit the unconscious, but essential, requirements of the people composing it.

Of this I shall have more to say presently. For the moment I wish only to insist upon the importance of the negative power to destroy a government as part of the broader right to choose a government. It is the continuous retention of this power that I shall call the 'maintenance of democracy.'

2. But the continued existence of this right implies and requires the existence of a *second*, and less obvious, political institution. If liberty is to exist, if the dependence of government upon the will of the people is to be real, there must always be a real choice before the people. This implies the steady maintenance of a critical and essential institution—that of *freedom to oppose the Government of the day*. Unless the electorate has more than one possible government before it; unless there is more than one party able to place its views before the country; unless, that is to say, that opposition is free to prepare itself to take over power, and the Government to surrender it peacefully after an electoral decision against it; there is no choice before the people. Their choice is Hobson's choice—they may walk or go upon their legs, they may die or cease to live, they may eat bread or bread. The range of choice is no greater.

This obvious reflection reveals at once the sharp absurdity of the electoral practices of modern dictatorships. Modern dictatorships pay to the institutions of democracy the sincerest form of flattery—that of imitation. They copy the device of the 'General Election.' But it is an empty and silly imitation—like that of an ape reading a newspaper or a baboon playing on a violin. It deceives no one, except those who wish to be deceived. Of course, no amount of electoral machinery, nor platform eloquence, nor secret balloting, nor 'equal voting,' has the slightest real significance if there is finally nothing to vote about, no choice before the voters. The contemporary German and Russian elections, in which one Party receives 98% or 99% of the votes polled, may be a tribute to the efficiency of the terror by which these unfortunate peoples are governed; but they have no more political significance than the jabbering of a school of marmosets or the senseless and uniform hissing of a gaggle of geese.

This we can see at once by asking the critical question: *What is the choice before the German or Russian electorate?* There is only one party in the election. There is only one government that can be formed. There may be a choice of individuals, but there is no choice of party, no choice of government, no choice of policy. The alternative before the German people is the choice between Führer Hitler or Führer Hitler; before the Russian people Comrade Stalin or Comrade Stalin. They may choose in the one country, the National-Socialist Party or the National-Socialist Party; in the other, the Communist Party or the Communist Party. As Herr Goebbels said, 'All we National-Socialists are convinced that we are right, and we cannot bear with anyone who maintains that he is right. For either, if he is right, he must be a National-Socialist, or, if he is not a National-Socialist, then he is not right.' Comrade Stalin thinks very much the same. It is only odd that both these self righteous regimes consider it worth while to spend so much time and money in marching the adult population mechanically and idiotically through the polling booths to affirm a meaningless slogan.

Here then is the acid test of democracy Democracy may be defined by the tolera tion of opposition. In so far as it is tolerated—in so far as alternative governments are allowed to come into existence and into office—democracy, in my sense

exists. In so far as opposition is persecuted, rendered illegal, or stamped out of existence, democracy is not present, and either has never existed or is in process of being destroyed.

Obviously this is not a simple test. There are varying degrees of freedom permitted to those in opposition to the Government of the day in the various political systems of the world. In the older democracies, like our own, there is complete legal freedom for parties in opposition to the Government. Their rights in respect of political agitation are the *same* as those of the Government. From this extreme there is an almost infinite gradation of liberty, through the milder dictatorships of Poland and even Italy, to the savage and ruthless insistence upon uniformity that characterizes Germany and Russia. There is no precise line at which it is possible to say that all the communities on this side of it are democracies, and all on the other side of it are dictatorships. But, although the test is quantitative and complicated, it is nevertheless an acid test. The suppression of opposition, as distinct from sedition, is the proof of dictatorial ambition. It is by our judgment of that condition in society that we shall judge democracy itself.

3. But there is a *third,* and still less obvious, characteristic necessary to the existence of democracy. Both the previous characteristics—those of responsible government and of legal opposition—are the definitive properties of democracy, but they are not the causes of democracy. When these conditions are present in a society, democracy in my sense is present also; when they are absent democracy in my sense is dead. But they do not cause democracy to become present; they simply define democracy. What then *causes* democracy to appear? What is the substantial social condition guaranteeing its existence and continuance?

Now I shall go on to argue, before this Part is finished, that the ultimate cause of stable democratic habits among a people is the possession by them of a certain type of emotional character. I shall argue that democracy is the epiphenomenon of a certain emotional balance in the individuals composing a nation, and I shall try to describe the kind of personality that, in my view, alone makes democracy possible. But there is a simpler and more immediate description of the *result* of the predominance of such persons in any society; and that is, in my submission, the most essential condition for the existence and maintenance of democracy. It is the existence of *an implicit undertaking between the Parties contending for power in the State not to persecute each other.* It is upon that agreement that I believe democracy can alone be securely founded. Mutual toleration is the keystone of the arch and the cornerstone of the building.

It is obvious, upon a moment's reflection, why this should be so. Let us imagine for a moment that this condition is not fulfilled. Let us suppose that the Conservative Party now in power in Great Britain has reason to believe that the Labour opposition has never accepted, or does not now accept, the obligations of this informal compact of toleration. The Government has reason to think that, if and when the Labour Party comes to power, it will use that power not merely to carry out its programme, but to break up and destroy the Conservative Party as a political organization, and to stamp out, by persecution, conservatism as an idea. That is to say, it is the known intention of the Labour Party—as it is now the known intention of the Communist and Fascist Parties—to use the apparatus of coercion, control over which is vested in them as the Government, to 'liquidate' the parties that will then be in opposition to them. What will then follow? I suggest that in these circumstances the continuance of democracy is inconceivable. It is not even necessary that one of the large Parties in the community should intend to resort to physical cruelty. It

may be certain that they will be forced to do so by the attempt to liquidate their opponents; but even if this is not the case, the mere desire on their part to prevent the other Party, by force, from ever holding office again is sufficient to make the maintenance of democracy impossible. Why is this so? Because the Party so threatened will never surrender power peacefully. There is every reason why it should not do so. To hand over the reins of Government to the victorious Opposition is to court political death, to put a noose around one's own neck, to hand over the gun to a murderer. There would be no sense in such a procedure. Why should I present a knife to a man who is going to stab me in the back with it? Who would willingly hand over a machine-gun to a lunatic or a gangster?

Indeed, it may very well be the duty of a political leader not to hand over the control of government voluntarily to a persecutor. The leaders of the Conservative Party, in the case that we are imagining, are the responsible leaders of a certain section of the community. They have been entrusted with the guardianship of certain interests and certain ideas. It may be their duty not to step aside, even in the face of the popular will, to give places of power to persecutors and tormentors. By so doing they sell the men and women they represent into slavery. They betray the ideas, for which they stood trustee, to destruction. It may be their duty to fight, to meet force with force, and not to yield. Only the extreme pacifist contends that it is our certain duty to allow ourselves to be tortured and persecuted and killed. In any case it is certain that most people will not do it—*even were it their duty to do so.*

These moral dilemmas need not delay us now. . . . I am merely trying to elucidate the conditions necessary for the existence of democracy as I have defined it. Democracy requires the peaceful alternation of Parties in Government. This is impossible if the Government believes that the Opposition intends to liquidate them if and when they, the Opposition, attain power. The Government is not likely in these circumstances to surrender power peacefully. Even if they did, democracy would nevertheless cease to exist, since the victorious Opposition would then proceed, by the persecution of those who disagreed with them, to the destruction of democracy itself. Political liberty or democracy, in my sense, depends then, first and last, now and in the future, upon mutual toleration between opposing Parties.

It will be noticed that, in my description of democracy, there is no reference to social equality or distributive justice, or to any characteristic of the ideal society. It is therefore perfectly open to anyone to suggest that it is not a valuable institution. It is possible to say: 'If that is all you mean by democracy, I am not interested in it. It does not appear to me to be a particularly important or valuable political habit. I see no necessity to trouble myself greatly over its preservation.' We are therefore brought, at once, to a consideration of the advantages and disadvantages of this method of government. What are the arguments for democracy? What are the arguments against it? What are the forces that support or undermine it?

FIFTEEN

Toward a Constitutional World Order

THE WEAKEST POINT TODAY IN THE defenses of democracy is the lack of a clear, simple, and adequate analysis of the true nature of *constitutional* democracy. Democracy, too, can become perverted and evil. It can only remain true democracy if it too is under law, so far as its fundamental moral principles and freedoms are concerned. The difficulty of any such analysis can be readily seen from our review of the development of Western political thought and institutions in the preceding chapters. The greatest minds that Western philosophy has produced have all attempted to deal with the nature of *justice* in relation to law and the state (the nature of the "good life," and the type of society and laws calculated to realize it); with the relation of the individual to a community organized under law (citizens' rights and duties); with the model type that such a community should assume to realize the good life (form, organization, and limits of the state); and, finally, with the relations of political communities among themselves and to a world order (international law, and the enforcement of international order).

None of these problems can be simplified to elementary terms without falsifying their true nature. Totalitarian systems flourish precisely on the too simple appeal which they make to the irrational and emotional sides of human nature. They can simplify the whole duty of mankind into a formula like the "Leader Principle" of Fascist and Nazi doctrines, or the "Dictatorship of the Proletariat" of Communism. By giving a spurious appearance of the "scientific" explanation of human nature, such as the racial supremacy of Hitler's doctrine, or the "organic nationalism" of Mussolini, or the economic determinism of Marx, these "isms" buttress their mythology and their emotional symbolism with a primitive kind of theological justification of their myth. Their strength lies in the appeal to mass emotions and in the gullibility of populations who are accustomed to accepting their ideas from the rulers of the state. Primitivism reappears, as we have noted, and as Arnold Toynbee has shown so well, in times when civilizations are breaking down.

Democracy Demands Free Competition of Ideas

On the other hand, democracy by its very nature depends upon a free competition of ideas. This testing of ideas in itself implies that *there can be no absolute values which will be imposed by the state except the absolute value of freedom.*[1] In turn, this means that constitutionalism can only rest upon the good sense and the enlightened judgment of a population fit to choose its own ideas and bent upon maintaining the right to do so. Unless this fierce love of liberty is regarded as an absolute value for which men are prepared, if need be, to die, there is an inevitable decline of the protections that surround the rights of individuals, of minority groups, of free discussion, and of the whole range of civil liberties. But that is a hard gospel to give to men who are more fearful of the loss of their economic security or their lives than of their liberty. What positive content has democracy other than freedom? The question confronting our democracy is an open one: Can freedom endure in a world where the organic forces of survival make liberty a lesser value than so-called "security"? There is no easy or sure answer. History is harder to handle than rhetoric. Let us face it honestly.

Must Have a Consensus Juris

The essence of democracy, to begin with, is a welter of conflicting views, not only on the methods of solving social problems but on the values involved in different forms of economic organization and political structure. The only absolute of constitutionalism is the ultimate responsibility and freedom of the individual moral person. There must be a sufficient agreement in any great national community on what Cicero called the *consensus juris* to assure the acceptance of a constitutional system that both protects civil liberties and organizes a government. Unless a responsible government, so grounded on consent, can umpire the rules of the game and serve as a vehicle for orderly change in those rules, constitutionalism cannot be preserved.

A constitution must rest upon a broadly shared and deeply felt common morality. The "agreement on fundamentals," which Lord Balfour spoke of in his introduction to the latest edition of Walter Bagehot's *The English Constitution,* has to cover an acceptance of a form of government that citizens are willing to support as the best practicable method of achieving responsibility. The compulsion that all states must meet in preserving internal order and external security tends to force the acceptance of its

[1] See, in the Readings, the Universal Declaration of Human Rights, adopted, over the opposition of the Russian *bloc,* by the General Assembly of the United Nations on December 10, 1948.

own form of government by any nation which has a true sense of historical unity. Can it also create a world order that can control not only atomic energy but the ultimate determination of one power to defy and eventually subdue the timid rest, one by one?

The present world rift forces the surviving democracies to lift that constitutionalism to a world scale. This means that a democracy must include in its fundamental beliefs that center around the nature of individual rights a full acceptance of the duties that go along with rights. How much of the world can be organized along the lines of constitutional democracy? Is enough of the world ready for such a forward leap? If not, is the Russian method of getting "one world" the inevitable alternative, or can we, must we, go on with a divided world, as in the past? [2]

A Civil War for the World

The *status quo* is never without the challenge of revolutionary conceptions that would profoundly upset the balance of power within the individual society and in the international community as well. The primary challenge facing democracies is the myth of class war translated to the service of Moscow's power politics. This myth of inevitable class conflict, if conditions in any nation permit it to become a widely held and intensely accepted doctrine of action, would shatter the possibility of democratic accord on fundamentals. Projected across the globe, it is a direct challenge to civil war for the world. Citizens in a democracy, if communists have their way, are no longer to be accorded political equality and the protection of constitutional rights in a system whose changes must depend upon persuasion of the majority and in which a fundamental law affords protection to minorities in their efforts to succeed in this persuasion. The class issue becomes absolute and equality of rights is denied to all holders of property, who become proscribed outlaws destined to be liquidated ultimately by the only method recognized in the myth of class war, namely, violent revolution. Such a showdown does not permit democratic solutions and is inherently a declaration of war on the whole possibility of constitutional government, as well as on any free economic system. It is war—*"cold"* war only until it blazes into irrepressible conflict, and a real war in the world, because it is struggle *for* the world.

It is for that reason that communists pursue with their most relentless hatred and savage suppression the socialists, although the latter agree on the ultimate economic objectives which communism, as a classical doctrine, is supposed to hold—that is, the socialization of the controlling

[2] See "A Time for Peace?" by W. Y. Elliott. Reprinted from the *Virginia Quarterly Review*, Spring, 1946, in the Readings.

factors of production, the maximum possible elimination of economic inequality, and the elimination of the profit motive as the dynamic of the economic system.

But the real socialist is a democrat and a constitutionalist, first and last. He agrees with other advocates of constitutionalism that the protection of human liberty and the ability of men freely to choose their own system is more important than the imposition of an economic system. As a corollary, he admits that any economic system, including that of socialism, should be subject not only to modification and change if the people living under it so desire; he would go farther and admit the right of the people ultimately to reject socialism in favor of some other system. He does not make an absolute of collectivism or of economic equality, but of freedom for individual belief and for political action.

To the communist, this is heresy of the first order and must be stamped out by the methods of the Inquisition. In a simplified form, this was the split between the Bolsheviks and the Mensheviks in Russia, which paralleled the world-wide split between the Third International of Communism and the Second International of Socialism. The communist is an absolutist, and his absolute is a system dictated by the fatal logic of Marx, with no concern for the moral personality of free men. He who does not believe or accept must be liquidated. The socialist, *in common with other constitutional democrats, holds the protection of democratic responsibility, i.e., constitutional protection of personal rights, to be the only moral absolute.*

Why should there be *any* absolute, and if there is to be an absolute in politics, why may not the totalitarian system have the right of the matter? What is wrong in the communist's quasi-religious conviction that mankind can live successfully, in the conditions of modern industrialism and social interdependence, only under a planning dictatorship, which conditions all human life to the acceptance of a scheme that would maximize production and equalize distribution? If that spells the end of individual liberties and freedom for the moral conscience of men, of civil rights and free elections, so much the worse for all that claptrap and humbug, says the communist: "Mankind must be forced to be free, as Rousseau showed; to achieve its true will, that is, to be a producer and consumer whose actions are totally regulated by the state, to achieve the Marxian goal." And, reasoning on this, the Marxian goal is as desirable as it is inevitable.

