

**An  
Introduction  
to  
Political  
Philosophy**



**Hubert Lerch**

**An**

**Introduction**

**to**

**Political**

**Philosophy**

Copyright © Hubert Lerch 2011

[www.HubertLerch.com](http://www.HubertLerch.com)

All rights reserved. Without limiting the rights under copyrights reserved above, no part of this publication may be reproduced, stored in or introduced into a retrieval system, or transmitted, in any form or by any means (electronic, mechanical, photocopying, recording or otherwise), without the prior written permission of the copyright owner.

First published 2008

Formatted using LibreOffice

Printed and bound by [createspace.com](http://createspace.com)

ISBN-13: 978-1468056068

ISBN-10: 1468056069

For Lina





## Table of Contents

Chapter	Topic	Page
	Preface	1
Introduction	Politics: what it is and what it is not	3
	Elements of a Theory of Politics	5
1	What is Justice?	7
2	What is Law, Natural and Civil?	16
3	What is Property?	25
4	What is Interest?	33
5	What is Obedience?	39
6	What is Security?	50
7	What is Collective Belief?	58
8	What is Happiness?	65
9	What is Contract, Private and Social?	70
10	What is Order?	79

## Appendix: Source Texts

<b>Source</b>	<b>Text</b>	<b>Page</b>
1 A	Plato: The Republic, Book II, 358e-367e	93
1 B	David Hume: A Treatise of Human Nature. Book III: Of Morals. Part II: Of Justice and Injustice. II. Of the Origin of Justice and Property	102
1 C	Anthony de Jasay: Social Justice Examined, With A Little Help From Adam Smith	116
2 A	Cicero: On the State (III)	126
2 B	Niccolo Machiavelli: The Prince. Chapter XXVI. How Princes Should Honour Their Word	127
2 C	Thomas Hobbes: Leviathan. Chapter XXVI. Of Civil Laws	130
2 D	Baron de Montesquieu: The Spirit of Laws. Book I. Of Laws in General	147
3 A	Aristotle: Rhetoric. Book I. Chapter V	153
3 B	Aristotle: The Politics. Book II. Chapter V. The Ownership of Property	154
3 C	John Locke: The Second Treatise of Government. Chapter V. Of Property	159
3 D	Hans-Hermann Hoppe: The Ethics and Economics of Private Property. I The Problem of Social Order. II The Solution: Private Property and Original Appropriation	172
4 A	Jean-Baptiste Say: Treatise on Political Economy. Book III, Chapter VI. On Public Consumption	178
4 B	Frédéric Bastiat: That Which is Seen, and That Which is Not Seen. I. The Broken Window	186
4 C	Karl Marx: The German Ideology. Part I: Feuerbach. Opposition of the Materialist and Idealist Outlook. D. Proletarians and Communism	189

Source	Text	Page
4 D	Friedrich Nietzsche: Human. All Too Human. A Book for Free Spirits. VIII. A Glance at the State. 473, 474	203
5 A	Plato: Crito	205
5 B	Étienne de la Boétie: Discourse on Voluntary Slavery	215
5 C	John Locke: Second Treatise of Government. Chapter XIX. Of the Dissolution of Government	248
5 D	Herbert Spencer: The Right to Ignore the State	258
5 E	Lysander Spooner: No Treason. The Constitution of No Authority	270
6 A	Thomas Hobbes: Leviathan. Of Man. Part I. Chapter XIII. Of the Naturall Condition of Mankind, as concerning their Felicity, and Misery	283
6 B	Gustave de Molinari: The Production of Security	288
6 C	Hans-Hermann Hoppe: Government and the Private Production of Defense, I-III. From: The Myth of National Defense	306
7 A	Thucydides: Pericles' Funeral Oration	315
7 B	Johann Gottlieb Fichte: Addresses to the German Nation. 13th Address	324
7 C	Giuseppe Mazzini: An Essay on the Duties of Man Addressed to Workingmen, Chapter V - Duties Towards Your Country	341
7 D	Theodor Herzl: The Jewish State, Introduction	346

Source	Text	Page
8 A	Aristotle: Politics, Book VII, Part XIII	355
8 B	Adam Ferguson: An Essay on the History of Civil Society. Sections IX, X. Of National Felicity	358
8 C	Jeremy Bentham: Introduction to the Principles of Morals and Legislation. Chapter 1: Of the Principle of Utility	373
9 A	Thomas Hobbes: De Cive. Chapters I (Of the State of Men without Civill Society) and V (Of the Causes, and First Begining of Civill Government)	376
9 B	John Locke: The Second Treatise of Civil Government. Chapter VIII. Of the Beginning of Political Societies	390
9 C	Jean-Jacques Rousseau: Social Contract. 6. The Social Compact	404
9 D	David Hume: Of the Original Contract	406
10 A	Aristotle: Politics, Book VII, Part VIII	423
10 B	Immanuel Kant: The Natural Principle of the Political Order	425
10 C	Georg Wilhelm Friedrich Hegel, Philosophy of Right. The State. §§ 257, 258	440
10 D	Murray Rothbard: The Anatomy of the State	448







## Preface

*If you wish to converse with me define your terms.* If we make Voltaire's motto ours, we must first find answers to the following three key questions:

- What is political?
- What is the objective of political philosophy?
- Where are the limits of political philosophy?

To initiate the debate, I define my terms as follows:

- Political philosophy delimitates the *public* sphere in contrast to the private sphere.
- Political philosophy discusses the *unique* features of the political sphere.
- Political philosophy shows the *implications of choices* made, whether these choices are desirable or not.

This book is a reader, admittedly an anachronism at a time when brains are conditioned to visually reinforced images rather than trained to freely play with ideas. It demonstrates, however, that intellectual training can be enjoyable *and* insightful. For that reason its threshold has been kept as low as possible without sacrificing depth by keeping texts and explanations short.

Although the source texts are taken from a timespan of almost three millennia, their content is remarkably fresh. They show that the intellectual cul-de-sac in which we find ourselves today has more to do with the nature of the modern state than with the diversity of available ideas. It goes without saying that in an age of mediation the study of source texts is more important than ever.

Political science has become apologetic – and therefore shallow and boring. Now the time seems ripe to revitalize political science and make it again what it once was: analytical and critical. As such, it should be open in both directions: vertically in the sense that it discusses stages of political control on a scale from zero (no state) to one hundred (all state); horizontally in the sense that it defines, identifies, analyzes, and compares various political systems. The criteria chosen for this purpose have been in the political debate from the beginning; criteria like justice, happiness, or order. Others have been addressed indirectly

or simply taken for granted like property and contract.

This book addresses itself to undergraduate students and students of politics of all ages who still have chaos in themselves to give birth to a dancing star.<sup>1</sup> It does not even try to say something new. However it is strongly anti-collectivist. It fights all attempts at dehumanization, noticeable in the growing loss of individual self-determination and the freedom to choose. It also goes against the omnipresent tendency of decivilization characterized by an accelerated loss of knowledge in favor of “cheap laughs and syrupy pap”<sup>2</sup>.

Last but not least this book prepares the reader for a life of individual freedom, a life determined by a coordinate system with the three vectors of property, justice, and contract.

ALL sources are freely available on the Internet, including LibreOffice for word processing and OS Kubuntu. Ignorance is no excuse these days ...

I dedicate this book to my daughter Lina. May she learn from this book and grow up as a responsible individual, and be well prepared for the coming times.

Tokyo, December 2011

Hubert Lerch  
Associate Professor  
Political Science

*I believe that it is better to be free than to be not free, even when the former is dangerous and the latter safe. I believe that the finest qualities of man can flourish only in free air – that progress made under the shadow of the policeman's club is false progress, and of no permanent value. I believe that any man who takes the liberty of another into his keeping is bound to become a tyrant, and that any man who yields up his liberty, in however slight the measure, is bound to become a slave.* H. L. Mencken

---

1 Friedrich Nietzsche: Thus Spake Zarathustra

2 Steve Moore: V for Vendetta, p. 51

# Politics: What It Is and What It Is Not

## The Definition of Politics

Politics comes from "*polis*", the Greek word for city state. And as Aristotle's understanding of man as "*zoon politikon*" or political animal seems to suggest, man can only exist as a member of a collective which necessarily is political, i.e. public.

Regardless of the self-understanding of the Ancients, a definition of politics must set the political sphere apart from social action where individual preferences are respected. Social interaction results from overlapping personal preferences. Where personal preferences differ, social interaction does not take place. Human action ("*praxis*" is the Greek word for action) results from the **free interplay** of personal preferences.

**Politics is decision making on behalf of a collective** which is characterized by

- **Power**

Power is the ability of a monopolistic agency of coercion – government – to impose its decisions on the governed, i.e. to change their personal preferences by compulsion.

- **Boundaries**

We can distinguish between horizontal and vertical boundaries:

- **Horizontal boundaries**

Four types of horizontal boundaries – boundaries between collectives – have evolved in history:

- Natural boundaries like waterways and mountain ridges
    - Man-made boundaries like city walls and fortifications
    - Customary boundaries like language, customs, traditions, religion, dress codes, etc.
    - (Pseudo) Scientific boundaries like race, sex, and class

- **Vertical boundaries**

Vertical boundaries mark the gulf between government and the governed.

- **Distribution and Redistribution**

Distribution occurs within political collectives and always from the productive bottom to the unproductive top. Because it cannot be but unjust if done involuntarily, it always requires legitimization. In minimal states symbolism and the threatened use of violence suffice whereas in maximal states real or expected redistribution are widely used. Examples are: Take money from the rich and give it to the poor in the name of equality, solidarity, national glory or what not. Tax higher incomes more heavily and lower incomes more lightly in the name of fairness, equal opportunity, or what not.

All redistributive schemes would collapse quickly if we could not read a "basic truth" into distribution and redistribution. Hardly anybody, though, accepts redistribution to all. For instance, members of collective A hardly complain about redistribution within their country – e.g. higher and higher taxes, growing expenditure on the unproductive elderly – but would rebel if their government gave the money taxed away from them to collective B although the monies given to productive elements of B most likely are better used than money spent on unproductive elements in A.

Distribution and redistribution reinforce boundaries because they make the insider special.

- **Symbolism**

National symbols like flag and anthem, party symbols like hammer and sickle, crescent, cross, or colors (e.g. red for socialists and communists, green for Islamists or environmentalists) carry specific messages to both insider and outsider. They allow the insider to identify with the collective and signal the outsider that the cryptic message is not for him. Symbols create or reinforce boundaries without which the spell of power would be broken.

## Elements of a Theory of Politics

Plato is the father of political science. His integral theory of politics was born from the crisis of Hellenic society.

So far, there have been four such crises:

- The Hellenic Crisis which produced Plato and Aristotle
- The Crisis of Rome and Christianity which produced St. Augustine
- The 16<sup>th</sup> Century Crisis which produced Bodin
- The Western Crisis which produced Hegel

Consequently, "a theory of politics ... must at the same time be a theory of history".<sup>3</sup>

## Classical Definition of Political Science

Aristotle in The Politics, Book IV i, defines the purpose of political science as follows:

- **The Theoretical Model**  
The study of "the best in the abstract" (Plato's Republic studies the ideal constitution<sup>4</sup>)
- **The Practical Model**  
The study of "the best relatively to circumstances" (Plato's The Laws)
- **The Historical Model**  
The study of "how it is originally formed, when formed, how it may be longest preserved" (Xenophon: Constitution of Sparta; Constitution of Athens)
- **The Minimalist Model**  
The study of "the form of government which is best suited to states in general" (Aristotle's The Politics)

## Range of Political Science

In addition to this classical definition of political science, we also find

- **Handbooks** for Politicians/Statesmen (e.g. Cicero: On Duties or Machiavelli: The Prince)

---

<sup>3</sup> Eric Voegelin: The New Science of Politics. An Introduction. p. 1

<sup>4</sup> The Latin word "*constituere*" means "to define", the Greek word for constitution is "*politeia*"

- **Apologies** (e.g. Hegel's defense of the Prussian state in the Philosophy of Law)
- **Historical studies** of the rise and decline of political collectives (e.g. Augustine: The City of God or Machiavelli: The Discourses)
- **Normative studies** to preserve and stabilize political collectives (e.g. Hobbes: Leviathan or Montesquieu: The Spirit of Laws)
- **Analytical studies** of specific political phenomena (e.g. de Tocqueville: Democracy in America or von Mises: Socialism)

## Chapter 1: What is Justice?

- A) Plato: The Republic, Book II, 358e-367e
- B) David Hume: A Treatise of Human Nature. Book III: Of Morals. Part II: Of Justice and Injustice. II. Of the Origin of Justice and Property
- C) Anthony de Jasay: Social Justice Examined, With A Little Help From Adam Smith

In Greek mythology, the **Horae** were three goddesses controlling orderly life. They were daughters of Zeus and Themis, half-sisters to the Moirae. There were two generations of Horae:

The first generation consisted of Thallo, Auxo, and Carpo, who were the goddesses of the seasons (the Greeks only recognized spring, summer and autumn). In art, the first generation were usually portrayed as young, attractive women surrounded by colourful flowers and abundant vegetation or other symbols of fertility. They were worshipped primarily amongst rural farmers throughout Greece.

The second generation comprised Eunomia, Dike, and Eirene, who were law and order goddesses that maintained the stability of society. They were worshipped primarily in the cities of Athens, Argos and Olympia.

**Dike** (Δίκη - Greek for *justice*) was the goddess of moral justice. She ruled over human justice; her mother (Themis) ruled over divine justice. Dike was born a mortal and Zeus placed her on earth to keep mankind just. He quickly learned this was impossible and placed her next to him on Olympus.

(quoted from Wikipedia)

Augustine tells us the following anecdote in The City of God: Alexander the Great once asked a captured pirate: "What is your idea, in infesting the sea?" And the pirate answered: "The same as yours, in infesting the earth! But because I do it with a tiny craft, I'm called a pirate: because you have a mighty navy, you're called an emperor." (Augustine: The City of God, Book IV, Chapter 4)

And Augustine concludes as follows:

"Remove justice, and what are kingdoms but gangs of criminals on a large scale? What are criminal gangs but petty kingdoms? A gang is a group of men under the command of a leader, bound by compact of association, in which the plunder is divided according to an agreed convention.

If this villainy wins so many recruits from the ranks of the demoralized that it acquires territory, establishes a base, captures cities and subdues peoples, it then openly arrogates to itself the title of kingdom, which is conferred on it in the eyes of the world, not by the renouncing of aggression but by the attainment of impunity." (Augustine: The City of God, Book IV, Chapter 4)

But what if justice and government do not go together, what if we find that *all* government qua government is and must be unjust? Then Augustine's statement that governments are "gangs of criminals on a large scale" would hold water.

The question of justice has been identified as crucial from the beginnings of political science (Plato dedicated his entire Republic to this theme for good reason!) and only after the French Revolution little by little the definition of justice has changed into its opposite (a good example is distributive "justice").

We will address "justice" from three different thinkers of three different eras:

- Plato (c. 427- c. 347 BC), follower of Socrates and father of political science
- David Hume (1711-1776), philosopher, economist, and historian and prominent figure of the Scottish Enlightenment
- Anthony de Jasay (1925-), philosopher and economist

## **Plato: The Republic, Book II, 358e-367e**

Plato in this section of The Republic discusses "the nature and origin of justice" (358e). Glaucon states the Sophists' position that "it is according to nature a good thing to inflict wrong or injury, and a bad thing to suffer it" (358e). But "the disadvantages of suffering it exceed the advantages of inflicting it" (358e) which calls for a "compact" or convention "to make laws and mutual agreements"(359a). "This is the

origin and nature of justice. It lies between what is most desirable, to suffer wrong without being able to get redress; justice lies between these two and is accepted not as being good in itself, but as having a relative value due to our inability to do wrong," (359a/b)

According to this view, men practice justice against their will. Both just and unjust men, if free, would, in pursuit of their self-interest, act unjustly. It is the law which restrains them and makes them "respect each other's claims" (359c). He illustrates this point by telling the legend of Gyges (359c-360b; quoted here from Wikipedia):

According to the legend, Gyges of Lydia was a shepherd in the service of King Candaules of Lydia. After an earthquake, a cave was revealed in a mountainside where Gyges was feeding his flock. Entering the cave, Gyges discovered that it was in fact the tomb of an enthroned corpse who wore a golden ring, which Gyges pocketed.

Gyges then returned to his fellow shepherds, and began fumbling with the ring that he now wore. Gyges discovered that when he turned the collet of the ring to the inside of his hand, he became invisible to the other shepherds, and they began to marvel as if he had vanished. He turned the ring the other way, and he reappeared; after several trials, he determined that the ring was indeed very magical, and gave him the power to turn invisible at will.

Gyges then arranged to be chosen one of the messengers who reported to the king as to the status of the flocks. Arriving at the palace, Gyges used his new power of invisibility to seduce the queen, and with her help he murdered the king, and became king of Lydia himself. King Croesus, famous for his wealth, was Gyges' descendant.

Glaucou now gives one such ring to the unjust man and a second to the just man. Because of the ring – absence of sanction – the distinction between just and unjust disappears. "And in all this the just man would differ in no way from the unjust, but both would follow the same course." (360c)

In the next step of the argument, Glaucon produces two ideal types, the absolutely unjust man who "must operate like a skilled professional" (360e) and is "able to avoid detection in his wrongdoing" (361a) and the absolutely just man who "must have the worst of reputations for

wrongdoing even though he has done no wrong, so that we can test his justice ..." (361c) If we compare "which of the two is the happier" (361d), the Sophists "conclude ... that a better life is provided for the unjust man than for the just by both gods and men" (362c).

Adeimantus, Glaucon's brother, next emphasizes that justice is valued because it brings good reputation (363a). Greek history and legends report of the fulfilled lives of good men and the unhappy lives of bad men and concludes: "People are unanimous in hymning the worth of self-control or justice, but think they are difficult to practise and call for hard work, while self-indulgence and injustice are easy enough to acquire, and regarded as disgraceful only by convention." (364a) As the poet Hesiod said: "Evil can men attain easily and in companies: the road is smooth and her dwelling near. But the gods have decreed much sweat before a man reaches virtue" (364d). Without a reputation for justice to be just brings no advantage while to be unjust does. (365b/c)

The problem of justice thus only surfaces in the presence of the gods or the idea of justice. Three arguments can be brought up (365d/e):

- What if there are no gods?
- What if there are gods but they do not mingle into human affairs?
- What if there are gods and they do care? Can't we influence them by sacrifice and prayer to forgive us for our sins?

From all three cases it becomes clear that we would lose "the profits of wrongdoing" (366a) if we were just. And if all men were just we would not need a protector. (367a). In conclusion, "justice is what is good for someone else, the interest of the stronger party, while injustice is what is to one's own interest and advantage, and pursued at the expense of the weaker party." (367c) Socrates refutes this position of the Sophists in the argument that ensues.

## **David Hume: A Treatise of Human Nature. Book III: Of Morals. Section II: Of the Origin of Justice and Property**

Hume in this section of A Treatise of Human Nature discusses "the origin of justice and property". Different from all the other animals, man is characterized by infirmity on the one hand and considerable needs on the other. His infirmities can be compensated by society. "Society provides a remedy for these *three* inconveniences:

- By the conjunction of forces, our power is augmented.
- By the partition of employments, our ability encreases.
- And by mutual succour we are less expos'd to fortune and accidents.

'Tis by this additional *force*, *ability*, and *security*, that society becomes advantageous." (Hume 537; punctuation changed and bullets added) In more modern terminology: society ensures productivity, division of labor, and cooperation. The first and principal necessity for society lies in the "natural appetite betwixt the sexes" (Hume 538). The problem of justice arises at this point: "for the notion of injury or injustice implies an immorality or vice committed against some other person" (Hume 540).

Since every immorality is a defect, injustice "must be judg'd of ... from the ordinary course of nature" (Hume 540). Hume observes that "our strongest attention is confin'd to ourselves; our next is extended to our relations and acquaintance; and 'tis only the weakest which reaches to strangers and indifferent persons." (Hume 540) He reasons that "this partiality ... must not only have an influence on our behaviour and conduct in society, but even on our ideas of vice and virtue" (Hume 540). In other words, "any remarkable transgression" (Hume 540) by interest is judged immoral which shows "that our natural uncultivated ideas of morality, instead of providing a remedy for the partiality of our affections, do rather conform themselves to that partiality, and give it an additional force and influence." (Hume 540). Or in simple words: what is good for us cannot be wrong, at least not *in nature*. *In artifice*, i.e. in society, our selfish interest would work against us. Hence society developed a remedy in the form of "a convention enter'd into by all the members of the society to bestow stability on the possession of those external goods, and leave every one in the peaceable enjoyment of what he may acquire by his fortune and industry." (Hume 541) Hume assumes that all the members of the society have the same common interest, i.e. "to regulate their conduct by certain rules" (Hume 541).

Justice and injustice, but also property, right, and obligation, arise from this convention. "A man's property is some object related to him. This relation is not natural, but moral, and founded on justice. ... The origin of justice explains that of property." (Hume 542) The "avidity ... of acquiring goods and possessions for ourselves and our nearest friends, is insatiable, perpetual, universal, and directly destructive of society" (Hume 543) and Hume does not see a "passion ... capable of controlling the interested affection, but the very affection itself, by an

alteration of its direction" (Hume 544). Hume identifies two principal parts in human nature "which are requisite in all its actions, the affections and understanding" (Hume 544). They cooperate to produce the social texture beyond the fictitious state of nature "describ'd as full of war, violence and injustice" (Hume 545 in reference to Hobbes). Society depends on the interest to gain and on the insight that this interest reaches its limits when it interferes with the interest of another man.

Justice is therefore born in human conventions which serve as a remedy to some inconveniences like selfishness and limited generosity in respect to scarce but easily exchangeable resources. "Encrease to a sufficient degree the benevolence of men, or the bounty of nature, and you render justice useless" (Hume 546). And further: "The selfishness of men is animated by the few possessions we have, in proportion to our wants; and 'tis to restrain this selfishness, that men have been oblig'd to separate themselves from the community, and to distinguish betwixt their own goods and those of others." (Hume 546)

Justice and injustice would therefore be unknown among mankind in the following three cases:

- Cordial affection which removes the distinction between mine and thine
- Affluence of objects so that no conflict over limited goods arises
- Humans remove the boundary between others and themselves

Since these cases are illusory, it is clear *"that 'tis only from the selfishness and confin'd generosity of men, along with the scanty provision nature has made for his wants, that justice derives its origin."* (Hume 547) It can also be deduced that

- "public interest ... is not our first and original motive for the observation of the rules of justice" (Hume 547)
- "the sense of justice is not founded on reason, or on the discovery of certain connexions and relations of ideas, which are eternal, immutable, and universally obligatory" (Hume 547)
- the *"impressions, which give rise to this sense of justice, are not natural to the mind of man, but arise from artifice and human conventions."* (Hume 548)

No civilization without justice, without its concomitants property and contract. "Without justice, society must immediately dissolve, and every one must fall into that savage and solitary condition, which is infinitely

worse than the worst situation that can possibly be suppos'd in society." (Hume 549) Disrespect for justice marks the road to slavery and barbarism. Hume, in the tradition of the Enlightenment, assigns a central role to education: "As publick praise and blame encrease our esteem for justice; so private education and instruction contribute to the same effect." (Hume 551) In the same vein, our reputation consolidates society.

## **Anthony de Jasay: Social Justice Examined, With A Little Help From Adam Smith**

Conventionally, we distinguish between

- **commutative** (from Latin *commutare* meaning to exchange)
- **legal** (from Latin *legalis* meaning lawful), and
- **distributive justice** (from Latin *distribuere* meaning to distribute) (see the following quotation from Wikipedia:)

Justice between two individuals is known as individual, particular, or commutative justice – "commutative" because it is particularly concerned with contracts and exchange. Some philosophers regard this as the only kind of justice in the strictest interpretation of the word "justice," but two more forms are commonly included, because an individual has claims on the society to which he belongs, and it has claims upon him.

Justice in which an individual renders its due to the society he belongs to is known as legal justice. This may include payment of taxes or military service when the society is in danger.

Justice in which a society renders its individual members their due is known as distributive justice, such as protection from invasion or a legal system whereby a member can pursue a claim against another.

De Jasay's main objective in *Social Justice Examined*, and in more detail in *Justice and Its Surroundings*, is to prove that distributive justice is not what it claims to be but its opposite. Any form of distributive justice should therefore be classified as injustice or not discussed as political theory any longer. "It is one of the most pervasive fallacies of contemporary political theory that, one way or another, normatively if not positively, every unfilled need, every blow of ill luck, every disparity

of endowments, every case of conspicuous success or failure, and every curtailment of liberties, is a question of justice." (Anthony de Jasay: Justice and its Surroundings, p. viii)

Before we can turn to the question of justice we must identify the principles which constitute it. With de Jasay we find the following three:<sup>5</sup>

- **Responsibility (or causality)**

"The principle of responsibility results from the relation between a state of affairs and its putative cause." (de Jasay 148)

"It may be worth making it explicit that if an act of Nature, say a calamitous flood, is held to be an injustice to the flood victims, then the actor committing the injustice cannot be made responsible for repairing it. If the injustice is to be repaired just the same, the repair must be exacted from those who had the prudence or blind luck not to build their homes on the flood-plain; but making them repair the injustice they have not committed is an injustice, suggesting that a concept of justice that demands this is incoherent, a product of disorderly minds. If the non-victims are to be made to help the victims of the flood, some other ground than justice, e.g., some notion of an interpersonal sum of welfare, must be invoked to defend the injustice involved." (de Jasay 149)

- **Presumption (or logical exclusion)**

A statement and its negation constitute each other in the sense that if one is true the other *must* be false. Either one has property titles or not; either one is innocent or guilty. If there is proof for the one, a presumption is established for the other. Since we cannot know what is just before evidence is given, the asymmetrical nature of presumptions protects us against errors.

- **Convention (or stable social patterns)**

"This principle is simply that where social conventions guide behavior, questions of justice should be resolved according to such guidance." (de Jasay 152) Such conventions are, for instance, "first come first served" or "priority for the aged and infirm". "These conventions are largely self-explanatory. They are ancient ... and also cross-culturally stable." (de Jasay 153)

---

<sup>5</sup> Anthony de Jasay: Justice and its Surroundings. p. 148 ff

In the final step of the argument de Jasay points out that any form of distributive justice must depart from the concept of commutative justice. Since distributive justice, in contrast to commutative justice, can only be compulsory in nature and thus violate the very foundation of justice, property or the right to discrimination, it must be termed unjust. The contradiction between “protecting a distribution with one hand and redistributing with the other” cannot be explained away, it can only go unmentioned.

### Themes to explore:

- The nature of justice
- Justness and justice
- The Welfare State

## Chapter 2: What is Law, Natural and Civil?

- A) Cicero: On the State (III)
- B) Niccolo Machiavelli: The Prince. Chapter XXVI. How Princes Should Honour Their Word
- C) Thomas Hobbes: Leviathan. Chapter XXVI. Of Civil Laws
- D) Baron de Montesquieu: The Spirit of Laws. Book I. Of Laws in General

There is no state without positive right because positive right is man-made law. But the statement that right is right because states proclaimed it is obviously tautological. In addition, it opens the door to justify all acts done by and in the name of the state. Conveniently, arguments against crime of all sorts from expropriation to genocide become nil and void under this condition.

Since hardly anybody supports such a radical but in its own way consequential position, we must look for something behind rights. Two conventional answers have been given:

- divine right
- natural right (in contrast to both man-made law and supernatural law or divine revelation)

While divine right had been questioned and destroyed by Socratic philosophy, natural right had found many supporters up until the 16th century although we find repeated attempts in the 15th century to redefine the classical law theory and give it a new content (hence the distinction between classical and modern natural law theories).

Because the question of legality implies questions of legitimacy we will address "law" from four different thinkers of three different eras and close with an excursus:

- Marcus Tullius Cicero (106-43 BC), orator, statesman, political theorist and Stoic philosopher of the late Roman republic
- Niccolo Machiavelli (1469-1527), Florentine political philosopher, musician, poet, and romantic comedic playwright
- Thomas Hobbes (1588-1679), philosopher and, together with Justus Lipsius (1547-1606), the father of the modern State
- Charles-Louis de Secondat, Baron de la Brède et de Montesquieu (1689-1755), French political thinker and prominent figure of the French Enlightenment

- Excuse: Polycentric, or Non-Monopolistic, versus Monocentric Law

### **Cicero: On the State (III)**

Cicero, like Seneca and Marcus Aurelius after him, stood in the tradition of the Hellenistic Stoa. The Stoa (meaning in Greek "porch" after the place where its philosophers taught) was founded by Zeno of Citium (333 BC – 264 BC). Influenced by cynic teaching, Stoicism emphasizes a simple, virtuous life of moderation and frugality in accord with Nature, personal happiness through the control of passions, and the unity of all in a universal city.

The classical formulation of Natural Law goes back to Cicero. In *On the State (III)* we find the sentence: "True Law is in keeping with the dictates both of reason and of nature. It applies universally to everyone. It is unchanging and eternal." And again: "There will not be one law in Rome, and another in Athens. There will not be different laws now and in the future. Instead there will be one single, everlasting, immutable law, which applies to all nations and all times. The maker, and umpire, and proposer of this law will be God, the single master and ruler of us all." Natural Law claims to be antecedent and superior to any political order. In the Socratic tradition Nature (in Greek: *physis*) is to reality what idea is to fact. In other words, Nature is not the empirical world but the systematic, or logical, order of statements thereof.

### **Niccolo Machiavelli: The Prince. Chapter XVIII. Concerning The Way In Which Princes Should Keep Faith**

In Chapter XVIII of *The Prince* Machiavelli explains that for a prince "there are two ways of fighting: by law or by force." (Niccolo Machiavelli, *The Prince*. Chapter XVIII. Penguin. London 1999. p. 56) And he further elaborates: "The first way is natural to men, and the second to beasts. But as the first way often proves inadequate one must needs have recourse to the second." (ibid) A successful prince understands "how to make a nice use of the beast and the man" (ibid).

Not following up on the human sphere of law, Machiavelli plunges into the animal sphere of force. One more parameter goes into the equation: "men are wretched creatures" (ibid). Political goals can

therefore not be achieved by honesty and appeal to reason but by means of ruse and intimidation. "So, as a prince is forced to know how to act like a beast, he must learn from the fox and the lion; because the lion is defenceless against traps and a fox is defenceless against wolves." (ibid) The two complement each other: the fox's cunning evens out the lion's stupidity, as the lion's impressive strength makes up for the fox's weakness. Machiavelli emphasizes on several occasions that his sympathies lie with the fox. His admiration culminates in the statement: "One must know how to colour one's actions and to be a great liar and deceiver." (ibid. p. 57) Had Cicero still insisted on virtues like honesty, justice, respect, Machiavelli is satisfied with appearances. Says he: "A prince ... need not necessarily have all the good qualities I mentioned above, but he should certainly *appear* (italics added) to have them." (ibid.) Of course, a prince needs to know the difference between good and evil and Machiavelli is quite aware of the implication. The prince "should not deviate from what is good, if that is possible, but he should know how to do evil, if that is necessary." (ibid.) Politics, we can define accordingly, is the sphere between the possible and the necessary where the prince, weighing the various choices, decides on what is best for him to stay in power. In order to *appear*

- compassionate
- faithful to his words
- kind
- guileless
- devout

the prince clearly must have a knowledge of what these moral qualities are. His decision to deviate from them is determined by necessity rather than evil intention. Government, Machiavelli knows, always requires the support of the many: "The common people are always impressed by appearances and results." (ibid. p. 58) Necessity is merely another name for popular support. No government can exist for long without acceptance. Machiavelli was maybe the first to discover this fundamental truth that all political systems are and must be "democratic" irrespective of the name they choose for themselves.

It is important to see that Machiavelli was not in any way exceptional in his reasoning. Late Italian Renaissance thinkers introduced the new concept of Reason of State (*Ragion di Stato*) to disqualify the use of brute force as a means to preserve power. Giovanni Botero's (c. 1544-1617) *Della Ragion di Stato* (The Reason of State) (1589) and

Apollinare Calderini's *Discorsi sopra la Ragione di Stato di Giovanni Botero* (1597) echo the Counter-Reformation and gave the absolutist state its theoretical foundation. Scipione Ammirato (1531-1601) summarized the new concept with the following words: "If a state is nothing more than dominion, or rule, or reign, or empire, or any other name one might like to give it; reason of state will be nothing more than, reason of dominion, of rule, of empire, or reign, or of anything else."

A second concept thrown into the debate in the 16th century is the State of Nature. Interesting is the fact that this new concept became fashionable right at the time when the older Natural Law tradition began to erode (it's last defender being Richard Hooker, 1554-1600) and the Scientific Revolution was about to begin.

### **Thomas Hobbes: Leviathan. Chapter XXVI. Of Civil Laws**

Hobbes was searching for an answer to the first gnostic representation in history, the Puritan promise to bring Heaven to Earth. More serious – and much more bloody – attempts were made from the late 18th century but the Puritans can claim credit to the fact that they pioneered in the re-divinization of representation. Hobbes' answer was the State, erected on the two pillars of **State of Nature** and **Social Contract**.

The State of Nature Hobbes describes as follows: "Whatsoever therefore is consequent to a time of Warre, where every man is Enemy to every man; the same is consequent to the time, wherein men live without other security, than what their own strength, and their own invention shall furnish them withall. In such condition, there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the earth; no Navigation, no use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall feare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish, and short." (Hobbes: Leviathan, Chapter XIII) And at the end of the same chapter he turns the classical justification of civil law on its head: "To this warre of every man against every man, this also is consequent; that nothing can be Unjust. The notions of Right and Wrong, Justice and Injustice have there no place. Where there is no common Power, there is no Law: where no Law, no Injustice." (ibid.)

Once the state negatively defined, Hobbes needs to legitimize his

invention. This he does by usurping the concept of contract which he completely robs of its meaning (Hobbes, for instance, ignores that contracts are voluntary, mutually beneficial, limited, and binding). To accomplish this, he first applies the trick of making peace and acceptance of an infringement on one's freedom the two principal laws of nature:

- The first and fundamental Law of Nature is "*to seek Peace, and follow it*" (Hobbes: Leviathan, Chapter XIV)
- The second Law of Nature, derived from the first, is that a man "*be contented with so much liberty against other men, as he would allow other men against himselfe*" (ibid.)

And second he makes the free beasts voluntarily give up their freedom to a sovereign in return for peace: "But as men, for the attaying of peace, and conservation of themselves thereby, have made an Artificial Man, which we call a Common-wealth; so also have they made Artificiall Chains, called *Civill Lawes*." (Hobbes: Leviathan, Chapter XXI)

Hobbes also needs to distinguish between Right of Nature (*Jus Naturale*) and Law of Nature (*Lex Naturalis*). The former he defines as "the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature" and the latter as a "general Rule, found out by Reason, by which a man is forbidden to do, that, which is destructive of his life". In conclusion, he says: "RIGHT, consisteth in liberty to do, or to forbear; Whereas LAW, determineth, and bindeth to one of them: so that Law, and Right, differ as much, as Obligation, and Liberty:" (Hobbes: Leviathan, Chapter XIV)

Hobbes' distinction between law and right is an interesting borrowing from classical physics: right equals *actio* while law equals *reactio*. An object travels until its motion is arrested by another object. Only in a Robinson Crusoe world there exists right, like in space populated by one single object this object would travel freely. Hobbes has hereby eliminated right as a special, and unrealistic, case of law. In the next step of his argument, he disembowels Natural Law by separating it from the political sphere where now only positive law – orders issued by the sovereign – exists. "*Natural* are those which have been Lawes from all Eternity; and are called not onely *Naturall*, but also *Morall* Lawes; ... Positive, are those which have not been from Eternity; but have been made Lawes by the Will of those that have had the Sovereign Power over others; and are either written, or made known to

men, by some other argument of the Will of their Legislator." (Hobbes: Leviathan, Chapter XXVI)

Then Hobbes makes the unnecessary distinction between distributive and penal positive law: "Again, of Positive Lawes some are *Humane*, some *Divine*: And of Humane positive lawes, some are *Distributive*, some *Penal*. *Distributive* are those that determine the Rights of the Subjects, declaring to every man what it is, by which he acquireth and holdeth a propriety in lands, or goods, and a right or liberty of action: and these speak to all the Subjects. *Penal* are those, which declare, what Penalty shall be inflicted on those that violate the Law; and speak to the Ministers and Officers ordained for execution." (ibid.) Distributive and penal positive law are, as this quotation shows, merely the two sides of the same coin. Finally, all human existence is derived from Leviathan, the Biblical monster who stands as a Baconian symbol for the death of Aristotelianism and Scholasticism and who only God can destroy at the end of time.

## **Charles de Montesquieu: The Spirit of Laws. Book I. Of Laws in General**

The Spirit of Laws opens with the following statement: "Laws, in their most general signification, are the necessary relations arising from the nature of things." (Montesquieu: The Spirit of Laws. Book I. 1.) From this follows that man has his laws like God his laws or the material world its laws. The absence of laws governing man would be "blind fatality" (ibid).

To understand the Laws of Nature man must be studied "before the establishment of society" (ibid.) or, in other words, in a State of Nature. Here, Montesquieu identifies **four Laws of Nature** (Montesquieu: The Spirit of Laws. Book I. 2.):

- **Peace:** contrary to Hobbes, Montesquieu assumes that weakness and inferiority of man in a State of Nature would prevent him from attacking others. This world would be a world at peace.
- **Wants:** man is hungry, man needs shelter. Human action begins with needs.
- **Association:** fear, sex, and attraction makes man a social being.
- **Sociability:** man processes knowledge, and it is this advantage

that creates the desire in man to live in society.

"As soon as man enters into a state of society he loses the sense of his weakness; equality ceases, and then commences the state of war." (Montesquieu: *The Spirit of Laws*. Book I.3.) This war occurs on two levels: between different nations and between different individuals. War between different nations is regulated by the "law of nations" while war between governors and the governed is regulated by "politic law" and the relation between the governed by "civil law".

- **Law of Nations:** It exists to minimize the damage done by war without interfering with the interests of the nations concerned.
- **Politic Law:** Under the premise that "no society can subsist without a form of government" (ibid.) the laws of a state must conform with the specific history of a people, whatever the form of government.
- **Civil Law**

### **Excuse: Polycentric, or Non-Monopolistic, versus Monocentric Law**

The debate on right and law neglects alternatives to monocentric law and thus falls into the trap of Roman statism. Little wonder that even in Anglo-Saxon countries with their long tradition of customary law the exploration of alternatives is essentially the affair of some academics, many with a background in economics. The interest in economics compensates for the remarkable thin coverage of this central aspect of human action in the conventional debate of politics. Although private property was usually taken for granted from the days of Aristotle, sometimes even particularly emphasized like by Cicero and Locke, political theorists speak of needs rather than demand, of commonwealth rather than wealth, and habitually confound society and state.

Monocentric law developed out of polycentric law. Half a dozen different law systems openly competed with each other after the legal revolution between 1050 and 1200 (Tom W. Bell: *Polycentric Law*, *Humane Studies Review*, Vol. 7, Number 1, Winter 1991/92):

- Canon Law
- Roman Law in the form of Justinian codes (a compilation of legal decisions in ancient Rome)

- Urban Law with the rise of the cities
- Manorial law in respect to the relations between peasants and lords
- Feudal law regulating relations between vassals and lords
- The law merchant with the increase of trade and commerce

Royal law in many states advanced rapidly on the heels of military conquest. In the case of England two factors operated in combination (ibid.):

- The constant threat of foreign invasion (particularly by the Danes)
- The influence of Christianity which imbued the throne with godly quality and gave the king a divine mandate

Royal law promised two advantages over competitive jurisdictions (ibid.):

- Taxation allowed the state to subsidize its legal services (under Henry II of England, 1154-1189, itinerant justices also served as tax collectors)
- The state wielded greater coercive power (in contrast, the operation of competing legal systems depended on reciprocity and trust)

Customary legal system has six basic features (ibid.):

- A predominant concern for individual rights and private property
- Laws enforced by victims backed by reciprocal agreements
- Standard adjudicative procedures established to avoid violence
- Offenses treated as torts punishable by economic restitution
- Strong incentives for the guilty to yield to prescribed punishment due to the threat of social ostracism
- Legal change via an evolutionary process of developing customs and norms

Prior to royal law, Anglo-Saxon law knew no crime against the state. Crime was always seen as damage to individuals or their property. Consequently the compensation of the victim had highest priority. Today, the victim of a crime is punished several times: first because he suffers damage; secondly because as taxpayer he pays for policing, prosecution, and punishment; and thirdly he is denied any compensation but moral satisfaction (which does not cost the state any money). Imprisonment and capital punishment prevent the victim from

ever getting a compensation. The royal law allowed the king to charge fines, to expand his control over the people, and to usurp security. Gustave de Molinari in *The Production of Security* had already remarked: under the state's monopoly of law "Justice becomes slow and costly, the police vexatious, individual liberty is no longer respected, (and) the price of security is abusively inflated and inequitably apportioned" (Gustave de Molinari, *The Production of Security*).

The polycentric legal systems share the following features (Bell, *Polycentric Law*) which correspond with the above-mentioned features of the customary law system:

- Protection of individual rights and private property
- Voluntary agreements for the provision of security
- Non-violent dispute resolution
- Restitution
- Compliance enforced primarily through the threat of ostracism
- Evolution of legal norms through entrepreneurial activity

## Themes to explore:

- Justice *and* Law versus Justice *or* Law
- The State of Nature and the Nature of the State
- Social Contract theories
- Comparison of law theories

## Chapter 3: What is Property?

- A) Aristotle: Rhetoric. Book I. Chapter V
- B) Aristotle: The Politics. Book II. Chapter V. The Ownership of Property
- C) John Locke: The Second Treatise of Government. Chapter V. Of Property
- D) Hans-Hermann Hoppe: The Ethics and Economics of Private Property. I The Problem of Social Order. II The Solution: Private Property and Original Appropriation

"The first man who, having enclosed a piece of land, thought of saying 'This is mine' and found people simple enough to believe him, was the true founder of civil society. How many crimes, wars, murders; how much misery and horror the human race would have been spared if someone had pulled up the stakes and filled in the ditch and cried out to his fellow men: 'Beware of listening to this impostor. You are lost if you forget that the fruits of the earth belong to everyone and that the earth itself belongs to no one!'" (Jean-Jacques Rousseau: A Discourse on Inequality. Part II) Despite this childish remark, the "noble advocate of innocence (in his private life *homo perversissimus*)"<sup>6</sup> and "dog of Diogenes gone mad"<sup>7</sup> at least saw the nexus between private property and civilization which, for his contemporaries, was self-evident.

The enemies of private property are as numerous and old as its defenders. Even in the absence of a market, the enemies alone have to explain economic key concepts such as division of labor, good, price, productivity, their psychological concomitants like initiative, risk-taking, or responsibility, and socio-political phenomena like an omnipotent state, its obscure bureaucracy, and a supposedly enlightened, centralized planning agency.

If we, in an experiment of thought, take private property out of the equation, the mystery of private property catches our attention immediately. The difference between a propertyless society and universal private property (Karl Marx: Private Property and Communism) or collective/public property can be declared irrelevant because in both cases, in contrast to private property, decision-making

---

6 Stefan Zweig: Marie Antoinette, Frankfurt 2002, p. 138

7 Voltaire

is delegated to collectives which, different from corporations, serve a political rather than economical purpose.

To begin with, any form of collective or public property must and can only be a misnomer since property (from Latin *proprius* = individual, belonging exclusively to one) is synonymous with exclusiveness which we express in English by possessive pronouns. "My" book characterizes a book to which I, and only I, have special rights. Even in the plural form – "our" book – the individual use is exclusive though limited in time.

Consequently, a statement like "the fruits of the earth belong to us all, and the earth itself to nobody" (Rousseau, *ibid.*) is as nonsensical as the statement that our bodies belong to us in the sense that they would be shared. Not even the Communists went that far although some of them suggested just this for the female body. In both instances we cannot identify a superior agency that would promulgate rights and titles according to which our claims would be justifiable. What then is the mystery of private property in the absence of such an agency? The answer in a world of scarcity is convenience. Society regulates the use of scarce resources by convention such as "first come first serve" or "priority for the elderly" etc. They are nurtured by reciprocity: "Next time I will hurry and be first" or "I myself will benefit when I am old" etc. The use value of scarce items, however, has its limitations. What, for instance, happens when a scarce item disappears by its use? I cannot eat the cake *and* have it too. I cannot drive a car *and* share it with another driver. The second man gets less – if anything at all – of what the first man enjoys. Without private property a conflict – most likely a violent conflict – arises immediately over the scarce item. If it is only "him or me" the conflict must be resolved *before* it invokes violence (the rule of the stronger). This exactly does property.

We will address the topic of "property" from three different thinkers of three different eras:

- Aristotle (384-322 BC), student of Plato and founder of the Lyceum
- John Locke (1632-1704), lawyer and philosopher
- Hans-Hermann Hoppe (1949-), economist and philosopher

## **Aristotle: Rhetoric. Book I. Chapter V and The Politics. Book II. Chapter V. The Ownership of Property**

The Politics is Aristotle's riposte to Plato's The Republic as much as Rhetoric is a retort to Plato's disrespect of this art. One crucial aspect of The Republic lies in its negative presentation of property (for the guardians who are not treated as one of the five economic classes which are 1) agricultural or industrial producers; 2) merchants; 3) sailors and shipowners; 4) retail traders; 5) wage earners or manual laborers). Not only that "the pursuit of unlimited material possessions" (Plato: The Republic, 373 d) "will lead to war" (ibid. 373 e), the guardians share a number of characteristics:

- "they shall have no private property beyond the barest essentials" (ibid. 416 d)
- "none of them shall possess a dwelling-house or storehouse to which all have not the right of entry" (ibid. 416 d)
- "They shall eat together in messes and live together like soldiers in camp" (ibid. 416 e)
- "all the women should be common to all the men" (ibid. 457 d)
- "children should be held in common, and no parent should know its child, or child its parent" (ibid. 457 d)
- "we must arrange for marriage" (ibid. 458 e)
- "the children of the inferior Guardians, and any defective offspring of the others, will be quietly and secretly disposed of" (ibid. 460 c)

Even though The Republic smacks of the 20th c. (national or international) socialist paradise with its special breed of self-appointed rulers, special housing districts, and euthanasia, it should be said in Plato's defense that he constructed dichotomies between democratic Athens (farther from aristocracy) and timocratic Sparta (nearer to aristocracy) and between property owners with interest and propertyless rulers with no other interest than wisdom (which prevents aristocracy from slipping away to oligarchy).

Plato rebuts the "debating technique" of the Sophists because there is a "difference between scoring points in debate and arguing seriously" (ibid. 454 a). That alone makes Aristotle's Rhetoric a heretical enterprise. In this work Aristotle, when listing the elements of happiness, emphasizes the importance of wealth and defines: "The elements of wealth are abundance of money and land, the possession

of estates outstanding for number, extent and beauty and also that of furniture, slaves and cattle of outstanding numbers and quality, all these being owned, secure, liberal and useful (Aristotle: Rhetoric. Book I. Chapter V). Note the difference between liberality (consumption) and utility (exchange). The owner can determine what to do with his property – "has the use of the goods" (ibid.) – and can freely dispose of his property – "ownership is the right of alienation" (ibid.).

By making reference to Plato's The Republic, Aristotle in The Politics more directly addresses "the question of property" (Aristotle: The Politics. Book II. Chapter V). Aristotle separates the issue of property from the legislation of the family and asks whether property should "be held in common or not" (ibid.). In his discussion Aristotle notices the "difficulties inherent in the common ownership of property" (ibid.) and anticipates Adam Smith when he observes: "with every man busy with his own, there will be increased effort all round" (ibid.). Eventually, he settles with the solution that "it is better for property to remain in private hands; but we should make the use of it communal" (ibid.). Maintaining that "every piece of property has a double use" (ibid. Book I. Chapter IX), Aristotle was the first to distinguish between use value and exchange value. Paralleling this distinction to "household-management" and "trade", he defines "communal use" in contrast to private consumption. Several reasons are credited why property should be private:

- "an immense amount of pleasure to be derived from the sense of private ownership" as an extension of man's natural "affection for himself" (ibid. Book II. Chapter V)
- the "very great pleasure in helping and doing favours to friends and strangers and associates" (ibid.)
- the loss of "liberality" (ibid.) by which he means disinterest
- "the immense period of time during which this form of organization (= propertyless association) has remained undiscovered" (ibid.)

Aristotle, however, sees as clearly as Plato that "there must be some unity in a state" but he disapproves of the "absolutely total unity" favored by his teacher. To save the state, both in the end resort to "education" in the expectation that it will constitute a sense of unity (ibid.).

## John Locke: The Second Treatise of Government. Chapter V. Of Property

In the Second Treatise of Government. Chapter V. Of Property Locke endeavors "to shew, how men might come to have a *property* in several parts of that which God gave to mankind in common". His starting point is the observation that "every man has a *property* in his own *person*". Labor is an extension of his body. Locke's theorem of original appropriation states: "Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his *labour* with, and joined to it something that is his own, and thereby makes it his *property*." But he adds the following proviso: "where there is enough, and as good, left in common for others" because if there were not enough the actor would interfere with the liberty of other actors and hence cannot turn a resource into a good. By picking up acorns under an oak or gathering apples from a tree the actor has mixed labor to the resource, and by appropriating them has turned the resource into a good. Property begins where man removes an object out of a state where it is natural or common. Labor changes the quality of a mere object into something usable: "His *labour* hath taken it out of the hands of nature, where it was common, and belonged equally to all her children, and *hath* thereby *appropriated* it to himself." Could Columbus have claimed the whole of the American continent for himself? Regardless of the fact that America was populated, Locke denies this because Columbus did not change the quality of the land he found in the way the settlers did who followed him.

The act of appropriation requires rationality and industry. Labor thus is not only the physical activity which transforms common into property or resource into good but also ingenuity, perspective, time, choice, and effort, all of them entrepreneurial abilities which cannot be taken for granted. The first to "see" the use value of a resource is obviously smarter than all the others who only saw the object or nothing. He who "sees" the iron in a "stone" is more knowledgeable than those who only saw the stone. By producing iron from ore he does not cheat or exploit the others. On the contrary, he benefits them because he makes their lives easier. This Locke also understood when he said: "he who appropriates land to himself by his labour, does not lessen, but increase the common stock of mankind" ("increase" here means "benefit").

The process of appropriation, Locke claims, is also reversible. Land enclosed but unused, fruits rotten, venison putrefied, so his examples, mean that the appropriator "offended against the common law of nature, and was liable to be punished." Punishment in this context can only consist in the loss of property. Locke insists that property acquisition implies only use. Where resources remain unused they "might be the possession of any other" or, in other words, can be appropriated, i.e. used, by someone else. However, this holds only for original appropriation. Once land has some value, i.e. it becomes scarce, capital and contract come into play because they prevent property from slipping back into waste, or common, or mere resource.

"The great art of government", for Locke, lies in "the increase of lands, and the right employing of them". The sovereign who "established laws of liberty to secure protection and encouragement to the honest industry of mankind, against the oppression of power and narrowness of party, will quickly be too hard for his neighbors." Without a doubt, Locke is here referring to the rise of England from the late 16<sup>th</sup> to the late 17<sup>th</sup> centuries.

## **Hans-Hermann Hoppe: The Ethics and Economics of Private Property. I The Problem of Social Order. II The Solution: Private Property and Original Appropriation**

In *The Ethics and Economics of Private Property* Hoppe argues in favor of private property as follows. Cooperation and conflict can only arise in a social texture where scarcity exists. Neither in a Robinson Crusoe world nor in the Garden of Eden conflicts other than the one over "the physical body of a person and its standing room" come up. Says Hoppe: "A conflict is only possible if goods are scarce. Only then will there arise the need to formulate rules that make orderly – conflict-free – social cooperation possible." That exactly is the problem of social order.

The solution to this problem, Hoppe asserts, is simple: "Everyone is the proper owner of his own physical body as well as of all places and nature-given goods that he occupies and puts to use by means of his body, *provided that no one else has already occupied or used the same places and goods before him.* This ownership of "originally

appropriated" places and goods by a person implies his right to use and transform these places and goods in any way he sees fit, *provided that he does not thereby forcibly change the physical integrity of places and goods originally appropriated by another person.*" Once appropriation has taken place "ownership in such places and goods can be acquired only by means of voluntary – contractual – transfer of its property title from a previous to a later owner." These are the only two ways to create wealth without recourse to aggression.

Hoppe now offers two justifications for the above solution:

- Moral intuition ("the overwhelming majority of people – including children and primitives – in fact act according to these rules")
- Proof

To prove that private property is the only solution to the problem of social order Hoppe develops two separate lines of thought:

In a world of two, A and B, without private property

- A would be the owner of B (or vice versa) so that one would by necessity be inferior to the other
- A *and* B "must be considered equal co-owners of all bodies, places and goods"

The first case can easily be discarded as unethical because it is not "equally applicable to everyone *qua* human being (rational animal)". Although this requirement would be fulfilled in the second case, we face even more severe consequences here: "this alternative would suffer from an even more severe deficiency, because if it were applied, all of mankind would instantly perish". Needless to say that the extinction of the human race is unethical in itself and must thus be discarded. But why would co-ownership necessarily lead to self-destruction? Hoppe's answer is: "if all goods were co-owned by everyone, then no one, at no time and no place, would be allowed to do anything unless he had previously secured every other co-owner's consent to do so. Yet how could anyone grant such consent were he not the exclusive owner of his own body ... by which means his consent must be expressed?" From this reasoning it becomes clear that "universal communism" is praxeologically impossible. Put positively: "the idea of original appropriation and private property" is "the only correct solution to the problem of social order". All other solutions are either unethical or contradictory or both.

Themes to explore:

- Capitalism
- Socialism
- The Third Way
- Property and Justice

## Chapter 4: What is Interest?

- A) Jean-Baptiste Say: Treatise on Political Economy. Book III, Chapter VI. On Public Consumption
- B) Frédéric Bastiat: That Which is Seen, and That Which is Not Seen. I. The Broken Window
- C) Karl Marx: The German Ideology. Part I: Feuerbach. Opposition of the Materialist and Idealist Outlook. D. Proletarians and Communism
- D) Friedrich Nietzsche: Human. All Too Human. A Book for Free Spirits. VIII. A Glance at the State. 473, 474

Before the late 19th century political theory does not deal with "interest" in any other form but "self-love" and "commonwealth". Interest (from Latin *inter* = between and *esse* = to be) as a topic of its own right appears with industrial capitalism and the parallel growth of the state (from a mere military agent to a central planning agency in charge of education/perception, management/surveillance, infrastructure, internal and external security, administration, and welfare).

We will address "interest" from four different thinkers of the 19th century:

- Jean-Baptiste Say (1767-1832), economist and entrepreneur
- Frédéric Bastiat (1801-1850), classical liberal theorist and political economist
- Karl Marx (1818-1883), philosopher, political economist, and socialist revolutionary
- Friedrich Nietzsche (1844-1900), philologist and philosopher

### **Jean-Baptiste Say: Treatise on Political Economy. Book III, Chapter VI. On Public Consumption**

Treatise on Political Economy, first published in 1803, was Jean-Baptiste Say's most important work. A tract in economic theory, it also criticized the mercantile economy of Napoleon I. The Treatise is divided into three books: Book I. Of the Production of Wealth; Book II. Of the Distribution of Wealth; Book III. Of the Consumption of Wealth. As trivial as it may appear, wealth has to be produced first before it can be distributed and consumed, a lesson all too often lost on us who

distribute lavishly what has not yet been created – with predictably catastrophic consequences.

Say's second merit is to present public consumption as a subclass of consumption: "the collection of many individuals into a community gives rise to a new class of wants, the wants of the society in its aggregate capacity, the satisfaction of which is the object of public consumption." (Say, II.VI.1) The satisfaction of wants – consumption – is a destruction of wealth and "the general utility of the whole community ... is precisely analogous to that consumption ... which goes to satisfy the wants of individuals or families." (ibid., III.VI.3) Treatises on the essential distinction between public and private wealth only "swell the monstrous heap of printed absurdity" (ibid., III.VI.12) but do not contribute to an understanding of the phenomenon.

Say insists on the distinction between "transfer of value" and "value consumed" whereby only the latter amounts to destruction. Translated into the context of man and the state he reasons: "The sole difference is, that the individual in the one case, and the state in the other enjoys the satisfaction resulting from that consumption." (ibid., III. VI. 6) Most important is the observation that in both the private and public spheres one and the same economy applies: "If, then, public and private expenditure affect social wealth in the same manner, the principles of economy, by which it should be regulated, must be the same in both cases. There are not two kinds of economy. ... If a government or an individual consume in such a way, as to give birth to a product larger than that consumed, a successful effort of productive industry will be made. If no product result from the act of consumption, there is a loss of value, whether to the state or to the individual." (ibid., III.VI.10)

Consumption in the private sector is consumption of values created in the same sector whereas consumption in the public sector is consumption of values created in the private sector: "the government has nothing of its own to squander, being, in fact, a mere trustee of the public treasure." (ibid., III. VI. 10)

That statists have seen things differently should not surprise us. When Frederick II of Prussia prides himself: "My numerous armies promote the circulation of money, and disburse impartially amongst the provinces the taxes paid by the people to the state" (quoted in ibid., III.VI.14), the enlightened despot only showed his ignorance of basic economics. Greater expenditure over income inevitably leads to ruin in the private domain. Why, so Say, should we expect something different

in a public context, only of a larger scale?

## **Frédéric Bastiat: That Which is Seen, and That Which is Not Seen. I. The Broken Window**

The Broken Window, retold in Henry Hazlitt's Economics in One Lesson, made Bastiat famous. In The Broken Window we have the following cast:

- The consumer (the good shopkeeper James B.)
- His careless son who smashed the shop window
- The producer (the glazier)
- Some thirty spectators
- And, invisible, the shoemaker (or some other tradesman)

The story is quickly told: the shopkeeper's boy broke the window of his father's shop. His father has the glazier replace it which cost him six francs. "The glazier comes, performs his task, receives his six francs, rubs his hands, and, in his heart, blesses the careless child." The village folks gather and discuss the incident. One is particularly smart and soothes the shopkeeper by reasoning: "Everybody must live, and what would become of the glaziers if panes of glass were never broken?" Suddenly, the bad boy becomes a hero and everybody is happy. As cheap as happiness can be, Bastiat cautions the happy fools: "Stop here! your theory is confined to that which is seen; it takes no account of that which is not seen."

What is not seen?

- The shopkeeper spent the six francs on the window. He cannot spend the money on anything else.
- The shopkeeper would have spent the money on goods that satisfy his wants.
- The shoemaker does *not* receive the six francs earmarked by the shopkeeper for the purchase of shoes.
- Neither industry in general nor the sum total of national labor is affected whether windows are broken or not.
- The shopkeeper, rather than having both window *and* a pair of shoes ends up with having nothing (the window he had already had before the accident).
- Society as a whole has lost the value of the broken window.

## **Karl Marx: The German Ideology. Part I: Feuerbach. Opposition of the Materialist and Idealist Outlook. D. Proletarians and Communism**

The German Ideology was written by Karl Marx only three years before the publication of the Communist Manifesto which appeared in 1848. It anticipates the Manifesto without its appeal for political action.

