

# POLITICAL SCIENCE QUARTERLY

## THE POLITICAL THEORIES OF JEAN JACQUES ROUSSEAU

### 1. *Source and Method of his Philosophy*

THE contributions of Jean Jacques Rousseau to political theory can be rightly understood only through a pretty clear idea of the man himself. He was no statesman, no scholar, no philosopher; and he gloried in the fact.<sup>1</sup> Though he claimed to be a man, he never developed morally beyond the stature of a spoiled child. He was, however, a child of genius. His mind was inordinately sensitive to certain types of impression, and his faculty for literary expression was remarkable. Upon any subject that engaged his errant and erratic fancy, he could concentrate a fervid and captivating eloquence, a wealth of seductive speculation and a plausible imitation of logical force. Certain problems of social and political life early attracted Rousseau's attention. Essays upon these topics revealed the vigor and grace of his style, and struck the dominant chord of public feeling. In 1750 he came suddenly to fame by an essay maintaining that the progress of the sciences and arts had tended to degrade the morals of men.<sup>2</sup> Four years later he further developed this general thesis in the famous *Discourse*

<sup>1</sup> "Lecteurs, souvenez-vous toujours que celui qui vous parle n'est ni un savant, ni un philosophe; mais un homme simple, ami de la vérité, sans parti, sans système, un solitaire, qui vivant peu avec les hommes a moins d'occasions de s'imboire de leurs préjugés . . ." *Émile*, liv. ii.

<sup>2</sup> This essay took the prize in a competition set by the Academy of Dijon on the subject: "Si les progrès des sciences et des arts a contribué à corrompre ou à épurer les mœurs." Dreyfus-Brissac, *Du Contrat social*, p. iv.

*on the Origin and Basis of Inequality among Men*. From this time political and social themes formed the staple of his thinking till the culmination of his work in the *Social Contract* and the *Emile*, published in 1762.

It is rare in the history of political philosophy that the source of influential theory can be so precisely traced to individual personality as in the case of Rousseau. He was of a sensitive, emotional, self-conscious temperament, impatient of control, even of self-control, and resentful toward every institution or convention that suggested restriction or regularity. Of agreeable social relations with rational and cultivated men he was wholly incapable. Efforts of many such men, admirers of his genius and his theories, to establish and maintain cordial relations with Rousseau ended uniformly in failure, with a great access of bitterness and rancor on his part toward things in general. Only one human being seems to have possessed the power to induce more than a feeble flicker of the rudimentary social instinct in Rousseau, and this was the coarse and unlovely woman with whom for a third of a century he lived in squalid and irregular domestic relations.<sup>1</sup> Practically destitute of the qualities that make human society possible, his instinct was to disparage the conspicuous features of social life. His own incapacity for orderly and useful commerce with his kind he generalized into a characteristic of the race; and the protest of his vain and sensitive spirit against the restraints of law and custom became in his writings the universal truth of human freedom. He was himself the free and noble savage whom he pictured so pleasingly in his works. The *Confessions*, in which he presents himself with deliberate frankness, contain scarcely more of his intellectual autobiography than can be found in his *Discourses* and other political writings.

Such a temperament as Rousseau's could in no age and no place have found a more stimulating environment than the middle eighteenth century in France. The smouldering fire of protest that determined his restless and unhappy private life became a devouring flame when he attained publicity and

<sup>1</sup> Morley, Rousseau, vol. i, chap. iv.

turned his attention to the religion, morals, manners and politics of his day. Society on the continent, and more than elsewhere, perhaps, in France, abounded in conditions that were in the highest degree odious to thoughtful men. Feudal class distinctions, mediæval theology and divine-right monarchy were salient facts of the situation. The nobility still retained their privileges, though the justification for these had long disappeared with the loss of real political power; the clergy also retained their privileges, though their usefulness was waning through dissoluteness and dissensions within and skepticism without their circle. Louis XV, as an embodiment of God-given absolute power, was contributing all that his sodden and lustful nature could to destroy the sense of duty and respect on which the whole fabric of the monarchic system rested.

The reaction of rational philosophy against obscurantism and despotism was well under way when Rousseau appeared on the scene. Voltaire and Montesquieu had, in their widely different methods, roused the spirit of revolt. Diderot was just planning that *Encyclopædia* which in the scope and disconnectedness of its contents so well typified the genius of its projector, and in its reputation and fate so well expressed the antagonism between the established political system and the aspirations of current philosophy. Rousseau wrote his earliest political essays with the sympathetic co-operation of Diderot. Before the *Social Contract* appeared, however, the two men were wide asunder personally, and Rousseau had taken a course in his political speculation that put him far outside the Encyclopædist group. It was not in his nature to react mildly against a situation that galled him—as most facts of actual life did. He knew not how to stop short of the uttermost limit of protest. Liberal philosophers in Germany and France itself had for half a century waged vigorous war upon the oppressive and deadening principles and practices of the old régime.<sup>1</sup> The goal of their demands was, however, merely a tolerant and enlightened despotism. Even those who, like Montesquieu, conceived that salvation was to be found in the English system, looked for only

<sup>1</sup> Dunning, *Political Theories from Luther to Montesquieu*, pp. 373, 392.

some beneficent re-arrangement of the organs of government. Rousseau, when he set about projecting political reform, never paused till he had provided for the total remodeling of government, state and society itself.

But the radical character of Rousseau's social and political theories was not due to any novelty in the ideas out of which they were made. He lighted up and magnified, but he did not create. Old and well-known concepts were played upon by his brilliant fancy till they were transfigured and made to appeal to men with an uncanny attractiveness. After the great success of his *Discourse on the Progress of the Sciences and Arts* he resolved to write a systematic work covering the whole field of political science. The *Social Contract* is a fragment of this work—the only part of it that ever took shape. In preparing for this enterprise, Rousseau familiarized himself with some of the chief writers on political philosophy. Pufendorf, Locke and Montesquieu found especial favor in his eyes, and their ideas were freely appropriated with and without acknowledgment. Grotius and Hobbes excited his wrath; protesting against the tendency of critics to praise Grotius while execrating Hobbes, Rousseau included both in the same condemnation. "The truth is," he said, "that their principles are exactly alike, distinguishable only in expression. They differ also in method, Hobbes supports himself on sophisms, Grotius on poets; in all else they are on common ground."<sup>1</sup>

Besides the influence of his rather superficial study of earlier philosophers, Rousseau's thought showed plainly the influence of his birthplace. It was with real pride that he described himself on the title-page of the *Social Contract* as a "citizen of Geneva." The Swiss city-state furnished him with many suggestions of a system in marked contrast to that which prevailed in France, and clearly strengthened his predilection for popular government. Even more important was the stimulus it gave to that unbounded admiration with which he, in common with all his contemporaries, regarded the Greek and Roman republics. He had no deep or scholarly acquaintance with the history of

<sup>1</sup> *Émile*, liv. v.

the ancient city-states, but he was full of the literary tradition that clothed their institutions with the perfection of wisdom and their heroes with the perfection of virtue. Not Machiavelli nor Montesquieu was more satisfied than he to clinch a demonstration with a reference to these overworked commonwealths. Rousseau's nimble logic could use them to prove a rule either by their conformity to it or by their deviation from it. Thus, he maintained that every state is bound to die; for "if Sparta and Rome have perished, what state can hope to endure forever?"<sup>1</sup> On the other hand, his contention that a system of public education was an essential feature of every good state was confronted by the fact that Rome knew nothing of it. That, he explained, signified nothing; since "Rome was for five centuries a continuous miracle, such as the world must never hope to see again."<sup>2</sup>

It was at times an amiable delusion of Rousseau's that his philosophy was fundamentally a series of inductions from the observation of ordinarily neglected facts.<sup>3</sup> In some measure this was true of his ideas about education, as expressed in the *Emile*; it was wholly untrue of his theoretical politics, in the *Discourse on Inequality* and the *Social Contract*. After his reputation was made, he was applied to for suggestions on the very concrete political situation in two troubled lands, Corsica and Poland. His responses embodied many shrewd and striking comments on the actual facts involved.<sup>4</sup> But more important here were the persistence and adroitness with which he applied, at whatever effort of twisting and straining, the dogmas of his earlier speculation; and these were no inductions from his own observation of facts or reading of history, but merely the product of judicious selection among the accumulated doctrines and traditions of *a priori* political science.

