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REVOLUTION AND THE FORMATION OF
POLITICAL SOCIETY IN THE *SOCIAL CONTRACT**

HILAIL GILDIN

Great minds are invariably understood by fewer people than they influence. The fate that befell Rousseau's teaching (if fate is the appropriate expression here) furnishes a continuing, though melancholy, confirmation of this truth. More than any other major political philosopher, Rousseau helped win acceptance for the view that democracy is the only legitimate form of government. Since Rousseau was convinced that only a tiny minority of the regimes existing in the world at any one time would ever be democratic, his view implied that the overwhelming majority of political orders are, and will continue to be, illegitimate. However, this conclusion did not have the revolutionary implications for him that it would have for many of our contemporaries because he thought that only a tiny minority of regimes ever *can* be democratic or legitimate and he saw no point in encouraging revolutions whose only result, after much suffering, would be the replacement of one illegitimate regime by another. In a word, Rousseau did not believe in Progress. He did not think that the world was becoming ever more hospitable to democratic rule. The work which made him famous was an attack on the view that intellectual progress, and the diffusion of its results, tends to be accompanied by moral and social progress. The revolutionary doctrine that is sometimes associated with his name resulted from combining his views regarding the democratic character of all legitimate government with a belief in Progress that is incompatible with his philosophy. That combination was more explosive than either of its ingredients had been. Rousseau's belief that freedom is not the first of all climates—that it is, in fact, the fruit of very few climates—was either abandoned or vanished from sight. It was replaced by the revolutionary conviction that, thanks to the progress of the human race, there was less and less excuse for enduring the evils inflicted on men by their illegitimate rulers merely because one was too squeamish and cowardly to do the ruthless things that would rid men of their rule. The revolutionary tradition based on this conviction has at times become so powerful that Rousseau's non-adherence to its views regarding revolutionary change has seemed to be a strange aberration for which explanations have been given that are no less strange.

Rousseau did not think that a sound political order would come into being through the workings of Progress. It is hard to tell from the *Social*

* The author thanks the Relm Foundation for providing financial support for part of the research for this paper. A version of this paper was presented at the 1976 Annual Meeting of the APSA.

Contract how it would take place because of a curious vacillation in his remarks on this point. In Book I (Chapter 6), while setting forth the content of the social contract, Rousseau speaks as if no more were needed to form a legitimate social order than for men at the dawn of political society to gather together and agree on reasonable conditions for living together.¹ He even suggests that this is how political orders everywhere arose.² In Book II (Chapter 6), however, Rousseau declares that the task of determining those conditions is utterly beyond the capacity of any such gathering of men, and that their incapacity makes the intervention of a supremely wise legislator indispensable.³

Before one can understand the conflict between these two accounts, one must restore them to the argument of the book of the *Social Contract* in which they appear. The argument of Book I opens with the famous words: "Man is born free and everywhere he is in chains." As the next paragraph makes clear, the chains in question are the obligations which political society imposes on previously free and autonomous men when it binds them to one another. No one who lives in a political society is free to act exactly as he pleases, least of all the despot, who thinks of all of his subjects as slaves. Rousseau affirms that he does not know how the transition from freedom to the chains of political life took place, which should be remembered when reading his later remarks about that transition,⁴ nor does he promise to show men how to restore their freedom. What he does claim to determine is how the deprivation of freedom required by every political society can be made legitimate: this is the announced theme of this book from its opening chapter.⁵

Rousseau's discussion of that theme continues in the next chapter. There we are told why a man, once he has attained maturity, is by nature free of any obligation to obey the commands of another, but we are also told under what conditions men may properly alienate this natural freedom of theirs.⁶ Self-preservation provides the key to understanding both natural freedom and its alienation. Nature has so made men, we are told, that each one has the greatest possible stake in

¹ Citations from the *Social Contract* are by book, chapter, and paragraph. Parenthetical references in the notes following such citations are to the Pléiade edition of Rousseau's *Oeuvres Complètes*, sometimes cited here as *O.C.* The quotations from the *Social Contract* are based upon the translations by Frederick Watkins (London, 1953), Maurice Cranston (Harmondsworth, 1968), and G. D. H. Cole (Everyman).

² 5 (III, p. 360).

³ 10 (p. 380).

⁴ For what is hypothetical and what is not in the *Discours sur l'origine et les fondements de l'inégalité*, see Leo Strauss, *Natural Right and History* (Chicago, 1953), p. 367, n. 32. Compare the "hypothetical" discussion of Rousseau's own natural goodness and of the difference between that goodness and the virtue that revelation, as distinguished from the "law of nature, or at least its voice," makes possible, in *Dialogues*, II (*O.C.*, I, pp. 82off.).

⁵ See Strauss, *Natural Right and History*, p. 255.

⁶ 3 (p. 352).

preserving himself. Therefore, each man must be allowed to be the judge of what the best means for self-preservation are; i.e., each must be allowed to be his own master. However, conditions can arise under which one finds living under another's command the best means, and so the concern with self-preservation, which justified natural freedom in the first place, now justifies alienating it. Rousseau gives the example of children who have attained maturity, and are no longer under any obligation to continue living with their father and obeying him but who may find it advantageous to do so, in which case they will "alienate their freedom . . . for their utility." He expresses no disapproval of this alienation: he assumes that such children find in the love and the "means" of their father recompense for the freedom that they forgo in order to live with him. He even displays a momentary willingness to consider a family of this kind as a paradigm for political society. The parallelism between the two proves to be untenable, however, because the passion animating rulers—the pleasure of commanding—does not carry with it the guarantees of beneficence that the father's love affords his children. In the absence of such guarantees, renouncing one's freedom is not a sensible act, according to Rousseau.