The 27-year-old Marx formulates a train of thought that he did not revise any more in his later years when he claims that man does not act according to his own preferences but necessarily in line with class interest ("... conditions which were common to them all and independent of each individual"). Class interest developed historically out of antagonism ("common conditions developed into class conditions. The same conditions, the same contradiction, the same interests ...") The alienation of acting man and his mysterious metamorphosis into an instrument of class interest has, Marx asserts, economic roots so that only a change of the relations of production can set man free and restore him in his ancient rights and responsibilities (Marx: "... their personality is conditioned and determined by quite definite class relationships"). The relations of production develop dialectically, according to Marx. A historical stage – comparable to Hegel's thesis on the original level or synthesis at all higher levels – implies its negation (philosophically speaking) or self-destruction (economically speaking), condensed in the German word *Aufhebung* (abolishment, conservation, synthesis). A revolution is nothing but such an *Aufhebung* and Marx, who studied the Industrial Revolution and the French Revolution in depth and put both in the same basket, insists that the relations of production can only be changed by force and violence because the ruling class does not give up its advantages voluntarily ("... this revolution is necessary, therefore, not only because the ruling class cannot be overthrown in any other way, but also because the class overthrowing it can only in a revolution succeed in ridding itself of all the muck of ages and become fitted to found society anew"). These advantages result from profit or surplus which the capitalist denies to the laborer. He instrumentalizes religion, culture, the state for his purposes, domination. Consequently, politics reflects the class interest of the capitalists in capitalism as it would reflect the class interest of the workers in socialism ("... the individuals, of which society consists, have given themselves collective expression, that is, the State"). Again, individuals of each of the two classes do not act in the

proper sense of the word but merely behave as if they were puppets of their respective class ("... was always a community to which these individuals belonged only as average individuals, only insofar as they lived within the conditions of existence of their class – a relationship in which they participated not as individuals but as members of a class.").

Marx, we could say, used the model of Bastiat who he did not know. The glassmaker "hires" the bad boy (the state) to do the windowbreaking systematically and thus prevents him from being marginalized.

### **Friedrich Nietzsche: Human. All Too Human. A Book for Free Spirits. VIII. A Glance at the State. 473, 474**

Marx and Nietzsche were contemporaries. Other than this and the German language which both brilliantly mastered, the two great men have nothing in common. Both were children of the Enlightenment but each drew different conclusions: for Marx, freedom can only be accomplished with the help of the state which always serves the ruling economic class; for Nietzsche, freedom can only be achieved without, or even against, the state.

Nietzsche was not primarily interested in the state, though, and A Glance at the State is only one chapter out of ten from A Book for Free Spirits. Yet if the science of politics has anything to do with morality – i.e. pertaining to matters of good and evil or systems of principles and judgments – and not only with instincts and impulses, we must come to the same conclusion as Nietzsche: "Whoever guesses something of the consequences of any deep suspicion, something of the chills and fears stemming from isolation, to which every man burdened with an unconditional *difference of viewpoint* is condemned, this person will understand how often I tried to take shelter somewhere, to recover from myself, as if to forget myself entirely for a time (in some sort of reverence, or enmity, or scholarlyness, or frivolity, or stupidity); and he will also understand why, when I could not find what I *needed*, I had to gain it by force artificially, to counterfeit it, or create it poetically." (Preface)

While talking back to "the typical old socialist Plato", the most ardent defender of the polis (see especially Plato's Crito in the following chapter), Nietzsche fires his salvos against all the dream dancers and illusionists who want to see in the state nothing but a haven of freedom.

Before the marginalists proved Marx's labor theory of value – the central pillar of his edifice – wrong, before the – international and national – socialist reality of suffering, crime, and destruction synthesized with our universal heritage, Nietzsche had already seen its real nature: "Socialism is the visionary younger brother of an almost decrepit despotism whose heir it wants to be. ... it desires a wealth of executive power, as only despotism had it; indeed, it outdoes everything in the past by striving for the downright destruction of the individual ...". Socialism Nietzsche describes as "Caesarian power state", which "needs the most submissive subjugation of all citizens to the absolute state"; it can only exist "by means of the most extreme terrorism", "it secretly prepares for reigns of terror, and drives the word 'justice' like a nail into the heads of the semieducated masses, to rob them completely of their reason". The historical lesson: "Socialism can serve as a rather brutal and forceful way to teach the danger of all accumulations of state power, and to that extent instill one with distrust of the state itself."

After modern science and the rationality on which it is grounded had dealt a deadly blow to our Judeo-Christian ethic and as a consequence also undermined our understanding of the state, Nietzsche sensed the danger that a quasi-religious secular morality could fill the void. The connoisseur of Greek philosophy identified in the Greek polis the origin of worship of the state. In opposition to the usual claptrap of the democratic age which put the Greek polis as an alleged defender of freedom on a pedestal, Nietzsche insists that "the Greek polis spurned and distrusted the increase of culture among its citizens; its powerful natural impulse was to do almost nothing but cripple and obstruct it."

## Themes to explore:

- Deficit spending and crisis management
- Planned versus free economy
- Public versus private interest
- National Interest

## Chapter 5: What is Obedience?

- A) Plato: Crito
- B) Etienne de la Boétie: Discourse on Voluntary Slavery
- C) John Locke: Second Treatise of Government. Chapter XIX. Of the Dissolution of Government
- D) Herbert Spencer: The Right to Ignore the State
- E) Lysander Spooner: No Treason. The Constitution of No Authority

Three months after the trial of Adolf Eichmann had begun in Jerusalem in 1961, Yale psychologist Stanley Milgram carried out experiments involving a "teacher" (the accomplice and executioner), a "learner" (the victim), and an "experimenter" (the commander). Milgram devised the experiment to answer the question "Could it be that Eichmann and his million accomplices in the Holocaust were just following orders? Could we call them all accomplices?" The results of this experiment were eye-opening: regardless of the experimental setup, a stable majority (approximately two thirds of the participants) administered deadly 450-volt shocks to their victims.

Rudolf Höss, Kommandant of Auschwitz, at the Nuremberg War Crime trials:

The 'Final Solution' of the Jewish question meant the complete extermination of all Jews in Europe. I was ordered to establish extermination facilities at Auschwitz in 6/1941. At that time, there were already in the General Government three other extermination camps: Belzek, Treblinka and Wolzek. These camps were under the Einsatzkommando of the Security Police and SD. I visited Treblinka to find out how they carried out their exterminations. The camp commandant at Treblinka told me that he had liquidated 80,000 in the course of one-half year. He was principally concerned with liquidating all the Jews from the Warsaw Ghetto. He used monoxide gas, and I did not think that his methods were very efficient. So when I set up the extermination building at Auschwitz, I used Zyklon B, which was a crystallized prussic acid which we dropped into the death chamber from a small opening. It took from 3-15 minutes to kill the people in the death chamber, depending upon climatic conditions. We knew when the people were dead because their

screaming stopped. We usually waited about one-half hour before we opened the doors and removed the bodies. After the bodies were removed our special Kommandos took off the rings and extracted the gold from the teeth of the corpses.

Another improvement we made over Treblinka was that we built our gas chamber to accommodate 2000 people at one time whereas at Treblinka their 10 gas chambers only accommodated 200 people each. The way we selected our victims was as follows: We had two SS doctors on duty at Auschwitz to examine the incoming transports of prisoners. The prisoners would be marched by one of the doctors who would make spot decisions as they walked by. Those who were fit for work were sent into the camp. Others were sent immediately to the extermination plants. Children of tender years were invariably exterminated since by reason of their youth they were unable to work. Still another improvement we made over Treblinka was that at Treblinka the victims almost always knew that they were to be exterminated and at Auschwitz we endeavored to fool the victims into thinking that they were to go through a delousing process. Of course, frequently they realized our true intentions and we sometimes had riots and difficulties due to that fact. Very frequently women would hide their children under the clothes, but of course when we found them we would send the children in to be exterminated. We were required to carry out these exterminations in secrecy but of course the foul and nauseating stench from the continuous burning of bodies permeated the entire area and all of the people living in the surrounding communities knew that exterminations were going on at Auschwitz.

Without a doubt, Eichmann, Höss and thousands of other henchmen acted in the name of the German state. Most of these executioners were not sadists but bureaucrats. They functioned like little wheels in a gigantic machinery which gave them purpose. Purposes do change but obedience – receiver compliance to source authority – remains the lifeblood of states simply because all states cyclically reproduce and continuously rely on vertical transactions between government and the governed.

We will address the topic of “obedience” from five different thinkers of three different eras:

- Plato (c. 427- c. 347 BC), follower of Socrates and father of political science
- Etienne de la Boétie (1530-1563), *parlementaire*, writer, political philosopher, and friend of Montaigne
- John Locke (1632-1704), lawyer and philosopher
- Herbert Spencer (1820-1903), philosopher and classical liberal political theorist
- Lysander Spooner (1808-1887), individualist anarchist political philosopher, abolitionist, legal theorist

## Plato: Crito

It has been said that not Plato but his nephew Speusippus wrote Crito. There certainly are a number of oddities about the text (see Introduction to the Penguin edition by Harold Tarrant):

- Lack of Socratic irony
- Unusual religious elements
- Absence of the Socratic *elenchus* (syllogistic refutation)
- Lack of any obviously "Platonic" metaphysical or psychological infrastructure

Whatever the truth in respect to authorship, the fact remains that the book was written in the 4<sup>th</sup> c. BC and has ever since been associated with Plato.

The structure of The Crito is fairly simple:

- Socrates is in prison, and two days before his death Crito tries to arrange his escape
- Crito tries to persuade Socrates to escape
- Discussion between Crito and Socrates
- Socrates replies to Crito's arguments for escaping

Socrates states in the discussion with Crito that he never accepts anything but the best argument (46b) and that the quality of an argument has nothing to do with the number of people who support it (47c/d). Soon Socrates introduces his standard argument "that the really important thing is not to live, but to live well" (48b) which "amounts to the same thing as to live honourably and justly" (ibid.). Before he replies to Crito, Socrates makes it clear that "in no circumstances must one do wrong" (49b) and therefore, without proving the state wrong it would be unjust to escape from prison ("If we leave

this place without first persuading the state to let us go, are we or are we not doing an injury ...?").

So far, we have heard familiar arguments except for the personification of the state. What comes next, however, appears rather weird although the argument has gained much power with nationalism. Socrates begins his riposte by portraying the polis as the personification of reason in comparison to which the individual must be inferior: "Do you imagine that a city can continue to exist and not be turned upside down, if the legal judgements which are pronounced in it have no force but are nullified and destroyed by private persons?" (50b) Rather than following up on the usual argument culminating in the superiority of the philosopher to everyone else in the polis in terms of sound judgment, Socrates soon gives the discussion a special twist: the polis is the place which made us what we are. Writes Plato: "What charge do you bring against us and the State, that you are trying to destroy us? Did we not give you life in the first place? Was it not through us that your father married your mother and brought you into this world?" (50d) Socrates, however, insists that man is not just influenced by the polis but that the two are slave and master to each other: "Then since you have been born and brought up and educated, can you deny, in the first place, that you were our child and slave, both you and your ancestors?" (50e) Little wonder that Socrates next turns the polis into something absolute: "Are you so wise as to have forgotten that compared with your mother and father and all the rest of your ancestors your country is something far more precious, more venerable, more sacred, and held in greater honour both among gods and among all reasonable men? (51a/b)

From all this follows "That you must either persuade your country or do whatever it orders, and patiently submit to any punishment that it imposes, whether it be flogging or imprisonment? And if it leads you out to war, to be wounded or killed, you must comply, and it is just that this should be so ... . Both in war and in the lawcourts and everywhere else you must do whatever your city and your country commands, or else persuade it that justice is on your side; but violence against mother or father is an unholy act, and it is a far greater sin against your country." (51b/c)

Plato also introduces a social contract theory according to which anyone in the polis makes a choice. By staying one opts for it and voluntarily submits to it: "that any Athenian, on attaining to manhood

and seeing for himself the political organization of the State and us its Laws, is permitted, if he is not satisfied with us, to take his property and go away wherever he likes." (51d) And again: "you had seventy years in which you could have left the country, if you were not satisfied with us or felt that the agreements were unjust." (52e) Socrates speaks of "covenants" (52e, 54c) between him and them which tie any citizen to the laws of the polis for better or worse.

## **Etienne de la Boétie: Discourse on Voluntary Slavery**

Murray N. Rothbard, in *The Political Thought of Etienne de la Boétie*, describes *The Discourse of Voluntary Servitude* as "lucidly and coherently structured around a single axiom, a single percipient insight into the nature not only of tyranny, but implicitly of the State apparatus itself." And further down: "La Boétie cuts to the heart of what is, or rather should be, the central problem of political philosophy: the mystery of civil obedience."

Although de la Boétie "followed the method of Renaissance writers, notably Niccolo Machiavelli" in view of "abstract, universal reasoning" and "frequent references to classical antiquity" (Rothbard), he is the first thinker who openly pronounced himself clearly against any form of government rather than a specific form of it. Different from a long line of thinkers from the Stoa to Thomas More, de la Boétie did not flee into escapism of the introverted or Utopian form. De la Boétie an early anarchist or a libertarian?

De la Boétie was a lawyer at a time when the legal trade – a stronghold of noble opposition to the absolute state – was still "an exiting enterprise, a philosophical search for truth and fundamental principles" (Rothbard). He had been educated at the University of Orléans where he was exposed to the influence of Huguenot (French Calvinist) teachers. Pleading for tolerance and reason, he must also be ranked among the *philosophes* of the early Enlightenment. Given these circumstances, de la Boétie was, politically speaking, an anti-monopolist more than anything else. What are his arguments against political monopoly?

In the 16<sup>th</sup> century, the tyrant was not yet the Hydra that it was to become after the French Revolution. The resistance of Church and nobility to royal power had not yet been removed. New in Renaissance was, however, the discovery of "the people". Soon, personal rulers

should begin to destroy Church and nobility as political factors – and, on the way, change themselves into impersonal sovereigns. De la Boétie observed that "general public support is in the very nature of all governments that endure, including the most oppressive of tyrannies" (Rothbard). Consequently, by mass withdrawal of consent tyranny would collapse. So at least the 18-year-old somewhat naively hoped although his own analysis of power gives us an idea of the complexity of its reproduction.

Without any knowledge of economic theory the young man saw clearly that the unrestricted rule of one agent of coercion "becomes abusive and unreasonable" (de la Boétie) as well as unpredictable "since it is always in his power to be cruel whenever he pleases" (ibid.). What are possible explanations for this?

- Obedience is based on personal violence or cruelty, and fear. But a ruler does not have to be physically strong: "Too frequently this same little man is the most cowardly and effeminate in the nation, a stranger to the powder of battle and hesitant on the sands of the tournament; not only without energy to direct men by force, but with hardly enough virility to bed with a common woman!" (de la Boétie)
- Obedience is based on indifference. The multitude does not rise because it does not see the advantage of freedom. "Liberty is the only joy upon which men do not seem to insist; for surely if they really wanted it they would receive it. Apparently they refuse this wonderful privilege because it is so easily acquired." (de la Boétie)

Liberty presupposes will, the will to freedom. This "simple act of the will" (de la Boétie) turns out to be the crux because it takes as given that we understand nature and act accordingly: "... if we led our lives according to the ways intended by nature and the lessons taught by her, we should be intuitively obedient to our parents; later we should adopt reason as our guide and become slaves to nobody." (de la Boétie) If "freedom is our natural state" why then has "evil chance ... so denatured man that he, the only creature really born to be free, lacks the memory of his original conditions and the desire to return to it?" (de la Boétie)

There are three forms of dictatorship, whereby "the method of ruling is practically the same" (de la Boétie):

- By popular election
- By force or deception
- By inheritance

In all three cases it appears that habituation and custom play a central role. People tend to forget how sweet freedom once was and enjoy the heavy yoke of subjection. There are always a few "who feel the weight of the yoke and cannot restrain themselves from attempting to shake it off. ... These are the ones who, having good minds of their own, have further trained them by study and learning. Even if liberty had entirely perished from the earth, such men would invent it. For them slavery has no satisfactions, no matter how well disguised." (de la Boétie) These men are few and they lack organization. "Under the tyrant they have lost freedom of action, of speech, and almost of thought; they are alone in their aspiration." (de la Boétie) But they do exist and give example and hold up the banner of liberty.

As much as submission results from custom, the submissive spirit which makes it lasting comes from training. Humans are trained to obey like dogs and when eventually their behavior becomes quasi instinctive the tyrant triumphs in victory. Doggish education and distractive entertainment serve the same purpose: they both lull the slaves into sweet dreams. Talking about "the poor fools ... tricked into servitude" so easily, de la Boétie observes: "Truly it is a marvellous thing that they let themselves be caught so quickly at the slightest tickling of their fancy. Plays, farces, spectacles, gladiators, strange beasts, medals, pictures, and other such opiates, these were for ancient peoples the bait toward slavery, the price of their liberty, the instruments of tyranny." (de la Boétie) And he marvels at the simpletons who do not even "realize that they were merely recovering a portion of their own property, and that their ruler could not have given them what they were receiving without having first taken it from them." (de la Boétie) While custom, indoctrination, entertainment make people dull and subservient, adoration cements their inferiority. In this context religion and symbolism come into play.

The true secret of domination, however, lies in the bureaucratic hierarchy. The tyrant creates offices for his supporters and executioners. "Such men must not only obey orders; they must anticipate his wishes; to satisfy him they must foresee his desires; they must wear themselves out, torment themselves, kill themselves with work in his interest, and accept his pleasure as their own, neglecting

their preferences for his, distorting their character and corrupting their nature; they must pay heed to his words, to his intonation, to his gestures, and to his glance." (de la Boétie) What holds the state together is not love or friendship between the bureaucrats but outerdirectedness and a sense of purpose: "they are not friends, they are merely accomplices" (de la Boétie).

De la Boétie clearly sees that "the possession of wealth is the worst of crimes against him (the tyrant)" (de la Boétie). The state destroys wealth, and the more tyrannical a state is, the more wealth it destroys. Eventually it impoverishes and destroys its very foundation. Unfortunately, de la Boétie fails to show the road out of serfdom without a massive destruction of wealth.

## **John Locke: Second Treatise of Government. Chapter XIX. Of the Dissolution of Government**

Government, Locke claims, can be dissolved

- from without by conquest
- from within under the following two circumstances
  - When the legislation is altered: "When any one, or more, shall take upon them to make laws, whom the people have not appointed so to do, they make laws without authority, which the people are not therefore bound to obey." (§ 212) Whenever the will of society is disregarded by the legislator, legislation is altered.
  - When the legislative "act contrary to their trust" (§ 221). This happens when they "invade the property of the subject" (ibid.) which equals "a state of war with the people" (ibid.)

Locke's treatise, despite frequent logical inconsistencies and a dogmatic tenor, takes up Hobbes' concept of social contract and gives it a new twist: individuals, he maintains, enter society voluntarily by giving up their individuality. As long as the society lasts, power remains in the community. The same holds for the legislative empowered by society. Power only reverts to the society "when by the miscarriages of those in authority, it is forfeited" (§ 243).

## Herbert Spencer: The Right to Ignore the State

The problem of obedience, seemingly solved by Locke in a social contract that lapses when broken, was taken up again by Spencer. What Locke had left patched over by his misuse of the term contract, i.e. the contradiction between property right and legislation, Spencer reintroduced into the debate. Gone are the devices "State of Nature" and "Social Contract" and the concomitant confusion of "individual", "society" and "state".

Spencer begins with individual freedom and contrasts it with government which is "simply an agent employed in common by a number of individuals to secure to them certain advantages" (1.). If freedom deserves its name, the individual is free to connect himself with the state or "to relinquish its protection, and to refuse paying toward its support" (1.). Not only is freedom irreconcilable with government, freedom is also morally defensible where government is not: "magisterial power ... exists *by evil*" and "violence is employed to maintain it" (2.).

With Locke Spencer agrees that government is made for men and not men for government if "legislative authority is deputed" (3.), i.e. comes from individuals. If they are masters, "they confer the said authority voluntarily: and this implies that they may give or withhold it as they please" (3.). Without calling it by its name, Spencer is the first to insist on the right to exit as we know it from civil contracts.

Now, the next focus is on the people. Spencer departs from the Rousseauan doctrine of "*volonté générale*" (general will or majority vote) as the only legitimate source of decision-making: "... from the will of the people, that is of the majority, there can be no appeal. Yet is this belief entirely erroneous." (4.) What if a majority claims the right "to murder, to enslave, or to rob" (4.)? Does a majority change immorality into its opposite simply because it is a majority? The answer is clearly no. A vote 99/1 is as immoral as a vote 1/99 because both imply coercion. And Spencer concludes: "The freest form of government is only the least objectional form." (4.) From here it is only logical to argue: "The very existence of majorities and minorities is indicative of an immoral state." (4.) The absurdity becomes complete when in elections any of the three possible outcomes – yes, no, or abstained – is mechanically interpreted as recognition of the majority vote.

Spencer knows of "the incongruity between a perfect law and an

imperfect state" (7.). He also sees that government will eventually be rendered impossible when we acknowledge that the majority has no right to coerce the minority. That the state must decay he addresses in the last chapter where he says that "it is a mistake to assume that government must necessarily last forever" (8.). It "marks a certain stage of civilization. ... It is not essential, but incidental." (8.)

## **Lysander Spooner: No Treason. The Constitution of No Authority**

The Constitution of No Authority further develops Spencer's critique of majority decisions. In chapter II of his treatise, Spooner looks into the mechanism of voting – key for democratic government – and comes to the following conclusions:

- "The act of voting could bind nobody but the actual voters". As Spencer had already observed before him, voters who voted with no or non-voters cannot be quoted as supporters of majority decisions.
- Non-voters cannot be counted in. But even voters pledge themselves only for a limited time.
- The act of voting can only be "perfectly voluntary" on the part of the voter. This, however, is not the case where government exists since here the voter is "enviored by a gang of tyrants, robbers, and murderers ...; terrocrats ... who force him to pay money, render service, and forego the exercise of many of his natural rights".
- Voting can be seen as an attempt of the voter to prevent the government from using his tax money against him.
- The votes for nonelected candidates cannot be taken as support of the constitution but must rather be held against it.
- The votes for outsider candidates cannot be taken as support of the constitution.
- Since voting is secret, it cannot be said who supported what. It all becomes a question of arithmetics.
- Voting is no proof of the voter's intentions.
- Secret ballot frees the voter of any responsibility for the outcome of the election.
- Voting is secret and "all secret 'governments' ... are necessarily only **secret bands of tyrants, robbers, and murderers**" so that the constitution is not supported by anyone.

Spooner insists that the supporters of the constitution and government consist of three classes:

- The knaves (the government)
- The dupes (the governed who support the government)
- The desperate and passive (the governed who see the evil but don't act)

Only those who do not fall in any of the three categories are free: free from servitude, slavery, and oppression.

Themes to explore:

- Legitimacy
- Rise and decline of the state
- Dynamics of majority decisions
- The rational voter

## Chapter 6: What is Security?

- A) Thomas Hobbes: Leviathan. Of Man. Part I. Chapter XIII. Of the Naturall Condition of Mankind, as concerning their Felicity, and Misery
- B) Gustave de Molinari: The Production of Security
- C) Hans-Hermann Hoppe: Government and the Private Production of Defense, I-III. From: The Myth of National Defense

Anyone who defends the state – minimalists and maximalists alike – must name "security" first. But even anti-statists concede security a very high priority. We all want to live in peace and security. If these are goods, one might ask, why do the majority expect a monopolistic agency to be best suited to deliver them? Or do we have to look for arguments beyond the scope of economic theory to answer the question of security? Or is security simply the illusion a self-imposing state needs to trade for its unjustifiable existence?

Regardless of claims, no state has ever succeeded in keeping its promise: to produce security. No state will ever succeed in stopping murder and war. With some justification one could even argue that this would be a contradiction in itself. After all, isn't the state the number one murderer of all times if we rely on statistics (i.e. state numbers)? If injustice is in the nature of man, why should the state succeed where even the gods had turned away in despair?

If security is *the* lie of "the coldest of all cold monsters" (Friedrich Nietzsche: Thus Spake Zarathustra. Of the New Idol), we may think of a new terminology: Risk-minimization instead of security; risk-maximization instead of insecurity. Let us briefly consider two cases, one internal and the other external:

- David Friedman in Hidden Order. The Economics of Everyday Life in Chapter 20, Rational Criminals and Intentional Accidents: The Economics of Law and Lawbreaking argues that "The economic approach to crime starts from one simple assumption: Criminals are rational. A burglar burgles for the same reason I teach economics – because he finds it a more attractive profession than any other. The obvious conclusion is that the way to reduce burglary – whether as a legislator or a

homeowner – is by raising the costs of the burglar's profession or reducing its benefits." Wisdom could simply be like in the following joke told by Friedman: Two men encountered a hungry bear. One turned to run. "It's hopeless," the other told him, "you can't outrun a bear." "No," he replied. "But I might be able to outrun you."

- What is true for individuals could also be true for collectives. Conflicts between warring nations are rarely all-out battles of victory or defeat. Consequently, "the problem faced by the potential victim is not how to defeat the aggressor but only how to make aggression unprofitable" (ibid.). That would explain why small nations do not only survive – strangely enough, their number has been increasing steadily – but survive without shifting as much wealth from the productive to the unproductive sectors like the "bullies" and therefore are more peaceful and prosperous.

We will address "security" from three different thinkers of three different eras:

- Thomas Hobbes (1588-1679), philosopher and, together with Justus Lipsius (1547-1606), the father of the modern State
- Gustave de Molinari (1819-1912), economist
- Hans-Hermann Hoppe (1949-), economist and philosopher

### **Thomas Hobbes: Leviathan. Of Man. Part I. Chapter XIII. Of the Naturall Condition of Mankind, as concerning their Felicity, and Misery**

Two things must be remembered when we call on Thomas Hobbes in defense of the state:

- Hobbes lived through a period of religiously influenced turmoil and wars: the three English Civil Wars (1642-45, 1648-49, 1649-51) and the Thirty Years War in Continental Europe (1618-48)
- Hobbes was 15 years old when the Golden Age of Elizabeth I (1558-1603) ended. During her reign the arts flourished (Shakespeare, Marlowe, Jonson), the economy prospered (colonization of America; Royal Charters for trading companies such as the British East India Company founded in 1600), and

England within decades became the dominant sea power after the repulsion of the Spanish "Invincible Armada" in 1588. However, England was not yet industrialized and fully capitalistic.

A century after Hobbes, Voltaire wrote in *The Philosophical Dictionary* under the header *Fanaticism*: "Fanaticism is to superstition what delirium is to fever, and what fury is to anger. The man who has ecstasies and visions, who takes dream for realities, and his imaginings for prophecies, is an enthusiast. The man who backs his madness with murder is a fanatic." Voltaire accentuated that fanaticism is like an incurable disease: "There is no other remedy for this epidemic illness than the spirit of free thought, which, spreading little by little, finally softens men's customs, and prevents the renewal of the disease. For as soon as this evil makes any progress we must flee and wait for the air to become pure again." The freedom of thought advocated by Voltaire without a doubt echoes the optimism of the Enlightenment to whose denouement Hobbes considerably contributed. Different from Voltaire, Hobbes cured the disease by, as some may say, making it chronic: he erected the state as a dike against fanaticism, assuming that it would prevent the epidemic from spreading and infecting the whole society. He failed to account for that singular case where the epidemic rages on the hither side of the dike.

Chapter XIII is the key passage of the *Leviathan*. It contains

- the allegory of social equality
- the allegory of a "State of Nature" with "Warre of every one against every one" (*bellum omnia contra omnes*)
- and points to the allegory of a Social Contract (in Chapter XIV) which erects the State on the ruins of chaos

Hobbes begins his discourse by stating that no one is naturally in such a position of strength that he need not fear others: "For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others, that are in the same danger with himselfe." What applies to the human body is also true for the human mind. The fact that people emphasize the difference points to a high degree of equality, Hobbes thought. No one can be certain of the fruits of his labor. A peasant can be dispossessed by a warrior, but the warrior cannot be sure of his spoils because there could be others, more powerful than himself, who deprive him of his acquisitions. The vicious circle of violence and aggression is set in

motion by "three principall causes of quarrell":

- Competition, which makes men invade for gain by imposing themselves as masters over slaves
- Diffidence, which makes men invade for safety to defend weaker men
- Glory, which makes men invade for reputation

War is the time in which men live "without a common Power to keep them all in awe". In a state of war "there is no place for Industry; because the fruit thereof is uncertain". In such a State of Nature "the life of man" is "solitary, poore, nasty, brutish, and short". If war is with society, peace must be with Leviathan. And what if the premise is wrong?

## **Gustave de Molinari: The Production of Security**

Molinari's answer to Hobbes' question is the most logical and at the same time the most ignored. Molinari watched politics through economic glasses and saw not miracles but lies.

In *Les Soirées de la Rue Saint-Lazare* Molinari says: "The monopoly of government is no better than any other. One does not govern well and, especially not cheaply, when one has no competition to fear, when the ruled are deprived of the right of freely choosing their rulers. Grant a grocer the exclusive right to supply a neighborhood, prevent the inhabitants of this neighborhood from buying any goods from other grocers in the vicinity, or even from supplying their own groceries, and you will see what detestable rubbish the privileged grocer will end up selling and at what prices! You will see how he will grow rich at the expense of the unfortunate consumers, what royal pomp he will display for the greater glory of the neighborhood. Well! What is true for the lowliest services is no less true for the loftiest. The monopoly of government is worth no more than that of a grocer's shop. The production of security inevitably becomes costly and bad when it is organized as a monopoly. It is in the monopoly of security that lies the principal cause of wars which have laid waste humanity."

Contrary to Hobbes, Molinari develops the state from the individual. Society is not chaos and war but the marketplace for individuals: "The human race is essentially *sociable*." Since human beings have needs which they individually cannot satisfy, society naturally comes into play

with its division of labor and exchanges. "In brief, we see an *organization* emerge, by means of which man can more completely satisfy his needs than he could living in isolation. This natural organization is called *society*." Or, in other words: "The object of society is therefore the most complete satisfaction of man's needs. The division of labor and exchange are the means by which this is accomplished."

Molinari spots a particular type of need among the needs of man: "the need for security". If security existed "naturally on earth, ... no artificial institution would be necessary to establish it". Since this is not the case, there arises the need for "establishments whose object is to guarantee to everyone the peaceful possession of his person and his goods. These establishments were called *governments*."

As much as there is a need for security, humans also prefer to delegate protection rather than procuring it themselves. This allows them to pursue activities for which they are better suited. They choose between two goods and opt for the one that offers more and buy the other – security – at the lowest price.

In the next step of the argument, Molinari identifies two principles in political economy:

- The free market achieves the best results for the consumer (highest quality, lowest price, quickest delivery, minimal waste, etc.)
- The interest of the consumer should always prevail over the interest of the producer

From these two premises follows the conclusion:

- Security, being a good, should be produced in free competition

Security, most would say, is not like any other good; it *has* to be organized by a monopoly. Molinari counters: "But why should there be an exception relative to security? What special reason is there that the production of security cannot be relegated to free competition? Why should it be subjected to a different principle and organized according to a different system?" As long as there is no proof for the hypothesis that security cannot be classified according to economic criteria, all reservations must be discarded as unfounded.

In the final step, Molinari turns to the question why we have come to accept the logical contradiction as normal. He finds two principles:

- Monopoly: "Every monopoly necessarily rests on force" because consumers would not freely pay "the abusive monopoly surtax".
- Communism: an extension of monopoly is the *common* organization of production

The monopoly on security is special in a number of ways:

- It is a monopoly of the stronger over the weaker
- It is the most profitable monopoly of all monopolies
- It engenders war as "necessary and inevitable consequence"
- It engenders all other monopolies

In a historical context the transition from absolutism to democracy is the change from monopoly to communism in the production of security. "Monopolistic governments claim to have obtained from God himself this authority which gives them the right to modify or remake society according to their fancy, and to dispose of persons and property however they please. Communistic governments appeal to human reason, as manifested in the majority of the sovereign people."

The question arises where the state receives its "immutable, sacred authority" from: "Unless those in power are believed to have a mandate from a superior entity, the injured interests will resist." The answer Molinari sees in divine right: "A government based on divine right is imperishable." At least as long as people believe in it. Little does it matter whether the state is legitimized from above or, like in communist doctrine, from below. "Here is what the communists, the partisans of popular sovereignty, assume. They assume that human reason has the power to discover the best laws and the organization which most perfectly suits society; and that, in practice, these laws reveal themselves at the conclusion of a free debate between conflicting opinions. If there is no unanimity, if there is still dissension after the debate, the majority is in the right, since it comprises the larger number of reasonable individuals. ... Consequently, they insist that the decisions of the majority must become *law*, and that the minority is obliged to submit to it, even if it is contrary to its most deeply rooted convictions and injures its most precious interests."

If security was a service rather than a disservice, consumers would

- check if the producer of security is strong enough to protect them
- check whether the producer of security could pose a danger to

- their interest
- check if a competitive service could offer them better terms

A bargain between producer and consumer would only result from voluntary agreement. And, like for any other good or service, quality and price must become better and better for the consumer. "If, on the contrary, the consumer is not free to buy security wherever he pleases, you forthwith see open up a large profession dedicated to arbitrariness and bad management, justice becomes slow and costly, the police vexatious, individual liberty is no longer respected, the price of security is abusively inflated and inequitably apportioned, according to the power and influence of this or that class of consumers. The protectors engage in bitter struggles to wrest customers from one another. In a word, all the abuses inherent in monopoly or in communism crop up."

### **Hans-Hermann Hoppe: Government and the Private Production of Defense, I-III. From: The Myth of National Defense**

In this essay Hoppe targets the "Hobbesian myth", i.e. the belief that the solution to "a permanent 'underproduction' of security" in the State of Nature is, and can only be, the state.

The third party in a conflict between two parties is, Hoppe emphasizes, "not just another individual" but "a *sovereign*". As such he has "two unique powers":

- His main features are coercion, aggression, and monopoly. He "is a compulsory territorial monopolist of protection".
- He destroys the market and thus changes a good to a bad, a service to a disservice. He threatens and terrorizes anyone who does not want to pay for this bad or disservice. He "has the power to impose taxes in order to provide security 'collectively'".

However, the problem with Hobbes' Leviathan goes deeper:

- Leviathan is not above and beyond man's nature. Therefore Leviathan makes only peace between the two conflicting parties "so that he himself can rob both of them more profitably".
- Peace is achieved through "the economic disarmament" of the conflicting parties.
- The better Leviathan is protected – the more powerful the state

becomes – the less the conflicting parties are protected against him.

- No one would freely and voluntarily "agree to a contract that allowed one's protector to determine unilaterally – and irrevocably – the sum that the protected must pay for his protection".

Hoppe summarizes: "Given the principle of government – judicial monopoly and the power to tax – any notion of limiting its power and safeguarding individual life and property is illusory. Under monopolistic auspices the price of justice and protection must rise and its quality must fall. A tax-funded protection agency is a contradiction in terms and will lead to ever more taxes and less protection." And, in referring to Rothbard, he concludes: "... just as socialism cannot be reformed but must be abolished in order to achieve prosperity, so the institution of a state cannot be reformed but must be abolished in order to achieve justice and protection."

## Themes to explore:

- Hobbes and his time
- Security and risk management
- Models of privately produced security

## Chapter 7: What is Collective Belief?

- A) Thucydides: Pericles' Funeral Oration
- B) Johann Gottlieb Fichte: Addresses to the German Nation. 13th Address
- C) Giuseppe Mazzini: An Essay on the Duties of Man Addressed to Workingmen, Chapter V - Duties Towards Your Country
- D) Theodor Herzl: The Jewish State, Introduction

The definition of a state necessarily includes the concept of boundary since the minimalist definition of a state refers to a territory to rob (tax) and to defend against other robbers (states). The task of the state therefore lies in morphing apolitical into political collectives. The "wall" the state erects around itself grows in height with the functions the state monopolizes. The "wall" of a minimal state is low since the collective pie for redistribution does not exist. The modern Welfare State needs a very high "wall" since the collective pie is big.

If we draw concentric circles around the political center, we can expect political support to diminish the further away a circle is from the center in a minimal state. The opposite occurs when we study a maximal state. The periphery becomes more privileged than it should be according to its contribution to the pie. But "one man one vote" makes the last circle as good as any other. We therefore observe an overproportional interest of the political center in the periphery, where the mass is, in a Welfare State.

A third parameter is the *desired* exclusiveness of a state. To treat it only as a function of arrogated responsibilities would not explain a number of cases where religion or ideology play an eminent role.

Now we combine the three parameters in one equation and get the following result:

- No state without boundaries, i.e. degrees of exclusiveness.
- The boundaries are less transparent, the more numerous the functions of the state.
- The more comprehensive the state, the more there is a need to legitimize the massive redistribution that takes place inside.

If we had to divide a group small or large into two groups, we obviously

would need to justify our division in one way or another. Of no help would be arguments like: all humans are rational beings. Something divisive is needed, regardless of what it is. A state could justify the division by pointing to skin color, shape of the nose, bowel length, or circumference of the skull or by referring to language, culture, or religion. All these justifications are equally pseudo-scientific. Most acceptable, however, appear to be divisions by geography, language, ethnicity, or customs which do not need to be unambiguously defined; they only need to appear self-explanatory or plausible. Less acceptable are random patterns which keep boundaries transparent (after all what is a boundary good for if it can be changed very easily like shoes?).

Of course, real – and sometimes quite unbridgeable – divisions do exist, and it would be naive to ignore or deny them. And yet they are both more “natural” and less absolute than political division. Some are more spontaneous and merely temporary like the crowds of sports events. Religious division can be overcome by conversion. Cultural division can at least be reduced by assimilation. Even ethnic division can be overcome over time by interbreeding. Political division, on the other hand, is in essence absolute, even if it is often handled more flexibly. Its sole purpose is to support the state which depends on it.

We will address "collective belief" from the greatest representative of Athenian democracy and three nationalists of the long 19th century:

- Pericles (c. 495-429 BC), Athenian statesman, orator, and general
- Johann Gottlieb Fichte (1762-1814), philosopher
- Giuseppe Mazzini (1805-1872), Italian nationalist
- Theodor Herzl (1860-1904), Viennese journalist, founder of modern Zionism

## **Thucydides: Pericles' Funeral Oration**

Pericles' Funeral Oration is a classical piece of propaganda, reference of all demagogues (from Greek *demos* = people and *agagos* = leading) or leaders of their chosen peoples until the present day. The speech Pericles delivered after the first battles of the Peloponnesian War (431 BC - 404 BC) targeted the Athenian citizens in the expectation to extract from them more tax (money and service).

Pericles in his speech draws a sharp boundary between Athenian

citizens – a minority since women, slaves, and foreigners were no citizens – and the other (the Spartans and their allies). He portrays Athens as a haven of happiness, prosperity, culture. As can be expected from a demagogue, he does not give a very accurate picture of the Athenian polis. Let's forgive him for this, after all he had to mobilize patriotic sentiment and just enough consent as was needed to finance his darling fleet and man it with unwilling taxpayers.

No appeal to unity would bear fruit without reference to history. History makes the present meaningful and gives it purpose: collective destiny gains depth if seen as a logical sequence of past snapshots. It produces a biological linkage which defines one's present role and responsibilities for future generations. One broken link destroys collective existence and shoulders the culprit with all the guilt for collective failure. Sacrifice and death taste sweet in the face of a glorious and unique history.

The phylogenetical uniqueness must receive a third dimension (in addition to the time and space vectors) to become plastic. For this purpose Pericles lists up a number of points which testify to the claim that Athens was "rather a pattern to others than imitators ourselves". Among them are:

- A model state with democratic representation
- Equal justice to all
- Promotion according to talent
- Freedom and tolerance
- Entertainment and pleasure
- Hospitality and openness
- Refinement in culture
- Welfare
- Patriotism

Pericles' speech ends with an appeal to the sons and brothers of the dead soldiers to join the "arduous struggle". And the widows are consoled with glory. How cheap great demagoguery can be!

## **Johann Gottlieb Fichte: Addresses to the German Nation. 13th Address**

In fourteen Addresses to the German Nation Fichte responded to Napoleon's reorganization of central Europe in general and the moral

collapse of Prussia after the defeat in the Battle of Jena and Auerstädt in 1806 in particular. It should be emphasized that the German nation in the post-revolutionary sense did not yet exist; Napoleon had just dissolved the Holy Roman Empire with the peace treaty of Pressburg which followed the Battle of Austerlitz (1805).

In the Thirteenth Address of 1806 Fichte distinguishes between internal and external boundaries: the former are "the first, original, and truly natural boundaries of states" where "those who speak the same language are joined to each other by a multitude of invisible bonds by nature itself" while the latter mark the "dwelling place". The novelty of Fichte's appeal to national unity of all Germans – quite unrealistic at the time – consists in the priority: the "natural" union of a people in language, customs, and sentiment towers the geographical location in which this people lives.

Applying the mechanical and deterministic view of the Enlightenment, Fichte develops a vision of a people as an organic, holistic entity: "Only when each people, left to itself, develops and forms itself in accordance with that common quality, as well as in accordance with his own peculiar quality – then, and then only, does the manifestation of divinity appear in its true mirror as it ought to be; and only a man who either entirely lacks the notion of the rule of law and divine order, or else is an obdurate enemy thereto, could take upon himself to want to interfere with that law, which is the highest law in the spiritual world!"

And to top the enlightened obscurantism by pseudo-scientific verbiage, Fichte concludes his appeal: "Only in the invisible qualities of nations, which are hidden from their own eyes – qualities as the means whereby these nations remain in touch with the source of original life – only therein is to be found the guarantee of their present and future worth, virtue, and merit. If these qualities are dulled by admixture and worn away by friction, the flatness that results will bring about a separation from spiritual nature, and this in its turn will cause all men to be fused together in their uniform and collective destruction."

### **Giuseppe Mazzini: An Essay on the Duties of Man Addressed to Workingmen, Chapter V - Duties Towards Your Country**

Pericles had won support among the poor with building projects on the Acropolis (comparable to the rebuilding of Paris at the time of Napoleon

III in the 1850s and 1860s). That all nationalism is in fact national socialism we can study in Mazzini's *On the Duties of Man*. Mazzini calls God, Humanity, Fatherland, and the Family "the holiest things we know". Since he speaks of duties he finds it more convenient to appeal to the heart rather than to the mind.

Mazzini reminds his audience that "man was born for *happiness*". Happiness was the promise of the French Revolution. This promise was not kept: "the condition of the people is not improved". Happiness only leads to egoism and corruption. What is really needed, Mazzini asserts, is education by which he understands

- Guidance to self-improvement
- Teaching of constancy and self-sacrifice
- Union of men with their fellow-men subjecting them to
  - a leader or
  - a majority vote

Education means to learn one's duty: "We must convince men that they are all sons of one sole God, and bound to fulfill and execute one sole law here on earth; that each of them is bound to live, not for himself, but for others." Education, together with labor and the franchise "are the three pillars of the Nation". Like Christ, who did not speak of rights but of duty, of love, sacrifice, and faith, Mazzini rejects material happiness whose pursuit "can but result in that worst of crimes, a civil war between class and class". God gave man a country and "it is only through our country that we can have a recognized *collective* existence".

In the Conclusion, Mazzini, who before had condemned class struggle, openly advocates socialism:

- Expropriation of Church property by the State
- Railways and other public enterprises should be in the hands of the State
- Wealth and resources should "be consecrated to the intellectual and economic progress of the whole country"

### **Theodor Herzl: The Jewish State, Introduction**

While Pericles praised the cultured and civilized Athenian and Fichte and Mazzini searched for the spiritual bond holding their nations together, Theodor Herzl justifies the Jewish State in a negative dialectic.

Herzl was a cosmopolitan. Born in Budapest, he moved to Vienna in his boyhood, graduated in law and became a journalist. A correspondent for the *Neue Freie Presse* in Paris, he also wrote comedies and dramas for his Viennese audience. Most likely influenced by the *Affaire Dreyfus* in France (1894), which he covered in newspaper articles, Herzl published *Der Judenstaat* (The Jewish State) soon after.

The Jewish State is partly a historical account, partly an action program. The historical account centers on "the Jewish question": "The Jewish question exists wherever Jews live in perceptible numbers. Where it does not exist, it is carried by Jews in the course of their migrations. We naturally move to those places where we are not persecuted, and then our presence produces persecution. This is the case in every country, and will remain so, even in those highly civilized – for instance, France – until the Jewish question finds a solution on a political basis." He sees in "the Jewish question" nothing else but "a national question" to be settled by the civilized world.

The Jews "have honestly endeavored everywhere to merge ourselves in the social life of surrounding communities and to preserve the faith of our fathers". Everywhere, however, "old prejudices against us still lie deep in the hearts of the people", Herzl complains. Assimilation has failed and "our enemies have made us one (people) without our consent". The future for the Jews in their own nation state will be bright: "We shall not revert to a lower stage, we shall rise to a higher one. We shall not dwell in mud huts; we shall build new more beautiful and more modern houses, and possess them in safety. We shall not lose our acquired possessions we shall realize them. We shall surrender our well earned rights only for better ones. We shall not sacrifice our beloved customs; we shall find them again. We shall not leave our old home before the new one is prepared for us." That such heaven on earth appealed more to the poor Jews of Eastern Europe is understandable. The Jews of Western and Central Europe, who had already reached the highest positions in their societies, saw Herzl with bewilderment.

Less than half a century after Herzl's premature death in 1904 "the Jewish question" that had not existed, was "solved" in the most barbaric way. It is ironic that Herzl had armed the henchmen with both a terminology and a perspective which clearly contradicted his good

intentions. If there has ever been a "Jewish question" it can be said with much historical evidence that it will never be solved by the nation state.

### Themes to explore:

- Nationalism
- Society – State – Country – Nation
- Democracy and Nationalism

## Chapter 8: What is Happiness?

- A) Aristotle: Politics, Book VII, Part XIII
- B) Adam Ferguson: An Essay on the History of Civil Society. Sections IX, X. Of National Felicity
- C) Jeremy Bentham: Introduction to the Principles of Morals and Legislation. Chapter 1: Of the Principle of Utility

Happiness has been discussed as the absence of negatives (hunger, suffering, poverty, loneliness, unhappiness, etc.) or the presence of positives (affluence, love, harmony, equilibrium, etc.). From ancient times thinkers have tried to find general criteria for which they looked into a rationally conceived of state of perfection (God, Nature, Mind).

The most promising strategy of the utilitarian argument for redistribution – take it from the rich and give it to the poor – is to detach it from the concept of justice and replace it by a nebulous rhetorical nexus. Here, however, social justice can be confronted with economic arguments. And there are three such arguments:<sup>8</sup>

- The orthodox socialist theory  
“This doctrine rests on a theory of value that has, at best, only an antiquarian interest and does not warrant being discussed.”
- Two variants of the neo-socialist doctrine
  - Society gives, society takes  
This variant rejects the simple truth that even the most complex of social interactions can be reduced to a chain of exchanges measured by prices voluntarily agreed upon. It insists that *all* contributed somehow to civilization equally and therefore deserve to be compensated for their indeterminable contribution.
  - Society, or civilization, as “a single, indivisible externality”  
No individual can claim anything of this externality their own, so this doctrine claims. De Jasay counters: “An externality produces no output. Individual action, facilitated by the externality, does.”

Now we understand why the idea of equality is, and must be, central to all redistributive schemes. Or negatively expressed: no idea of equality, no argument for redistribution. Why is “equality” generally not defined?

---

8 Anthony de Jasay: Social Justice Examined, With A Little Help From Adam Smith, pp. 7-9

Because if we do, we find ourselves in devil's kitchen. De Jasay examines three possible arguments in favor of redistribution, and refutes them one by one:<sup>9</sup>

- Equality or "to each, the same"

The classification of features into cases implies both likeness in some points and unlikeness in others. A statement beginning like "All Americans ..." obviously produces a class of cases – "the American" – which completely neglects other features – gender, age, income, education, etc. etc. To treat a class of cases equally consequently violates the principle of equality in respect to other cases and would often yield bizarre results.

- Equiproportionality or "Aristotelian equality"

Absolute equality can be treated as a special case of equiproportionality. But while "to each, the same" can be solved by purely mathematical means, equiproportionality requires "moral intuitions, value judgments, and perhaps also ... partisanship, ideological fashion, or sheer opportunism to decide what shall be deemed the just distribution" (de Jasay, 167)

- No "*suum cuique*" or all is out for distribution

This approach "is assimilated to the basic fiction of the cake that nobody baked and that needs cutting into just slices" (de Jasay, 169).

The phantom of collective happiness has haunted us almost from the beginning of the modern nation state. It appears to be insensitive to arguments. But as long as it contributes to the growth of the state – and welfare has long ago replaced security as the central function of the state – it will remain with us.

We will address "Collective Happiness" mainly from the angle of utilitarianism because it cast a long shadow over modern societies:

- Aristotle (384-322 BC), student of Plato and founder of the Lyceum
- Adam Ferguson (1723-1816), philosopher and historian of the Scottish Enlightenment
- Jeremy Bentham (1748-1832), jurist, philosopher, and reformer

---

9 Anthony de Jasay: Justice And Its Surroundings

### **Aristotle: Politics, Book VII, Part XIII**

"Happiness is the realization and perfect exercise of virtue". Doesn't Aristotle's definition shift the focus away from happiness to something different? Like virtue? Or state? This becomes obvious when he says "... the city is best governed which has the greatest opportunity of obtaining happiness". But in Book VII he also says that "different men seek after happiness in different ways and by different means, and so make for themselves different modes of life and forms of government". And since virtue, goodness, and happiness are essentially interchangeable, the question now is what makes men good and virtuous. Aristotle identifies three:

- nature
- habit
- rational principle

Happiness results from the three principles being "in harmony with one another".

### **Adam Ferguson: An Essay on the History of Civil Society. Sections IX, X. Of National Felicity**

Ferguson, a contemporary of Adam Smith, sees happiness more profanely as he already knows that "we estimate the value of every subject by its utility" (Section VII. Of Happiness). He then goes on to quantify or generalize this finding when he says: "Those men are commonly esteemed the happiest, whose desires are most frequently gratified." (ibid.) Ferguson quickly notices that "happiness is not a state of repose, or that imaginary freedom from care ..." (ibid.), nor does it depend "on the materials which are placed in our hands" (ibid.) but "more on the degree in which our minds are properly employed" (ibid.). He finds marked differences between historical epochs – "to the ancient Greek, or the Roman, the individual was nothing, and the public every thing. To the modern, in too many nations of Europe, the individual is every thing, and the public nothing." (ibid.) – but also between personal constitutions: the benevolent, the egocentric, the weak or the malicious are driven by different motives.

The point that really matters is where individual happiness cumulates in national felicity (collective happiness). The formula should be: the happier the individuals, the happier the collective. We could also ask with Ferguson: what makes a state great and powerful? Division of labor, commerce, openmindedness, activity describe a prosperous

society and “the foundations of power”. In their absence “the race would perish”. Against the dogma of the 19<sup>th</sup> and 20<sup>th</sup> centuries, Ferguson insists that rather than centralization “the emulation of nations proceeds from their division” and specifies that transactions “upon a foot of equality, and of separate interest” produce wealth and diversity.

On the other hand, Ferguson fails to realize that “the rivalry of separate communities, and the agitations of a free people” are not opposite to “peace and unanimity” but preconditions for them. For Ferguson the question of happiness is a political question: “How is it possible, therefore, to find any single form of government that would suit mankind in every condition?” And a political question begs for a political answer.

“Mankind were originally equal” goes the general assumption of the Enlightenment. But rather than constituting the state in the rational act of a social contract, Ferguson maintains that “prior to any political institution whatever, men are qualified by a great diversity of talents, by a different tone of the soul, and ardour of the passions, to act a variety of parts. Bring them together, each will find his place.” Ferguson asks the key question “What title one man, or any number of men, have to controul his actions?” And a possible answer should be “None at all”. Then he plagues himself with the concern of arbitration, detecting two instances which necessitate the state:

- defense
- justice

The argument put forth in favor of a political control of defense and justice is interesting and based on the distinction between force (the usurped “right” to do wrong) and voluntary consent (the right to do good). Force and injustice being a prerogative of bandits and despots, obligation goes only to those who do good, i.e. those who rule in the interest of the ruled. And provided that their natural rights to their preservation and to the use of their talents is respected, their classification (i.e. political order) cannot become injustice. Even for a pre-industrial society Ferguson must admit that in the end we get a “multiplicity of forms” which, if particulars and singularities be overlooked, can be limited to only a few governments. Could he only prove that each of these governments correspond with the natural classification!

## **Jeremy Bentham: Introduction to the Principles of Morals and Legislation. Chapter 1: Of the Principle of Utility**

Bentham borrowed Ferguson's formula of "the greatest happiness of the greatest number" and called it somewhat scientifically "felicific calculus". Pain and pleasure, "the two sovereign masters", govern mankind, so Bentham. Right and wrong as well as cause and effect are derived from our response to the two stimuli which "govern us in all we do, in all we say, in all we think". Human action, if we want to call it such, would consequently be a reaction driven by the maximization of happiness (i.e. the avoidance of pain). An individual is judged happier if he realizes an advantage. Even if we follow Bentham and change our terminology from happiness to benefit or advantage measurable as utility, we soon run into difficulties: how can we classify a masochist? And can we soundly assume that even a masochist always and entirely enjoys pain?

It gets even more precarious when we try to add utilities. What is your pleasure plus mine? Bentham makes us believe that "the interest of the community ... is ... the sum of the interests of the several members who compose it." And in the same vein he reasons: "an action then may be said to be conformable to the principle of utility ... when the tendency it has to augment the happiness of the community is greater than any it has to diminish it." That finally allows him to rank governments according to the principle of utility: better government augments rather than diminishes the sum total of the happiness of the community. Best government would be a place where all members of a community are happy all the time. Welcome to the Garden of Eden ...

### **Themes to explore:**

- Individual and collective happiness
- Dogmas of the Enlightenment
- Utilitarianism

## Chapter 9: What is Contract, Private and Social?

- A) Thomas Hobbes: De Cive. Chapters I (Of the State of Men without Civill Society) and V (Of the Causes, and First Begining of Civill Government)
- B) John Locke: The Second Treatise of Civil Government. Chapter VIII. Of the Beginning of Political Societies
- C) Jean-Jacques Rousseau: Social Contract. 6. The Social Compact
- D) David Hume: Of the Original Contract

Contract (from Latin “*con*” meaning “together” and “*trahere*” meaning “to pull”) is a mutually binding agreement between two or more parties.

A contract can be formal or informal but it requires:

- the names of the parties
- the terms they voluntarily agree upon
- finite validity
- an exit clause in the case of breach
- freedom (absence of coercion)

It is obvious from this list that the use of contract in a public context is oversimplification at best and trickery at worst: simplification because the user does “as if” and trickery because he presents that illusion as the real thing. Let us confine ourselves to the first. Let's do, for the sake of simplicity, assume that, in order to leave the hypothetical state of nature, the wolves of prehistoric time – why should they as brutes be unaware of their miserable existence? – decide to elevate themselves over other brutes and form a permanent political collective, the state. At the beginning of state building comes a rational decision. All intellectuals like the idea of rational design. Williamson M. Evers in his *Social Contract: A Critique*<sup>10</sup> concludes: “Social contract doctrine is no longer taken seriously as an accurate historical account of the origins of the state. But social contract doctrine still survives as an account of political obligation.” Cut off from the original discussion during the short age of Enlightenment, the social contract doctrine survived as a myth and became an integrated element of the modern political religion. Due to this metamorphosis, the debate has to be reopened again.

We will address “Contract” by tracing the development of the social

---

<sup>10</sup> [http://mises.org/journals/jls/1\\_3/1\\_3\\_3.pdf](http://mises.org/journals/jls/1_3/1_3_3.pdf)

contract debate:

- Thomas Hobbes (1588-1679), philosopher and, together with Justus Lipsius (1547-1606), the father of the modern State
- John Locke (1632-1704), lawyer and philosopher
- Jean-Jacques Rousseau (1712-1778), philosopher, educator, and composer
- David Hume (1711-1776), philosopher, economist, historian and prominent figure of the Scottish Enlightenment

### **Thomas Hobbes: De Cive. Chapters I and V**

Thomas Hobbes apparently is the man who created the myth of a social contract, today often referred to as the Hobbesian Myth. But was he really serious about a contract which, in his own words, would make people give up their “liberty” for “dominion”? Or was his fundamental question an essentially moral one?

Hobbes must be seen and understood against the backdrop of a number of developments:

- The decline of Scholasticism and Aristotelianism
- The rise of science (Hobbes personally met with Francis Bacon the herald of modern science and Galileo the father of modern science). Euclid's geometry and Galileo's physics, where all objects naturally are in motion rather than at rest (as Aristotle had professed), left a profound impact on Hobbes who built his entire social philosophy around Galileo's paradigm.
- The Reformation which “strengthened the element of individual choice in moral thinking, while downplaying the role of moral authority” (Patrick Riley, quoted in Williamson M. Evers: Social Contract: A Critique)
- The Thirty Years War in which religion soon faded into the background to be replaced by politics
- The English Civil War between Parliament and King in the years from 1642 to 1651
- The influence of the sarcastic, “scientific” historian Thucydides who described the world in terms of causes and effect

A student of the classics, Hobbes was trained in deductive reasoning. From emerging modern science he borrowed the model of matter and motion and applied it also to politics whose units are men driven by their faculties which are “bodily strength, experience, reason, passion”. The first question in politics therefore is: Why do men, the floating

bodies of the social universe, associate in the first place? Hobbes inquires into the “Causes for which Men come together” and identifies only one: Accident. And he concludes: “We doe not therefore by nature seek Society for its own sake, but that we may receive some Honour or Profit from it.” Not “True love” brings men together but “Businesse” (Hobbes speaks of a “Market-friendship” in this context – obviously a metaphor adequate to a flourishing proto-capitalist England). This business-like, calculating interest of man is for Hobbes the opposite of “Good”. In this Shakespearean world – Shakespeare after all was Hobbes’ older contemporary! – of “Jealousie”, “Pleasure”, “Defects and infirmities”, “Vain glory” and “Appetite” (all words taken from Chapter I of *De Cive*) there can be no “Good” (“Factions sometimes may arise, but Good will never”).

Of the driving forces of “all free congress” there are two: “mutual poverty” and “vain glory”. Hobbes says: “All Society therefore is either for Gain, or for Glory; (i.e.) not so much for love of our Fellowes, as for love of our Selves”. But what makes society lasting? Vain glory? No. Hobbes’ answer: “I hope no body will doubt but that men would much more greedily be carried by Nature if all fear were removed, to obtain Dominion, than to gaine Society. We must therefore resolve, that the Originall of all great, and lasting Societies, consisted not in the mutuall good will men had towards each other, but in the mutuall fear they had of each other.” Such an answer is no surprise for a man who once remarked: “Fear and I were born twins”. But why was Hobbes literally obsessed with fear, the constituting element of his mechanical world? The answer is equality as Hobbes understands it: “they who can do the greatest things, (namely kill) can doe equall things. All men therefore among themselves are by nature equall; the inequality we now discern, hath its spring from the Civill Law.” The ability to kill Hobbes immediately turns into “a desire, and will to hurt” and ascertains that scarcity prompts men to show such a desire. Our “Appetite to the same thing” gives the strongest – understood as the physically strongest – a decisive advantage.