What can the democrat reply to this zealot? Democracy is, it must be admitted, an article of faith. It cannot be demonstrated by irrefutable scientific proof that the destiny of humanity requires the acceptance of the right of the individual to be treated as Immanuel Kant said, "As an end in himself, and not as a means to an end," any more than you can

prove by the logic of science that the Golden Rule is sound morality. There is no method comparable to laboratory experiment in chemistry or physics that will show this to be the best or the only method for creating the highest or most desirable human beings. These matters are all questions of value judgments. That is why "operationism," "physicalism," and logical positivism, or any other theory of a "scientific" ordering of human philosophy and experience do not strengthen democracy, but tend to play into the hands of totalitarians. This false "science," or rather "scientism," denies ultimate value to moral personality.

The Pseudo-Science of Totalitarian Magic

It can be said, on the other hand, that "science" does not prove the totalitarian case or support it. The pseudo-science of Marx is as palpable a fraud as the Germanic racialism of Hitler.

Human experience itself has to be interpreted to read results or conclusions into the history of institutions and of moral progress. The power of example of great leaders and the growth of great religions with a fundamental agreement on this point are not enough evidence to a nazi or a communist. Yet in the end these examples and this type of experience are the best evidence that can be offered. *Goodness* is something that has to be directly experienced to be believed and to be valued.

If the *best* human beings were simply the most disciplined, the most faithful in the performance of any duties imposed on them by totalitarian leaders, the ends of society could obviously best be served by a totalitarian system. That system might be aimed at creating a biologically superior human race, along the lines that one would use to "improve" the breed of cattle, as Hitler's was. The question of what sort of human beings are truly biologically superior in terms of the survival of humanity confronted by the awe-inspiring control over nature of which atomic energy is a dramatic example, would not in the least concern the apologists of such a system as Hitler's or Mussolini's. The evidence would not support the conclusion that they must be superior cattle or mechanically responsive slaves to a "party line." Such questions could only be left to the (by hypothesis) divinely inspired leader. We have seen that since Plato this conception of an *élite* has run its course in many forms throughout political theory. The Russian answer would not be substantially different, since only the wisdom of Stalin and his chosen disciples in the Politburo could determine such issues for the masses, fit only to be manipulated by "agitation" and fed on propaganda. How any such superior and all-wise minds can be trained by the methods of Spartan discipline, "party-line" truth, and fear has never yet been demonstrated. It is possible to train good Janissaries that way, but not the *élite*, their masters.

Freedom Based on Historic Experience, Not Blind Faith

The democratic faith, though, is something more than a blind faith. A review of the development of Western political thought and institutions that we have studied would offer a considerable body of historical evidence to show that the great creative periods of human civilization have been those in which the individual was freed to realize his maximum potentialities. The essence of a creative civilization, from the time of Athens and the Roman Republic to the great days of the development of British freedom through the seventeenth into the twentieth centuries and to the extension of that freedom overseas to the United States and the British Dominions, as well as the mighty current of European liberalism—this essence has been the dynamics of individual moral responsibility. Without the moral freedom to make one's own decisions of right and wrong and to express them in the area of political action through representative machinery, every society tends to assume the patterns of mass behavior which liken it to an ant heap or a beehive or to animal society like the herd, whose sole test is survival. Without restraints on arbitrary and uncontrolled action by rulers and their bureaucracy by some fundamental law-making process beyond their sole control, there can be no true freedom.

Ranged on the other side, under the ranks of order and discipline, were Sparta, Imperial Rome, and the military empires for which Frederick the Great in Prussia set a model. Today the old pattern has assumed that of a more formidable guise still—modern totalitarianism, which means all that the word implies, complete control of every aspect of human life.

The constitutional democrat must admit that many of the historic factors of every period, including our own, press in to narrow the area of freedom. He would be a fool, indeed, who refused to recognize the weight that the struggle to survive places upon every system to strengthen the element of logic that Hobbes expressed so unforgettably. Law and order, too, require the recognition of a framework of necessity that strictly limits the ideal anarchy of behavior theoretically required by absolute individual responsibility. Godwin and Kropotkin and Bakunin are asking the impossible of human nature because they do not recognize the necessity for a matrix of order as the shell from which freedom must be hatched. Political being is never amorphous.

Immanuel Kant devoted perhaps the most profound philosophical efforts of all to the reconciliation of liberty and order. He emerged with a concept of moral responsibility within a framework of voluntarily accepted law. His great essay *On Perpetual Peace* attempted to universalize the conditions of this moral order. Such an order, however, he found to be

possible only among republican (what today we would call constitutional) states.

Every constitutional system attempts this reconciliation of freedom and order. In one form or another, whether through a written preamble and a bill of rights or through the practiced but unwritten conventions and civil liberties of a system like the British, the first element of a constitution is a statement of its moral objectives. This is a feature that is either entirely lacking in all totalitarian systems or becomes a by-word and a mockery, as it does in the Russian "constitution," since that document exercises no restraint in practice on the will of the party oligarchy heading up in the Politburo. There is no institutional check on arbitrary power, and no way to get responsible law-making.

Civil liberties that are intended to protect the rights of personality and that constitute the essence of human freedom are not limited to the traditional freedom of speech, freedom of assembly, freedom of religion, and freedom of press—though these are all basic. They demand the freedom of movement and the freedom to pursue occupations according to one's own choice. They require a freedom for thought that goes with freedom in education.[2]

The Courts and Civil Liberties

Court protections through the development of writs like *habeas corpus*, supplemented by formal provisions of the constitution preventing bills of attainder, *ex post facto* laws, and assurance of due process of law, are all part of the genuine heritage of civil liberties. Unless there are restraints upon the arbitrary powers of government, any government tends to overstep the bounds of lawful enforcement and to enter on the paths that lead to terror and tyranny. We in constitutional countries are so much in the habit of taking these rights for granted that we rarely give them a thought. That has been the case in Europe, too, where they were lost, often by political default, but largely because of the failure of the second provision for constitutionalism: namely, that every constitutional system must attempt to organize adequate force to support law, to survive in a world of power politics, and to assure economic adequacy for its system. Therefore, in addition to the bills of rights and the statement of objectives of the constitution in the preamble, every such system must attempt to organize the powers of government so that there shall be a supreme law of the land and that the methods of its enforcement, as well as its formation, are clearly defined and self-consistent. But courts must not be misled and misused to protect by traditionalism those who would destroy all freedom.

[2] See Declaration of Human Rights (United Nations), in **Readings.**

If constitutional government is to be the basis for international organization, how can successful results be expected? Only, it would seem, if constitutional government can cope with power politics. What are the prospects? To what examples must we turn?

Modern systems have, as we have seen, emphasized two approaches to this problem of organized power politics:

The British Parliamentary System—Responsible Liberty

1. The first approach is that of the British system and variations upon it. The system unifies responsibility to a legislative body through a cabinet made up from its membership. Unless the power of this cabinet to call a general election in order to protect itself from perpetual overturns by the legislature is clearly recognized and practiced, parliamentary government tends to follow the fatal rôle it played on the continent of Europe, following the old French model: that is, of course, the "weak executive" type, in which the breakdown of government endangers civil liberties as well as political liberties more by default than by the abuse of power. Fascism has come into power in such systems as a rebuke to futilitarianism.

On the other hand, the British system and those which have been modeled upon it, as in the self-governing and now independent Dominions, have shown that the simple logic of parliamentary responsibility with a strong executive, possessed of the right to call a general election and dissolve the legislature, has been adequate to meet the problems of democratic responsibility. It can hardly be argued that any British system, in spite of the legally almost uncontrolled range of powers of the Parliament and its Cabinet, has seriously trenched upon civil liberties. On the contrary, political responsibility under a tradition of constitutional self-restraint has so far proved in general as careful of the protection of minority and of individual liberties as have those systems in which, like our own, civil liberties have been committed to the protection of courts, under a fundamental and rigid system of law, incapable of amendment by the ordinary legislative process.

Unified Responsibility Aids Necessary Planning

The parliamentary system of Britain has the great advantage that it prevents stalemates between the executive and the legislature, that it permits broad-scale planning under a mandate that can ordinarily be counted upon to last several years, while at the same time it permits a government to be forced out of office when it loses popular support. It is a far from perfect vehicle. Reservations can be made in the light of the between-wars history of the United Kingdom on the adequacy of such a

system to develop an opposition capable of offering an alternative government and on the possibility of effectively restraining the government in power to the terms of its popular mandate. However, no government and no system can ever be perfect in practical terms. The record of the British government is probably an adequate translation of the level of ability and the limits of the British electorate and leadership. Its failures have been those of human wisdom or the lack of it, confronted by a burden too vast to be borne by the system, by the too rigid customary behavior of trade unions and managers and by some decline in the vitality of creative leadership.

The Presidential System of Separated Powers in the United States

2. The second major archetype of constitutional systems is the American, which we associate with a separation of powers between the executive and legislative and judicial branches of government, with each fulfilling a coordinate rôle. In point of fact, the federal system in the United States, plus the wide powers of judicial review afforded by the provisions of our federal constitution, have tended to make the hierarchy of federal judges the supreme arbiters of the system. Nevertheless, since they cannot legislate positively and since they cannot put into execution any of their rulings, they must depend upon the constitutional morality of the other branches. The power of the judges can hardly, therefore, be said to be supreme. In the final analysis, they can always be overridden by the extraordinary majority required to amend the Constitution. Under ordinary circumstances, this power of judicial review affords a testing point for the constitutionality of laws, as well as of executive actions, and bulwarks the protection of individual and minority rights.

The balance between the executive and the legislature in the United States inevitably grew to depend upon the party system and the degree to which it could unify responsibility between the two coordinate branches. There have been many periods of what amounted almost to stalemate, including the period from 1946 on, because of the control of the two branches by different parties. On the whole, however, the American presidential system has certainly afforded a vehicle for strong and stable executive leadership, in spite of the difficulties imposed by the Senate's power over treaties on foreign policy through the archaic two-thirds rule for approval, and the difficulties in getting party discipline.

When the same party controls both Houses and the presidency, the system works probably as well as a modern system is likely to function. It creates and causes delays and is subject to pressure and sectional politics, but it does filter out a sort of precipitate of opinion and permit a

strong government in crisis. However, there is always the possibility, too, of a reversal through a change in party control over one or both Houses of the federal legislature in the middle of the presidential term through the system of biennial elections for the whole of the House of Representatives and one third of the Senate. This change may not turn on national issues. It does not involve the fate of the president, who remains in power for the rest of his term. It, therefore, raises grave mechanical difficulties in working out a coherent program of government. which is the first necessity of a modern system.[3]

The impact of the politics of survival itself in a world where war is far from being brought under control and where weapons continually increase in destructiveness and in emphasis on the value of surprise tends to force the resolution of a unifying control over foreign policy. The pressure of great domestic issues that involve the functioning of a total economic system, including the stabilization of trade cycles and the gearing of national to international economic policy, tend in the same direction. So does the necessity of preventing a perpetual class war in the field of labor-management relations and the necessity of bringing this and other inflationary pressures under control.

It may be safely hazarded that a system involving the separation of powers permits a greater degree of protection to the *status quo*. Though it does not prevent fluctuations of economic policy, it tends to make these fluctuations come at longer intervals. Perhaps this very fact may make the swing more extreme when it comes. But the balancing factor of a great federal system, with wide sectional differences, forces parties to achieve victory on a national scale. Inevitably, they tend to water down the differences between their actual programs and behavior and, hence, to minimize the sharpness of class conflict, through the restraint of a party system which "straddles" sharp issues.

"Let's Look at the Record" of Constitutionalism

The defender of constitutional democracy today, therefore, with good reason, can look at the contemporary world and feel that the systems where this type of democracy is most firmly rooted have little for which to apologize in comparison with other systems—providing the world in which they exist does not become one of cataclysmic world struggle for survival of its major power systems. In the first criterion of good government, they do permit a stable, responsible, and normally effective government. In the second criterion, they permit a government which can be restrained

[3] For constructive suggestions, see W. Y. Elliott, *The Need for Constitutional Reform*, and compare Thomas K. Finletter, *Can Representative Government Do the Job?*

by law and which must operate under accepted forms of law. They therefore tend to maximize the protection of individual liberties.

In this emphasis on individual liberties, but under accepted and fundamental law, the progress and stability of constitutional systems are also far from discouraging, if one considers their economic success. The entire evidence of the past fifty years of industrialized civilization appears to indicate that in the expansion of the new techniques of science and their application to production in the flexibility of adjustment to the system, the harnessing of the dynamics of the maximum effort of the individual, the advantages all seem to lie with the freer systems. The evidence of wartime itself would seem to bear out this lesson on such comparisons as the experiences of the last two wars. It was Hindenburg who spoke of the "pitiless production of the United States" as a decisive factor in World War I. It was an odd phrase to use, coming from a German, but that the production effort was the overwhelming factor could not be doubted, least of all in World War II. Total planning of an economy, with its concomitant necessity for total suppression of civil liberties and of all political freedom and useful criticism, did not show the capacity for survival under the most final of all testing. And Russia has proved no exception to this rule, if we compare with our own the statistics of its production goals—far from being realized in their own limits as shown by the revelations of a Russian planner like Kravchenko.

There are many unsolved problems of democracy, as there will always be. Some of them may not admit solution if the world degenerates into a struggle for the survival of whole continents, in the context of atomic warfare and with all the other weapons of mass destruction. If unification of a world of law cannot be achieved, the totalitarian systems, in their successive incarnations, always alike in their objectives and in their methods, may eventually destroy the possibilities of democracy. Those who bemoan the encroachments of the military on pure science are looking at a significant but relatively small sector of what such a world will inevitably produce through the struggle for national survival in every political and economic area.

Seen in evolutionary perspective, humanity may be, after all, as Lord Balfour once remarked, "but a passing episode on the face of one of the more insignificant planets of the universe." Our generation, reviewing the history of mankind on this planet and looking to its chances for projecting a world in which its children's children may enjoy some prospect of a good and happy life, can take only small consolation from these sidereal perspectives. We confront the task of preserving the kind of life which has created people who were perhaps more free from fear and from want than has been possible at any previous period of human history in

any quarter of the globe. We do not wish to see erased from their faces the candor and the calm that comes with the lack of suspicion of man toward man and with the inner security that freedom gives through self-respect. Whether we shall have both the wisdom and the courage to meet the problems of leading such a world order in the face of the challenge to those very foundations from the great remaining totalitarian system; whether we shall have the sustained faith in our own values to undergo sacrifice and to survive depressions or the threats and perhaps the reality of future wars—and remain a free people—all that must rest in the lap of the future. If, however, humanity is to be organized from Moscow as a center into what Aldous Huxley satirized in *Brave New World,* or George Orwell in *1984,* the eternal moral values which go with freedom will some day have to be rewon by the same patient struggle that has brought them forth in the development of Western civilization to our day. It is surely better to undergo any sacrifice, even to "the last full measure of devotion," rather than lose this heritage for ourselves and this possibility for the world.

The Readings that follow, better than any interpretation by text, serve to show the facets of this world struggle for the human soul as well as for the political destiny of mankind.

(... *W.Y.E.*)

READINGS

IN MORE DRAMATIC FORM, perhaps, than at any time in the past, the struggle for a balance between liberty and order under law has projected itself beyond the borders of the national state. It is becoming increasingly clear that a democratic constitutional state cannot survive in a world where power flows to totalitarian systems which are capable of undermining the rest. Whether we like it or not, what happens within the boundaries of one national state has internal reverberations within all other states. The political thought and the political actions of every high governmental official, and of every organ of government, indeed of every thinking person and every established institution, have been increasingly influenced by this fact. Statesmen and leaders in the past could devote much of their energies and the energies of their people to internal affairs. First it was internal order and regularized processes of law; then it was a measure of internal material and spiritual well-being. This primary devotion to internal affairs is no longer possible. The selections included in this chapter illustrate quite clearly that this is so, and in some degree why this transformation has taken place and why international politics become basic to all democratic survival. Beyond this, the selections show,

primarily, the reactions of political and religious leaders to the pressure of Russian communism.