In the explicit argument of the *Social Contract* freedom is treated almost exclusively in terms of self-preservation, however inadequate a basis this may seem to furnish for understanding all that political freedom meant for Rousseau.⁷ An appeal to the requirements of self-preservation justifies the assertion that men are by nature free. A similar appeal justifies the replacement of natural freedom by conventional freedom through the enactment of the social contract. Since Rousseau will later claim that it is very much to one's advantage to exchange natural freedom for conventional freedom,⁸ one might wonder why the first chapter of the work opens with the contrast between freedom and chains, which presents the loss of natural freedom as a misfortune (of course it would not cease to be one just because the chains were legitimate and the loss irreparable). To understand this, one must remember that for Rousseau natural freedom is not merely a means of self-preservation. It is also a condition for and an ingredient of happiness. A substitute for natural freedom can be found—conventional freedom—which is in many respects superior to what it replaces as a means of self-preservation. But there appears to be no substitute, according to Rousseau, for natural freedom as an ingredient of happiness.⁹ It is perfectly possible, therefore, for him both to deplore and to congratulate man on the transition from the state of nature to

⁷ II, 5, 2 (p. 376); III, 9, 4 (pp. 419–20; for the difference between "prosperity" and "riches," see *O.C.*, III, pp. 924, 1004–5).

⁸ II, 4, 10 (p. 375).

⁹ See his advice to the ichthyophagous people in II, 11, 3 (pp. 392–93). In limiting our discussion to what Rousseau makes central in the *Social Contract*, and hence to self-preservation and freedom, as well as to happiness and freedom, we do not mean to minimize the importance of understanding the relation of

political society, particularly since, according to him, the overwhelming majority of men who have reached the point of human development at which self-preservation and natural freedom are incompatible are no longer capable of the kind of happiness that natural freedom makes possible and cannot even be said to *desire* that happiness.¹⁰

Having tried to show, chiefly by appealing to considerations of self-preservation, why man is by nature free, and having paused to refute the view that naked force can give rise to legitimate government, Rousseau turns to convention or voluntary agreement for an explanation of how ruling and being ruled in political society can have a legitimate origin (I 4). Here he speaks only of agreements which give rise to slavery or to its political counterpart, depotism. This is surely in part the result of his abhorrence of slavery or despotism and his

freedom to goodness and to virtue in Rousseau. Nor do we mean to suggest that Rousseau attained full clarity about that relation. In his *Discourse on Inequality* Rousseau describes, in different but adjacent paragraphs, two different but adjacent peaks in the human condition, peaks attained during the state of nature and never equaled since (*O.C.*, III, pp. 170–71). The first peak is a peak in goodness. It occurs during the primitive state of nature, prior to the advent of fixed dwellings and of family life, which usher in the following period. In the primitive state of nature, man is said to have been good and compassionate as a consequence of being “placed by nature at an equal distance from the stupidity of brutes and the baneful enlightenment of civil man.” The second peak, a peak in happiness, occurs during the second period. The developments of the second period give rise to *amour-propre*. Men become, for the first time, vengeful and cruel. Yet the war of all against all does not break out as yet. Dependence on other men for self-preservation, a consequence of the division of labor, is necessary to produce that result. Rather than being the scene of the greatest misery, the second period in the state of nature, by “maintaining a just mean between the indolence of the primitive state and the petulant activity of our *amour-propre*, must have been the happiest and the most durable.” Confronted by a choice between a peak in goodness and a peak in happiness, Rousseau unhesitatingly chooses happiness. This parallels the advice he gives the ichthyophagous people in the *Social Contract*: he counsels them to prefer the condition in which they are certain to be happier, and to remain savage. See also n. 10 below.

¹⁰ *Discourse on Inequality*, II, III, pp. 174–5, 193. See Strauss, *Natural Right and History*, pp. 254–55, 278–79, 290, and n. 61. The inclusion of a reference to *Social Contract*, I, 8, 1 (p. 364) in n. 61 was explained by Strauss in an oral communication as follows: the counterfactual character of that paragraph is usually overlooked; if one becomes aware of it, it supports the contention in the text. Rousseau’s account of the development of the human race in the *Discourse on Inequality* abstracts from the genesis of religion. He thereby keeps his promise to “set aside all the facts” recorded in the writings of Moses. As a result, the *Discourse on Inequality* does not shed light on his suggestion in the *Social Contract* (IV, 8, 1 [p. 460]) that the first organized societies were theocratic. Furthermore, his argument against the belief in the beneficent moral and political consequences of the intellectual progress of the human race would be all the more powerful if that argument could be made while taking into account only the influence of human reason on human affairs. Finally, he repudiates all developments beyond the second period in the state of nature, a state men left only “through some baneful accident which for the common advantage should never have occurred” (*Discourse on Inequality*, II [III, p. 171]), even though he is aware, as he makes clear in his note to this passage, that Christianity is one of these later developments (see n. XVI, first and last paragraphs [III, pp. 220–21]). Rousseau could not have expressed his preferences as boldly as he did had he dealt explicitly with the religion of the savages.

desire to demolish the agreements used to defend them. But he then goes on to declare that *every* agreement to alienate one's freedom must be invalid.

Up to this point, Rousseau has more than once voiced the assumption that a requirement of political society is the replacement of freedom by bonds or the alienation of freedom. He claims, moreover, to have shown that there is no possible origin for these bonds other than convention or agreement. Now, however, he declares that all such agreements to alienate one's freedom are null and void:

To renounce one's freedom is to renounce one's quality as a man, the rights, and even the duties, of humanity. There can be no possible compensation for anyone who renounces everything. Such a renunciation is incompatible with the nature of man, and to deprive one's will of all freedom is to deprive one's actions of all morality. Finally a convention which stipulates absolute authority on the one hand and unlimited obedience on the other, is vain and contradictory. Is it not clear that one is under no obligation whatever to a person from whom one has the right to demand everything and does not this condition alone, without equivalence or exchange, entail the nullity of the act? For what right can my slave have against me, when everything he has belongs to me, and his right being mine, this right I have against myself is a meaningless phrase?¹¹

Let us limit ourselves to the last part of the argument in this passage. According to Rousseau, the very notion of a contract implies that, to take the simplest case, each party incurs an obligation to benefit the other in some way, and each party acquires a right to the benefit the other has agreed to confer. In other words, a contract is possible only between individuals each of whom is capable of having rights over the other and obligations to the other. Now a master, by definition, cannot have any obligations to his slave, nor can the slave, by definition, have any rights over his master. Therefore the very notion of a master-slave relationship contradicts the notion of a contract.