If Hobbes had introduced the concept of property at this point, he would have understood the working of voluntary interpersonal exchange – society – much better since property is an ingenious social device allowing the smooth and nonviolent settlement of conflicts over scarce resources. But Hobbes is a moralist, not an economist. Can there be tranquility and peace in a world of motion and war? We know Hobbes’

answer: Leviathan, the Biblical sea monster mentioned in the Old Testament and the Talmud as God's plaything. His eventual death symbolizes the end of conflict.

In the original state, Hobbes speculates, "*nature hath given all to all*", so that "in the state of nature, Profit is the measure of Right". The "naturall proclivity of men, to hurt each other" originates, as we have seen, in their "Passions". Hobbes importunes that "the naturall state of men, before they entr'd into Society, was a meer War, and that not simply, but a War of all men, against all men". In the state of nature, before life became "Civill, and Flourishing", "Nations ... were then few, fierce, short-lived, poor, nasty, and destroy'd of all that Pleasure, and Beauty of life, which Peace and Society are wont to bring with them".

Now, Hobbes contrasts the state of nature with the Laws of Nature which he defines as "the Dictate of right Reason". These laws are "*immutable, and eternall*" and "the same with the Morall" or "*Divine*". He determines that it be reasonable "*that Peace is to be sought after where it may be found*" and deems it "requisite that in those necessary matters which concern Peace and self-defence, there be but one will of all men". The state is formed by contract when all men submit to "the will of one man, or one Counsell" which "is nothing else than to have parted with his Right of resisting". From these statements it becomes clear that Hobbes used the Social Contract as a mere metaphor: men "through desire of preserving themselves, and by mutuall feare, have growne together into civill Person", the state or civil society or "City".

## **John Locke: The Second Treatise of Civil Government. Chapter VIII**

Locke, the son of Puritan parents, sided with the Parliamentarians during the English Civil War. That alone would be enough to put him in opposition with Hobbes his older contemporary.

Since Locke saw in the State of Nature a state in which men are "free, equal, and independent" he had to figure out the causes that make men associate without coercion to found a political compound. Unfortunately he is not very specific in this point mentioning only "a secure enjoyment of their properties, and a greater security against any that are not of it". Since Locke's understanding, as will be explained later on, of a free citizen implies "enjoyment of property" the emphasis

must lie on the comparative form. But wherein does this “greater” security consist? Is it measurable? There is, however, no answer to these questions.

Locke is a lot more explicit in respect to representation than he is to legitimization. A political community based on consent rather than coercion can act as “one body politic under one government”. Since it is voluntarily supported by every one, exit rights are granted, and every man “puts himself under an obligation to every one of that society”, majority decisions are valid in theory. In practice, however, it is impossible to make individual preferences fully congruent with collective decision in any case where the state exceeds its basic function of “greater security” for all. A revolving-door state where people enter and leave as they please would not result in continuity and is thus rejected by Locke: “For where the majority cannot conclude the rest, there they cannot act as one body, and consequently will be immediately dissolved again.”

What constitutes a body politic is in one word “consent” (repeatedly used) so that politics appears to be some sort of trusteeship. A child is “a subject of no country nor government” but stands “under his father’s tuition and authority”. With maturity (the “age of discretion”) “he is a free man, at liberty what government he will put himself under, what body politic he will unite himself to”. Locke, of course, knows – and discusses this point at length – “that there are no instances to be found in (hi)story” where men set up a government by volition and that in reality men “are not at liberty to begin a new one” (i.e. government). He finds himself compelled to distinguish between active and “tacit consent”. The criterion for the latter is “any possession or enjoyment of any part of the dominions of any government”. Where then is the line between citizens and non-citizens? Locke admits that “submitting to the laws of any country, living quietly and enjoying privileges and protection under them, makes not a man a member of that society”. That brings him back to his original statement “concerning the beginning of political societies”, namely that it is “consent which makes any one a member of any commonwealth”.

## **Jean-Jacques Rousseau: The Social Contract. 6. The Social Compact**

Rousseau formulates his problem as follows: “The problem is to find a

form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before.” Whether “the *Social Contract* provides the solution” to this “fundamental problem” we will see soon but whether there is such a problem at all can already be answered in the negative: society *is* exactly the place where in association individual needs and demands *are* met optimally.

Rousseau admits that “the clauses of this contract ... have perhaps never been formally set forth” and yet maintains that “they are everywhere the same and everywhere tacitly admitted and recognised”. Breach of contract results from its “violation” which is not specified. Instead we learn that “these clauses ... may be reduced to one – the total alienation of each associate, together with all his rights, to the whole community”. This “solution” to the problem as stated by Rousseau surprises because instead of the promised optimal compromise between individual and collective the individual is simply eliminated out of the equation. Even if we accept for a second that “the total alienation” is voluntary – an assumption for which we don't even find any clue in the most primitive society – the consequences would not only be rapid decivilization but inevitable extinction of the human race.

The rest is cheap rhetoric as might be expected from a mentally disordered egalitarian dreamer: that “each man, in giving himself to all, gives himself to nobody” is as true in its absurdity as the necessary omnipresence of majority decisions expressed in “the general will” of the collective.

### **David Hume: Of the Original Contract**

As we have seen in Chapter 5, On Obedience, Socrates turns down the offer to escape from prison out of obedience to the laws. Hume cites Plato's *Crito* as the only source in Antiquity “where the obligation of obedience to government is ascribed to a promise”. It should be enough, therefore, to limit ourselves to the major social contract proponents: Hobbes, Locke, and Rousseau. Hume wrote in 1752: “New discoveries are not to be expected in these matters. If scarce any man, till very lately, ever imagined that government was founded on compact, it is certain, that it cannot in general, have any such foundation.”

Before we discuss Hume's criticism of the social contract theory, we should briefly summarize what it is. It is based on the following assumptions:

- Originally, all men are equal, and free
- No one, in such a state of nature, would subject himself to the will of another without advantage
- In the exchange freedom for security men make the promise to subject themselves to the sovereign
- In return for their allegiance they can count on justice and protection
- If the sovereign breaks the contract he releases the subjects again in the state of nature

It doesn't need much imagination and even less knowledge to see how illusive the entire concept is. In fact, despite the English Magna Charta and the Swiss Ruetli Oath we have no single incident in human history where government would have been founded on mutual consent: "But would these reasoners look abroad into the world, they would meet with nothing that, in the least, corresponds to their ideas, or can warrant so refined and philosophical a system. On the contrary, we find, every where, princes, who claim their subjects as their property, and assert their independent right of sovereignty, from conquest or succession."

That the idea of social contract – "compact or agreement" – "was expressly formed for general submission", Hume believes, is "an idea far beyond the comprehension of savages". Despite this general concern he sums up the core of Locke's social contract theory as follows:

- Man is born free: "no man, without some equivalent, would forego the advantages of his native liberty, and subject himself to the will of another".
- Man and sovereign exchange loyalty for security: "this promise is always understood to be conditional, and imposes on him no obligation, unless he meet with justice and protection from his sovereign."
- Breach of contract on the side of the sovereign sets the subject free again (right of resistance): "These advantages the sovereign promises him in return; and if he fail in the execution, he has broken, on his part, the articles of engagement and has thereby freed his subject from all obligations to allegiance".

And a trifle more cynical: "Were you to preach, in most parts of the world, that political connections are founded altogether on voluntary consent or a mutual promise, the magistrate would soon imprison you, as seditious, for loosening the ties of obedience; if your friends did not before shut you up as delirious, for advancing such absurdities." The social contract theory such ridiculed, the question is where does government originate from?

Government does not result from contract but from other sources like conquest, usurpation, habit, or lethargy. Says Hume: "Obedience or subjection becomes so familiar, that most men never make any inquiry about its origin or cause". For him the main point is a substantial difference in organization between sovereign and subjects: "their ignorance of each other's intention keeps them in awe, and is the sole cause of his security". This appears plausible in the case of force but what about cases "where no force interposes, and election takes place"? Hume expresses his surprise about the fact that election is "so highly vaunted" because "it is either the combination of a few great men, who decide for the whole, and will allow of no opposition: or it is the fury of a multitude, that follow a seditious ringleader, who is not known, perhaps, to a dozen among them, and who owes his advancement merely to his own impudence, or to the momentary caprice of his fellows."

Hume, like Plato and Saint Augustine before him, saw in justice, or rather the injustice of men, the state's reason for being: "Were all men possessed of so inflexible a regard to justice, that, of themselves, they would totally abstain from the properties of others; they had for ever remained in a state of absolute liberty, without subjection to any magistrate of political society; but this is a state of perfection, of which human nature is justly deemed incapable." In addition to that, Hume claims, man does not know his interests: "Again, were all men possessed of so perfect an understanding as always to know their own interests, no form of government had ever been submitted to, but what was established on consent, and was fully canvassed by every member of the society: but this state of perfection is likewise much superior to human nature." And as Franz Oppenheimer would argue later, Hume states: "The original establishment (of the state) was formed by violence, and submitted to from necessity. The subsequent administration is also supported by power, and acquiesced in by the people, not as a matter of choice, but of obligation."

Themes to explore:

- The origin of the state
- Contract and Social Contract
- The lesson in Shakespeare's *The Merchant of Venice*

## Chapter 10: What is Order?

- A) Aristotle: Politics, Book VII, Part VIII
- B) Immanuel Kant: The Natural Principle of the Political Order
- C) Georg Wilhelm Friedrich Hegel, Philosophy of Right. The State.
- D) Murray Rothbard: The Anatomy of the State

Order – usually cited in opposition to chaos (originally meaning “space”) and often anarchy (originally meaning “no rule”) – is a highly charged term in politics. Who would dare to question the self-explaining positive value of order? And yet we even use the word in opposite contexts like social versus political order. The rationale behind the political concept of order is incredibly simple: no state no order no life. And translated into an affirmative statement: the state is the foundation of life and civilization. Unfortunately, this is a historical fallacy and a lie, as persistent as it may be.

Students of politics from Plato to the present – often, like in Aristotle's case, clearly against all evidence – have ignored non-political forces in the building of stable orders. It is sound to say that Aristotle's influence in political science has been as crippling as it was in physics until the days of Galileo. In addition, political thinkers in their overwhelming majority have preferred static and mechanistic models of human action over dynamic and evolutionary ones.

We will address the problem of rational versus spontaneous “order” by reference mainly to the Enlightenment:

- Aristotle (384-322 BC), student of Plato and founder of the Lyceum
- Immanuel Kant (1724-1804), one of the most prominent thinkers of the Enlightenment
- Georg Wilhelm Friedrich Hegel (1770-1831), philosopher
- Murray Rothbard (1926-1995), economist, historian, natural law theorist

### **Aristotle: Politics, Book VII, Part VIII**

We inherited from the ancient Greek philosophers the erroneous and fatal idea that life without the state would be utterly impossible. Aristotle defines: “... a state is not a community of living beings only, but a community of equals, aiming at the best life possible”. He does not

address the paradox of equality and high quality of life, nor does he cover the issue of how wealth is created although he should have witnessed that trade and civilization were tightly intertwined. A “community of equals” – the radical democratic or communist ideal – massively infringes on the freedom and property of the members of the community. It can only be realized, as Robespierre later was to prove, by terror and war, destruction of property and decivilization. Aristotle, however, did not waste his time on subtleties like these, was he honest enough to say that “states require property, but property ... is no part of a state.” In a state, so Aristotle, the following things are indispensable:

- Food
- Arts or know how
- Arms (against both internal and external enemies)
- Revenue
- Worship (religion)
- “Power of deciding what is for the public interest, and what is just”

In conclusion, “a state then should be framed with a view to the fulfillment of these functions.” And what if the state is unnecessary or even a hindrance to the fulfillment of these functions? Unthinkable for the father of biology who had no clue of evolution and spontaneous order, and no other explanation for the miraculous rise of Greek civilization than reason and planning.

## **Immanuel Kant: The Natural Principle of the Political Order**

No one testifies to the greatness and misery of the Enlightenment more heroically than the philosopher of Königsberg. What others before him had felt instinctively or chosen polemically, Kant thought through and through. What came after him in his tradition is a long list of epigones.

Is political order natural? Kant said yes: “... the *manifestations of the will* in human actions are determined like all other external events, by universal natural laws.” Here Kant carefully distinguishes between individual and species, defines individual action as “tangled and unregulated” but collective action as “regular” and “continually advancing”. The superiority of the collective over the individual – with the exception of Nietzsche and the Austrian School of Economics – should become the staple food for the intellectuals of the modern age.

“Individual men, and even whole nations, little think, while they are pursuing their own purposes – each in his own way and often one in direct opposition to another – that they are advancing unconsciously under the guidance of a Purpose of Nature which is unknown to them, and that they are toiling for the realisation of an End which, even if it were known to them, might be regarded as of little importance.” In this context Kant also speaks of “*a universal purpose of Nature*” (sic!) after deploring the fact that man is not as rational as following a preconcerted plan and not as instinctive as being regular and systematic as animals. His arguments are the following:

- **All the capacities implanted in a Creature by nature are destined to unfold themselves, completely and conformably to their End, in the course of time.**

This teleological statement undoubtedly originates in Aristotle. But Kant, by insisting on “the teleological science of Nature”, integrates it in the mechanistic doctrine of the Enlightenment according to which “a Nature moving without a purpose, and not conformable to law” can only mean “the cheerless gloom of chance takes the place of the guiding light of Reason”.

- **In Man, as the only rational creature on earth, those natural capacities which are directed towards the use of his Reason, could be completely developed only in the species and not in the individual.**

Kant knows that reason in the individual is only a potential whose development “requires experiments, exercise and instruction”. Consequently, he anchors it in the human species because here, and here alone, it is firstly in line with his first proposition and secondly it becomes immune to affirmation or negation.

- **Nature has willed that Man shall produce wholly out of himself all that goes beyond the mechanical structure and arrangement of his animal existence, and that he shall participate in no other happiness or perfection but what he has produced for himself, apart from Instinct, by his own Reason.**

Kant's third argument is of particular curiosity does it assume that Nature “does nothing that is superfluous” and therefore unfolds itself in reasonable fashion according to a master plan. Man, by applying reason, progresses from generation to generation until eventually he collectively reveals the master plan and reaches perfection/happiness.

- **The means which Nature employs to bring about the development of all the capacities implanted in man, is their mutual Antagonism in society, but only so far as this antagonism becomes at length the cause of an Order among them that is regulated by Law.**

Anticipating Marx' view of dialectic as the engine of historical development but missing the epigone's scientific rhetoric (e.g. class struggle), Kant identifies antagonism – “the *unsocial sociability* of men” – as necessary evil: “an Arcadian shepherd life in complete harmony, contentment and mutual love” versus “unsocial disposition”, “the desire of honour or power or wealth”. Although his main argument, put forth in the first proposition, compels him to read a positive trait into conflict (in the same way Marx does a few decades later), it does not occur to him that antagonism in the form of competition and division of labor has a socially highly productive value. Kant admits without antagonism “all their talents would have for ever remained hidden in their germ” but fails to understand the productive role of individual interest, property and freedom for both individual *and* society.

- **The greatest practical Problem for the human race to the solution of which it is compelled by Nature is the establishment of a Civil Society, universally administering Right according to Law.**

Kant now repeats a myth going back in more recent time to Hobbes which can be found in Aristotle, namely that order can only result from design. In civil society or, more profanely, the state Kant sees the mirror and fulfillment of Nature's will. Self-restraint and discipline are the price to pay for human progress and happiness. Freedom and individualism stand in the way: “It is with them as with the trees in the forest; for just because everyone strives to deprive the other of air and sun, they compel each other to seek them both above, and thus they grow beautiful and straight, whereas those that in freedom and apart from one another shoot out their branches at will, grow stunted and crooked and awry.”

- **This Problem is likewise the most difficult of its kind, and it is the latest to be solved by the Human Race.**

Kant establishes here the need for a master since “man is an *animal*” and “misuses his freedom in relation to his fellow-men”. He frankly admits that the master himself, since a sample of the

Human Race, “is an animal too”. The dilemma therefore is: “The highest authority has to be *just in itself*, and yet to be a *man*”. For this dilemma “a perfect solution is impossible”. The approximate solution of this dilemma depends on three factors:

- Correct conceptions of the nature of a possible Constitutional
- Great experience
- Good will

The solution takes time to mature and thus rings in the final round of human history.

- **The problem of the establishment of a perfect Civil Constitution is dependent on the problem of the regulation of the external relations between the States conformably to Law; and without the solution of this latter problem it cannot be solved.**

As Civil Society addresses the problem of antagonism within society, a Federation of Nations supposedly solves the very same problem between societies. Kant, not logically consequential because the former constitutes the latter, expects the solution of the latter to solve the dilemma of the former. Not only that factual evidence contradicts Kant – the atrocities of the 20<sup>th</sup> century, war, mass murder, genocide, were all caused by the state – , the dreamer of this “visionary” idea naively believes that the solution to interstate conflicts lies in the power of states.

- **The history of the human race, viewed as a whole, may be regarded as the realisation of a hidden plan of Nature to bring about a political Constitution, internally, and for this purpose, also externally perfect, as the only state in which all the capacities implanted by her in Mankind can be fully developed.**

The chiliastic message in this proposition is frankly admitted by Kant. The key point, however, consists in the fact that Kant does not envisage a happier future as a normative principle but derives it logically by means of his scientific or constructivist method. Little wonder that he concludes: “... the highest purpose of Nature will be at last realised in the establishment of a universal *Cosmopolitical Institution*, in the bosom of which all the original capacities and endowments of the human species will be unfolded and developed.”

- **A philosophical attempt to work out the Universal History of the world according to the plan of Nature in its aiming at**

**a perfect Civil Union must be regarded as possible and as even capable of helping forward the purpose of Nature.**

If the “*aggregate* of human actions as a whole” can be represented “as constituting a *System*”, it should be possible to “discover a regular movement of progress”. This development advances in revolutionary increments to “a subsequent higher stage of progress and improvement”. Undoubtedly, Marx inherited this scheme from Kant.

### **Georg Wilhelm Friedrich Hegel, Philosophy of Right. The State.**

In the Prussian State Philosopher Hegel we find the most perverse adulation of the state ever written by a scholar of reputation. Needless to say that Hegel's state stands in the tradition of the Enlightenment and is therefore a rational construct. One does not need to approach Hegel from the hyperdemocratic perspective of the 20<sup>th</sup> century to experience its absurdity: it becomes evident even from Hegel's own reasoning. When he develops in §§ 354-360 his world history from the Oriental, Greek, Roman, and finally Germanic realms, he leaves the reader speechless and wondering what utter nonsense a bright mind is able to produce.

But let us confine ourselves to the more substantial aspects of his argumentation. “The state,” Hegel claims, “is the actuality of the ethical Idea” (§ 257). The state is given a “will”, it possesses “consciousness”, and it is an “end” in itself. Its rationality consists in the “unity of the universal and the single” (§ 258). If not in terminology, in fact the parallel between God and State is striking: cosmical regularity and order find their correspondence in state law. Hegel emphasizes that state and civil society are different: “If the state is confused with civil society, and if its specific end is laid down as the security and protection of property and personal freedom, then the interest of the individuals as such becomes the ultimate end of their association, and it follows that membership of the state is something optional. But the state's relation to the individual is quite different from this. Since the state is mind objectified, it is only as one of its members that the individual himself has objectivity, genuine individuality, and an ethical life. Unification pure and simple is the true content and aim of the individual, and the individual's destiny is the living of a universal life.” (§ 258) These words made it clear that *vis-a-vis* the state the individual is

nothing. It echoes Prussia where everyone up to the king is merely a servant of the state.

More difficult than the rationalist-constructivist conception of the Hegelian state is to identify where freedom and ethics as “the actualisation of freedom” (§ 258) come into play. The answer is surprisingly simple and even consequential: in a deterministic order “freedom” can only consist in following this order, whereby human action qua “action” becomes inevitably an ethical category in a purely formalistic sense.

Hegel knows that actual states are bad and defective and hence prefers to speak of the idea of the state. Here, he believes, he is on safe ground: “The march of God in the world, that is what the state is. The basis of the state is the power of reason actualising itself as will.” (§ 258)

Hegel's influential contemporary Karl Ludwig von Haller, whose “Restauration der Staatswissenschaften” gave a whole era its name, denied the existence of anything but private – i.e. commutative – law. He observes that “neither the king himself ..., nor the Prussian citizens can call anything their own, neither their person nor their property; and all subjects are bondslaves to the law, since they may not withdraw themselves from the service of the state.” (quoted by Hegel in § 258) Hegel ridiculed him and his patrimonial state as antiquated and passé after Napoleon had taken half of Europe in a storm. The revolutionary reorganization of the state had surely left its mark on Hegel.

Like practically all thinkers of the Enlightenment, Hegel contrasts the individual with the universal. The universal – comparable to the lawful working of the universe in Newtonian physics – is made the benchmark of all things. And only where the individual case matches the universal law order can exist. Hegel, however, goes a step further: in order to blur the line between the human invention by the name of State and the extra-human entity called Nature he assigns the universal an interest. Now the state can be represented as the natural sphere in which the individual spheres are contained: “The essence of the modern state is that the universal be bound up with the complete freedom of its particular members and with private well-being, that thus the interests of family and civil society must concentrate themselves on the state, although the universal end cannot be advanced without the personal

knowledge and will of its particular members, whose own rights must be maintained. Thus the universal must be furthered, but subjectivity on the other hand must attain its full and living development. It is only when both these moments subsist in their strength that the state can be regarded as articulated and genuinely organised." (§ 260) Having thrown out the baby with the bathtub water, Hegel now tries to save the baby. "Individuals", he maintains, "have duties to the state in proportion as they have rights against it." (§ 261) And further: "The state is actual only when its members have a feeling of their own self-hood and it is stable only when public and private ends are identical." (§ 265) And more cautiously: "We are confident that the state must subsist and that in it alone can particular interests be secured." (§ 268) But also: "The state, this whole whose limbs they (men) are" (§ 270). And then Hegel repeats a myth which was as false in his time as it is false today: "When we walk the streets at night in safety, it does not strike us that this might be otherwise. This habit of feeling safe has become second nature, and we do not reflect on just how this is due solely to the working of special institutions. Commonplace thinking often has the impression that force holds the state together, but in fact its only bond is the fundamental sense of order which everybody possesses." (§ 268) Unfortunately, Hegel does not further sound out "the working of special institutions" and tacitly assumes that they must be the state. He surely would have discovered society.

Returning to his original doctrine, Hegel strongly criticizes the view "that the state's specific function consists in protecting and securing everyone's life, property, and caprice, in so far as these do not encroach upon the life, property, and caprice of others. The state from this point of view is treated simply as an organisation to satisfy men's necessities." (§ 270) He more clearly than most of his contemporaries sees that then "the element of absolute truth ... is placed ... beyond the reach of the state". (§ 270) Hegel's point is necessity: "Genuine actuality is necessity" (§ 270) The difference between a good and a bad state boils down to the difference between infinite and finite: "Of course a bad state is worldly and finite and nothing else, but the rational state is inherently infinite." (§ 270) Without a doubt still under the spell of Napoleon Bonaparte, Hegel concludes that it is "the right of heroes to found states" (§ 350) and that it is the right of "civilised nations in regarding and treating as barbarians those who lag behind them in institutions" (§ 351). Arguing unfairly with the knowledge of 20<sup>th</sup> c. history, it is not a bad idea to stop here rather than following Hegel's

“insights” into world history and the future of it by what he calls the Germanic realm. A further pursuit of this influential man's strange concoctions would only be embarrassing.

### **Murray Rothbard: The Anatomy of the State**

Rothbard begins his elementary course in anatomy with the basic but forgotten observation that the state is not society but an organization in society. This fallacy he attributes to the rise of democracy which blurred the line between *us* and *them*. What then is the state? Rothbard defines it as follows: “Briefly, the State is that organization in society which attempts to maintain a monopoly of the use of force and violence in a given territorial area; in particular, it is the only organization in society that obtains its revenue not by voluntary contribution or payment for services rendered but by coercion. While other individuals or institutions obtain their income by production of goods and services and by the peaceful and voluntary sale of these goods and services to others, the State obtains its revenue by the use of compulsion; that is, by the use and the threat of the jailhouse and the bayonet.”

To further elucidate his point, Rothbard cites Franz Oppenheimer's distinction between economic and political means, the “two mutually exclusive ways of acquiring wealth”. The first is the acquisition of wealth by production and exchange, the second “is the way of seizure of another's goods or services by the use of force and violence”. While the first corresponds with natural law, the second is contrary to it. In Rothbard's words, political means “siphons production off to a parasitic and destructive individual or group”, and this with three consequences:

- It subtracts from the number producing
- It lowers the producer's incentive to produce beyond his own subsistence
- It compels the predator to act contrary to his own true nature as a man

At any rate, the result is fatal for both: the destruction of the host inevitably leads to the death of the parasite. History shows a long account of instances of decivilization, the necessary consequence of destruction. In contrast to non-monopolistically organized crime, “the State provides a legal, orderly, systematic channel for the predation of private property”. And “it renders certain, secure, and relatively ‘peaceful’ the lifeline of the parasitic caste in society”. As we have seen in Chapter 9, we can conclude with Rothbard: “The State has never

been created by a 'social contract'; it has always been born in conquest and exploitation.”

Once the question of how the state was established settled, the next question is how the ruling caste maintain their rule. Rothbard insists: “While force is their *modus operandi*, their basic and long-run problem is ideological.” This ideological problem is acceptance: “Any government ... must have the support of the majority of its subjects.” Acceptance can be active – less often – or passive – more often – but “the chief task of the rulers is always to secure the active or resigned acceptance of the majority of the citizens”. Privileges for a selected group of followers – bureaucracy, partisans, etc. – do not suffice to secure a majority. There is nothing else but ideology to fool the victims in believing that “their government is good, wise and, at least, inevitable, and certainly better than other conceivable alternatives”. This vital task of “communication” is left to the “intellectuals”, the “opinion-molders” or “second-hand dealers of ideas” (Hayek: The Fatal Conceit. The Errors of Socialism), “court” historians, “scientific experts”, and of course media folks (what else could the word “media” mean but the mediation of false ideas!).

Ideology being the lifeblood of politics, the huge ideological arsenal of the state can hardly surprise:

- **Perception** and its professional management is one cheap and efficient way of majority control.
- **Fear** of any alternative system of rule has always been a major trump card of the state: the specter of sporadic crime frightening in comparison to systematic extortion and Nationalism as the seemingly “natural” union of state, society, people, and territory.
- **Tradition** gives a state the weight of time and the aura of excellence.
- **Worship of collectivity** – deprecation of the individual – suggests the importance of adjustment, subordination, or simply acceptance of majority opinion while ridiculing their opposites.
- Apparent **inevitability of state rule** makes for passivity and resignation.
- **The state as the only authority of truth** discredits deviant or critical opinion as “conspiracy theory”.
- **A feeling of guilt** – individual or collective – produces

compliance and insecurity. Examples are many in an age of Orwellian Newspeak: profit as exploitation, exchange as parasitism, property as theft, contract as fraud, etc. etc.

- In a secular age like ours **science, the new god, reigns supreme**. Hegel is possibly the best example for the pseudoscientific veil of the state. Says Rothbard: “State rule is now proclaimed as being ultrascientific, as constituting planning by experts.” No newspaper article, no textbook for schools, no TV program omits “to weave obscurantist apologia for State rule” in scientific jargon.

“Thus, ideological support being vital to the State, it must unceasingly try to impress the public with its 'legitimacy,' to distinguish its activities from those of mere brigands.” Mencken observed that common reasoning, where not yet completely undermined by state propaganda, distinguishes sharply between private and public spheres: “When a private citizen is robbed, a worthy man is deprived of the fruits of his industry and thrift; when the government is robbed, the worst what happens is that certain rogues and loafers have less money to play with than they had before.” (Mencken: Chrestomathy, pp. 146/7)

Rothbard sees in war and revolution the two fundamental threats to the state. Although he states that “in war, State power is pushed to its ultimate”, he fails to identify in war and revolution the capital of the modern state. War allows the state to polarize its state people, to label the ones “good” and the others “bad”, to mobilize the psychic and material resources of its state people to the maximum. Revolution, or more precisely the talk thereof, plays a growing role to more easily sell the illusion of continuity, stability, and security. Whatever the nature of the “revolution”, be it the electronic “revolution” or the moslemic “revolution”, the state assures us static order in a flood of changes. If there is nothing else left for the state to shine, international and national war – the war on poverty, the war on drugs, the war on terrorism, the war on you name it – are predestined to thrill and entertain the masses. Rest assured that the next wild goose chase is already under preparation ...

## Themes to explore:

- Order in history
- Internal and external order
- The Wheel of Fortune





## **Source Texts:**

### **Source 1 A**

**Plato**

**The Republic**

**Book II. 358e-367e**

Indeed I do; nor can I imagine any theme about which a man of sense would oftener wish to converse.

I am delighted, he replied, to hear you say so, and shall begin by speaking, as I proposed, of the nature and origin of justice.

Glaucon

They say that to do injustice is, by nature, good; to suffer injustice, evil; but that the evil is greater than the good. And so when men have both done and suffered injustice and have had experience of both, not being able to avoid the one and obtain the other, they think that they had better agree among themselves to have neither; hence there arise laws and mutual covenants; and that which is ordained by law is termed by them lawful and just. This they affirm to be the origin and nature of justice; – it is a mean or compromise, between the best of all, which is to do injustice and not be punished, and the worst of all, which is to suffer injustice without the power of retaliation; and justice, being at a middle point between the two, is tolerated not as a good, but as the lesser evil, and honoured by reason of the inability of men to do injustice. For no man who is worthy to be called a man would ever submit to such an agreement if he were able to resist; he would be mad if he did. Such is the received account, Socrates, of the nature and origin of justice.

Now that those who practise justice do so involuntarily and because they have not the power to be unjust will best appear if we imagine something of this kind: having given both to the just and the unjust power to do what they will, let us watch and see whither desire will lead them; then we shall discover in the very act the just and unjust man to be proceeding along the same road, following their interest, which all natures deem to be their good, and are only diverted into the path of

justice by the force of law. The liberty which we are supposing may be most completely given to them in the form of such a power as is said to have been possessed by Gyges the ancestor of Croesus the Lydian. According to the tradition, Gyges was a shepherd in the service of the king of Lydia; there was a great storm, and an earthquake made an opening in the earth at the place where he was feeding his flock. Amazed at the sight, he descended into the opening, where, among other marvels, he beheld a hollow brazen horse, having doors, at which he stooping and looking in saw a dead body of stature, as appeared to him, more than human, and having nothing on but a gold ring; this he took from the finger of the dead and reascended. Now the shepherds met together, according to custom, that they might send their monthly report about the flocks to the king; into their assembly he came having the ring on his finger, and as he was sitting among them he chanced to turn the collet of the ring inside his hand, when instantly he became invisible to the rest of the company and they began to speak of him as if he were no longer present. He was astonished at this, and again touching the ring he turned the collet outwards and reappeared; he made several trials of the ring, and always with the same result – when he turned the collet inwards he became invisible, when outwards he reappeared. Whereupon he contrived to be chosen one of the messengers who were sent to the court; where as soon as he arrived he seduced the queen, and with her help conspired against the king and slew him, and took the kingdom. Suppose now that there were two such magic rings, and the just put on one of them and the unjust the other. No man can be imagined to be of such an iron nature that he would stand fast in justice. No man would keep his hands off what was not his own when he could safely take what he liked out of the market, or go into houses and lie with any one at his pleasure, or kill or release from prison whom he would, and in all respects be like a God among men. Then the actions of the just would be as the actions of the unjust; they would both come at last to the same point. And this we may truly affirm to be a great proof that a man is just, not willingly or because he thinks that justice is any good to him individually, but of necessity, for wherever any one thinks that he can safely be unjust, there he is unjust. For all men believe in their hearts that injustice is far more profitable to the individual than justice, and he who argues as I have been supposing, will say that they are right. If you could imagine any one obtaining this power of becoming invisible, and never doing any wrong or touching what was another's, he would be thought by the lookers-on to be a most wretched idiot, although they would praise him

to one another's faces, and keep up appearances with one another from a fear that they too might suffer injustice. Enough of this.

Now, if we are to form a real judgment of the life of the just and unjust, we must isolate them; there is no other way; and how is the isolation to be effected? I answer: Let the unjust man be entirely unjust, and the just man entirely just; nothing is to be taken away from either of them, and both are to be perfectly furnished for the work of their respective lives. First, let the unjust be like other distinguished masters of craft; like the skillful pilot or physician, who knows intuitively his own powers and keeps within their limits, and who, if he fails at any point, is able to recover himself. So let the unjust make his unjust attempts in the right way, and lie hidden if he means to be great in his injustice (he who is found out is nobody); for the highest reach of injustice is to be deemed just when you are not. Therefore I say that in the perfectly unjust man we must assume the most perfect injustice; there is to be no deduction, but we must allow him, while doing the most unjust acts, to have acquired the greatest reputation for justice. If he has taken a false step he must be able to recover himself; he must be one who can speak with effect, if any of his deeds come to light, and who can force his way where force is required his courage and strength, and command of money and friends. And at his side let us place the just man in his nobleness and simplicity, wishing, as Aeschylus says, to be and not to seem good. There must be no seeming, for if he seems to be just he will be honoured and rewarded, and then we shall not know whether he is just for the sake of justice or for the sake of honours and rewards; therefore, let him be clothed in justice only, and have no other covering; and he must be imagined in a state of life the opposite of the former. Let him be the best of men, and let him be thought the worst; then he will have been put to the proof; and we shall see whether he will be affected by the fear of infamy and its consequences. And let him continue thus to the hour of death; being just and seeming to be unjust. When both have reached the uttermost extreme, the one of justice and the other of injustice, let judgment be given which of them is the happier of the two.

Socrates – GLAUCON

Heavens! my dear Glaucon, I said, how energetically you polish them up for the decision, first one and then the other, as if they were two statues.

I do my best, he said. And now that we know what they are like there is no difficulty in tracing out the sort of life which awaits either of them. This I will proceed to describe; but as you may think the description a little too coarse, I ask you to suppose, Socrates, that the words which follow are not mine. – Let me put them into the mouths of the eulogists of injustice: They will tell you that the just man who is thought unjust will be scourged, racked, bound – will have his eyes burnt out; and, at last, after suffering every kind of evil, he will be impaled: Then he will understand that he ought to seem only, and not to be, just; the words of Aeschylus may be more truly spoken of the unjust than of the just. For the unjust is pursuing a reality; he does not live with a view to appearances – he wants to be really unjust and not to seem only:

*His mind has a soil deep and fertile,  
Out of which spring his prudent counsels.*

In the first place, he is thought just, and therefore bears rule in the city; he can marry whom he will, and give in marriage to whom he will; also he can trade and deal where he likes, and always to his own advantage, because he has no misgivings about injustice and at every contest, whether in public or private, he gets the better of his antagonists, and gains at their expense, and is rich, and out of his gains he can benefit his friends, and harm his enemies; moreover, he can offer sacrifices, and dedicate gifts to the gods abundantly and magnificently, and can honour the gods or any man whom he wants to honour in a far better style than the just, and therefore he is likely to be dearer than they are to the gods. And thus, Socrates, gods and men are said to unite in making the life of the unjust better than the life of the just.

Adeimantus – SOCRATES

I was going to say something in answer to Glaucon, when Adeimantus, his brother, interposed: Socrates, he said, you do not suppose that there is nothing more to be urged?

Why, what else is there? I answered.

The strongest point of all has not been even mentioned, he replied. Well, then, according to the proverb, 'Let brother help brother' – if he fails in any part do you assist him; although I must confess that

Glaucón has already said quite enough to lay me in the dust, and take from me the power of helping justice.

Adeimantus

Nonsense, he replied. But let me add something more: There is another side to Glaucón's argument about the praise and censure of justice and injustice, which is equally required in order to bring out what I believe to be his meaning. Parents and tutors are always telling their sons and their wards that they are to be just; but why? not for the sake of justice, but for the sake of character and reputation; in the hope of obtaining for him who is reputed just some of those offices, marriages, and the like which Glaucón has enumerated among the advantages accruing to the unjust from the reputation of justice. More, however, is made of appearances by this class of persons than by the others; for they throw in the good opinion of the gods, and will tell you of a shower of benefits which the heavens, as they say, rain upon the pious; and this accords with the testimony of the noble Hesiod and Homer, the first of whom says, that the gods make the oaks of the just –

*To hear acorns at their summit, and bees in the middle;  
And the sheep are bowed down with the weight of their fleeces.*

and many other blessings of a like kind are provided for them. And Homer has a very similar strain; for he speaks of one whose fame is –

*As the fame of some blameless king who, like a god,  
Maintains justice to whom the black earth brings forth  
Wheat and barley, whose trees are bowed with fruit,  
And his sheep never fail to bear, and the sea gives him fish.*

Still grander are the gifts of heaven which Musaeus and his son vouchsafe to the just; they take them down into the world below, where they have the saints lying on couches at a feast, everlastingly drunk, crowned with garlands; their idea seems to be that an immortality of drunkenness is the highest meed of virtue. Some extend their rewards yet further; the posterity, as they say, of the faithful and just shall survive to the third and fourth generation. This is the style in which they praise justice. But about the wicked there is another strain; they bury them in a slough in Hades, and make them carry water in a sieve; also while they are yet living they bring them to infamy, and inflict upon them

the punishments which Glaucon described as the portion of the just who are reputed to be unjust; nothing else does their invention supply. Such is their manner of praising the one and censuring the other.

Once more, Socrates, I will ask you to consider another way of speaking about justice and injustice, which is not confined to the poets, but is found in prose writers. The universal voice of mankind is always declaring that justice and virtue are honourable, but grievous and toilsome; and that the pleasures of vice and injustice are easy of attainment, and are only censured by law and opinion. They say also that honesty is for the most part less profitable than dishonesty; and they are quite ready to call wicked men happy, and to honour them both in public and private when they are rich or in any other way influential, while they despise and overlook those who may be weak and poor, even though acknowledging them to be better than the others. But most extraordinary of all is their mode of speaking about virtue and the gods: they say that the gods apportion calamity and misery to many good men, and good and happiness to the wicked. And mendicant prophets go to rich men's doors and persuade them that they have a power committed to them by the gods of making an atonement for a man's own or his ancestor's sins by sacrifices or charms, with rejoicings and feasts; and they promise to harm an enemy, whether just or unjust, at a small cost; with magic arts and incantations binding heaven, as they say, to execute their will. And the poets are the authorities to whom they appeal, now smoothing the path of vice with the words of Hesiod; –

*Vice may be had in abundance without trouble; the way is smooth and her dwelling-place is near. But before virtue the gods have set toil, and a tedious and uphill road.*

Then citing Homer as a witness that the gods may be influenced by men; for he also says:

*The gods, too, may be turned from their purpose; and men pray to them and avert their wrath by sacrifices and soothing entreaties, and by libations and the odour of fat, when they have sinned and transgressed.*

And they produce a host of books written by Musaeus and Orpheus, who were children of the Moon and the Muses – that is what they say

– according to which they perform their ritual, and persuade not only individuals, but whole cities, that expiations and atonements for sin may be made by sacrifices and amusements which fill a vacant hour, and are equally at the service of the living and the dead; the latter sort they call mysteries, and they redeem us from the pains of hell, but if we neglect them no one knows what awaits us.

He proceeded: And now when the young hear all this said about virtue and vice, and the way in which gods and men regard them, how are their minds likely to be affected, my dear Socrates, – those of them, I mean, who are quickwitted, and, like bees on the wing, light on every flower, and from all that they hear are prone to draw conclusions as to what manner of persons they should be and in what way they should walk if they would make the best of life? Probably the youth will say to himself in the words of Pindar –

*Can I by justice or by crooked ways of deceit ascend a loftier tower which may be a fortress to me all my days?*

For what men say is that, if I am really just and am not also thought just profit there is none, but the pain and loss on the other hand are unmistakable. But if, though unjust, I acquire the reputation of justice, a heavenly life is promised to me. Since then, as philosophers prove, appearance tyrannizes over truth and is lord of happiness, to appearance I must devote myself. I will describe around me a picture and shadow of virtue to be the vestibule and exterior of my house; behind I will trail the subtle and crafty fox, as Archilochus, greatest of sages, recommends. But I hear some one exclaiming that the concealment of wickedness is often difficult; to which I answer: Nothing great is easy. Nevertheless, the argument indicates this, if we would be happy, to be the path along which we should proceed. With a view to concealment we will establish secret brotherhoods and political clubs. And there are professors of rhetoric who teach the art of persuading courts and assemblies; and so, partly by persuasion and partly by force, I shall make unlawful gains and not be punished. Still I hear a voice saying that the gods cannot be deceived, neither can they be compelled. But what if there are no gods? or, suppose them to have no care of human things – why in either case should we mind about concealment? And even if there are gods, and they do care about us, yet we know of them only from tradition and the genealogies of the poets; and these are the very persons who say that they may be

influenced and turned by 'sacrifices and soothing entreaties and by offerings.' Let us be consistent then, and believe both or neither. If the poets speak truly, why then we had better be unjust, and offer of the fruits of injustice; for if we are just, although we may escape the vengeance of heaven, we shall lose the gains of injustice; but, if we are unjust, we shall keep the gains, and by our sinning and praying, and praying and sinning, the gods will be propitiated, and we shall not be punished. 'But there is a world below in which either we or our posterity will suffer for our unjust deeds.' Yes, my friend, will be the reflection, but there are mysteries and atoning deities, and these have great power. That is what mighty cities declare; and the children of the gods, who were their poets and prophets, bear a like testimony.

On what principle, then, shall we any longer choose justice rather than the worst injustice? When, if we only unite the latter with a deceitful regard to appearances, we shall fare to our mind both with gods and men, in life and after death, as the most numerous and the highest authorities tell us. Knowing all this, Socrates, how can a man who has any superiority of mind or person or rank or wealth, be willing to honour justice; or indeed to refrain from laughing when he hears justice praised? And even if there should be some one who is able to disprove the truth of my words, and who is satisfied that justice is best, still he is not angry with the unjust, but is very ready to forgive them, because he also knows that men are not just of their own free will; unless, per adventure, there be some one whom the divinity within him may have inspired with a hatred of injustice, or who has attained knowledge of the truth – but no other man. He only blames injustice who, owing to cowardice or age or some weakness, has not the power of being unjust. And this is proved by the fact that when he obtains the power, he immediately becomes unjust as far as he can be.

The cause of all this, Socrates, was indicated by us at the beginning of the argument, when my brother and I told you how astonished we were to find that of all the professing panegyrists of justice – beginning with the ancient heroes of whom any memorial has been preserved to us, and ending with the men of our own time – no one has ever blamed injustice or praised justice except with a view to the glories, honours, and benefits which flow from them. No one has ever adequately described either in verse or prose the true essential nature of either of them abiding in the soul, and invisible to any human or divine eye; or shown that of all the things of a man's soul which he has within him,

justice is the greatest good, and injustice the greatest evil. Had this been the universal strain, had you sought to persuade us of this from our youth upwards, we should not have been on the watch to keep one another from doing wrong, but every one would have been his own watchman, because afraid, if he did wrong, of harbouring in himself the greatest of evils. I dare say that Thrasymachus and others would seriously hold the language which I have been merely repeating, and words even stronger than these about justice and injustice, grossly, as I conceive, perverting their true nature. But I speak in this vehement manner, as I must frankly confess to you, because I want to hear from you the opposite side; and I would ask you to show not only the superiority which justice has over injustice, but what effect they have on the possessor of them which makes the one to be a good and the other an evil to him. And please, as Glaucon requested of you, to exclude reputations; for unless you take away from each of them his true reputation and add on the false, we shall say that you do not praise justice, but the appearance of it; we shall think that you are only exhorting us to keep injustice dark, and that you really agree with Thrasymachus in thinking that justice is another's good and the interest of the stronger, and that injustice is a man's own profit and interest, though injurious to the weaker. Now as you have admitted that justice is one of that highest class of goods which are desired indeed for their results, but in a far greater degree for their own sakes – like sight or hearing or knowledge or health, or any other real and natural and not merely conventional good – I would ask you in your praise of justice to regard one point only: I mean the essential good and evil which justice and injustice work in the possessors of them. Let others praise justice and censure injustice, magnifying the rewards and honours of the one and abusing the other; that is a manner of arguing which, coming from them, I am ready to tolerate, but from you who have spent your whole life in the consideration of this question, unless I hear the contrary from your own lips, I expect something better. And therefore, I say, not only prove to us that justice is better than injustice, but show what they either of them do to the possessor of them, which makes the one to be a good and the other an evil, whether seen or unseen by gods and men.

## Source 1 B

David Hume

### A Treatise of Human Nature.

#### Book III: Of Morals.

#### Section II: Of the Origin of Justice and Property

We now proceed to examine two questions, viz. *concerning the manner, in which the rules of justice are establish'd by the artifice of men; and concerning the reasons, which determine us to attribute to the observance or neglect of these rules a moral beauty and deformity.* These questions will appear afterwards to be distinct. We shall begin with the former.

Of all the animals, with which this globe is peopled, there is none towards whom nature seems, at first sight, to have exercis'd more cruelty than towards man, in the numberless wants and necessities, with which she has loaded him, and in the slender means, which she affords to the relieving these necessities. In other creatures these two particulars generally compensate each other. If we consider the lion as a voracious and carnivorous animal, we shall easily discover him to be very necessitous; but if we turn our eye to his make and temper, his agility, his courage, his arms, and his force, we shall find, that his advantages hold proportion with his wants. The sheep and ox are depriv'd of all these advantages; but their appetites are moderate, and their food is of easy purchase. In man alone, this unnatural conjunction of infirmity, and of necessity, may be observ'd in its greatest perfection. Not only the food, which is requir'd for his sustenance, flies his search and approach, or at least requires his labour to be produc'd, but he must be possess'd of cloaths and lodging, to defend him against the injuries of the weather; tho' to consider him only in himself, he is provided neither with arms, nor force, nor other natural abilities, which are in any degree answerable to so many necessities.

'Tis by society alone he is able to supply his defects, and raise himself up to an equality with his fellow-creatures, and even acquire a superiority above them. By society all his infirmities are compensated; and tho' in that situation his wants multiply every moment upon him, yet his abilities are still more augmented, and leave him in every respect

more satisfied and happy, than 'tis possible for him, in his savage and solitary condition, ever to become. When every individual person labours a-part, and only for himself, his force is too small to execute any considerable work; his labour being employ'd in supplying all his different necessities, he never attains a perfection in any particular art; and as his force and success are not at all times equal, the least failure in either of these particulars must be attended with inevitable ruin and misery. Society provides a remedy for these *three* inconveniences. By the conjunction of forces, our power is augmented: By the partition of employments, our ability encreases: And by mutual succour we are less expos'd to fortune and accidents. 'Tis by this additional *force*, *ability*, and *security*, that society becomes advantageous.

But in order to form society, 'tis requisite not only that it be advantageous, but also that men be sensible of these advantages; and 'tis impossible, in their wild uncultivated state, that by study and reflection alone, they should ever be able to attain this knowledge. Most fortunately, therefore, there is conjoin'd to those necessities, whose remedies are remote and obscure, another necessity, which having a present and more obvious remedy, may justly be regarded as the first and original principle of human society. This necessity is no other than that natural appetite betwixt the sexes, which unites them together, and preserves their union, till a new tie takes place in their concern for their common offspring. This new concern becomes also a principle of union betwixt the parents and offspring, and forms a more numerous society; where the parents govern by the advantage of their superior strength and wisdom, and at the same time are restrain'd in the exercise of their authority by that natural affection, which they bear their children. In a little time, custom and habit operating on the tender minds of the children, makes them sensible of the advantages, which they may reap from society, as well as fashions them by degrees for it, by rubbing off those rough corners and untoward affections, which prevent their coalition.

For it must be confest, that however the circumstances of human nature may render an union necessary, and however those passions of lust and natural affection may seem to render it unavoidable; yet there are other particulars in our *natural temper*, and in our *outward circumstances*, which are very inconvenient, and are even contrary to the requisite conjunction. Among the former, we may justly esteem our *selfishness* to be the most considerable. I am sensible, that generally speaking, the representations of this quality have been carried much

too far; and that the descriptions, which certain philosophers delight so much to form of mankind in this particular, are as wide of nature as any accounts of monsters, which we meet with in fables and romances. So far from thinking, that men have no affection for any thing beyond themselves, I am of opinion, that tho' it be rare to meet with one, who loves any single person better than himself; yet 'tis as rare to meet with one, in whom all the kind affections, taken together, do not overbalance all the selfish. Consult common experience: Do you not see, that tho' the whole expence of the family be generally under the direction of the master of it, yet there are few that do not bestow the largest part of their fortunes on the pleasures of their wives, and the education of their children, reserving the smallest portion for their own proper use and entertainment. This is what we may observe concerning such as have those endearing ties; and may presume, that the case would be the same with others, were they plac'd in a like situation.

But tho' this generosity must be acknowledg'd to the honour of human nature, we may at the same time remark, that so noble an affection, instead of fitting men for large societies, is almost as contrary to them, as the most narrow selfishness. For while each person loves himself better than any other single person, and in his love to others bears the greatest affection to his relations and acquaintance, this must necessarily produce an opposition of passions, and a consequent opposition of actions; which cannot but be dangerous to the new-establish'd union.

'Tis however worth while to remark, that this contrariety of passions wou'd be attended with but small danger, did it not concur with a peculiarity in our *outward circumstances*, which affords it an opportunity of exerting itself. There are different species of goods, which we are possess'd of; the internal satisfaction of our minds, the external advantages of our body, and the enjoyment of such possessions as we have acquir'd by our industry and good fortune. We are perfectly secure in the enjoyment of the first. The second may be ravish'd from us, but can be of no advantage to him who deprives us of them. The last only are both expos'd to the violence of others, and may be transferr'd without suffering any loss or alteration; while at the same time, there is not a sufficient quantity of them to supply every one's desires and necessities. As the improvement, therefore, of these goods is the chief advantage of society, so the *instability* of their possession, along with their *scarcity*, is the chief impediment.

In vain shou'd we expect to find, in *uncultivated nature*, a remedy to this inconvenience; or hope for any inartificial principle of the human mind, which might controul those partial affections, and make us overcome the temptations arising from our circumstances. The idea of justice can never serve to this purpose, or be taken for a natural principle, capable of inspiring men with an equitable conduct towards each other. That virtue, as it is now understood, wou'd never have been dream'd of among rude and savage men. For the notion of injury or injustice implies an immorality or vice committed against some other person: And as every immorality is deriv'd from some defect or unsoundness of the passions, and as this defect must be judg'd of, in a great measure, from the ordinary course of nature in the constitution of the mind; 'twill be easy to know, whether we be guilty of any immorality, with regard to others, by considering the natural, and usual force of those several affections, which are directed towards them. Now it appears, that in the original frame of our mind, our strongest attention is confin'd to ourselves; our next is extended to our relations and acquaintance; and 'tis only the weakest which reaches to strangers and indifferent persons. This partiality, then, and unequal affection, must not only have an influence on our behaviour and conduct in society, but even on our ideas of vice and virtue; so as to make us regard any remarkable transgression of such a degree of partiality, either by too great an enlargement, or contraction of the affections, as vicious and immoral. This we may observe in our common judgments concerning actions, where we blame a person, who either centers all his affections in his family, or is so regardless of them, as, in any opposition of interest, to give the preference to a stranger, or mere chance acquaintance. From all which it follows, that our natural uncultivated ideas of morality, instead of providing a remedy for the partiality of our affections, do rather conform themselves to that partiality, and give it an additional force and influence.

The remedy, then, is not deriv'd from nature, but from *artifice*; or more properly speaking, nature provides a remedy in the judgment and understanding, for what is irregular and incommodious in the affections. For when men, from their early education in society, have become sensible of the infinite advantages that result from it, and have besides acquir'd a new affection to company and conversation; and when they have observ'd, that the principal disturbance in society arises from those goods, which we call external, and from their looseness and easy transition from one person to another; they must seek for a remedy by

putting these goods, as far as possible, on the same footing with the fix'd and constant advantages of the mind and body. This can be done after no other manner, than by a convention enter'd into by all the members of the society to bestow stability on the possession of those external goods, and leave every one in the peaceable enjoyment of what he may acquire by his fortune and industry. By this means, every one knows what he may safely possess; and the passions are restrain'd in their partial and contradictory motions. Nor is such a restraint contrary to these passions; for if so, it cou'd never be enter'd into, nor maintain'd; but it is only contrary to their heedless and impetuous movement. Instead of departing from our own interest, or from that of our nearest friends, by abstaining from the possessions of others, we cannot better consult both these interests, than by such a convention; because it is by that means we maintain society, which is so necessary to their well-being and subsistence, as well as to our own.

This convention is not of the nature of a *promise*: For even promises themselves, as we shall see afterwards, arise from human conventions. It is only a general sense of common interest; which sense all the members of the society express to one another, and which induces them to regulate their conduct by certain rules. I observe, that it will be for my interest to leave another in the possession of his goods, *provided* he will act in the same manner with regard to me. He is sensible of a like interest in the regulation of his conduct. When this common sense of interest is mutually express'd, and is known to both, it produces a suitable resolution and behaviour. And this may properly enough be call'd a convention or agreement betwixt us, tho' without the interposition of a promise; since the actions of each of us have a reference to those of the other, and are perform'd upon the supposition, that something is to be perform'd on the other part. Two men, who pull the oars of a boat, do it by an agreement or convention, tho' they have never given promises to each other. Nor is the rule concerning the stability of possession the less deriv'd from human conventions, that it arises gradually, and acquires force by a slow progression, and by our repeated experience of the inconveniences of transgressing it. On the contrary, this experience assures us still more, that the sense of interest has become common to all our fellows, and gives us a confidence of the future regularity of their conduct: And 'tis only on the expectation of this, that our moderation and abstinence are founded. In like manner are languages gradually establish'd by human conventions

without any promise. In like manner do gold and silver become the common measures of exchange, and are esteem'd sufficient payment for what is of a hundred times their value.

After this convention, concerning abstinence from the possessions of others, is enter'd into, and every one has acquir'd a stability in his possessions, there immediately arise the ideas of justice and injustice; as also those of *property*, *right*, and *obligation*. The latter are altogether unintelligible without first understanding the former. Our property is nothing but those goods, whose constant possession is establish'd by the laws of society; that is, by the laws of justice. Those, therefore, who make use of the words *property*, or *right*, or *obligation*, before they have explain'd the origin of justice, or even make use of them in that explication, are guilty of a very gross fallacy, and can never reason upon any solid foundation. A man's property is some object related to him. This relation is not natural, but moral, and founded on justice. 'Tis very preposterous, therefore, to imagine, that we can have any idea of property, without fully comprehending the nature of justice, and shewing its origin in the artifice and contrivance of man. The origin of justice explains that of property. The same artifice gives rise to both. As our first and most natural sentiment of morals is founded on the nature of our passions, and gives the preference to ourselves and friends, above strangers; 'tis impossible there can be naturally any such thing as a fix'd right or property, while the opposite passions of men impel them in contrary directions, and are not restrain'd by any convention or agreement.

No one can doubt, that the convention for the distinction of property, and for the stability of possession, is of all circumstances the most necessary to the establishment of human society, and that after the agreement for the fixing and observing of this rule, there remains little or nothing to be done towards settling a perfect harmony and concord. All the other passions, besides this of interest, are either easily restrain'd, or are not of such pernicious consequence, when indulg'd. *Vanity* is rather to be esteem'd a social passion, and a bond of union among men. *Pity* and *love* are to be consider'd in the same light. And as to *envy* and *revenge*, tho' pernicious, they operate only by intervals, and are directed against particular persons, whom we consider as our superiors or enemies. This avidity alone, of acquiring goods and possessions for ourselves and our nearest friends, is insatiable, perpetual, universal, and directly destructive of society. There scarce is any one, who is not actuated by it; and there is no one, who has not

reason to fear from it, when it acts without any restraint, and gives way to its first and most natural movements. So that upon the whole, we are to esteem the difficulties in the establishment of society, to be greater or less, according to those we encounter in regulating and restraining this passion.

'Tis certain, that no affection of the human mind has both a sufficient force, and a proper direction to counterbalance the love of gain, and render men fit members of society, by making them abstain from the possessions of others. Benevolence to strangers is too weak for this purpose; and as to the other passions, they rather inflame this avidity, when we observe, that the larger our possessions are, the more ability we have of gratifying all our appetites. There is no passion, therefore, capable of controlling the interested affection, but the very affection itself, by an alteration of its direction. Now this alteration must necessarily take place upon the least reflection; since 'tis evident, that the passion is much better satisfy'd by its restraint, than by its liberty, and that in preserving society, we make much greater advances in the acquiring possessions, than in the solitary and forlorn condition, which must follow upon violence and an universal licence. The question, therefore, concerning the wickedness or goodness of human nature, enters not in the least into that other question concerning the origin of society; nor is there any thing to be consider'd but the degrees of men's sagacity or folly. For whether the passion of self-interest be esteemed vicious or virtuous, 'tis all a case; since itself alone restrains it: So that if it be virtuous, men become social by their virtue; if vicious, their vice has the same effect.

Now as 'tis by establishing the rule for the stability of possession, that this passion restrains itself; if that rule be very abstruse, and of difficult invention; society must be esteem'd, in a manner, accidental, and the effect of many ages. But if it be found, that nothing can be more simple and obvious than that rule; that every parent, in order to preserve peace among his children, must establish it; and that these first rudiments of justice must every day be improv'd, as the society enlarges: If all this appear evident, as it certainly must, we may conclude, that 'tis utterly impossible for men to remain any considerable time in that savage condition, which precedes society; but that his very first state and situation may justly be esteem'd social. This, however, hinders not, but that philosophers may, if they please, extend their reasoning to the suppos'd *state of nature*; provided they allow it to be a mere philosophical fiction, which never had, and never cou'd have any

reality. Human nature being compos'd of two principal parts, which are requisite in all its actions, the affections and understanding; 'tis certain, that the blind motions of the former, without the direction of the latter, incapacitate men for society: And it may be allow'd us to consider separately the effects, that result from the separate operations of these two component parts of the mind. The same liberty may be permitted to moral, which is allow'd to natural philosophers; and 'tis very usual with the latter to consider any motion as compounded and consisting of two parts separate from each other, tho' at the same time they acknowledge it to be in itself uncompoundd and inseparable.

This *state of nature*, therefore, is to be regarded as a mere fiction, not unlike that of the *golden age*, which poets have invented; only with this difference, that the former is describ'd as full of war, violence and injustice; whereas the latter is pointed out to us, as the most charming and most peaceable condition, that can possibly be imagin'd. The seasons, in that first age of nature, were so temperate, if we may believe the poets, that there was no necessity for men to provide themselves with cloaths and houses as a security against the violence of heat and cold. The rivers flow'd with wine and milk: The oaks yielded honey; and nature spontaneously produc'd her greatest delicacies. Nor were these the chief advantages of that happy age. The storms and tempests were not alone remov'd from nature; but those more furious tempests were unknown to human breasts, which now cause such uproar, and engender such confusion. Avarice, ambition, cruelty, selfishness, were never heard of: Cordial affection, compassion, sympathy, were the only movements, with which the human mind was yet acquainted. Even the distinction of *mine* and *thine* was banish'd from that happy race of mortals, and carry'd with them the very notions of property and obligation, justice and injustice.