<sup>1</sup> *Contrat social*, vol. iii, xi.

<sup>2</sup> "Économie Politique," in *Œuvres* (1782), vol. i, p. 391.

<sup>3</sup> "Mes raisonnements sont moins fondés sur les principes que sur des faits." *Émile*, liv. ii " . . . je donne le moins qu'il est possible au raisonnement, et ne me fie qu'à l'observation." *Ibid.*, liv. iv.

<sup>4</sup> For his Corsican thoughts see Morley, Rousseau, vol. ii, pp. 99 *et seq.* and references. On Poland see his "Considérations sur le gouvernement de Pologne," in *Œuvres* (1782), vol. i, p. 417.

II. *Nature and Society*

Rousseau approached political theory by the well-worn pathway of the "state of nature." As to what precisely this term signified, he was not clear and consistent. He used it in practically all the various senses that had been attached to it in its long and notable career. Throughout the fluctuations of his usage, one idea alone appeared unmistakable, namely, that the natural state of man was vastly preferable to the social or civil state, and must furnish the norm by which to test and correct it.

In the *Discourse on Inequality* the natural man appears first as the solitary savage, living the happy, care-free life of the brute, without fixed abode, without articulate speech, with no needs or desires that cannot be satisfied through the merest instinct. Rousseau's handling of this conception compares favorably with that of the best among the long line of literary artists who have used it. More apparent than in most of them, however, are his admiration and sympathy for the savage. The steps by which men emerge from their primitive state are depicted with fascinating art, but the author's regret at their success pervades the picture. In the natural man are to be found the elements of perfect happiness. He is independent, contented, self-sufficing. For others of his own species he has no need, and he regards them with the same indifference that he feels toward other animals. Save for the casual and momentary union that perpetuates the race, nothing draws him to commerce with his kind. He is not, however, the timid, cowering creature that Montesquieu described, fearful of every force around him. Nor on the other hand is he the energetic, aggressive monster of Hobbes, ceaselessly driven by his passions to war upon his fellows. Only through society does man become unbalanced by either fear or ambition; the "simple, regular (*uniforme*) and solitary" life of nature involves none of the evils of either.

The natural state, as thus conceived, is a state of substantial equality. No baneful distinction is to be seen among the individuals who pursue in isolation the placid routine of satisfying their physical needs. But the deadly seeds of a different order

are ready to germinate. With no necessary ground for it in his description of the savage state, Rousseau assumes that the human race becomes increasingly numerous; divergencies of soil, climate and season then cause differences in manner of life among men. On the shores of the seas and the rivers they catch fish and invent the hook and line. In the forests they become hunters and invent the bow and arrow. Fire is discovered by some accident, and the fortunate discoverers develop its utilities. Stone and then metal tools are made. Economic progress moves apace, and rude huts instead of casual caves become places of abode. With the appearance of fixed homes, family and property are at hand, and the knell of human equality is sounded. Social organization has begun. Inter-course of individuals and families becomes common and through it the ideas of competition and preference are developed. Evils follow in their train, but this primitive society is not, to Rousseau, an intolerable state. Looked upon as a mean between the indolence of the savage state and the too intense activity of the later phase, it appears to him the happiest period in the life of humanity—"the least subject to revolutions, the best for man."

It is quite characteristic of Rousseau that while he is describing the savage state he is disposed to consider it as the happiest and best, and when he has moved on to the tribal and early social state, this in turn appeals to him as preferable. We shall see that in time he has kind words for even fully developed society, which in the *Discourse* is the summation of evil.

Man's emergence from the primitive social condition must have been due, Rousseau says, to some fatal chance. His exposition of the process reveals a number of catastrophies that contributed to the sad result. The arts of agriculture and metallurgy were discovered; and in the application of them men had need of one another's aid. Coöperation revealed and emphasized the diversity of men's talents and prepared thus the inevitable result. The stronger man did the greater amount of work; the craftier got more of the product. Thus appeared the difference of rich and poor—the prolific source of all the other forms of inequality. Property was doing its disastrous work. The climax came with the diabolical device of property in land.

"The first man who, after enclosing a piece of ground, be-  
thought himself to say 'this is mine,' and found people simple  
enough to believe him, was the real founder of civil society."<sup>1</sup>

War, murder, wretchedness and horror without end followed  
this fatal proceeding. Rich and poor were ranged against each  
other in unrelenting hostility. Evils that had been unknown in  
the savage state, and but slightly manifested in primitive soci-  
ety, became now universal. To escape them, or at least to  
enable men to endure them, civil society was instituted. This  
was no recurrence to the natural order. It was, on the con-  
trary, an enormous stride away from nature, and the introduc-  
tion of still another mode of inequality among men. Its inevit-  
able consequence was the final stage of inequality, the condition  
of master and slave.

Such was, in general outline, Rousseau's thought in the *Dis-  
course on Inequality*. With proper allowance for the incoher-  
ence and inconsistencies of the work, it may be said that his  
state of nature is on the whole a historical rather than a  
psychological concept. Yet Rousseau, like Locke, who is  
strongly suggested by many points in the *Discourse*, refrains  
from insisting on the objective reality of the conditions he de-  
scribes. The state he is considering is one, he says, "which no  
longer exists, which perhaps has not existed and which probably  
never will exist, but which must be accurately understood in  
order to get just notions as to contemporary society."<sup>2</sup> This  
view of his task would indicate that he, like Hobbes and Locke,  
was concerned merely with formulating the abstract qualities of  
human nature. But Rousseau's poetic faculty was too active  
and its pictures too vivid to leave room for the impression that  
his natural man was an abstraction or his state of nature a mere  
fancy. To one who does not read the warning of the preface,  
the *Discourse* can be nothing but an eloquent and moving nar-  
rative of the actual descent of man from natural peace and  
blessedness to social servitude and woe.

Psychological analysis is not wholly wanting in the *Discourse*.  
Rousseau employs it, *suo more*, with little pretence to consist-

<sup>1</sup> Discours sur l'inégalité, pt. ii, beginning.

<sup>2</sup> *Ibid.*, preface.



ency, but sometimes with rather striking effect. He takes pains to repudiate at the outset the idea that man's life in the state of nature is regulated by reason. The truly natural man, *i. e.*, the savage, acts on two principles that are anterior to reason, namely, the feeling of interest in his own welfare and preservation, and the feeling of repugnance toward the sight of death or suffering in any animate creature, especially a human being. These emotions rather than reason, determine the conduct of men throughout the various phases of the natural state and give way to reason only when degeneration has gone so far that civil society must be constituted. All the rules of natural right and natural law flow directly and exclusively from the operation of these primary sentiments—self-interest and pity.<sup>1</sup>

This curious theory, whatever other sources it had, was an obvious generalization of certain conspicuous traits of Rousseau's own character. He was extremely selfish and extremely sensitive to suffering in others—qualities that are notoriously quite compatible with each other. One immediate application of his theory was in refuting the dogma of Hobbes that the state of nature was a state of war. The innate repugnance to suffering in his kind would necessarily operate to limit the brutality of man to man.