Would matters be at all improved if one substituted a somewhat less strict master-slave relationship for this one? Rousseau explores the possibility in the summary of the *Social Contract* which appears in Book V of *Émile* and rejects it less in itself than as a model for the kind of agreement through which a sovereign is created. To understand why, it is also important to see why he devotes so much time to discussing slavery agreements. He has already conceded that political society requires the alienation of freedom and his argument claims to show that voluntary agreement is the only legitimate way in which such alienation can take place. Now the most obvious example of an agreement through which one alienates one's freedom is an agreement by which one becomes a slave. Rousseau's objections to such agreements have just been noted, but his objection to mitigated slavery is slightly different: "If there is any reservation, any restriction in the deed of

¹¹ I, 4, 6 (p. 356).

slavery, we shall then discuss whether this deed does not become a true contract, in which each of the two contracting parties, having in this respect no common superior, remains its own judge regarding the conditions of the contract, and is therefore to that extent free and competent to break it [*maîtres de le rompre*] as soon as it regards itself as wronged?"¹²

To the words "common superior" Rousseau appends the following note: "If they [the contracting parties] had one, this common superior would be none other than the sovereign, and then the right of slavery, founded on the right of sovereignty, would not be its source." Sovereignty, not slavery, is thus the true theme of Rousseau's discussion of slavery here.

An agreement giving rise to mitigated slavery, unlike the ones just discussed, can be legitimate. However, such an agreement, taken by itself, is obviously too unreliable to be the basis for sovereignty. At the beginning of the *Social Contract*, Rousseau states that he wishes to find a rule for the management of public affairs that would be both "legitimate and reliable."¹³ Satisfying both requirements did not, at that time, appear to present any notable difficulties. In the present context, however, any agreement to alienate one's freedom which is reliable proves illegitimate, while any agreement to do so which is legitimate proves unreliable. The reader who has followed the thread of Rousseau's reflections on the surrender of natural freedom is now faced with an impasse which calls into question the possibility of ever establishing a legitimate political order.

Rousseau sums up his reasons for denying that a contract to alienate one's freedom can be valid, as follows:

Thus, whichever way one regards things, the right of slavery is null and void, not only because it is illegitimate, but because it is absurd and meaningless. These words, *slavery* and *right*, are contradictory; they mutually exclude each other. Whether addressed by a man to a man, or by a man to a people, this speech will always be equally senseless: "I make a convention with you entirely at your expense and entirely to my profit, which I will honor as long as it pleases me, and which you will honor as long as it pleases me."¹⁴

It is noteworthy that Rousseau omits one possibility in ridiculing this speech. He does not say that the speech would be nonsensical if it were addressed by a people to a man. This possibility will provide him with an escape from the impasse to which his analysis thus far has led. In the next chapter he argues that the way in which a people acquires authority over its individual members must be examined, and the chapter in which he sets forth his answer to this question is the chapter which contains his exposition of the social contract.

¹² *Émile*, V (IV, p. 839, par. 4; cf. 840, par. 5, 841, par. 1).

¹³ I, opening par. (p. 351).

¹⁴ I, 4, 14 (p. 358).

When discussing the family earlier in the book as we noted above, Rousseau had indicated that the alienation of freedom was permissible in cases where it was more conducive to self-preservation than the retention of freedom would be. The difficulty was how to find in political life any guarantee like that afforded by a father's affection for his children. Rousseau returns to this difficulty here, and assumes that human development has reached the point at which natural freedom and self-preservation are no longer compatible. Self-preservation, whose requirements justified man's natural freedom, now dictates the surrender of that freedom.¹⁵ Yet since the surrender is made with a view to self-preservation, the agreement through which it is made must somehow guarantee self-preservation.¹⁶ The slavery agreements repudiated earlier provided no such guarantee precisely because they involved the surrender of freedom. Now, however, Rousseau will claim that there *is* one way, but only one, to alienate one's freedom which will enhance the prospects of one's self-preservation—the way set out by the social contract.

The heart of the social contract is said to be "the total alienation of each individual with all his rights to the entire community": it demands the alienation of natural freedom no less than did the agreements Rousseau earlier rejected. In contrast to those agreements, however, in the present case the surrender is made to no individual, and no individual is spared having to make the surrender; i.e., the social contract makes men politically equal, where the slavery agreements sought to authorize the most profound political inequality between men. Under the social contract all men acquire rights over each other and all incur obligations to each other, in conformity with what Rousseau holds to be part of the very notion of a contract;¹⁷ thus although the social contract requires that natural freedom be alienated (if it did not, it would not be reliable),¹⁸ it does not violate the very notion of a contract (if it did, it would not be legitimate). It is the "first" contract that is both legitimate and reliable, and its presence makes it possible for other legitimate and reliable contracts to be enacted.¹⁹

The preceding remarks are intended less to shed light on the content of the social contract as expounded by Rousseau, which is well known, than to point out why he came to believe that no political authority can be legitimate unless it has the origin and the character prescribed by the social contract. By this standard, very few, if any, governments of his time could justify their claims to the obedience of their subjects, and in an earlier version of the *Social Contract* Rousseau openly admitted this fact:

¹⁵ I, 6, 1 (p. 360).

¹⁶ I, 6, 1, 3, 4 (p. 360).

¹⁷ I, 6, 6, 8 (pp. 360–61).

¹⁸ I, 6, 7 (p. 361); cf. *Émile*, V (IV, pp. 841, par. 2).