This, no doubt, is to be regarded as an idle fiction; but yet deserves our attention, because nothing can more evidently shew the origin of those virtues, which are the subjects of our present enquiry. I have already observ'd, that justice takes its rise from human conventions; and that these are intended as a remedy to some inconveniences, which proceed from the concurrence of certain *qualities* of the human mind with the *situation* of external objects. The qualities of the mind are *selfishness* and *limited generosity*: And the situation of external objects is their *easy change*, join'd to their *scarcity* in comparison of the wants and desires of men. But however philosophers may have been bewilder'd in those speculations, poets have been guided more

infallibly, by a certain taste or common instinct, which in most kinds of reasoning goes farther than any of that art and philosophy, with which we have been yet acquainted. They easily perceiv'd, if every man had a tender regard for another, or if nature supplied abundantly all our wants and desires, that the jealousy of interest, which justice supposes, could no longer have place; nor would there be any occasion for those distinctions and limits of property and possession, which at present are in use among mankind. Encrease to a sufficient degree the benevolence of men, or the bounty of nature, and you render justice useless, by supplying its place with much nobler virtues, and more valuable blessings. The selfishness of men is animated by the few possessions we have, in proportion to our wants; and 'tis to restrain this selfishness, that men have been oblig'd to separate themselves from the community, and to distinguish betwixt their own goods and those of others.

Nor need we have recourse to the fictions of poets to learn this; but beside the reason of the thing, may discover the same truth by common experience and observation. 'Tis easy to remark, that a cordial affection renders all things common among friends; and that married people in particular mutually lose their property, and are unacquainted with the *mine* and *thine*, which are so necessary, and yet cause such disturbance in human society. The same effect arises from any alteration in the circumstances of mankind; as when there is such a plenty of any thing as satisfies all the desires of men: In which case the distinction of property is entirely lost, and every thing remains in common. This we may observe with regard to air and water, tho' the most valuable of all external objects; and may easily conclude, that if men were supplied with every thing in the same abundance, or if *every one* had the same affection and tender regard for *every one* as for himself; justice and injustice would be equally unknown among mankind.

Here then is a proposition, which, I think, may be regarded as certain, *that 'tis only from the selfishness and confin'd generosity of men, along with the scanty provision nature has made for his wants, that justice derives its origin*. If we look backward we shall find, that this proposition bestows an additional force on some of those observations, which we have already made on this subject.

*First*, we may conclude from it, that a regard to public interest, or a strong extensive benevolence, is not our first and original motive for the

observation of the rules of justice; since 'tis allow'd, that if men were endow'd with such a benevolence, these rules would never have been dreamt of.

*Secondly*, we may conclude from the same principle, that the sense of justice is not founded on reason, or on the discovery of certain connexions and relations of ideas, which are eternal, immutable, and universally obligatory. For since it is confest, that such an alteration as that above-mention'd, in the temper and circumstances of mankind, wou'd entirely alter our duties and obligations, 'tis necessary upon the common system, *that the sense of virtue is deriv'd from reason*, to shew the change which this must produce in the relations and ideas. But 'tis evident, that the only cause, why the extensive generosity of man, and the perfect abundance of every thing, wou'd destroy the very idea of justice, is because they render it useless; and that, on the other hand, his confin'd benevolence, and his necessitous condition, give rise to that virtue, only by making it requisite to the publick interest, and to that of every individual. 'Twas therefore a concern for our own, and the publick interest, which made us establish the laws of justice; and nothing can be more certain, than that it is not any relation of ideas, which gives us this concern, but our impressions and sentiments, without which every thing in nature is perfectly indifferent to us, and can never in the least affect us. The sense of justice, therefore, is not founded on our ideas, but on our impressions.

*Thirdly*, we may farther confirm the foregoing proposition, *that those impressions, which give rise to this sense of justice, are not natural to the mind of man, but arise from artifice and human conventions*. For since any considerable alteration of temper and circumstances destroys equally justice and injustice; and since such an alteration has an effect only by changing our own and the publick interest; it follows, that the first establishment of the rules of justice depends on these different interests. But if men pursu'd the publick interest naturally, and with a hearty affection, they wou'd never have dream'd of restraining each other by these rules; and if they pursu'd their own interest, without any precaution, they wou'd run head-long into every kind of injustice and violence. These rules, therefore, are artificial, and seek their end in an oblique and indirect manner; nor is the interest, which gives rise to them, of a kind that cou'd be pursu'd by the natural and inartificial passions of men.

To make this more evident, consider, that tho' the rules of justice are

establish'd merely by interest, their connexion with interest is somewhat singular, and is different from what may be observ'd on other occasions. A single act of justice is frequently contrary to *public interest*; and were it to stand alone, without being follow'd by other acts, may, in itself, be very prejudicial to society. When a man of merit, of a beneficent disposition, restores a great fortune to a miser, or a seditious bigot, he has acted justly and laudably, but the public is a real sufferer. Nor is every single act of justice, consider'd apart, more conducive to private interest, than to public; and 'tis easily conceiv'd how a man may impoverish himself by a signal instance of integrity, and have reason to wish, that with regard to that single act, the laws of justice were for a moment suspended in the universe. But however single acts of justice may be contrary, either to public or private interest, 'tis certain, that the whole plan or scheme is highly conducive, or indeed absolutely requisite, both to the support of society, and the well-being of every individual. 'Tis impossible to separate the good from the ill. Property must be stable, and must be fix'd by general rules. Tho' in one instance the public be a sufferer, this momentary ill is amply compensated by the steady prosecution of the rule, and by the peace and order, which it establishes in society. And even every individual person must find himself a gainer, on ballancing the account; since, without justice society must immediately dissolve, and every one must fall into that savage and solitary condition, which is infinitely worse than the worst situation that can possibly be suppos'd in society. When therefore men have had experience enough to observe, that whatever may be the consequence of any single act of justice, perform'd by a single person, yet the whole system of actions, concurr'd in by the whole society, is infinitely advantageous to the whole, and to every part; it is not long before justice and property take place. Every member of society is sensible of this interest: Every one expresses this sense to his fellows, along with the resolution he has taken of squaring his actions by it, on condition that others will do the same. No more is requisite to induce any one of them to perform an act of justice, who has the first opportunity. This becomes an example to others. And thus justice establishes itself by a kind of convention or agreement; that is, by a sense of interest, suppos'd to be common to all, and where every single act is perform'd in expectation that others are to perform the like. Without such a convention, no one wou'd ever have dream'd, that there was such a virtue as justice, or have been induc'd to conform his actions to it. Taking any single act, my justice may be pernicious in every respect; and 'tis only upon the supposition that others are to

imitate my example, that I can be induc'd to embrace that virtue; since nothing but this combination can render justice advantageous, or afford me any motives to conform my self to its rules.

We come now to the *second* question we propos'd, *viz. Why we annex the idea of virtue to justice, and of vice to injustice*. This question will not detain us long after the principles, which we have already establish'd. All we can say of it at present will be dispatch'd in a few words: And for farther satisfaction, the reader must wait till we come to the *third* part of this book. The *natural* obligation to justice, *viz.* interest, has been fully explain'd; but as to the *moral* obligation, or the sentiment of right and wrong, 'twill first be requisite to examine the natural virtues, before we can give a full and satisfactory account of it.

After men have found by experience, that their selfishness and confin'd generosity, acting at their liberty, totally incapacitate them for society; and at the same time have observ'd, that society is necessary to the satisfaction of those very passions, they are naturally induc'd to lay themselves under the restraint of such rules, as may render their commerce more safe and commodious. To the imposition then, and observance of these rules, both in general, and in every particular instance, they are at first induc'd only by a regard to interest; and this motive, on the first formation of society, is sufficiently strong and forcible. But when society has become numerous, and has encreas'd to a tribe or nation, this interest is more remote; nor do men so readily perceive, that disorder and confusion follow upon every breach of these rules, as in a more narrow and contracted society. But tho' in our own actions we may frequently lose sight of that interest, which we have in maintaining order, and may follow a lesser and more present interest, we never fail to observe the prejudice we receive, either mediately or immediately, from the injustice of others; as not being in that case either blinded by passion, or byass'd by any contrary temptation. Nay when the injustice is so distant from us, as no way to affect our interest, it still displeases us; because we consider it as prejudicial to human society, and pernicious to every one that approaches the person guilty of it. We partake of their uneasiness by *sympathy*; and as every thing, which gives uneasiness in human actions, upon the general survey, is call'd Vice, and whatever produces satisfaction, in the same manner, is denominated Virtue; this is the reason why the sense of moral good and evil follows upon justice and injustice. And tho' this sense, in the present case, be deriv'd only from contemplating the actions of others, yet we fail not to extend it even to our own actions. The *general rule*

reaches beyond those instances, from which it arose; while at the same time we naturally *sympathize* with others in the sentiments they entertain of us. *Thus self-interest is the original motive to the establishment of justice: but a sympathy with public interest is the source of the moral approbation, which attends that virtue.*

Tho' this progress of the sentiments be *natural*, and even necessary, 'tis certain, that it is here forwarded by the artifice of politicians, who, in order to govern men more easily, and preserve peace in human society, have endeavour'd to produce an esteem for justice, and an abhorrence of injustice. This, no doubt, must have its effect; but nothing can be more evident, than that the matter has been carry'd too far by certain writers on morals, who seem to have employ'd their utmost efforts to extirpate all sense of virtue from among mankind. Any artifice of politicians may assist nature in the producing of those sentiments, which she suggests to us, and may even on some occasions, produce alone an approbation or esteem for any particular action; but 'tis impossible it should be the sole cause of the distinction we make betwixt vice and virtue. For if nature did not aid us in this particular, 'twou'd be in vain for politicians to talk of *honourable* or *dishonourable*, *praiseworthy* or *blameable*. These words wou'd be perfectly unintelligible, and wou'd no more have any idea annex'd to them, than if they were of a tongue perfectly unknown to us. The utmost politicians can perform, is, to extend the natural sentiments beyond their original bounds; but still nature must furnish the materials, and give us some notion of moral distinctions.

As publick praise and blame encrease our esteem for justice; so private education and instruction contribute to the same effect. For as parents easily observe, that a man is the more useful, both to himself and others, the greater degree of probity and honour he is endow'd with; and that those principles have greater force, when custom and education assist interest and reflection: For these reasons they are induc'd to inculcate on their children, from their earliest infancy, the principles of probity, and teach them to regard the observance of those rules, by which society is maintain'd, as worthy and honourable, and their violation as base and infamous. By this means the sentiments of honour may take root in their tender minds, and acquire such firmness and solidity, that they may fall little short of those principles, which are the most essential to our natures, and the most deeply radicated in our internal constitution.

What farther contributes to encrease their solidity, is the interest of our reputation, after the opinion, *that a merit or demerit attends justice or injustice*, is once firmly establish'd among mankind. There is nothing, which touches us more nearly than our reputation, and nothing on which our reputation more depends than our conduct, with relation to the property of others. For this reason, every one, who has any regard to his character, or who intends to live on good terms with mankind, must fix an inviolable law to himself, never, by any temptation, to be induc'd to violate those principles, which are essential to a man of probity and honour.

I shall make only one observation before I leave this subject, *viz.* that tho' I assert, that in the *state of nature*, or that imaginary state, which preceded society, there be neither justice nor injustice, yet I assert not, that it was allowable, in such a state, to violate the property of others. I only maintain, that there was no such thing as property; and consequently cou'd be no such thing as justice or injustice. I shall have occasion to make a similar reflection with regard to *promises*, when I come to treat of them; and I hope this reflection, when duly weigh'd, will suffice to remove all odium from the foregoing opinions, with regard to justice and injustice.

## Source 1 C

### **Anthony de Jasay Social Justice Examined, With A Little Help From Adam Smith**

The first task of a speaker when he steps up on the pulpit is the *captatio benevolentiae* the capturing of his audience's good will. My subject leads me to do the exact opposite. I will start by risking to irritate and embarrass my kind listeners by suggesting that if I asked "What is meant by social justice?", few of them could give a coherent answer. For my own part, I have spent much time trying to formulate one, and have largely failed; the only real result of searching for a definition was to reject several alternatives for one reason or another.

Herein lies the immense strength of the term. Nobody quite knows what it means, therefore it is difficult to oppose it. It may mean a great variety of things, therefore it is easy to be seduced by one or another of these things. Last but not least, the very words "social" and "justice" are both heavily value-laden, incorporating goodness. Joined together, they are an invincible combination of which it is almost a perversity to disapprove. The demands of social justice are moral commands.

The object of my talk is to de-mystify the notion of social justice, to strip it of emotional content to the extent that it is possible to do so, and to try and see whether its claim to be *just*, to represent some branch of justice, is able to stand up to logical criticism.

Adam Smith, in his *Theory of Moral Sentiments*, praised "generosity, humanity, kindness, compassion, mutual friendship and ... all the social and benevolent affections ... (that) please the indifferent spectator".<sup>1</sup> In modern language, we could translate this to mean that public opinion, when it does not consciously realise that its interests may be affected by it, is favourably disposed toward manifestations of "social justice". It has, to put it crudely, a "good press", "it plays well". Other things being equal, this makes it obviously easier to expand the scope of social justice than to restrict it, – as long as it is overlooked that generosity, humanity, kindness and compassion involve benefits to some but costs to others, and the balance between the benefits and the costs is not

self-evident. Some, including the present writer, doubt that the idea of such a balance makes any real sense at all.

About the *prima facie* goodness of social justice, (as distinct from its appeal to neutral public opinion), Smith had his doubts. In the *Moral Sentiments*, he quite bluntly declares:

“Every man, as the Stoics used to say, is first and principally recommended to his own care and every man is, certainly in every respect, fitter and abler to take care of himself than of any other person.”<sup>2</sup>

However, Smith’s judgment leaves open the possibility that while the needy man is best able to take care of himself, he would take even better care if he were less needy. Transfer of resources from the well-to-do to the needy might still be a good thing, though we may not be able to say that it would be demanded by justice. This, I believe, would sum up in a nutshell the utilitarian position that held sway for over a century from Bentham to Pigou. For these utilitarians (who, mistakenly, are still regarded as classical liberals), any rich-to-poor transfer must increase total utility in society and hence it must *by definition* be approved. Though the underlying welfare economic argument is no longer accepted, the memory of utilitarianism still lingers on in educated public opinion and lends instinctive, almost knee-jerk support to programmes of social justice.

### *Charity vs. Obligation*

From the fall of the Roman Empire to the early part of the 20th century, generosity was not a public function. Rich-to poor transfers, mainly of goods but also of money, were made voluntarily though sometimes under some moral pressure from priest, pastor or rabbi. Donors gave locally to “their” poor, favouring the “deserving” and motivating the undeserving, idle and feckless to become deserving. Administration was easy, – indeed, non-existent – aid efficient, though coverage was no doubt uneven, partly a matter of luck, and some deserving poor were certainly overlooked. Nevertheless, the system had all the advantages of the decentralised over the centralised arrangement. Above all, it had the great moral merit of not putting donors under compulsion.

Charity was, and remains, a moral duty that is not enforced, except

possibly by social disapproval of the uncharitable. The recipient has no claim on the donor, and must depend on his good will.

When governments started to install the system of compulsory transfers from rich to poor that led to the welfare state, public opinion welcomed the innovation. It was understood to be doing social justice. The needy no longer had to rely on charity, a reliance that progressive opinion, probably including Adam Smith's "indifferent spectator" came to find humiliating. Donors were now under an enforceable *obligation* to pay enough taxes to enable the needy to exercise their newly conferred *right* to be helped. Involuntary transfers amounted to *doing social justice*.

I believe, and will now argue, that what began as compulsory giving to the needy and ended as the full-fledged welfare state owes little or nothing to the public's sense of social justice, though it is approved as if it were done in deliberate pursuit of that justice. Its motive force, however, comes from a very different source.

## 2. A DISTRIBUTION GAME

Adam Smith wrote near the middle of a remarkable, nearly unique period in English history, – between the Glorious Revolution and World War I – when property was considered sacrosanct, secure from the power of the Crown, and income taxation was only just beginning on a negligibly small scale. This period was brought to an end by the succession of electoral reforms leading to universal suffrage and the secret ballot.

In the modern age, collective choices can to a large extent override individual ones, and appropriate for public use a share of the property and income of individuals that in earlier times used to be regarded as their own by law. These collective decisions are taken by the counting of anonymous votes for alternatives, nobody having more votes than anybody else. The consequence of this type of decision rule is that majorities can exploit minorities, and the prospective gain to be made in this manner serves as a magnet, inducing voters to enter into a voting coalition just large enough to be decisive. Rival coalitions will each aspire to reach the required size and become the decisive, winning coalition. *Prima facie*, a coalition that would distribute to itself some of the income of the rich, can offer a bigger gain to its members than a coalition that would distribute to itself some of the income of the

poor. Consequently, the winning coalition will be the one that promises to make rich-to-poor transfers. (In fact, to have a chance of winning, all rival coalitions must promise to distribute income from the rich to the poor, including any coalition whose membership is rich).

The well-known median voter theorem states that the electorate will divide into two halves, with the median voter joining the half, and giving it the majority, that offers him the higher reward. Under rather restrictive assumptions, redistribution will take place as long as the mean income exceeds the median, and continues until equality is reached.

A more general and I think stronger representation of democratic redistribution is the three-person distribution game. It works by the simple rule that the total property or income of three players shall be distributed among them as any two players jointly decide. The rational solution is that the two poorer players jointly exploit the richer one. Instead of three persons, the game can be played by three groups that together make up a society, namely the rich, the middle and the poor. If majority voting is decisive, the three groups must be formed in such a way that any two is always larger than the third, a grouping that rational voters would evidently adopt. The resulting solution is again that poor and middle exploit rich. In a repeated game, the role of rich rotates because it is always a different player who comes out rich from the previous round of the game. If, however, production takes place and one player (or group) continues to be more productive than the other two, he will be the exploited rich in each round.

### 3. DISGUIISING THE INJUSTICE

Two persons robbing a third is unjust. If it is the rule of the game that two persons may rob a third, the rule is unjust.

Stripped of its rhetorical embellishments, and allowing for the rule of law and the restraint which must be exercised if the enforcement of rules is to remain peaceful, the practice of democracy at its inner core is no different from the distribution game where two join forces to rob a third. It is easy to overlook that this is so, for the two are not acting out of any wickedness, and the third does not really look like a helpless victim. It is nevertheless the case that forcible redistribution of wealth or income by applying an unjust rule is an injustice. It would be no less so if it could be established beyond dispute that the initial distribution itself was not just and ought to be redressed.

However, establishing that the initial distribution was unjust to start with, is problematical, to put it no higher. Justice is a property of acts; injustice is not self-generating, but must be traceable to unjust acts. For the situation of the poor to be unjust, the rich must be found guilty of unjust acts. This can be done in particular cases, but not as a generally valid finding. Possession is nine parts of the law. The owners of property and the earners of income enjoy a presumption in favour of their title to their property and their income. The very political authority which is redistributing them, accepts this presumption and promises to protect the security of property and contract. It cannot very easily argue that protecting a distribution with one hand and redistributing with the other are both justified.

One way out of this conundrum is to say, with the legendary Scottish parson, "Here is a great difficulty. Let us look it firmly in the face and pass on". Many democratic governments in fact do this. They do not seek to explain away the contradiction, if only because doing so would be to draw attention to its existence. Instead, they rely on the principle of "least said, soonest mended".

The other way out is to dress up the injustice of redistribution as an act of social justice by constructing a doctrine that, if plausible enough, will persuade the "indifferent spectator" of Adam Smith that the rule of the democratic distribution game is in fact a rule of justice.

In what follows, I will briefly survey two types of this doctrine. One is contractarian, and its central thesis is that redistribution is *agreed* by all, including those who are made to bear its cost, and therefore just. The other might be called neo-socialist in that it has nothing to do with the old socialist labour theory of value. Its central contention is that wealth and income cannot be imputed to the individuals who hold title to them under the initial distribution and this for two alternative reasons: either because we do not know how much is imputable to particular individuals, or because nothing is imputable to them.

### *Contractarian Social Justice*

The essence of contractarianism is a claim that there are certain contract terms to which every rational individual *would* agree under suitable assumptions about rationality, expectations and moral sentiments. Two general objections to such theories should be borne in mind before considering the detail of particular versions. One is that a

*hypothetical* agreement to given contract terms can never have the same moral weight and binding force than a *real* one. The other is that every rational individual would expect every other to default rather than fulfil the contract, hence he would not want to fulfil it all by himself, – in other words, the contract would be a classic single-round prisoners' dilemma whose solution is that the contract is simply not concluded. The only way out of this dilemma is to assume that the contracting parties are not rational, but moral individuals. Though I regard them as valid and even decisive, I propose to leave these criticisms on one side and look at the detail of two representative contractarian theories. Both employ the device of the "veil".

One of these, associated with the names of Buchanan and Tullock, assumes that persons look at their own future through a "veil of uncertainty" which is thick enough to stop them from making educated guesses about how fortune is likely to treat them. The well-to-do who now stand above the average, fear that in the future they may fall below the average. Therefore they agree to a redistributive scheme that penalizes the above-average and benefits the below-average. They act as if they were willing to pay for insurance now in order to be able to claim insurance when they will need it. The result is that social justice is being done with the agreement of the rich who voluntarily bear its cost, spurred on by the expectation that in the future they will be its beneficiaries.

For the theory to be plausible, a very implausible condition must be met. The above-average people must value the marginal dollar of a possible but less-than-certain future loss far more highly than the marginal dollar of a present and certain one, for otherwise they would not participate in an insurance scheme that merely offered them their money back if the future loss did in fact materialise, and nothing if it did not (i.e. if their above-average position remained intact). This looks like a case of wildly extravagant over-insurance, and seems to me difficult to accept as a rational option.

The other representative theory is Rawls's "justice as fairness". Here, the contracting parties act as if they were behind a "veil of ignorance" that hides from their own eyes all their inherited or acquired personal qualities or other advantages that make them different from one another. In this situation of mutual "fairness", where they are supposed to ignore what their real earning power and real position in life might in

fact be, they agree on an income distribution where all get equal shares except if, and to the extent that, an inequality works to the advantage of the worst-off. This kind of qualified egalitarianism would be the rational choice of individuals who “played maximin”, i.e. who, in facing uncertain future outcomes, were only interested in making the worst outcome as good as possible; the devil take the better ones, and never mind how much better they may be.

“Maximin”, a key building block of the much invoked “difference principle” proclaimed by this theory, presupposes a strange mentality, in that those who adopt it as a guide to their risky choices are simply not interested in any potential outcome except the worst, and in order to maximise the worst, they are quite willing to give up the most tempting odds of even very good outcomes. Such behaviour, described by Rawls as rational, would reflect an almost morbid fear of any risk. For this and a large number of other reasons that space does not permit me to discuss, it is difficult to accept that a hypothetical contract establishing qualified equality of material welfare, could be willingly *agreed* by all if they were placed in a position of “fairness”.

### *Socialist Social Justice*

In orthodox socialist theory, only labour creates value, hence any initial distribution in which capital earns a return is *ipso facto* an injustice to be redressed. Redistributions in favour of the working class qualify as acts of social justice. This doctrine rests on a theory of value that has, at best, only an antiquarian interest and does not warrant being discussed.

Two versions of what might be termed “neo-socialist” doctrine, however, seem to me worth being briefly considered. One of them starts from the indisputable fact that any valuable product, say a pair of shoes, is not produced by a single individual, say the shoemaker. Starting with the farmer who grew the food that fed the shoemaker, the mason who built the house where he lives, the tanner who prepared the leather he uses, the master who taught him to make shoes and the teacher who taught him the three Rs, and ending only with more remote persons on the edge of our horizon, all these countless people past and present have contributed something to the shoe. It would take a Leontiev matrix with many thousands of rows and columns to start giving some idea of how complex a product a simple shoe was, except that we would not have the knowledge to put actual numbers into the

matrix.

Since individual contributions cannot be assessed and remain unknown, the distribution of the social product cannot be based on who contributed how much to it. The only solution is for society as a whole, speaking with the voice of its government, to decide what would be a socially just distribution, and proceed to put it into effect.

The common sense refutation of this argument is simply to point out that while it is obviously true that the farmer, the mason, the tanner and the teacher and everybody else one can think of, had to make contributions to the making of the shoe, all their contributions have been paid for at the time they were made. There is no need for any mind-boggling input-output matrix. Everybody's contribution to every product is duly measured by the prices at which each contribution is sold on to the next one in the endless chain that is the production process. All value is contributed by individuals in proportion to factor ownership and marginal factor productivity, and they are rewarded for it in the same proportions. Interference with these equalities in the name of social justice is *prima facie* unjust.

Another neo-socialist apology for social justice dismisses the very idea of factor productivity and of individuals, as owners of factors, being responsible for producing total output. Nobody is responsible and nobody can take the credit for it. At best, individuals can be assumed to have contributed a tiny fraction of the social product, – a fraction no larger than what primitive Polynesian tribesmen or other pre-civilisation people are capable of producing. (This point was made by Herbert Simon, but it was not this that earned him his Nobel prize). All the rest must be ascribed to civilisation.

Civilisation is a single, indivisible externality. Individuals owe to it all or nearly all their wellbeing. It is manna, a gift falling from heaven, and individuals cannot claim it as their own, as if they had deserved it. As before, it is society acting through its government that must determine how much each individual should in fact get, and it will make this determination according to its judgment of what is socially just.

To say that civilisation is a giant externality responsible for the production of all material wealth, is to forge a metaphor, not to construct a theory.

However, if for argument's sake one took the metaphor as a true reflection of some reality, it would still remain the case that an externality produces no output. Individual action, facilitated by the externality, does. The individual's marginal product will no doubt be higher than it would be without the externality, but to take some of it away from him and give it to others is no more a matter of justice than it would be to tax us for the blessings of a temperate climate and give the money to the inhabitants of the North Pole and the tropical jungle.

#### 4. WHERE DOES THE IMPARTIAL SPECTATOR STAND ?

The promise of redistribution from the better-off to the worse-off, as we have seen, gathers the votes needed in a vote-counting polity to obtain and hold the power to redistribute. The rule that authorizes this to be done is, to put it crudely, that two can decide for three. Yet a rule that delivers one to the other two very clearly and blatantly violates the precepts of justice. The idea of social justice is a truly audacious device meant to disguise this plain fact by declaring that black is white.

Many intellectual cases can be constructed to support the argument that distributive injustice is, in fact, an act of doing social justice. Each and every such case is as easy to knock down as it was to put up. In the nature of the case, a conclusive, "value-free" argument to establish social justice as a branch of justice, is an impossible undertaking.

Failing the support of logic, the case for social justice must fall back on judgment. Judgment is intrinsically subjective, and to overcome this intrinsic flaw as far as it can be done, recourse is had to the "impartial observer" who has no interest of his own in the matter he must judge.

Nineteenth century utilitarians had great confidence in the impartial observer and cited his putative testimony to bolster their cause when the utility gains of some and the losses of others had to be compared. He was supposed to rule that a dollar taken from the well-to-do and given to the needy increased total utility because the latter had a greater use for it. His judgment may have been a quite reasonable account of how he would feel in the place of the well-to-do and the needy. Whatever that feeling signified, it had said strictly nothing about justice.

More than a century earlier, Adam Smith called his "impartial spectator" to bear witness to justice in sharp distinction from utility:

“... to take from him what is of real use to him merely because it may be of equal or *of more use to us* ... is what no impartial spectator can go along with”.<sup>3</sup>

If there were a truly impartial spectator hidden inside each of us, where would he take his stand on this matter? It may well be that he would be less stern than his Smithian counterpart and, like most contemporary opinion, he, too, would like to take from the better-off and give it to the needy. But intellectual honesty could not, and would not, let him “go along with” the pretence that to take from one and give to the other is doing justice.

<sup>1</sup> Adam Smith, *The Theory of Moral Sentiments*, 1759, Part I, Section II, Chapter IV.

<sup>2</sup> Smith, *op.cit.*, Part VI, Section II, Chapter I.

<sup>3</sup> Smith, *op.cit.*, Part II, Section II, Chapter II., my italics.

## **Source 2 A**

### **Cicero On the State (III) (Excerpt)**

True Law is in keeping with the dictates both of reason and of nature. It applies universally to everyone. It is unchanging and eternal. Its commands are summons to duty, and its prohibitions declare that nothing wrongful must be done. As far as good men are concerned, both its commands and its prohibitions are effective; though neither have any effect on men who are bad. To attempt to invalidate this law is sinful. Nor is it possible to repeal any part of it, much less to abolish it altogether. From its obligations neither Senate nor people can release us. And to explain or interpret it we need no one outside our own selves.

There will not be one law in Rome, and another in Athens. There will not be different laws now and in the future. Instead there will be one single, everlasting, immutable law, which applies to all nations and all times. The maker, and umpire, and proposer of this law will be God, the single master and ruler of us all. If a man fails to obey God, then he will be in flight from his own self, repudiating his own human nature. As a consequence, even if he escapes the normal punishment for wrongdoing, he will suffer the penalties of the gravest possible sort.

## **Source 2B**

**Niccolo Machiavelli**

**The Prince**

**CHAPTER XVIII**

**Concerning The Way In Which Princes Should Keep Faith**

EVERY one admits how praiseworthy it is in a prince to keep faith, and to live with integrity and not with craft. Nevertheless our experience has been that those princes who have done great things have held good faith of little account, and have known how to circumvent the intellect of men by craft, and in the end have overcome those who have relied on their word. You must know there are two ways of contesting, the one by the law, the other by force; the first method is proper to men, the second to beasts; but because the first is frequently not sufficient, it is necessary to have recourse to the second. Therefore it is necessary for a prince to understand how to avail himself of the beast and the man. This has been figuratively taught to princes by ancient writers, who describe how Achilles and many other princes of old were given to the Centaur Chiron to nurse, who brought them up in his discipline; which means solely that, as they had for a teacher one who was half beast and half man, so it is necessary for a prince to know how to make use of both natures, and that one without the other is not durable. A prince, therefore, being compelled knowingly to adopt the beast, ought to choose the fox and the lion; because the lion cannot defend himself against snares and the fox cannot defend himself against wolves.

Therefore, it is necessary to be a fox to discover the snares and a lion to terrify the wolves. Those who rely simply on the lion do not understand what they are about. Therefore a wise lord cannot, nor ought he to, keep faith when such observance may be turned against him, and when the reasons that caused him to pledge it exist no longer. If men were entirely good this precept would not hold, but because they are bad, and will not keep faith with you, you too are not bound to observe it with them. Nor will there ever be wanting to a prince legitimate reasons to excuse this nonobservance. Of this endless modern examples could be given, showing how many treaties and engagements have been made void and of no effect through the faithlessness of princes; and he who has known best how to employ

the fox has succeeded best.

But it is necessary to know well how to disguise this characteristic, and to be a great pretender and dissembler; and men are so simple, and so subject to present necessities, that he who seeks to deceive will always find someone who will allow himself to be deceived. One recent example I cannot pass over in silence. Alexander VI did nothing else but deceive men, nor ever thought of doing otherwise, and he always found victims; for there never was a man who had greater power in asserting, or who with greater oaths would affirm a thing, yet would observe it less; nevertheless his deceits always succeeded according to his wishes, because he well understood this side of mankind.

Therefore it is unnecessary for a prince to have all the good qualities I have enumerated, but it is very necessary to appear to have them. And I shall dare to say this also, that to have them and always to observe them is injurious, and that to appear to have them is useful; to appear merciful, faithful, humane, religious, upright, and to be so, but with a mind so framed that should you require not to be so, you may be able and know how to change to the opposite.

And you have to understand this, that a prince, especially a new one, cannot observe all those things for which men are esteemed, being often forced, in order to maintain the state, to act contrary to faith, friendship, humanity, and religion. Therefore it is necessary for him to have a mind ready to turn itself accordingly as the winds and variations of fortune force it, yet, as I have said above, not to diverge from the good if he can avoid doing so, but, if compelled, then to know how to set about it.

For this reason a prince ought to take care that he never lets anything slip from his lips that is not replete with the above-named five qualities, that he may appear to him who sees and hears him altogether merciful, faithful, humane, upright, and religious. There is nothing more necessary to appear to have than this last quality, inasmuch as men judge generally more by the eye than by the hand, because it belongs to everybody to see you, to few to come in touch with you. Every one sees what you appear to be, few really know what you are, and those few dare not oppose themselves to the opinion of the many, who have the majesty of the state to defend them; and in the actions of all men, and especially of princes, which it is not prudent to challenge, one judges by the result.

For that reason, let a prince have the credit of conquering and holding his state, the means will always be considered honest, and he will be praised by everybody because the vulgar are always taken by what a thing seems to be and by what comes of it; and in the world there are only the vulgar, for the few find a place there only when the many have no ground to rest on.

One prince<sup>1</sup> of the present time, whom it is not well to name, never preaches anything else but peace and good faith, and to both he is most hostile, and either, if he had kept it, would have deprived him of reputation and kingdom many a time.

<sup>1</sup> Maximilian I, Holy Roman Emperor.

## Source 2C

**Thomas Hobbes**

**Leviathan**

**CHAPTER XXVI**

**Of Civil Laws**

BY civil laws, I understand the laws that men are therefore bound to observe, because they are members, not of this or that Commonwealth in particular, but of a Commonwealth. For the knowledge of particular laws belongeth to them that profess the study of the laws of their several countries; but the knowledge of civil law in general, to any man. The ancient law of Rome was called their civil law, from the word *civitas*, which signifies a Commonwealth: and those countries which, having been under the Roman Empire and governed by that law, retain still such part thereof as they think fit, call that part the civil law to distinguish it from the rest of their own civil laws. But that is not it I intend to speak of here; my design being not to show what is law here and there, but what is law; as Plato, Aristotle, Cicero, and diverse others have done, without taking upon them the profession of the study of the law.

And first it is manifest that law in general is not counsel, but command; nor a command of any man to any man, but only of him whose command is addressed to one formerly obliged to obey him. And as for civil law, it addeth only the name of the person commanding, which is *persona civitatis*, the person of the Commonwealth.

Which considered, I define civil law in this manner. Civil law is to every subject those rules which the Commonwealth hath commanded him, by word, writing, or other sufficient sign of the will, to make use of for the distinction of right and wrong; that is to say, of that is contrary and what is not contrary to the rule.

In which definition there is nothing that is not at first sight evident. For every man seeth that some laws are addressed to all the subjects in general; some to particular provinces; some to particular vocations; and some to particular men; and are therefore laws to every of those to whom the command is directed, and to none else. As also, that laws are the rules of just and unjust, nothing being reputed unjust that is not

contrary to some law. Likewise, that none can make laws but the Commonwealth, because our subjection is to the Commonwealth only; and that commands are to be signified by sufficient signs, because a man knows not otherwise how to obey them. And therefore, whatsoever can from this definition by necessary consequence be deduced, ought to be acknowledged for truth. Now I deduce from it this that followeth.

1. The legislator in all Commonwealths is only the sovereign, be he one man, as in a monarchy, or one assembly of men, as in a democracy or aristocracy. For the legislator is he that maketh the law. And the Commonwealth only prescribes and commandeth the observation of those rules which we call law: therefore the Commonwealth is the legislator. But the Commonwealth is no person, nor has capacity to do anything but by the representative, that is, the sovereign; and therefore the sovereign is the sole legislator. For the same reason, none can abrogate a law made, but the sovereign, because a law is not abrogated but by another law that forbiddeth it to be put in execution.

2. The sovereign of a Commonwealth, be it an assembly or one man, is not subject to the civil laws. For having power to make and repeal laws, he may, when he pleaseth, free himself from that subjection by repealing those laws that trouble him, and making of new; and consequently he was free before. For he is free that can be free when he will: nor is it possible for any person to be bound to himself, because he that can bind can release; and therefore he that is bound to himself only is not bound.

3. When long use obtaineth the authority of a law, it is not the length of time that maketh the authority, but the will of the sovereign signified by his silence (for silence is sometimes an argument of consent); and it is no longer law, than the sovereign shall be silent therein. And therefore if the sovereign shall have a question of right grounded, not upon his present will, but upon the laws formerly made, the length of time shall bring no prejudice to his right: but the question shall be judged by equity. For many unjust actions and unjust sentences go uncontrolled a longer time than any man can remember. And our lawyers account no customs law but such as reasonable, and that evil customs are to be abolished: but the judgement of what is reasonable, and of what is to be abolished, belonged to him that maketh the law, which is the sovereign assembly or monarch.

4. The law of nature and the civil law contain each other and are of

equal extent. For the laws of nature, which consist in equity, justice, gratitude, and other moral virtues on these depending, in the condition of mere nature (as I have said before in the end of the fifteenth Chapter), are not properly laws, but qualities that dispose men to peace and to obedience. When a Commonwealth is once settled, then are they actually laws, and not before; as being then the commands of the Commonwealth; and therefore also civil laws: for it is the sovereign power that obliges men to obey them. For the differences of private men, to declare what is equity, what is justice, and is moral virtue, and to make them binding, there is need of the ordinances of sovereign power, and punishments to be ordained for such as shall break them; which ordinances are therefore part of the civil law. The law of nature therefore is a part of the civil law in all Commonwealths of the world. Reciprocally also, the civil law is a part of the dictates of nature. For justice, that is to say, performance of covenant, and giving to every man his own, is a dictate of the law of nature. But every subject in a Commonwealth hath covenanted to obey the civil law; either one with another, as when they assemble to make a common representative, or with the representative itself one by one when, subdued by the sword, they promise obedience that they may receive life; and therefore obedience to the civil law is part also of the law of nature. Civil and natural law are not different kinds, but different parts of law; whereof one part, being written, is called civil the other unwritten, natural. But the right of nature, that is, the natural liberty of man, may by the civil law be abridged and restrained: nay, the end of making laws is no other but such restraint, without which there cannot possibly be any peace. And law was brought into the world for nothing else but to limit the natural liberty of particular men in such manner as they might not hurt, but assist one another, and join together against a common enemy.

5. If the sovereign of one Commonwealth subdue a people that have lived under other written laws, and afterwards govern them by the same laws by which they were governed before, yet those laws are the civil laws of the victor, and not of the vanquished Commonwealth. For the legislator is he, not by whose authority the laws were first made, but by whose authority they now continue to be laws. And therefore where there be diverse provinces within the dominion of a Commonwealth, and in those provinces diversity of laws, which commonly are called the customs of each several province, we are not to understand that such customs have their force only from length of time; but that they were anciently laws written, or otherwise made known, for the constitutions

and statutes of their sovereigns; and are now laws, not by virtue of the prescription of time, but by the constitutions of their present sovereigns. But if an unwritten law, in all the provinces of a dominion, shall be generally observed, and no iniquity appear in the use thereof, that law can be no other but a law of nature, equally obliging all mankind.

6. Seeing then all laws, written and unwritten, have their authority and force from the will of the Commonwealth; that is to say, from the will of the representative, which in a monarchy is the monarch, and in other Commonwealths the sovereign assembly; a man may wonder from whence proceed such opinions as are found in the books of lawyers of eminence in several Commonwealths, directly or by consequence making the legislative power depend on private men or subordinate judges. As for example, that the common law hath no controller but the Parliament; which is true only where a parliament has the sovereign power, and cannot be assembled nor dissolved, but by their own discretion. For if there be a right in any else to dissolve them, there is a right also to control them, and consequently to control their controllings. And if there be no such right, then the controller of laws is not parliamentum, but rex in parlamento. And where a parliament is sovereign, if it should assemble never so many or so wise men from the countries subject to them, for whatsoever cause, yet there is no man will believe that such an assembly hath thereby acquired to themselves a legislative power. Item, that the two arms of a Commonwealth are force and justice; the first whereof is in the king, the other deposited in the hands of the Parliament. As if a Commonwealth could consist where the force were in any hand which justice had not the authority to command and govern.

7. That law can never be against reason, our lawyers are agreed: and that not the letter (that is, every construction of it), but that which is according to the intention of the legislator, is the law. And it is true: but the doubt is of whose reason it is that shall be received for law. It is not meant of any private reason; for then there would be as much contradiction in the laws as there is in the Schools; nor yet, as Sir Edward Coke makes it, an "Artificial perfection of reason, gotten by long study, observation, and experience," as his was. For it is possible long study may increase and confirm erroneous sentences: and where men build on false grounds, the more they build, the greater is the ruin: and of those that study and observe with equal time and diligence, the reasons and resolutions are, and must remain, discordant: and therefore it is not that juris prudentia, or wisdom of subordinate judges,

but the reason of this our artificial man the Commonwealth, and his command, that maketh law: and the Commonwealth being in their representative but one person, there cannot easily arise any contradiction in the laws; and when there doth, the same reason is able, by interpretation or alteration, to take it away. In all courts of justice, the sovereign (which is the person of the Commonwealth) is he that judgeth: the subordinate judge ought to have regard to the reason which moved his sovereign to make such law, that his sentence may be according thereunto, which then is his sovereign's sentence; otherwise it is his own, and an unjust one.

8. From this, that the law is a command, and a command consisteth in declaration or manifestation of the will of him that commandeth, by voice, writing, or some other sufficient argument of the same, we may understand that the command of the Commonwealth is law only to those that have means to take notice of it. Over natural fools, children, or madmen there is no law, no more than over brute beasts; nor are they capable of the title of just or unjust, because they had never power to make any covenant or to understand the consequences thereof, and consequently never took upon them to authorize the actions of any sovereign, as they must do that make to themselves a Commonwealth. And as those from whom nature or accident hath taken away the notice of all laws in general; so also every man, from whom any accident not proceeding from his own default, hath taken away the means to take notice of any particular law, is excused if he observe it not; and to speak properly, that law is no law to him. It is therefore necessary to consider in this place what arguments and signs be sufficient for the knowledge of what is the law; that is to say, what is the will of the sovereign, as well in monarchies as in other forms of government.

And first, if it be a law that obliges all the subjects without exception, and is not written, nor otherwise published in such places as they may take notice thereof, it is a law of nature. For whatever men are to take knowledge of for law, not upon other men's words, but every one from his own reason, must be such as is agreeable to the reason of all men; which no law can be, but the law of nature. The laws of nature therefore need not any publishing nor proclamation; as being contained in this one sentence, approved by all the world, Do not that to another which thou thinkest unreasonable to be done by another to thyself.

Secondly, if it be a law that obliges only some condition of men, or one particular man, and be not written, nor published by word, then also it is

a law of nature, and known by the same arguments and signs that distinguish those in such a condition from other subjects. For whatsoever law is not written, or some way published by him that makes it law, can be known no way but by the reason of him that is to obey it; and is therefore also a law not only civil, but natural. For example, if the sovereign employ a public minister, without written instructions what to do, he is obliged to take for instructions the dictates of reason: as if he make a judge, the judge is to take notice that his sentence ought to be according to the reason of his sovereign, which being always understood to be equity, he is bound to it by the law of nature: or if an ambassador, he is, in all things not contained in his written instructions, to take for instruction that which reason dictates to be most conducing to his sovereign's interest; and so of all other ministers of the sovereignty, public and private. All which instructions of natural reason may be comprehended under one name of fidelity, which is a branch of natural justice.

The law of nature excepted, it belonged to the essence of all other laws to be made known to every man that shall be obliged to obey them, either by word, or writing, or some other act known to proceed from the sovereign authority. For the will of another cannot be understood but by his own word, or act, or by conjecture taken from his scope and purpose; which in the person of the Commonwealth is to be supposed always consonant to equity and reason. And in ancient time, before letters were in common use, the laws were many times put into verse; that the rude people, taking pleasure in singing or reciting them, might the more easily retain them in memory. And for the same reason Solomon adviseth a man to bind the Ten Commandments upon his ten fingers (Proverbs, 7. 3). And for the Law which Moses gave to the people of Israel at the renewing of the Covenant, he biddeth them to teach it their children, by discoursing of it both at home and upon the way, at going to bed and at rising from bed; and to write it upon the posts and doors of their houses (Deuteronomy, 11. 19); and to assemble the people, man, woman, and child, to hear it read (Ibid., 31. 12). Nor is it enough the law be written and published, but also that there be manifest signs that it proceedeth from the will of the sovereign. For private men, when they have, or think they have, force enough to secure their unjust designs, and convoy them safely to their ambitious ends, may publish for laws what they please, without or against the legislative authority. There is therefore requisite, not only a declaration of the law, but also sufficient signs of the author and authority. The

author or legislator is supposed in every Commonwealth to be evident, because he is the sovereign, who, having been constituted by the consent of every one, is supposed by every one to be sufficiently known. And though the ignorance and security of men be such, for the most part, as that when the memory of the first constitution of their Commonwealth is worn out, they do not consider by whose power they used to be defended against their enemies, and to have their industry protected, and to be righted when injury is done them; yet because no man that considers can make question of it, no excuse can be derived from the ignorance of where the sovereignty is placed. And it is a dictate of natural reason, and consequently an evident law of nature, that no man ought to weaken that power the protection whereof he hath himself demanded or wittingly received against others. Therefore of who is sovereign, no man, but by his own fault (whatsoever evil men suggest), can make any doubt. The difficulty consisteth in the evidence of the authority derived from him; the removing whereof dependeth on the knowledge of the public registers, public counsels, public ministers, and public seals; by which all laws are sufficiently verified; verified, I say, not authorized: for the verification is but the testimony and record; not the authority of the law, which consisteth in the command of the sovereign only.

If therefore a man have a question of injury, depending on the law of nature; that is to say, on common equity; the sentence of the judge, that by commission hath authority to take cognizance of such causes, is a sufficient verification of the law of nature in that individual case. For though the advice of one that profeseth the study of the law be useful for the avoiding of contention, yet it is but advice: it is the judge must tell men what is law, upon the hearing of the controversy.

But when the question is of injury, or crime, upon a written law, every man by recourse to the registers by himself or others may, if he will, be sufficiently informed, before he do such injury, or commit the crime, whether it be an injury or not; nay, he ought to do so: for when a man doubts whether the act he goeth about be just or unjust, and may inform himself if he will, the doing is unlawful. In like manner, he that supposeth himself injured, in a case determined by the written law, which he may by himself or others see and consider; if he complain before he consults with the law, he does unjustly, and betrayeth a disposition rather to vex other men than to demand his own right.

If the question be of obedience to a public officer, to have seen his

commission with the public seal, and heard it read, or to have had the means to be informed of it, if a man would, is a sufficient verification of his authority. For every man is obliged to do his best endeavour to inform himself of all written laws that may concern his own future actions.

The legislator known, and the laws either by writing or by the light of nature sufficiently published, there wanteth yet another very material circumstance to make them obligatory. For it is not the letter, but the intendment, or meaning; that is to say, the authentic interpretation of the law (which is the sense of the legislator), in which the nature of the law consisteth; and therefore the interpretation of all laws dependeth on the authority sovereign; and the interpreters can be none but those which the sovereign, to whom only the subject oweth obedience, shall appoint. For else, by the craft of an interpreter, the law may be made to bear a sense contrary to that of the sovereign, by which means the interpreter becomes the legislator.

All laws, written and unwritten, have need of interpretation. The unwritten law of nature, though it be easy to such as without partiality and passion make use of their natural reason, and therefore leaves the violators thereof without excuse; yet considering there be very few, perhaps none, that in some cases are not blinded by self-love, or some other passion, it is now become of all laws the most obscure, and has consequently the greatest need of able interpreters. The written laws, if laws, if they be short, are easily misinterpreted, for the diverse significations of a word or two; if long, they be more obscure by the diverse significations of many words: in so much as no written law, delivered in few or many words, can be well understood without a perfect understanding of the final causes for which the law was made; the knowledge of which final causes is in the legislator. To him therefore there cannot be any knot in the law insoluble, either by finding out the ends to undo it by, or else by making what ends he will (as Alexander did with his sword in the Gordian knot) by the legislative power; which no other interpreter can do.

The interpretation of the laws of nature in a Commonwealth dependeth not on the books of moral philosophy. The authority of writers, without the authority of the Commonwealth, maketh not their opinions law, be they never so true. That which I have written in this treatise concerning the moral virtues, and of their necessity for the procuring and maintaining peace, though it be evident truth, is not therefore presently

law, but because in all Commonwealths in the world it is part of the civil law. For though it be naturally reasonable, yet it is by the sovereign power that it is law: otherwise, it were a great error to call the laws of nature unwritten law; whereof we see so many volumes published, and in them so many contradictions of one another and of themselves.

The interpretation of the law of nature is the sentence of the judge constituted by the sovereign authority to hear and determine such controversies as depend thereon, and consisteth in the application of the law to the present case. For in the act of judicature the judge doth no more but consider whether the demand of the party be consonant to natural reason and equity; and the sentence he giveth is therefore the interpretation of the law of nature; which interpretation is authentic, not because it is his private sentence, but because he giveth it by authority of the sovereign, whereby it becomes the sovereign's sentence; which is law for that time to the parties pleading.

But because there is no judge subordinate, nor sovereign, but may err in a judgement equity; if afterward in another like case he find it more consonant to equity to give a contrary sentence, he is obliged to do it. No man's error becomes his own law, nor obliges him to persist in it. Neither, for the same reason, becomes it a law to other judges, though sworn to follow it. For though a wrong sentence given by authority of the sovereign, if he know and allow it, in such laws as are mutable, be a constitution of a new law in cases in which every little circumstance is the same; yet in laws immutable, such as are the laws of nature, they are no laws to the same or other judges in the like cases for ever after. Princes succeed one another; and one judge passeth, another cometh; nay, heaven and earth shall pass; but not one tittle of the law of nature shall pass; for it is the eternal law of God. Therefore all the sentences of precedent judges that have ever been cannot all together make a law contrary to natural equity. Nor any examples of former judges can warrant an unreasonable sentence, or discharge the present judge of the trouble of studying what is equity (in the case he is to judge) from the principles of his own natural reason. For example sake, it is against the law of nature to punish the innocent; and innocent is he that acquitteth himself judicially and is acknowledged for innocent by the judge. Put the case now that a man is accused of a capital crime, and seeing the power and malice of some enemy, and the frequent corruption and partiality of judges, runneth away for fear of the event, and afterwards is taken and brought to a legal trial, and maketh it sufficiently appear he was not guilty of the crime, and being thereof

acquitted is nevertheless condemned to lose his goods; this is a manifest condemnation of the innocent. I say therefore that there is no place in the world where this can be an interpretation of a law of nature, or be made a law by the sentences of precedent judges that had done the same. For he that judged it first judged unjustly; and no injustice can be a pattern of judgement to succeeding judges. A written law may forbid innocent men to fly, and they may be punished for flying; but that flying for fear of injury should be taken for presumption of guilt, after a man is already absolved of the crime judicially, is contrary to the nature of a presumption, which hath no place after judgement given. Yet this is set down by a great lawyer for the common law of England: "If a man," saith he, "that is innocent be accused of felony, and for fear flyeth for the same; albeit he judicially acquitteth himself of the felony; yet if it be found that he fled for the felony, he shall, notwithstanding his innocency, forfeit all his goods, chattels, debts, and duties. For as to the forfeiture of them, the law will admit no proof against the presumption in law, grounded upon his flight." Here you see an innocent man, judicially acquitted, notwithstanding his innocency (when no written law forbade him to fly) after his acquittal, upon a presumption in law, condemned to lose all the goods he hath. If the law ground upon his flight a presumption of the fact, which was capital, the sentence ought to have been capital: the presumption were not of the fact, for what then ought he to lose his goods? This therefore is no law of England; nor is the condemnation grounded upon a presumption of law, but upon the presumption of the judges. It is also against law to say that no proof shall be admitted against a presumption of law. For all judges, sovereign and subordinate, if they refuse to hear proof, refuse to do justice: for though the sentence be just, yet the judges that condemn, without hearing the proofs offered, are unjust judges; and their presumption is but prejudice; which no man ought to bring with him to the seat of justice whatsoever precedent judgements or examples he shall pretend to follow. There be other things of this nature, wherein men's judgements have been perverted by trusting to precedents: but this is enough to show that though the sentence of the judge be a law to the party pleading, yet it is no law any judge that shall succeed him in that office.

In like manner, when question is of the meaning of written laws, he is not the interpreter of them that writeth a commentary upon them. For commentaries are commonly more subject to cavil than the text, and therefore need other commentaries; and so there will be no end of such

interpretation. And therefore unless there be an interpreter authorized by the sovereign, from which the subordinate judges are not to recede, the interpreter can be no other than the ordinary judges, in the same manner as they are in cases of the unwritten law; and their sentences are to be taken by them that plead for laws in that particular case, but not to bind other judges in like cases to give like judgements. For a judge may err in the interpretation even of written laws; but no error of a subordinate judge can change the law, which is the general sentence of the sovereign.

In written laws men use to make a difference between the letter and the sentence of the law: and when by the letter is meant whatsoever can be gathered from the bare words, it is well distinguished. For the significations of almost all are either in themselves, or in the metaphorical use of them, ambiguous; and may be drawn in argument to make many senses; but there is only one sense of the law. But if by the letter be meant the literal sense, then the letter and the sentence or intention of the law is all one. For the literal sense is that which the legislator intended should by the letter of the law be signified. Now the intention of the legislator is always supposed to be equity: for it were a great contumely for a judge to think otherwise of the sovereign. He ought therefore, if the word of the law do not fully authorize a reasonable sentence, to supply it with the law of nature; or if the case be difficult, to respite judgement till he have received more ample authority. For example, a written law ordaineth that he which is thrust out of his house by force shall be restored by force. It happens that a man by negligence leaves his house empty, and returning is kept out by force, in which case there is no special law ordained. It is evident that this case is contained in the same law; for else there is no remedy for him at all, which is to be supposed against the intention of the legislator. Again, the word of the law commandeth to judge according to the evidence. A man is accused falsely of a fact which the judge himself saw done by another, and not by him that is accused. In this case neither shall the letter of the law be followed to the condemnation of the innocent, nor shall the judge give sentence against the evidence of the witnesses, because the letter of the law is to the contrary; but procure of the sovereign that another be made judge, and himself witness. So that the incommodity that follows the bare words of a written law may lead him to the intention of the law, whereby to interpret the same the better; though no incommodity can warrant a sentence against the law. For every judge of right and wrong is not

judge of what is commodious or incommodious to the Commonwealth.

The abilities required in a good interpreter of the law, that is to say, in a good judge, are not the same with those of an advocate; namely, the study of the laws. For a judge, as he ought to take notice of the fact from none but the witnesses, so also he ought to take notice of the law from nothing but the statutes and constitutions of the sovereign, alleged in the pleading, or declared to him by some that have authority from the sovereign power to declare them; and need not take care beforehand what he shall judge; for it shall be given him what he shall say concerning the fact, by witnesses; and what he shall say in point of law, from those that shall in their pleadings show it, and by authority interpret it upon the place. The Lords of Parliament in England were judges, and most difficult causes have been heard and determined by them; yet few of them were much versed in the study of the laws, and fewer had made profession of them; and though they consulted with lawyers that were appointed to be present there for that purpose, yet they alone had the authority of giving sentence. In like manner, in the ordinary trials of right, twelve men of the common people are the judges and give sentence, not only of the fact, but of the right; and pronounce simply for the complainant or for the defendant; that is to say, are judges not only of the fact, but also of the right; and in a question of crime, not only determine whether done or not done, but also whether it be murder, homicide, felony, assault, and the like, which are determinations of law: but because they are not supposed to know the law of themselves, there is one that hath authority to inform them of it in the particular case they are to judge of. But yet if they judge not according to that he tells them, they are not subject thereby to any penalty; unless it be made appear they did it against their consciences, or had been corrupted by reward.

The things that make a good judge or good interpreter of the laws are, first, a right understanding of that principal law of nature called equity; which, depending not on the reading of other men's writings, but on the goodness of a man's own natural reason and meditation, is presumed to be in those most that had most leisure, and had the most inclination to meditate thereon. Secondly, contempt of unnecessary riches and preferments. Thirdly, to be able in judgement to divest himself of all fear, anger, hatred, love, and compassion. Fourthly, and lastly, patience to hear, diligent attention in hearing, and memory to retain, digest, and apply what he hath heard.

The difference and division of the laws has been made in diverse manners, according to the different methods of those men that have written of them. For it is a thing that dependeth on nature, but on the scope of the writer, and is subservient to every man's proper method. In the Institutions of Justinian, we find seven sorts of civil laws:

1. The edicts, constitutions, and epistles of prince; that is, of the emperor, because the whole power of the people was in him. Like these are the proclamations of the kings of England.

2. The decrees of the whole people of Rome, comprehending the Senate, when they were put to the question by the Senate. These were laws, at first, by the virtue of the sovereign power residing in the people; and such of them as by the emperors were not abrogated remained laws by the authority imperial. For all laws that bind are understood to be laws by his authority that has power to repeal them. Somewhat like to these laws are the Acts of Parliament in England.

3. The decrees of the common people, excluding the Senate, when they were put to the question by the tribune of the people. For such of them as were not abrogated by the emperors, remained laws by the authority imperial. Like to these were the orders of the House of Commons in England.

4. *Senatus consulta*, the orders of the Senate: because when the people of Rome grew so numerous as it was inconvenient to assemble them, it was thought fit by the emperor that men should consult the Senate instead of the people: and these have some resemblance with the Acts of Council.

5. The edicts of praetors, and in some cases of the aediles: such as are the chief justices in the courts of England.

6. *Responsa prudentum*, which were the sentences and opinions of those lawyers to whom the emperor gave authority to interpret the law, and to give answer to such as in matter of law demanded their advice; which answers the judges in giving judgement were obliged by the constitutions of the emperor to observe: and should be like the reports of cases judged, if other judges be by the law of England bound to observe them. For the judges of the common law of England are not properly judges, but *juris consulti*; of whom the judges, who are either the lords, or twelve men of the country, are in point of law to ask advice.

7. Also, unwritten customs, which in their own nature are an imitation of law, by the tacit consent of the emperor, in case they be not contrary to the law of nature, are very laws.

Another division of laws is into natural and positive. Natural are those which have been laws from all eternity, and are called not only natural, but also moral laws, consisting in the moral virtues; as justice, equity, and all habits of the mind that conduce to peace and charity, of which I have already spoken in the fourteenth and fifteenth Chapters.

Positive are those which have not been from eternity, but have been made laws by the will of those that have had the sovereign power over others, and are either written or made known to men by some other argument of the will of their legislator.

Again, of positive laws some are human, some divine: and of human positive laws, some are distributive, some penal. Distributive are those that determine the rights of the subjects, declaring to every man what it is by which he acquireth and holdeth a propriety in lands or goods, and a right or liberty of action: and these speak to all the subjects. Penal are those which declare what penalty shall be inflicted on those that violate the law; and speak to the ministers and officers ordained for execution. For though every one ought to be informed of the punishments ordained beforehand for their transgression; nevertheless the command is not addressed to the delinquent (who cannot be supposed will faithfully punish himself), but to public ministers appointed to see the penalty executed. And these penal laws are for the most part written together with the laws distributive, and are sometimes called judgements. For all laws are general judgements, or sentences of the legislator; as also every particular judgement is a law to him whose case is judged.