It is in the *Emile* that Rousseau most elaborately develops his conception of the state of nature and the natural man as a philosophic ideal rather than a historical reality. The general theme of the work is the rearing and training of a child, and the unceasing exhortation of the author is to abandon methods that have their origin or justification in the real or fancied needs of social life. "Back to nature" is his cry. This does not mean that society must be destroyed and the savage state resumed. It means merely that nature must be the rule for men in society. The incoherence of Rousseau's definitions and explanations and rhapsodies about this matter is in his most characteristic style; and seeking to comprehend clearly his conception of "nature" is like trying to visualize the fauna of the Apocalypse.<sup>2</sup>

<sup>1</sup> Discours, preface.

<sup>2</sup> *E. g.*, Rev. iv, 6-8; ix, 7-10.

His purpose is in a general way intelligible; it is to strip the human mind of all the attributes that are in origin or manifestation ascribable to social life. The residue is the mental equipment of the natural man. At birth the human being is, through his senses, susceptible to impressions from without. Toward the objects that create the impressions he has a feeling of attraction or repulsion according as they are agreeable or disagreeable, and, as his mind develops, according to the rational judgment he forms about their effect upon his happiness. But meanwhile he develops and falls under the constraint of habits and opinions, and through these his dispositions toward things are modified. "Prior to that modification they constitute what I call nature in us."<sup>1</sup>

Such is the nearest approach to precise definition that Rousseau gives his readers. Despite its doubtful psychology it might, if adhered to, serve a useful philosophic purpose. But he does not adhere to it. One clear feature of the natural man as defined above is the use of his reason in judging his surroundings. Elsewhere Rousseau declares it characteristic of the natural man "that he be \* \* \* subject to no government save that of his own reason."<sup>2</sup> With the rational faculty thus emphasized, it is discouraging to find pervading all Rousseau's philosophy, and often reiterated in set terms, the idea that reason and nature are antithetic and incompatible with each other. Reflection and its practical results he proclaims to be the pernicious product of society and its artificialities. "By nature man scarcely thinks."<sup>3</sup> "The man who reflects is a corrupt creature."<sup>4</sup> Our natural feelings (*passions*) alone give us peace and true liberty. So soon as we begin to reason and to project ourselves by induction and analogy into times and places and relations unknown to our original condition, oppression and misery crowd upon us. Thus, for example, man

<sup>1</sup> *Émile*, liv. i, *ad init.*

<sup>2</sup> *Émile*, liv. iv.

<sup>3</sup> "Naturellement l'homme ne pense guère." *Ibid.*, liv. v.

<sup>4</sup> "Si [la nature] vous a destinés à être sains, j'ose presque assurer que l'état de réflexion est un état contre nature, et que l'homme qui médite est un animal dépravé." *Discours sur l'inégalité*, pt. i.

afflicts himself through unhappy foresight with the torture of anticipating death, while to unreflecting creatures it comes without distress.

In no small measure the vagaries and inconsistencies of Rousseau's views about nature and reason are due to the phrase-making instinct of the literary artist. He never thought of logic when the opportunity for a pretty turn of expression was at hand. "Forgive me my paradoxes," he wrote: "I like better to be a man of paradoxes than to be a man of prejudices."<sup>1</sup> Nor did he suspect that he was a man of both. The fixed and ever-present, if not always conscious, motive of his thinking was to disparage those features of social life that were distasteful to himself. The violence of his protest was as excessive in dealing with the natural man in society as it had been in dealing with the natural man prior to society; the one, like the other, became an inhuman fantasy.

In stressing the emotions and minimizing the reason as the basis of the state of nature, Rousseau dissociated his doctrine from the whole philosophical tradition on this point. Reason had been always the characteristic ingredient of the pre-social or pre-civil order. Grotius, Hobbes, Pufendorf, Locke and all their predecessors, great and small, had found man in the state of nature endowed with reason, and enabled by means of it to rise into social and political organization. Rousseau, with whatever vacillation and inconsistency, strove in general to represent reason and all philosophy as a calamitous aberration, deluding men with visions that brought them to ruin.

### 3. *The Social Contract*

The most pestilential reasoning and philosophy was, in Rousseau's opinion, that which sustained existing forms of political and social inequality. "Nothing can be farther from the law of nature, however we define it, than that a child give orders to an old man, an imbecile direct a sage, and a handful of people be gorged with luxuries while the starving multitude lacks the necessities of life."<sup>2</sup> Yet society and government, though de-

<sup>1</sup> *Émile*, liv. ii.

<sup>2</sup> *Discours sur l'inégalité*, end.

plorable, were, he admitted, inevitable. It was necessary therefore to find some rational form through which their existence might be justified. In his *Social Contract*, Rousseau assumed the rôle of constructive philosopher and presented a theory of the state.

The precise problem that he undertakes in this work to solve is characteristically formulated in the famous phrases:

Man is born free and everywhere he is in chains. One who believes himself the master of the rest is only more of a slave than they.<sup>1</sup> How does that change come about? I do not know. What can render it legitimate (*legitime*)? That question I think I can answer.<sup>2</sup>

That is to say, the liberty and equality that characterize the state of nature, in whatever sense the term is used, are in the civil state gone. He will justify their disappearance. And he does it, in his usual way, by proving that they are not gone at all, but subsist as fully after, as before, the institution of government. Nature and political society, liberty and authority, are absolute logical contradictories in the *Discourse* and the *Emile*; they become in the *Social Contract* inseparable and indistinguishable concepts. Such, at least, is the consequence of the theorizing in his earlier chapters. The author would not be Rousseau, however, if he did not later revert from time to time to the idea of a preëminent excellence in the non-political condition; and the typical climax of his method is to be seen in a rapturous glorification, at one point, of the political as compared with the natural state.<sup>3</sup>

<sup>1</sup> This paradox is the topic of an eloquent passage elsewhere: ". . . ta liberté, ton pouvoir, ne s'étendent qu' aussi loin que tes forces naturelles et pas au delà; tout le reste n'est qu' esclavage, illusion, prestige . . . Jamais ton autorité réelle n'ira plus loin que tes facultés réelles. Sitôt qu'il faut voir par les yeux des autres, il faut vouloir par leurs volontés. Mes peuples sont mes sujets, dis-tu fièrement. Soit. Mais toi, qu'es-tu? Le sujet de tes ministres. Et tes ministres, à leur tour, que sont ils? les sujets de leurs commis, de leurs maitresses, les valets de leurs valets . . . Vous direz toujours: Nous voulons; et vous ferez toujours ce que voudront les autres." *Emile*, liv. ii.

<sup>2</sup> *Contrat social*, part i.