The selections represent a variety of commentary on world disorder. One of the authors of this volume made an early and basic analysis of the present struggle. In the summer of 1948 a great gathering of representatives of Protestant churches met in Amsterdam and made its analysis of the issues that now divide the world into ideological camps. The decision of the communist-dominated government of Hungary in 1949 to prosecute Joseph Cardinal Mindzenty for treason brought from the entire Catholic hierarchy a concerted attack upon the anti-Christian basis of communism and the practices that such atheistic principles inevitably develop. The most reasoned and the most official of these attacks was made by Pope Pius XII who, before his succession to the papacy, was the Secretary of State for the Vatican. Much of his work since he became Pope has been devoted to preserving the independence and integrity of the Church in totalitarian countries.

The most authoritative and revealing statement of the aims and the international strategy of the communist sector of the world directed from Moscow was, and is, the 1928 program of the Comintern (Third Communist International). That this statement still guides the revived Cominform (Communist Information Bureau)—which was revived openly in Warsaw in 1947 in order to continue the international organization of the communist struggle to control the world—was brought out clearly in the 1949 trials of the communist leaders in New York.

At no one place has the conflict between the antagonistic forces of communism and democracy been more public and more constant than in the United Nations. The votes, the work, and the reports of the United Nations at any moment are a set of sensitive barometers indicating the degree and nature of the tension. The Declaration of Human Rights was adopted at the same session of the General Assembly as that which Paul Henri Spaak of Belgium addressed in such forthright terms concerning the communist threat to all rights.

If additional evidence were needed to establish the fact that the major concern of today's political leaders is world order and world justice, President Truman's inaugural would furnish that evidence. The President devoted his entire inaugural address to the international situation.

One thing is evident from these documents and the many more of a similar nature that might be included. They show the nature of the struggle. But more than that, they show that in times of great crisis, when our whole way of life is under attack, the extent to which all thoughtful people are forced back to first principles and a re-examination and restatement of those principles in contemporary terms.

Can We Organize a Free World, Under Law?

The nature of the problem of "One World," which so gripped the imagination of liberal thought during and just after World War II, was analyzed by one of the authors in 1946 An analysis was made of the possibility of creating a world organization, with adequate powers *by normal consensus The discouraging view then taken of the nature of the Russian system and the limits which it would impose on free agreement on a world organization that would preserve free systems seems to have been borne out by later events However, some minor additions and changes have been made to bring the analysis up to date* [1]

"The strongest is never strong enough to remain forever master unless he trans forms his power into right (law) and his obedience into duty' Rousseau s aphorism has expressed with finality the connection between law and morality Even the most absolute dictators have recognized the truth of his saying for they have consistently indoctrinated their subjects with a mythology aimed at cultivating a sense of duty and at justifying their use of force as a matter of right and law

It is not different with international law and a world order There must be, to support a true community, a shared sense of moral values strong enough to make men accept the coercion of a world organization and break down the finality of national sovereignty What are the moral grounds for such a community, upon which a system of voluntarily accepted law can be founded, among the diverse systems of the United Nations? We are committed to the effort of establishing a *free* world order through persuasion and through finding a basis for voluntary consent to the powers of such an order over the nations Can it be brought to pass through conferences and through the slow education of opinion, including opinion in those systems where it is entirely controlled by the state?

[1] By W Y Elliott Reprinted, with title change, deletions and corrections, from *The Virginia Quarterly*, Spring, 1946

[Prospects of World Organization for Law]

It may be that the time permitted to humanity to grapple with atomic energy does not permit waiting Yet it is not pro posed in any quarters today, at least publicly, to have even the United Nations Organization use the atomic bomb as a method of coercion Our democratic and pacifist persuasions seem to rule out attempting to impose an order, as Rome once did upon a considerable part of the then known world For the first time in history, it is perhaps entirely possible for a single system (our own) to succeed in such an effort, were it attempted But it is our liberal faith itself that prevents the organization of a power system upon which world law might be based

[History and the Argument for Unification by Force]

It may be argued with good reason that if law, in order to be secure and voluntarily accepted, must rest upon a common scheme of values and a common morality, it is nevertheless true that the unification upon which laws have been extended over areas previously anarchic has been a matter of force Dr Johnson's summary of the spread of Roman institu tions, Rome did not spread on the world, but the world spread upon Rome, aptly illustrates one side of the Roman Empire

—that is, the hunger for a system of security that made the acceptance of Roman law, as far as the marches of Gaul and throughout the Mediterranean world and the remnants of Alexander's Empire an easy matter to impose. But it was after all the Roman legions, Roman roads and Roman engineering skill which laid the groundwork for that acceptance and which in the first instance imposed the will of SPQR by force.

It was not different with feudalism. The strong monarchies that rose on the ruins of the so-called Holy Roman Empire extended national law by the suppression of their feudal orders. The Tudors succeeded, at least in putting a common legal system and a royal power supreme over the contesting nobles. If the Stuarts lost this ground later it was rather to a representative parliament that still united the nation than to the feudal nobility. The struggles of the Bourbons with the Fronde established the throne in France on such grounds that it too gave way only to an extension of national sovereignty and an integration of one system of law, which Napoleon riveted on France after the Revolution in the Code Napoleon.

[The USA Turns Hopefully to the UN]

There is ironical evidence from many quarters—Gallup polls, almost unanimous votes in Congress for membership in the United Nations Organization, and the like—that America learned the lessons of 1918 and 1919 twenty-five years too late. Isolationism in the old, crude manner is dead. If it revives, it will be more probably in the form of nationalistic imperialism. But not now. Few people today require convincing that we cannot live to ourselves. Even the stoutest exponents of armed preparedness for "the next war" talk in terms of enforced decisions by the UN. Unfortunately, the conditions of enforcement against any single state are much less possible than under the old League. The power of Russia, permitted by the assent of Presidents Roosevelt and Truman to the peace settlements up through Potsdam and the disarming of the West, presented an entirely different world of power balance—a *"two world"* split.

Unfortunately, also, the UN was created before the bomb fell on Hiroshima. One can say simply *"the* bomb," because atomic energy has not, contrary to some limited military thought, created just another bomb. It has shattered in an apocalyptic blast all previous conceptions of strategy. We go on talking about disarming Germany by scrapping her heavy industries when it is quite apparent that the only disarmament from here on out is effective control of industries that can be turned to atomic destruction, everywhere or anywhere in the world, including Germany. The air forces and even rockets are merely means of delivering this terrible knock-out punch to a whole civilization, and they are not the only means. A suitcase may some day serve, or possibly just freight crates. If the bomb must be bigger, the democracies are still wide open to its planting.

[The Atom Bomb and War]

Out of the welter of discussion about the bomb, a few pretty well agreed upon facts emerge as now beyond mere matters of opinion.

(1) There is no scientifically foreseeable defense against the bomb. Bombs can be planted in any city in the world, if they can be smuggled in. They do not have to be airborne or even rocket borne. Against rocket borne bombs, there is equally no defense. The only defense is to prevent their being made or used.

(2) The "secret" of the bomb is not capable of being long maintained after the publication of the Smythe Report. Any moderately industrialized country which has access to uranium and one or two other readily accessible materials can manufacture bombs of much greater destructiveness than those already used.

within a matter of a few years at the most The number of bombs is limited merely by the amount of scientific and productive skill available to the country concerned

(3) Going underground with elaborate precautions for completely detached living, like troglodytes, with a percentage always so sheltered and with guards ready to touch off an offensive as terrible as the Wellesian war of the worlds, is the best prospect the military can offer on the basis of purely national defense

This kind of picture leaves many human beings so stunned that they merely say they would rather be eliminated than to go to all the trouble Capitalist societies organized for market efficiency, can obviously not be maintained under such a reorganization of industry for atomic war If humanity is bent on extinction by the tens of millions in all the main centers of population, conceivably the Dark Ages might descend once more and the insects might have their innings at trying to develop a higher form of life The imagination of more sensitive prophets will no doubt, turn to a struggle between the survivors of the human race to establish enough claim to supremacy on this globe to have another try Some amusing vistas are opened up as to whether the atomic bomb or DDT would settle the struggle with the encroaching insects Most people at this stage are likely to turn the whole thing into a phantasy or a joke simply because it is impossible to stay reasonably sane and go on with day to day affairs when one gives free rein to the awful possibles What is really in question is how a future world order is going to be created that will succeed nationalism It is hardly a matter of dispute that a future world order *will* succeed nationalism either by being imposed on reluctant national sovereignties as nationalism was itself imposed on feudalism or by being worked out through revision of the United Nations charter, dropping the veto power of the Great Five and putting sanctions, including universal inspection and control of armaments, into the hands of the world organization [Prospects of securing agreement for a *genuine* control of atomic energy by the United Nations seem even dimmer in 1949 than they did in 1946]

The approach to the former method of solution that is, a world order imposed by force, has been made historically not only by the empire of the great Khans and of the Caesars It has been tried along lines of revolutionary class nationalism by the Third International It is not outside the reach of modern Russia, using the Communist Party abroad and suppressing opposition to Moscow's rule by the same sort of methods that the Tudors applied in England or the Bourbons in France. No one dreamed *publicly* while we were still treating the Soviet system as a great and friendly system and a "peace and freedom loving nation that Russia desired this solution, any more than we were really suspected, even though we had the means at our disposal in the sole control of atomic weapons at that time, of trying to reduce the rest of the world to a dependency on the United States Yet, for the first time in history, it is physically possible not only to subdue all organized opposition but to bind the entire globe into a workable system of government through the development of air transportation and communications

The 'moral basis for a world community reached by this method of law imposed by force might rest on Hobbes' analysis of the Leviathan The need for security might be urged as sanctioning *any* world order, no matter how imposed

If however, we are to achieve a world organization by the method of a really moral consent, as being a democracy we must, nationalism still raises a terrible barrier In terms of the cultural time lag, people are not ready for the "Parliament of man, the Federation of the world" Even Tennyson's poet's eye discerned that this stage came *after* the nations airy navies, grappling in the central blue, had rained down the "dreadful dew"

[Comparison of UN and League of Nations]

This war advanced humanity a long way toward the acceptance of the sort of league that failed, in large part because of our own withdrawal of support, after the last war It did not create, alas, a feeling that all men are brothers and that there is no difference, in terms of human values, not only between the Englishman, Frenchman and Spaniards whom Madariaga described so delightfully years ago, but between Russians and Americans, British and Chinese, or among the Great Powers themselves Dumbarton Oaks and the San Francisco founding of the UN were defended as all that could be expected of practical politics among the Great Powers If we had moved away from isolationism a long distance since the last war, Russia had moved very little The rebuffs and failures which had greeted Litvinov's prewar League policy, the condemnation and ejection of Russia by the League after her attack on Finland, plus a growing confidence at the end of the war that with Germany removed from the scene no other power would or could stand up against her all seemed to increase Russia's unwillingness to compromise in international conferences Her objectives do not permit real international control by a world order with whose fundamental concepts she is at war

Essentially, the League method was a method of compromise Its failure requires no elaboration Its usefulness as an example does Its operating method consisted of airing problems in the Assemblies, where one vote could effectively block ultimate action This action came only after trying to work out important compromises in the Council, it is true But the Council depended upon the Assembly, in a manner rather different from the Security Council of the UN

Dumbarton Oaks pointed in the direction of "strengthening the Security Council by making it certain that the Great Powers would, in effect, dominate its conclusions Even though others than the Big Four (later the Big Five) were added as elective members, they would be likely to follow the lead given in case the Great Powers agreed In case of disagreement, it was regarded as a triumph of realism to recognize the veto power of each Great Power This foreclosed action through the UN, when coercion of a real power was concerned There was no real 'strengthening' of world order here There could be none, in the state of mind of our postwar dreaming

[The Veto Power in UN as "Realism"]

Among proponents of a real forward step in the organization of international order in the world, this veto power was from the first regarded as a fatal concession to nationalism, particularly to the Great Powers But since, in any case, as coercion of a system like Russia or perhaps even the United States seemed impractical as well as unlikely, the veto was accepted in the Charter at San Francisco Further more, there were many, no doubt, among the proponents of the Dumbarton Oaks solution who breathed a sigh of relief in thinking how much more easily this weakened version of a world organization would run the gantlet of the United States Senate

On two grounds then, a genuine world order under enforceable law was foregone (1) It could not be imposed by force against the wishes of the major powers, the United States or Russia, (2) there was not the moral consensus among the nations to support a sufficiently powerful community to run the risk of coercion in any case

Small powers aligned themselves variously, but with a considerable recognition that they were small powers and in danger of being pushed around Russia at San Francisco, through Mr Molotov, showed great impatience with the pretense to sovereign equality of the Central American countries, for example, and felt

that the United States, as a power, should be more forthright in controlling them and bringing them to terms that would not "make trouble." Latin-American states still felt a great divergence of interest and objectives from Russia and Europe. The complexions of governments in the political spectrum also had a great deal to do with their grouping. Russia's control of the Balkans and the countries of Eastern Europe raised a question as to the validity of these governments as independent agents. All the old questions of colonial imperialism raised their hoary heads once again and refused to be decently interred. In short, humanity showed how very far it was from reaching that ideal state of society in which the lion and the lamb could lie down together without the prospect that the lamb would only go away from there inside the lion.

If any subsequent evidence needed to be given to confirm this view that world organization was hardly capable of being imposed by moral consent on such diverse power groupings, the behavior of the powers after San Francisco would have given ample evidence. Britain and Holland appeared to be preparing to return to business at their old stands in the Far East. The United States was certainly not going to forego naval bases, even though it might push the Philippines out of the nest and force them into their promised independence. Russia, after dealing savagely with all the Baltic countries, and overawing the Scandinavian countries, seemed pretty obviously to back the Tudeh Party in northern Iran where Iran joined boundaries with Russian Georgia and Azerbaijan. The independent movement of this Communist group could swing as on a fulcrum into action in Turkey, Mosul in northern Iraq, as well as in Iran. Under pressure, the Soviets receded, but the end is not yet. The treaties that Russia imposed upon the governments she had set up in Europe took a modest fifty per cent of their production and in some cases went much further. And this was the prelude to the total subjection of Poland, Czecho-Slovakia, and Hungary.

Above all, Russia remained a closed system, intensely secretive and suspicious of outside influences or inquiries. She strengthened her NKVD (old OGPU) and proceeded to close up, turning tightly disciplined Communist parties in Europe to the work of sabotage and destruction of democratic régimes. In every case, Russia is in fact setting the limits of her own demands. The U.S.S.R. is "state sovereignty" in its most extreme form, as her replies to proposals for control of atomic energy by an international body well illustrate.