Divine positive laws (for natural laws, being eternal and universal, are all divine) are those which, being the commandments of God, not from all eternity, nor universally addressed to all men, but only to a certain people or to certain persons, are declared for such by those whom God hath authorized to declare them. But this authority of man to declare what be these positive of God, how can it be known? God may command a man, by a supernatural way, to deliver laws to other men. But because it is of the essence of law that he who is to be obliged be assured of the authority of him that declareth it, which we cannot naturally take notice to be from God, how can a man without supernatural revelations be assured of the revelation received by the

declarer? And how can he be bound to obey them? For the first question, how a man can be assured of the revelation of another without a revelation particularly to himself, it is evidently impossible: for though a man may be induced to believe such revelation, from the miracles they see him do, or from seeing the extraordinary sanctity of his life, or from seeing the extraordinary wisdom, or extraordinary felicity of his actions, all which are marks of God's extraordinary favour; yet they are not assured evidences of special revelation. Miracles are marvellous works; but that which is marvellous to one may not be so to another. Sanctity may be feigned; and the visible felicities of this world are most often the work of God by natural and ordinary causes. And therefore no man can infallibly know by natural reason that another has had a supernatural revelation of God's will but only a belief; every one, as the signs thereof shall appear greater or lesser, a firmer or a weaker belief.

But for the second, how he can be bound to obey them, it is not so hard. For if the law declared be not against the law of nature, which is undoubtedly God's law, and he undertake to obey it, he is bound by his own act; bound I say to obey it, but not bound to believe it: for men's belief, and interior cogitations, are not subject to the commands, but only to the operation of God, ordinary or extraordinary. Faith of supernatural law is not a fulfilling, but only an assenting to the same; and not a duty that we exhibit to God, but a gift which God freely giveth to whom He pleaseth; as also unbelief is not a breach of any of His laws, but a rejection of them all, except the laws natural. But this that I say will be made yet clearer by, the examples and testimonies concerning this point in Holy Scripture. The covenant God made with Abraham in a supernatural manner was thus, "This is the covenant which thou shalt observe between me and thee and thy seed after thee" (Genesis, 17. 10). Abraham's seed had not this revelation, nor were yet in being; yet they are a party to the covenant, and bound to obey what Abraham should declare to them for God's law; which they could not be but in virtue of the obedience they owed to their parents, who (if they be subject to no other earthly power, as here in the case of Abraham) have sovereign power over their children and servants. Again, where God saith to Abraham, "In thee shall all nations of the earth be blessed: for I know thou wilt command thy children and thy house after thee to keep the way of the Lord, and to observe righteousness and judgement," it is manifest the obedience of his family, who had no revelation, depended on their former obligation to

obey their sovereign. At Mount Sinai Moses only went up to God; the people were forbidden to approach on pain of death; yet were they bound to obey all that Moses declared to them for God's law. Upon what ground, but on this submission of their own, "Speak thou to us, and we will hear thee; but let not God speak to us, lest we die"? By which two places it sufficiently appeareth that in a Commonwealth a subject that has no certain and assured revelation particularly to himself concerning the will of God is to obey for such the command of the Commonwealth: for if men were at liberty to take for God's commandments their own dreams and fancies, or the dreams and fancies of private men, scarce two men would agree upon what is God's commandment; and yet in respect of them every man would despise the commandments of the Commonwealth. I conclude, therefore, that in all things not contrary to the moral law (that is to say, to the law of nature), all subjects are bound to obey that for divine law which is declared to be so by the laws of the Commonwealth. Which also is evident to any man's reason; for whatsoever is not against the law of nature may be made law in the name of them that have the sovereign power; there is no reason men should be the less obliged by it when it is propounded in the name of God. Besides, there is no place in the world where men are permitted to pretend other commandments of God than are declared for such by the Commonwealth. Christian states punish those that revolt from Christian religion; and all other states, those that set up any religion by them forbidden. For in whatsoever is not regulated by the Commonwealth, it is equity (which is the law of nature, and therefore an eternal law of God) that every man equally enjoy his liberty.

There is also another distinction of laws into fundamental and not fundamental: but I could never see in any author what a fundamental law signifieth. Nevertheless one may very reasonably distinguish laws in that manner.

For a fundamental law in every Commonwealth is that which, being taken away, the Commonwealth faileth and is utterly dissolved, as a building whose foundation is destroyed. And therefore a fundamental law is that by which subjects are bound to uphold whatsoever power is given to the sovereign, whether a monarch or a sovereign assembly, without which the Commonwealth cannot stand; such as is the power of war and peace, of judicature, of election of officers, and of doing whatsoever he shall think necessary for the public good. Not fundamental is that, the abrogating whereof draweth not with it the

dissolution of the Commonwealth; such as are the laws concerning controversies between subject and subject. Thus much of the division of laws.

I find the words *lex civilis* and *jus civile*, that is to say, and law and right civil, promiscuously used for the same thing, even in the most learned authors; which nevertheless ought not to be so. For right is liberty, namely that liberty which the civil law leaves us: but civil law is an obligation, and takes from us the liberty which the law of nature gave us. Nature gave a right to every man to secure himself by his own strength, and to invade a suspected neighbour by way of prevention: but the civil law takes away that liberty, in all cases where the protection of the law may be safely stayed for. Insomuch as *lex* and *jus* are as different as obligation and liberty.

Likewise laws and charters are taken promiscuously for the same thing. Yet charters are donations of the sovereign; and not laws, but exemptions from law. The phrase of a law is *jubeo*, *injungo*; I command and enjoin: the phrase of a charter is *dedi*, *concessi*; I have given, I have granted: but what is given or granted to a man is not forced upon him by a law. A law may be made to bind all the subjects of a Commonwealth: a liberty or charter is only to one man or some one part of the people. For to say all the people of a Commonwealth have liberty in any case whatsoever is to say that, in such case, there hath been no law made; or else, having been made, is now abrogated.

## Source 2D

**Charles de Montesquieu**

**The Spirit of Laws**

**Book I. Of Laws in General**

1. *Of the Relation of Laws to different Beings.* Laws, in their most general signification, are the necessary relations arising from the nature of things. In this sense all beings have their laws: the Deity<sup>1</sup> His laws, the material world its laws, the intelligences superior to man their laws, the beasts their laws, man his laws.

They who assert that a blind fatality produced the various effects we behold in this world talk very absurdly; for can anything be more unreasonable than to pretend that a blind fatality could be productive of intelligent beings?

There is, then, a prime reason; and laws are the relations subsisting between it and different beings, and the relations of these to one another.

God is related to the universe, as Creator and Preserver; the laws by which He created all things are those by which He preserves them. He acts according to these rules, because He knows them; He knows them, because He made them; and He made them, because they are in relation to His wisdom and power.

Since we observe that the world, though formed by the motion of matter, and void of understanding, subsists through so long a succession of ages, its motions must certainly be directed by invariable laws; and could we imagine another world, it must also have constant rules, or it would inevitably perish.

Thus the creation, which seems an arbitrary act, supposes laws as invariable as those of the fatality of the Atheists. It would be absurd to say that the Creator might govern the world without those rules, since without them it could not subsist.

These rules are a fixed and invariable relation. In bodies moved, the motion is received, increased, diminished, or lost, according to the relations of the quantity of matter and velocity; each diversity is *uniformity*, each change is *constancy*.

Particular intelligent beings may have laws of their own making, but they have some likewise which they never made. Before there were intelligent beings, they were possible; they had therefore possible relations, and consequently possible laws. Before laws were made, there were relations of possible justice. To say that there is nothing just or unjust but what is commanded or forbidden by positive laws, is the same as saying that before the describing of a circle all the radii were not equal.

We must therefore acknowledge relations of justice antecedent to the positive law by which they are established: as, for instance, if human societies existed, it would be right to conform to their laws; if there were intelligent beings that had received a benefit of another being, they ought to show their gratitude; if one intelligent being had created another intelligent being, the latter ought to continue in its original state of dependence; if one intelligent being injures another, it deserves a retaliation; and so on.

But the intelligent world is far from being so well governed as the physical. For though the former has also its laws, which of their own nature are invariable, it does not conform to them so exactly as the physical world. This is because, on the one hand, particular intelligent beings are of a finite nature, and consequently liable to error; and on the other, their nature requires them to be free agents. Hence they do not steadily conform to their primitive laws; and even those of their own instituting they frequently infringe.

Whether brutes be governed by the general laws of motion, or by a particular movement, we cannot determine. Be that as it may, they have not a more intimate relation to God than the rest of the material world; and sensation is of no other use to them than in the relation they have either to other particular beings or to themselves.

By the allurements of pleasure they preserve the individual, and by the same allurements they preserve their species. They have natural laws, because they are united by sensation; positive laws they have none, because they are not connected by knowledge. And yet they do not invariably conform to their natural laws; these are better observed by vegetables, that have neither understanding nor sense.

Brutes are deprived of the high advantages which we have; but they have some which we have not. They have not our hopes, but they are without our fears; they are subject like us to death, but without knowing

it; even most of them are more attentive than we to self-preservation, and do not make so bad a use of their passions.

Man, as a physical being, is like other bodies governed by invariable laws. As an intelligent being, he incessantly transgresses the laws established by God, and changes those of his own instituting. He is left to his private direction, though a limited being, and subject, like all finite intelligences, to ignorance and error: even his imperfect knowledge he loses; and as a sensible creature, he is hurried away by a thousand impetuous passions. Such a being might every instant forget his Creator; God has therefore reminded him of his duty by the laws of religion. Such a being is liable every moment to forget himself; philosophy has provided against this by the laws of morality. Formed to live in society, he might forget his fellow-creatures; legislators have therefore by political and civil laws confined him to his duty.

2. *Of the Laws of Nature.* Antecedent to the above-mentioned laws are those of nature, so called, because they derive their force entirely from our frame and existence. In order to have a perfect knowledge of these laws, we must consider man before the establishment of society: the laws received in such a state would be those of nature.

The law which, impressing on our minds the idea of a Creator, inclines us towards Him, is the first in importance, though not in order, of natural laws. Man in a state of nature would have the faculty of knowing, before he had acquired any knowledge. Plain it is that his first ideas would not be of a speculative nature; he would think of the preservation of his being, before he would investigate its origin. Such a man would feel nothing in himself at first but impotency and weakness; his fears and apprehensions would be excessive; as appears from instances (were there any necessity of proving it) of savages found in forests,<sup>2</sup> trembling at the motion of a leaf, and flying from every shadow.

In this state every man, instead of being sensible of his equality, would fancy himself inferior. There would therefore be no danger of their attacking one another; peace would be the first law of nature.

The natural impulse or desire which Hobbes attributes to mankind of subduing one another is far from being well founded. The idea of empire and dominion is so complex, and depends on so many other notions, that it could never be the first which occurred to the human understanding.

Hobbes<sup>3</sup> inquires, "For what reason go men armed, and have locks and keys to fasten their doors, if they be not naturally in a state of war?" But is it not obvious that he attributes to mankind before the establishment of society what can happen but in consequence of this establishment, which furnishes them with motives for hostile attacks and self-defence?

Next to a sense of his weakness man would soon find that of his wants. Hence another law of nature would prompt him to seek for nourishment.

Fear, I have observed, would induce men to shun one another; but the marks of this fear being reciprocal, would soon engage them to associate. Besides, this association would quickly follow from the very pleasure one animal feels at the approach of another of the same species. Again, the attraction arising from the difference of sexes would enhance this pleasure, and the natural inclination they have for each other would form a third law.

Beside the sense or instinct which man possesses in common with brutes, he has the advantage of acquired knowledge; and thence arises a second tie, which brutes have not. Mankind have therefore a new motive of uniting; and a fourth law of nature results from the desire of living in society.

3. *Of Positive Laws.* As soon as man enters into a state of society he loses the sense of his weakness; equality ceases, and then commences the state of war.

Each particular society begins to feel its strength, whence arises a state of war between different nations. The individuals likewise of each society become sensible of their force; hence the principal advantages of this society they endeavour to convert to their own emolument, which constitutes a state of war between individuals.

These two different kinds of states give rise to human laws. Considered as inhabitants of so great a planet, which necessarily contains a variety of nations, they have laws relating to their mutual intercourse, which is what we call the *law of nations*. As members of a society that must be properly supported, they have laws relating to the governors and the governed, and this we distinguish by the name of *politic law*. They have also another sort of law, as they stand in relation to each other; by which is understood the *civil law*.

The law of nations is naturally founded on this principle, that different

nations ought in time of peace to do one another all the good they can, and in time of war as little injury as possible, without prejudicing their real interests.

The object of war is victory; that of victory is conquest; and that of conquest preservation. From this and the preceding principle all those rules are derived which constitute the *law of nations*.

All countries have a law of nations, not excepting the Iroquois themselves, though they devour their prisoners: for they send and receive ambassadors, and understand the rights of war and peace. The mischief is that their law of nations is not founded on true principles.

Besides the law of nations relating to all societies, there is a polity or civil constitution for each particularly considered. No society can subsist without a form of government. "The united strength of individuals," as Gravina<sup>4</sup> well observes, "constitutes what we call the body politic."

The general strength may be in the hands of a single person, or of many. Some think that nature having established paternal authority, the most natural government was that of a single person. But the example of paternal authority proves nothing. For if the power of a father relates to a single government, that of brothers after the death of a father, and that of cousins-german after the decease of brothers, refer to a government of many. The political power necessarily comprehends the union of several families.

Better is it to say, that the government most conformable to nature is that which best agrees with the humour and disposition of the people in whose favour it is established.

The strength of individuals cannot be united without a conjunction of all their wills. "The conjunction of those wills," as Gravina again very justly observes, "is what we call the civil state."

Law in general is human reason, inasmuch as it governs all the inhabitants of the earth: the political and civil laws of each nation ought to be only the particular cases in which human reason is applied.

They should be adapted in such a manner to the people for whom they are framed that it should be a great chance if those of one nation suit another.

They should be in relation to the nature and principle of each

government; whether they form it, as may be said of politic laws; or whether they support it, as in the case of civil institutions.

They should be in relation to the climate of each country, to the quality of its soil, to its situation and extent, to the principal occupation of the natives, whether husbandmen, huntsmen, or shepherds: they should have relation to the degree of liberty which the constitution will bear; to the religion of the inhabitants, to their inclinations, riches, numbers, commerce, manners, and customs. In fine, they have relations to each other, as also to their origin, to the intent of the legislator, and to the order of things on which they are established; in all of which different lights they ought to be considered.

This is what I have undertaken to perform in the following work. These relations I shall examine, since all these together constitute what I call the *Spirit of Laws*.

I have not separated the political from the civil institutions, as I do not pretend to treat of laws, but of their spirit; and as this spirit consists in the various relations which the laws may bear to different objects, it is not so much my business to follow the natural order of laws as that of these relations and objects.

I shall first examine the relations which laws bear to the nature and principle of each government; and as this principle has a strong influence on laws, I shall make it my study to understand it thoroughly: and if I can but once establish it, the laws will soon appear to flow thence as from their source. I shall proceed afterwards to other and more particular relations.

<sup>1</sup> "Law," says Plutarch, "is the king of mortal and immortal beings." See his treatise, *A Discourse to an Unlearned Prince*.

<sup>2</sup> Witness the savage found in the forests of Hanover, who was carried over to England during the reign of George I.

<sup>3</sup> In pref., *De cive*.

<sup>4</sup> Italian poet and jurist, 1664-1718.

## **Source 3A**

**Aristotle**  
**The Art of Rhetoric**  
**Book I, Chapter 5**  
(Excerpts)

It may be said that every individual man and all men in common aim at a certain end which determines what they choose and what they avoid. This end, to sum it up briefly, is happiness and its constituents.

...

We may define happiness as prosperity combined with virtue; or as independence of life; or as the secure enjoyment of the maximum of pleasure; or as a good condition of property and body, together with the power of guarding one's property and body and making use of them. That happiness is one or more of these things, pretty well everybody agrees.

...

The constituents of wealth are: plenty of coined money and territory; the ownership of numerous, large, and beautiful estates; also the ownership of numerous and beautiful implements, live stock, and slaves. All these kinds of property are our own, are secure, gentlemanly, and useful. The useful kinds are those that are productive, the gentlemanly kinds are those that provide enjoyment. By "productive" I mean those from which we get our income; by "enjoyable," those from which we get nothing worth mentioning except the use of them. The criterion of "security" is the ownership of property in such places and under such Conditions that the use of it is in our power; and it is "our own" if it is in our own power to dispose of it or keep it. By "disposing of it" I mean giving it away or selling it. Wealth as a whole consists in using things rather than in owning them; it is really the activity – that is, the use – of property that constitutes wealth.

## **Source 3B**

**Aristotle**

**The Politics**

**Book II, Part V.**

**The Ownership of Property**

Next let us consider what should be our arrangements about property: should the citizens of the perfect state have their possessions in common or not? This question may be discussed separately from the enactments about women and children. Even supposing that the women and children belong to individuals, according to the custom which is at present universal, may there not be an advantage in having and using possessions in common? Three cases are possible: (1) the soil may be appropriated, but the produce may be thrown for consumption into the common stock; and this is the practice of some nations. Or (2), the soil may be common, and may be cultivated in common, but the produce divided among individuals for their private use; this is a form of common property which is said to exist among certain barbarians. Or (3), the soil and the produce may be alike common.

When the husbandmen are not the owners, the case will be different and easier to deal with; but when they till the ground for themselves the question of ownership will give a world of trouble. If they do not share equally enjoyments and toils, those who labor much and get little will necessarily complain of those who labor little and receive or consume much. But indeed there is always a difficulty in men living together and having all human relations in common, but especially in their having common property. The partnerships of fellow-travelers are an example to the point; for they generally fall out over everyday matters and quarrel about any trifle which turns up. So with servants: we are most able to take offense at those with whom we most frequently come into contact in daily life.

These are only some of the disadvantages which attend the community of property; the present arrangement, if improved as it might be by good customs and laws, would be far better, and would have the advantages of both systems. Property should be in a certain sense

common, but, as a general rule, private; for, when everyone has a distinct interest, men will not complain of one another, and they will make more progress, because every one will be attending to his own business. And yet by reason of goodness, and in respect of use, 'Friends,' as the proverb says, 'will have all things common.' Even now there are traces of such a principle, showing that it is not impracticable, but, in well-ordered states, exists already to a certain extent and may be carried further. For, although every man has his own property, some things he will place at the disposal of his friends, while of others he shares the use with them. The Lacedaemonians, for example, use one another's slaves, and horses, and dogs, as if they were their own; and when they lack provisions on a journey, they appropriate what they find in the fields throughout the country. It is clearly better that property should be private, but the use of it common; and the special business of the legislator is to create in men this benevolent disposition. Again, how immeasurably greater is the pleasure, when a man feels a thing to be his own; for surely the love of self is a feeling implanted by nature and not given in vain, although selfishness is rightly censured; this, however, is not the mere love of self, but the love of self in excess, like the miser's love of money; for all, or almost all, men love money and other such objects in a measure. And further, there is the greatest pleasure in doing a kindness or service to friends or guests or companions, which can only be rendered when a man has private property. These advantages are lost by excessive unification of the state. The exhibition of two virtues, besides, is visibly annihilated in such a state: first, temperance towards women (for it is an honorable action to abstain from another's wife for temperance' sake); secondly, liberality in the matter of property. No one, when men have all things in common, will any longer set an example of liberality or do any liberal action; for liberality consists in the use which is made of property.

Such legislation may have a specious appearance of benevolence; men readily listen to it, and are easily induced to believe that in some wonderful manner everybody will become everybody's friend, especially when some one is heard denouncing the evils now existing in states, suits about contracts, convictions for perjury, flatteries of rich men and the like, which are said to arise out of the possession of private property. These evils, however, are due to a very different cause – the wickedness of human nature. Indeed, we see that there is much more quarrelling among those who have all things in common, though there are not many of them when compared with the vast

numbers who have private property.

Again, we ought to reckon, not only the evils from which the citizens will be saved, but also the advantages which they will lose. The life which they are to lead appears to be quite impracticable. The error of Socrates must be attributed to the false notion of unity from which he starts. Unity there should be, both of the family and of the state, but in some respects only. For there is a point at which a state may attain such a degree of unity as to be no longer a state, or at which, without actually ceasing to exist, it will become an inferior state, like harmony passing into unison, or rhythm which has been reduced to a single foot. The state, as I was saying, is a plurality which should be united and made into a community by education; and it is strange that the author of a system of education which he thinks will make the state virtuous, should expect to improve his citizens by regulations of this sort, and not by philosophy or by customs and laws, like those which prevail at Sparta and Crete respecting common meals, whereby the legislator has made property common. Let us remember that we should not disregard the experience of ages; in the multitude of years these things, if they were good, would certainly not have been unknown; for almost everything has been found out, although sometimes they are not put together; in other cases men do not use the knowledge which they have. Great light would be thrown on this subject if we could see such a form of government in the actual process of construction; for the legislator could not form a state at all without distributing and dividing its constituents into associations for common meals, and into phratries and tribes. But all this legislation ends only in forbidding agriculture to the guardians, a prohibition which the Lacedaemonians try to enforce already.

But, indeed, Socrates has not said, nor is it easy to decide, what in such a community will be the general form of the state. The citizens who are not guardians are the majority, and about them nothing has been determined: are the husbandmen, too, to have their property in common? Or is each individual to have his own? And are the wives and children to be individual or common. If, like the guardians, they are to have all things in common, what do they differ from them, or what will they gain by submitting to their government? Or, upon what principle would they submit, unless indeed the governing class adopt the ingenious policy of the Cretans, who give their slaves the same institutions as their own, but forbid them gymnastic exercises and the

possession of arms. If, on the other hand, the inferior classes are to be like other cities in respect of marriage and property, what will be the form of the community? Must it not contain two states in one, each hostile to the other? He makes the guardians into a mere occupying garrison, while the husbandmen and artisans and the rest are the real citizens. But if so the suits and quarrels, and all the evils which Socrates affirms to exist in other states, will exist equally among them. He says indeed that, having so good an education, the citizens will not need many laws, for example laws about the city or about the markets; but then he confines his education to the guardians. Again, he makes the husbandmen owners of the property upon condition of their paying a tribute. But in that case they are likely to be much more unmanageable and conceited than the Helots, or Penestae, or slaves in general. And whether community of wives and property be necessary for the lower equally with the higher class or not, and the questions akin to this, what will be the education, form of government, laws of the lower class, Socrates has nowhere determined: neither is it easy to discover this, nor is their character of small importance if the common life of the guardians is to be maintained.

Again, if Socrates makes the women common, and retains private property, the men will see to the fields, but who will see to the house? And who will do so if the agricultural class have both their property and their wives in common? Once more: it is absurd to argue, from the analogy of the animals, that men and women should follow the same pursuits, for animals have not to manage a household. The government, too, as constituted by Socrates, contains elements of danger; for he makes the same persons always rule. And if this is often a cause of disturbance among the meaner sort, how much more among high-spirited warriors? But that the persons whom he makes rulers must be the same is evident; for the gold which the God mingles in the souls of men is not at one time given to one, at another time to another, but always to the same: as he says, 'God mingles gold in some, and silver in others, from their very birth; but brass and iron in those who are meant to be artisans and husbandmen.' Again, he deprives the guardians even of happiness, and says that the legislator ought to make the whole state happy. But the whole cannot be happy unless most, or all, or some of its parts enjoy happiness. In this respect happiness is not like the even principle in numbers, which may exist only in the whole, but in neither of the parts; not so happiness. And if the guardians are not happy, who are? Surely not the artisans, or the

common people. The Republic of which Socrates discourses has all these difficulties, and others quite as great.

## Source 3C

### John Locke Two Treatises of Government Chapter V. Of Property

Sect. 25. Whether we consider natural *reason*, which tells us, that men, being once born, have a right to their preservation, and consequently to meat and drink, and such other things as nature affords for their subsistence: or *revelation*, which gives us an account of those grants God made of the world to *Adam*, and to *Noah*, and his sons, it is very clear, that God, as king *David* says, *Psal. cxv. 16. has given the earth to the children of men*; given it to mankind in common. But this being supposed, it seems to some a very great difficulty, how any one should ever come to have a *property* in any thing: I will not content myself to answer, that if it be difficult to make out *property*, upon a supposition that God gave the world to *Adam*, and his posterity in common, it is impossible that any man, but one universal monarch, should have any property upon a supposition, that God gave the world to *Adam*, and his heirs in succession, exclusive of all the rest of his posterity. But I shall endeavour to shew, how men might come to have a *property* in several parts of that which God gave to mankind in common, and that without any express compact of all the commoners.

Sect. 26. God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life, and convenience. The earth, and all that is therein, is given to men for the support and comfort of their being. And tho' all the fruits it naturally produces, and beasts it feeds, belong to mankind in common, as they are produced by the spontaneous hand of nature; and no body has originally a private dominion, exclusive of the rest of mankind, in any of them, as they are thus in their natural state: yet being given for the use of men, there must of necessity be a *means to appropriate* them some way or other, before they can be of any use, or at all beneficial to any particular man. The fruit, or venison, which nourishes the *wild Indian*, who knows no enclosure, and is still a tenant in common, must be his, and so his, i.e. a part of him, that another can no longer have any right to it, before it can do him any good for the support of his life.

Sect. 27. Though the earth, and all inferior creatures, be common to all

men, yet every man has a *property* in his own *person*: this no body has any right to but himself. The *labour* of his body, and the *work* of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his *labour* with, and joined to it something that is his own, and thereby makes it his *property*. It being by him removed from the common state nature hath placed it in, it hath by this *labour* something annexed to it, that excludes the common right of other men: for this *labour* being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others.

Sect. 28. He that is nourished by the acorns he picked up under an oak, or the apples he gathered from the trees in the wood, has certainly appropriated them to himself. No body can deny but the nourishment is his. I ask then, when did they begin to be his? when he digested? or when he eat? or when he boiled? or when he brought them home? or when he picked them up? and it is plain, if the first gathering made them not his, nothing else could. That *labour* put a distinction between them and common: that added something to them more than nature, the common mother of all, had done; and so they became his private right. And will any one say, he had no right to those acorns or apples, he thus appropriated, because he had not the consent of all mankind to make them his? Was it a robbery thus to assume to himself what belonged to all in common? If such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him. We see in *commons*, which remain so by compact, that it is the taking any part of what is common, and removing it out of the state nature leaves it in, which *begins the property*; without which the common is of no use. And the taking of this or that part, does not depend on the express consent of all the commoners. Thus the grass my horse has bit; the turfs my servant has cut; and the ore I have digged in any place, where I have a right to them in common with others, become my *property*, without the assignation or consent of any body. The *labour* that was mine, removing them out of that common state they were in, hath *fixed my property* in them.

Sect. 29. By making an explicit consent of every commoner, necessary to any one's appropriating to himself any part of what is given in common, children or servants could not cut the meat, which their father or master had provided for them in common, without assigning to every one his peculiar part. Though the water running in the fountain be every

one's, yet who can doubt, but that in the pitcher is his only who drew it out? His *labour* hath taken it out of the hands of nature, where it was common, and belonged equally to all her children, and *hath* thereby *appropriated* it to himself.

Sect. 30. Thus this law of reason makes the deer that *Indian's* who hath killed it; it is allowed to be his goods, who hath bestowed his labour upon it, though before it was the common right of every one. And amongst those who are counted the civilized part of mankind, who have made and multiplied positive laws to determine *property*, this original law of nature, for the *beginning of property*, in what was before common, still takes place; and by virtue thereof, what fish any one catches in the ocean, that great and still remaining common of mankind; or what ambergrise any one takes up here, is by the *labour* that removes it out of that common state nature left it in, *made* his *property*, who takes that pains about it. And even amongst us, the hare that any one is hunting, is thought his who pursues her during the chase: for being a beast that is still looked upon as common, and no man's private possession; whoever has employed so much *labour* about any of that kind, as to find and pursue her, has thereby removed her from the state of nature, wherein she was common, and hath *begun a property*.

Sect. 31. It will perhaps be objected to this, that if gathering the acorns, or other fruits of the earth, &c. makes a right to them, then any one may *ingross* as much as he will. To which I answer, Not so. The same law of nature, that does by this means give us property, does also *bound* that *property* too. *God has given us all things richly*, 1 Tim. vi. 12. is the voice of reason confirmed by inspiration. But how far has he given it us? *To enjoy*. As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in: whatever is beyond this, is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy. And thus, considering the plenty of natural provisions there was a long time in the world, and the few spenders; and to how small a part of that provision the industry of one man could extend itself, and ingross it to the prejudice of others; especially keeping within the *bounds*, set by reason, of what might serve for his *use*; there could be then little room for quarrels or contentions about property so established.

Sect. 32. But the *chief matter of property* being now not the fruits of the earth, and the beasts that subsist on it, but *the earth itself*; as that

which takes in and carries with it all the rest; I think it is plain, that *property* in that too is acquired as the former. As *much land* as a man tills, plants, improves, cultivates, and can use the product of, so much is his *property*. He by his labour does, as it were, inclose it from the common. Nor will it invalidate his right, to say every body else has an equal title to it; and therefore he cannot appropriate, he cannot inclose, without the consent of all his fellow-commoners, all mankind. God, when he gave the world in common to all mankind, commanded man also to labour, and the penury of his condition required it of him. God and his reason commanded him to subdue the earth, i.e. improve it for the benefit of life, and therein lay out something upon it that was his own, his labour. He that in obedience to this command of God, subdued, tilled and sowed any part of it, thereby annexed to it something that was his *property*, which another had no title to, nor could without injury take from him.

Sect. 33. Nor was this *appropriation* of any parcel of land, by improving it, any prejudice to any other man, since there was still enough, and as good left; and more than the yet unprovided could use. So that, in effect, there was never the less left for others because of his enclosure for himself: for he that leaves as much as another can make use of, does as good as take nothing at all. No body could think himself injured by the drinking of another man, though he took a good draught, who had a whole river of the same water left him to quench his thirst: and the case of land and water, where there is enough of both, is perfectly the same.

Sect. 34. God gave the world to men in common; but since he gave it them for their benefit, and the greatest conveniencies of life they were capable to draw from it, it cannot be supposed he meant it should always remain common and uncultivated. He gave it to the use of the industrious and rational, (and *labour* was to be his *title* to it;) not to the fancy or covetousness of the quarrelsome and contentious. He that had as good left for his improvement, as was already taken up, needed not complain, ought not to meddle with what was already improved by another's labour: if he did, it is plain he desired the benefit of another's pains, which he had no right to, and not the ground which God had given him in common with others to labour on, and whereof there was as good left, as that already possessed, and more than he knew what to do with, or his industry could reach to.

Sect. 35. It is true, in *land* that is common in *England*, or any other

country, where there is plenty of people under government, who have money and commerce, no one can inclose or appropriate any part, without the consent of all his fellow-commoners; because this is left common by compact, i.e. by the law of the land, which is not to be violated. And though it be common, in respect of some men, it is not so to all mankind; but is the joint property of this country, or this parish. Besides, the remainder, after such enclosure, would not be as good to the rest of the commoners, as the whole was when they could all make use of the whole; whereas in the beginning and first peopling of the great common of the world, it was quite otherwise. The law man was under, was rather for appropriating. God commanded, and his wants forced him to *labour*. That was his *property* which could not be taken from him where-ever he had fixed it. And hence subduing or cultivating the earth, and having dominion, we see are joined together. The one gave title to the other. So that God, by commanding to subdue, gave authority so far to *appropriate*: and the condition of human life, which requires labour and materials to work on, necessarily introduces private possessions.

Sect. 36. The *measure of property* nature has well set by the extent of men's *labour* and the *conveniencies of life*: no man's labour could subdue, or appropriate all; nor could his enjoyment consume more than a small part; so that it was impossible for any man, this way, to intrench upon the right of another, or acquire to himself a property, to the prejudice of his neighbour, who would still have room for as good, and as large a possession (after the other had taken out his) as before it was appropriated. This *measure* did confine every man's *possession* to a very moderate proportion, and such as he might appropriate to himself, without injury to any body, in the first ages of the world, when men were more in danger to be lost, by wandering from their company, in the then vast wilderness of the earth, than to be straitened for want of room to plant in. And the same *measure* may be allowed still without prejudice to any body, as full as the world seems: for supposing a man, or family, in the state they were at first peopling of the world by the children of *Adam*, or *Noah*; let him plant in some inland, vacant places of *America*, we shall find that the *possessions* he could make himself, upon the *measures* we have given, would not be very large, nor, even to this day, prejudice the rest of mankind, or give them reason to complain, or think themselves injured by this man's incroachment, though the race of men have now spread themselves to all the corners of the world, and do infinitely exceed the small number that was at the

beginning. Nay, the extent of *ground* is of so little value, *without labour*, that I have heard it affirmed, that in *Spain* itself a man may be permitted to plough, sow and reap, without being disturbed, upon land he has no other title to, but only his making use of it. But, on the contrary, the inhabitants think themselves beholden to him, who, by his industry on neglected, and consequently waste land, has increased the stock of corn, which they wanted. But be this as it will, which I lay no stress on; this I dare boldly affirm, that the same *rule of propriety*, (*viz.*) that every man should have as much as he could make use of, would hold still in the world, without straitening any body; since there is land enough in the world to suffice double the inhabitants, had not the invention of money, and the tacit agreement of men to put a value on it, introduced (by consent) larger possessions, and a right to them; which, how it has done, I shall by and by shew more at large.

Sect. 37. This is certain, that in the beginning, before the desire of having more than man needed had altered the intrinsic value of things, which depends only on their usefulness to the life of man; or had *agreed*, that a little piece of yellow metal, which would keep without wasting or decay, should be worth a great piece of flesh, or a whole heap of corn; though men had a right to appropriate, by their labour, each one of himself, as much of the things of nature, as he could use: yet this could not be much, nor to the prejudice of others, where the same plenty was still left to those who would use the same industry. To which let me add, that he who appropriates land to himself by his labour, does not lessen, but increase the common stock of mankind: for the provisions serving to the support of human life, produced by one acre of inclosed and cultivated land, are (to speak much within compass) ten times more than those which are yielded by an acre of land of an equal richness lying waste in common. And therefore he that incloses land, and has a greater plenty of the conveniencies of life from ten acres, than he could have from an hundred left to nature, may truly be said to give ninety acres to mankind: for his labour now supplies him with provisions out of ten acres, which were but the product of an hundred lying in common. I have here rated the improved land very low, in making its product but as ten to one, when it is much nearer an hundred to one: for I ask, whether in the wild woods and uncultivated waste of *America*, left to nature, without any improvement, tillage or husbandry, a thousand acres yield the needy and wretched inhabitants as many conveniencies of life, as ten acres of equally fertile land do in *Devonshire*, where they are well cultivated?

Before the appropriation of land, he who gathered as much of the wild fruit, killed, caught, or tamed, as many of the beasts, as he could; he that so employed his pains about any of the spontaneous products of nature, as any way to alter them from the state which nature put them in, *by* placing any of his *labour* on them, did thereby *acquire a propriety in them*: but if they perished, in his possession, without their due use; if the fruits rotted, or the venison putrified, before he could spend it, he offended against the common law of nature, and was liable to be punished; he invaded his neighbour's share, for he had *no right, farther than his use* called for any of them, and they might serve to afford him conveniencies of life.

Sect. 38. The same *measures* governed the *possession of land* too: whatsoever he tilled and reaped, laid up and made use of, before it spoiled, that was his peculiar right; whatsoever he enclosed, and could feed, and make use of, the cattle and product was also his. But if either the grass of his enclosure rotted on the ground, or the fruit of his planting perished without gathering, and laying up, this part of the earth, notwithstanding his enclosure, was still to be looked on as waste, and might be the possession of any other. Thus, at the beginning, *Cain* might take as much ground as he could till, and make it his own land, and yet leave enough to *Abel's* sheep to feed on; a few acres would serve for both their possessions. But as families increased, and industry enlarged their stocks, their *possessions enlarged* with the need of them; but yet it was commonly *without any fixed property in the ground* they made use of, till they incorporated, settled themselves together, and built cities; and then, by consent, they came in time, to set out the *bounds of their distinct territories*, and agree on limits between them and their neighbours; and by laws within themselves, settled the *properties* of those of the same society: for we see, that in that part of the world which was first inhabited, and therefore like to be best peopled, even as low down as *Abraham's* time, they wandered with their flocks, and their herds, which was their substance, freely up and down; and this *Abraham* did, in a country where he was a stranger. Whence it is plain, that at least a great part of the land *lay in common*; that the inhabitants valued it not, nor claimed property in any more than they made use of. But when there was not room enough in the same place, for their herds to feed together, they by consent, as *Abraham* and *Lot* did, *Gen. xiii. 5.* separated and enlarged their pasture, where it best liked them. And for the same reason *Esau* went from his father, and his brother, and planted in mount *Seir*, *Gen. xxxvi. 6.*

Sect. 39. And thus, without supposing any private dominion, and property in *Adam*, over all the world, exclusive of all other men, which can no way be proved, nor any one's property be made out from it; but supposing the *world* given, as it was, to the children of men *in common*, we see how *labour* could make men distinct titles to several parcels of it, for their private uses; wherein there could be no doubt of right, no room for quarrel.

Sect. 40. Nor is it so strange, as perhaps before consideration it may appear, that the *property of labour* should be able to over-balance the community of land: for it is *labour* indeed that puts the *difference of value* on every thing; and let any one consider what the difference is between an acre of land planted with tobacco or sugar, sown with wheat or barley, and an acre of the same land lying in common, without any husbandry upon it, and he will find, that the improvement of *labour* makes the far greater part of the value. I think it will be but a very modest computation to say, that of the *products* of the earth useful to the life of man nine tenths are the *effects of labour*: nay, if we will rightly estimate things as they come to our use, and cast up the several expences about them, what in them is purely owing to *nature*, and what to *labour*, we shall find, that in most of them ninety-nine hundredths are wholly to be put on the account of *labour*.

Sect. 41. There cannot be a clearer demonstration of any thing, than several nations of the *Americans* are of this, who are rich in land, and poor in all the comforts of life; whom nature having furnished as liberally as any other people, with the materials of plenty, *i.e.* a fruitful soil, apt to produce in abundance, what might serve for food, raiment, and delight; yet for *want of improving it by labour*, have not one hundredth part of the conveniencies we enjoy: and a king of a large and fruitful territory there, feeds, lodges, and is clad worse than a day-labourer in *England*.

Sect. 42. To make this a little clearer, let us but trace some of the ordinary provisions of life, through their several progresses, before they come to our use, and see how much they receive of their *value from human industry*. Bread, wine and cloth, are things of daily use, and great plenty; yet notwithstanding, acorns, water and leaves, or skins, must be our bread, drink and cloathing, did not *labour* furnish us with these more useful commodities: for whatever *bread* is more worth than acorns, wine than water, and cloth or *silk*, than leaves, skins or moss, that is wholly *owing to labour and industry*; the one of these being the

food and raiment which unassisted nature furnishes us with; the other, provisions which our industry and pains prepare for us, which how much they exceed the other in value, when any one hath computed, he will then see how much *labour makes the far greatest part of the value* of things we enjoy in this world: and the ground which produces the materials, is scarce to be reckoned in, as any, or at most, but a very small part of it; so little, that even amongst us, land that is left wholly to nature, that hath no improvement of pasturage, tillage, or planting, is called, as indeed it is, *waste*; and we shall find the benefit of it amount to little more than nothing.

This shews how much numbers of men are to be preferred to largeness of dominions; and that the increase of lands, and the right employing of them, is the great art of government: and that prince, who shall be so wise and godlike, as by established laws of liberty to secure protection and encouragement to the honest industry of mankind, against the oppression of power and narrowness of party, will quickly be too hard for his neighbours; but this by the by: To return to the argument in hand.

Sect. 43. An acre of land, that bears here twenty bushels of wheat, and another in *America*, which, with the same husbandry, would do the like, are, without doubt, of the same natural intrinsic value: but yet the benefit mankind receives from the one in a year, is worth 5 l. and from the other possibly not worth a penny, if all the profit an *Indian* received from it were to be valued, and sold here; at least, I may truly say, not one thousandth. It is *labour* then which *puts the greatest part of value upon land*, without which it would scarcely be worth any thing: it is to that we owe the greatest part of all its useful products; for all that the straw, bran, bread, of that acre of wheat, is more worth than the product of an acre of as good land, which lies waste, is all the effect of labour: for it is not barely the plough-man's pains, the reaper's and thresher's toil, and the baker's sweat, is to be counted into the *bread* we eat; the labour of those who broke the oxen, who digged and wrought the iron and stones, who felled and framed the timber employed about the plough, mill, oven, or any other utensils, which are a vast number, requisite to this corn, from its being feed to be sown to its being made bread, must all be *charged* on the account of labour, and received as an effect of that: nature and the earth furnished only the almost worthless materials, as in themselves. It would be a strange *catalogue of things, that industry provided and made use of, about every loaf of bread*, before it came to our use, if we could trace them;

iron, wood, leather, bark, timber, stone, bricks, coals, lime, cloth, dying drugs, pitch, tar, masts, ropes, and all the materials made use of in the ship, that brought any of the commodities made use of by any of the workmen, to any part of the work; all which it would be almost impossible, at least too long, to reckon up.

Sect. 44. From all which it is evident, that though the things of nature are given in common, yet man, by being master of himself, and *proprietor of his own person, and the actions or labour of it, had still in himself the great foundation of property*; and that, which made up the great part of what he applied to the support or comfort of his being, when invention and arts had improved the conveniencies of life, was perfectly his own, and did not belong in common to others.

Sect. 45. Thus *labour*, in the beginning, *gave a right of property*, wherever any one was pleased to employ it upon what was common, which remained a long while the far greater part, and is yet more than mankind makes use of. Men, at first, for the most part, contented themselves with what unassisted nature offered to their necessities: and though afterwards, in some parts of the world, (where the increase of people and stock, with the *use of money*, had made land scarce, and so of some value) the several *communities* settled the bounds of their distinct territories, and by laws within themselves regulated the properties of the private men of their society, and so, by *compact* and agreement, *settled the property* which labour and industry began; and the leagues that have been made between several states and kingdoms, either expressly or tacitly disowning all claim and right to the land in the others possession, have, by common consent, given up their pretences to their natural common right, which originally they had to those countries, and so have, by *positive agreement, settled a property* amongst themselves, in distinct parts and parcels of the earth; yet there are still *great tracts of ground* to be found, which (the inhabitants thereof not having joined with the rest of mankind, in the consent of the use of their common money) *lie waste*, and are more than the people who dwell on it do, or can make use of, and so still lie in common; tho' this can scarce happen amongst that part of mankind that have consented to the use of money.

Sect. 46. The greatest part of *things really useful* to the life of man, and such as the necessity of subsisting made the first commoners of the world look after, as it cloth the *Americans* now, *are generally things of short duration*; such as, if they are not consumed by use, will decay

and perish of themselves: gold, silver and diamonds, are things that fancy or agreement hath put the value on, more than real use, and the necessary support of life. Now of those good things which nature hath provided in common, every one had a right (as hath been said) to as much as he could use, and *property* in all that he could effect with his labour; all that his *industry* could extend to, to alter from the state nature had put it in, was his. He that *gathered* a hundred bushels of acorns or apples, had thereby a *property* in them, they were his goods as soon as gathered. He was only to look, that he used them before they spoiled, else he took more than his share, and robbed others. And indeed it was a foolish thing, as well as dishonest, to hoard up more than he could make use of. If he gave away a part to any body else, so that it perished not uselessly in his possession, these he also made use of. And if he also bartered away plums, that would have rotted in a week, for nuts that would last good for his eating a whole year, he did no injury; he wasted not the common stock; destroyed no part of the portion of goods that belonged to others, so long as nothing perished uselessly in his hands. Again, if he would give his nuts for a piece of metal, pleased with its colour; or exchange his sheep for shells, or wool for a sparkling pebble or a diamond, and keep those by him all his life he invaded not the right of others, he might heap up as much of these durable things as he pleased; the *exceeding of the bounds of his just property* not lying in the largeness of his possession, but the perishing of any thing uselessly in it.

Sect. 47. And thus *came in the use of money*, some lasting thing that men might keep without spoiling, and that by mutual consent men would take in exchange for the truly useful, but perishable supports of life.

Sect. 48. And as different degrees of industry were apt to give men possessions in different proportions, so this invention of money gave them the opportunity to continue and enlarge them: for supposing an island, separate from all possible commerce with the rest of the world, wherein there were but an hundred families, but there were sheep, horses and cows, with other useful animals, wholesome fruits, and land enough for corn for a hundred thousand times as many, but nothing in the island, either because of its commonness, or perishableness, fit to supply the place of *money*; what reason could any one have there to enlarge his possessions beyond the use of his family, and a plentiful supply to its *consumption*, either in what their own industry produced, or they could barter for like perishable, useful commodities, with

others? Where there is not some thing, both lasting and scarce, and so valuable to be hoarded up, there men will not be apt to enlarge their *possessions of land*, were it never so rich, never so free for them to take: for I ask, what would a man value ten thousand, or an hundred thousand acres of excellent *land*, ready cultivated, and well stocked too with cattle, in the middle of the inland parts of *America*, where he had no hopes of commerce with other parts of the world, to draw *money* to him by the sale of the product? It would not be worth the enclosing, and we should see him give up again to the wild common of nature, whatever was more than would supply the conveniencies of life to be had there for him and his family.

Sect. 49. Thus in the beginning all the world was *America*, and more so than that is now; for no such thing as *money* was any where known. Find out something that hath the *use and value of money* amongst his neighbours, you shall see the same man will begin presently to enlarge his possessions.

Sect. 50. But since gold and silver, being little useful to the life of man in proportion to food, raiment, and carriage, has its *value* only from the consent of men, whereof *labour yet makes*, in great part, *the measure*, it is plain, that men have agreed to a disproportionate and unequal *possession of the earth*, they having, by a tacit and voluntary consent, found out, a way how a man may fairly possess more land than he himself can use the product of, by receiving in exchange for the overplus gold and silver, which may be hoarded up without injury to any one; these metals not spoiling or decaying in the hands of the possessor. This partage of things in an inequality of private possessions, men have made practicable out of the bounds of society, and without compact, only by putting a value on gold and silver, and tacitly agreeing in the use of money: for in governments, the laws regulate the right of property, and the possession of land is determined by positive constitutions.

Sect. 51. And thus, I think, it is very easy to conceive, without any difficulty, *how labour could at first begin a title of property* in the common things of nature, and how the spending it upon our uses bounded it. So that there could then be no reason of quarrelling about title, nor any doubt about the largeness of possession it gave. Right and conveniency went together; for as a man had a right to all he could employ his labour upon, so he had no temptation to labour for more than he could make use of. This left no room for controversy about the

title, nor for encroachment on the right of others; what portion a man carved to himself, was easily seen; and it was useless, as well as dishonest, to carve himself too much, or take more than he needed.

## Source 3D

Hans-Hermann Hoppe

### The Ethics and Economics of Private Property

#### ***I. The Problem of Social Order***

Alone on his island, Robinson Crusoe can do whatever he pleases. For him, the question concerning rules of orderly human conduct – social cooperation – simply does not arise. Naturally, this question can only arise once a second person, Friday, arrives on the island. Yet even then, the question remains largely irrelevant so long as no *scarcity* exists. Suppose the island is the Garden of Eden; all external goods are available in superabundance. They are “free goods,” just as the air that we breathe is normally a “free” good. Whatever Crusoe does with these goods, his actions have repercussions *neither* with respect to his own future supply of such goods *nor* regarding the present or future supply of the same goods for Friday (and *vice versa*). Hence, it is impossible that there could ever be a conflict between Crusoe and Friday concerning the use of such goods. A conflict is only possible if goods are scarce. Only then will there arise the need to formulate rules that make orderly – conflict-free – social cooperation possible.

In the Garden of Eden only two scarce goods exist: the physical body of a person and its standing room. Crusoe and Friday each have only one body and can stand only at one place at a time. Hence, even in the Garden of Eden conflicts between Crusoe and Friday can arise: Crusoe and Friday cannot occupy the same standing room simultaneously without coming thereby into physical conflict with each other. Accordingly, even in the Garden of Eden rules of orderly social conduct must exist – rules regarding the proper location and movement of human bodies. And outside the Garden of Eden, in the realm of scarcity, there must be rules that regulate not only the use of personal bodies but also of *everything* scarce so that *all* possible conflicts can be ruled out. This is the problem of social order.

#### ***II The Solution: Private Property and Original Appropriation***

In the history of social and political thought, various proposals have been advanced as a solution to the problem of social order, and this variety of mutually inconsistent proposals has contributed to the fact

that today's search for a single "correct" solution is frequently deemed illusory. Yet as I will try to demonstrate, a correct solution exists; hence, there is no reason to succumb to moral relativism. The solution has been known for hundreds of years, if not for much longer. In modern times this old and simple solution was formulated most clearly and convincingly by Murray N. Rothbard.

Let me begin by formulating the solution – first for the special case represented by the Garden of Eden and subsequently for the general case represented by the "real" world of all-around scarcity – and then proceed to the explanation of why this solution, and no other, is correct.

In the Garden of Eden, the solution is provided by the simple rule stipulating that everyone may place or move his own body wherever he pleases, *provided only that no one else is already standing there and occupying the same space*. And outside of the Garden of Eden, in the realm of all-around scarcity the solution is provided by this rule: Everyone is the proper owner of his own physical body as well as of all places and nature-given goods that he occupies and puts to use by means of his body, *provided that no one else has already occupied or used the same places and goods before him*. This ownership of "originally appropriated" places and goods by a person implies his right to use and transform these places and goods in any way he sees fit, *provided that he does not thereby forcibly change the physical integrity of places and goods originally appropriated by another person*. In particular, once a place or good has been first appropriated, in John Locke's words, by "mixing one's labor" with it, ownership in such places and goods can be acquired only by means of a voluntary – contractual – transfer of its property title from a previous to a later owner.

In light of widespread moral relativism, it is worth pointing out that this idea of original appropriation and private property as a solution to the problem of social order is in complete accordance with our moral "intuition." Is it not simply absurd to claim that a person should *not* be the proper owner of his body and the places and goods that he originally, i.e., *prior* to anyone else, appropriates, uses and/or produces by means of his body? For who else, if not he, should be their owner? And is it not also obvious that the overwhelming majority of people – including children and primitives – in fact act according to these rules, and do so as a matter of course?

Moral intuition, as important as it is, is not proof. However, there also exists proof of the veracity of our moral intuition.

The proof is twofold. On the one hand, the consequences that follow if one were to deny the validity of the institution of original appropriation and private property are spelled out: If person A were *not* the owner of his own body and the places and goods originally appropriated and/or produced with this body as well as of the goods voluntarily (contractually) acquired from another previous owner, then only two alternatives would exist. Either *another* person, B, must be recognized as the owner of A's body as well as the places and goods appropriated, produced or acquired by A, or *both* persons, A *and* B, must be considered equal co-owners of all bodies, places and goods.

In the first case, A would be reduced to the rank of B's slave and object of exploitation. B would be the owner of A's body and all places and goods appropriated, produced and acquired by A, but A in turn would not be the owner of B's body and the places and goods appropriated, produced and acquired by B. Hence, under this ruling two categorically distinct classes of persons would be constituted – *Untermenschen* such as A and *Übermenschen* such as B – to whom different "laws" apply. Accordingly, such ruling must be discarded as a human ethic equally applicable to everyone *qua* human being (rational animal). From the very outset, any such ruling is recognized as not universally acceptable and thus cannot claim to represent law. For a rule to aspire to the rank of a law – a *just* rule – it is necessary that such a rule apply equally and universally to everyone.

Alternatively, in the second case of universal and equal co-ownership, the requirement of equal law for everyone would be fulfilled. However, this alternative would suffer from an even more severe deficiency, because if it were applied, all of mankind would instantly perish. (Since every human ethic must permit the survival of mankind, this alternative must also be rejected.) Every action of a person requires the use of some scarce means (at least of the person's body and its standing room), but if all goods were co-owned by everyone, then no one, at no time and no place, would be allowed to do anything unless he had previously secured every other co-owner's consent to do so. Yet how could anyone grant such consent were he not the exclusive owner of his own body (including his vocal chords) by which means his consent must be expressed? Indeed, he would first need another's consent in order to be allowed to express his own, but these others could not give their consent without having first his, and so it would go on.

This insight into the praxeological impossibility of "universal

communism,” as Rothbard referred to this proposal, brings me immediately to an alternative way of demonstrating the idea of original appropriation and private property as the only correct solution to the problem of social order. Whether or not persons have any rights and, if so, which ones, can only be decided in the course of argumentation (propositional exchange). Justification – proof, conjecture, refutation – is *argumentative* justification. Anyone who denied this proposition would become involved in a performative contradiction because his denial would itself constitute an argument. Even an ethical relativist would have to accept this first proposition, which is referred to accordingly as the *apriori of argumentation*.

From the undeniable acceptance – the axiomatic status – of this *apriori* of argumentation, two equally necessary conclusions follow. First, it follows from the *apriori* of argumentation when there is *no* rational solution to the problem of conflict arising from the existence of scarcity. Suppose in my earlier scenario of Crusoe and Friday that Friday were not the name of a man but of a gorilla. Obviously, just as Crusoe could face conflict regarding his body and its standing room with Friday the man, so might he with Friday the gorilla. The gorilla might want to occupy the same space that Crusoe already occupied. In this case, at least if the gorilla were the sort of entity that we know gorillas to be, there would be no rational solution to their conflict. Either the gorilla would push aside, crush, or devour Crusoe – that would be the gorilla’s solution to the problem – or Crusoe would tame, chase, beat, or kill the gorilla – that would be Crusoe’s solution. In this situation, one might indeed speak of moral relativism. However, it would be more appropriate to refer to this situation as one in which the question of justice and rationality simply would not arise; that is, it would be considered an extra-moral situation. The existence of Friday the gorilla would pose a technical, not a moral, problem for Crusoe. He would have no other choice than to learn how to successfully manage and control the movements of the gorilla just as he would have to learn to manage and control other inanimate objects of his environment.

By implication, only if both parties in a conflict are capable of engaging in argumentation with one another, can one speak of a moral problem and is the question of whether or not there exists a solution to it a meaningful question. Only if Friday, regardless of his physical appearance, is capable of argumentation (even if he has shown himself to be capable only once), can he be deemed rational and does the question whether or not a correct solution to the problem of social order

exists make sense. No one can be expected to give *any* answer to someone who has never raised a question or, more to the point, who has never stated his own relativistic viewpoint in the form of an argument. In that case, this “other” cannot but be regarded and treated as an animal or plant, i.e., as an extra-moral entity. Only if this other entity can pause in his activity, whatever it might be, step back, and say “yes” or “no” to something one has said, do we owe this entity an answer and, accordingly, can we possibly claim that our answer is the correct one for both parties involved in a conflict.

Moreover, it follows from the *apriori* of argumentation that everything that must be presupposed in the course of an argumentation as the logical and praxeological precondition of argumentation cannot in turn be argumentatively disputed as regards its validity without becoming thereby entangled in an internal (performative) contradiction.

Now, propositional exchanges are not made up of free-floating propositions, but rather constitute a specific human activity. Argumentation between Crusoe and Friday requires that both have, and mutually recognize each other as having, exclusive control over their respective bodies (their brain, vocal chords, etc.) as well as the standing room occupied by their bodies. No one could propose anything and expect the other party to convince himself of the validity of this proposition or deny it and propose something else unless his and his opponent's right to exclusive control over their respective bodies and standing rooms were presupposed. In fact, it is precisely this mutual recognition of the proponent's as well as the opponent's property in his own body and standing room which constitutes the *characteristicum specificum* of all propositional disputes: that while one may not agree regarding the validity of a specific proposition, one can agree nonetheless on the fact that one disagrees. Moreover, this right to property in one's own body and its standing room must be considered *apriori* (or indisputably) justified by proponent and opponent alike. Anyone who claimed any proposition as valid vis-à-vis an opponent would already presuppose his and his opponent's exclusive control over their respective body and standing room simply in order to say “I claim such and such to be true, and I challenge you to prove me wrong.”

Furthermore, it would be equally impossible to engage in argumentation and rely on the propositional force of one's arguments if one were not allowed to own (exclusively control) other scarce means

(besides one's body and its standing room). If one did not have such a right, then we would all immediately perish and the problem of justifying rules – as well as any other human problem – would simply not exist. Hence, by virtue of the fact of being alive property rights to other things must be presupposed as valid, too. No one who is alive can possibly argue otherwise.

Furthermore, if a person were not permitted to acquire property in these goods and spaces by means of an act of original appropriation, i.e., by establishing an objective (intersubjectively ascertainable) link between himself and a particular good and/or space prior to anyone else, and if instead property in such goods or spaces were granted to late-comers, then no one would ever be permitted to begin using any good unless he had previously secured such a late-comer's consent. Yet how can a latecomer consent to the actions of an early-comer? Moreover, every latecomer would in turn need the consent of other and later later-comers, and so on. That is, neither we, our forefathers, nor our progeny would have been or would be able to survive if one followed this rule. However, in order for any person – past, present or future – to argue anything, survival must be possible; and in order to do just this property rights cannot be conceived of as being timeless and unspecific with respect to the number of persons concerned. Rather, property rights must necessarily be conceived of as originating by means of action at definite points in time and space by definite individuals. Otherwise, it would be impossible for anyone to ever say anything at a definite point in time and space and for someone else to be able to reply. Simply saying, then, that the first-user-first-owner rule of the ethics of private property can be ignored or is unjustified implies a performative contradiction, as one's being able to say so must presuppose one's existence as an independent decision-making unit at a given point in time and space.

## **Source 4A**

**Jean-Baptiste Say**  
**Treatise on Political Economy**  
**BOOK III, CHAPTER VI**  
**On Public Consumption**  
**SECTION I.**

**Of the Nature and general Effect of Public Consumption.**

Besides the wants of individuals and of families which it is the object of private consumption to satisfy, the collection of many individuals into a community gives rise to a new class of wants, the wants of the society in its aggregate capacity, the satisfaction of which is the object of public consumption. The public buys and consumes the personal service of the minister, that directs its affairs, the soldier, that protects it from external violence, the civil or criminal judge, that protects the rights and interests of each member against the aggression of the rest. All these different vocations have their use, although they may often be unnecessarily multiplied or overpaid; but that arises from a defective political organization, which it does not fall within the scope of this work to investigate.

We shall see presently whence it is, that the public derives all the values, wherewith it purchases the services of its agents, as well as the articles its wants require. All we have to consider in this chapter is, the mode in which its consumption is effected, and the consequences resulting from it.

If I have made myself understood in the commencement of this third book, my readers will have no difficulty in comprehending, that public consumption, or that which takes place for the general utility of the whole community, is precisely analogous to that consumption, which goes to satisfy the wants of individuals or families. In either case, there is a destruction of values, and a loss of wealth; although, perhaps, not a shilling of specie goes out of the country.

By way of insuring conviction of the truth of this position, let us trace from first to last the passage of a product towards ultimate consumption

on the public account.

The government exacts from a tax-payer the payment of a given tax in the shape of money. To meet this demand, the tax-payer exchanges part of the products at his disposal for coin, which he pays to the tax-gatherer: a second set of government agents is busied in buying with that coin, cloth and other necessities for the soldiery. Up to this point, there is no value lost or consumed: there has only been a gratuitous transfer of value, and a subsequent act of barter: but the value contributed by the subject still exists in the shape of stores and supplies in the military dépôt. In the end, however, this value is consumed; and then the portion of wealth, which passes from the hands of the tax-payer into those of the tax-gatherer, is destroyed and annihilated.