<sup>3</sup> ". . . ses facultés s'exercent et se développent, ses idées s'étendent, ses sentiments s'ennoblissent, son âme tout entière s'élève à tel point que, si les abus de cette

The device that he hit upon for solving the problem of his work was the social pact. Authority of man over man can have no rational basis, he holds, save agreement and consent. And there is but one species of agreement conceivable in which liberty is retained while authority is instituted. This single species is the pact through which a multitude of individuals become a collective unity—a society. Rousseau's thought here shows the very strong influence of both Hobbes and Locke. It is the latter, however, whom he follows to the end—and beyond. From the ingenious reasoning by which Hobbes made absolute monarchy a logical corollary of the social pact, Rousseau turns with strong denunciation. But the Hobbesian precision in defining the terms of the pact obviously appealed to him, and his own treatment of the subject is but the substance of Locke developed by the method of Hobbes.

The formula on which civil society rests is, according to Rousseau, this: "Each of us puts into a single mass (*met en common*) his person and all his power under the supreme direction of the general will; and we receive as a body each member as an indivisible part of the whole."<sup>1</sup> Through the act of a group of individuals in pronouncing, tacitly or expressly, together or in succession, this formula a moral body is constituted, with an identity, a life and a will of its own distinct from those of any of its component members. It is a public person—a body politic. From various points of view it is known as state, sovereign, power; and in the same way its members are known variously as the people, citizens, subjects.<sup>2</sup>

Rousseau's exposition of the spirit and effects of his contract is an amazing medley of bad logic and utter puerility. Equality, he declares, is insured, because each individual makes complete alienation of himself and all his rights to the community. That is to say, the individuals, reducing themselves to zeros, are as

nouvelle condition ne le dégradèrent souvent au-dessous de celle dont il est sorti, il devrait bénir sans cesse l'instant heureux qui l'en arracha pour jamais, et qui, d'un animal, stupide et borné, fit un être intelligent et un homme." *Contrat social*, part i, vi.

<sup>1</sup> *Ibid.*, part i, vi.

<sup>2</sup> *Ibid.*, part i, vi.

such equal. By the same reasoning the union is, he explains, absolutely perfect, and no individual can claim anything.<sup>1</sup> This would seem to mean as thorough submergence of the individual in the state as Plato ever conceived. But Rousseau finds the fullest liberty. For, he continues, "since each gives himself up to all, he gives himself up to no one;"<sup>2</sup> and as there is acquired over every associate the same right that is given up by himself, there is gained the equivalent of what is lost, with greater power to preserve what is left."<sup>3</sup>

This demonstration of liberty contains as many fallacies as clauses, and finds a fitting climax in the reference to "what is left" to the individual after the pact, following repeated declarations that the individual by the pact gives up everything. It is hardly strange that controversy has continued active as to whether Rousseau stood for absolute sovereignty or for a sphere of inalienable rights in the citizen.<sup>4</sup> He clearly stood for both, relying upon the simple device of maintaining each of two logical contradictories.<sup>5</sup>

His analysis and exposition of the contract are of like fabric. By the terms of this formula the act of association is clearly conceived as merely the expression of an identical purpose by each of a group of individuals. The purpose is to recognize henceforth a social or general authority as a substitute for the varying and conflicting authorities of the individual wills. Locke and Sydney and others who set forth this same idea did not undertake to analyze it into the elements and categories of a contract in private law. Hobbes, more rigid and inexorable in his method, applied the conceptions of the jurists to the social pact, and showed who were the parties to it, what precise

<sup>1</sup> " . . . nul associé n'a plus rien à réclamer."—*Contrat social*, part i, vi.

<sup>2</sup> " . . . chacun se donnant à tous ne se donne à personne."—*Ibid.*

<sup>3</sup> " . . . et plus de force pour conserver ce qu'on a."—*Ibid.*

<sup>4</sup> Cf. *POLITICAL SCIENCE QUARTERLY*, vol. xxii, p. 698.

<sup>5</sup> James Russell Lowell never more conspicuously nodded than in declaring that Rousseau "could not fail to be a good logician. He had the fortitude to follow his logic wherever it led him." *Among my Books*, 1882, vol. i, page 360. Of Rousseau's fortitude there can be no doubt. But the courage of his readers often falters when his logic leads in opposite directions at the same time.

obligation they respectively took upon themselves, and what penalty was incurred when the obligation was repudiated.<sup>1</sup> Rousseau seeks to imitate the method of Hobbes; but the result is ridiculous. The parties to the pact are declared to be on the one side the individuals and on the other the community<sup>2</sup> and this, though the community comes into existence only by virtue of the pact. The engagement made by the community appears at once, however, to be made in reality by the individuals. For, "each individual contracting, so to speak, with himself, finds himself engaged under a double relation, namely, as member of the sovereign toward the individuals, and as member of the state toward the sovereign." And Rousseau, after this sapient exposition, proceeds gravely to explain that there is no real opening here to apply the principle of the civil law according to which no one is bound by engagements made with himself; "for to be bound to one's self and to be bound to a whole of which one forms a part, are very different things."<sup>3</sup>

If Rousseau could have remained certainly faithful through a whole section of his work to the truth embodied in this last sentence, his theory of the state would have been important. But his grasp on the distinction between the collective and the distributive aspect of an aggregate was very uncertain. Nothing better illustrates this fact than his easy assumption, noted above, that a promise by a society is the same as a promise by each member of the society. The same confusion appears again and again in his treatise. He glimpses often the fruitful concept of a beneficent and all-determining force in the social organism; but he lacks the dialectic power to disentangle it from the mass of individualistic prejudice that obscures it. He is nearest success in the attempt in his detailed discussion of the notion of sovereignty.

<sup>1</sup> Dunning, *Political Theories from Luther to Montesquieu*, p. 278.

<sup>2</sup> " . . . l'acte d'association renferme un engagement réciproque du public avec les particuliers."—*Contrat social*, part i, vii.

<sup>3</sup> *Ibid.*, part i, vii.

#### 4. *Sovereignty and Law*

Rousseau's doctrine on this subject combined elements that had previously been considered incompatible with each other. The definition and development of sovereignty, as a concept of political science, had been almost entirely the work of those who, like Bodin and Hobbes, were defending absolute monarchy. By the liberalizing school of Locke and Montesquieu the idea of sovereignty was evaded as unnecessary in theory and dangerous in practice—a mortal foe to liberty. Rousseau, with characteristic boldness, proceeded to reconcile the absolutist with the liberal doctrine. He defined sovereignty with the fulness and precision of Hobbes, and gave it an abode and an operation that satisfied the feeling of Locke.

The social contract, Rousseau maintains, furnishes the solution of all questions about sovereignty. The body politic that is created by this contract is itself the only conceivable possessor of supreme power.<sup>1</sup> By the free act of those who enter into the pact all their rights and powers are resigned to the community, and their respective wills are merged into and superseded by the general will (*volonté générale*). By no possible process of reasoning or of fact, Rousseau holds, can sovereignty be traced to any other possessor than the body politic as a whole, or be identified in any other manifestation than that of the general will. He seizes with especial zest the idea of sovereignty as will, and uses it in many fantastic feats of pseudo-dialectic. His often absurd manipulation does not conceal, however, the real value of the idea. Hobbes had already exposed many of its possibilities as a clarifying agency in political speculation; but Rousseau gave the great impulse to that particular development which has centred about the idea of the social or group will.