[Nationalism in New Russian Myth]

The change in Russia's own mythology in the last ten years and particularly during the war has not been adequately understood in spite of valiant efforts of Hans Kohn and others. One of the most significant treatments of the basic ideas of Russia and the emergence of the mystic nationalism of Dostoevski has come from this great student of nationalism in a study of the "Nationalism of Dostoevski," in the *Journal of the History of Ideas*, October, 1945. The growing importance in all Russian education of the mission of Russia to save decadent Europe and after it the world appears in any number of Soviet writings and was evidenced in such talks as I have been able to have myself with Russian intellectuals in Moscow and around the world. The old "White" Russians (anti-Bolshevists) have, many of them, now accepted the judgment of history and have rendered homage to the new régime as complete as that of the former great spiritualist opponent of the Bolshevists, Berdyaev. There is no rent in the seamless garment of Russian history. The great heroes of modern Russian epic films are Peter the Great and Ivan the Terrible. To the latter alone, Eisenstein has devoted no less than three full-length epic films, thus getting full scope for the voluminous outpouring of his art which

Hollywood cramped into films that lasted only a few hours It is true he was disciplined afterwards for not slavishly following a party line he could not discover

Russia has become a driving national capitalistic system, controlling the rights of workers as completely as either the Nazis or Fascists

It is difficult without actually getting the feel of the Russian system to understand how absolutely detailed and complete is the control of what people think as well as what they wear, eat, and do

In such a system, the survival of the fittest in politics breeds hard masters and uncompromising party line zealots There is only one right possible A whole generation of bureaucrats and rulers has now come into control which has never had any thought of liberty in the Western sense The individual, as a moral person with a soul of his own, has reached the nadir in Russia today Yet to Russians, this is true democracy, and the weak and compromising policies of liberalism are proof only of its unfitness for the tasks that confront modern humanity

[Cleavages in the West]

The differences that exist between this country and England and, for that matter, Western Europe, are in themselves large enough to be troublesome if not fatal to the acceptance of common moral principles We and the British sometimes accuse each other of hypocrisy and are apt to be severe in mutual condemnation Nevertheless, we do recognize certain common standards, even of state morality After the liquidation of Nazism and Fascism, there was no logically insuperable obstacle to the erection of a security organization centered on the Anglo American powers and Western Europe with coercive powers, providing its jurisdiction did not extend, as would that of a federal union, to the pooling of the economic resources of all the nations concerned. United States opinion would have found it very difficult to accept such a federal union, because the moral sense of community was certainly not great enough to go in for a compulsory "sharing of the wealth" with the have nots of Europe But subsequent history under the Marshall Proposals and the Atlantic Pact show that we have come a long way

The British Empire, led by the United Kingdom, proceeds to hold on to the great natural resources of its dependencies and grimly extends that hold when possible Labour Party rule has not changed that attitude

Latin America stood perhaps next to Europe in her willingness to accept common international standards of law Only the British Dominions stood closer to us than England and Europe As for the millions of either Africa or China, we could not take them seriously on a population basis in computing any method of representation, any more than the British would be likely to consent to a merger with India on terms of individual equality in voting strength

These difficulties in determining a voting basis for making world law, which have given rise to all sorts of ingenious schemes for weighted representation are hard enough to overcome Grenvel Clark Clarence Streit, and others have wrestled with them honestly But they are as nothing to the real problem of the cleavage between the one great totalitarian system and the rest of the more or less democratic and constitutional world And if Russia were not enough, what of Chinese nationalism even under Chiang? Or under communism, as his probable present successor?

[The Great Cleavage East–West]

The essence of totalitarianism is that there is only one official system of values recognized by the State, ordinarily personified in a great leader and protected by the suppression of any competing values The Soviet system claims this absolute rightness for its objectives and cannot

without a fatal inconsistency recognize the rights of other systems on equal terms It may accept the limitations of fact, but it cannot consent or agree to compromise where compromise is interpreted as involving the conflicts of equal rights

When the Third International was officially buried during the war and for rather obvious reasons, no one but the most naive supposed that communistic influence abroad was being foresworn by Russia The party line proceeds from Moscow and is subject to no dispute, it is backed by the sternest disciplinary measures at the disposal of the Soviet system

By way of contrast, the democracies can have only one absolute, and that is the right to disagree They have been much embarrassed by not knowing how to deal with dissenters who are communistic, since one electoral victory for the latter would mean the end of all future possibilities of disagreement By sound instinct, democracies have begun to divine that this is where their danger lies It is natural enough to the left wing Social Democratic parties They most clearly recognize the enemy that affords them the greatest danger as the communists themselves *The New Leader* a brilliantly edited socialist journal in this country is typical of the socialist's awareness of the real nature of Moscow's 'anti Fascist and "true democracy claims and performance

Essentially, the problem may lie deeper, and some honest minds are convinced that it does It is not simply the clash of open as against closed systems It is in the very nature of the spiritual value which each represents Christian morality after all puts an ultimate value on the individual which is incompatible with the "transitional' stage of communist dictatorship And planning communism will be forever transitional Curiously enough, the ultimate stage of utopian communism, which is pure Marxian mythology, is a statelessness where the individual emerges with apparently as full blown moral rights as in the most philosophical system of anarchism. But in a Russia intent upon production and power and a revival of the nationalistic objectives only partially outlined in the 'Will of Peter the Great,' there is no place for the real acknowledgment of either civil liberties or of spiritual values which might challenge the system There is a marked willingness to accept a disciplined and Erastian Greek Catholicism *on terms that will give comfort to the* aged and from the point of view of strong-willed party members, the infirm It is inconceivable that a career in the party, however would be compatible with any real devotion to Christianity in its deepest significance

There is no use in waving arms or becoming hysterical about a state of fact. Neither is there any use in blinding oneself to its implications The world has never existed in a period in which true Christianity dominated the feelings and behavior of its great rulers, even at the time Czar Alexander established the Holy Alliance On the other hand, the world has perhaps never seen so complete a cleavage between two views of human values as exists between the Christian ethos of moral salvation dependent upon the individual's own efforts, and the completely hierarchical and state educated, in the sense of state indoctrinated, Soviet system

[Alternate Solution: Appeasement or Peace Through Strength]

Significantly, those scientists who are in the main concerned with the mastery of things rather than the problems of self-mastery find this gap easiest to bridge and are most at a loss to understand why there should be any problem with a nation which, after all, has permitted the development of distinguished scientists. 'Is not *that* freedom enough?", they ask

The scientists indeed, in a great part of the testimony in the hearings on atomic energy, tended to take the view that if they could only be left alone to work with their Russian colleagues and help to

harness atomic energy for more useful pursuits, there would be no need to fear the monstrous power that they had created. Maybe they are right and this is the right technique A great many of their fellow citizens however, seem to feel that this view showed a singular simplicity of mind in approaching a problem in human and political relations of a much more complicated order Even some of the previously pro Soviet scientists begin to wonder about the limits of Russian "freedom of research" And some artists

After all, there are at least two possibilities of trying to deal with a system which stands enclosed and rigorously on guard, where it is not on the offensive and with which one obviously desires to live peacefully Which of the methods will be chosen or which combination will be used must depend upon one's estimation of the most effective methods in dealing with such a system This estimate can only result from the deepest possible study of the system in its past operation and of the men and forces which compose it

The first method is the method of seeking friendship at all costs in order to seek peace No sacrifice of immediate interest is too great, in the view of this way of thinking, to be made in order to disarm suspicion and to convince the Russians that we mean well What is the need for opposing them on minor matters like the treatment of Germany—after all a defeated enemy which richly deserved its fate—or the control of the countries of Eastern Europe, or for that matter any of the points of Russian pressure? A great power, *successful in the war, should not* be denied the legitimate aspirations that are several hundred years old in her national policy With gratification may be expected to come relaxation The problems of extended rule either bring on sufficient troubles to insure cessation of outside meddling or, if they are happily solved, they bring on the contentment of a well fed person So runs the appeasers' argument

This line of thought has much to recommend it, since it is the path of least resistance for a nation which seems to be concerned only with 'bringing the boys home and forgetting the sacrifices of war as rapidly as possible It is thoroughly consistent with a desire to mind our own business and to hope that others will do likewise and with the natural preoccupation of a system that has always been more concerned with business than the state of the world If only Russian planning for power and war would permit fattening Russians quickly, perhaps the Wallace line would prove unexpectedly useful But fattening Communist Russia and China quickly—while they re arm and newly arm so desperately and with such fixed determination—is beyond even the powers of the United States

Some disturbing thoughts on principle also present themselves Unless the analysis of Russia s probable softening up under this wooing is correct there is little hope that one pressure will not beget another, particularly if it is obvious that there is no counter pressure to arrest the point of development For the next few years the immediate objectives of Soviet policy may well be quite limited, although they may be of ultimate significance in terms of their predisposing other powers not to resist the inevitable If Turkey is forced to correct some alleged errors of history in the sixteenth century by the return of provinces to Russia, as demanded, if every British concession in the Near East must be paralleled by Russian concessions to establish political equality of Russian opportunity, if Europe must be *all* communist to be safe" for Russia, the end is not unforeseeable There always comes a point beyond which pressures cannot go, usually reached at a time when resentment against previous successful pressures has reached its zenith

The other method of dealing with a totalitarian system like the Russian is to evaluate that system in something of its own terms, that is, primarily as a power system, with objectives fixed by its

prophets, Lenin and Stalin. This does not preclude an entirely free willingness on our part to work under rules that can be agreed upon and that are *enforceable*, to carry out all political settlements that have been negotiated with strict good faith. It does, however, indicate that the way to avoid being pushed beyond the limits of the tolerable is to resist in good time and to make it clear that settlement by rules of an international order will be insisted upon, *at all costs*.

The strategy of such action is clearly elevated to the international plane. It involves the acceptance of the full implication of a surrender of our own sovereignty to whatever degree is necessary to get a sufficient strength mobilized in Western Europe and elsewhere to deter aggression, because aggression for the Soviets would then be dangerous, perhaps fatal. It means accepting the implication of enforceable, *i.e.*, real, world control of atomic energy with no reservations whatsoever, but it also means an insistence that no such step is possible until no power can defy the world organization. At present Russia can do this without bringing down upon itself the sanctions that are not now available, but would be if there were a genuine Atlantic Alliance and a new birth of Europe.

Can democratic procedures erect such an instrument of world security as this seems to require? Some progress has certainly been made in the direction. The debates on the Atlantic Pact seemed for a time unpleasantly reminiscent of "no military commitments" to the League of Nations after World War I. The backing up of the now accepted pact by military aid and a vastly strengthened air force for the United States would be reassuring. [Aug. 1949.]

But there is a dangerous delusion in allowing our own people to go on thinking that we can have our cake and eat it too. We cannot expect the rest of the world, including Russia, or even just "the rest of the world," to accept wholeheartedly the necessary conditions for setting up a real Atlantic Pact, to buttress that of Rio, unless we mean business. Have we enough confidence in the possibility of that organization to make the necessary prior commitments and sustain the effort?

Our political inexperience and our lack of foreign policy may preclude this degree of sustained effort, though our forces are already committed in Germany, Austria, Japan, and maybe Korea. Can we erect so formidable a power system, including a revived Western Europe, with weapons so varied and overwhelming that fear of retaliation would preclude attack? Undoubtedly there is a risk—if the Kremlin wants war it may prefer to act sooner. But if it wants war, we cannot do more than discourage the prospects. Our wise men have told us Russia doesn't seem to want war, but they may be wrong. If we cannot force Russia to join us under a world system, for lack of common ground and willingness to "open up," we may have to choose the path of armed strength, lead where it may.

[To Save Ourselves: A Free Atlantic Community]

What are the prospects for ultimately working out through the method of conference and compromise a sufficiently moral community between systems so diametrically opposed as the totalitarianism and crusading national capitalism of Russia and the rather mixed liberal and socialist morality of our constitutional democracies? Will the Russian line change, if Europe no longer lies open as a tempting prey to her divisions? Into which group will the other great systems of the world go? Religion plays some rôle, particularly as it is organized in groups who are aware of this basic challenge. But religion in that sense stops definitely at the boundary of Soviet control. Can Russia be opened up to influences that will bring about an increase in the dignity of the ordinary human being and his claim

to freedom? Some think it can be done simply by increasing the amount of wealth available to the masses of the world, particularly of Russia—outstripping population increases and making armaments seem less worth while. What changes in Moscow would this action, if it were possible, produce?

What is the prospect, on the other hand, that the pressure of this system, solid and formidable as the Macedonian phalanx, mobile as the armies of Genghis Khan in its penetration through "the party" into every part of the world, may force a hardening of our own system, particularly if we are shaken by the effects of depression and by persistent trouble in the area of labor-management controversies? To defend our own, it may not be merely enough to save ourselves. The rest of the world is an open arena for this tremendous conflict for the human soul. The challenge must produce once more for us a truly epic leadership and an epic response by our democratic world if it is to be met.

The Issues Between East and West

The General Assembly of the United Nations met in Paris in 1948. On September 28, M. Paul Henri Spaak of Belgium produced for the first time a frank statement of the issues that really divide the world. Under the incessant and violent hammering of Andrei Vishinsky, Soviet delegate, M. Spaak responded to a widespread Western demand to join the debate with the Soviet delegate. He replied to the repeated Soviet charges of imperialism and bad faith and affirmed the real motives and true faith of the West, incidentally showing what was the real imperialism. Most of the talk is stripped of traditional diplomatic niceties. However, in order to avoid making the conflict too absolute, he states in effect that it is no concern of the West if other countries want communism. Here the language of diplomatic speech obscures the nature of the conflict. The existence of a great and powerful system bent on the liquidation of free systems cannot but be a matter of concern to the West. The democracies would like to live and let live, but will they be allowed this choice? Secretary of State Marshall, in addressing the United Nations General Assembly a week earlier (September 23) was more explicit on this point: "Governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and other people, and are likely to seek their objectives by coercion and force in the international field." [1]

Mr. SPAAK (Belgium): The representatives who spoke at the beginning of this general debate on many occasions stressed the atmosphere of great anxiety in which our work has begun. How could it be otherwise with so many deceived hopes and so many problems that have remained without solution?

After a week of general debate, perhaps it is permissible to question where we are

[1] Text of speech from the verbatim record of the Third Session of the General Assembly, translation from French Courtesy of United Nations, Department of Public Information.

and whether we have effected any progress. Some speakers have come to this rostrum in order to stress their persistent faith in the principles of the Charter. Others have drawn their conclusions with serenity and with courage. Others have delivered their usual recriminations.

If, at this stage of the general debate, I were to ask myself what is the prevailing feeling, I would say that it seems to me, alas, that the atmosphere of lack of comprehension which more and more is dividing the United Nations has only increased still further, has only still further deepened. And I would not hesitate to say that there is perhaps no greater feeling of disillusionment, no more painful feeling, than to see that a society such as ours cannot succeed unless, at its base, there is not only tolerance but also the possibility of understanding one another's point of view.

In this atmosphere of lack of comprehension, who is the more guilty party? Who is not making any effort to understand the point of view of the opposing party? Mr. Bevin said yesterday from this very rostrum—and I can but repeat his words—that the countries which stress that they belong to the Western, the democratic civilisation, in the classic sense of the word, have nothing for which to reproach themselves. It is we who wish the free circulation of human beings; it is we who wish the free circulation of ideas; it is we who are ready to submit ourselves to the examination, to the investigation, to the judgment of everyone—to the examination of our policies, of our ideals. It is not we who close ourselves to this examination; it is not we who shut ourselves up behind an iron curtain; it is not we who elude such an attempt to understand; it is not we who do not wish, on the basis of this understanding, to co-operate.

It is quite certain that there is a complete lack of comprehension of the western world on the part of the Union of Soviet Socialist Republics, and the speech of Mr. Vishinsky was an eloquent testimony to this. Perhaps it may seem impertinent for the representative of a modest country to wish to reply to the representative of the Union of Soviet Socialist Republics. But perhaps, after all, it is better that the representative of a small country should reply to the USSR representative, since, I believe, no one will be able to find in my attitude any intention of provocation on the part of Belgium of the Union of Soviet Socialist Republics. That would be, indeed, ridiculous.