Yet it is not the sum of money that is destroyed: that has only passed from one hand to another, either without any return, as when it passed from the tax-payer to the tax-gatherer; or in exchange for an equivalent, as when it passed from the government agent to the contractor for clothing and supplies. The value of the money survives the whole operation, and goes through three, four, or a dozen hands, without any sensible alteration; it is the value of the clothing and necessities that disappears, with precisely the same effect, as if the tax-payer had, with the same money, purchased clothing and necessities for his own private consumption. The sole difference is, that the individual in the one case, and the state in the other enjoys the satisfaction resulting from that consumption.

The same reasoning may be easily applied to all other kinds of public consumption. When the money of the tax-payer goes to pay the salary of a public officer, that officer sells his time, his talents, and his exertions, to the public, all of which are consumed for public purposes. On the other hand, that officer consumes, instead of the tax-payer, the value he receives in lieu of his services; in the same manner as any clerk or person in the private employ of the tax-payer would do.

There has been long a prevalent notion, that the values, paid by the community for the public service, return to it again in some shape or other; in the vulgar phrase, that what government and its agents receive, is refunded again by their expenditure. This is a gross fallacy; but one that has been productive of infinite mischief, inasmuch as it has

been the pretext for a great deal of shameless waste and dilapidation. The value paid to government by the tax-payer is given without equivalent or return: it is expended by the government in the purchase of personal service, of objects of consumption; in one word, of products of equivalent value, which are actually transferred. Purchase or exchange is a very different thing from restitution.

Turn it which way you will, this operation, though often very complex in the execution, must always be reducible by analysis to this plain statement. A product consumed must always be a product lost, be the consumer who he may; lost without return, whenever no value or advantage is received in return; but, to the tax-payer, the advantage derived from the services of the public functionary, or from the consumption effected in the prosecution of public objects, is a positive return.

If, then, public and private expenditure affect social wealth in the same manner, the principles of economy, by which it should be regulated, must be the same in both cases. There are not two kinds of economy, any more than two kinds of honesty, or of morality. If a government or an individual consume in such a way, as to give birth to a product larger than that consumed, a successful effort of productive industry will be made. If no product result from the act of consumption, there is a loss of value, whether to the state or to the individual; yet, probably, that loss of value may have been productive of all the good anticipated. Military stores and supplies, and the time and labour of civil and military functionaries, engaged in the effectual defence of the state, are well bestowed, though consumed and annihilated; it is the same with them, as with the commodities and personal service, that have been consumed in a private establishment. The sole benefit resulting in the latter case is, the satisfaction of a want; if the want had no existence, the expense or consumption is a positive mischief, incurred without an object. So likewise of the public consumption; consumption for the mere purpose of consumption, systematic profusion, the creation of an office for the sole purpose of giving a salary, the destruction of an article for the mere pleasure of paying for it, are acts of extravagance either in a government or an individual, in a small state or a large one, a republic or a monarchy. Nay, there is more criminality in public, than in private extravagance and profusion; inasmuch as the individual squanders only what belongs to him; but the government has nothing of its own to squander, being, in fact, a mere trustee of the public

treasure.

What, then, are we to think of the principles laid down by those writers, who have laboured to draw an essential distinction between public and private wealth; to show, that economy is the way to increase private fortune, but, on the contrary, that public wealth increases with the increase of public consumption: inferring thence this false and dangerous conclusion, that the rules of conduct in the management of private fortune and of public treasure, are not only different, but in direct opposition?

If such principles were to be found only in books, and had never crept into practice, one might suffer them without care or regret to swell the monstrous heap of printed absurdity; but it must excite our compassion and indignation to hear them professed by men of eminent rank, talents, and intelligence; and still more to see them reduced into practice by the agents of public authority, who can enforce error and absurdity at the point of the bayonet or mouth of the cannon.

Madame de Maintenon mentions in a letter to the Cardinal de Noailles, that, when she one day urged Louis XIV. to be more liberal in charitable donations, he replied, that royalty dispenses charity by its profuse expenditure; a truly alarming dogma, and one that shows the ruin of France to have been reduced to principle. False principles are more fatal than even intentional misconduct; because they are followed up with erroneous notions of self-interest, and are long persevered in without remorse or reserve. If Louis XIV. had believed his extravagant ostentation to have been a mere gratification of his personal vanity, and his conquests the satisfaction of personal ambition alone, his good sense and proper feeling would probably, in a short time, have made it a matter of conscience to desist, or at any rate, he would have stopped short for his own sake; but he was firmly persuaded, that his prodigality was for the public good as well as his own; so that nothing could stop him, but misfortune and humiliation.

So little were the true principles of political economy understood, even by men of the greatest science, so late as the 18th century, that Frederick II. of Prussia, with all his anxiety in search of truth, his sagacity, and his merit, writes thus to D'Alembert, in justification of his wars: "My numerous armies promote the circulation of money, and disburse impartially amongst the provinces the taxes paid by the

people to the state." Again I repeat, this is not the fact; the taxes paid to the government by the subject are not refunded by its expenditure. Whether paid in money or in kind, they are converted into provisions and supplies, and in that shape consumed and destroyed by persons, that never can replace the value, because they produce no value whatever. It was well for Prussia that Frederick II. did not square his conduct to his principles. The good he did to his people, by the economy of his internal administration, more than compensated for the mischief of his wars.

Since the consumption of nations or the governments which represent them, occasions a loss of value, and consequently, of wealth, it is only so far justifiable, as there results from it some national advantage, equivalent to the sacrifice of value. The whole skill of government, therefore, consists in the continual and judicious comparison of the sacrifice about to be incurred, with the expected benefit to the community; for I have no hesitation in pronouncing every instance, where the benefit is not equivalent to the loss, to be an instance of folly, or of criminality, in the government.

It is yet more monstrous, then, to see how frequently governments, not content with squandering the substance of the people in folly and absurdity, instead of aiming at any return of value, actually spend that substance in bringing down upon the nation calamities innumerable; practise exactions the most cruel and arbitrary, to forward schemes the most extravagant and wicked; first rifle the pockets of the subject, to enable them afterwards to urge him to the further sacrifice of his blood. Nothing, but the obstinacy of human passion and weakness, could induce me again and again to repeat these unpalatable truths, at the risk of incurring the charge of declamation.

The consumption effected by the government forms so large a portion of the total national consumption, amounting sometimes to a sixth, a fifth, or even a fourth part of the total consumption of the community, that the system acted upon by the government, must needs have a vast influence upon the advance or decline of the national prosperity. Should an individual take it into his head, that the more he spends the more he gets, or that his profusion is a virtue; or should he yield to the powerful attractions of pleasure, or the suggestions of perhaps a reasonable resentment, he will in all probability be ruined, and his example will operate upon a very small circle of his neighbours. But a

mistake of this kind in the government, will entail misery upon millions, and possibly end in the national downfall or degradation. It is doubtless very desirable, that private persons should have a correct knowledge of their personal interests; but it must be infinitely more so, that governments should possess that knowledge. Economy and order are virtues in a private station; but, in a public station, their influence upon national happiness is so immense, that one hardly knows how sufficiently to extol and honour them in the guides and rulers of national conduct.

An individual is fully sensible of the value of the article he is consuming; it has probably cost him a world of labour, perseverance, and economy; he can easily balance the satisfaction he derives from its consumption against the loss it will involve. But a government is not so immediately interested in regularity and economy, nor does it so soon feel the ill consequences of the opposite qualities. Besides, private persons have a further motive than even self-interest; their feelings are concerned; their economy may be a benefit to the objects of their affection; whereas, the economy of a ruler accrues to the benefit of those he knows very little of; and perhaps he is but husbanding for an extravagant and rival successor.

Nor is this evil remedied, by adopting the principle of hereditary rule. The monarch has little of the feelings common to other men in this respect. He is taught to consider the fortune of his descendants as secure, if they have ever so little assurance of the succession. Besides, the far greater part of the public consumption is not personally directed by himself; contracts are not made by himself, but by his generals and ministers; the experience of the world hitherto all tends to show, that aristocratical republics are more economical, than either monarchies or democracies.

Neither are we to suppose, that the genius which prompts and excites great national undertakings, is incompatible with the spirit of public order and economy. The name of Charlemagne stands among the foremost in the records of renown; he achieved the conquest of Italy, Hungary, and Austria; repulsed the Saracens; broke the Saxon confederacy; and obtained at length the honours of the purple. Yet Montesquieu has thought it not derogatory to say of him, that "the father of a family might take a lesson of good housekeeping from the ordinances of Charlemagne. His expenditure was conducted with

admirable system; he had his demesnes valued with care, skill, and minuteness. We find detailed in his capitularies the pure and legitimate sources of his wealth. In a word, such were his regularity and thrift, that he gave orders for the eggs of his poultry-yards, and the surplus vegetables of his garden, to be brought to market." The celebrated Prince Eugene, who displayed equal talent in negotiation and administration as in the field, advised the Emperor Charles VI. to take the advice of merchants and men of business, in matters of finance. Leopold, when Grand Duke of Tuscany, towards the close of the 18th century, gave an eminent example of the resources, to be derived from a rigid adherence to the principles of private economy, in the administration of a state of very limited extent. In a few years, he made Tuscany one of the most flourishing states of Europe.

The most successful financiers of France, Suger, Abbé de St. Dennis, the Cardinal D'Amboise, Sully, Colbert, and Necker, have all acted on the same principle. All found means of carrying into effect the grandest operations by adhering to the dictates of private economy. The Abbé de St. Dennis furnished the outfit of the second crusade; a scheme that required very large supplies, although one I am far from approving. The Cardinal furnished Louis XII. with the means of making his conquest of the Milanese. Sully accumulated the resources, that afterwards humbled the house of Austria. Colbert supplied the splendid operations of Louis XIV. Necker provided the ways and means of the only successful war waged by France in the 18th century.

Those governments, on the contrary, that have been perpetually pressed with the want of money, have been obliged, like individuals, to have recourse to the most ruinous, and sometimes the most disgraceful, expedients to extricate themselves. Charles the Bald put his titles and safe-conducts up to sale. Thus, too, Charles II. of England sold Dunkirk to the French king, and took a bribe of 80,000*l.* from the Dutch, to delay the sailing of the English expedition to the East Indies, 1680, intended to protect their settlements in that quarter, which, in consequence, fell into the hands of the Dutchmen. Thus, too, have governments committed frequent acts of bankruptcy, sometimes in the shape of adulteration of their coin, and sometimes by open breach of their engagements.

Louis XIV. towards the close of his reign, having utterly exhausted the resources of a noble territory, was reduced to the paltry shift of creating

the most ridiculous offices, making his counsellors of state, one an inspector of fagots, another a licenser of barber-wig-makers, another, visiting inspector of fresh, or taster of salt, butter, and the like. Such paltry and mischievous expedients can never long defer the hour of calamities, that must sooner or later befall the extravagant and spendthrift governments. "When a man will not listen to reason," says Franklin, "she is sure to make herself felt."

Fortunately, an economical administration soon repairs the mischiefs of one of an opposite character. Sound health can not be restored all at once; but there is a gradual and perceptible improvement; every day some cause of complaint disappears, and some new faculty comes again into play. Half the remaining resources of a nation, impoverished by an extravagant administration, are neutralized by alarm and uncertainty; whereas, credit doubles those of a nation, blessed with one of a frugal character. It would seem, that there exists in the politic, to a stronger degree than even in the natural, body a principle of vitality and elasticity, which can not be extinguished without the most violent pressure. One can not look into the pages of history, without being struck with the rapidity, with which this principle has operated. It has nowhere been more strikingly exemplified, than in the frequent vicissitudes that our own France has experienced since the commencement of the revolution. Prussia has afforded another illustration in our time. The successor of Frederick the Great squandered the accumulations of that monarch, which were estimated at no less a sum than 42 millions of dollars, and left behind him, besides, a debt of 27 millions. In less than eight years, Frederick William III. had not only paid off his father's debts, but actually began a fresh accumulation; such is the power of economy, even in a country of limited extent and resources.

## **Source 4 B**

**Frédéric Bastiat**

### **That Which is Seen, and That Which is Not Seen**

#### **1. The Broken Window**

Have you ever witnessed the anger of the good shopkeeper, James B., when his careless son happened to break a square of glass? If you have been present at such a scene, you will most assuredly bear witness to the fact, that every one of the spectators, were there even thirty of them, by common consent apparently, offered the unfortunate owner this invariable consolation – "It is an ill wind that blows nobody good. Everybody must live, and what would become of the glaziers if panes of glass were never broken?"

Now, this form of condolence contains an entire theory, which it will be well to show up in this simple case, seeing that it is precisely the same as that which, unhappily, regulates the greater part of our economical institutions.

Suppose it cost six francs to repair the damage, and you say that the accident brings six francs to the glazier's trade – that it encourages that trade to the amount of six francs – I grant it; I have not a word to say against it; you reason justly. The glazier comes, performs his task, receives his six francs, rubs his hands, and, in his heart, blesses the careless child. All this is that which is seen.

But if, on the other hand, you come to the conclusion, as is too often the case, that it is a good thing to break windows, that it causes money to circulate, and that the encouragement of industry in general will be the result of it, you will oblige me to call out, "Stop there! your theory is confined to that which is seen; it takes no account of that which is not seen."

It is not seen that as our shopkeeper has spent six francs upon one thing, he cannot spend them upon another. It is not seen that if he had not had a window to replace, he would, perhaps, have replaced his old shoes, or added another book to his library. In short, he would have employed his six francs in some way, which this accident has prevented.

Let us take a view of industry in general, as affected by this circumstance. The window being broken, the glazier's trade is encouraged to the amount of six francs; this is that which is seen. If the window had not been broken, the shoemaker's trade (or some other) would have been encouraged to the amount of six francs; this is that which is not seen.

And if that which is not seen is taken into consideration, because it is a negative fact, as well as that which is seen, because it is a positive fact, it will be understood that neither industry in general, nor the sum total of national labour, is affected, whether windows are broken or not.

Now let us consider James B. himself. In the former supposition, that of the window being broken, he spends six francs, and has neither more nor less than he had before, the enjoyment of a window.

In the second, where we suppose the window not to have been broken, he would have spent six francs on shoes, and would have had at the same time the enjoyment of a pair of shoes and of a window.

Now, as James B. forms a part of society, we must come to the conclusion, that, taking it altogether, and making an estimate of its enjoyments and its labours, it has lost the value of the broken window.

When we arrive at this unexpected conclusion: "Society loses the value of things which are uselessly destroyed;" and we must assent to a maxim which will make the hair of protectionists stand on end – To break, to spoil, to waste, is not to encourage national labour; or, more briefly, "destruction is not profit."

What will you say, Monsieur Industriel – what will you say, disciples of good M. F. Chamans, who has calculated with so much precision how much trade would gain by the burning of Paris, from the number of houses it would be necessary to rebuild?

I am sorry to disturb these ingenious calculations, as far as their spirit has been introduced into our legislation; but I beg him to begin them again, by taking into the account that which is not seen, and placing it alongside of that which is seen. The reader must take care to remember that there are not two persons only, but three concerned in the little scene which I have submitted to his attention. One of them, James B., represents the consumer, reduced, by an act of destruction, to one enjoyment instead of two. Another under the title of the glazier, shows us the producer, whose trade is encouraged by the accident.

The third is the shoemaker (or some other tradesman), whose labour suffers proportionably by the same cause. It is this third person who is always kept in the shade, and who, personating that which is not seen, is a necessary element of the problem. It is he who shows us how absurd it is to think we see a profit in an act of destruction. It is he who will soon teach us that it is not less absurd to see a profit in a restriction, which is, after all, nothing else than a partial destruction. Therefore, if you will only go to the root of all the arguments which are adduced in its favour, all you will find will be the paraphrase of this vulgar saying – What would become of the glaziers, if nobody ever broke windows?

## **Source 4 C**

**Karl Marx**

### **The German Ideology**

**Part I: Feuerbach.**

#### **Opposition of the Materialist and Idealist Outlook**

##### **D. Proletarians and Communism**

#### **Individuals, Class, and Community**

In the Middle Ages the citizens in each town were compelled to unite against the landed nobility to save their skins. The extension of trade, the establishment of communications, led the separate towns to get to know other towns, which had asserted the same interests in the struggle with the same antagonist. Out of the many local corporations of burghers there arose only gradually the burgher class. The conditions of life of the individual burghers became, on account of their contradiction to the existing relationships and of the mode of labour determined by these, conditions which were common to them all and independent of each individual. The burghers had created the conditions insofar as they had torn themselves free from feudal ties, and were created by them insofar as they were determined by their antagonism to the feudal system which they found in existence. When the individual towns began to enter into associations, these common conditions developed into class conditions. The same conditions, the same contradiction, the same interests necessarily called forth on the whole similar customs everywhere. The bourgeoisie itself with its conditions, develops only gradually, splits according to the division of labour into various fractions and finally absorbs all propertied classes it finds in existence<sup>1</sup> (while it develops the majority of the earlier propertyless and a part of the hitherto propertied classes into a new class, the proletariat) in the measure to which all property found in existence is transformed into industrial or commercial capital. The separate individuals form a class only insofar as they have to carry on a common battle against another class; otherwise they are on hostile terms with each other as competitors. On the other hand, the class in its turn achieves an independent existence over against the individuals, so that the latter find their conditions of existence predestined, and

hence have their position in life and their personal development assigned to them by their class, become subsumed under it. This is the same phenomenon as the subjection of the separate individuals to the division of labour and can only be removed by the abolition of private property and of labour itself. We have already indicated several times how this subsuming of individuals under the class brings with it their subjection to all kinds of ideas, etc.

If from a philosophical point of view one considers this evolution of individuals in the common conditions of existence of estates and classes, which followed on one another, and in the accompanying general conceptions forced upon them, it is certainly very easy to imagine that in these individuals the species, or "Man", has evolved, or that they evolved "Man" – and in this way one can give history some hard clouts on the ear.<sup>2</sup> One can conceive these various estates and classes to be specific terms of the general expression, subordinate varieties of the species, or evolutionary phases of "Man".

This subsuming of individuals under definite classes cannot be abolished until a class has taken shape, which has no longer any particular class interest to assert against the ruling class.

The transformation, through the division of labour, of personal powers (relationships) into material powers, cannot be dispelled by dismissing the general idea of it from one's mind, but can only be abolished by the individuals again subjecting these material powers to themselves and abolishing the division of labour. This is not possible without the community. Only in community [with others has each] individual the means of cultivating his gifts in all directions; only in the community, therefore, is personal freedom possible. In the previous substitutes for the community, in the State, etc. personal freedom has existed only for the individuals who developed within the relationships of the ruling class, and only insofar as they were individuals of this class. The illusory community, in which individuals have up till now combined, always took on an independent existence in relation to them, and was at the same time, since it was the combination of one class over against another, not only a completely illusory community, but a new fetter as well. In a real community the individuals obtain their freedom in and through their association.

Individuals have always built on themselves, but naturally on themselves within their given historical conditions and relationships, not on the "pure" individual in the sense of the ideologists. But in the

course of historical evolution, and precisely through the inevitable fact that within the division of labour social relationships take on an independent existence, there appears a division within the life of each individual, insofar as it is personal and insofar as it is determined by some branch of labour and the conditions pertaining to it. (We do not mean it to be understood from this that, for example, the rentier, the capitalist, etc. cease to be persons; but their personality is conditioned and determined by quite definite class relationships, and the division appears only in their opposition to another class and, for themselves, only when they go bankrupt.) In the estate (and even more in the tribe) this is as yet concealed: for instance, a nobleman always remains a nobleman, a commoner always a commoner, apart from his other relationships, a quality inseparable from his individuality. The division between the personal and the class individual, the accidental nature of the conditions of life for the individual, appears only with the emergence of the class, which is itself a product of the bourgeoisie. This accidental character is only engendered and developed by competition and the struggle of individuals among themselves. Thus, in imagination, individuals seem freer under the dominance of the bourgeoisie than before, because their conditions of life seem accidental; in reality, of course, they are less free, because they are more subjected to the violence of things. The difference from the estate comes out particularly in the antagonism between the bourgeoisie and the proletariat. When the estate of the urban burghers, the corporations, etc. emerged in opposition to the landed nobility, their condition of existence – movable property and craft labour, which had already existed latently before their separation from the feudal ties – appeared as something positive, which was asserted against feudal landed property, and, therefore, in its own way at first took on a feudal form. Certainly the refugee serfs treated their previous servitude as something accidental to their personality. But here they only were doing what every class that is freeing itself from a fetter does; and they did not free themselves as a class but separately. Moreover, they did not rise above the system of estates, but only formed a new estate, retaining their previous mode of labour even in their new situation, and developing it further by freeing it from its earlier fetters, which no longer corresponded to the development already attained.<sup>3</sup>

For the proletarians, on the other hand, the condition of their existence, labour, and with it all the conditions of existence governing modern society, have become something accidental, something over which

they, as separate individuals, have no control, and over which no social organisation can give them control. The contradiction between the individuality of each separate proletarian and labour, the condition of life forced upon him, becomes evident to him himself, for he is sacrificed from youth upwards and, within his own class, has no chance of arriving at the conditions which would place him in the other class.

Thus, while the refugee serfs only wished to be free to develop and assert those conditions of existence which were already there, and hence, in the end, only arrived at free labour, the proletarians, if they are to assert themselves as individuals, will have to abolish the very condition of their existence hitherto (which has, moreover, been that of all society up to the present), namely, labour. Thus they find themselves directly opposed to the form in which, hitherto, the individuals, of which society consists, have given themselves collective expression, that is, the State. In order, therefore, to assert themselves as individuals, they must overthrow the State.

It follows from all we have been saying up till now that the communal relationship into which the individuals of a class entered, and which was determined by their common interests over against a third party, was always a community to which these individuals belonged only as average individuals, only insofar as they lived within the conditions of existence of their class – a relationship in which they participated not as individuals but as members of a class. With the community of revolutionary proletarians, on the other hand, who take their conditions of existence and those of all members of society under their control, it is just the reverse; it is as individuals that the individuals participate in it. It is just this combination of individuals (assuming the advanced stage of modern productive forces, of course) which puts the conditions of the free development and movement of individuals under their control – conditions which were previously abandoned to chance and had won an independent existence over against the separate individuals just because of their separation as individuals, and because of the necessity of their combination which had been determined by the division of labour, and through their separation had become a bond alien to them. Combination up till now (by no means an arbitrary one, such as is expounded for example in the *Contrat social*, but a necessary one) was an agreement upon these conditions, within which the individuals were free to enjoy the freaks of fortune (compare, e.g., the formation of the North American State and the South American republics). This right to the undisturbed enjoyment, within certain

conditions, of fortuity and chance has up till now been called personal freedom. These conditions of existence are, of course, only the productive forces and forms of intercourse at any particular time.

### **Forms of Intercourse**

Communism differs from all previous movements in that it overturns the basis of all earlier relations of production and intercourse, and for the first time consciously treats all natural premises as the creatures of hitherto existing men, strips them of their natural character and subjugates them to the power of the united individuals. Its organisation is, therefore, essentially economic, the material production of the conditions of this unity; it turns existing conditions into conditions of unity. The reality, which communism is creating, is precisely the true basis for rendering it impossible that anything should exist independently of individuals, insofar as reality is only a product of the preceding intercourse of individuals themselves. Thus the communists in practice treat the conditions created up to now by production and intercourse as inorganic conditions, without, however, imagining that it was the plan or the destiny of previous generations to give them material, and without believing that these conditions were inorganic for the individuals creating them.

### **Contradiction between individuals and their conditions of life as contradiction between productive forces and the form of intercourse**

The difference between the individual as a person and what is accidental to him, is not a conceptual difference but an historical fact. This distinction has a different significance at different times – e.g. the estate as something accidental to the individual in the eighteenth century, the family more or less too. It is not a distinction that we have to make for each age, but one which each age makes itself from among the different elements which it finds in existence, and indeed not according to any theory, but compelled by material collisions in life.

What appears accidental to the later age as opposed to the earlier – and this applies also to the elements handed down by an earlier age – is a form of intercourse which corresponded to a definite stage of development of the productive forces. The relation of the productive forces to the form of intercourse is the relation of the form of intercourse to the occupation or activity of the individuals. (The fundamental form of this activity is, of course, material, on which

depend all other forms – mental, political, religious, etc. The various shaping of material life is, of course, in every case dependent on the needs which are already developed, and the production, as well as the satisfaction, of these needs is an historical process, which is not found in the case of a sheep or a dog (Stirner's refractory principal argument *adversus hominem*), although sheep and dogs in their present form certainly, but *malgré eux*, are products of an historical process.) The conditions under which individuals have intercourse with each other, so long as the above-mentioned contradiction is absent, are conditions appertaining to their individuality, in no way external to them; conditions under which these definite individuals, living under definite relationships, can alone produce their material life and what is connected with it, are thus the conditions of their self-activity and are produced by this self-activity. The definite condition under which they produce, thus corresponds, as long as the contradiction has not yet appeared, to the reality of their conditioned nature, their one-sided existence, the one-sidedness of which only becomes evident when the contradiction enters on the scene and thus exists for the later individuals. Then this condition appears as an accidental fetter, and the consciousness that it is a fetter is imputed to the earlier age as well.

These various conditions, which appear first as conditions of self-activity, later as fetters upon it, form in the whole evolution of history a coherent series of forms of intercourse, the coherence of which consists in this: in the place of an earlier form of intercourse, which has become a fetter, a new one is put, corresponding to the more developed productive forces and, hence, to the advanced mode of the self-activity of individuals - a form which in its turn becomes a fetter and is then replaced by another. Since these conditions correspond at every stage to the simultaneous development of the productive forces, their history is at the same time the history of the evolving productive forces taken over by each new generation, and is, therefore, the history of the development of the forces of the individuals themselves.

Since this evolution takes place naturally, i.e. is not subordinated to a general plan of freely combined individuals, it proceeds from various localities, tribes, nations, branches of labour, etc. each of which to start with develops independently of the others and only gradually enters into relation with the others. Furthermore, it takes place only very slowly; the various stages and interests are never completely overcome, but only subordinated to the prevailing interest and trail along beside the latter for centuries afterwards. It follows from this that

within a nation itself the individuals, even apart from their pecuniary circumstances, have quite different developments, and that an earlier interest, the peculiar form of intercourse of which has already been ousted by that belonging to a later interest, remains for a long time afterwards in possession of a traditional power in the illusory community (State, law), which has won an existence independent of the individuals; a power which in the last resort can only be broken by a revolution. This explains why, with reference to individual points which allow of a more general summing-up, consciousness can sometimes appear further advanced than the contemporary empirical relationships, so that in the struggles of a later epoch one can refer to earlier theoreticians as authorities.

On the other hand, in countries which, like North America, begin in an already advanced historical epoch, the development proceeds very rapidly. Such countries have no other natural premises than the individuals, who settled there and were led to do so because the forms of intercourse of the old countries did not correspond to their wants. Thus they begin with the most advanced individuals of the old countries, and, therefore, with the correspondingly most advanced form of intercourse, before this form of intercourse has been able to establish itself in the old countries. This is the case with all colonies, insofar as they are not mere military or trading stations. Carthage, the Greek colonies, and Iceland in the eleventh and twelfth centuries, provide examples of this. A similar relationship issues from conquest, when a form of intercourse which has evolved on another soil is brought over complete to the conquered country: whereas in its home it was still encumbered with interests and relationships left over from earlier periods, here it can and must be established completely and without hindrance, if only to assure the conquerors' lasting power. (England and Naples after the Norman conquest, when they received the most perfect form of feudal organisation.)

#### **[5. The Contradiction Between the Productive Forces and the Form of Intercourse as the Basis for Social Revolution]**

This contradiction between the productive forces and the form of intercourse, which, as we saw, has occurred several times in past history, without, however, endangering the basis, necessarily on each occasion burst out in a revolution, taking on at the same time various subsidiary forms, such as all-embracing collisions, collisions of various classes, contradiction of consciousness, battle of ideas, etc., political

conflict, etc. From a narrow point of view one may isolate one of these subsidiary forms and consider it as the basis of these revolutions; and this is all the more easy as the individuals who started the revolutions had illusions about their own activity according to their degree of culture and the stage of historical development.

Thus all collisions in history have their origin, according to our view, in the contradiction between the productive forces and the form of intercourse. Incidentally, to lead to collisions in a country, this contradiction need not necessarily have reached its extreme limit in this particular country. The competition with industrially more advanced countries, brought about by the expansion of international intercourse, is sufficient to produce a similar contradiction in countries with a backward industry (e.g. the latent proletariat in Germany brought into view by the competition of English industry).

### **Conquest**

This whole interpretation of history appears to be contradicted by the fact of conquest. Up till now violence, war, pillage, murder and robbery, etc. have been accepted as the driving force of history. Here we must limit ourselves to the chief points and take, therefore, only the most striking example – the destruction of an old civilisation by a barbarous people and the resulting formation of an entirely new organisation of society. (Rome and the barbarians; feudalism and Gaul; the Byzantine Empire and the Turks.)

With the conquering barbarian people war itself is still, as indicated above, a regular form of intercourse, which is the more eagerly exploited as the increase in population together with the traditional and, for it, the only possible, crude mode of production gives rise to the need for new means of production. In Italy, on the other hand, the concentration of landed property (caused not only by buying-up and indebtedness but also by inheritance, since loose living being rife and marriage rare, the old families gradually died out and their possessions fell into the hands of a few) and its conversion into grazing land (caused not only by the usual economic forces still operative today but by the importation of plundered and tribute-corn and the resultant lack of demand for Italian corn) brought about the almost total disappearance of the free population. The very slaves died out again and again, and had constantly to be replaced by new ones. Slavery remained the basis of the whole productive system. The plebeians, midway between freemen and slaves, never succeeded in becoming

more than a proletarian rabble. Rome indeed never became more than a city; its connection with the provinces was almost exclusively political and could, therefore, easily be broken again by political events.

Nothing is more common than the notion that in history up till now it has only been a question of taking. The barbarians take the Roman Empire, and this fact of taking is made to explain the transition from the old world to the feudal system. In this taking by barbarians, however, the question is, whether the nation which is conquered has evolved industrial productive forces, as is the case with modern peoples, or whether their productive forces are based for the most part merely on their association and on the community. Taking is further determined by the object taken. A banker's fortune, consisting of paper, cannot be taken at all, without the taker's submitting to the conditions of production and intercourse of the country taken. Similarly the total industrial capital of a modern industrial country. And finally, everywhere there is very soon an end to taking, and when there is nothing more to take, you have to set about producing. From this necessity of producing, which very soon asserts itself, it follows that the form of community adopted by the settling conquerors must correspond to the stage of development of the productive forces they find in existence; or, if this is not the case from the start, it must change according to the productive forces. By this, too, is explained the fact, which people profess to have noticed everywhere in the period following the migration of the peoples, namely, that the servant was master, and that the conquerors very soon took over language, culture and manners from the conquered. The feudal system was by no means brought complete from Germany, but had its origin, as far as the conquerors were concerned, in the martial organisation of the army during the actual conquest, and this only evolved after the conquest into the feudal system proper through the action of the productive forces found in the conquered countries. To what an extent this form was determined by the productive forces is shown by the abortive attempts to realise other forms derived from reminiscences of ancient Rome (Charlemagne, etc.).

### **Contradictions of Big Industry: Revolution**

Our investigation hitherto started from the instruments of production, and it has already shown that private property was a necessity for certain industrial stages. In *industrie extractive* private property still coincides with labour; in small industry and all agriculture up till now

property is the necessary consequence of the existing instruments of production; in big industry the contradiction between the instrument of production and private property appears from the first time and is the product of big industry; moreover, big industry must be highly developed to produce this contradiction. And thus only with big industry does the abolition of private property become possible.

### **[9. Contradiction between the Productive Forces and the Form of Intercourse]**

In big industry and competition the whole mass of conditions of existence, limitations, biases of individuals, are fused together into the two simplest forms: private property and labour. With money every form of intercourse, and intercourse itself, is considered fortuitous for the individuals. Thus money implies that all previous intercourse was only intercourse of individuals under particular conditions, not of individuals as individuals. These conditions are reduced to two: accumulated labour or private property, and actual labour. If both or one of these ceases, then intercourse comes to a standstill. The modern economists themselves, e.g. Sismondi, Cherbuliez, etc., oppose "association of individuals" to "association of capital". On the other hand, the individuals themselves are entirely subordinated to the division of labour and hence are brought into the most complete dependence on one another. Private property, insofar as within labour itself it is opposed to labour, evolves out of the necessity of accumulation, and has still, to begin with, rather the form of the communality; but in its further development it approaches more and more the modern form of private property. The division of labour implies from the outset the division of the conditions of labour, of tools and materials, and thus the splitting-up of accumulated capital among different owners, and thus, also, the division between capital and labour, and the different forms of property itself. The more the division of labour develops and accumulation grows, the sharper are the forms that this process of differentiation assumes. Labour itself can only exist on the premise of this fragmentation.

Thus two facts are here revealed. First the productive forces appear as a world for themselves, quite independent of and divorced from the individuals, alongside the individuals: the reason for this is that the individuals, whose forces they are, exist split up and in opposition to one another, whilst, on the other hand, these forces are only real forces in the intercourse and association of these individuals. Thus, on the

one hand, we have a totality of productive forces, which have, as it were, taken on a material form and are for the individuals no longer the forces of the individuals but of private property, and hence of the individuals only insofar as they are owners of private property themselves. Never, in any earlier period, have the productive forces taken on a form so indifferent to the intercourse of individuals as individuals, because their intercourse itself was formerly a restricted one. On the other hand, standing over against these productive forces, we have the majority of the individuals from whom these forces have been wrested away, and who, robbed thus of all real life-content, have become abstract individuals, but who are, however, only by this fact put into a position to enter into relation with one another *as individuals*.

The only connection which still links them with the productive forces and with their own existence – labour – has lost all semblance of self-activity and only sustains their life by stunting it. While in the earlier periods self-activity and the production of material life were separated, in that they devolved on different persons, and while, on account of the narrowness of the individuals themselves, the production of material life was considered as a subordinate mode of self-activity, they now diverge to such an extent that altogether material life appears as the end, and what produces this material life, labour (which is now the only possible but, as we see, negative form of self-activity), as the means.

#### **[10. The Necessity, Preconditions and Consequences of the Abolition of Private Property]**

Thus things have now come to such a pass that the individuals must appropriate the existing totality of productive forces, not only to achieve self-activity, but, also, merely to safeguard their very existence. This appropriation is first determined by the object to be appropriated, the productive forces, which have been developed to a totality and which only exist within a universal intercourse. From this aspect alone, therefore, this appropriation must have a universal character corresponding to the productive forces and the intercourse.

The appropriation of these forces is itself nothing more than the development of the individual capacities corresponding to the material instruments of production. The appropriation of a totality of instruments of production is, for this very reason, the development of a totality of capacities in the individuals themselves.

This appropriation is further determined by the persons appropriating.

Only the proletarians of the present day, who are completely shut off from all self-activity, are in a position to achieve a complete and no longer restricted self-activity, which consists in the appropriation of a totality of productive forces and in the thus postulated development of a totality of capacities. All earlier revolutionary appropriations were restricted; individuals, whose self-activity was restricted by a crude instrument of production and a limited intercourse, appropriated this crude instrument of production, and hence merely achieved a new state of limitation. Their instrument of production became their property, but they themselves remained subordinate to the division of labour and their own instrument of production. In all expropriations up to now, a mass of individuals remained subservient to a single instrument of production; in the appropriation by the proletarians, a mass of instruments of production must be made subject to each individual, and property to all. Modern universal intercourse can be controlled by individuals, therefore, only when controlled by all.

This appropriation is further determined by the manner in which it must be effected. It can only be effected through a union, which by the character of the proletariat itself can again only be a universal one, and through a revolution, in which, on the one hand, the power of the earlier mode of production and intercourse and social organisation is overthrown, and, on the other hand, there develops the universal character and the energy of the proletariat, without which the revolution cannot be accomplished; and in which, further, the proletariat rids itself of everything that still clings to it from its previous position in society.

Only at this stage does self-activity coincide with material life, which corresponds to the development of individuals into complete individuals and the casting-off of all natural limitations. The transformation of labour into self-activity corresponds to the transformation of the earlier limited intercourse into the intercourse of individuals as such. With the appropriation of the total productive forces through united individuals, private property comes to an end. Whilst previously in history a particular condition always appeared as accidental, now the isolation of individuals and the particular private gain of each man have themselves become accidental.

The individuals, who are no longer subject to the division of labour, have been conceived by the philosophers as an ideal, under the name "Man". They have conceived the whole process which we have outlined as the evolutionary process of "Man", so that at every historical stage

"Man" was substituted for the individuals and shown as the motive force of history. The whole process was thus conceived as a process of the self-estrangement of "Man", and this was essentially due to the fact that the average individual of the later stage was always foisted on to the earlier stage, and the consciousness of a later age on to the individuals of an earlier. Through this inversion, which from the first is an abstract image of the actual conditions, it was possible to transform the whole of history into an evolutionary process of consciousness.

### **The Necessity of the Communist Revolution**

Finally, from the conception of history we have sketched we obtain these further conclusions:

(1) In the development of productive forces there comes a stage when productive forces and means of intercourse are brought into being, which, under the existing relationships, only cause mischief, and are no longer productive but destructive forces (machinery and money); and connected with this a class is called forth, which has to bear all the burdens of society without enjoying its advantages, which, ousted from society, is forced into the most decided antagonism to all other classes; a class which forms the majority of all members of society, and from which emanates the consciousness of the necessity of a fundamental revolution, the communist consciousness, which may, of course, arise among the other classes too through the contemplation of the situation of this class.

(2) The conditions under which definite productive forces can be applied are the conditions of the rule of a definite class of society, whose social power, deriving from its property, has its practical-idealistic expression in each case in the form of the State; and, therefore, every revolutionary struggle is directed against a class, which till then has been in power.<sup>4</sup>

(3) In all revolutions up till now the mode of activity always remained unscathed and it was only a question of a different distribution of this activity, a new distribution of labour to other persons, whilst the communist revolution is directed against the preceding mode of activity, does away with labour, and abolishes the rule of all classes with the classes themselves, because it is carried through by the class which no longer counts as a class in society, is not recognised as a class, and is in itself the expression of the dissolution of all classes, nationalities, etc. within present society; and

(4) Both for the production on a mass scale of this communist consciousness, and for the success of the cause itself, the alteration of men on a mass scale is, necessary, an alteration which can only take place in a practical movement, a revolution; this revolution is necessary, therefore, not only because the ruling class cannot be overthrown in any other way, but also because the class overthrowing it can only in a revolution succeed in ridding itself of all the muck of ages and become fitted to found society anew.

### Footnotes

<sup>1</sup> [*Marginal note by Marx:*] To begin with it absorbs the branches of labour directly belonging to the State and then all ±[more or less] ideological estates.

<sup>2</sup> The Statement which frequently occurs with Saint Max that each is all that he is through the State is fundamentally the same as the statement that bourgeois is only a specimen of the bourgeois species; a statement which presupposes that the class of bourgeois existed before the individuals constituting it. [*Marginal note by Marx to this sentence:*] With the philosophers pre-existence of the class.

<sup>3</sup> N.B. – It must not be forgotten that the serf's very need of existing and the impossibility of a large-scale economy, which involved the distribution of the allotments among the serfs, very soon reduced the services of the serfs to their lord to an average of payments in kind and statute-labour. This made it possible for the serf to accumulate movable property and hence facilitated his escape out of the possession of his lord and gave him the prospect of making his way as an urban citizen; it also created gradations among the serfs, so that the runaway serfs were already half burghers. It is likewise obvious that the serfs who were masters of a craft had the best chance of acquiring movable property.

<sup>4</sup> [*Marginal note by Marx:*] The people are interested in maintaining the present state of production.

## Source 4 D

**Friedrich Nietzsche**  
**Human. All Too Human**  
**SECTION EIGHT**  
**A Look At The State**

*Socialism in respect to its means.* Socialism is the visionary younger brother of an almost decrepit despotism, whose heir it wants to be. Thus its efforts are reactionary in the deepest sense. For it desires a wealth of executive power, as only despotism had it; indeed, it outdoes everything in the past by striving for the downright destruction of the individual, which it sees as an unjustified luxury of nature, and which it intends to improve into an expedient *organ of the community*. Socialism crops up in the vicinity of all excessive displays of power because of its relation to it, like the typical old socialist Plato, at the court of the Sicilian tyrant;<sup>1</sup> it desires (and in certain circumstances, furthers) the Caesarean power state of this century, because, as we said, it would like to be its heir. But even this inheritance would not suffice for its purposes; it needs the most submissive subjugation of all citizens to the absolute state, the like of which has never existed. And since it cannot even count any longer on the old religious piety towards the state, having rather always to work automatically to eliminate piety (because it works on the elimination of all existing *states*), it can only hope to exist here and there for short periods of time by means of the most extreme terrorism. Therefore, it secretly prepares for reigns of terror, and drives the word "justice" like a nail into the heads of the semieducated masses, to rob them completely of their reason (after this reason has already suffered a great deal from its semieducation), and to give them a good conscience for the evil game that they are supposed to play.

Socialism can serve as a rather brutal and forceful way to teach the danger of all accumulations of state power, and to that extent instill one with distrust of the state itself. When its rough voice chimes in with the battle cry "*As much state as possible*," it will at first make the cry noisier than ever; but soon the opposite cry will be heard with strength the greater: "*As little state as possible*."

*The development of the spirit, feared by the state.* Like every organizational political power, the Greek polis spurned and distrusted the increase of culture among its citizens; its powerful natural impulse was to do almost nothing but cripple and obstruct it. The polis did not want to permit to culture any history or evolution; the education determined by the law of the land was intended to bind all generations and keep them at one level. Later, Plato, too, wanted it no different for his ideal state. So culture developed *in spite of* the polis; the polis helped indirectly, of course, and involuntarily, because in it an individual's ambition was stimulated greatly, so that once he had come to the path of intellectual development, he pursued that, too, as far as it would go. One should not evoke Pericles' panegyric<sup>2</sup> as refutation, for it is only a great, optimistic delusion about the allegedly necessary connection between the polis and Athenian civilization; just before the night falls on Athens (the plague and the break with tradition), Thucydides lets it<sup>3</sup> shine resplendent once again, like a transfiguring sunset, at whose sight we are to forget the bad day that went before it.

<sup>1</sup> In 388 B.C. Plato visited the court of the Sicilian tyrant Dionysius the Elder in Syracuse, where he returned in 367 and 361 B.C., hoping to realize his political ideals there.

<sup>2</sup> In Thucydides, 2.35-46 (cf. n. 12 to Section Five).

<sup>3</sup> "It" can refer either to "civilization" or "panegyric."

## Source 5 A

Plato

Crito

### Persons of the Dialogue

SOCRATES

CRITO

### Scene

The Prison of Socrates.

...

**Soc.** Dear Crito, your zeal is invaluable, if a right one; but if wrong, the greater the zeal the greater the evil; and therefore we ought to consider whether these things shall be done or not. For I am and always have been one of those natures who must be guided by reason, whatever the reason may be which upon reflection appears to me to be the best; and now that this fortune has come upon me, I cannot put away the reasons which I have before given: the principles which I have hitherto honored and revered I still honor, and unless we can find other and better principles on the instant, I am certain not to agree with you; no, not even if the power of the multitude could inflict many more imprisonments, confiscations, deaths, frightening us like children with hobgoblin terrors. But what will be the fairest way of considering the question? Shall I return to your old argument about the opinions of men, some of which are to be regarded, and others, as we were saying, are not to be regarded? Now were we right in maintaining this before I was condemned? And has the argument which was once good now proved to be talk for the sake of talking; in fact an amusement only, and altogether vanity? That is what I want to consider with your help, Crito: whether, under my present circumstances, the argument appears to be in any way different or not; and is to be allowed by me or disallowed. That argument, which, as I believe, is maintained by many who assume to be authorities, was to the effect, as I was saying, that the opinions of some men are to be regarded, and of other men not to be regarded. Now you, Crito, are a disinterested person who are not going to die to-morrow – at least, there is no human probability of this, and you are therefore not liable to be deceived by the circumstances in which you are placed. Tell me, then, whether I am right in saying that

some opinions, and the opinions of some men only, are to be valued, and other opinions, and the opinions of other men, are not to be valued. I ask you whether I was right in maintaining this?

**Cr.** Certainly.

**Soc.** The good are to be regarded, and not the bad?

**Cr.** Yes.

**Soc.** And the opinions of the wise are good, and the opinions of the unwise are evil?

**Cr.** Certainly.

**Soc.** And what was said about another matter? Was the disciple in gymnastics supposed to attend to the praise and blame and opinion of every man, or of one man only – his physician or trainer, whoever that was?

**Cr.** Of one man only.

**Soc.** And he ought to fear the censure and welcome the praise of that one only, and not of the many?

**Cr.** That is clear.

**Soc.** And he ought to live and train, and eat and drink in the way which seems good to his single master who has understanding, rather than according to the opinion of all other men put together?

**Cr.** True.

**Soc.** And if he disobeys and disregards the opinion and approval of the one, and regards the opinion of the many who have no understanding, will he not suffer evil?

**Cr.** Certainly he will.

**Soc.** And what will the evil be, whither tending and what affecting, in the disobedient person?

**Cr.** Clearly, affecting the body; that is what is destroyed by the evil.

**Soc.** Very good; and is not this true, Crito, of other things which we need not separately enumerate? In the matter of just and unjust, fair and foul, good and evil, which are the subjects of our present consultation, ought we to follow the opinion of the many and to fear them; or the opinion of the one man who has understanding, and whom

we ought to fear and reverence more than all the rest of the world: and whom deserting we shall destroy and injure that principle in us which may be assumed to be improved by justice and deteriorated by injustice; is there not such a principle?

**Cr.** Certainly there is, Socrates.

**Soc.** Take a parallel instance; if, acting under the advice of men who have no understanding, we destroy that which is improvable by health and deteriorated by disease – when that has been destroyed, I say, would life be worth having? And that is – the body?

**Cr.** Yes.

**Soc.** Could we live, having an evil and corrupted body?

**Cr.** Certainly not.

**Soc.** And will life be worth having, if that higher part of man be depraved, which is improved by justice and deteriorated by injustice? Do we suppose that principle, whatever it may be in man, which has to do with justice and injustice, to be inferior to the body?

**Cr.** Certainly not.

**Soc.** More honored, then?

**Cr.** Far more honored.

**Soc.** Then, my friend, we must not regard what the many say of us: but what he, the one man who has understanding of just and unjust, will say, and what the truth will say. And therefore you begin in error when you suggest that we should regard the opinion of the many about just and unjust, good and evil, honorable and dishonorable. Well, someone will say, "But the many can kill us."

**Cr.** Yes, Socrates; that will clearly be the answer.

**Soc.** That is true; but still I find with surprise that the old argument is, as I conceive, unshaken as ever. And I should like to know Whether I may say the same of another proposition – that not life, but a good life, is to be chiefly valued?

**Cr.** Yes, that also remains.

**Soc.** And a good life is equivalent to a just and honorable one – that holds also?

**Cr.** Yes, that holds.

**Soc.** From these premises I proceed to argue the question whether I ought or ought not to try to escape without the consent of the Athenians: and if I am clearly right in escaping, then I will make the attempt; but if not, I will abstain. The other considerations which you mention, of money and loss of character, and the duty of educating children, are, I fear, only the doctrines of the multitude, who would be as ready to call people to life, if they were able, as they are to put them to death – and with as little reason. But now, since the argument has thus far prevailed, the only question which remains to be considered is, whether we shall do rightly either in escaping or in suffering others to aid in our escape and paying them in money and thanks, or whether we shall not do rightly; and if the latter, then death or any other calamity which may ensue on my remaining here must not be allowed to enter into the calculation.

**Cr.** I think that you are right, Socrates; how then shall we proceed?

**Soc.** Let us consider the matter together, and do you either refute me if you can, and I will be convinced; or else cease, my dear friend, from repeating to me that I ought to escape against the wishes of the Athenians: for I am extremely desirous to be persuaded by you, but not against my own better judgment. And now please to consider my first position, and do your best to answer me.

**Cr.** I will do my best.

**Soc.** Are we to say that we are never intentionally to do wrong, or that in one way we ought and in another way we ought not to do wrong, or is doing wrong always evil and dishonorable, as I was just now saying, and as has been already acknowledged by us? Are all our former admissions which were made within a few days to be thrown away? And have we, at our age, been earnestly discoursing with one another all our life long only to discover that we are no better than children? Or are we to rest assured, in spite of the opinion of the many, and in spite of consequences whether better or worse, of the truth of what was then said, that injustice is always an evil and dishonor to him who acts unjustly? Shall we affirm that?

**Cr.** Yes.

**Soc.** Then we must do no wrong?

**Cr.** Certainly not.

**Soc.** Nor when injured injure in return, as the many imagine; for we must injure no one at all?

**Cr.** Clearly not.

**Soc.** Again, Crito, may we do evil?

**Cr.** Surely not, Socrates.

**Soc.** And what of doing evil in return for evil, which is the morality of the many – is that just or not?

**Cr.** Not just.

**Soc.** For doing evil to another is the same as injuring him?

**Cr.** Very true.

**Soc.** Then we ought not to retaliate or render evil for evil to anyone, whatever evil we may have suffered from him. But I would have you consider, Crito, whether you really mean what you are saying. For this opinion has never been held, and never will be held, by any considerable number of persons; and those who are agreed and those who are not agreed upon this point have no common ground, and can only despise one another, when they see how widely they differ. Tell me, then, whether you agree with and assent to my first principle, that neither injury nor retaliation nor warding off evil by evil is ever right. And shall that be the premise of our agreement? Or do you decline and dissent from this? For this has been of old and is still my opinion; but, if you are of another opinion, let me hear what you have to say. If, however, you remain of the same mind as formerly, I will proceed to the next step.

**Cr.** You may proceed, for I have not changed my mind.

**Soc.** Then I will proceed to the next step, which may be put in the form of a question: Ought a man to do what he admits to be right, or ought he to betray the right?

**Cr.** He ought to do what he thinks right.

**Soc.** But if this is true, what is the application? In leaving the prison against the will of the Athenians, do I wrong any? or rather do I not wrong those whom I ought least to wrong? Do I not desert the principles which were acknowledged by us to be just? What do you say?

**Cr.** I cannot tell, Socrates, for I do not know.

**Soc.** Then consider the matter in this way: Imagine that I am about to play truant (you may call the proceeding by any name which you like), and the laws and the government come and interrogate me: "Tell us, Socrates," they say; "what are you about? are you going by an act of yours to overturn us – the laws and the whole State, as far as in you lies? Do you imagine that a State can subsist and not be overthrown, in which the decisions of law have no power, but are set aside and overthrown by individuals?" What will be our answer, Crito, to these and the like words? Anyone, and especially a clever rhetorician, will have a good deal to urge about the evil of setting aside the law which requires a sentence to be carried out; and we might reply, "Yes; but the State has injured us and given an unjust sentence." Suppose I say that?

**Cr.** Very good, Socrates.

**Soc.** "And was that our agreement with you?" the law would say, "or were you to abide by the sentence of the State?" And if I were to express astonishment at their saying this, the law would probably add: "Answer, Socrates, instead of opening your eyes: you are in the habit of asking and answering questions. Tell us what complaint you have to make against us which justifies you in attempting to destroy us and the State? In the first place did we not bring you into existence? Your father married your mother by our aid and begat you. Say whether you have any objection to urge against those of us who regulate marriage?" None, I should reply. "Or against those of us who regulate the system of nurture and education of children in which you were trained? Were not the laws, who have the charge of this, right in commanding your father to train you in music and gymnastic?" Right, I should reply. "Well, then, since you were brought into the world and nurtured and educated by us, can you deny in the first place that you are our child and slave, as your fathers were before you? And if this is true you are not on equal terms with us; nor can you think that you have a right to do to us what we are doing to you. Would you have any right to strike or revile or do any other evil to a father or to your master, if you had one, when you have been struck or reviled by him, or received some other evil at his hands? – you would not say this? And because we think right to destroy you, do you think that you have any right to destroy us in return, and your country as far as in you lies? And will you, O professor of true virtue, say that you are justified in this? Has a philosopher like

you failed to discover that our country is more to be valued and higher and holier far than mother or father or any ancestor, and more to be regarded in the eyes of the gods and of men of understanding? also to be soothed, and gently and reverently entreated when angry, even more than a father, and if not persuaded, obeyed? And when we are punished by her, whether with imprisonment or stripes, the punishment is to be endured in silence; and if she leads us to wounds or death in battle, thither we follow as is right; neither may anyone yield or retreat or leave his rank, but whether in battle or in a court of law, or in any other place, he must do what his city and his country order him; or he must change their view of what is just: and if he may do no violence to his father or mother, much less may he do violence to his country." What answer shall we make to this, Crito? Do the laws speak truly, or do they not?

**Cr.** I think that they do.

**Soc.** Then the laws will say: "Consider, Socrates, if this is true, that in your present attempt you are going to do us wrong. For, after having brought you into the world, and nurtured and educated you, and given you and every other citizen a share in every good that we had to give, we further proclaim and give the right to every Athenian, that if he does not like us when he has come of age and has seen the ways of the city, and made our acquaintance, he may go where he pleases and take his goods with him; and none of us laws will forbid him or interfere with him. Any of you who does not like us and the city, and who wants to go to a colony or to any other city, may go where he likes, and take his goods with him. But he who has experience of the manner in which we order justice and administer the State, and still remains, has entered into an implied contract that he will do as we command him. And he who disobeys us is, as we maintain, thrice wrong: first, because in disobeying us he is disobeying his parents; secondly, because we are the authors of his education; thirdly, because he has made an agreement with us that he will duly obey our commands; and he neither obeys them nor convinces us that our commands are wrong; and we do not rudely impose them, but give him the alternative of obeying or convincing us; that is what we offer and he does neither. These are the sort of accusations to which, as we were saying, you, Socrates, will be exposed if you accomplish your intentions; you, above all other Athenians." Suppose I ask, why is this? they will justly retort upon me that I above all other men have acknowledged the agreement. "There is clear proof," they will say, "Socrates, that we and the city were not

displeasing to you. Of all Athenians you have been the most constant resident in the city, which, as you never leave, you may be supposed to love. For you never went out of the city either to see the games, except once when you went to the Isthmus, or to any other place unless when you were on military service; nor did you travel as other men do. Nor had you any curiosity to know other States or their laws: your affections did not go beyond us and our State; we were your especial favorites, and you acquiesced in our government of you; and this is the State in which you begat your children, which is a proof of your satisfaction. Moreover, you might, if you had liked, have fixed the penalty at banishment in the course of the trial – the State which refuses to let you go now would have let you go then. But you pretended that you preferred death to exile, and that you were not grieved at death. And now you have forgotten these fine sentiments, and pay no respect to us, the laws, of whom you are the destroyer; and are doing what only a miserable slave would do, running away and turning your back upon the compacts and agreements which you made as a citizen. And first of all answer this very question: Are we right in saying that you agreed to be governed according to us in deed, and not in word only? Is that true or not?" How shall we answer that, Crito? Must we not agree?

**Cr.** There is no help, Socrates.

**Soc.** Then will they not say: "You, Socrates, are breaking the covenants and agreements which you made with us at your leisure, not in any haste or under any compulsion or deception, but having had seventy years to think of them, during which time you were at liberty to leave the city, if we were not to your mind, or if our covenants appeared to you to be unfair. You had your choice, and might have gone either to Lacedaemon or Crete, which you often praise for their good government, or to some other Hellenic or foreign State. Whereas you, above all other Athenians, seemed to be so fond of the State, or, in other words, of us her laws (for who would like a State that has no laws?), that you never stirred out of her: the halt, the blind, the maimed, were not more stationary in her than you were. And now you run away and forsake your agreements. Not so, Socrates, if you will take our advice; do not make yourself ridiculous by escaping out of the city.

"For just consider, if you transgress and err in this sort of way, what good will you do, either to yourself or to your friends? That your friends will be driven into exile and deprived of citizenship, or will lose their property, is tolerably certain; and you yourself, if you fly to one of the

neighboring cities, as, for example, Thebes or Megara, both of which are well-governed cities, will come to them as an enemy, Socrates, and their government will be against you, and all patriotic citizens will cast an evil eye upon you as a subverter of the laws, and you will confirm in the minds of the judges the justice of their own condemnation of you. For he who is a corrupter of the laws is more than likely to be corrupter of the young and foolish portion of mankind. Will you then flee from well-ordered cities and virtuous men? and is existence worth having on these terms? Or will you go to them without shame, and talk to them, Socrates? And what will you say to them? What you say here about virtue and justice and institutions and laws being the best things among men? Would that be decent of you? Surely not. But if you go away from well-governed States to Crito's friends in Thessaly, where there is great disorder and license, they will be charmed to have the tale of your escape from prison, set off with ludicrous particulars of the manner in which you were wrapped in a goatskin or some other disguise, and metamorphosed as the fashion of runaways is – that is very likely; but will there be no one to remind you that in your old age you violated the most sacred laws from a miserable desire of a little more life? Perhaps not, if you keep them in a good temper; but if they are out of temper you will hear many degrading things; you will live, but how? – as the flatterer of all men, and the servant of all men; and doing what? – eating and drinking in Thessaly, having gone abroad in order that you may get a dinner. And where will be your fine sentiments about justice and virtue then? Say that you wish to live for the sake of your children, that you may bring them up and educate them – will you take them into Thessaly and deprive them of Athenian citizenship? Is that the benefit which you would confer upon them? Or are you under the impression that they will be better cared for and educated here if you are still alive, although absent from them; for that your friends will take care of them? Do you fancy that if you are an inhabitant of Thessaly they will take care of them, and if you are an inhabitant of the other world they will not take care of them? Nay; but if they who call themselves friends are truly friends, they surely will.

"Listen, then, Socrates, to us who have brought you up. Think not of life and children first, and of justice afterwards, but of justice first, that you may be justified before the princes of the world below. For neither will you nor any that belong to you be happier or holier or juster in this life, or happier in another, if you do as Crito bids. Now you depart in innocence, a sufferer and not a doer of evil; a victim, not of the laws,

but of men. But if you go forth, returning evil for evil, and injury for injury, breaking the covenants and agreements which you have made with us, and wronging those whom you ought least to wrong, that is to say, yourself, your friends, your country, and us, we shall be angry with you while you live, and our brethren, the laws in the world below, will receive you as an enemy; for they will know that you have done your best to destroy us. Listen, then, to us and not to Crito."

This is the voice which I seem to hear murmuring in my ears, like the sound of the flute in the ears of the mystic; that voice, I say, is humming in my ears, and prevents me from hearing any other. And I know that anything more which you will say will be in vain. Yet speak, if you have anything to say.

**Cr.** I have nothing to say, Socrates.

**Soc.** Then let me follow the intimations of the will of God.

## Source 5 B

### Étienne de la Boétie Discourse on Voluntary Servitude

*I see no good in having several lords;  
Let one alone be master, let one alone be king.*

These words Homer puts in the mouth of Ulysses,<sup>1</sup> as he addresses the people. If he had said nothing further than "I see no good in having several lords," it would have been well spoken. For the sake of logic he should have maintained that the rule of several could not be good since the power of one man alone, as soon as he acquires the title of master, becomes abusive and unreasonable. Instead he declared what seems preposterous: "Let one alone be master, let one alone be king." We must not be critical of Ulysses, who at the moment was perhaps obliged to speak these words in order to quell a mutiny in the army, for this reason, in my opinion, choosing language to meet the emergency rather than the truth. Yet, in the light of reason, it is a great misfortune to be at the beck and call of one master, for it is impossible to be sure that he is going to be kind, since it is always in his power to be cruel whenever he pleases. As for having several masters, according to the number one has, it amounts to being that many times unfortunate. Although I do not wish at this time to discuss this much debated question, namely whether other types of government are preferable to monarchy,<sup>2</sup> still I should like to know, before casting doubt on the place that monarchy should occupy among commonwealths, whether or not it belongs to such a group, since it is hard to believe that there is anything of common wealth in a country where everything belongs to one master. This question, however, can remain for another time and would really require a separate treatment involving by its very nature all sorts of political discussion.