The basis of will, Rousseau holds, is interest. The individual wills always what is for his interest. His interests conflict at many points with the interests of others; but at some point

<sup>1</sup> Althusius presented a doctrine of sovereignty in 1610 that was substantially the same as Rousseau's. Cf. Dunning, *Political Theories from Luther to Montesquieu*, p. 63.



the interest of all is the same. This common interest is what makes the state possible. The general will is but the expression of what the common interest requires. The two ideas are inseparable in thought and in fact. If the interests of the individuals composing the state are at no point identical, a general will is inconceivable and society cannot exist. If an expression of will does not correspond to the common interest, it is not an expression of the general will and it lacks the quality of sovereignty. Only an act of the general will is properly called law (*loi*). Perfect generality is of the essence of it. Thus law can have no other source than the sovereign, that is, the community as a body politic. A rule or command prescribed by any other authority lacks the essential quality of law; and, conversely, a rule or command emanating formally from the sovereign body lacks the quality of law if its content or effect touches interests that are not general.

Sovereignty, conceived in such a way, is readily proved by Rousseau to be inalienable, indivisible and inerrant. It is inalienable, because the will cannot be bound by promises. "The sovereign can indeed say: I will now what such-and-such a man wills, or at least what he says he wills; but it cannot say: What that man shall will to-morrow, I shall still will." It can say: What that man shall will, I will do; but this is the formula of slavery, and pledges acts not conformed to the interest of the promisor. Since will in any true sense is inseparable from interest, the servile formula implies the dissolution *ipso facto* of the body politic that enacts it. "The instant there is a master, there is no longer a sovereign."<sup>1</sup> Such is the argument by which Rousseau disposes of the ancient dogma that the people may transfer sovereignty to a prince.

That sovereignty is indivisible is equally clear to Rousseau.

The will either is or is not general, is that of the whole people or that of part of the people. In the first case the expression of the will is a sovereign act and makes law; in the second case it is merely a particular will or an act of the magistrat—at most a decree.<sup>2</sup>

<sup>1</sup> *Contrat social*, part ii, i.

<sup>2</sup> *Ibid.*, part ii, ii.

All the distinctions so much debated by philosophers between the different kinds of public acts are unwarranted, Rousseau holds, so far as they imply a division of sovereignty. That there is legislative power and executive power; that taxation and judicature and the affairs of war and peace are variously administered—affects not at all the unity of the sovereign. An act of the whole people for the whole people is, regardless of any other feature of the act, a manifestation of sovereignty.

To prove that the sovereign cannot err is a task that evokes the best effort of Rousseau both as reasoner and as rhetorician.<sup>1</sup> He is required to meet the familiar charge that a democracy is peculiarly apt to stray from expediency and justice. He meets it ingeniously if not conclusively thus:

It follows from the foregoing that the general will is always right and tends always to the public advantage (*utilité publique*); but it does not follow that the judgments (*délibérations*) of the people always have the same rectitude. A man always wills his own good, but he does not always see it; the people is never corrupted, but it is often deceived, and only then does it appear to will what is wrong.

Thus the virtue of the sovereign people is saved at the expense of its intelligence; and the inerrancy of the general will is established by the simple process of ascribing all wrong-doing to some other source. It is indeed not hard to see that by its very definition Rousseau's sovereign always wills the public good. Sovereignty is only another name for a generalized collective volition of that content. Difficulty arises, however, when the question changes from the abstract conception of sovereignty to its concrete manifestation. Rousseau's doctrine implies that a resolution adopted unanimously by a community is not necessarily an expression of the sovereign will. He distinguishes the general will from the will of all (*volonté de tous*). This latter is but the sum of all the particular volitions of the individuals about their private interests. The general will is the aggregate of such of these volitions as are common to all the individuals—such as concern interests that are common to all.

<sup>1</sup> *Contrat social*, part ii, iii.

With this distinction in mind, it is easy to see that a resolution of the whole people lacks the quality of sovereign law if it deals with any matter that does not involve the true interest of every citizen.

One important source of the mistakes often made by the people is to be found, Rousseau says, in the partial societies, or parties, that spring up in the state. When a party is constituted, a new corporate interest appears, coming between the individual interest and the general interest. There is no longer possible that comparison of individual wills through which alone the general will is determined. Party interest intervenes and misleads the people, with the result that the will of the party is mistaken for that of the sovereign. Rousseau's conclusion is, like that of many earlier thinkers, that if parties exist at all in a state, there should be many of them. Where two great parties divide the people, the will of one or the other of them habitually supersedes the general will, and the state ceases in fact to exist.

Rousseau is at some pains to exhibit the limits of sovereignty.<sup>1</sup> They are manifest chiefly, we have just seen, as immediate inferences from the definition of the term: the sovereign cannot do what is not for the general welfare, and cannot intrude therefore into the field of purely individual interest. Is there, then, a sphere of individual rights secure against invasion by the state? In answering this crucial question Rousseau fairly bristles with paradox and contradiction. He declares that "as nature gives to every man an absolute power over all his members, the social pact gives to the body politic absolute power over all its members." This proposition is followed by reference to the distinction between the duties of the individual as a subject and his natural right as man. In pointblank contradiction of what was earlier said as to the terms of the social contract, Rousseau now observes: "It is agreed (*on convient*) that what each alienates by the social pact is only that part of his power, his property and his liberty which may be used with advantage by the community." This clearly points to a re-

<sup>1</sup> Contrat social, part iv, iv.

served sphere of individual rights. But the next sentence turns the tables decisively against the individual: "It must also be agreed that the sovereign alone is judge of that advantage."

Formally, thus, there are no limits to sovereign power. Substantially, however, there are, Rousseau insists, the very real limits inherent in the nature of sovereignty. The relation of the individual will to the general will insures at the least the equality of all citizens before the law, and the rule of justice and equity. The sovereign community is limited to prescriptions that are for general, not for any particular utility, and it can impose no burden that is not alike for all. Rousseau's rhetoric in sustaining these amiable ideals is admirable; but his reasoning, while often very specious, never wholly disguises the vitiating assumption that an aggregate cannot possess attributes distinct from those of its component parts.

The most clear and self-consistent feature of his speculation on this general subject is that which deals with the idea of law. Even on this point his predilection for contract leads him into some cloudy quibblings about law as essentially a convention, to which the parties are respectively the community and its individual members.<sup>1</sup> But his central conception is made very distinct and suggestive. As has been stated above,<sup>2</sup> a law is a resolution of the whole people for the whole people, touching a matter that concerns all.

The law regards the subjects as a whole and actions as abstract, never a man as an individual nor a concrete (*particulière*) act. Thus the law can determine that there shall be privileges, but it cannot give them to anybody by name; the law can establish a classification of the citizens and describe the qualifications for the various classes, but it cannot assign certain men to specify classes; it can establish a royal government and hereditary succession, but it cannot choose a king nor name a royal family . . .<sup>3</sup>

From this conception of law Rousseau concludes that it is no longer necessary to ask whose function it is to make laws, since

<sup>1</sup> *Contrat social*, part ii, iv.

<sup>2</sup> *Ante*, p. 393.

<sup>3</sup> *Ibid.*, part ii, vi.

they are acts of the general will ; nor whether the prince is above the laws, since he is a member of the state ; nor whether the law can be unjust, since no one is unjust to himself ; nor how one is at the same time free and subject to the laws, since they are merely registers of our own wills."<sup>1</sup>

No state is legitimate, according to Rousseau, unless it is ruled by laws, as thus defined ; and every state so ruled, whatever the form of its government, is a republic.<sup>2</sup> The lucid interval in which he sets forth these fresh and striking conceptions is followed at once by a lapse into dreaming and rhetoric. For the practical realization of the republican state, as he has defined it, he has no suggestion save recourse to a "legislator,"<sup>3</sup> a superhuman or divinely inspired being, to impose upon a people the institutional order that they are not qualified to discover for themselves—to enact that general will which they share but know not. In this recurrence to a useless and very much shop-worn device of political theory,<sup>4</sup> Rousseau exposes the purely idealizing tendency of his whole speculation. His brave undertaking to show the rational conciliation of liberty and authority ends in a trite glorification of Numa, Lycurgus and John Calvin, with a few practical suggestions, drawn largely from Montesquieu, as to the course most desirable for the next "legislator" that may descend upon mankind.<sup>5</sup>

### 5. Government

The distinction between state or sovereign and government is developed by Rousseau with the utmost exactness and con-

<sup>1</sup> *Contrat social*, part ii, vi.