¹⁹ I, 2, 2 (p. 352); I, 9, 1 (p. 365).

There are a thousand ways of assembling men, but there is only one way to unite them. That is why I give in this work only one method for the formation of political societies, although in the multitude of aggregations which presently go by that name, perhaps no two were formed in the same manner, and not one in accordance with the manner I establish. But I seek right and reason and am not engaged in a dispute about facts.²⁰

This passage disappears from the definitive version of the *Social Contract*, however, and in its place we find a passage which, as it were, extends the benefit of the doubt to every existing regime:

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 perhaps never been formally set forth, they are everywhere the same, everywhere tacitly admitted and recognized; until, on the violation of the social pact, each regains his original right and recovers his natural freedom, while losing the conventional freedom is favor of which he renounced it.²¹

One might attempt to explain away the conflict between these two passages by observing that, for Rousseau, every government which pretends to be not only a government of the people but also a government for the people tacitly pays homage to the principles of political justice expounded in the *Social Contract*. While there are other passages in Rousseau which must be understood in this way,²² the one just quoted does not lend itself to such an interpretation. Here he distinguishes between an earlier period during which the social contract was everywhere in force and a later period in which it seems to have been violated, at least in some places. Why does the man who announced that he did not know how political rule and subjection had arisen now ascribe a legitimate origin to political orders everywhere?

The manner in which Rousseau describes the enactment of the social contract is more favorable to the possibility that most existing regimes are legitimate than are the views he expresses later in the work. As we shall see, he goes on to point out just how difficult it is for a legitimate social order to come into being and, as a consequence, how rare such societies are. This is only one of a number of cases in the *Social Contract* in which Rousseau appears more favorably disposed to the common political practices of men than his strict doctrine would require or, indeed, would permit: for example, one will find him speaking as though all forms of government, including hereditary monarchy, are capable of being legitimate.²³ Careful students of the *Social Contract* have seen, however, that the chapter devoted to monarchy in Rousseau's discussion of various forms of government²⁴ is not intended to show how

²⁰ I, 5, 1 (III, p. 297).

²¹ I, 6, 5 (p. 360).

²² *Émile*, V, IV, (p. 858).

²³ C.S., II, 6, 6 (p. 379).

²⁴ See Robert Dérathe's note to the chapter on monarchy (III, pp. 1479-80, n. 2 to 408) as well as his article on the subject, cited in that note.

hereditary monarchy can be made legitimate but rather why this cannot be done. When one has followed to the end Rousseau's discussion in Book III of the danger that sovereignty will be usurped by government and of the measures that must be taken to protect the sovereign against that danger, one sees clearly that the scope of governmental arrangements which are compatible with his principles is far narrower than one might at first expect.²⁵ Moreover, there can be no doubt that, according to Rousseau's strict doctrine, if the people are kept from exercising their sovereignty, the social contract is violated and the individual regains his natural freedom. Yet Rousseau fails to clearly apply this principle to the subjects of large monarchic states: on the contrary, speaking of Rome, he dates the usurpation of sovereignty not from Caesar or Augustus, whom he calls "monarchs," but from Tiberius, whom he calls a "despot." Those readers who would prefer to call Caesar or Augustus "tyrants," as Rousseau himself does in his other writings, find themselves confronted with a distinction between tyrants, who usurp governmental authority but govern in accordance with "law," and "lawless" despots.²⁶ From Rousseau's strict doctrine of law it follows, as he remarks (in an aside), that "if one examined things carefully one would find that very few nations have laws."²⁷ Nevertheless, he frequently chooses to speak of law in a much looser and more common sense of the term, and as a consequence, the line separating legitimate from illegitimate government is far vaguer than it need be, given his doctrines.

An eminent thinker has noted that the only writing traditionally attributed to Aristotle in which there are oaths in the text is the *Politics*, and he argues persuasively for the view that this peculiarity of the *Politics* is altogether appropriate, given the subject matter of the work. It is all the more notable, therefore, that Rousseau's *Social Contract* should be his least eloquent and impassioned work dealing with moral and political matters. As soon as it appeared, it acquired the reputation of being a most abstract and difficult work. Rousseau fully expected this. He never thought that it would enjoy the popular success of *Émile* and *Julie*. Its abstract character, he tells us elsewhere,²⁸ permitted him to treat political issues boldly. I would suggest that the restraint Rousseau exhibits in the *Social Contract* is caused by his reluctance to incite men living under illegitimate rulers—that is, most men—to throw off their chains. If the conditions conducive to a just society are, of necessity, rare, as he says, illegitimate regimes are a necessary evil for the overwhelming majority of men—necessary because the incompatibility between natural freedom and self-preservation forces men to form political societies even when the conditions

²⁵ III, 17 (pp. 433–34), especially the final paragraph, and III, 18 (pp. 434–36).

²⁶ III, 10, 3 n., 9–10; cf. *O.C.*, III, pp. 23, 88, 190, 269, 880.

²⁷ III, 15, 8. The passage continues with the words, "However this may be. . ."

²⁸ *Lettres écrites de la montagne*, VI, III (p. 812).

favorable to legitimate government are absent.²⁹ Rousseau clearly wishes the management of public affairs entrusted to men who are law-abiding in his strict sense of the term, but where this is not feasible, where only illegitimate rule is possible, he prefers illegitimate rulers who are "law"-abiding in the usual sense of the term, if not in his own sense, to rulers who are utterly lawless and arbitrary. He thinks that revolutions against "law"-abiding but illegitimate rulers tend, on the whole, to replace such rulers with others who, in addition to being illegitimate, are "law"-less and despotic, a change which he does not regard as an improvement. Rousseau, given his teaching, cannot deny subjects the right to remove their rulers when the terms of the social contract had not been observed, but he obviously did not think that it is always wise for men to exercise this right, and he did not wish to be guilty of inciting men to acts which he regarded as unwise. This accounts for his relative tolerance of certain political practices which he saw no way to avoid. At the same time, he is careful to warn societies fortunate enough to be law-abiding, in the strict sense of the term, against the dangers stemming from those whom they could not avoid employing to carry out their decisions. Accordingly, his analysis of government is as much concerned with how to protect the sovereign against the usurpation of its authority by those who govern as it is with determining what kinds of government are compatible with the sovereignty of the people, to use these words in his sense. He makes his preference for small and free republics clear in the *Social Contract* but does not wish to encourage men whose societies cannot be of this character to overthrow the societies in which they *do* live merely because they are not small and free.