But the speech of Mr. Vishinsky can be understood in only two ways. Either it is a speech of propaganda, or else it is a sincere speech. And in both cases this speech deserves an answer, because, if it is a propaganda speech, then we also have the right to make use of this rostrum to indulge in counter-propaganda; and, if it is a sincere speech, then it reveals such a lack of comprehension of our spirit, it shows such an ignorance of our wishes, of our thoughts, of the thoughts of the Western European countries, that it is imperative to redress these mistakes and to allow the Union of Soviet Socialist Republics to base its policies on an accurate understanding of what is happening and of what is being thought in a part of the world.

After Mr. Bevin, I would reply: We do not wish to discuss the Communist regime. We consider that, for many countries, communism is a test which is perhaps necessary, but we believe that it is a test which the Western world can avoid, through which it need not go. Without discussing the merits of the regime, I should like to assert that, after having struggled in this last war against fascism and against Hitlerism, we do not propose to submit ourselves to any other totalitarian or authoritarian doctrine. We are in favour of liberal democracy; that is to say, we believe—and we believe with all our force and with all our conscience—in the necessity of building a political society based on liberty of thought, on liberty of writing, on liberty of reunion and on liberty of association.

We want free election, we want a government responsible to the people we want respect for human dignity, we want a state that serves the human being and not a human being that serves the state—and still less do we want a man who serves a single party

This regime has vast advantages It allows all manner of progress, both economic and social It repudiates intolerance It repudiates the use of force and the use of violence It shows confidence in good sense and in human wisdom I recognise that this regime is perhaps the most difficult political regime to achieve, and I also recognise that it offers certain inconveniences, certain disadvantages, and perhaps even certain dangers In my country, liberty of thought and liberty of writing includes even liberty to write and think differently from what is generally admitted But in order to struggle against a mistake, we do not believe that we should base ourselves on the might of the police, of censorship, or of the tribunals Still less do we believe that we should base ourselves on propaganda which spreads lies and errors We believe that we must base ourselves on propaganda that spreads truth It is because we have this great confidence in the wisdom of human beings that we believe that truthful propaganda will triumph over everything

All this—this spirit in which we live the principles which are ours, the truths which we respect and protect and defend —must be understood if one wishes to judge our political action

Mr Vishinsky has spoken a lot of the war mongering campaigns which allegedly exist in the United States, in the United Kingdom—and he did not fail to mention even France, Belgium, Luxembourg and other countries such as the Netherlands

Very frankly, as far as my country is concerned, I do not know a single political party, I do not know a single responsible political personality, I do not know a single man who exercises influence in the leadership of public opinion—I do not know a single one who is a war monger I have never heard, I have never seen, I have never read in the press of my country or in speeches delivered in my country any sentence that could make one believe that Belgium would participate in a campaign of war mongering against any other country But I believe that in this field we must not lose a sense of nuance We must not confound the feeling that a war might start with the will that a war should start We must not mistake the possibility of envisaging a war and the fact of desiring it We must not even confuse the will to prepare for war and the will to provoke war

Of course, in the Union of Soviet Socialist Republics what is read in the papers and what is heard in speeches is greatly exaggerated I have applied myself to listening with the closest attention, with the greatest respect, to the words of the USSR representative, but I have also re read his speech and I have noticed that, nevertheless, he attributes extraordinary importance to certain facts which, in a country of liberty, go more or less unnoticed

Mr Vishinsky denounces passionately certain articles which have appeared in the American press, and he says that in these articles we have with singular frankness enumerated the bases from which the Soviet Union would be bombed We have also the distances over which these planes would fly We have also indicated that Moscow is so many miles distance from Tripoli and so on and so forth Mr Vishinsky enumerates the range of action of the United States planes, and he says that this is a war mongering campaign to point out in precise figures the distances which exist between London and Moscow and Moscow and Tripoli I should like to put to the representative of the USSR a single question Does he wish to give me an assurance that the General Staff of the Soviet Union has not evaluated the distances from Moscow to London, and that there are not calcula

tions made by the General Staffs which reveal so eloquently in the American press the distances which exist between the various cities? But there is not only the war-mongering propaganda, there is also the five power pact—the Brussels pact —and Mr. Vishinsky said that those who conceived such treaties, those who built up such blocs and conducted such policies were encouraging the instigators of war and the organizers of a new war. This lamentation of the Soviet Union is not very subtle, because it is tantamount to saying that as long as the Soviet Union signs alliances with its neighbouring countries, so long as the Soviet Union signs defensive treaties with Poland, Czechoslovakia and Yugoslavia and other countries of eastern Europe, all these are peaceful policies. When, on the contrary, Belgium, Luxembourg or the Netherlands sign alliances with France and the United Kingdom, that, of course, is a war-mongering policy.

I have two arguments to make against this statement, and they are both decisive. One, in refutation of such propaganda, is that when we signed the five power pact, the Brussels pact, we did nothing but comply strictly with the letter of Article 51 of the Charter. Article 51 of the Charter states:

"Nothing in the present Charter shall impair the inherent right of individual or collective self-defence..."

This is the Charter which the Soviet Union and the other countries of eastern Europe signed together with us. This is where we are authorized to organize our mutual self-defence, whether it be individual or collective. It is on the basis of Article 51 of the Charter that we have confined and that we have conceived our Brussels pact.

I believe that this juridical provision is sufficient to authorize the spirit of our agreement, but is there anyone on this Assembly, anyone in the world, who might believe that Luxembourg, or that the Netherlands, or that Belgium wish to participate in an aggressive war? Does one forget where we come from, does one forget the two contests we have suffered within twenty-five years? Does one forget that though we have been victorious we have, nevertheless, been occupied for four long years and that our countries have come out of every war ravaged and decimated? Does anyone really believe that we could survive a third world war? Of course not. Nobody can believe such a thing, and Mr. Bevin said so very eloquently. Nobody can believe that the Brussels pact conceived in March of last year is of an aggressive nature. Everybody knows that we wish to join our forces in order to defend ourselves.

The delegation of the USSR must not seek complicated explanations of our policy. I will explain to this delegation what is the basis of our policy. I will say, in terms which perhaps are cool ones, in terms which I believe that the small nations alone can employ, what is the basis of our policy. It is fear; the fear of you, the fear of your Government, the fear of your policy. If I may use this word, it is because the fear to which I refer is not the fear of a coward. It is not the fear of a country that trembles, a country that is ready to ask for mercy or pity. It is the fear of someone who can and must have that fear, of one who looks ahead, the fear of one who considers the horror and tragedy that will face them in the future.

Do you know why we fear? It is because you speak of imperialism often, and what is the definition of imperialism? What is the current notion, the generally accepted notion of imperialism? It is usually that of a great country that effects conquests, that expands its influence throughout the world. What is the reality of this conception? There is only one great power that has emerged from the war having conquered other territories and that power is the USSR. It is during this war, and because of this war, that you have annexed the Balkan countries, that you seized a portion of Finland, and that you seized a portion of Poland. It is because of your policy that you reached

Warsaw, that you reached Sofia, and that you reached Bucharest It is because of this policy that you occupy Berlin and you are not ready to quit Berlin and Vienna and it is because of this policy that you assert your right to participate in the Ruhr It is because of all this that we feel you are on the very banks of the Rhine and, therefore, we cannot understand why you ask us why we are fearful

The truth is that your foreign policy is now more audacious and more ambitious than the foreign policy of the Tsars themselves We also fear because of the policy you pursue in this Assembly We also fear because of the use and the abuse that you make of the right that has been given to you in San Francisco the use and the abuse of the veto We fear because in this Assembly you have arisen as the champions of the doctrine of absolute national sovereignty and we ask you how can an international organization function and fulfil the purposes that belong to it if this antiquated doctrine, this absolute doctrine, this reactionary doctrine prevails Such an international organization can only function when all nations small, medium and large, have recognised that above their own personal will there is the international law So long as any nation wishes to impose its will or to place its will above the majority of nations, that organization will not give the results we hoped it would give

It has not sufficed to make use or abuse of the veto It has not sufficed that you proclaim this principle of absolute sovereignty against international law You have also systematically refused to cooperate with the United Nations every time that this Assembly, against your feelings or against your views, has made a recommendation You have contended that the Korean Commission or the Balkan Commission has not offered any tangible result How could it offer any tangible result, because from the outset you have refused to cooperate with them?

We fear because of all this We fear because by your conduct you have rendered this Organization ineffective We fear because the problems before this Assembly have remained unsolved, because even when a solution is proposed by the majority of the United Nations, you have refused to adhere to this solution We have feared because we have placed all our hopes and our confidence in the defensive organization of the United Nations and through the policy you have pursued you are forbidding us to seek our security and our salvation within the framework of this Organization, but making us seek it within the framework of a regional arrangement We fear you because in every country represented here you are maintaining a fifth column besides which the Hitlerite fifth column is nothing but a Boy Scout organization, if I might say so There is not a single spot in the world, whether in Asia, whether in Europe, or whether in Africa where a Government represented here fails to find difficulties and where these difficulties are being still further aggravated by you Whereas these Governments represented here seek to cooperate in every one of our countries there is a group of individuals who are not only representatives and defenders of your foreign policy which is not perhaps a very grave fault, but they do not miss an opportunity to weaken the countries to which they belong morally, politically and socially and you, the USSR and the eastern European countries and the communist parties of the world have shown exactly what you can do in your opposition and in your attacks against the Marshall Plan

I do not have many illusions I know that in certain sections of the press throughout the world I shall most likely be called an instrument of American policy or a pawn of Wall Street But I assert that the position taken by the Union of Soviet Socialist Republics against the Marshall Plan is the basest, the saddest, the most disquieting policy that could be imagined The hopes of the world are portrayed by sixteen countries pursuing one aim, that of national rehabilitation

In spite of all statements to the contrary, we can see clearly that without the Marshall Plan these countries would be lost. Instead of going into complicated debates on the Marshall Plan, instead of delving into the American Press, it would perhaps be more logical to seek an explanation of the Marshall Plan in the words of General Marshall himself. When he spoke for the first time of this Plan which was to become the Marshall Plan, he said that it is logical that the United States should do all that it can to reestablish the economic health of the world, without which political stability and peace cannot be ensured. Our policy is against no country; it is against no doctrine; it is against famine, poverty, despair and chaos. Its purpose is the resurrection of an active economy throughout the world. Whatever the future of the Marshall Plan, the words said on that day are words which will shed honour on the head of the American State Department and the policy for which we have the greatest respect and gratitude. We know that this policy speaks for the country which has twice in twenty-five years sent soldiers to fight for liberty and independence. This is the policy inspired by Wilson and by Roosevelt. It was this same policy that made UNRRA and Lend-Lease. Now it is offering Europe its greatest and only hope of salvation.

And that is why we fear. I repeat, rather grossly speaking, that is why we are afraid.

In a speech made during the war, President Roosevelt enumerated the Four Freedoms which should, according to him, bring confidence and prosperity to the world. One of these freedoms was the "Freedom from Fear". I must admit that when that speech was made I did not understand its entire purport; I did not understand its depth. But today, a few years later, at the time when the Third General Assembly of the United Nations is meeting, I know what tremendous service would be rendered to the world if one succeeded, once and for all in freeing us from fear.

If this freedom from fear is to become a reality, may I tell the representatives of the Union of Soviet Socialist Republics that the Union of Soviet Socialist Republics must play a vital part. We do not only expect one to proclaim that one is for the United Nations Charter, that one is for freedom. We want these words translated into action. In this Assembly we should like to begin a real, genuine cooperation based on mutual understanding and mutual respect for one another.

Is this a pessimistic speech? Does this mean that I believe that all is lost? Of course not. Whatever has been said in this general debate, whatever meaning one might attribute to the words spoken, whatever one's feelings, we all have the same respect for peace and the same desire to co-operate. Whatever the frankness of my words, I believe that these peaceful speeches were genuinely sincere. I believe we are too close to the war, too close to the suffering which we have gone through, too close to our dead, our orphans and widows, too close to all this to be insincere when we speak of peace and co-operation.

What frightens me is that I understand that at this time humanity knows what should be done in order that it be saved. Humanity would like to do it. But its tragic destiny seems to render it incapable of doing it.

Nevertheless, at the time when this Third Session of the General Assembly is meeting, we should strive to undertake something, even at the time when we feel that our illusions are being slowly lost. Of course, we must not be too ambitious; we must not, at this stage, attempt to change a situation that we have all allowed to deteriorate year by year. But, within the framework of our everyday task, within the framework of the Third Session of the General Assembly we should try to resolve certain problems and we should begin by a spectacular coup. We should start with a compromise.

I know that in certain quarters com-

promises are not looked on with favour, but how can we come to agreement with one another, when we are so different from one another, if we fail to seek a compromise?

I have noted that our agenda is heavily overloaded. In parentheses, may I say that our Organization is dealing with too many secondary problems. Would it not do better to tackle the more essential and immediate problems? Perhaps I am naive in saying so. Nevertheless, you may see a reasonable element in the proposal that I am about to make. The Assembly seems to abhor everything that smells of a revision of the Charter or an abrogation of the veto. One believes that certain countries might always be in the minority. But I do not believe that this is the case. I do not think this fear is justified. I believe it is exaggerated, and I say so quite frankly. I know that there are a number of delegations in this Assembly which would like to come nearer to the theses propounded by certain countries, if only they could see that these are reasonable and dependable. But even though this fear is exaggerated, I understand that it can exist. And, even though we believe that this Organization can only function if the Charter is revised, even though we believe that this Organization can only exist on condition that the veto is abrogated, we are willing to renounce this proposal. We will make an effort to apply the Charter as it emerged from San Francisco. We are willing to renounce something which we consider essential. But on the other hand, we hope that you will promise to collaborate on the basis of the Charter as it now stands. Not only as it stands in the letter, but also in the spirit. This means that you will not object ceaselessly to the admission of new members, that you will not prevent certain countries from participating in our work; this means that, during this Session, you will collaborate in drawing up a resolution that will allow these countries to participate in our work. We need you to make a success of our task. We enjoin you not to sabotage the work. Promise us your co-operation. Promise us that you will help us to start off on a new tack. In striving to understand one another and to come closer to one another, perhaps our fear will disappear and we will again have the faith we had at San Francisco.

Let us make this new start together before it is too late. I believe it is time for us to do so.

The relationship between organized churches and politics has been stressed throughout this volume. The particular rôle that is important today is in the formulation of the moral bases of society. A new attitude on the part of the Catholic Church is brought out in the Papal Encyclicals, particularly Quadragesimo Anno *and* Rerum Novarum, *and in the 1937 Constitution of Ireland, and by new developments of Catholic social and political action. The Protestant churches are harder to assess, because they have no official spokesman or policy-making body. Figures like Niebuhr, Barth, Tillich, Brunner, and others have emerged as important leaders of Calvinist and Lutheran thought. But they cannot be said to speak for the Protestant world, any more than can the Lambeth conferences, e.g., of the Church of England, since the essence of Protestantism is to permit diversity of doctrine. Fortunately, the agreements reached at the conference of Protestant churches at Amsterdam in 1948 afford some indication of the consensus of Protestant leaders on the great issues of the day.*[1] *¶ As a result of the press reports' use of the phrase, "Communism is a Christian heresy," considerable popular confusion arose. William Temple, Archbishop of York, the original author of the phrase, meant that communism at least aims at an ultimate brotherhood of man and that communism of today is in a sense a heresy from that doctrine, because it stresses class war, hatred, and destruction. But the communism that aimed at a brotherhood of man is utopian communism, and not the Leninist-Stalinist practices of today. The materialistic, atheistic, and pseudo-scientific Marxism basis of any communism can obviously not in any sense be regarded as Christian, even as a heresy. The point intended by the churchmen in casting their comments in these theological terms was to show that communism was even more dangerous because it was a perversion of what professed, in its utopian myth, to be a doctrine of freedom and equality.*

I. The Disorder of Society

The world to-day is experiencing a social crisis of unparalleled proportions. The deepest root of that disorder is the refusal of men to see and admit that their responsibility to God stands over and above their loyalty to any earthly community and their obedience to any worldly power. Our modern society, in which religious tradition and family life have been weakened, and which is for the most part secular in its outlook, underestimates both the depth of evil in human nature and the full height of freedom and dignity in the children of God.