<sup>2</sup> "J'appelle donc république tout État régi par de lois, sous quelque forme d'administration que ce puisse être."—*Ibid.*

<sup>3</sup> *Ibid.*, part ii, vii.

<sup>4</sup> The "legislator" was still doing hard service in philosophy ; so sensible and practical a thinker as Montesquieu used him. Cf. *Esprit des lois*.

<sup>5</sup> Rousseau, in common with many intelligent contemporaries (notably Frederick the Great), was much impressed by the political spirit of the Corsicans, then just freeing themselves from Genoa. He says that the Corsicans are the one European people capable of legislating for themselves, and expresses a presentiment that "some day that little island will astonish Europe." (*Contrat social*, part ii, x.) Napoleon Bonaparte was born less than ten years after this was written.

sistency.<sup>1</sup> While "state" denotes the community as a whole, created by the social pact and manifesting itself in the supreme general will, "government" denotes merely the individual or group of individuals that is designated by the community to carry into effect the sovereign will. The government is created not by any contract but by a decree of the sovereign; and its function is in no sense to make, but only to administer law. Government, to Rousseau, means executive power. The individuals to whom this power is assigned are the officers or the agents of the sovereign. Collectively they may be called "prince" or "magistracy." Whatever their titles—kings, senators, governors—their function and their relation to the sovereign are the same. Their power is merely what is entrusted to them by their superior, and may be modified, curtailed or entirely withdrawn at the discretion of that superior.

This doctrine is substantially that of the whole anti-monarchic philosophy of the two centuries preceding Rousseau. His own contribution consists not in any new emphasis on the subordination of the prince to the people, but in the conclusions derivable from his definition of the people as sovereign. He indulges in a good deal of superfluous metaphysics over his conception of sovereignty as will, aiming apparently to clear up problems that would be as well solved without it. Thus he sets forth with great gravity the rather distressing condition of a citizen who is a member of the government.<sup>2</sup> Such a one embodies three distinct wills: first, the will that rests upon his interest as a mere private individual; second, the will corresponding to the corporate interest of the magistracy; third, the will of the community as a whole—the sovereign general will. "In the order of nature" these wills are respectively the more active as they are the more concentrated: that is, the individual will prevails over the general. But the social order requires the domination of the general will. From this unfortunate contradiction Rousseau draws various inferences about the relative efficiency and desirability of different governmental arrangements—inferences

<sup>1</sup> *Contrat social*, part iii, i.

<sup>2</sup> *Ibid.*, ii.

that coincide with the commonplaces of earlier theory and observation.<sup>1</sup>

His classification of governmental forms follows the ancient and familiar categories—monarchy, aristocracy, democracy and mixed. Democracy is that in which the sovereign assembly itself exercises the function of administrator. Such a union of functions does not appeal to Rousseau as a practicable system save possibly in a small and simple community. Sovereignty is necessarily democratic, in the most exclusive sense, in his theory, but democratic government is not suited to mankind.<sup>2</sup> Rousseau expresses indeed no definite judgment as to what form of government is best. He follows on this question the thought of the most judicious of his predecessors, and finds that each form may be peculiarly adapted to some particular set of conditions.<sup>3</sup> His discussion of the subject manifests a creditable knowledge and appreciation of the work of Montesquieu, in emphasizing the effect of varieties in economic and social conditions. But while the question as to what government is absolutely the best defies a categorical answer, Rousseau finds a single simple and conclusive test by which to determine whether a given nation is well or ill governed. This is the census.

Other things being equal, that government is infallibly the better under which, without extraneous measures, without naturalization, without colonies, the citizens show the greater increase in numbers. That under which a people is decreasing and dying out is the worst. Statisticians, the matter is in your hands: count, measure, compare.<sup>4</sup>

<sup>1</sup> *E. g.*, that monarchic government is more energetic than that of an assembly. *Ibid.*

<sup>2</sup> "S'il y avait un peuple de dieux, il se gouvernerait démocratiquement. Un gouvernement si parfait ne convient pas à des hommes." *Contrat social*, part iii, iv, end.

<sup>3</sup> *Ibid.*, part iii, viii.

<sup>4</sup> *Ibid.*, III, ix. In an interesting note at the end of this chapter, Rousseau develops the idea that neither general tranquillity nor a high state of intellectual and artistic culture is to be taken as a sign of good government. "Un peu d'agitation donne du ressort aux âmes, et ce qui fait vraiment prospérer l'espèce est moins la paix que la liberté." Which suggests the sapient observation of Thomas Jefferson, that a little revolution about once in twenty years is a good thing.

Both the establishment and the extinction of governments subject Rousseau's principles to rather severe tests; but his assurance carries him over the gaps that his reasoning fails to bridge. To set a government in operation would seem to be impossible under the conceptions of sovereignty and law that he so carefully defines; for while the sovereign may declare what the form of government shall be—a general act and hence appropriate to the sovereign—it cannot name the persons who are to man the offices, since that, Rousseau explicitly declares, is a particular act, wholly beyond the competence of the general will.<sup>1</sup> Naming the magistrates is distinctively an act of government, not of sovereignty; and there is a difficulty, as Rousseau justly remarks, in understanding how there can be an act of government before the government comes into existence.<sup>2</sup> To one who has achieved the delicate feat of creating a state by a contract to which the state itself is one of the parties,<sup>3</sup> this later problem proves a matter, however, of no real concern. We perceive here, Rousseau says, "one of those astonishing properties of the body politic by which it reconciles operations that appear wholly contradictory." There takes place a sudden conversion of the sovereignty into government, so that with no perceptible change and merely by a new relation of all to all, the citizens, becoming magistrates, pass from general acts to particular acts, and from the law to its execution. That is to say, the sovereign people, assembled to institute a government, vote that a certain form shall be established, and vote that certain men shall fill the offices thus created. The first vote expresses the general will and is in the strictest sense law; the second vote is not an expression of the general will, and is not law, but a mere governmental decree. Between the two votes the assembly changes its character, just as a parliamentary body changes its character when it goes into committee of the whole.<sup>4</sup> The people act in one instance as sovereign and in the other as a democratic government. Since the process here described is inevitable in the establishment of monarchy, aristocracy and all

<sup>1</sup> *Ante*, p. 396.

<sup>2</sup> *Contrat social*, part iii, xvii.

<sup>3</sup> *Ante*, p. 391.

<sup>4</sup> Rousseau refers to the House of Commons going into "grand committee."



other forms, it follows that, in Rousseau's thought, every government must be considered as originating in democracy.