In the opening paragraph of the *Social Contract*, Rousseau announces his desire to see whether a way to regulate the management of public affairs that is both legitimate and reliable can be found. One realizes, in the course of studying Book I, that the words "legitimate" and "reliable" foreshadow the impasse created by the opposition between the requirements of legitimacy and the requirements of reliability in the establishment of political authority, an impasse to which the social contract offers the only solution. The same pattern—an analysis leading to an impasse the only solution to which proves to greatly narrow the range of what he is prepared to regard as politically acceptable—reappears in Books II and III. In Book II, the impasse is created by the conflict between the thesis that a sovereign people is the

²⁹ Rousseau was accused of contradicting himself in the *Discourse on Inequality* on the grounds that the denunciation of political life in the body of the *Discourse* was incompatible with the praise of Geneva contained in its Epistle Dedicatory. Rousseau replied that in the Epistle Dedicatory he had congratulated his fatherland for having one of the best governments that can exist, while in the *Discourse* he found that there could be very few good governments; he denied that this was an inconsistency requiring an explanation (III, pp. 1385, 235, 186).

only legitimate source of the laws under which it lives and the thesis that no people possesses the ability to discern the most important of these laws until after it has lived under them. By the most important laws Rousseau has in mind, to begin with, what we would today call the constitution of a society. As he presents this conflict, it is an important manifestation of the potential opposition between interest and justice, to the prevention of which he also refers in the opening paragraph of the *Social Contract*.

Book III shows why the institution of a body distinct from the sovereign to carry out the sovereign's decisions is unavoidable, and why it would be destructive of sovereignty to attempt to carry out its own decisions. The same book shows why this distinct body sooner or later usurps sovereign authority. To protect the sovereign against this danger for as long as possible, Rousseau requires measures which only a small society can hope to put into practice, a fact which he frankly acknowledges here.

The analytic pattern of the first three books does not, as far as I can see, reappear in Book IV, but something akin to it emerges when one considers the relation of the book as a whole to the conclusion of the preceding book. At the end of Book III, Rousseau proposes periodic assemblies of a certain kind as a remedy to the threat to the sovereign posed by the government. During these assemblies the sovereign would be asked to pronounce on whether the fundamental political arrangements of the society shall continue to remain in effect. This suggestion has the effect of making every constitution (in our sense of the term) or the fundamental laws of every society, as well as every government, provisional. It is not surprising, then, to find that he devotes the next book to suggestions for reinforcing the constitution of the state.

Further, each of the first three books ends with a chapter which sharply exposes the limitations of the chief subject under discussion in that book. The last chapter in Book I discloses an important limitation upon the justice that is brought into being by the enactment of the social contract: a people's claim to its territory cannot be established by the social contract, and may well be disputed by other peoples with perfect justice, unless conditions are met which one cannot reasonably expect any people to meet.³⁰ The second book, which is devoted to

³⁰ Apart from all other conditions, a people would have to be not the present, but the first, occupant of the territory it inhabits, and even this could not oblige another people to respect its claim if the self-preservation of that other people were at stake. Elsewhere in the chapter, Rousseau speaks openly of the fact that a people's possession of its territory results from "usurpation" or "seizure." The note with which the chapter ends brings out a further limitation of the social contract: the contract will fail to be effective unless the parties to it are politically equal, which Rousseau thought they could not be—and which perhaps they could not be in the kind of small city he had in mind—if there were great inequalities in wealth between them.

law as the central act of the general will, as well as to what the legislator must do to bring into being a society in which law *is* the act of the general will, ends by describing as "most important of all" a kind of law which never comes up for discussion in the assembly of the people and which is never submitted to the people for its ratification, but "which the great legislator occupies himself with in secret." Rousseau is speaking of "manners and morals, of customs, and above all, of opinion." He is referring to the spirit and character of a people and to the seemingly indifferent regulations from which they arise. The most important kind of law is thus not even a law in the Rousseauian sense of the term.³¹ The chapter ending the book devoted to government makes clear that, strictly speaking, every government is provisional.³² Although, as noted above, the fourth book does not seem to exhibit this pattern, its last substantive chapter brings out clearly just how much the right of men to manage their own affairs, which is presupposed in Rousseau's account of political authority, depends, for its successful exercise, upon the convictions of men regarding the divine management of human affairs, or upon religion.³³

³¹ II, 12, 6 (p. 394).

³² III, 18, 7-9 (pp. 435-36).