The Christian Church approaches the disorder of our society with faith in the Lordship of Jesus Christ. In Him God has established His Kingdom and its gates stand open for all who will enter.

[1] *Man's Disorder and God's Design, The Amsterdam Assembly Series,* published by Harper & Brothers, New York, 1949, for the World Council of Churches. The selection that follows is "Report of Section III, 'The Church and the Disorder of Society,' Received by the Assembly and commended to the churches for their serious consideration and appropriate action."

Their lives belong to God with a certainty that no disorder of society can destroy, and on them is laid the duty to seek God s Kingdom and His righteousness

In the light of that Kingdom, with its judgment and mercy, Christians are conscious of the sins which corrupt human communities and institutions in every age, but they are also assured of the final victory over all sin and death through Christ It is He who has bidden us pray that God's Kingdom may come and that His will may be done on earth as it is in heaven, and our obedience to that command requires that we seek in every age to overcome the specific disorders which aggravate the perennial evil in human society, and that we search out the means of securing their elimination or control

Men are often disillusioned by finding that changes of particular systems do not bring unqualified good but fresh evils New temptations to greed and power arise even in systems more just than those they have replaced because sin is ever present in the human heart Many therefore, lapse into apathy, irresponsibility and despair The Christian faith leaves no room for such despair, being based on the fact that the Kingdom of God is firmly established in Christ and will come by God s act despite all human failure

Two chief factors contribute to the crisis of our age One of these is the vast concentrations of power—which are under capitalism mainly economic and under communism both economic and political In such conditions, social evil is manifest on the largest scale not only in the greed, pride, and cruelty of persons and groups, but also in the momentum or inertia of huge organizations of men, which diminish their ability to act as moral and accountable beings To find ways of realizing personal responsibility for collective action in the large aggregations of power in modern society is a task which has not yet been undertaken seriously

The second factor is that society, as a whole dominated as it is by technics, is likewise more controlled by a momentum of its own than in previous periods While it enables men the better to use nature, it has the possibilities of destruction, both through war and through the undermining of the natural foundations of society in family, neighborhood and craft It has collected men into great industrial cities and has deprived many societies of those forms of association in which men can grow most fully as persons It has accentuated the tendency in men to waste God s gift to them in the soil and in other natural resources

On the other hand, technical developments have relieved men and women of much drudgery and poverty, and are still capable of doing more There is a limit to what they can do in this direction Large parts of the world, however are far from that limit Justice demands that the inhabitants of Asia and Africa, for instance should have benefits of more machine production They may learn to avoid the mechanisation of life and the other dangers of an unbalanced economy which impair the social health of the older industrial peoples Technical progress also provides channels of communication and interdependence which can be aids to fellowship, though closer contact may also produce friction

There is no inescapable necessity for society to succumb to undirected developments of technology, and the Christian Church has an urgent responsibility today to help men to achieve fuller personal life within the technical society

In doing so, the churches should not forget to what extent they themselves have contributed to the very evils which they are tempted to blame wholly on the secularisation of society While they have raised up many Christians who have taken the lead in movements of reform, and while many of them have come to see in a fresh way the relevance of their faith to the problems of society, and the imperative obligations thus laid upon them, they share responsibility for the contemporary disorder Our churches have often given religious sanction to the special

privileges of dominant classes, races and political groups, and so they have been obstacles to changes necessary in the interests of social justice and political freedom. They have often concentrated on a purely spiritual or other-worldly or individualistic interpretation of their message and their responsibility. They have often failed to understand the forces which have shaped society around them, and so they have been unprepared to deal creatively with new problems as they have arisen in technical civilisation: they have often neglected the effects of industrialisation on agricultural communities.

II. Economic and Political Organization

In the industrial revolution, economic activity was freed from previous social controls and outgrew its modest place in human life. It created the vast network of financial, commercial and industrial relations which we know as the capitalist order. In all parts of the world new controls have in various degrees been put upon the free play of economic forces, but there are economic necessities which no political system can afford to defy. In our days, for instance, the need for stability in the value of money, for creation of capital and for incentives in production, is inescapable and world-wide. Justice, however, demands that economic activities be subordinated to social ends. It is intolerable that vast millions of people be exposed to insecurity, hunger and frustration by periodic inflation or depression.

The church cannot resolve the debate between those who feel that the primary solution is to socialise the means of production, and those who fear that such a course will merely lead to new and inordinate combinations of political and economic power, culminating finally in an omnicompetent State. In the light of the Christian understanding of man we must, however, say to the advocates of socialisation that the institution of property is not the root of the corruption of human nature. We must equally say to the defenders of existing property relations that ownership is not an unconditional right; it must, therefore, be preserved, curtailed or distributed in accordance with the requirements of justice.

On the one hand, we must vindicate the supremacy of persons over purely technical considerations by subordinating all economic processes and cherished rights to the needs of the community as a whole. On the other hand, we must preserve the possibility of a satisfying life for "little men in big societies." We must prevent abuse of authority and keep open as wide a sphere as possible in which men can have direct and responsible relations with one another as persons.

Coherent and purposeful ordering of society has now become a major necessity. Here governments have responsibilities which they must not shirk. But centres of initiative in economic life must be so encouraged as to avoid placing too great a burden upon centralised judgment and decision. To achieve religious, cultural, economic, social, and other ends it is of vital importance that society should have a rich variety of smaller forms of community, in local government, within industrial organisation, including trade unions, through the development of public corporations and through voluntary associations. By such means it is possible to prevent an undue centralisation of power in modern technically organised communities, and thus escape the perils of tyranny while avoiding the dangers of anarchy.

III. The Responsible Society

Man is created and called to be a free being, responsible to God and his neighbour. Any tendencies in State and society depriving man of the possibility of acting responsibly are a denial of God's intention for man and His work of salvation. A responsible society is one where freedom is the freedom of men who

acknowledge responsibility to justice and public order, and where those who hold political authority or economic power are responsible for its exercise to God and the people whose welfare is affected by it.

Man must never be made a mere means for political or economic ends. Man is not made for the State but the State for man. Man is not made for production, but production for man. For a society to be responsible under modern conditions it is required that the people have freedom to control, to criticise and to change their governments, that power be made responsible by law and tradition, and be distributed as widely as possible through the whole community. It is required that economic justice and provision of equality of opportunity be established for all the members of society.

We therefore condemn:

1. Any attempt to limit the freedom of the Church to witness to its Lord and His design for mankind and any attempt to impair the freedom of men to obey God and to act according to conscience, for those freedoms are implied in man's responsibility before God;

2. Any denial to man of an opportunity to participate in the shaping of society, for this is a duty implied in man's responsibility towards his neighbour;

3. Any attempt to prevent men from learning and spreading the truth.

IV. Communism and Capitalism

Christians should ask why communism in its modern totalitarian form makes so strong an appeal to great masses of people in many parts of the world. They should recognise the hand of God in the revolt of multitudes against injustice that gives communism much of its strength. They should seek to recapture for the Church the original Christian solidarity with the world's distressed people, not to curb their aspirations towards justice, but, on the contrary, to go beyond them and direct them towards the only road which does not lead to a blank wall, obedience to God's will and His justice. Christians should realise that for many, especially for many young men and women, communism seems to stand for a vision of human equality and universal brotherhood for which they were prepared by Christian influence. Christians who are beneficiaries of capitalism should try to see the world as it appears to many who know themselves excluded from its privileges and who see in communism a means of deliverance from poverty and insecurity. All should understand that the proclamation of racial equality by communists and their support of the cause of colonial peoples make a strong appeal to the populations of Asia and Africa and to racial minorities elsewhere. It is a great human tragedy that so much that is good in the motives and aspirations of many communists and of those whose sympathies they win has been transformed into a force that engenders new forms of injustice and oppression, and that what is true in communist criticism should be used to give convincing power to untrustworthy propaganda.

Christians should recognise with contrition that many churches are involved in the forms of economic injustice and racial discrimination which have created the conditions favourable to the growth of communism, and that the atheism and the anti-religious teaching of communism are in part a reaction to the chequered record of a professedly Christian society. It is one of the most fateful facts in modern history that often the working classes, including tenant farmers, came to believe that the churches were against them or indifferent to their plight. Christians should realise that the Church has often failed to offer to its youth the appeal that can evoke a disciplined, purposeful and sacrificial response, and that in this respect communism has for many filled a moral and psychological vacuum.

The points of conflict between Christianity and the atheistic Marxian communism of our day are as follows: (1) the communist promise of what amounts to

a complete redemption of man in history; (2) the belief that a particular class by virtue of its role as the bearer of a new order is free from the sins and ambiguities that Christians believe to be characteristic of all human existence; (3) the materialistic and deterministic teachings, however they may be qualified, that are incompatible with belief in God and with the Christian view of man as a person, made in God's image and responsible to Him; (4) the ruthless methods of Communists in dealing with their opponents; (5) the demand of the party on its members for an exclusive and unqualified loyalty which belongs only to God, and the coercive policies of Communist dictatorship in controlling every aspect of life.

The Church should seek to resist the extension of any system that not only includes oppressive elements but fails to provide any means by which the victims of oppression may criticise or act to correct it. It is a part of the mission of the Church to raise its voice of protest wherever men are the victims of terror, wherever they are denied such fundamental human rights as the right to be secure against arbitrary arrest, and wherever governments use torture and cruel punishments to intimidate consciences of men.

The Church should make clear that there are conflicts between Christianity and capitalism. The developments of capitalism vary from country to country and often the exploitation of the workers that was characteristic of early capitalism has been corrected in considerable measure by the influence of trade unions, social legislation and responsible management. But (1) capitalism tends to subordinate what should be the primary task of any economy—the meeting of human needs—to the economic advantages of those who have most power over its institutions. (2) It tends to produce serious inequalities. (3) It has developed a practical form of materialism in Western nations in spite of their Christian background, for it has placed the greatest emphasis upon success in making money. (4) It has also kept the people of capitalist countries subject to a kind of fate which has taken the form of such social catastrophes as mass unemployment.

The Christian churches should reject the ideologies of both communism and laissez-faire capitalism, and should seek to draw men away from the false assumption that these extremes are the only alternatives. Each has made promises which it could not redeem. Communist ideology puts the emphasis upon economic justice, and promises that freedom will come automatically after the completion of the revolution. Capitalism puts the emphasis upon freedom, and promises that justice will follow as a by-product of free enterprise; that, too, is an ideology which has been proved false. It is the responsibility of Christians to seek new, creative solutions which never allow either justice or freedom to destroy the other.

V. The Social Function of the Church

The greatest contribution that the Church can make to the renewal of society is for it to be renewed in its own life in faith and obedience to its Lord. Such inner renewal includes a clearer grasp of the meaning of the Gospel for the whole life of men. This renewal must take place both in the larger units of the Church and in the local congregations. The influence of worshipping congregations upon the problems of society is very great when those congregations include people from many social groups. If the Church can overcome the national and social barriers which now divide it, it can help society to overcome those barriers.

This is especially clear in the case of racial distinction. It is here that the Church has failed most lamentably, where it has reflected and then by its example sanctified the racial prejudice that is rampant in the world. And yet it is here that today its guidance concerning what God

wills for it is especially clear It knows that it must call society away from prejudice based upon race or colour and from the practices of discrimination and segregation as denials of justice and human dignity, but it cannot say a convincing word to society unless it takes steps to eliminate these practices from the Christian community because they contradict all that it believes about God s love for all His children

There are occasions on which the churches, through their councils or through such persons as they may commission to speak on their behalf, should declare directly what they see to be the will of God for the public decisions of the hour Such guidance will often take the form of warnings against concrete forms of injustice or oppression or social idolatry They should also point to the main objectives towards which a particular society should move

One problem is raised by the existence in several countries of Christian political parties The Church as such should not be identified with any political party, and it must not act as though it were itself a political party In general, the formation of such parties is hazardous because they easily confuse Christianity with the inherent compromises of politics They may cut Christians off from the other parties which need the leaven of Christianity, and they may consolidate all who do not share the political principles of the Christian party not only against that party but against Christianity itself Nevertheless, it may still be desirable in some situations for Christians to organize themselves into a political party for specific objectives, so long as they do not claim that it is the only possible expression of Christian loyalty in the situation

But the social influence of the church must come primarily from its influence upon its members through constant teaching and preaching of Christian truth in ways that illuminate the historical conditions in which men live and the problems which they face The Church can be most effective in society as it inspires its members to ask in a new way what their Christian responsibility is whenever they vote or discharge the duties of public office, whenever they influence public opinion, whenever they make decisions as employers or as workers or in any other vocation to which they may be called One of the most creative developments in the contemporary Church is the practice of groups of Christians facing much the same problems in their occupations to pray and to take counsel together in order to find out what they should do as Christians

In discussing the social function of the Church, Christians should always remember the great variety of situations in which the Church lives Nations in which professing Christians are in the majority, nations in which the Church represents only a few per cent of the population, nations in which the Church lives under a hostile and oppressive government offer very different problems for the Church It is one of the contributions of the ecumenical experience of recent years that churches under these contrasting conditions have come not only to appreciate one another s practices, but to learn from one another s failures and achievements and sufferings

VI. Conclusion

There is a great discrepancy between all that has been said here and the possibility of action in many parts of the world Obedience to God will be possible under all external circumstances, and no one need despair when conditions restrict greatly the area of responsible action The responsible society of which we have spoken represents, however, the goal for which the churches in all lands must work, to the glory of the one God and Father of all, and looking for the day of God and a new earth, wherein dwelleth righteousness.

The Trial of Cardinal Mindzenty and Religious Freedom

Early in 1949 the Communist dominated Hungarian government arrested Josef Cardinal Mindzenty, Catholic primate of the country He was charged with crimes against the state This was not the first time that the Catholic Church had run afoul of totalitarian governments It was, however, the first time in recent years that a secular government had arrested, tried, and sentenced a top official of the Church The protest from the Vatican was vigorous and sustained In a series of documents, and by convoking an extraordinary consistory of the Cardinals, the Pope made known his intention to resist with all of his power the Communist attack on the freedom of the Church The following address of the Pope to the faithful in Rome is only one of the papal pronouncements that grew out of the Mindzenty trial It is sufficient to show the continuity of Church policy on Church State relations and the willingness of the Church to invoke all its traditional power and arguments in the fight against communism. Earlier, the Pope had excommunicated all Hungarian Catholics who had been instrumental in Cardinal Mindzenty's arrest This was followed by the excommunication of the Catholics in Czechoslovakia who supported the puppet church enforced there That the life not only of the Catholic Church but of all churches and all religious freedom was at stake rapidly appeared from the steps taken in Bulgaria and Czechoslovakia There similar trials were staged against the Protestant clergy, and state control over all churches was established [1]

[THE POPE PRESENTS THE ISSUE]

Romans, beloved sons and daughters

Once again, in a grave and grevious hour, the faithful people of the Eternal City has hastened to its bishop and father Once again, this superb colonnade seems barely able to clasp with its gigantic arms the multitude that, like waves moved by an irresistible force, are washed up to the threshold of the Vatican basilica to attend the mass of expiation, in the central point of the whole Catholic world, and to pour out the sentiments with which their souls overflow The sentence imposed—amidst the unanimous condemnation of the civilized world—on the banks of the Danube on an eminent cardinal of the holy Roman church has stirred on the banks of the Tiber a cry of indignation worthy of the Eternal City

But the fact that a regime adverse to religion has this time smitten a prince of the church venerated by the overwhelming majority of his people, is not an isolated case It is one of the links of the long chain of persecutions which some dictatorial states are pursuing against christian doctrine and life A common characteristic of the persecutors of all times is that, not content with crushing their victims physically, they seek further to render them despicable and hateful to the fatherland and to society

Who does not remember the Roman martyrs of whom Tacitus speaks, sacrificed under Nero and depicted as incendiaries, abominable evildoers, enemies of the human kind? (Ann xv, 44) The modern

[1] The selection is from address by Pope Pius XII to Catholics of Rome, February 20 1949, as unofficially translated and reported in *The New York Times* of Feb 21, 1949

persecutors show themselves docile pupils of that inglorious school. They copy, so to speak, their masters and models, and even surpass them in cruelty, skillful as they are in the art of employing the most recent advances of science and technique to the end of a domination and an enslavement of the people such as would have been inconceivable in past times.