For the present I should like merely to understand how it happens that so many men, so many villages, so many cities, so many nations, sometimes suffer under a single tyrant who has no other power than the power they give him; who is able to harm them only to the extent to which they have the willingness to bear with him; who could do them absolutely no injury unless they preferred to put up with him rather than contradict him.<sup>3</sup> Surely a striking situation! Yet it is so common that one

must grieve the more and wonder the less at the spectacle of a million men serving in wretchedness, their necks under the yoke, not constrained by a greater multitude than they, but simply, it would seem, delighted and charmed by the name of one man alone whose power they need not fear, for he is evidently the one person whose qualities they cannot admire because of his inhumanity and brutality toward them. A weakness characteristic of human kind is that we often have to obey force; we have to make concessions; we ourselves cannot always be the stronger. Therefore, when a nation is constrained by the fortune of war to serve a single clique, as happened when the city of Athens served the thirty Tyrants,<sup>4</sup> one should not be amazed that the nation obeys, but simply be grieved by the situation; or rather, instead of being amazed or saddened, consider patiently the evil and look forward hopefully toward a happier future.

Our nature is such that the common duties of human relationship occupy a great part of the course of our life. It is reasonable to love virtue, to esteem good deeds, to be grateful for good from whatever source we may receive it, and, often, to give up some of our comfort in order to increase the honor and advantage of some man whom we love and who deserves it. Therefore, if the inhabitants of a country have found some great personage who has shown rare foresight in protecting them in an emergency, rare boldness in defending them, rare solicitude in governing them, and if, from that point on, they contract the habit of obeying him and depending on him to such an extent that they grant him certain prerogatives, I fear that such a procedure is not prudent, inasmuch as they remove him from a position in which he was doing good and advance him to a dignity in which he may do evil. Certainly while he continues to manifest good will one need fear no harm from a man who seems to be generally well disposed.

But O good Lord! What strange phenomenon is this? What name shall we give to it? What is the nature of this misfortune? What vice is it, or, rather, what degradation? To see an endless multitude of people not merely obeying, but driven to servility? Not ruled, but tyrannized over? These wretches have no wealth, no kin, nor wife nor children, not even life itself that they can call their own. They suffer plundering, wantonness, cruelty, not from an army, not from a barbarian horde, on account of whom they must shed their blood and sacrifice their lives, but from a single man; not from a Hercules nor from a Samson, but from a single little man. Too frequently this same little man is the most

cowardly and effeminate in the nation, a stranger to the powder of battle and hesitant on the sands of the tournament; not only without energy to direct men by force, but with hardly enough virility to bed with a common woman! Shall we call subjection to such a leader cowardice? Shall we say that those who serve him are cowardly and faint-hearted? If two, if three, if four, do not defend themselves from the one, we might call that circumstance surprising but nevertheless conceivable. In such a case one might be justified in suspecting a lack of courage. But if a hundred, if a thousand endure the caprice of a single man, should we not rather say that they lack not the courage but the desire to rise against him, and that such an attitude indicates indifference rather than cowardice? When not a hundred, not a thousand men, but a hundred provinces, a thousand cities, a million men, refuse to assail a single man from whom the kindest treatment received is the infliction of serfdom and slavery, what shall we call that? Is it cowardice? Of course there is in every vice inevitably some limit beyond which one cannot go. Two, possibly ten, may fear one; but when a thousand, a million men, a thousand cities, fail to protect themselves against the domination of one man, this cannot be called cowardly, for cowardice does not sink to such a depth, any more than valor can be termed the effort of one individual to scale a fortress, to attack an army, or to conquer a kingdom. What monstrous vice, then, is this which does not even deserve to be called cowardice, a vice for which no term can be found vile enough, which nature herself disavows and our tongues refuse to name?

Place on one side fifty thousand armed men, and on the other the same number; let them join in battle, one side fighting to retain its liberty, the other to take it away; to which would you, at a guess, promise victory? Which men do you think would march more gallantly to combat – those who anticipate as a reward for their suffering the maintenance of their freedom, or those who cannot expect any other prize for the blows exchanged than the enslavement of others? One side will have before its eyes the blessings of the past and the hope of similar joy in the future; their thoughts will dwell less on the comparatively brief pain of battle than on what they may have to endure forever, they, their children, and all their posterity. The other side has nothing to inspire it with courage except the weak urge of greed, which fades before danger and which can never be so keen, it seems to me, that it will not be dismayed by the least drop of blood from wounds. Consider the justly famous battles of Miltiades,<sup>5</sup>

Leonidas,<sup>6</sup> Themistocles,<sup>7</sup> still fresh today in recorded history and in the minds of men as if they had occurred but yesterday, battles fought in Greece for the welfare of the Greeks and as an example to the world. What power do you think gave to such a mere handful of men not the strength but the courage to withstand the attack of a fleet so vast that even the seas were burdened, and to defeat the armies of so many nations, armies so immense that their officers alone outnumbered the entire Greek force? What was it but the fact that in those glorious days this struggle represented not so much a fight of Greeks against Persians as a victory of liberty over domination, of freedom over greed?

It amazes us to hear accounts of the valor that liberty arouses in the hearts of those who defend it; but who could believe reports of what goes on every day among the inhabitants of some countries, who could really believe that one man alone may mistreat a hundred thousand and deprive them of their liberty? Who would credit such a report if he merely heard it, without being present to witness the event? And if this condition occurred only in distant lands and were reported to us, which one among us would not assume the tale to be imagined or invented, and not really true? Obviously there is no need of fighting to overcome this single tyrant, for he is automatically defeated if the country refuses consent to its own enslavement: it is not necessary to deprive him of anything, but simply to give him nothing; there is no need that the country make an effort to do anything for itself provided it does nothing against itself. It is therefore the inhabitants themselves who permit, or, rather, bring about, their own subjection, since by ceasing to submit they would put an end to their servitude. A people enslaves itself, cuts its own throat, when, having a choice between being vassals and being free men, it deserts its liberties and takes on the yoke, gives consent to its own misery, or, rather, apparently welcomes it. If it cost the people anything to recover its freedom, I should not urge action to this end, although there is nothing a human should hold more dear than the restoration of his own natural right, to change himself from a beast of burden back to a man, so to speak. I do not demand of him so much boldness; let him prefer the doubtful security of living wretchedly to the uncertain hope of living as he pleases. What then? If in order to have liberty nothing more is needed than to long for it, if only a simple act of the will is necessary, is there any nation in the world that considers a single wish too high a price to pay in order to recover rights which it ought to be ready to redeem at the cost of its blood, rights such that their loss must bring all men of honor to the point of feeling life to be

unendurable and death itself a deliverance?

Everyone knows that the fire from a little spark will increase and blaze ever higher as long as it finds wood to burn; yet without being quenched by water, but merely by finding no more fuel to feed on, it consumes itself, dies down, and is no longer a flame. Similarly, the more tyrants pillage, the more they crave, the more they ruin and destroy; the more one yields to them, and obeys them, by that much do they become mightier and more formidable, the readier to annihilate and destroy. But if not one thing is yielded to them, if, without any violence they are simply not obeyed, they become naked and undone and as nothing, just as, when the root receives no nourishment, the branch withers and dies.

To achieve the good that they desire, the bold do not fear danger; the intelligent do not refuse to undergo suffering. It is the stupid and cowardly who are neither able to endure hardship nor to vindicate their rights; they stop at merely longing for them, and lose through timidity the valor roused by the effort to claim their rights, although the desire to enjoy them still remains as part of their nature. A longing common to both the wise and the foolish, to brave men and to cowards, is this longing for all those things which, when acquired, would make them happy and contented. Yet one element appears to be lacking. I do not know how it happens that nature fails to place within the hearts of men a burning desire for liberty, a blessing so great and so desirable that when it is lost all evils follow thereafter, and even the blessings that remain lose taste and savor because of their corruption by servitude. Liberty is the only joy upon which men do not seem to insist; for surely if they really wanted it they would receive it. Apparently they refuse this wonderful privilege because it is so easily acquired.

Poor, wretched, and stupid peoples, nations determined on your own misfortune and blind to your own good! You let yourselves be deprived before your own eyes of the best part of your revenues; your fields are plundered, your homes robbed, your family heirlooms taken away. You live in such a way that you cannot claim a single thing as your own; and it would seem that you consider yourselves lucky to be loaned your property, your families, and your very lives. All this havoc, this misfortune, this ruin, descends upon you not from alien foes, but from the one enemy whom you yourselves render as powerful as he is, for whom you go bravely to war, for whose greatness you do not refuse to offer your own bodies unto death. He who thus domineers over you has

only two eyes, only two hands, only one body, no more than is possessed by the least man among the infinite numbers dwelling in your cities; he has indeed nothing more than the power that you confer upon him to destroy you. Where has he acquired enough eyes to spy upon you, if you do not provide them yourselves? How can he have so many arms to beat you with, if he does not borrow them from you? The feet that trample down your cities, where does he get them if they are not your own? How does he have any power over you except through you? How would he dare assail you if he had no cooperation from you? What could he do to you if you yourselves did not connive with the thief who plunders you, if you were not accomplices of the murderer who kills you, if you were not traitors to yourselves? You sow your crops in order that he may ravage them, you install and furnish your homes to give him goods to pillage; you rear your daughters that he may gratify his lust; you bring up your children in order that he may confer upon them the greatest privilege he knows – to be led into his battles, to be delivered to butchery, to be made the servants of his greed and the instruments of his vengeance; you yield your bodies unto hard labor in order that he may indulge in his delights and wallow in his filthy pleasures; you weaken yourselves in order to make him the stronger and the mightier to hold you in check. From all these indignities, such as the very beasts of the field would not endure, you can deliver yourselves if you try, not by taking action, but merely by willing to be free. Resolve to serve no more, and you are at once freed. I do not ask that you place hands upon the tyrant to topple him over, but simply that you support him no longer; then you will behold him, like a great Colossus whose pedestal has been pulled away, fall of his own weight and break in pieces.

Doctors are no doubt correct in warning us not to touch incurable wounds; and I am presumably taking chances in preaching as I do to a people which has long lost all sensitivity and, no longer conscious of its infirmity, is plainly suffering from mortal illness. Let us therefore understand by logic, if we can, how it happens that this obstinate willingness to submit has become so deeply rooted in a nation that the very love of liberty now seems no longer natural.

In the first place, all would agree that, if we led our lives according to the ways intended by nature and the lessons taught by her, we should be intuitively obedient to our parents; later we should adopt reason as our guide and become slaves to nobody.. Concerning the obedience given instinctively to one's father and mother, we are in agreement,

each one admitting himself to be a model. As to whether reason is born with us or not, that is a question loudly discussed by academicians and treated by all schools of philosophers. For the present I think I do not err in stating that there is in our souls some native seed of reason, which, if nourished by good counsel and training, flowers into virtue, but which, on the other hand, if unable to resist the vices surrounding it, is stifled and blighted. Yet surely if there is anything in this world clear and obvious, to which one cannot close one's eyes, it is the fact that nature, handmaiden of God, governess of men, has cast us all in the same mold in order that we may behold in one another companions, or rather brothers. If in distributing her gifts nature has favored some more than others with respect to body or spirit, she has nevertheless not planned to place us within this world as if it were a field of battle, and has not endowed the stronger or the cleverer in order that they may act like armed brigands in a forest and attack the weaker. One should rather conclude that in distributing larger shares to some and smaller shares to others, nature has intended to give occasion for brotherly love to become manifest, some of us having the strength to give help to others who are in need of it. Hence, since this kind mother has given us the whole world as a dwelling place, has lodged us in the same house, has fashioned us according to the same model so that in beholding one another we might almost recognize ourselves; since she has bestowed upon us all the great gift of voice and speech for fraternal relationship, thus achieving by the common and mutual statement of our thoughts a communion of our wills; and since she has tried in every way to narrow and tighten the bond of our union and kinship; since she has revealed in every possible manner her intention, not so much to associate us as to make us one organic whole, there can be no further doubt that we are all naturally free, inasmuch as we are all comrades. Accordingly it should not enter the mind of anyone that nature has placed some of us in slavery, since she has actually created us all in one likeness.

Therefore it is fruitless to argue whether or not liberty is natural, since none can be held in slavery without being wronged, and in a world governed by a nature, which is reasonable, there is nothing so contrary as an injustice. Since freedom is our natural state, we are not only in possession of it but have the urge to defend it. Now, if perchance some cast a doubt on this conclusion and are so corrupted that they are not able to recognize their rights and inborn tendencies, I shall have to do them the honor that is properly theirs and place, so to speak, brute beasts in the pulpit to throw light on their nature and condition. The

very beasts, God help me! if men are not too deaf, cry out to them, "Long live Liberty!" Many among them die as soon as captured: just as the fish loses life as soon as he leaves the water, so do these creatures close their eyes upon the light and have no desire to survive the loss of their natural freedom. If the animals were to constitute their kingdom by rank, their nobility would be chosen from this type. Others, from the largest to the smallest, when captured put up such a strong resistance by means of claws, horns, beak, and paws, that they show clearly enough how they cling to what they are losing; afterwards in captivity they manifest by so many evident signs their awareness of their misfortune, that it is easy to see they are languishing rather than living, and continue their existence more in lamentation of their lost freedom than in enjoyment of their servitude. What else can explain the behavior of the elephant who, after defending himself to the last ounce of his strength and knowing himself on the point of being taken, dashes his jaws against the trees and breaks his tusks, thus manifesting his longing to remain free as he has been and proving his wit and ability to buy off the huntsmen in the hope that through the sacrifice of his tusks he will be permitted to offer his ivory as a ransom for his liberty? We feed the horse from birth in order to train him to do our bidding. Yet he is tamed with such difficulty that when we begin to break him in he bites the bit, he rears at the touch of the spur, as if to reveal his instinct and show by his actions that, if he obeys, he does so not of his own free will but under constraint. What more can we say?

"Even the oxen under the weight of the yoke complain,  
And the birds in their cage lament,"

as I expressed it some time ago, toying with our French poesy. For I shall not hesitate in writing to you, O Longa,<sup>8</sup> to introduce some of my verses, which I never read to you because of your obvious encouragement which is quite likely to make me conceited. And now, since all beings, because they feel, suffer misery in subjection and long for liberty; since the very beasts, although made for the service of man, cannot become accustomed to control without protest, what evil chance has so denatured man that he, the only creature really born to be free, lacks the memory of his original condition and the desire to return to it?

There are three kinds of tyrants; some receive their proud position through elections by the people, others by force of arms, others by inheritance. Those who have acquired power by means of war act in such wise that it is evident they rule over a conquered country. Those

who are born to kingship are scarcely any better, because they are nourished on the breast of tyranny, suck in with their milk the instincts of the tyrant, and consider the people under them as their inherited serfs; and according to their individual disposition, miserly or prodigal, they treat their kingdom as their property. He who has received the state from the people, however, ought to be, it seems to me, more bearable and would be so, I think, were it not for the fact that as soon as he sees himself higher than the others, flattered by that quality which we call grandeur, he plans never to relinquish his position. Such a man usually determines to pass on to his children the authority that the people have conferred upon him; and once his heirs have taken this attitude, strange it is how far they surpass other tyrants in all sorts of vices, and especially in cruelty, because they find no other means to impose this new tyranny than by tightening control and removing their subjects so far from any notion of liberty that even if the memory of it is fresh it will soon be eradicated. Yet, to speak accurately, I do perceive that there is some difference among these three types of tyranny, but as for stating a preference, I cannot grant there is any. For although the means of coming into power differ, still the method of ruling is practically the same; those who are elected act as if they were breaking in bullocks; those who are conquerors make the people their prey; those who are heirs plan to treat them as if they were their natural slaves.

In connection with this, let us imagine some newborn individuals, neither acquainted with slavery nor desirous of liberty, ignorant indeed of the very words. If they were permitted to choose between being slaves and free men, to which would they give their vote? There can be no doubt that they would much prefer to be guided by reason itself than to be ordered about by the whims of a single man. The only possible exception might be the Israelites who, without any compulsion or need, appointed a tyrant.<sup>9</sup> I can never read their history without becoming angered and even inhuman enough to find satisfaction in the many evils that befell them on this account. But certainly all men, as long as they remain men, before letting themselves become enslaved must either be driven by force or led into it by deception; conquered by foreign armies, as were Sparta and Athens by the forces of Alexander<sup>10</sup> or by political factions, as when at an earlier period the control of Athens had passed into the hands of Pisistrates.<sup>11</sup> When they lose their liberty through deceit they are not so often betrayed by others as misled by themselves. This was the case with the people of Syracuse,

chief city of Sicily (I am told the place is now named Saragossa<sup>12</sup>) when, in the throes of war and heedlessly planning only for the present danger, they promoted Denis,<sup>13</sup> their first tyrant, by entrusting to him the command of the army, without realizing that they had given him such power that on his victorious return this worthy man would behave as if he had vanquished not his enemies but his compatriots, transforming himself from captain to king, and then from king to tyrant.

It is incredible how as soon as a people becomes subject, it promptly falls into such complete forgetfulness of its freedom that it can hardly be roused to the point of regaining it, obeying so easily and so willingly that one is led to say, on beholding such a situation, that this people has not so much lost its liberty as won its enslavement. It is true that in the beginning men submit under constraint and by force; but those who come after them obey without regret and perform willingly what their predecessors had done because they had to. This is why men born under the yoke and then nourished and reared in slavery are content, without further effort, to live in their native circumstance, unaware of any other state or right, and considering as quite natural the condition into which they were born. There is, however, no heir so spendthrift or indifferent that he does not sometimes scan the account books of his father in order to see if he is enjoying all the privileges of his legacy or whether, perchance, his rights and those of his predecessor have not been encroached upon. Nevertheless it is clear enough that the powerful influence of custom is in no respect more compelling than in this, namely, habituation to subjection. It is said that Mithridates<sup>14</sup> trained himself to drink poison. Like him we learn to swallow, and not to find bitter, the venom of servitude. It cannot be denied that nature is influential in shaping us to her will and making us reveal our rich or meager endowment; yet it must be admitted that she has less power over us than custom, for the reason that native endowment, no matter how good, is dissipated unless encouraged, whereas environment always shapes us in its own way, whatever that may be, in spite of nature's gifts. The good seed that nature plants in us is so slight and so slippery that it cannot withstand the least harm from wrong nourishment; it flourishes less easily, becomes spoiled, withers, and comes to nothing. Fruit trees retain their own particular quality if permitted to grow undisturbed, but lose it promptly and bear strange fruit not their own when ingrafted. Every herb has its peculiar characteristics, its virtues and properties; yet frost, weather, soil, or the gardener's hand increase or diminish its strength; the plant seen in one

spot cannot be recognized in another.

Whoever could have observed the early Venetians,<sup>15</sup> a handful of people living so freely that the most wicked among them would not wish to be king over them, so born and trained that they would not vie with one another except as to which one could give the best counsel and nurture their liberty most carefully, so instructed and developed from their cradles that they would not exchange for all the other delights of the world an iota of their freedom; who, I say, familiar with the original nature of such a people, could visit today the territories of the man known as the Great Doge, and there contemplate with composure a people unwilling to live except to serve him, and maintaining his power at the cost of their lives? Who would believe that these two groups of people had an identical origin? Would one not rather conclude that upon leaving a city of men he had chanced upon a menagerie of beasts? Lycurgus,<sup>16</sup> the lawgiver of Sparta, is reported to have reared two dogs of the same litter by fattening one in the kitchen and training the other in the fields to the sound of the bugle and the horn, thereby to demonstrate to the Lacedaemonians that men, too, develop according to their early habits. He set the two dogs in the open market place, and between them he placed a bowl of soup and a hare. One ran to the bowl of soup, the other to the hare; yet they were, as he maintained, born brothers of the same parents. In such manner did this leader, by his laws and customs, shape and instruct the Spartans so well that any one of them would sooner have died than acknowledge any sovereign other than law and reason.

It gives me pleasure to recall a conversation of the olden time between one of the favorites of Xerxes, the great king of Persia, and two Lacedaemonians. When Xerxes<sup>17</sup> equipped his great army to conquer Greece, he sent his ambassadors into the Greek cities to ask for water and earth. That was the procedure the Persians adopted in summoning the cities to surrender. Neither to Athens nor to Sparta, however, did he dispatch such messengers, because those who had been sent there by Darius his father had been thrown, by the Athenians and Spartans, some into ditches and others into wells, with the invitation to help themselves freely there to water and soil to take back to their prince. Those Greeks could not permit even the slightest suggestion of encroachment upon their liberty. The Spartans suspected, nevertheless, that they had incurred the wrath of the gods by their action, and especially the wrath of Talhybios,<sup>18</sup> the god of the heralds; in order to appease him they decided to send to Xerxes two of their

citizens in atonement for the cruel death inflicted upon the ambassadors of his father. Two Spartans, one named Sperte and the other Bulis, volunteered to offer themselves as a sacrifice. So they departed, and on the way they came to the palace of the Persian named Hydarnes, lieutenant of the king in all the Asiatic cities situated on the sea coasts. He received them with great honor, feasted them, and then, speaking of one thing and another, he asked them why they refused so obdurately his king's friendship. "Consider well, O Spartans," said he, "and realize by my example that the king knows how to honor those who are worthy, and believe that if you were his men he would do the same for you; if you belonged to him and he had known you, there is not one among you who might not be the lord of some Greek city."

"By such words, Hydarnes, you give us no good counsel," replied the Lacedaemonians, "because you have experienced merely the advantage of which you speak; you do not know the privilege we enjoy. You have the honor of the king's favor; but you know nothing about liberty, what relish it has and how sweet it is. For if you had any knowledge of it, you yourself would advise us to defend it, not with lance and shield, but with our very teeth and nails."

Only Spartans could give such an answer, and surely both of them spoke as they had been trained. It was impossible for the Persian to regret liberty, not having known it, nor for the Lacedaemonians to find subjection acceptable after having enjoyed freedom.

Cato the Utican,<sup>19</sup> while still a child under the rod, could come and go in the house of Sylla the despot. Because of the place and family of his origin and because he and Sylla were close relatives, the door was never closed to him. He always had his teacher with him when he went there, as was the custom for children of noble birth. He noticed that in the house of Sylla, in the dictator's presence or at his command, some men were imprisoned and others sentenced; one was banished, another was strangled; one demanded the goods of another citizen, another his head; in short, all went there, not as to the house of a city magistrate but as to the people's tyrant, and this was therefore not a court of justice, but rather a resort of tyranny. Whereupon the young lad said to his teacher, "Why don't you give me a dagger? I will hide it under my robe. I often go into Sylla's room before he is risen, and my arm is strong enough to rid the city of him." There is a speech truly characteristic of Cato; it was a true beginning of this hero so worthy of

his end. And should one not mention his name or his country, but state merely the fact as it is, the episode itself would speak eloquently, and anyone would divine that he was a Roman born in Rome at the time when she was free.

And why all this? Certainly not because I believe that the land or the region has anything to do with it, for in any place and in any climate subjection is bitter and to be free is pleasant; but merely because I am of the opinion that one should pity those who, at birth, arrive with the yoke upon their necks. We should exonerate and forgive them, since they have not seen even the shadow of liberty, and, being quite unaware of it, cannot perceive the evil endured through their own slavery. If there were actually a country like that of the Cimmerians mentioned by Homer, where the sun shines otherwise than on our own, shedding its radiance steadily for six successive months and then leaving humanity to drowse in obscurity until it returns at the end of another half-year, should we be surprised to learn that those born during this long night do grow so accustomed to their native darkness that unless they were told about the sun they would have no desire to see the light? One never pines for what he has never known; longing comes only after enjoyment and constitutes, amidst the experience of sorrow, the memory of past joy. It is truly the nature of man to be free and to wish to be so, yet his character is such that he instinctively follows the tendencies that his training gives him.

Let us therefore admit that all those things to which he is trained and accustomed seem natural to man and that only that is truly native to him which he receives with his primitive, untrained individuality. Thus custom becomes the first reason for voluntary servitude. Men are like handsome race horses who first bite the bit and later like it, and rearing under the saddle a while soon learn to enjoy displaying their harness and prance proudly beneath their trappings. Similarly men will grow accustomed to the idea that they have always been in subjection, that their fathers lived in the same way; they will think they are obliged to suffer this evil, and will persuade themselves by example and imitation of others, finally investing those who order them around with proprietary rights, based on the idea that it has always been that way.

There are always a few, better endowed than others, who feel the weight of the yoke and cannot restrain themselves from attempting to shake it off: these are the men who never become tamed under subjection and who always, like Ulysses on land and sea constantly

seeking the smoke of his chimney, cannot prevent themselves from peering about for their natural privileges and from remembering their ancestors and their former ways. These are in fact the men who, possessed of clear minds and far-sighted spirit, are not satisfied, like the brutish mass, to see only what is at their feet, but rather look about them, behind and before, and even recall the things of the past in order to judge those of the future, and compare both with their present condition. These are the ones who, having good minds of their own, have further trained them by study and learning. Even if liberty had entirely perished from the earth, such men would invent it. For them slavery has no satisfactions, no matter how well disguised.

The Grand Turk was well aware that books and teaching more than anything else give men the sense to comprehend their own nature and to detest tyranny. I understand that in his territory there are few educated people, for he does not want many. On account of this restriction, men of strong zeal and devotion, who in spite of the passing of time have preserved their love of freedom, still remain ineffective because, however numerous they may be, they are not known to one another; under the tyrant they have lost freedom of action, of speech, and almost of thought; they are alone in their aspiration. Indeed Momus, god of mockery, was not merely joking when he found this to criticize in the man fashioned by Vulcan, namely, that the maker had not set a little window in his creature's heart to render his thoughts visible. It is reported that Brutus, Cassius, and Casca, on undertaking to free Rome, and for that matter the whole world, refused to include in their band Cicero,<sup>20</sup> that great enthusiast for the public welfare if ever there was one, because they considered his heart too timid for such a lofty deed; they trusted his willingness but they were none too sure of his courage. Yet whoever studies the deeds of earlier days and the annals of antiquity will find practically no instance of heroes who failed to deliver their country from evil hands when they set about their task with a firm, whole-hearted, and sincere intention. Liberty, as if to reveal her nature, seems to have given them new strength. Harmodios and Aristogiton,<sup>21</sup> Thrasybulus,<sup>22</sup> Brutus the Elder,<sup>23</sup> Valerianus,<sup>24</sup> and Dion<sup>25</sup> achieved successfully what they planned virtuously: for hardly ever does good fortune fail a strong will. Brutus the Younger and Cassius were successful in eliminating servitude, and although they perished in their attempt to restore liberty, they did not die miserably (what blasphemy it would be to say there was anything miserable about these men, either in their death or in their living!). Their loss worked great

harm, everlasting misfortune, and complete destruction of the Republic, which appears to have been buried with them. Other and later undertakings against the Roman emperors were merely plottings of ambitious people, who deserve no pity for the misfortunes that overtook them, for it is evident that they sought not to destroy, but merely to usurp the crown, scheming to drive away the tyrant, but to retain tyranny. For myself, I could not wish such men to prosper and I am glad they have shown by their example that the sacred name of Liberty must never be used to cover a false enterprise.

But to come back to the thread of our discourse, which I have practically lost: the essential reason why men take orders willingly is that they are born serfs and are reared as such. From this cause there follows another result, namely that people easily become cowardly and submissive under tyrants. For this observation I am deeply grateful to Hippocrates, the renowned father of medicine, who noted and reported it in a treatise of his entitled *Concerning Diseases*. This famous man was certainly endowed with a great heart and proved it clearly by his reply to the Great King,<sup>26</sup> who wanted to attach him to his person by means of special privileges and large gifts. Hippocrates answered frankly that it would be a weight on his conscience to make use of his science for the cure of barbarians who wished to slay his fellow Greeks, or to serve faithfully by his skill anyone who undertook to enslave Greece. The letter he sent the king can still be read among his other works and will forever testify to his great heart and noble character.

By this time it should be evident that liberty once lost, valor also perishes. A subject people shows neither gladness nor eagerness in combat: its men march sullenly to danger almost as if in bonds, and stultified; they do not feel throbbing within them that eagerness for liberty which engenders scorn of peril and imparts readiness to acquire honor and glory by a brave death amidst one's comrades. Among free men there is competition as to who will do most, each for the common good, each by himself, all expecting to share in the misfortunes of defeat, or in the benefits of victory; but an enslaved people loses in addition to this warlike courage, all signs of enthusiasm, for their hearts are degraded, submissive, and incapable of any great deed. Tyrants are well aware of this, and, in order to degrade their subjects further, encourage them to assume this attitude and make it instinctive.

Xenophon, grave historian of first rank among the Greeks, wrote a

book<sup>27</sup> in which he makes Simonides speak with Hieron, Tyrant of Syracuse, concerning the anxieties of the tyrant. This book is full of fine and serious remonstrances, which in my opinion are as persuasive as words can be. Would to God that all despots who have ever lived might have kept it before their eyes and used it as a mirror! I cannot believe they would have failed to recognize their warts and to have conceived some shame for their blotches. In this treatise is explained the torment in which tyrants find themselves when obliged to fear everyone because they do evil unto every man. Among other things we find the statement that bad kings employ foreigners in their wars and pay them, not daring to entrust weapons in the hands of their own people, whom they have wronged. (There have been good kings who have used mercenaries from foreign nations, even among the French, although more so formerly than today, but with the quite different purpose of preserving their own people, considering as nothing the loss of money in the effort to spare French lives. That is, I believe, what Scipio<sup>28</sup> the great African meant when he said he would rather save one citizen than defeat a hundred enemies.) For it is plainly evident that the dictator does not consider his power firmly established until he has reached the point where there is no man under him who is of any worth.

Therefore there may be justly applied to him the reproach to the master of the elephants made by Thrason and reported by Terence:

Are you indeed so proud  
Because you command wild beasts?<sup>29</sup>

This method tyrants use of stultifying their subjects cannot be more clearly observed than in what Cyrus<sup>30</sup> did with the Lydians after he had taken Sardis, their chief city, and had at his mercy the captured Croesus, their fabulously rich king. When news was brought to him that the people of Sardis had rebelled, it would have been easy for him to reduce them by force; but being unwilling either to sack such a fine city or to maintain an army there to police it, he thought of an unusual expedient for reducing it. He established in it brothels, taverns, and public games, and issued the proclamation that the inhabitants were to enjoy them. He found this type of garrison so effective that he never again had to draw the sword against the Lydians. These wretched people enjoyed themselves inventing all kinds of games, so that the Latins have derived the word from them, and what we call *pastimes*

they call *ludi*, as if they meant to say *Lydi*. Not all tyrants have manifested so clearly their intention to effeminize their victims; but in fact, what the aforementioned despot publicly proclaimed and put into effect, most of the others have pursued secretly as an end. It is indeed the nature of the populace, whose density is always greater in the cities, to be suspicious toward one who has their welfare at heart, and gullible toward one who fools them. Do not imagine that there is any bird more easily caught by decoy, nor any fish sooner fixed on the hook by wormy bait, than are all these poor fools neatly tricked into servitude by the slightest feather passed, so to speak, before their mouths. Truly it is a marvellous thing that they let themselves be caught so quickly at the slightest tickling of their fancy. Plays, farces, spectacles, gladiators, strange beasts, medals, pictures, and other such opiates, these were for ancient peoples the bait toward slavery, the price of their liberty, the instruments of tyranny. By these practices and enticements the ancient dictators so successfully lulled their subjects under the yoke, that the stupefied peoples, fascinated by the pastimes and vain pleasures flashed before their eyes, learned subservience as naively, but not so creditably, as little children learn to read by looking at bright picture books. Roman tyrants invented a further refinement. They often provided the city wards with feasts to cajole the rabble, always more readily tempted by the pleasure of eating than by anything else. The most intelligent and understanding amongst them would not have quit his soup bowl to recover the liberty of the Republic of Plato. Tyrants would distribute largess, a bushel of wheat, a gallon of wine, and a sesterce:<sup>31</sup> and then everybody would shamelessly cry, "Long live the King!" The fools did not realize that they were merely recovering a portion of their own property, and that their ruler could not have given them what they were receiving without having first taken it from them. A man might one day be presented with a sesterce and gorge himself at the public feast, lauding Tiberius and Nero for handsome liberality, who on the morrow, would be forced to abandon his property to their avarice, his children to their lust, his very blood to the cruelty of these magnificent emperors, without offering any more resistance than a stone or a tree stump. The mob has always behaved in this way – eagerly open to bribes that cannot be honorably accepted, and dissolutely callous to degradation and insult that cannot be honorably endured. Nowadays I do not meet anyone who, on hearing mention of Nero, does not shudder at the very name of that hideous monster, that disgusting and vile pestilence. Yet when he died – when this incendiary, this executioner, this savage beast, died as vilely as he had

lived – the noble Roman people, mindful of his games and his festivals, were saddened to the point of wearing mourning for him. Thus wrote Cornelius Tacitus,<sup>32</sup> a competent and serious author, and one of the most reliable. This will not be considered peculiar in view of what this same people had previously done at the death of Julius Caesar, who had swept away their laws and their liberty, in whose character, it seems to me, there was nothing worth while, for his very liberality, which is so highly praised, was more baneful than the crudest tyrant who ever existed, because it was actually this poisonous amiability of his that sweetened servitude for the Roman people. After his death, that people, still preserving on their palates the flavor of his banquets and in their minds the memory of his prodigality, vied with one another to pay him homage. They piled up the seats of the Forum for the great fire that reduced his body to ashes, and later raised a column to him as to "The Father of His People."<sup>33</sup> (Such was the inscription on the capital.) They did him more honor, dead as he was, than they had any right to confer upon any man in the world, except perhaps on those who had killed him.

They didn't even neglect, these Roman emperors, to assume generally the title of Tribune of the People, partly because this office was held sacred and inviolable and also because it had been founded for the defense and protection of the people and enjoyed the favor of the state. By this means they made sure that the populace would trust them completely, as if they merely used the title and did not abuse it. Today there are some who do not behave very differently: they never undertake an unjust policy, even one of some importance, without prefacing it with some pretty speech concerning public welfare and common good. You well know, O Longa, this formula which they use quite cleverly in certain places; although for the most part, to be sure, there cannot be cleverness where there is so much impudence. The kings of the Assyrians and even after them those of the Medes showed themselves in public as seldom as possible in order to set up a doubt in the minds of the rabble as to whether they were not in some way more than man, and thereby to encourage people to use their imagination for those things which they cannot judge by sight. Thus a great many nations who for a long time dwelt under the control of the Assyrians became accustomed, with all this mystery, to their own subjection, and submitted the more readily for not knowing what sort of master they had, or scarcely even if they had one, all of them fearing by report someone they had never seen. The earliest kings of Egypt rarely

showed themselves without carrying a cat, or sometimes a branch, or appearing with fire on their heads, masking themselves with these objects and parading like workers of magic. By doing this they inspired their subjects with reverence and admiration, whereas with people neither too stupid nor too slavish they would merely have aroused, it seems to me, amusement and laughter. It is pitiful to review the list of devices that early despots used to establish their tyranny; to discover how many little tricks they employed, always finding the populace conveniently gullible, readily caught in the net as soon as it was spread. Indeed they always fooled their victims so easily that while mocking them they enslaved them the more.

What comment can I make concerning another fine counterfeit that ancient peoples accepted as true money? They believed firmly that the great toe of Pyrrhus,<sup>34</sup> king of Epirus, performed miracles and cured diseases of the spleen; they even enhanced the tale further with the legend that this toe, after the corpse had been burned, was found among the ashes, untouched by the fire. In this wise a foolish people itself invents lies and then believes them. Many men have recounted such things, but in such a way that it is easy to see that the parts were pieced together from idle gossip of the city and silly reports from the rabble. When Vespasian,<sup>35</sup> returning from Assyria, passes through Alexandria on his way to Rome to take possession of the empire, he performs wonders: he makes the crippled straight, restores sight to the blind, and does many other fine things, concerning which the credulous and indiscriminating were, in my opinion, more blind than those cured. Tyrants themselves have wondered that men could endure the persecution of a single man; they have insisted on using religion for their own protection and, where possible, have borrowed a stray bit of divinity to bolster up their evil ways. If we are to believe the Sybil of Virgil, Salmoneus,<sup>36</sup> in torment for having paraded as Jupiter in order to deceive the populace, now atones in nethermost Hell:

He suffered endless torment for having dared to  
imitate  
The thunderbolts of heaven and the flames of Jupiter.  
Upon a chariot drawn by four chargers he went,  
unsteadily  
Riding aloft, in his fist a great shining torch.  
Among the Greeks and into the market-place  
In the heart of the city of Elis he had ridden boldly:  
And displaying thus his vainglory he assumed

An honor which undeniably belongs to the gods alone.

This fool who imitated storm and the inimitable thunderbolt

By clash of brass and with his dizzying charge  
On horn-hoofed steeds, the all-powerful Father beheld,

Hurled not a torch, nor the feeble light  
From a waxen taper with its smoky fumes,  
But by the furious blast of thunder and lightning  
He brought him low, his heels above his head.<sup>37</sup>

If such a one, who in his time acted merely through the folly of insolence, is so well received in Hell, I think that those who have used religion as a cloak to hide their vileness will be even more deservedly lodged in the same place.

Our own leaders have employed in France certain similar devices, such as toads, fleurs-de-lys, sacred vessels, and standards with flames of gold.<sup>38</sup> However that may be, I do not wish, for my part, to be incredulous, since neither we nor our ancestors have had any occasion up to now for skepticism. Our kings have always been so generous in times of peace and so valiant in time of war, that from birth they seem not to have been created by nature like many others, but even before birth to have been designated by Almighty God for the government and preservation of this kingdom. Even if this were not so, yet should I not enter the tilting ground to call in question the truth of our traditions, or to examine them so strictly as to take away their fine conceits. Here is such a field for our French poetry, now not merely honored but, it seems to me, reborn through our Ronsard, our Baïf, our Bellay.<sup>39</sup> These poets are defending our language so well that I dare to believe that very soon neither the Greeks nor the Latins will in this respect have any advantage over us except possibly that of seniority. And I should assuredly do wrong to our poesy – I like to use that word despite the fact that several have rimed mechanically, for I still discern a number of men today capable of ennobling poetry and restoring it to its first lustre – but, as I say, I should do the Muse great injury if I deprived her now of those fine tales about King Clovis, amongst which it seems to me I can already see how agreeably and how happily the inspiration of our Ronsard in his *Franciade*<sup>40</sup> will play. I appreciate his loftiness, I am aware of his keen spirit, and I know the charm of the man: he will

appropriate the oriflamme to his use much as did the Romans their sacred bucklers and the shields cast from heaven to earth, according to Virgil.<sup>41</sup> He will use our phial of holy oil much as the Athenians used the basket of Erichonius;<sup>42</sup> he will win applause for our deeds of valor as they did for their olive wreath which they insist can still be found in Minerva's tower. Certainly I should be presumptuous if I tried to cast slurs on our records and thus invade the realm of our poets.

But to return to our subject, the thread of which I have unwittingly lost in this discussion: it has always happened that tyrants, in order to strengthen their power, have made every effort to train their people not only in obedience and servility toward themselves, but also in adoration. Therefore all that I have said up to the present concerning the means by which a more willing submission has been obtained applies to dictators in their relationship with the inferior and common classes.

I come now to a point which is, in my opinion, the mainspring and the secret of domination, the support and foundation of tyranny. Whoever thinks that halberds, sentries, the placing of the watch, serve to protect and shield tyrants is, in my judgment, completely mistaken. These are used, it seems to me, more for ceremony and a show of force than for any reliance placed in them. The archers forbid the entrance to the palace to the poorly dressed who have no weapons, not to the well armed who can carry out some plot. Certainly it is easy to say of the Roman emperors that fewer escaped from danger by the aid of their guards than were killed by their own archers. It is not the troops on horseback, it is not the companies afoot, it is not arms that defend the tyrant. This does not seem credible on first thought, but it is nevertheless true that there are only four or five who maintain the dictator, four or five who keep the country in bondage to him. Five or six have always had access to his ear, and have either gone to him of their own accord, or else have been summoned by him, to be accomplices in his cruelties, companions in his pleasures, panders to his lusts, and sharers in his plunders. These six manage their chief so successfully that he comes to be held accountable not only for his own misdeeds but even for theirs. The six have six hundred who profit under them, and with the six hundred they do what they have accomplished with their tyrant. The six hundred maintain under them six thousand, whom they promote in rank, upon whom they confer the government of provinces or the direction of finances, in order that they may serve as instruments of avarice and cruelty, executing orders at

the proper time and working such havoc all around that they could not last except under the shadow of the six hundred, nor be exempt from law and punishment except through their influence.

The consequence of all this is fatal indeed. And whoever is pleased to unwind the skein will observe that not the six thousand but a hundred thousand, and even millions, cling to the tyrant by this cord to which they are tied. According to Homer, Jupiter boasts of being able to draw to himself all the gods when he pulls a chain. Such a scheme caused the increase in the senate under Julius,<sup>43</sup> the formation of new ranks, the creation of offices; not really, if properly considered, to reform justice, but to provide new supporters of despotism. In short, when the point is reached, through big favors or little ones, that large profits or small are obtained under a tyrant, there are found almost as many people to whom tyranny seems advantageous as those to whom liberty would seem desirable. Doctors declare that if, when some part of the body has gangrene a disturbance arises in another spot, it immediately flows to the troubled part. Even so, whenever a ruler makes himself a dictator, all the wicked dregs of the nation – I do not mean the pack of petty thieves and earless ruffians<sup>44</sup> who, in a republic, are unimportant in evil or good – but all those who are corrupted by burning ambition or extraordinary avarice, these gather round him and support him in order to have a share in the booty and to constitute themselves petty chiefs under the big tyrant. This is the practice among notorious robbers and famous pirates: some scour the country, others pursue voyagers; some lie in ambush, others keep a lookout; some commit murder, others robbery; and although there are among them differences in rank, some being only underlings while others are chieftains of gangs, yet is there not a single one among them who does not feel himself to be a sharer, if not of the main booty, at least in the pursuit of it. It is dependably related that Sicilian pirates gathered in such great numbers that it became necessary to send against them Pompey the Great,<sup>45</sup> and that they drew into their alliance fine towns and great cities in whose harbors they took refuge on returning from their expeditions, paying handsomely for the haven given their stolen goods.

Thus the despot subdues his subjects, some of them by means of others, and thus is he protected by those from whom, if they were decent men, he would have to guard himself; just as, in order to split wood, one has to use a wedge of the wood itself. Such are his archers, his guards, his halberdiers; not that they themselves do not suffer occasionally at his hands, but this riff-raff, abandoned alike by God and

man, can be led to endure evil if permitted to commit it, not against him who exploits them, but against those who like themselves submit, but are helpless. Nevertheless, observing those men who painfully serve the tyrant in order to win some profit from his tyranny and from the subjection of the populace, I am often overcome with amazement at their wickedness and sometimes by pity for their folly. For, in all honesty, can it be in any way except in folly that you approach a tyrant, withdrawing further from your liberty and, so to speak, embracing with both hands your servitude? Let such men lay aside briefly their ambition, or let them forget for a moment their avarice, and look at themselves as they really are. Then they will realize clearly that the townspeople, the peasants whom they trample under foot and treat worse than convicts or slaves, they will realize, I say, that these people, mistreated as they may be, are nevertheless, in comparison with themselves, better off and fairly free. The tiller of the soil and the artisan, no matter how enslaved, discharge their obligation when they do what they are told to do; but the dictator sees men about him wooing and begging his favor, and doing much more than he tells them to do. Such men must not only obey orders; they must anticipate his wishes; to satisfy him they must foresee his desires; they must wear themselves out, torment themselves, kill themselves with work in his interest, and accept his pleasure as their own, neglecting their preferences for his, distorting their character and corrupting their nature; they must pay heed to his words, to his intonation, to his gestures, and to his glance. Let them have no eye, nor foot, nor hand that is not alert to respond to his wishes or to seek out his thoughts.

Can that be called a happy life? Can it be called living? Is there anything more intolerable than that situation, I won't say for a man of mettle nor even for a man of high birth, but simply for a man of common sense or, to go even further, for anyone having the face of a man? What condition is more wretched than to live thus, with nothing to call one's own, receiving from someone else one's sustenance, one's power to act, one's body, one's very life?

Still men accept servility in order to acquire wealth; as if they could acquire anything of their own when they cannot even assert that they belong to themselves, or as if anyone could possess under a tyrant a single thing in his own name. Yet they act as if their wealth really belonged to them, and forget that it is they themselves who give the ruler the power to deprive everybody of everything, leaving nothing that anyone can identify as belonging to somebody. They notice that

nothing makes men so subservient to a tyrant's cruelty as property; that the possession of wealth is the worst of crimes against him, punishable even by death; that he loves nothing quite so much as money and ruins only the rich, who come before him as before a butcher, offering themselves so stuffed and bulging that they make his mouth water. These favorites should not recall so much the memory of those who have won great wealth from tyrants as of those who, after they had for some time amassed it, have lost to him their property as well as their lives; they should consider not how many others have gained a fortune, but rather how few of them have kept it. Whether we examine ancient history or simply the times in which we live, we shall see clearly how great is the number of those who, having by shameful means won the ear of princes – who either profit from their villainies or take advantage of their naïveté – were in the end reduced to nothing by these very princes; and although at first such servitors were met by a ready willingness to promote their interests, they later found an equally obvious inconstancy which brought them to ruin. Certainly among so large a number of people who have at one time or another had some relationship with bad rulers, there have been few or practically none at all who have not felt applied to themselves the tyrant's animosity, which they had formerly stirred up against others. Most often, after becoming rich by despoiling others, under the favor of his protection, they find themselves at last enriching him with their own spoils.

Even men of character – if it sometimes happens that a tyrant likes such a man well enough to hold him in his good graces, because in him shine forth the virtue and integrity that inspire a certain reverence even in the most depraved – even men of character, I say, could not long avoid succumbing to the common malady and would early experience the effects of tyranny at their own expense. A Seneca, a Burrus, a Thrasea, this triumvirate<sup>46</sup> of splendid men, will provide a sufficient reminder of such misfortune. Two of them were close to the tyrant by the fatal responsibility of holding in their hands the management of his affairs, and both were esteemed and beloved by him. One of them, moreover, had a peculiar claim upon his friendship, having instructed his master as a child. Yet these three by their cruel death give sufficient evidence of how little faith one can place in the friendship of an evil ruler. Indeed what friendship may be expected from one whose heart is bitter enough to hate even his own people, who do naught else but obey him? It is because he does not know how to love that he ultimately impoverishes his own spirit and destroys his own empire.

Now if one would argue that these men fell into disgrace because they wanted to act honorably, let him look around boldly at others close to that same tyrant, and he will see that those who came into his favor and maintained themselves by dishonorable means did not fare much better. Who has ever heard tell of a love more centered, of an affection more persistent, who has ever read of a man more desperately attached to a woman than Nero was to Poppaea? Yet she was later poisoned by his own hand.<sup>47</sup> Agrippina his mother had killed her husband, Claudius, in order to exalt her son; to gratify him she had never hesitated at doing or bearing anything; and yet this very son, her offspring, her emperor, elevated by her hand, after failing her often, finally took her life.<sup>48</sup> It is indeed true that no one denies she would have well deserved this punishment, if only it had come to her by some other hand than that of the son she had brought into the world. Who was ever more easily managed, more naive, or, to speak quite frankly, a greater simpleton, than Claudius the Emperor? Who was ever more wrapped up in his wife than he in Messalina,<sup>49</sup> whom he delivered finally into the hands of the executioner? Stupidity in a tyrant always renders him incapable of benevolent action; but in some mysterious way by dint of acting cruelly even towards those who are his closest associates, he seems to manifest what little intelligence he may have.

Quite generally known is the striking phrase of that other tyrant who, gazing at the throat of his wife, a woman he dearly loved and without whom it seemed he could not live, caressed her with this charming comment: "This lovely throat would be cut at once if I but gave the order."<sup>50</sup> That is why the majority of the dictators of former days were commonly slain by their closest favorites who, observing the nature of tyranny, could not be so confident of the whim of the tyrant as they were distrustful of his power. Thus was Domitian<sup>51</sup> killed by Stephen, Commodus by one of his mistresses,<sup>52</sup> Antoninus by Macrinus,<sup>53</sup> and practically all the others in similar violent fashion. The fact is that the tyrant is never truly loved, nor does he love. Friendship is a sacred word, a holy thing; it is never developed except between persons of character, and never takes root except through mutual respect; it flourishes not so much by kindnesses as by sincerity. What makes one friend sure of another is the knowledge of his integrity: as guarantees he has his friend's fine nature, his honor, and his constancy. There can be no friendship where there is cruelty, where there is disloyalty, where there is injustice. And in places where the wicked gather there is conspiracy only, not companionship: these have no affection for one

another; fear alone holds them together; they are not friends, they are merely accomplices.

Although it might not be impossible, yet it would be difficult to find true friendship in a tyrant; elevated above others and having no companions, he finds himself already beyond the pale of friendship, which receives its real sustenance from an equality that, to proceed without a limp, must have its two limbs equal. That is why there is honor among thieves (or so it is reported) in the sharing of the booty; they are peers and comrades; if they are not fond of one another they at least respect one another and do not seek to lessen their strength by squabbling. But the favorites of a tyrant can never feel entirely secure, and the less so because he has learned from them that he is all powerful and unlimited by any law or obligation. Thus it becomes his wont to consider his own will as reason enough, and to be master of all with never a compeer. Therefore it seems a pity that with so many examples at hand, with the danger always present, no one is anxious to act the wise man at the expense of the others, and that among so many persons fawning upon their ruler there is not a single one who has the wisdom and the boldness to say to him what, according to the fable, the fox said to the lion who feigned illness: "I should be glad to enter your lair to pay my respects; but I see many tracks of beasts that have gone toward you, yet not a single trace of any who have come back."

These wretches see the glint of the despot's treasures and are bedazzled by the radiance of his splendor. Drawn by this brilliance they come near, without realizing they are approaching a flame that cannot fail to scorch them. Similarly attracted, the indiscreet satyr of the old fables, on seeing the bright fire brought down by Prometheus, found it so beautiful that he went and kissed it, and was burned; so, as the Tuscan<sup>54</sup> poet reminds us, the moth, intent upon desire, seeks the flame because it shines, and also experiences its other quality, the burning. Moreover, even admitting that favorites may at times escape from the hands of him they serve, they are never safe from the ruler who comes after him. If he is good, they must render an account of their past and recognize at last that justice exists; if he is bad and resembles their late master, he will certainly have his own favorites, who are not usually satisfied to occupy in their turn merely the posts of their predecessors, but will more often insist on their wealth and their lives. Can anyone be found, then, who under such perilous circumstances and with so little security will still be ambitious to fill such

an ill-fated position and serve, despite such perils, so dangerous a master? Good God, what suffering, what martyrdom all this involves! To be occupied night and day in planning to please one person, and yet to fear him more than anyone else in the world; to be always on the watch, ears open, wondering whence the blow will come; to search out conspiracy, to be on guard against snares, to scan the faces of companions for signs of treachery, to smile at everybody and be mortally afraid of all, to be sure of nobody, either as an open enemy or as a reliable friend; showing always a gay countenance despite an apprehensive heart, unable to be joyous yet not daring to be sad!

However, there is satisfaction in examining what they get out of all this torment, what advantage they derive from all the trouble of their wretched existence. Actually the people never blame the tyrant for the evils they suffer, but they do place responsibility on those who influence him; peoples, nations, all compete with one another, even the peasants, even the tillers of the soil, in mentioning the names of the favorites, in analyzing their vices, and heaping upon them a thousand insults, a thousand obscenities, a thousand maledictions. All their prayers, all their vows are directed against these persons; they hold them accountable for all their misfortunes, their pestilences, their famines; and if at times they show them outward respect, at those very moments they are fuming in their hearts and hold them in greater horror than wild beasts. This is the glory and honor heaped upon influential favorites for their services by people who, if they could tear apart their living bodies, would still clamor for more, only half satiated by the agony they might behold. For even when the favorites are dead those who live after are never too lazy to blacken the names of these man-eaters with the ink of a thousand pens, tear their reputations into bits in a thousand books, and drag, so to speak, their bones past posterity, forever punishing them after their death for their wicked lives.

Let us therefore learn while there is yet time, let us learn to do good. Let us raise our eyes to Heaven for the sake of our honor, for the very love of virtue, or, to speak wisely, for the love and praise of God Almighty, who is the infallible witness of our deeds and the just judge of our faults. As for me, I truly believe I am right, since there is nothing so contrary to a generous and loving God as dictatorship – I believe He has reserved, in a separate spot in Hell, some very special punishment for tyrants and their accomplices.

Notes:

<sup>1</sup> *Iliad*, Book II, Lines 204-205.

<sup>2</sup> Government by a single ruler. From the Greek *monos* (single) and *arkhein* (to command).

<sup>3</sup> At this point begins the text of the long fragment published in the *Reveille-Matin des François*. See Introduction, p. xvii.

<sup>4</sup> An autocratic council of thirty magistrates that governed Athens for eight months in 404 B.C. They exhibited such monstrous despotism that the city rose in anger and drove them forth.

<sup>5</sup> Athenian general, died 489 B.C. Some of his battles: expedition against Scythians; Lemnos; Imbros; Marathon, where Darius the Persian was defeated.

<sup>6</sup> King of Sparta, died at Thermopylae in 480 B.C., defending the pass with three hundred loyal Spartans against Xerxes.

<sup>7</sup> Athenian statesman and general, died 460 B.C. Some of his battles: expedition against Aegean Isles; victory over Persians under Xerxes at Salamis.

<sup>8</sup> See Introduction, p. x.

<sup>9</sup> The reference is to Saul anointed by Samuel.

<sup>10</sup> Alexander the Macedonian became the acknowledged master of all Hellenes at the Assembly of Corinth, 335 B.C.

<sup>11</sup> Athenian tyrant, died 527 B.C. He used ruse and bluster to control the city and was obliged to flee several times.

<sup>12</sup> The name Syracuse is derived from Syracca, the marshland near which the city was founded. The author is misinformed about "Sarragousse," which is the Spanish Zaragoza, capital of Aragón.

<sup>13</sup> Denis or Dionysius, tyrant of Syracuse, died in 367 B.C. Of lowly birth, this dictator imposed himself by plottings, putsches, and purges. The danger from which he saved his city was the invasion by the Carthaginians.

<sup>14</sup> Mithridates (c. 135-63 B.C.) was next to Hannibal the most dreaded and potent enemy of Roman Power. The reference in the text is to his youth when he spent some years in retirement hardening himself and immunizing himself against poison. In his old age, defeated by

Pompey, betrayed by his own son, he tried poison and finally had to resort to the dagger of a friendly Gaul. (Pliny, *Natural History*, XXIV, 2.)

<sup>15</sup> This passage probably suggested to Montaigne that his friend would have been glad to see the light in Venice. See *Essays*, Book I, Chapter XXVIII.

<sup>16</sup> A half-legendary figure concerning whose life Plutarch admits there is much obscurity. He bequeathed to his land a rigid code regulating land, assembly, education, with the individual subordinate to the state.

<sup>17</sup> The Persian fleet and army under Xerxes or Ahasuerus set out from Sardis in 480 and were at first successful, even taking Athens and driving the Greeks to their last line of defense in the Bay of Salamis. Darius, the father of Xerxes, had made a similar incursion into Greece but was stopped at Marathon.

<sup>18</sup> The messenger and herald of Agamemnon in the *Iliad*.

<sup>19</sup> Marcus Porcius Cato, often called the Utican from the city where in 46 B.C., after reading the *Phaedo* of Plato, he ended his life. He was an uncompromising reformer and relentlessly attacked the vicious heirs to the power of Lucius Cornelius Sylla, the Roman dictator (136-78 B.C.). The Utican, born in 95 B.C., was only seventeen years old when Sylla died.

<sup>20</sup> Cited from Plutarch's *Life of Cicero*.

<sup>21</sup> Tradition made of Harmodios and Aristogiton martyrs for Athenian liberty. They plotted the death of the tyrant Hippias but were betrayed and put to death by torture, c. 500 B.C.

<sup>22</sup> Athenian statesmen and general (died 388 B.C.) who ousted the Thirty Tyrants from power in Athens and restored the government to the people.

<sup>23</sup> Lucius Junius Brutus was the leader of the Roman revolution which overthrew the tyranny of Tarquinius Superbus, c. 500 B.C., and established the republic under the two praetors or consuls. As one of these magistrates it became his dolorous duty to condemn to death his two sons because they had plotted for the return of the Tarquins.

<sup>24</sup> Publius Licinius Valerianus was a brilliant military leader chosen by his troops to be Emperor during a time of great anarchy. He met his death in Persia (260 A.D.).

<sup>25</sup> Dion of Syracuse (400-354? B.C.) was famous for his protection of Plato in Sicily and for his expedition in 357, which freed his city from the tyranny of Denis.

<sup>26</sup> Artaxerxes.

<sup>27</sup> The *Hieron*, a youthful didactic work, consisting of a dialogue between Simonides and the Tyrant of Syracuse. The latter confesses his inner doubts and misgivings, his weariness at the dangers constantly besetting him, his sadness at not being loved by anyone. Even if he gave up his power, he would be in danger from the many enemies he has made. Simonides advises him to mend his ways and try kindness and generosity as a way of government.

<sup>28</sup> Publius Cornelius Scipio (235-183 B.C.) led the brilliant campaign in Africa which caused Hannibal's recall from Italy and his final defeat.

<sup>29</sup> *The Eunuch*, Act III, Scene 1.

<sup>30</sup> Cyrus the Great (died 528 B.C.), founder of the Persian Empire, attacked Croesus before the latter could organize his army, and drove him in mid-winter out of his capital of Sardis. The episode here mentioned is related in *Herodotus*, Book I, chap. 86.

<sup>31</sup> A Roman coin (semis-half, tertius-third) of variable value, originally of silver, later of bronze.

<sup>32</sup> In his *Histories* (Book I, chap. 4) which cover the period (69-96 A.D.) from the fall of Nero to the crowning of Nerva.

<sup>33</sup> Suetonius, *Life of Caesar*, paragraphs 84-88.

<sup>34</sup> The great dreamer of empire whose costly victory at Asculum wrecked his hopes of world domination. He was finally killed (272 B.C.) by a tile dropped on his head by an old woman. This story of the toe conies from Plutarch's *Life of Pyrrhus*.

<sup>35</sup> Titus Flavius Vespasianus left his son Titus to complete the capture of Jerusalem while he, newly elected Emperor by his armies, turned back to Rome after the death of Galba in 69 A.D. The reference here is found in Suetonius, *Life of Vespasian*, Chapter VII.