³³ The well-known clash (upon which Rousseau lays stress) between the religion of the Savoyard Vicar and Rousseau's civil religion has a curious counterpart. The Savoyard Vicar's declaration of Jesus' superiority to Socrates parallels Rousseau's declaration of Cato's superiority to Socrates (*O.C.*, IV, p. 626; III, p. 255). In both declarations, the humanity of Socrates is contrasted to the divinity of those declared superior to him: "The virtue of Socrates is that of the wisest of men: but between Caesar and Pompey, Cato appears a god among mortals." In the corresponding passage about Jesus, the Savoyard Vicar says that "if the life and death of Socrates are those of a wise man [*d'une sage*], the life and death of Jesus are those of a God." A third individual whose divinity Rousseau affirms is himself *qua* man, i.e., *qua* Solitary Walker. His ecstatic sentiment of existence, while it lasts, is said to make him as self-sufficient as God (*O.C.*, I, p. 1047). Are the peaks described in the fifth Revery (the ecstasy is an experience of one's own existence) and in the seventh Revery (the ecstasy is an experience of unity with nature as a whole) different, or are they complementary descriptions of the same experience? If the latter, then the Solitary Walker's sentiment of existence has an expansive component lacking in that of the savage. The source of that expansive component is said, at the beginning of Book III of *Émile*, to be the excess of faculties over needs. If a civilized man could keep his nature intact, at least in essence, if he could benefit from the enlargement of his powers made possible by the intellectual progress of the human race without being enslaved by the by-products of that progress, he would be "a man of nature enlightened by reason" (*O.C.*, I, pp. 808ff), and his soul would be as expansive as is humanly possible. (*Émile*, by contrast, is "natural man living in society.") Cf. Pierre Burgelin, *La philosophie de l'existence de J.-J. Rousseau* (Paris, 1952), pp. 149-90; Georges Poulet, "Expansion et concentration chez Rousseau," *Les Temps Modernes*, February-June 1961, pp. 949ff. For the "force of an expansive soul" as the ultimate root of compassion or pity, see *Émile*, IV (*O.C.*, IV, p. 523n.). Lack of intelligence, though frequently undeserved and always a misfortune, nevertheless often inspires laughter rather than pity. That is why some of those exhibiting this lack not only excellent subjects of comedy—e.g., Euthydemus—but even may be said to help make comedy possible. For an explanation of why Euthydemus is funny rather than the Tragic Hero he appears to wish he were, see Leo Strauss, "On the *Euthydemus*," *Interpretation*, 1 (1970): 1-20.

In Book II of the *Social Contract* Rousseau expounds his doctrine of law by presenting it as a consequence of the principles established in Book I. At the very beginning of this exposition (Chapter 2), the theme of interest and justice makes its appearance. The conflict of private interests makes the establishment of political society necessary. The agreement of private interests makes a political order founded on the common interest possible. If sovereignty is declared inalienable, this is, in the final analysis, because, as we learn in this chapter, "the private will tends, by its nature, to preferences, and the general will to equality."

In the next chapter the theme of interest-justice makes its appearance in a curious form, in the tension between the true principles of political justice and the private advantage of those who write about those principles: "If these writers [Grotius and Barbeyrac] had adopted true principles, all difficulties would have been removed and they would have always been consistent; but they would have told the melancholy truth and only paid court to the people. Now truth does not lead to fortune, and the people do not give ambassadorships, chairs or pensions."³⁴

Rousseau turns next to the question of whether the general will can err. This question is all-important because the general will arises from "the total alienation of each individual with all his rights." In attempting to answer this question in Chapter 3, he discusses how the private interest of all individuals can be transformed into the common interest and under what conditions such a transformation can be depended on to occur. Without entering into the difficult questions of what Rousseau means when he speaks of eliminating from the sum of private wills those which have cancelled each other out, or of how the difference between the general will and the will of all is to be understood, one can summarize his conditions for relying on the transformation of the private will into the general will as follows: 1) the people engaging in deliberation of the issue must be "sufficiently informed"; 2) the result of the deliberation must not be distorted by factional intrigue; factions should be completely absent or, if this should prove impossible, there should be so many of them that none would be able to distort the assembly's decisions.

However, even if the popular assembly can be relied on to reach sound decisions under these conditions, the fact that the conditions exist must be accounted for. It is noteworthy that Rousseau, in this chapter, ascribes the absence of factional influence on public deliberation to the artful contrivances of unusual individuals such as Lycurgus, Solon, Numa, and Servius, rather than to any popular assembly. (Rousseau does not explain here what it is that moves these individuals, as well as those without whose advice the public would not be "suffici-

³⁴ II, 2, 5 (pp. 370-71).

ently informed," to transcend their private interest at a time when private interest has not been transformed into public interest: he will discuss this question in the sequel.)

In Chapter 4 Rousseau pursues the question of what guarantees the individual has that there will be no abuse of the sovereign authority at whose mercy he has placed himself. He offers the security afforded by his requirement that every act of the general will must be general in its effect, and by the fact that each member of the assembly will be thinking of that effect before deciding how to cast his vote. This "proves that the equality of right and the notion of justice that it produces derives from each man's preference for himself and consequently from the nature of man."³⁵

In the next chapter, Rousseau examines how it can be in anyone's interest to put his life at the mercy of an authority which has the right to deprive him of it when it thinks proper. Finally, in Chapter 6, he derives from the preceding discussion a new doctrine of law from which it follows that every act of the general will must be a law and that every law must be an act of the general will. When he turns, in this chapter, from law as law to the definite laws which a people must enact if they are to establish a working political order the problems left unsolved in the discussion of whether the general will can err suddenly reappear.

Laws, properly speaking, are only the conditions of civil association. The People subject to laws should be their author; only those associating should regulate the conditions of society: but how will they regulate them? Will it be by common agreement, by a sudden inspiration? Does the body politic have an organ to declare its will? Who will give it the foresight necessary to formulate and publish its acts in advance, and how will it announce them in the hour of need? How will a blind multitude which often does not know what it wants [*veut*], because it rarely knows what is good for it, execute for itself so great and difficult an enterprise as a system of legislation? Of itself the people always wants [*veut*] the good, but of itself it does not always see it. The general will is always right, but the judgement that guides it is not always enlightened. It [the people] must be made to see objects as they are, sometimes as they should appear to it, [it must be] shown the good road that it seeks, protected from the seduction of private wills, times and places must be brought close to its eyes and the attractions of present and sensible advantages balanced by the danger of distant and hidden evils. Private individuals see the good that they reject: the public wants [*veut*] the good that it does not see. All stand equally in need of guidance: the former must be obliged to bring their wills into conformity with their reason; the latter must be taught to know what it wants [*veut*]. Then from public enlightenment the union of understanding and will in the social body will result. . . . This is what makes a Legislator necessary.³⁶

If all the benefits men sought from political society were such that they could not be enjoyed unless they were shared, there would be no

³⁵ II, 4, 5 (p. 373).