Romans, the church of Christ follows the path marked out by the Divine Redeemer. She knows herself eternal; she knows that she cannot perish, that the most violent tempests will not avail to submerge her; she does not beg favors. The threats and the injuries of terrestial powers do not intimidate her. She does not meddle in problems purely political and economic, nor does she deign to pass judgment upon the usefulness or the harm of one form of government or another. Her supreme premise, always eager in so far as enjoying peace with all depends upon her (Rom. xii, 18): She gives to Caesar that which is rightfully Caesar's, but cannot betray or abandon that which is God's.

Now it is well known what the totalitarian and anti-religious state demands and expects of her as the price of its tolerance and problematical recognition. It would like a church silent when it should speak, a church that would dim the light of God, adapting it to the desires of human wills when she should loudly proclaim it and defend it; a church that detaches herself from the firm foundation on which Christ has raised her to set herself down on the shifting sand of opinions of the day and abandon herself to the current (of opinion) of the moment; a church that does not resist oppression of the conscience and does not watch over the legitimate rights and the just liberty of the people; a church that, with indecorous servility, remains a church only within the four walls of the temple, forgetting the divine mandate received from Christ: Go ye into the crossroad, (Matth. xxii, 9) and teach the people (Matth. xxviii, 19).

Beloved sons and daughters, spiritual heirs of the innumerable legions of confessors and martyrs; is this perhaps the church you love and venerate? [A great shout from the crowd: "No."]

Do you recognize, perhaps, in such a church the lineaments of the face of your mother? [Another shout from the crowd: "No."] Can you imagine a successor to St. Peter who would bow to such demands [another shout of "No."]

The Pope, by divine premise, is, even in his human weakness, invincible and unshakeable, herald of truth and justice, and the principle of the unity of the church. His voice denounces errors, idolatries, superstitions, condemns iniquity, makes charity and virtue to be loved.

Can he, then, be silent when in a nation there are torn from the center of Christianity in Rome, with violence and cunning, the churches which are united to her, when there are imprisoned all the Greek-Catholic Bishops because they refused to apostate their faith, when the clergy and the faithful are persecuted and arrested because they refuse to be separated from their true mother church? [The crowd again cried "No."]

Can the Pope be silent when the right of educating the very children is taken from the parents by a minority regime, that would like to separate them from Christ?

Can the Pope be silent when the state, exceeding the limits of its competence, arrogates to itself the power of suppressing dioceses, of deposing bishops, of upsetting the ecclesiastic organization and reducing the minimum for efficacious care of souls?

Can the Pope be silent when the point is reached of punishing with imprisonment a priest guilty of not being willing to violate the most inviolable and sacred of secrets, the secret of sacramental confession?

Is all this perhaps an illegitimate interference with the political powers of the state? Who could honestly say so? [The crowd applauded at length.]

Your acclamations have already given an answer to these and many other questions

May God, our Lord, reward you for your faith beloved sons and daughters May He give you the strength for present and future struggles May He make you vigilant against the blows of His and your enemies May He brighten with his light the mind of those whose eyes are still closed to the truth May He concede to the many hearts still far from Him the gift of sincere return to that faith and brotherly sentiments, whose denial threatens the peace of humanity

And now let our apostolic benediction, wide, paternal and affectionate, descend upon the city and the world

International Communism

The program of 1928 is the best general statement of communist principles and tactics, and it provides the continuity between the closing words of the Communist Manifesto of 1848, which it quotes, and the speech of Andre Zhdanov to the first meeting of the Cominform on its public revival at Warsaw in 1947 ¶ The selections from this program show that already in 1928 the main outlines of communist tactics as they have been pursued since World War II had been established They further illustrate the naivete of the democratic leaders in thinking either that the Comintern had been really brought to an end or that the line of Moscow's communist revolution had been essentially changed. ¶ This selection is taken from the valuable report of Subcommittee No 5 (Hon Frances P Bolton, Chairman) of the House Foreign Affairs Committee, published in 1948 and called the STRATEGY AND TACTICS OF WORLD COMMUNISM *The whole of that document constitutes a critical analysis of the development of communist theory and practice for one hundred years in its most convenient form The italics in the following selection are put in by the editors to bring out the fundamental aim of the Moscow-controlled Comintern to use national communist movements under the disciplined control of Moscow as extensions of Soviet policy Zhdanov's pronouncements in 1947 add little to the program drawn up in 1928* [1]

[PROGRAM OF THE COMMUNIST INTERNATIONAL, 1928]

The Communist Parties in the colonial and semi colonial countries must carry on a bold and consistent struggle against foreign imperialism and unfailingly conduct propaganda in favor of friendship and unity with the proletariat in the imperialist countries They must openly advance, conduct propaganda for and carry out the slogan of agrarian revolution rouse the broad masses of the peasantry for the overthrow of the landlords and combat the reactionary and mediaeval influence of the clergy, of the missionaries and other similar elements

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[1] The selection is from *Strategy and Tactics of World Communism*, Program of the Communist International (6th World Congress of the Comintern, September 1, 1928), House Document 619 80th Congress, 2nd Session, 1948, pp 136 140

When a revolutionary situation is developing, the Party advances certain transitional slogans and partial demands corresponding to the concrete situation, *but these demands and slogans must be bent to the revolutionary aim of capturing power and of overthrowing bourgeois capitalist society.* The Party must neither stand aloof from the daily needs and struggles of the working class nor confine its activities exclusively to them The task of the Party is to utilize these minor every-day needs as a starting point from which to lead the working class to the revolutionary struggle for power

When the revolutionary tide is rising, when the ruling classes are disorganized, the masses are in a state of revolutionary ferment, the intermediary strata are inclining towards the proletariat and the masses are ready for action and for sacrifice, the Party of the proletariat is confronted with the task of leading the masses to a direct attack upon the bourgeois State This it does by carrying on propaganda in favor of increasingly radical transitional slogans (for Soviets, workers' control of industry, for peasant committees for the seizure of the big landed properties, for disarming the bourgeoisie and arming the proletariat, etc) and by organizing mass action, upon which all branches of Party agitation and propaganda, including parliamentary activity, must be concentrated *This mass action includes a combination of strikes and demonstrations, a combination of strikes and armed demonstrations, and finally, the general strike conjointly with armed insurrection against the State power of the bourgeoisie* The latter form of struggle, which is the supreme form, must be conducted according to the rules of war, it presupposes a plan of campaign offensive fighting operations and unbounded devotion and heroism on the part of the proletariat An absolutely essential condition precedent for this form of action is the organization of the broad masses into militant units, which, by their very form, embrace and set into action the largest possible numbers of toilers (Councils of Workers' Deputies, Soldiers' Councils, etc), and *intensified revolutionary work in the army and the navy.*

In passing over to new and more radical slogans, the Parties must be guided by the fundamental role of the political tactics of Leninism, which call for ability to lead the masses to revolutionary positions in such a manner that the masses may, by their own experience, convince themselves of the correctness of the Party line. Failure to observe this rule must inevitably lead to isolation from the masses, to putschism to the ideological degeneration of Communism into "Leftist" dogmatism and to petty-bourgeois "revolutionary" adventurism Failure to take advantage of the culminating point in the development of the revolutionary situation, when the Party of the proletariat is called upon to conduct a bold and determined attack upon the enemy, is not less dangerous To allow that opportunity to slip by and to fail to start rebellion at that point, means to allow the initiative to pass to the enemy and to doom the revolution to defeat

When the revolutionary tide is not rising the Communist Parties must advance partial slogans and demands that correspond to the every day needs of the toilers, and combine them with the fundamental tasks of the Communist International. *The Communist Parties must not, however, at such a time, advance transitional slogans that are applicable only to revolutionary situations* (for example workers' control of industry, etc) To advance such slogans when there is no revolutionary situation means to transform them into slogans that favor merging with the capitalist system of organization. *Partial demands and slogans generally form an essential part of correct tactics;* but certain transitional slogans go inseparably with a revolutionary situation. Repudiation of partial demands and transitional slogans "on principle," however, is incompatible with the tactical principles of Commu-

nism, for in effect, such repudiation condemns the Party to inaction and isolates it from the masses. United front tactics also occupy an important place in the tactics of the Communist Parties throughout the whole pre-revolutionary period as a means towards achieving success in the struggle against capital, towards the class mobilization of the masses and the exposure and isolation of the reformist leaders.

The correct application of united front tactics and the fulfillment of the general task of winning over the masses presuppose in their turn systematic and persistent work in the trade unions and other mass proletarian organizations. It is the bounden duty of every Communist to belong to a trade union, even a most reactionary one, provided it is a mass organization. Only by constant and persistent work in the trade unions and in the factories for the steadfast and energetic defense of the interests of the workers, together with ruthless struggle against the reformist bureaucracy, will it be possible to win the leadership in the workers' struggle and to win the industrially organized workers over to the side of the Party.

Unlike the reformists, whose policy is to split the trade unions, the Communists defend trade union unity nationally and internationally on the basis of the class struggle, and render every support to and strengthen the work of the Red International of Labor Unions.

In universally championing the current every day needs of the masses of the workers and of the toilers generally, *in utilizing the bourgeois parliament as a platform for revolutionary agitation and propaganda,* and *subordinating the partial tasks to the struggle for the dictatorship of the proletariat,* the Parties of the Communist International advance partial demands and slogans in the following main spheres:

In the sphere of Labor, in the narrow meaning of the term, i. e. questions concerned with the industrial struggle (the fight against the trustified capitalist offensive, wages questions, the working day, compulsory arbitration, unemployment), which grows into questions of the general political struggle (big industrial conflicts, fight for the right to organize, right to strike, etc.); in the sphere of politics proper (taxation, high cost of living, Fascism, persecution of revolutionary parties, white terror and current politics generally); and finally the sphere of world politics, viz., attitude towards the U. S. S. R. and colonial revolutions, struggle for the unity of the international trade union movement, struggle against imperialism and the war danger, and systematic preparation for the fight against imperialist war.

In the sphere of the peasant problem, the partial demands are those appertaining to taxation, peasant mortgage indebtedness, struggle against usurer's capital, the land hunger of the peasant small holders, rent, the metayer (cropsharing) system. *Starting out from these partial needs, the Communist Party must sharpen the respective slogans and broaden them out into the slogans: confiscation of large estates, and workers' and peasants' government (the synonym for proletarian dictatorship in developed capitalist countries and for democratic dictatorship of the proletariat and peasantry in backward countries and in certain colonies).*

Systematic work must also be carried on among the proletarian and peasant youth (mainly through the Young Communist International and its Sections) and also among working women and peasant women. This work must concern itself with the special conditions of life and struggle of the working and peasant women, and their demands must be linked up with the general demands and fighting slogans of the proletariat.

In the struggle against colonial oppression, the Communist Parties in the colonies must advance partial demands that correspond to the special circumstances prevailing in each country such as: com-

plete equality for all nations and races, abolition of all privileges for foreigners, the right of association for workers and peasants, reduction of the working day, prohibition of child labor, prohibition of usury and of all transactions entailing bondage, reduction and abolition of rent, reduction of taxation, refusal to pay taxes, etc All these partial slogans must be subordinate to the fundamental demands of the Communist Parties such as complete political national independence and the expulsion of the imperialists, workers' and peasants' government, the land to the whole people eight hour day etc The Communist Parties in imperialist countries while supporting the struggle proceeding in the colonies, must carry on a campaign in their own respective countries for the withdrawal of imperialist troops, conduct propaganda in the army and navy in defense of the oppressed countries fighting for their liberation, mobilize the masses to refuse to transport troops and munitions and in connection with this, to organize strikes and other forms of mass protest, etc

The Communist International must devote itself especially to systematic preparation for the struggle against the danger of imperialist wars Ruthless exposure of social chauvinism, of social imperialism and of pacifists phrase mongering intended to camouflage the imperialist plans of the bourgeoisie, propaganda in favor of the principal slogans of the Communist International every day organizational work in connection with this, in the course of which work legal methods must unfailingly be combined with illegal methods, organized work in the army and navy—such must be the activity of the Communist Parties in this connection. The fundamental slogans of the Communist International in this connection must be the following *Convert imperialist war into civil war, defeat the "home" imperialist government, defend the USSR and the colonies by every possible means in the event of imperialist war against them.* It is the bounden duty of all Sections of the Communist International, and of every one of its members, to carry on propaganda for these slogans, to expose the "Socialistic" sophisms and the "Socialistic" camouflage of the League of Nations and constantly to keep to the front the experiences of the war of 1914-1918.

In order that revolutionary work and revolutionary action may be coordinated and in order that these activities may be guided most successfully, the international proletariat must be bound by international class discipline, for which, *first of all, it is most important to have the strictest international discipline in the Communist ranks*

This international Communist discipline must find expression in the subordination of the partial and local interests of the movement to its general and lasting interests and in the strict fulfillment, by all members, of the decisions passed by the leading bodies of the Communist International

Unlike the Social Democratic, Second International, each section of which submits to the discipline of "its own" national bourgeoisie and of its own "fatherland" the sections of the Communist International submit to only one discipline, viz, international proletarian discipline, which guarantees victory in the struggle of the world's workers for world proletarian dictatorship Unlike the the Second International, which splits the trade unions, fights against colonial peoples, and practices unity with the bourgeoisie, the Communist International is an organization that guards proletarian unity in all countries and the unity of the toilers of all races and all peoples in their struggle against the yoke of imperialism

Despite the bloody terror of the bourgeoisie, the Communists fight with courage and devotion on all sectors of the international class front, in the firm conviction that the victory of the proletariat is inevitable and cannot be averted

"The Communists disdain to conceal

their views and aims They openly declare that their aims can be attained only by the forcible overthrow of all the existing social conditions Let the ruling class tremble at a Communist revolution The proletarians have nothing to lose but their chains They have a world to win "Workers of all countries, unite!'