Such being the method by which the inception of government is reconciled with Rousseau's first principles, let us examine their bearing on its normal operation. Law-making, in the strict sense, is of course a function not of the government but of the sovereign. It can be performed only by an assembly of the whole people. Representation is wholly out of the question in this matter. The general will can no more be represented than it can be alienated. The vaunted modern device of representative assemblies Rousseau regards as but an evidence of political decay. "Because of indolence and wealth they at last have soldiers to enslave the country and representatives to sell it."<sup>1</sup> Deputies may be chosen by the people for the despatch of certain duties; but they are merely agents, and have no final authority. "The English people thinks itself free; but it is greatly mistaken; it is free only during the elections for members of Parliament; so soon as they are elected the people is enslaved and becomes a zero." Whatever may be the inconvenience in large states, the whole people must be looked to as the sole legislator.

The question at once presents itself: shall the voice of the majority prevail as the general will? If so, how shall it appear that the minority, constrained by superior numbers, follows its own will and is free? Rousseau answers: only one political act requires unanimity, and that is the social pact.<sup>2</sup> No one is a member of the community except in consequence of his own deliberate volition. Within the state once formed both sovereign and governmental acts are determined by the majority. That the minority seems no longer free, because subject to laws to which they have not given their consent, is an illusion, due to a wrong way of looking at the question. When a project of law is laid before the assembly of the people, they are asked, not whether they approve or reject it, but whether it is or is not conformed to the general will. The vote of each is merely his opinion on that question:

<sup>1</sup> *Contrat social*, part iii, xv.

<sup>2</sup> *Ibid.*, part iv, ii.

When, therefore, the opinion contrary to mine prevails, it is merely proved that I was mistaken, and that the general will was not what I thought it was. If my opinion had prevailed, I should have done what I did not will; then indeed I should not have been free.<sup>1</sup>

Such is the burlesque of reasoning by which Rousseau seems to think that he actually clears up one of the most troublesome difficulties in ultimate political theory. A deliberation of the sovereign people appears as a guessing match and the law by which men are free is fixed by a majority of guesses. The citizen who is in the minority is not a slave but only a poor guesser. Rousseau characteristically follows this word-juggling with a frank admission that he has begged the question at issue: "This assumes, it is true, that all the elements of the general will are in the majority; when they cease to be there, whichever side prevails, there is no longer any liberty."<sup>2</sup>

The decline and death of the body politic are inevitable, Rousseau holds,<sup>3</sup> and his analysis of the causes turns still on his doctrine of will. The government tends incessantly to invade the sphere of sovereignty; that is, to substitute the will of the magistrates for the general will. The greater intensity of volition in the smaller body<sup>4</sup> accounts for this. At the same time there is a ceaseless tendency of government to contract itself from democracy to aristocracy and thence to monarchy—and thus to increase the intensity of its volitions, as compared with those of the growing community. Only in small nations, amid simple conditions, does the general will have any assured operation. As a society grows and conditions become complex, not only the government, but also the numerous rival groups of private citizens strive to advance their special interests instead of the public advantage, and to substitute a particular for the general will. Because civilization, however deplorable, is inevitable, this process is certain. "The body politic, as well as the human body, begins to die at its birth and carries within itself the causes of its destruction."<sup>5</sup>

Something indeed may be done to retard decay and to pre-

<sup>1</sup> *Contrat social*, part iv, ii.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*, part iii, x, xi.

<sup>4</sup> *Ante*, p. 398.

<sup>5</sup> *Contrat social*, part iii, xi.

serve as long as possible liberty, equality and legitimate authority. Rousseau prides himself, and with some justification, on his suggestions in this respect.<sup>1</sup> They concern only the usurpatory tendency of the government; the vices of human nature that bring the other evils are beyond correction by political devices. There must be, he says, periodical assemblies of the sovereign people, for the purpose of maintaining the social pact. The meetings must be spontaneous—wholly independent of the government in summons and action. To the people thus assembled, two questions must be submitted: "First, is it the pleasure of the sovereign to preserve the existing form of government; Second, is it the pleasure of the people to leave the administration to those who at present have it in charge."<sup>2</sup> So long as a free expression of the people's will on these two points is obtainable at regular and not too long intervals, the usurpations of the government will be reduced to a minimum. As an additional guarantee of this result Rousseau lays down the principle that when the sovereign is assembled the functions of the government are *ipso facto* suspended.<sup>3</sup>

The great political objection to Rousseau's scheme of legislation by a general assembly of the people was, of course, the apparent impossibility of its application to large states. Rousseau admitted that where population was great and the territory extensive, there would be grave inconvenience. Not for a moment on that account would he concede that representatives should be allowed to constitute the legislature. "Where right and liberty are everything inconveniences are nothing."<sup>4</sup> In a large country the assemblies could be held at different places in turn, and thus distribute the inconvenience among all the citizens alike. But at all hazards the principle must be maintained that every citizen should be entitled to participate on equal terms in the supreme function of law-making.

<sup>1</sup> Contrat social, part iii, xii, xviii. "Il est bien singulier qu' avant le Contrat Social, où je le donne, personne ne s'en fût avisé."—Gouvernement de Pologne, ch. viii.

<sup>2</sup> Contrat social, part iii, xviii.

<sup>3</sup> "A l'instant que le peuple est légitimement assemblé en corps souverain, toute juridiction du gouvernement cesse, la puissance exécutive est suspendue . . . parce qu' où se trouve le représenté il n'y a plus de représentant."—*Ibid.*, part iii, xiv.

<sup>4</sup> *Ibid.*, part iii, xv.

Despite all the tiresome metaphysics with which Rousseau surrounds his device for maintaining the state, it is easy to see that he foreshadows two very familiar institutions of nineteenth-century democracy, namely, the periodical popular vote on the question of revising the constitution and the periodical election of officers. Whether Rousseau would approve the manner in which his device is applied in many states of the American Union may be doubtful; but there is no room to doubt that the spirit of our constitutional provisions is very closely akin to the spirit in which his propositions were conceived.

#### 6. *Strength and Influence of Rousseau's Work*

In the field of politics Rousseau's teaching was suggestive rather than conclusive; but the stimulating force of his suggestions long remained a cardinal fact of literature and history. His fancies, fallacies and quibbles often appealed more strongly than the sober observation and balanced reasoning of Montesquieu to the *Zeitgeist* of the later eighteenth century. Both the pure philosophy of politics and the practical statesmanship of the time clearly illustrate this. His spirit and his dogmas, however disguised and transformed, are seen everywhere both in the speculative systems and in the governmental reorganizations of the stirring era that followed his death.<sup>1</sup>

On the side of pure theory the most distinctive service of Rousseau was that due to his doctrine of sovereignty. The common interest and the general will assumed, through his manipulation, a greater definiteness and importance than philosophy had hitherto ascribed to them. They became the central features of almost every theory of the state. Through those concepts a way was opened by which the unity and solidarity of a population became the necessary presupposition of scientific politics. Rousseau thus contributed largely to promote the theory of the national state. His main purpose, however, was apart from this. Consciously he aimed only to devise a theory of sovereignty through which liberty and authority should be reconciled. His metaphysics and psychology, how-

<sup>1</sup> He died in 1778.

ever ingenious, were not, as we have seen, equal to the task. He could offer no self-consistent reasoning by which it should appear that an individual's will was certain to be expressed in the general will, except in the same sense in which the individual's will was certain to be expressed in the will of a monarch to whom he had submitted himself. Rousseau failed, in short, to prove that the sovereignty of the community was any more compatible with individual liberty than the sovereignty of a monarch or an oligarchy. But his earnest and confident declamation about the virtues of the general will and the significance of the general interest brought those concepts into the foreground of political theory and evoked from more subtle reasoners than Rousseau more refined and self-consistent solutions of the problem he propounded. If their results were ultimately no more successful than his, that was due rather to the *a priori* conceptions of liberty and authority that were the common basis of this whole school of speculation than to any flaw in the logic by which the deductions from these conceptions were made. The assumption that true and perfect liberty could be predicted of only the non-social man, was fatal to any theory of political authority. Nothing could come out of this assumption save the empty paradoxes of Rousseau, the paralyzing transcendentalism of Kant, Fichte and Hegel, Rousseau's legitimate successors, or anarchy pure and simple. Making a state out of a group of perfectly free and independent individuals is like making a statue out of a heap of sand: some cohesive principle is necessary that it is beyond the art of the "legislator" or the sculptor to supply.<sup>1</sup> Aristotle furnished such a principle in his dictum that the social and political element is as strong and fundamental as the individualistic in man—that dependence on his kind is to be presumed of the normal human being. But in the eighteenth century the Aristotelian way of approaching politics made small appeal to intellectual men, and least of all to Rousseau.