³⁶ II, 6, 10 (p. 380).

need for Rousseau to raise the question of how to secure the cooperation of the more able members of society, as he does in the passage quoted. Yet, although some of the benefits that political society can confer, such as political freedom, are manifestly incapable of being enjoyed unless they are shared, not all its benefits are of this kind. The pleasure of commanding, for example, which Rousseau mentioned in Chapter 2 as the compensation which those who rule receive from their exertions, is lessened by being shared, and the more it is shared, the more it is lessened.³⁷ Political freedom, according to Rousseau, requires the greatest possible denial of that pleasure because it requires ruling to be shared to the greatest possible degree. The question which he now raises is why the abler members of society, whose advice is needed for the deliberations of the assembly, would find it in their interest to favor a political order which treats them as equal to those less able than themselves.³⁸ Will they not be more likely to act for private advantage as Grotius and Barbeyrac allegedly did? It is important to bear in mind that Rousseau is not asking how a free society can secure the allegiance of its abler members once it is in being. Rather, he asks what will induce men of superior ability, without whose guidance such a society cannot come into being, to help bring it into being in the first place.³⁹ When society is first forming, "private individuals see the [public] good which they reject; the public wants the [public] good which it does not see."

Rousseau has quietly led the reader back to the question of how political societies were first formed, with the difference that what seemed so easy in Book I now appears to be extraordinarily difficult. To surmount the difficulty, he turns to an individual of extraordinary ability, the legislator. As one might expect from what has gone before, he first asks why the legislator should have any interest in serving the public good.⁴⁰

His answer is as follows: what prompts the legislator to serve the public good is the fact that his ambition is too vast to be satisfied with honors paid only by his own people and only during his lifetime. He desires a glory that will reach beyond his people and his time. The legislator is so far above the desire for mere political ascendancy that for the sake of the glory he seeks he will abdicate a throne, as Rousseau claims Lycurgus did, or will exile himself and starve himself to death, as Plutarch says Lycurgus did after he made the Spartans promise that they would make no changes in his laws until his return. The glory sought by the legislator will come from the recognition of the wisdom embodied in his work by those over whom he has no ascendancy except the ascendancy implied in that recognition. It is because his end tran-

³⁷ I, 2, 3 (p. 352).

³⁸ See Strauss, *Natural Right and History*, pp. 286-87.

³⁹ II, 7, 2 (p. 381).

⁴⁰ II, 7, 1 and n. (p. 381).

scends the ends pursued in the political arena that he is capable of setting its affairs in order. The legislator somehow foreshadows the political philosopher and his possible effect on political life.⁴¹ The legislator's interest and the common interest are not the same, according to Rousseau, but the one cannot be attained without the other.

This discussion raises the question of how Rousseau understands the relation between wisdom and consent in political life and how his understanding differs from that of the classics. The question is a large one, and there is space here for only a few comments. Rousseau tries to reconcile his belief that the people alone can enact laws binding on its members with his recognition of the need for wise guidance, particularly when the political order is being founded: he requires the legislator to secure the free consent of the people to his proposals, and makes this consent itself that which transforms these proposals into law.⁴² Obviously, then, much depends on the people for whom the legislator is devising a code, and, it is not surprising to find the chapter on the legislator followed by three chapters on the people.

In these chapters Rousseau will discuss what makes a people suited to accept sound laws. First, however, he disposes of one possibility: he denies that any people at the dawn of political society can possess enough political understanding to make proper use of its right of consent: "In order for a nascent people to be able to appreciate the sound maxims of politics and to follow the fundamental rules of reason of State, it would be necessary for the effect to be capable of becoming the cause, [it would be necessary] for the social spirit which must be the work of the founding to preside over the founding itself, and [it would be necessary] for men to be prior to laws what they must become as a result of them."⁴³

The legislator at the dawn of society must first create a people before that people can do what Rousseau requires of it, and this creation cannot take place in compliance with his principles of political right. The legislators whom he calls "fathers of nations" sought to win acceptance for the codes they had devised by making those for whom they were intended believe that the laws were divinely revealed and represented the will of the gods. The amazing durability of the laws of Moses and Mohammed, Rousseau declares, "still bear[s] witness to the great men who dictated them."⁴⁴

Rousseau's analysis of the means that early legislators must employ to win acceptance for their suggestions amounts to a withdrawal of his

⁴¹ In the chapter on the legislator, Plato is referred to as a political philosopher. In the following chapter, he is referred to as a legislator (II, 8, I [p. 385]).

⁴² II, 7, 7 (p. 383).

⁴³ II, 7, 9 (p. 384).

⁴⁴ II, 7, II (p. 384). See Strauss, *Natural Right and History*, pp. 287-89; these pages will be misunderstood if one overlooks the fact that in them Strauss is speaking of the *early* legislator.

assumption that all regimes had legitimate beginnings, for in the beginning no such regime could have been born in conformity with Rousseau's principles: "At first men had no other kings than the gods, nor any government other than the theocratic." Political societies in which men as men rule, and hence legitimate political societies in particular, belong to a later period.⁴⁵ When Rousseau speaks of legislators other than fathers of nations, he assumes as a matter of course that they will be drawing up codes for a people that is already in existence.

Rousseau now turns to the description of a people suited to receive a sound code of laws. He advises the legislator to seek a people free of the defects of an ancient people and of those peculiar to a people in its childhood. A people in its infancy still lacks the social spirit without which the legislator cannot establish a good political society.⁴⁶ An old people, on the other hand, is too set in its ways to be capable of accepting or desiring a new code of laws.⁴⁷ Rousseau's prescription is curious: the legislator must find a people that "combines the cohesive-ness [*consistance*] of an old people with the docility of a new one."⁴⁸

How this combination can be found is by no means clear, however, except in one extraordinary case, mentioned below. The difficulty is not lessened by the fact that while Rousseau mentions examples of peoples suffering from the defects to be avoided,⁴⁹ he gives no example of a people that fulfills his requirements apart, again, from the exception noted below, and from Corsica, which will also prove to be a member of the extraordinary class.⁵⁰ The other members of that class form a rather impressive list. They are Sparta, Rome, Holland and Switzerland.