Introduction to the Universal Declaration of Human Rights

The test of the extent of the moral community *on which the United Nations might rest is to be found most clearly in the con cept of human rights It is obvious that the totalitarian system of Russia cannot in fact admit any genuine conception of civil liberties and that its attitude in all the meetings of the Human Rights Commission of the Economic and Social Council of the United Nations was dictated by this fact The effort to work out principles finally resulted in a broad statement or a "declaration" which went considerably farther than there would be any prospect of getting agreement from the Soviet system or the countries under its control On their part, they insisted on putting in as many statements of "rights" as would prove embarrassing to countries with minority problems of either a national, religious, or economic character This particularly characterized the effort to draft an actual Covenant on Human Rights and made that document too "watered down" to represent any real progress. ¶ The Draft Declaration of Humans Rights, however, which emerged from the long discussions and studies of the Commission, represents as much moral consensus as could be expected from even the free nations of the world It is a rebuke to those systems whose reign of fear deprives a great part of humanity of the most elementary rights. It is also a statement in modern terms that might well serve as the first draft for a "bill of rights" for a world system of law for free societies. As such, it represents the most important modern statement of the conception of the rights of human beings in their relation to constitutional government and in their extension to a world system It was approved by all the members of the Human Rights Commission in June of 1948 except the Soviet bloc—the USSR, the Ukraine, Byelorussia, and Yugoslavia—which abstained It was approved on December 10, 1948, by the General Assembly, with substantially the same line up. Mrs. Roosevelt, wife of the late President, was one of the most influential members of the United States delegation which took part in framing this document Its importance, even as a "Declaration" which has not the force of a convention in law, is as a "bench mark" of human progress in defining the realm of individual freedom to be recognized as necessary for responsible moral personality among free citizens.*[1]

[1] Text reprinted from *United Nations Bulletin*, Vol VI, No. 1 (January 1, 1949)

UNIVERSAL DECLARATION OF HUMAN RIGHTS

TEXT OF THE DECLARATION AS PASSED AND PROCLAIMED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON DEC 10, 1948

WHEREAS recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom justice and peace in the world,

WHEREAS disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

WHEREAS it is essential if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

WHEREAS it is essential to promote the development of friendly relations among nations,

WHEREAS the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

WHEREAS Member States have pledged themselves to achieve, in co operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

WHEREAS a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

NOW THEREFORE THE GENERAL ASSEMBLY PROCLAIMS this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction

ARTICLE 1

All human beings are born free and equal in dignity and rights They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood

ARTICLE 2

1—Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status

2—Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether this territory be an independent, Trust, Non Self Governing territory, or under any other limitation of sovereignty

ARTICLE 3

Everyone has the right to life, liberty and the security of person

ARTICLE 4

No one shall be held in slavery or servitude, slavery and the slave trade shall be prohibited in all their forms

ARTICLE 5

No one shall be subjected to torture or to cruel inhuman or degrading treatment or punishment

ARTICLE 6

Everyone has the right to recognition everywhere as a person before the law

ARTICLE 7

All are equal before the law and are entitled without any discrimination to equal protection of the law All are entitled to equal protection against any discrimination in violation of this Dec laration and against any incitement to such discrimination

ARTICLE 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law

ARTICLE 9

No one shall be subjected to arbitrary arrest, detention or exile

ARTICLE 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him

ARTICLE 11

1—Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence

2—No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed

ARTICLE 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation Everyone has the right to the protection of the law against such interference or attacks

ARTICLE 13

1—Everyone has the right to freedom of movement and residence within the borders of each state

2—Everyone has the right to leave any country, including his own, and to return to his country

ARTICLE 14

1—Everyone has the right to seek and to enjoy in other countries asylum from persecution

2—This right may not be invoked in the case of prosecutions genuinely arising from non political crimes or from acts contrary to the purposes and principles of the United Nations

ARTICLE 15

1—Everyone has the right to a nationality

2—No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality

ARTICLE 16

1—Men and women of full age, without any limitation due to race, nationality or religion have the right to marry and to found a family They are entitled to equal rights as to marriage, during marriage and at its dissolution

2—Marriage shall be entered into only with the free and full consent of the intending spouses

3—The family is the natural and fundamental group unit of society and is entitled to protection by society and the State

ARTICLE 17

1—Everyone has the right to own property alone as well as in association with others

2—No one shall be arbitrarily deprived of his property

ARTICLE 18

Everyone has the right to freedom of thought, conscience and religion this right includes freedom to change his religion or belief, and freedom, either

alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance

ARTICLE 19

Everyone has the right to freedom of opinion and expression this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers

ARTICLE 20

1—Everyone has the right to freedom of peaceful assembly and association

2—No one may be compelled to belong to an association

ARTICLE 21

1—Everyone has the right to take part in the government of his country, directly or through freely chosen representatives

2—Everyone has the right of equal access to public service in his country

3—The will of the people shall be the basis of the authority of government this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures

ARTICLE 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality

ARTICLE 23

1—Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment

2—Everyone, without any discrimination, has the right to equal pay for equal work

3—Everyone who works has the right to just and favorable remuneration insuring for himself and his family an existence worthy of human dignity, and supplemented if necessary, by other means of social protection

4—Everyone has the right to form and to join trade unions for the protection of his interests

ARTICLE 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay

ARTICLE 25

1—Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food clothing housing and medical care and necessary social services and the right to security in the event of unemployment, sickness disability widowhood old age or other lack of livelihood in circumstances beyond his control

2—Motherhood and childhood are entitled to special care and assistance All children, whether born in or out of wedlock, shall enjoy the same social protection

ARTICLE 26

1—Everyone has the right to education Education shall be free, at least in the elementary and fundamental stages Elementary education shall be compulsory Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit

2—Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace

3—Parents have a prior right to choose the kind of education that shall be given to their children

ARTICLE 27

1—Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits

2—Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author

ARTICLE 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized

ARTICLE 29

1—Everyone has duties to the community in which alone the free and full development of his personality is possible.

2—In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society

3—These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

ARTICLE 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Truman on World Order

On November 2, 1948, Harry S. Truman was elected President of the United States in his own right The campaign had been conducted primarily on domestic issues, since the bipartisan foreign policy was maintained throughout the campaign In fact, during the course of the campaign the United States was working on the draft of a treaty with the North Atlantic countries which was ratified by the United States Senate on July 21, 1949. The bipartisan foreign policy and the development of a North Atlantic pact were a measure of the gravity of the international conflict between communism and democracy The inaugural address of a president is, in some ways, the most important address that he delivers during his four years in office President Truman chose this occasion to face squarely the fundamental differences between democracy and communism, and to speak to the world on these differences He also outlined a policy for the United States to follow in its foreign affairs [1]

Mr Vice President, Mr Chief Justice and fellow citizens

I accept with humility the honor which the American people have conferred upon me I accept it with a resolve to do all that I can for the welfare of this nation and for the peace of the world

In performing the duties of my office, I need the help and prayers of every one of you. I ask for your encouragement and for your support The tasks we face are

[1] President Truman's Inaugural Address, delivered January 20, 1949

difficult. We can accomplish them only if we work together.

Each period of our national history has had its special challenges. Those that confront us now are as momentous as any in the past. Today marks the beginning not only of a new administration but of a period that will be eventful, perhaps decisive, for us and for the world.

It may be our lot to experience, and in a large measure bring about, a major turning point in the long history of the human race. The first half of this century has been marked by unprecedented and brutal attacks on the rights of man and by the two most frightful wars in history. The supreme need of our time is for men to learn to live together in peace and harmony.

The peoples of the earth face the future with grave uncertainty, composed almost equally of great hopes and great fears. In this time of doubt they look to the United States as never before for good will, strength and wise leadership.

It is fitting, therefore, that we take this occasion to proclaim to the world the essential principles of faith by which we live, and to declare our aims to all peoples.

The American people stand firm in the faith which has inspired this nation from the beginning. We believe that all men have a right to equal justice under law and equal opportunity to share in the common good. We believe that all men have the right to freedom of thought and expression. We believe that all men are created equal because they are created in the image of God.

From this faith we will not be moved.

The American people desire, and are determined to work for, a world in which all nations and all peoples are free to govern themselves as they see fit and to achieve a decent and satisfied life. Above all else, our people desire, and are determined to work for, peace on earth—a just and lasting peace—based on genuine agreement freely arrived at by equals.

In the pursuit of these aims, the United States and other like-minded nations find themselves directly opposed by a regime with contrary aims and a totally different concept of life.

That regime adheres to a false philosophy which purports to offer freedom, security, and greater opportunity to mankind. Misled by that philosophy, many peoples have sacrificed their liberties only to learn to their sorrow that deceit and mockery, poverty and tyranny, are their reward.

That false philosophy is communism.

Communism is based on the belief that man is so weak and inadequate that he is unable to govern himself, and therefore requires the rule of strong masters.

Democracy is based on the conviction that man has the moral and intellectual capacity, as well as the inalienable right, to govern himself with reason and justice.

Communism subjects the individual to arrest without lawful cause, punishment without trial, and forced labor as the chattel of the state. It decrees what information he shall receive, what art he shall produce, what leaders he shall follow, and what thoughts he shall think.

Democracy maintains that government is established for the benefit of the individual, and is charged with the responsibility of protecting the rights of the individual and his freedom in the exercise of those abilities of his.

Communism maintains that social wrongs can be corrected only by violence.

Democracy has proved that social justice can be achieved through peaceful change.

Communism holds that the world is so widely divided into opposing classes that war is inevitable.

Democracy holds that free nations can settle differences justly and maintain a lasting peace.

The differences between communism and democracy do not concern the United States alone. People everywhere are coming to realize that what is involved is the material well-being, human dignity, and the right to believe in and worship God.

I state these differences, not to draw

issues of belief as such, but because the actions resulting from the Communist philosophy are a threat to the efforts of free nations to bring about world recovery and lasting peace.

Since the end of hostilities, the United States has invested its substance and its energy in a great constructive effort to restore peace, stability, and freedom to the world.

We have sought no territory. We have imposed our will on none. We have asked for no privileges that we would not extend to others.

We have constantly and vigorously supported the United Nations and related agencies as a means of applying democratic principles to international relations. We have consistently advocated and relied upon peaceful settlement of disputes among nations.

We have made every effort to secure agreement on effective international control of our most powerful weapon, and we have worked steadily for the limitation and control of all armaments.

We have encouraged, by precept and example, the expansion of world trade on a sound and fair basis.

Almost a year ago, in company with sixteen free nations of Europe, we launched the greatest co-operative economic program in history. The purpose of that unprecedented effort is to invigorate and strengthen democracy in Europe, so that the free people of that continent can resume their rightful place in the forefront of civilization and can contribute once more to the security and welfare of the world.

Our efforts have brought new hope to all mankind. We have beaten back despair and defeatism. We have saved a number of countries from losing their liberty. Hundreds of millions of people all over the world now agree with us, that we need not have war—that we can have peace.

The initiative is ours.

We are moving on with other nations to build an even stronger structure of international order and justice. We shall have as our partners countries which, no longer solely concerned with the problem of national survival, are now working to improve the standards of living of all their people. We are ready to undertake new projects to strengthen a free world.

In the coming years, our program for peace and freedom will emphasize four major courses of action.

First, we will continue to give unfaltering support to the United Nations and related agencies, and we will continue to search for ways to strengthen their authority and increase their effectiveness. We believe that the United Nations will be strengthened by the new nations which are being formed in lands now advancing toward self-government under democratic principles.

Second, we will continue our programs for world economic recovery.

This means, first of all, that we must keep our full weight behind the European Recovery Program. We are confident of the success of this major venture in world recovery. We believe that our partners in this effort will achieve the status of self-supporting nations once again.

In addition, we must carry out our plans for reducing the barriers to world trade and increasing its volume. Economic recovery and peace itself depend on increased world trade.

Third, we will strengthen freedom-loving nations against the dangers of aggression.

We are now working out with a number of countries a joint agreement designed to strengthen the security of the North Atlantic area. Such an agreement would take the form of a collective defense arrangement within the terms of the United Nations charter.

We have already established such a defense pact for the Western Hemisphere by the treaty of Rio de Janeiro.

The primary purpose of these agreements is to provide unmistakable proof of the joint determination of the free countries to resist armed attack from any quarter. Every country participating in

these arrangements must contribute all it can to the common defense.

If we can make it sufficiently clear, in advance, that any armed attack affecting our national security would be met with overwhelming force, the armed attack might never occur.

I hope soon to send to the Senate a treaty respecting the North Atlantic security plan.

In addition, we will provide military advice and equipment to free nations which will cooperate with us in the maintenance of peace and security.

Fourth, we must embark on a bold new program for making the benefits of our scientific advances and industrial progress available for the improvement and growth of under-developed areas.

More than half the people of the world are living in conditions approaching misery. Their food is inadequate. They are victims of disease. Their economic life is primitive and stagnant. Their poverty is a handicap and a threat both to them and to more prosperous areas.

For the first time in history, humanity possesses the knowledge and the skill to relieve the suffering of these people.

The United States is pre-eminent among the nations in the development of industrial and scientific techniques. The material resources which we can afford to use for the assistance of other peoples are limited. But our imponderable resources in technical knowledge are constantly growing and are inexhaustible.

I believe that we should make available to peace-loving peoples the benefits of our store of technical knowledge in order to help them realize their aspirations for a better life. And, in co-operation with other nations, we should foster capital investment in areas needing development.

Our aim should be to help the free peoples of the world, through their own efforts, to produce more food, more clothing, more materials for housing, and more mechanical power to lighten their burdens.

We invite other countries to pool their technological resources in this undertaking. Their contributions will be warmly welcomed. This should be a co-operative enterprise in which all nations work together through the United Nations and its specialized agencies wherever practicable. It must be a world-wide effort for the achievement of peace, plenty and freedom.

With the co-operation of business, private capital, agriculture and labor in this country, this program can greatly increase the industrial activity in other nations and can raise substantially their standards of living.

Such new economic developments must be devised and controlled to benefit the peoples of the areas in which they are established. Guaranties to the investor must be balanced by guaranties in the interest of the people whose resources and whose labor go into these developments.

The old imperialism—exploitation for foreign profit—has no place in our plans. What we envisage is a program of development based on the concepts of democratic fair-dealing.

All countries, including our own, will greatly benefit from a constructive program for the better use of the world's human and natural resources. Experience shows that our commerce with other countries expands as they progress industrially and economically.

Greater production is the key to prosperity and peace. And the key to greater production is a wider and more vigorous application of modern scientific and technical knowledge.

Only by helping the least fortunate of its members to help themselves can the human family achieve the decent, satisfying life that is the right of all people.

Democracy alone can supply the vitalizing force to stir the peoples of the world into triumphant action, not only against their human oppressors, but also against their ancient enemies—hunger, misery and despair.

On the basis of these four major courses of action we hope to help create the

conditions that will lead eventually to personal freedom and happiness for all mankind.

If we are to be successful in carrying out these policies, it is clear that we must have continued prosperity in this country and we must keep ourselves strong.

Slowly but surely we are weaving a world fabric of international security and growing prosperity.

We are aided by all who wish to live in freedom from fear—even by those who live today in fear under their own governments.

We are aided by all who want relief from the lies of propaganda—those who desire truth and sincerity.

We are aided by all who desire self-government and a voice in deciding their own affairs.

We are aided by all who long for economic security—for the security and abundance that men in free societies can enjoy.

We are aided by all who desire freedom of speech, freedom of religion, and freedom to live their own lives for useful ends.

Our allies are the millions who hunger and thirst after righteousness.

In due time, as our stability becomes manifest, as more and more nations come to know the benefits of democracy and to participate in growing abundance, I believe that those countries which now oppose us will abandon their delusions and join with the free nations of the world in a just settlement of international differences.

Events have brought our American democracy to new influence and new responsibilities. They will test our courage, our devotion to duty, and our concept of liberty.

But I say to all men, what we have achieved in liberty, we will surpass in greater liberty.

Steadfast in our faith in the Almighty, we will advance toward a world where man's freedom is secure.

To that end we will devote our strength, our resources, and our firmness of resolve. With God's help, the future of mankind will be assured in a world of justice, harmony, and peace.

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