Where Rousseau's theorizing touched government in its more

<sup>1</sup> "Eine Summe von Individuen ist niemals und kann gar nicht eine Einheit sein, so wenig als aus dem Haufen Sandkörner eine Statue wird."—Bluntschli, *Geschichte der neuern Staatswissenschaft*, 3te aufl., p. 348.

practical aspects, his ideas were in some cases singularly fruitful. His sharp distinction between the sovereign and the government was chiefly responsible for this. He has been criticised for his doctrine that only the sovereign can make law. But his theory here was perfectly self-consistent, and it moreover proved adaptable to the explanation of certain concrete institutions of a novel kind that soon after Rousseau's death became the subject of knowledge and interest to intellectual men in France. Law (*loi*) in Rousseau's thought, was a term that could designate properly only a rule of perfect generality both in content and in application. Such being the case, his sovereign community was logically the only law-maker. The enactments of any so-called legislature that formed a part of the government could have only the character of decrees for carrying into effect the superior mandates of the true legislature. Rousseau's requirements for law in the strict sense were, we have seen, very exacting. The assignment of a citizen to an office, or the assessment of a tax upon specific citizens could not be effected, he held, by law; for such acts were not general but particular in their application, and hence involved not the general, but some particular interest. It is hard to accept Rousseau's reasoning in this detail; for he holds that the filling of an office must be treated as a matter rather of private than of public concern, and this is scarcely a tenable proposition. But apart from this minor point it is easy to see that Rousseau's "law" is substantially what came to be called fundamental law or constitution. Thus conceived, his doctrine of law-making is merely that now familiar dogma of political science, that the constitution is made by the sovereign people, and the government must conform its acts to this supreme law.

During the decade succeeding the death of Rousseau the interest of Frenchmen became by the course of events deeply enlisted in the affairs and institutions of the American States just freed from Great Britain. The political systems of these states presented in concrete realization principles of sovereignty and law that strongly suggested the doctrine in the *Social Contract*. The formal written constitutions in which the organization and action of government were prescribed satisfied very

well the requirements that Rousseau laid down for law in the strict sense. They were on their face the expression of the people's will; they dealt with only the fundamental questions of the political order; and they were clearly distinguished, both by their formal source and by their superior authority, from the mandates of the governments that they set up. Through these constitutions, thus, the sovereignty of the people and its relation to government were exemplified in actual institutions on lines that ran closely parallel to Rousseau's theory. This coincidence, fortuitous though it was,<sup>1</sup> did not fail of far-reaching influence on theory and on practice in the revolutionary movement that was impending.

We have now completed the tale of political doctrines put forth by Rousseau that were in any large measure both original and important. His prolific literary genius gave great vogue and fleeting influence to various dogmas that lacked one or both of these qualities. A pretentious theory of a civil religion<sup>2</sup> formulated the creed to which every citizen must subscribe in order to escape banishment from the state. The articles, fixed by the sovereign "not exactly as dogmas of religion but as sentiments of sociability without which it is impossible to be a good citizen or a faithful subject," declared belief in God, in a future life of happiness for the good and punishment for the wicked, in the sanctity of the social contract and the laws, and in no toleration for intolerance. This creed, with its characteristic concluding paradox, is but Rousseau's adaptation of a device that had been more soundly if less flashily exploited by Spinoza<sup>3</sup> and others. None of his predecessors, however, had ventured to denounce the Catholics as incapacitated by their purely religious belief for good citizenship—and this in a plea for toleration.<sup>4</sup>

<sup>1</sup> A trace of common lineage may be discerned in the indebtedness of both Rousseau and the Americans to the theories and institutions of seventeenth-century England.

<sup>2</sup> *Contrat social*, part iv, viii, "De la religion civile."

<sup>3</sup> *Tract. Theol. Polit.*, xx, 21; *Cf. Dunning, Political Theories from Luther to Montesquieu*, p. 315.

<sup>4</sup> " . . . quiconque ose dire: 'Hors de l'Église point de salut,' doit être chassé de l'État . . . ."—*Contrat social*, part iv, viii.

Besides this and other excursions into the theologico-political field, which always had a great attraction for him, Rousseau delivered many resounding judgments on the economic and fiscal problems that were uppermost in the political discussion of his day. Most of what was theoretically significant in his views was taken bodily from Montesquieu, and derived no force from Rousseau's adaptation.<sup>1</sup> It was for other thinkers, already making themselves felt when the *Social Contract* was written, to develop an effective doctrine on these topics. The Physiocrats, in this economic field, a notable group of theorists in moral and political science proper, and a multitude of seekers after practical reform in the French government, filled France with earnest debate, growing hot and fierce as the cataclysm of 1789 approached. In none of these classes was Rousseau's political theory accepted in its entirety. In all of them, however, his dogmas and his phrases were in some measure current coin, and in all was manifested the confidence so eloquently preached by him, that the way to human welfare could always be easily found by getting back to nature.

WM. A. DUNNING.

<sup>1</sup> E. g., *Contrat social*, part iii, viii.



## THE REORGANIZATION OF MUNICIPAL GOVERNMENT IN PORTO RICO: POLITICAL<sup>1</sup>

### I

THE circumstances under which sovereignty over Porto Rico was assumed by the United States imposed upon our government in a specially imperative way the obligation of reforming the political institutions of that Island so as to make them conform as nearly as possible to the best principles and practice of governmental organization and administration. The inhabitants of the island, at the time of the American occupation, for the most part not only welcomed the advent of American rule and received the soldiers of the United States with open arms, but were also genuinely desirous that, as far and as rapidly as circumstances would permit, American institutions and principles of government should be extended to the island. The governmental problem as it presented itself to the United States was thus, not simply that of assuming a general direction of affairs, such as has arisen in most cases where a new, undeveloped territory is taken over by a nation to be held as a colony, but the far larger and more complicated task of making over the political institutions and public laws of the land, and of modifying the very springs of political action so as to bring them into harmony with the great principles of political action underlying the American governmental system.

The first step in the carrying-out of this ambitious program was evidently that of the organization of a central government for the island. In this direction events moved with great rapidity. The island was occupied by the American forces under General Miles on July 25, 1898. Formal possession was assumed October 18 of the same year, and a military government was organized both for the direction of military affairs and

<sup>1</sup>The reorganization of municipal government in Porto Rico, as regards financial affairs, will be described in a second article which will appear in a subsequent number of the QUARTERLY.