The extraordinary class makes its appearance while Rousseau is discussing the reasons why a legislator should avoid attempting to frame laws for an old people. In the course of this discussion, he draws the reader's attention to the fact that there is a strange exception to this rule, a people which is exceptional because it has the unusual attribute of being at one and the same time as docile as a people in its childhood, as vigorous as a people in its youth, and as cohesive as a people in its old age:

This does not mean that, just as certain diseases throw men's heads into confusion and destroy the memory of the past, violent epochs are not sometimes found in the lifetime of States in which revolutions do to peoples what certain crises do to individuals, in which horror of the past replaces loss of memory, and in which the State, set aflame by civil wars, is reborn so to speak from its ashes and recovers the vigor of youth in emerging from the arms of death. Such was

⁴⁵ IV, 8, 1 (p. 460).

⁴⁶ II, 8, 5 (p. 386).

⁴⁷ II, 8, 1-2 (pp. 384-85).

⁴⁸ II, 10, 5 (p. 391).

⁴⁹ II, 8, 1, 5 (pp. 385-86).

⁵⁰ II, 10, 6 (p. 391).

Sparta in the time of Lycurgus, such was Rome after the Tarquins, and such among us were Holland and Switzerland after the expulsion of the tyrants.⁵¹

Rousseau declares the kind of revolutionary crisis described in the quoted passage to be extremely infrequent. It can only occur once in the lifetime of a people, and only occur among a people which has not yet grown completely accustomed to a fully developed code of political law. Even under these conditions, in order for anything good to come of the crisis, it must be followed by a period of calm during which men enjoy "abundance and peace." Should that calm give way to a storm provoked by war, famine, or sedition, the opportunity for establishing a sound political life vanishes. In a paragraph that, curiously enough, begins with the very words of the paragraph quoted just before, and that ends with almost the same word, Rousseau declares:

This does not mean that many governments have not been established during these storms; but then it is these governments which destroy the State. Usurpers always bring about or choose these times of trouble to get destructive laws passed, under the cover of public fear, which the people would never adopt when calm [*de sangfroid*]. The choice of the moment for legislation is one of the surest marks by which one can distinguish the work of the Legislator from that of the Tyrant.⁵²

Given the difficulty of meeting all of these conditions, as well as others mentioned by Rousseau, a rejuvenating revolutionary crisis is obviously not a model for imitation. However, he did believe that every political order which deeply interested him and which he admired has passed through such a crisis: the importance of Rome and of Sparta, as described by Plutarch, is generally recognized, and Switzerland and Holland were for him modern examples of the successful resistance to tyranny on the part of simple, hard-working, and frugal men. (Switzerland and Holland also showed how much can be accomplished in constructing confederations of free states.⁵³) As for Corsica, at the end of his discussion of the people, Rousseau mentions the Corsicans as the only people in Europe fit for legislation. Corsica's rebellion against Genoese rule served as the chief contemporary example in the Enlightenment of a successful struggle for political freedom prior to the American Revolution.⁵⁴ Even the Poland represented by the Confederation of Bar, the Poland to which Rousseau addressed his *Considerations*, was said by him to have passed through the kind of crisis described in the passage quoted above.⁵⁵ Thus the supreme importance for Rousseau of the exceptional class of peoples we have been discussing cannot be seriously doubted.

⁵¹ II, 8, 3 (p. 385).

⁵² II, 10, 4 (p. 390).

⁵³ III, 16, 6 (p. 427).

⁵⁴ Sven Stelling Michaud, Introduction, *Projet de constitution pour la Corse*, O.C., III, p. cxcix.

⁵⁵ *Considérations sur le gouvernement de Pologne* (O.C., III, pp. 961, 969-70).

We may now understand somewhat more clearly why Rousseau thought that free political societies would always remain an exception on earth. However, what did Rousseau think the prospects for freedom would be in those places, such as Europe, where it could flourish and where it had flourished once? His conclusions would surely be influenced by the fact that he saw a general age of revolutions approaching in Europe and by the fact that he expected his teaching to receive recognition from posterity.⁵⁶ Beyond such general expectations, however, there is no reason to believe that Rousseau thought he could discern the political future of mankind any more than we think we can, nor could he rely on the faith in Progress to show him the things that he could not see. Now that the belief in Progress is no longer axiomatic in the West, and perhaps not even in the East, it is at least an open question whether Rousseau's understanding of freedom and of revolution is not more subtle, powerful and adequate than is that of some of his friendly, though condescending, progressivist critics.

Rousseau's belief in the democratic character of all legitimate government has enjoyed great success. Thus we find the most diverse regimes describing themselves as democracies on the one hand and being criticized for failing to be "genuinely democratic" on the other. What distinguishes Rousseau's views of "genuine" democracy from those one often encounters today is that his beliefs regarding such a democracy were not vague. He presented a clear, incisive, and sober account of what it would mean for men to live in a "genuine democracy" and of the conditions under which one would be likely to find such a regime established. If Rousseau's results appear too narrow to accommodate the possibilities of relatively decent constitutional rule, one may be compelled to ask whether decent government may not be better accounted for by the political philosophy of the premodern Western tradition than by the modern principles which Rousseau inherited and radicalized and which he articulated with unsurpassed clarity and force.⁵⁷

⁵⁶ See Strauss, *Natural Right and History*, pp. 259-60.

⁵⁷ See Leo Strauss, "On the Intention of Rousseau," *Social Research*, 14 (1947): 485-87.