<sup>36</sup> In Greek mythology, Salmoneus, King of Elis, was the son of Aeolus and the brother of Sisyphus. He was reckless and sacrilegious and claimed to be the equal of Zeus by imitating his thunderbolts. Zeus threw him into Hades.

<sup>37</sup> *Aeneid*, Chapter VI, verses 585 *et seq.*

<sup>38</sup> These are references to heraldic emblems of royalty. The sacred vessel contained the holy oil for the coronation of the kings of France, said to have been brought by an angel from heaven for the crowning of Clovis in 496. The fleur-de-lis is the well-known heraldic flower dating from the 12th century. In its earlier forms it has other elements besides petals, such as arrow tips, spikes, and even bees and toads. The oriflamme or standard of gold was also adopted by French royalty. Originally it belonged to the Abbey of St. Denis and had a red background, dotted with stars surrounding a flaming sun. Some scholars have noted in the three branches of the fleur-de-lis a heraldic transformation of toads which formed presumably the totem of the ancient Franks.

<sup>39</sup> These three were the most inspired of the Pléiade, a group of seven poets of the Renaissance in France. La Boétie's boast is impulsive but natural when one thinks of the vigor and hope of this period. Du Bellay (1548) published a *Defense of the French Language* which explained the literary doctrines of the group. The reference in the text to this *Defense* helps date the *Contr'un*.

<sup>40</sup> This unfinished epic has only four cantos; it attempts to relate how to Francus, son of Hector, is revealed the glorious future of France. He beholds a visionary procession of her kings descending from him all the way to Charlemagne. King Clovis (465-511), of whom many tales are told, was baptized after the miracle of Tolbiac and founded the Merovingian dynasty. Although the poem was not published till a few days after the Massacre of St. Bartholomew, Ronsard had spoken of his project more than twenty years before. He had even read the finished Prologue to Henry II in 1550. La Boétie's early reference bespeaks his close relations with the poets of his day.

<sup>41</sup> *Aeneid*, Canto viii, verse 664.

<sup>42</sup> Erichonius, legendary King of Athens (1573-1556 B.C.) was the son of the earth. He is at times represented in the guise of a serpent carried by the Cecropides maidens to whom Athens had entrusted him as a child. The allusion here is to the Panathenaea festival when maidens carried garlanded baskets on their heads. Races were also held for which the winners received olive wreaths as prizes.

<sup>43</sup> Under Caesar the power of the Senators was greatly reduced and military leaders were permitted to share with them legislative and

judicial powers.

<sup>44</sup> The cutting off of ears as a punishment for thievery is very ancient. In the middle ages it was still practiced under St. Louis. Men so mutilated were dishonored and could not enter the clergy or the magistracy.

<sup>45</sup> Plutarch's *Life of Pompey*.

<sup>46</sup> Lucius Annaeus Seneca (4 B.C.-65 A.D.) was exiled from Rome to Corsica for eight years by the intrigues of Messalina, wife of Claudius. Agrippina had him recalled and entrusted to him jointly with Burrus the education of her son Nero. Seneca ended his life some fifteen years later when Nero, suspecting him of conspiracy, ordered him to die. Burrus similarly tried to restrain the tyrant but he lost his power after the murder of Agrippina, a crime which he had prevented once before. He died in 62 A.D. suspecting he had been poisoned. Thrasea, unlike these two teachers of Nero, refused to condone the crime of matricide. He attacked Nero in the Senate but finally in 66 A.D. he was condemned by that august body and, after a philosophic discourse celebrated with his friends by his side, he opened his veins.

<sup>47</sup> She was really killed by a kick, according to Suetonius (*Life of Nero*, chap. 35) and Tacitus (*Annals*, Book XVI, chap. 6). She abetted Nero in many of his crimes; the murder of his mother, of his gentle wife Octavia. After the brutal death inflicted on Poppaea, Nero shed many tears.

<sup>48</sup> Suetonius, *op. cit.*, chap. 34, and Tacitus, *op. cit.*, Book XII, chap. 67.

<sup>49</sup> Messalina (15-48 A.D.) was the fifth wife of the emperor Claudius. At first honorable, mother of two children, she suddenly turned to vice and has transmitted her name to the ages as a synonym for the lowest type of degraded womanhood. While still the wife of Claudius, she married a favorite with his connivance. The Emperor, finally convinced of her treachery, permitted the killing of his wife and her lover. He then married Agrippina who persuaded him to adopt Nero as his son, thereby signing his own death warrant, for his new wife, by giving him a plate of poisonous mushrooms, opened the way for her son's succession to the throne.

<sup>50</sup> Suetonius, *Life of Caligula*, Chapter 33.

<sup>51</sup> Suetonius, *Life of Domitian*, Chapter 17. The tyrant died in 96 A.D. after three years of bestial government inspired by abject fear of conspirators. Finally Domitia, his wife, hatched the plot which led an

imperial slave to stab his royal master to death.

<sup>52</sup> Herodian, Book I, chap. 54. Commodus (161-192 A.D.) unworthy son of Marcus Aurelius, had planned to put to death his concubine, Marcia. She poisoned him first.

<sup>53</sup> *Ibid.*, Book IV, chap. 23. The reference is to Marcus Aurelius Antoninus Bassianus, better known as Caracalla, who was killed (217 A.D.) in a plot arranged by his own praetor, Macrinus, who succeeded him to power, lasted a year, and was killed in his turn by his own soldiers.

<sup>54</sup> Petrarch, *Canzoniere*, Sonnet XVII. La Boétie has accurately rendered the lines concerning the moth.

## **Source 5 C**

**John Locke**

### **Second Treatise of Government**

#### **CHAPTER XIX. Of the Dissolution of Government.**

Sec. 211. HE that will with any clearness speak of the dissolution of government, ought in the first place to distinguish between the dissolution of the society and the dissolution of the government. That which makes the community, and brings men out of the loose state of nature, into one politic society, is the agreement which every one has with the rest to incorporate, and act as one body, and so be one distinct commonwealth. The usual, and almost only way whereby this union is dissolved, is the inroad of foreign force making a conquest upon them: for in that case, (not being able to maintain and support themselves, as one intire and independent body) the union belonging to that body which consisted therein, must necessarily cease, and so every one return to the state he was in before, with a liberty to shift for himself, and provide for his own safety, as he thinks fit, in some other society. Whenever the society is dissolved, it is certain the government of that society cannot remain. Thus conquerors swords often cut up governments by the roots, and mangle societies to pieces, separating the subdued or scattered multitude from the protection of, and dependence on, that society which ought to have preserved them from violence. The world is too well instructed in, and too forward to allow of, this way of dissolving of governments, to need any more to be said of it; and there wants not much argument to prove, that where the society is dissolved, the government cannot remain; that being as impossible, as for the frame of an house to subsist when the materials of it are scattered and dissipated by a whirl-wind, or jumbled into a confused heap by an earthquake.

Sec. 212. Besides this over-turning from without, governments are dissolved from within,

First, When the legislative is altered. Civil society being a state of peace, amongst those who are of it, from whom the state of war is excluded by the umpirage, which they have provided in their legislative, for the ending all differences that may arise amongst any of them, it is in their legislative, that the members of a commonwealth are united,

and combined together into one coherent living body. This is the soul that gives form, life, and unity, to the common-wealth: from hence the several members have their mutual influence, sympathy, and connexion: and therefore, when the legislative is broken, or dissolved, dissolution and death follows: for the essence and union of the society consisting in having one will, the legislative, when once established by the majority, has the declaring, and as it were keeping of that will. The constitution of the legislative is the first and fundamental act of society, whereby provision is made for the continuation of their union, under the direction of persons, and bonds of laws, made by persons authorized thereunto, by the consent and appointment of the people, without which no one man, or number of men, amongst them, can have authority of making laws that shall be binding to the rest. When any one, or more, shall take upon them to make laws, whom the people have not appointed so to do, they make laws without authority, which the people are not therefore bound to obey; by which means they come again to be out of subjection, and may constitute to themselves a new legislative, as they think best, being in full liberty to resist the force of those, who without authority would impose any thing upon them. Every one is at the disposure of his own will, when those who had, by the delegation of the society, the declaring of the public will, are excluded from it, and others usurp the place, who have no such authority or delegation.

Sec. 213. This being usually brought about by such in the commonwealth who misuse the power they have; it is hard to consider it aright, and know at whose door to lay it, without knowing the form of government in which it happens. Let us suppose then the legislative placed in the concurrence of three distinct persons.

1. A single hereditary person, having the constant, supreme, executive power, and with it the power of convoking and dissolving the other two within certain periods of time.
2. An assembly of hereditary nobility.
3. An assembly of representatives chosen, pro tempore, by the people. Such a form of government supposed, it is evident,

Sec. 214. First, That when such a single person, or prince, sets up his own arbitrary will in place of the laws, which are the will of the society, declared by the legislative, then the legislative is changed: for that being in effect the legislative, whose rules and laws are put in

execution, and required to be obeyed; when other laws are set up, and other rules pretended, and enforced, than what the legislative, constituted by the society, have enacted, it is plain that the legislative is changed. Whoever introduces new laws, not being thereunto authorized by the fundamental appointment of the society, or subverts the old, disowns and overturns the power by which they were made, and so sets up a new legislative.

Sec. 215. Secondly, When the prince hinders the legislative from assembling in its due time, or from acting freely, pursuant to those ends for which it was constituted, the legislative is altered: for it is not a certain number of men, no, nor their meeting, unless they have also freedom of debating, and leisure of perfecting, what is for the good of the society, wherein the legislative consists: when these are taken away or altered, so as to deprive the society of the due exercise of their power, the legislative is truly altered; for it is not names that constitute governments, but the use and exercise of those powers that were intended to accompany them; so that he, who takes away the freedom, or hinders the acting of the legislative in its due seasons, in effect takes away the legislative, and puts an end to the government.

Sec. 216. Thirdly, When, by the arbitrary power of the prince, the electors, or ways of election, are altered, without the consent, and contrary to the common interest of the people, there also the legislative is altered: for, if others than those whom the society hath authorized thereunto, do choose, or in another way than what the society hath prescribed, those chosen are not the legislative appointed by the people.

Sec. 217. Fourthly, The delivery also of the people into the subjection of a foreign power, either by the prince, or by the legislative, is certainly a change of the legislative, and so a dissolution of the government: for the end why people entered into society being to be preserved one intire, free, independent society, to be governed by its own laws; this is lost, whenever they are given up into the power of another.

Sec. 218. Why, in such a constitution as this, the dissolution of the government in these cases is to be imputed to the prince, is evident; because he, having the force, treasure and offices of the state to employ, and often persuading himself, or being flattered by others, that as supreme magistrate he is incapable of controul; he alone is in a condition to make great advances toward such changes, under pretence of lawful authority, and has it in his hands to terrify or

suppress opposers, as factious, seditious, and enemies to the government: whereas no other part of the legislative, or people, is capable by themselves to attempt any alteration of the legislative, without open and visible rebellion, apt enough to be taken notice of, which, when it prevails, produces effects very little different from foreign conquest. Besides, the prince in such a form of government, having the power of dissolving the other parts of the legislative, and thereby rendering them private persons, they can never in opposition to him, or without his concurrence, alter the legislative by a law, his consent being necessary to give any of their decrees that sanction. But yet, so far as the other parts of the legislative any way contribute to any attempt upon the government, and do either promote, or not, what lies in them, hinder such designs, they are guilty, and partake in this, which is certainly the greatest crime men can be guilty of one towards another.

Sec. 219. There is one way more whereby such a government may be dissolved, and that is: When he who has the supreme executive power neglects and abandons that charge, so that the laws already made can no longer be put in execution; this is demonstratively to reduce all to anarchy, and so effectively to dissolve the government. For laws not being made for themselves, but to be, by their execution, the bonds of the society to keep every part of the body politic in its due place and function. When that totally ceases, the government visibly ceases, and the people become a confused multitude without order or connection. Where there is no longer the administration of justice for the securing of men's rights, nor any remaining power within the community to direct the force, or provide for the necessities of the public, there certainly is no government left. Where the laws cannot be executed it is all one as if there were no laws, and a government without laws is, I suppose, a mystery in politics inconceivable to human capacity, and inconsistent with human society.

Sec. 220. In these and the like cases, when the government is dissolved, the people are at liberty to provide for themselves, by erecting a new legislative, differing from the other, by the change of persons, or form, or both, as they shall find it most for their safety and good: for the society can never, by the fault of another, lose the native and original right it has to preserve itself, which can only be done by a settled legislative, and a fair and impartial execution of the laws made by it. But the state of mankind is not so miserable that they are not capable of using this remedy, till it be too late to look for any. To tell people they may provide for themselves, by erecting a new legislative,

when by oppression, artifice, or being delivered over to a foreign power, their old one is gone, is only to tell them, they may expect relief when it is too late, and the evil is past cure. This is in effect no more than to bid them first be slaves, and then to take care of their liberty; and when their chains are on, tell them, they may act like freemen. This, if barely so, is rather mockery than relief; and men can never be secure from tyranny, if there be no means to escape it till they are perfectly under it: and therefore it is, that they have not only a right to get out of it, but to prevent it.

Sec. 221. There is therefore, secondly, another way whereby governments are dissolved, and that is, when the legislative, or the prince, either of them, act contrary to their trust. First, The legislative acts against the trust reposed in them, when they endeavour to invade the property of the subject, and to make themselves, or any part of the community, masters, or arbitrary disposers of the lives, liberties, or fortunes of the people.

Sec. 222. The reason why men enter into society, is the preservation of their property; and the end why they chuse and authorize a legislative, is, that there may be laws made, and rules set, as guards and fences to the properties of all the members of the society, to limit the power, and moderate the dominion, of every part and member of the society: for since it can never be supposed to be the will of the society, that the legislative should have a power to destroy that which every one designs to secure, by entering into society, and for which the people submitted themselves to legislators of their own making; whenever the legislators endeavour to take away, and destroy the property of the people, or to reduce them to slavery under arbitrary power, they put themselves into a state of war with the people, who are thereupon absolved from any farther obedience, and are left to the common refuge, which God hath provided for all men, against force and violence. Whensoever therefore the legislative shall transgress this fundamental rule of society; and either by ambition, fear, folly or corruption, endeavour to grasp themselves, or put into the hands of any other, an absolute power over the lives, liberties, and estates of the people; by this breach of trust they forfeit the power the people had put into their hands for quite contrary ends, and it devolves to the people, who have a right to resume their original liberty, and, by the establishment of a new legislative, (such as they shall think fit) provide for their own safety and security, which is the end for which they are in society. What I have said here, concerning the legislative in general,

holds true also concerning the supreme executor, who having a double trust put in him, both to have a part in the legislative, and the supreme execution of the law, acts against both, when he goes about to set up his own arbitrary will as the law of the society. He acts also contrary to his trust, when he either employs the force, treasure, and offices of the society, to corrupt the representatives, and gain them to his purposes; or openly preengages the electors, and prescribes to their choice, such, whom he has, by solicitations, threats, promises, or otherwise, won to his designs; and employs them to bring in such, who have promised before-hand what to vote, and what to enact. Thus to regulate candidates and electors, and new-model the ways of election, what is it but to cut up the government by the roots, and poison the very fountain of public security? for the people having reserved to themselves the choice of their representatives, as the fence to their properties, could do it for no other end, but that they might always be freely chosen, and so chosen, freely act, and advise, as the necessity of the common-wealth, and the public good should, upon examination, and mature debate, be judged to require. This, those who give their votes before they hear the debate, and have weighed the reasons on all sides, are not capable of doing. To prepare such an assembly as this, and endeavour to set up the declared abettors of his own will, for the true representatives of the people, and the law-makers of the society, is certainly as great a breach of trust, and as perfect a declaration of a design to subvert the government, as is possible to be met with. To which, if one shall add rewards and punishments visibly employed to the same end, and all the arts of perverted law made use of, to take off and destroy all that stand in the way of such a design, and will not comply and consent to betray the liberties of their country, it will be past doubt what is doing. What power they ought to have in the society, who thus employ it contrary to the trust went along with it in its first institution, is easy to determine; and one cannot but see, that he, who has once attempted any such thing as this, cannot any longer be trusted.

Sec. 223. To this perhaps it will be said, that the people being ignorant, and always discontented, to lay the foundation of government in the unsteady opinion and uncertain humour of the people, is to expose it to certain ruin; and no government will be able long to subsist, if the people may set up a new legislative, whenever they take offence at the old one. To this I answer, Quite the contrary. People are not so easily got out of their old forms, as some are apt to suggest. They are hardly

to be prevailed with to amend the acknowledged faults in the frame they have been accustomed to. And if there be any original defects, or adventitious ones introduced by time, or corruption; it is not an easy thing to get them changed, even when all the world sees there is an opportunity for it. This slowness and aversion in the people to quit their old constitutions, has, in the many revolutions which have been seen in this kingdom, in this and former ages, still kept us to, or, after some interval of fruitless attempts, still brought us back again to our old legislative of king, lords and commons: and whatever provocations have made the crown be taken from some of our princes heads, they never carried the people so far as to place it in another line.

Sec. 224. But it will be said, this hypothesis lays a ferment for frequent rebellion. To which I answer,

First, No more than any other hypothesis: for when the people are made miserable, and find themselves exposed to the ill usage of arbitrary power, cry up their governors, as much as you will, for sons of Jupiter; let them be sacred and divine, descended, or authorized from heaven; give them out for whom or what you please, the same will happen. The people generally ill treated, and contrary to right, will be ready upon any occasion to ease themselves of a burden that sits heavy upon them. They will wish, and seek for the opportunity, which in the change, weakness and accidents of human affairs, seldom delays long to offer itself. He must have lived but a little while in the world, who has not seen examples of this in his time; and he must have read very little, who cannot produce examples of it in all sorts of governments in the world.

Sec. 225. Secondly, I answer, such revolutions happen not upon every little mismanagement in public affairs. Great mistakes in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty, will be born by the people without mutiny or murmur. But if a long train of abuses, prevarications and artifices, all tending the same way, make the design visible to the people, and they cannot but feel what they lie under, and see whither they are going; it is not to be wondered, that they should then rouse themselves, and endeavour to put the rule into such hands which may secure to them the ends for which government was at first erected; and without which, ancient names, and specious forms, are so far from being better, that they are much worse, than the state of nature, or pure anarchy; the inconveniencies being all as great and as near, but the remedy farther off and more difficult.

Sec. 226. Thirdly, I answer, that this doctrine of a power in the people of providing for their safety a-new, by a new legislative, when their legislators have acted contrary to their trust, by invading their property, is the best fence against rebellion, and the probablest means to hinder it: for rebellion being an opposition, not to persons, but authority, which is founded only in the constitutions and laws of the government; those, whoever they be, who by force break through, and by force justify their violation of them, are truly and properly rebels: for when men, by entering into society and civil-government, have excluded force, and introduced laws for the preservation of property, peace, and unity amongst themselves, those who set up force again in opposition to the laws, do rebellare, that is, bring back again the state of war, and are properly rebels: which they who are in power, (by the pretence they have to authority, the temptation of force they have in their hands, and the flattery of those about them) being likeliest to do; the properest way to prevent the evil, is to shew them the danger and injustice of it, who are under the greatest temptation to run into it.

Sec. 227. In both the fore-mentioned cases, when either the legislative is changed, or the legislators act contrary to the end for which they were constituted; those who are guilty are guilty of rebellion: for if any one by force takes away the established legislative of any society, and the laws by them made, pursuant to their trust, he thereby takes away the umpirage, which every one had consented to, for a peaceable decision of all their controversies, and a bar to the state of war amongst them. They, who remove, or change the legislative, take away this decisive power, which no body can have, but by the appointment and consent of the people; and so destroying the authority which the people did, and no body else can set up, and introducing a power which the people hath not authorized, they actually introduce a state of war, which is that of force without authority: and thus, by removing the legislative established by the society, (in whose decisions the people acquiesced and united, as to that of their own will) they untie the knot, and expose the people a-new to the state of war. And if those, who by force take away the legislative, are rebels, the legislators themselves, as has been shewn, can be no less esteemed so; when they, who were set up for the protection, and preservation of the people, their liberties and properties, shall by force invade and endeavour to take them away; and so they putting themselves into a state of war with those who made them the protectors and guardians of their peace, are properly, and with the greatest aggravation, rebellantes, rebels.

Sec. 228. But if they, who say it lays a foundation for rebellion, mean that it may occasion civil wars, or intestine broils, to tell the people they are absolved from obedience when illegal attempts are made upon their liberties or properties, and may oppose the unlawful violence of those who were their magistrates, when they invade their properties contrary to the trust put in them; and that therefore this doctrine is not to be allowed, being so destructive to the peace of the world: they may as well say, upon the same ground, that honest men may not oppose robbers or pirates, because this may occasion disorder or bloodshed. If any mischief come in such cases, it is not to be charged upon him who defends his own right, but on him that invades his neighbours. If the innocent honest man must quietly quit all he has, for peace sake, to him who will lay violent hands upon it, I desire it may be considered, what a kind of peace there will be in the world, which consists only in violence and rapine; and which is to be maintained only for the benefit of robbers and oppressors. Who would not think it an admirable peace betwixt the mighty and the mean, when the lamb, without resistance, yielded his throat to be torn by the imperious wolf? Polyphemus's den gives us a perfect pattern of such a peace, and such a government, wherein Ulysses and his companions had nothing to do, but quietly to suffer themselves to be devoured. And no doubt Ulysses, who was a prudent man, preached up passive obedience, and exhorted them to a quiet submission, by representing to them of what concernment peace was to mankind; and by shewing the inconveniences might happen, if they should offer to resist Polyphemus, who had now the power over them.

Sec. 229. The end of government is the good of mankind; and which is best for mankind, that the people should be always exposed to the boundless will of tyranny, or that the rulers should be sometimes liable to be opposed, when they grow exorbitant in the use of their power, and employ it for the destruction, and not the preservation of the properties of their people?

Sec. 230. Nor let any one say, that mischief can arise from hence, as often as it shall please a busy head, or turbulent spirit, to desire the alteration of the government. It is true, such men may stir, whenever they please; but it will be only to their own just ruin and perdition: for till the mischief be grown general, and the ill designs of the rulers become visible, or their attempts sensible to the greater part, the people, who are more disposed to suffer than right themselves by resistance, are not apt to stir. The examples of particular injustice, or oppression of

here and there an unfortunate man, moves them not. But if they universally have a persuasion, grounded upon manifest evidence, that designs are carrying on against their liberties, and the general course and tendency of things cannot but give them strong suspicions of the evil intention of their governors, who is to be blamed for it? Who can help it, if they, who might avoid it, bring themselves into this suspicion? Are the people to be blamed, if they have the sense of rational creatures, and can think of things no otherwise than as they find and feel them? And is it not rather their fault, who put things into such a posture, that they would not have them thought to be as they are? I grant, that the pride, ambition, and turbulency of private men have sometimes caused great disorders in commonwealths, and factions have been fatal to states and kingdoms. But whether the mischief hath oftener begun in the peoples wantonness, and a desire to cast off the lawful authority of their rulers, or in the rulers insolence, and endeavours to get and exercise an arbitrary power over their people; whether oppression, or disobedience, gave the first rise to the disorder, I leave it to impartial history to determine. This I am sure, whoever, either ruler or subject, by force goes about to invade the rights of either prince or people, and lays the foundation for overturning the constitution and frame of any just government, is highly guilty of the greatest crime, I think, a man is capable of, being to answer for all those mischiefs of blood, rapine, and desolation, which the breaking to pieces of governments bring on a country. And he who does it, is justly to be esteemed the common enemy and pest of mankind, and is to be treated accordingly.

## Source 5 D

### Herbert Spencer

#### The Right to Ignore the State

Herbert Spencer was an incredible prophet and a magnificent defender of laissez-faire. Among his numerous works is *The Man Versus The State*, first published in 1884. That book launched one of the most spirited attacks on statism ever written. He ridiculed the idea that government intervention of any kind "will work as it is intended to work, which it never does." He drew on his tremendous knowledge of history, citing one dramatic case after another of price controls, usury laws, slum clearance laws, and myriad other laws which, touted as compassionate policies, intensified human misery. Below is one of his essays that explores the principles of self-government, which Henry David Thoreau defended in his seminal essay, *Civil Disobedience*.

#### The Right to Ignore the State

##### 1. The Right to Voluntary Outlawry

As a corollary to the proposition that all institutions must be subordinated to the law of equal freedom, we cannot choose but admit the right of the citizen to adopt a condition of voluntary outlawry. If every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man, then he is free to drop connection with the state – to relinquish its protection, and to refuse paying toward its support. It is self-evident that in so behaving he in no way trenches upon the liberty of others; for his position is a passive one; and whilst passive he cannot become an aggressor. It is equally self-evident that he cannot be compelled to continue one of a political corporation, without a breach of the moral law, seeing that citizenship involves payment of taxes; and the taking away of a man's property against his will, is an infringement of his rights. Government being simply an agent employed in common by a number of individuals to secure to them certain advantages, the very nature of the connection implies that it is for each to say whether he will employ such an agent or not. If any one of them determines to ignore this mutual-safety confederation, nothing can be said except that he loses all claim to its good offices, and exposes himself to the danger of maltreatment – a thing he is quite at liberty to do if he likes. He cannot be coerced into political combination

without a breach of the law of equal freedom; he *can* withdraw from it without committing any such breach; and he has therefore a right so to withdraw.

## 2. The Immorality of the State

"No human laws are of any validity if contrary to the law of nature; and such of them as are valid derive all their force and all their authority mediately or immediately from this original." Thus writes Blackstone<sup>1</sup>, to whom let all honour be given for having so far outseen the ideas of his time; and, indeed, we may say of our time. A good antidote, this, for those political superstitions which so widely prevail. A good check upon that sentiment of power-worship which still misleads us by magnifying the prerogatives of constitutional governments as it once did those of monarchs. Let men learn that a legislature is *not* "our God upon earth," though, by the authority they ascribe to it, and the things they expect from it, they would seem to think it is. Let them learn rather that it is an institution serving a purely temporary purpose, whose power, when not stolen, is at the best borrowed.

Nay, indeed, have we not seen that government is essentially immoral? Is it not the offspring of evil, bearing about it all the marks of its parentage? Does it not exist because crime exists? Is it not strong, or as we say, despotic, when crime is great? Is there not more liberty, that is, less government, as crime diminishes? And must not government cease when crime ceases, for very lack of objects on which to perform its function? Not only does magisterial power exist *because* of evil; but it exists *by* evil. Violence is employed to maintain it; and all violence involves criminality. Soldiers, policemen, and gaolers; swords, batons, and fetters, are instruments for inflicting pain; and all infliction of pain is in the abstract wrong. The state employs evil weapons to subjugate evil, and is alike contaminated by the objects with which it deals, and the means by which it works. Morality cannot recognize it; for morality, being simply a statement of the perfect law can give no countenance to any thing growing out of, and living by, breaches of that law. Wherefore, legislative authority can never be ethical – must always be conventional merely.

Hence, there is a certain inconsistency in the attempt to determine the right position, structure, and conduct of a government by appeal to the first principles of rectitude. For, as just pointed out, the acts of an institution which is in both nature and origin imperfect, cannot be made to square with the perfect law. All that we can do is to ascertain, firstly,

in what attitude a legislature must stand to the community to avoid being by its mere existence an embodied wrong; – secondly, in what manner it must be constituted so as to exhibit the least incongruity with the moral law; – and thirdly, to what sphere its actions must be limited to prevent it from multiplying those breaches of equity it is set up to prevent.

The first condition to be conformed to before a legislature can be established without violating the law of equal freedom, is the acknowledgment of the right now under discussion – the right to ignore the state.<sup>2</sup>

### 3. The People as the Source of Power

Upholders of pure despotism may fitly believe state-control to be unlimited and unconditional. They who assert that men are made for governments and not governments for men, may consistently hold that no one can remove himself beyond the pale of political organization. But they who maintain that the people are the only legitimate source of power – that legislative authority is not original, but deputed – cannot deny the right to ignore the state without entangling themselves in an absurdity.

For, if legislative authority is deputed, it follows that those from whom it proceeds are the masters of those on whom it is conferred: it follows further, that as masters they confer the said authority voluntarily: and this implies that they may give or withhold it as they please. To call that deputed which is wrenched from men whether they will or not, is nonsense. But what is here true of all collectively is equally true of each separately. As a government can rightly act for the people, only when empowered by them, so also can it rightly act for the individual, only when empowered by him. If A, B, and C, debate whether they shall employ an agent to perform for them a certain service, and if whilst A and B agree to do so, C dissents, C cannot equitably be made a party to the agreement in spite of himself. And this must be equally true of thirty as of three: and if of thirty, why not of three hundred, or three thousand, or three millions?

### 4. Subordination of Government Authority

Of the political superstitions lately alluded to, none is so universally diffused as the notion that majorities are omnipotent. Under the impression that the preservation of order will ever require power to be wielded by some party, the moral sense of our time feels that such

power cannot rightly be conferred on any but the largest moiety of society. It interprets literally the saying that "the voice of the people is the voice of God," and transferring to the one the sacredness attached to the other, it concludes that from the will of the people, that is of the majority, there can be no appeal. Yet is this belief entirely erroneous.

Suppose, for the sake of argument, that, struck by some Malthusian panic, a legislature duly representing public opinion were to enact that all children born during the next ten years should be drowned. Does any one think such an enactment would be warrantable? If not, there is evidently a limit to the power of a majority. Suppose, again, that of two races living together – Celts and Saxons, for example – the most numerous determined to make the others their slaves. Would the authority of the greatest number be in such case valid? If not, there is something to which its authority must be subordinate. Suppose, once more, that all men having incomes under 50 pounds a year were to resolve upon reducing every income above that amount to their own standard, and appropriating the excess for public purposes. Could their resolution be justified? If not, it must be a third time confessed that there is a law to which the popular voice must defer. What, then, is that law, if not the law of pure equity – the law of equal freedom? These restraints, which all would put to the will of the majority, are exactly the restraints set up by that law. We deny the right of a majority to murder, to enslave, or to rob, simply because murder, enslaving, and robbery are violations of that law – violations too gross to be overlooked. But if great violations of it are wrong, so also are smaller ones. If the will of the many cannot supersede the first principle of morality in these cases, neither can it in any. So that, however insignificant the minority, and however trifling the proposed trespass against their rights, no such trespass is permissible.

When we have made our constitution purely democratic, thinks to himself the earnest reformer, we shall have brought government into harmony with absolute justice. Such a faith, though perhaps needful for this age, is a very erroneous one. By no process can coercion be made equitable. The freest form of government is only the least objectional form. The rule of the many by the few we call tyranny: the rule of the few by the many is tyranny also; only of a less intense kind. "You shall do as we will, and not as you will," is in either case the declaration: and if the hundred make it to the ninety-nine, instead of the ninety-nine to the hundred, it is only a fraction less immoral. Of two such parties, whichever fulfils this declaration necessarily breaks the law of equal

freedom: the only difference being that by the one it is broken in the persons of ninety-nine, whilst by the other it is broken in the persons of a hundred. And the merit of the democratic form of government consists solely in this, that it trespasses against the smallest number.

The very existence of majorities and minorities is indicative of an immoral state. The man whose character harmonizes with the moral law, we found to be one who can obtain complete happiness without diminishing the happiness of his fellows. But the enactment of public arrangements by vote implies a society consisting of men otherwise constituted – implies that the desires of some cannot be satisfied without sacrificing the desires of others – implies that in the pursuit of their happiness the majority inflict a certain amount of *unhappiness* on the minority – implies, therefore, organic immorality. Thus, from another point of view, we again perceive that even in its most equitable form it is impossible for government to dissociate itself from evil; and further, that unless the right to ignore the state is recognized, its acts must be essentially criminal.

## 5. The Limits of Taxation

That a man is free to abandon the benefits and throw off the burdens of citizenship, may indeed be inferred from the admissions of existing authorities and of current opinion. Unprepared as they probably are for so extreme a doctrine as the one here maintained, the radicals of our day yet unwittingly profess their belief in a maxim which obviously embodies this doctrine. Do we not continually hear them quote Blackstone's assertion that "no subject of England can be constrained to pay any aids or taxes even for the defence of the realm or the support of government, but such as are imposed by his own consent, or that of his representative in parliament?" And what does this mean? It means, say they, that every man should have a vote. True: but it means much more. If there is any sense in words it is a distinct enunciation of the very right now contended for. In affirming that a man may not be taxed unless he has directly or indirectly given his consent, it affirms that he may refuse to be so taxed; and to refuse to be taxed, is to cut all connection with the state. Perhaps it will be said that this consent is not a specific, but a general one, and that the citizen is understood to have assented to every thing his representative may do, when he voted for him. But suppose he did not vote for him; and on the contrary did all in his power to get elected some one holding opposite views – what then? The reply will probably be that, by taking part in

such an election, he tacitly agreed to abide by the decision of the majority. And how if he did not vote at all? Why then he cannot justly complain of any tax, seeing that he made no protest against its imposition. So, curiously enough, it seems that he gave his consent in whatever way he acted – whether he said yes, whether he said no, or whether he remained neuter! A rather awkward doctrine this. Here stands an unfortunate citizen who is asked if he will pay money for a certain proffered advantage; and whether he employs the only means of expressing his refusal or does not employ it, we are told that he practically agrees; if only the number of others who agree is greater than the number of those who dissent. And thus we are introduced to the novel principle that A's consent to a thing is not determined by what A says, but by what B may happen to say!

It is for those who quote Blackstone to choose between this absurdity and the doctrine above set forth. Either his maxim implies the right to ignore the state, or it is sheer nonsense.

#### 6. On Civil and Religious Liberty

There is a strange heterogeneity in our political faiths. Systems that have had their day, and are beginning here and there to let the daylight through, are patched with modern notions utterly unlike in quality and colour; and men gravely display these systems, wear them, and walk about in them, quite unconscious of their grotesqueness. This transition state of ours, partaking as it does equally of the past and the future, breeds hybrid theories exhibiting the oddest union of bygone despotism and coming freedom. Here are types of the old organization curiously disguised by germs of the new – peculiarities showing adaptation to a preceding state modified by rudiments that prophesy of something to come – making altogether so chaotic a mixture of relationships that there is no saying to what class these births of the age should be referred.

As ideas must of necessity bear the stamp of the time, it is useless to lament the contentment with which these incongruous beliefs are held. Otherwise it would seem unfortunate that men do not pursue to the end the trains of reasoning which have led to these partial modifications. In the present case, for example, consistency would force them to admit that, on other points besides the one just noticed, they hold opinions and use arguments in which the right to ignore the state is involved.

For what is the meaning of Dissent? The time was when a man's faith

and his mode of worship were as much determinable by law as his secular acts; and, according to provisions extant in our statute-book, are so still. Thanks to the growth of a Protestant spirit, however, we have ignored the state in this matter – wholly in theory, and partly in practice. But how have we done so? By assuming an attitude which, if consistently maintained, implies a right to ignore the state entirely. Observe the positions of the two parties. "This is your creed," says the legislator; "you must believe and openly profess what is here set down for you." "I shall not do any thing of the kind," answers the non-conformist, "I will go to prison rather." "Your religious ordinances," pursues the legislator, "shall be such as we have prescribed. You shall attend the churches we have endowed, and adopt the ceremonies used in them." "Nothing shall induce me to do so," is the reply; "I altogether deny your power to dictate to me in such matters, and mean to resist to the uttermost." "Lastly," adds the legislator, "we shall require you to pay such sums of money toward the support of these religious institutions, as we may see fit to ask." "Not a farthing will you have from me," exclaims our sturdy Independent: "even did I believe in the doctrines of your church (which I do not), I should still rebel against your interference; and if you take my property, it shall be by force and under protest."

What now does this proceeding amount to when regarded in the abstract? It amounts to an assertion by the individual of the right to exercise one of his faculties – the religious sentiment – without let or hindrance, and with no limit save that set up by the equal claims of others. And what is meant by ignoring the state? Simply an assertion of the right similarly to exercise *all* the faculties. The one is just an expansion of the other – rests on the same footing with the other – must stand or fall with the other. Men do indeed speak of civil and religious liberty as different things; but the distinction is quite arbitrary. They are parts of the same whole and cannot philosophically be separated.

"Yes they can," interposes an objector; "assertion of the one is imperative as being a religious duty. The liberty to worship God in the way that seems to him right, is a liberty without which a man cannot fulfil what he believes to be Divine commands, and therefore conscience requires him to maintain it." True enough; but how if the same can be asserted of all other liberty? How if maintenance of this also turns out to be a matter of conscience? Have we not seen that human happiness is the Divine will – that only by exercising our

faculties is this happiness obtainable – and that it is impossible to exercise them without freedom? And if this freedom for the exercise of faculties is a condition without which the Divine will cannot be fulfilled, the preservation of it is, by our objector's own showing, a duty. Or, in other words, it appears not only that the maintenance of liberty of action *may* be a point of conscience, but that it *ought* to be one. And thus we are clearly shown that the claims to ignore the state in religious and in secular matters are in essence identical.

The other reason commonly assigned for nonconformity, admits of similar treatment. Besides resisting state dictation in the abstract, the dissenter resists it from disapprobation of the doctrines taught. No legislative injunction will make him adopt what he considers an erroneous belief; and, bearing in mind his duty toward his fellow-men, he refuses to help through the medium of his purse in disseminating this erroneous belief. The position is perfectly intelligible. But it is one which either commits its adherents to civil nonconformity also, or leaves them in a dilemma. For why do they refuse to be instrumental in spreading error? Because error is adverse to human happiness. And on what ground is any piece of secular legislation disapproved? For the same reason – because thought adverse to human happiness. How then can it be shown that the state ought to be resisted in the one case and not in the other? Will any one deliberately assert that if a government demands money from us to aid in *teaching* what we think will produce evil, we ought to refuse it; but that if the money is for the purpose of *doing* what we think will produce evil, we ought not to refuse it? Yet such is the hopeful proposition which those have to maintain who recognize the right to ignore the state in religious matters, but deny it in civil matters.

## 7. Progress Hindered by Lack of Social Morality

The substance of the essay once more reminds us of the incongruity between a perfect law and an imperfect state. The practicability of the principle here laid down varies directly as social morality. In a thoroughly vicious community its admission would be productive of anarchy. In a completely virtuous one its admission will be both innocuous and inevitable. Progress toward a condition of social health – a condition, that is, in which the remedial measures of legislation will no longer be needed, is progress toward a condition in which those remedial measures will be cast aside, and the authority prescribing them disregarded. The two changes are of necessity coordinate. That

moral sense whose supremacy will make society harmonious and government unnecessary, is the same moral sense which will then make each man assert his freedom even to the extent of ignoring the state – is the same moral sense which, by deterring the majority from coercing the minority, will eventually render government impossible. And as what are merely different manifestations of the same sentiment must bear a constant ratio to each other, the tendency to repudiate governments will increase only at the same rate that governments become needless.

Let not any be alarmed, therefore, at the promulgation of the foregoing doctrine. There are many changes yet to be passed through before it can begin to exercise much influence. Probably a long time will elapse before the right to ignore the State will be generally admitted, even in theory. It will be still longer before it receives legislative recognition. And even then there will be plenty of checks upon the premature exercise of it. A sharp experience will sufficiently instruct those who may too soon abandon legal protection. Whilst, in the majority of men, there is such a love of tried arrangements, and so great a dread of experiments, that they will probably not act upon this right until long after it is safe to do so.

#### 8. The Coming Decay of the State

It is a mistake to assume that government must necessarily last forever. The institution marks a certain stage of civilization – is natural to a particular phase of human development. It is not essential, but incidental. As amongst the Bushmen we find a state antecedent to government, so may there be one in which it shall have become extinct. Already has it lost something of its importance. The time was when the history of a people was but the history of its government. It is otherwise now. The once universal despotism was but a manifestation of the extreme necessity of restraint. Feudalism, serfdom, slavery, all tyrannical institutions, are merely the most vigorous kinds of rule, springing out of, and necessary to, a bad state of man. The progress from these is in all cases the same – less government. Constitutional forms means this. Political freedom means this. Democracy means this. In societies, associations, joint-stock companies, we have new agencies occupying big fields filled in less advanced times and countries by the State. With us the legislature is dwarfed by newer and greater powers – is no longer master, but slave. "Pressure from without" has come to be acknowledged as ultimate ruler. The triumph

of the Anti-Corn Law League is simply the most marked instance yet of the new style of government, that of opinion, overcoming the old style, that of force. It bids fair to become a trite remark that the law-maker is but the servant of the thinker. Daily is Statecraft held in less repute. Even the "Times" can see that "the social changes thickening around us establish a truth sufficiently humiliating to legislative bodies," and that "the great stages of our progress are determined rather by the spontaneous workings of society, connected as they are with the progress of art and science, the operation of nature, and other such unpolitical causes, than by the proposition of a bill, the passing of an act, or any other event of politics or of State." Thus, as civilization advances, does government decay. To the bad it is essential; to the good, not. It is the check which national wickedness makes to itself, and exists only to the same degree. Its continuance is proof of still-existing barbarism. What a cage is to the wild beast, law is to the selfish man. Restraint is for the savage, the rapacious, the violent; not for the just, the gentle, the benevolent. All necessity for external force implies a morbid state. Dungeons for the felon; a strait jacket for the maniac; crutches for the lame; stays for the weak-backed; for the infirm of purpose a master; for the foolish a guide; but for the sound mind in a sound body none of these. Were there no thieves and murderers, prisons would be unnecessary. It is only because tyranny is yet rife in the world that we have armies. Barristers, judges, juries, all the instruments of law, exist simply because knavery exists. Magisterial force is the sequence of social vice, and the policeman is but the complement of the criminal. Therefore it is that we call government "a necessary evil."

What then must be thought of a morality which chooses this probationary institution for its basis, builds a vast fabric of conclusions upon its assumed permanence, selects acts of parliament for its materials, and employs the statesman for its architect? The expediency-philosopher does this. It takes government into partnership, assigns to it entire control of its affairs, enjoins all to defer to its judgment, makes it, in short, the vital principle, the very soul, of its system. When Paley teaches that "the interest of the whole society is binding upon every part of it," he implies the existence of some supreme power by which "that interest of the whole society" is to be determined. And elsewhere he more explicitly tells us that for the attainment of a national advantage the private will of the subject is to give way, and that "the proof of this advantage lies with the legislature."

Still more decisive is Bentham when he says that "the happiness of the individuals of whom a community is composed – that is, their pleasures and their security – is the sole end which the legislator ought to have in view, the sole standard in conformity with which each individual ought, as far as depends upon the legislature, to be made to fashion his behavior." These positions, be it remembered, are not voluntarily assumed; they are necessitated by the premises. If, as its propounder tells us, "expediency" means the benefit of the mass, not of the individual, – of the future as much as of the present, – it presupposes some one to judge of what will most conduce to that benefit. Upon the "utility" of this or that measure the views are so various as to render an umpire essential.

Whether protective duties, or established religions, or capital punishments, or poor-laws, do or do not minister to the "general good" are questions concerning which there is such difference of opinion that, were nothing to be done till all agreed upon them, we might stand still to the end of time. If each man carried out, independently of a State power, his own notions of what would best secure "the greatest happiness of the greatest number," society would quickly lapse into confusion. Clearly, therefore, a morality established upon a maxim of which the practical interpretation is questionable involves the existence of some authority whose decisions respecting it shall be final, – that is, a legislature. And without that authority such a morality must ever remain inoperative.

See here, then, the predicament, a system of moral philosophy professes to be a code of correct rules for the control of human beings – fitted for the regulation of the best as well as the worst members of the race – applicable, if true, to the guidance of humanity in its highest conceivable perfection. Government, however, is an institution originating in man's imperfection; an institution confessedly begotten by necessity out of evil; one which might be dispensed with were the world peopled with the unselfish, the conscientious, the philanthropic; one, in short, inconsistent with this same "highest conceivable perfection." How, then, can that be a true system of morality which adopts government as one of its premises?

### Author's Endnotes

<sup>1</sup> Sir William Blackstone (1723-1780) was the most renowned of English jurists.

<sup>2</sup> Hence may be drawn an argument for direct taxation; seeing that only when taxation is direct does repudiation of state burdens become possible.

## Source 5 E

Lysander Spooner

### No Treason. The Constitution of No Authority

#### I.

The Constitution has no inherent authority or obligation. It has no authority or obligation at all, unless as a contract between man and man. And it does not so much as even purport to be a contract between persons now existing. It purports, at most, to be only a contract between persons living eighty years ago. [This essay was written in 1869.] And it can be supposed to have been a contract then only between persons who had already come to years of discretion, so as to be competent to make reasonable and obligatory contracts. Furthermore, we know, historically, that only a small portion even of the people then existing were consulted on the subject, or asked, or permitted to express either their consent or dissent in any formal manner. Those persons, if any, who did give their consent formally, are all dead now. Most of them have been dead forty, fifty, sixty, or seventy years. *And the constitution, so far as it was their contract, died with them.* They had no natural power or right to make it obligatory upon their children. It is not only plainly impossible, in the nature of things, that they *could* bind their posterity, but they did not even attempt to bind them. That is to say, the instrument does not purport to be an agreement between any body but "the people" THEN existing; nor does it, either expressly or impliedly, assert any right, power, or disposition, on their part, to bind anybody but themselves. Let us see. Its language is:

We, the people of the United States (that is, the people THEN EXISTING in the United States), in order to form a more perfect union, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves AND OUR POSTERITY, do ordain and establish this Constitution for the United States of America.

It is plain, in the first place, that this language, AS AN AGREEMENT, purports to be only what it at most really was, viz., a contract between the people then existing; and, of necessity, binding, as a contract, only

upon those then existing. In the second place, the language neither expresses nor implies that they had any right or power, to bind their "posterity" to live under it. It does not say that their "posterity" will, shall, or must live under it. It only says, in effect, that their hopes and motives in adopting it were that it might prove useful to their posterity, as well as to themselves, by promoting their union, safety, tranquility, liberty, etc.

Suppose an agreement were entered into, in this form:

We, the people of Boston, agree to maintain a fort on Governor's Island, to protect ourselves and our posterity against invasion.

This agreement, as an agreement, would clearly bind nobody but the people then existing. Secondly, it would assert no right, power, or disposition, on their part, to compel their "posterity" to maintain such a fort. It would only indicate that the supposed welfare of their posterity was one of the motives that induced the original parties to enter into the agreement.

When a man says he is building a house for himself and his posterity, he does not mean to be understood as saying that he has any thought of binding them, nor is it to be inferred that he is so foolish as to imagine that he has any right or power to bind them, to live in it. So far as they are concerned, he only means to be understood as saying that his hopes and motives, in building it, are that they, or at least some of them, may find it for their happiness to live in it.

So when a man says he is planting a tree for himself and his posterity, he does not mean to be understood as saying that he has any thought of compelling them, nor is it to be inferred that he is such a simpleton as to imagine that he has any right or power to compel them, to eat the fruit. So far as they are concerned, he only means to say that his hopes and motives, in planting the tree, are that its fruit may be agreeable to them.

So it was with those who originally adopted the Constitution. Whatever may have been their personal intentions, the legal meaning of their language, so far as their "posterity" was concerned, simply was, that their hopes and motives, in entering into the agreement, were that it might prove useful and acceptable to their posterity; that it might promote their union, safety, tranquility, and welfare; and that it might tend "to secure to them the blessings of liberty." The language does not assert nor at all imply, any right, power, or disposition, on the part of the original parties to the agreement, to compel their "posterity" to live

under it. If they had intended to bind their posterity to live under it, they should have said that their objective was, not "to secure to them the blessings of liberty," but to make slaves of them; for if their "posterity" are bound to live under it, they are nothing less than the slaves of their foolish, tyrannical, and dead grandfathers.

It cannot be said that the Constitution formed "the people of the United States," for all time, into a corporation. It does not speak of "the people" as a corporation, but as individuals. A corporation does not describe itself as "we," nor as "people," nor as "ourselves." Nor does a corporation, in legal language, have any "posterity." It supposes itself to have, and speaks of itself as having, perpetual existence, as a single individuality.

Moreover, no body of men, existing at any one time, have the power to create a perpetual corporation. A corporation can become practically perpetual only by the voluntary accession of new members, as the old ones die off. But for this voluntary accession of new members, the corporation necessarily dies with the death of those who originally composed it.

Legally speaking, therefore, there is, in the Constitution, nothing that professes or attempts to bind the "posterity" of those who established it.

If, then, those who established the Constitution, had no power to bind, and did not attempt to bind, their posterity, the question arises, whether their posterity have bound themselves. If they have done so, they can have done so in only one or both of these two ways, viz., by voting, and paying taxes.

## II.

Let us consider these two matters, voting and tax paying, separately. And first of voting.

All the voting that has ever taken place under the Constitution, has been of such a kind that it not only did not pledge the whole people to support the Constitution, but it did not even pledge any one of them to do so, as the following considerations show.

1. In the very nature of things, the act of voting could bind nobody but the actual voters. But owing to the property qualifications required, it is probable that, during the first twenty or thirty years under the Constitution, not more than one-tenth, fifteenth, or perhaps twentieth of

the whole population (black and white, men, women, and minors) were permitted to vote. Consequently, so far as voting was concerned, not more than one-tenth, fifteenth, or twentieth of those then existing, could have incurred any obligation to support the Constitution.

At the present time [1869], it is probable that not more than one-sixth of the whole population are permitted to vote. Consequently, so far as voting is concerned, the other five-sixths can have given no pledge that they will support the Constitution.

2. Of the one-sixth that are permitted to vote, probably not more than two-thirds (about one-ninth of the whole population) have usually voted. Many never vote at all. Many vote only once in two, three, five, or ten years, in periods of great excitement.

No one, by voting, can be said to pledge himself for any longer period than that for which he votes. If, for example, I vote for an officer who is to hold his office for only a year, I cannot be said to have thereby pledged myself to support the government beyond that term. Therefore, on the ground of actual voting, it probably cannot be said that more than one-ninth or one-eighth, of the whole population are usually under any pledge to support the Constitution. [In recent years, since 1940, the number of voters in elections has usually fluctuated between one-third and two-fifths of the populace.]

3. It cannot be said that, by voting, a man pledges himself to support the Constitution, unless the act of voting be a perfectly voluntary one on his part. Yet the act of voting cannot properly be called a voluntary one on the part of any very large number of those who do vote. It is rather a measure of necessity imposed upon them by others, than one of their own choice. On this point I repeat what was said in a former number, viz.:

"In truth, in the case of individuals, their actual voting is not to be taken as proof of consent, *even for the time being*. On the contrary, it is to be considered that, without his consent having even been asked a man finds himself environed by a government that he cannot resist; a government that forces him to pay money, render service, and forego the exercise of many of his natural rights, under peril of weighty punishments. He sees, too, that other men practice this tyranny over him by the use of the ballot. He sees further, that, if he will but use the ballot himself, he

has some chance of relieving himself from this tyranny of others, by subjecting them to his own. In short, he finds himself, without his consent, so situated that, if he use the ballot, he may become a master; if he does not use it, he must become a slave. And he has no other alternative than these two. In self-defence, he attempts the former. His case is analogous to that of a man who has been forced into battle, where he must either kill others, or be killed himself. Because, to save his own life in battle, a man takes the lives of his opponents, it is not to be inferred that the battle is one of his own choosing. Neither in contests with the ballot – which is a mere substitute for a bullet – because, as his only chance of self-preservation, a man uses a ballot, is it to be inferred that the contest is one into which he voluntarily entered; that he voluntarily set up all his own natural rights, as a stake against those of others, to be lost or won by the mere power of numbers. On the contrary, it is to be considered that, in an exigency into which he had been forced by others, and in which no other means of self-defence offered, he, as a matter of necessity, used the only one that was left to him.

"Doubtless the most miserable of men, under the most oppressive government in the world, if allowed the ballot, would use it, if they could see any chance of thereby meliorating their condition. But it would not, therefore, be a legitimate inference that the government itself, that crushes them, was one which they had voluntarily set up, or even consented to.

"Therefore, a man's voting under the Constitution of the United States, is not to be taken as evidence that he ever freely assented to the Constitution, *even for the time being*. Consequently we have no proof that any very large portion, even of the actual voters of the United States, ever really and voluntarily consented to the Constitution, **EVEN FOR THE TIME BEING**. Nor can we ever have such proof, until every man is left perfectly free to consent, or not, without thereby subjecting himself or his property to be disturbed or injured by others."

As we can have no legal knowledge as to who votes from choice, and who from the necessity thus forced upon him, we can have no legal knowledge, as to any particular individual, that he voted from choice; or, consequently, that by voting, he consented, or pledged himself, to support the government. Legally speaking, therefore, the act of voting utterly fails to pledge ANY ONE to support the government. It utterly fails to prove that the government rests upon the voluntary support of anybody. On general principles of law and reason, it cannot be said that the government has any voluntary supporters at all, until it can be distinctly shown who its voluntary supporters are.

4. As taxation is made compulsory on all, whether they vote or not, a large proportion of those who vote, no doubt do so to prevent their own money being used against themselves; when, in fact, they would have gladly abstained from voting, if they could thereby have saved themselves from taxation alone, to say nothing of being saved from all the other usurpations and tyrannies of the government. To take a man's property without his consent, and then to infer his consent because he attempts, by voting, to prevent that property from being used to his injury, is a very insufficient proof of his consent to support the Constitution. It is, in fact, no proof at all. And as we can have no legal knowledge as to who the particular individuals are, if there are any, who are willing to be taxed for the sake of voting, we can have no legal knowledge that any particular individual consents to be taxed for the sake of voting; or, consequently, consents to support the Constitution.

5. At nearly all elections, votes are given for various candidates for the same office. Those who vote for the unsuccessful candidates cannot properly be said to have voted to sustain the Constitution. They may, with more reason, be supposed to have voted, not to support the Constitution, but specially to prevent the tyranny which they anticipate the successful candidate intends to practice upon them under color of the Constitution; and therefore may reasonably be supposed to have voted against the Constitution itself. This supposition is the more reasonable, inasmuch as such voting is the only mode allowed to them of expressing their dissent to the Constitution.

6. Many votes are usually given for candidates who have no prospect of success. Those who give such votes may reasonably be supposed to have voted as they did, with a special intention, not to support, but to obstruct the execution of, the Constitution; and, therefore, against the Constitution itself.

7. As all the different votes are given secretly (by secret ballot), there is no legal means of knowing, from the votes themselves, who votes for, and who votes against, the Constitution. Therefore, voting affords no legal evidence that any particular individual supports the Constitution. And where there can be no legal evidence that any particular individual supports the Constitution, it cannot legally be said that anybody supports it. It is clearly impossible to have any legal proof of the intentions of large numbers of men, where there can be no legal proof of the intentions of any particular one of them.

8. There being no legal proof of any man's intentions, in voting, we can only conjecture them. As a conjecture, it is probable, that a very large proportion of those who vote, do so on this principle, viz., that if, by voting, they could but get the government into their own hands (or that of their friends), and use its powers against their opponents, they would then willingly support the Constitution; but if their opponents are to have the power, and use it against them, then they would NOT willingly support the Constitution.

In short, men's voluntary support of the Constitution is doubtless, in most cases, wholly contingent upon the question whether, by means of the Constitution, they can make themselves masters, or are to be made slaves.

Such contingent consent as that is, in law and reason, no consent at all.

9. As everybody who supports the Constitution by voting (if there are any such) does so secretly (by secret ballot), and in a way to avoid all personal responsibility for the acts of his agents or representatives, it cannot legally or reasonably be said that anybody at all supports the Constitution by voting. No man can reasonably or legally be said to do such a thing as assent to, or support, the Constitution, *unless he does it openly, and in a way to make himself personally responsible for the acts of his agents, so long as they act within the limits of the power he delegates to them.*

10. As all voting is secret (by secret ballot), and as all secret governments are necessarily only secret bands of robbers, tyrants, and murderers, the general fact that our government is practically carried on by means of such voting, only proves that there is among us a secret band of robbers, tyrants, and murderers, whose purpose is to rob, enslave, and, so far as necessary to accomplish their purposes,

murder, the rest of the people. The simple fact of the existence of such a band does nothing towards proving that "the people of the United States," or any one of them, voluntarily supports the Constitution.

For all the reasons that have now been given, voting furnishes no legal evidence as to who the particular individuals are (if there are any), who voluntarily support the Constitution. It therefore furnishes no legal evidence that anybody supports it voluntarily.

So far, therefore, as voting is concerned, the Constitution, legally speaking, has no supporters at all.

And, as a matter of fact, there is not the slightest probability that the Constitution has a single bona fide supporter in the country. That is to say, there is not the slightest probability that there is a single man in the country, who both understands what the Constitution really is, *and sincerely supports it for what it really is*.

The ostensible supporters of the Constitution, like the ostensible supporters of most other governments, are made up of three classes, viz.: 1. Knaves, a numerous and active class, who see in the government an instrument which they can use for their own aggrandizement or wealth. 2. Dupes – a large class, no doubt – each of whom, because he is allowed one voice out of millions in deciding what he may do with his own person and his own property, and because he is permitted to have the same voice in robbing, enslaving, and murdering others, that others have in robbing, enslaving, and murdering himself, is stupid enough to imagine that he is a "free man," a "sovereign"; that this is "a free government"; "a government of equal rights," "the best government on earth,"<sup>1</sup> and such like absurdities. 3. A class who have some appreciation of the evils of government, but either do not see how to get rid of them, or do not choose to so far sacrifice their private interests as to give themselves seriously and earnestly to the work of making a change.

### III.

The payment of taxes, being compulsory, of course furnishes no evidence that any one voluntarily supports the Constitution.

1. It is true that the THEORY of our Constitution is, that all taxes are paid voluntarily; that our government is a mutual insurance company, voluntarily entered into by the people with each other; that each man

makes a free and purely voluntary contract with all others who are parties to the Constitution, to pay so much money for so much protection, the same as he does with any other insurance company; and that he is just as free not to be protected, and not to pay tax, as he is to pay a tax, and be protected.

But this theory of our government is wholly different from the practical fact. The fact is that the government, like a highwayman, says to a man: "Your money, or your life." And many, if not most, taxes are paid under the compulsion of that threat.

The government does not, indeed, waylay a man in a lonely place, spring upon him from the roadside, and, holding a pistol to his head, proceed to rifle his pockets. But the robbery is none the less a robbery on that account; and it is far more dastardly and shameful.

The highwayman takes solely upon himself the responsibility, danger, and crime of his own act. He does not pretend that he has any rightful claim to your money, or that he intends to use it for your own benefit. He does not pretend to be anything but a robber. He has not acquired impudence enough to profess to be merely a "protector," and that he takes men's money against their will, merely to enable him to "protect" those infatuated travellers, who feel perfectly able to protect themselves, or do not appreciate his peculiar system of protection. He is too sensible a man to make such professions as these. Furthermore, having taken your money, he leaves you, as you wish him to do. He does not persist in following you on the road, against your will; assuming to be your rightful "sovereign," on account of the "protection" he affords you. He does not keep "protecting" you, by commanding you to bow down and serve him; by requiring you to do this, and forbidding you to do that; by robbing you of more money as often as he finds it for his interest or pleasure to do so; and by branding you as a rebel, a traitor, and an enemy to your country, and shooting you down without mercy, if you dispute his authority, or resist his demands. He is too much of a gentleman to be guilty of such impostures, and insults, and villainies as these. In short, he does not, in addition to robbing you, attempt to make you either his dupe or his slave.

The proceedings of those robbers and murderers, who call themselves "the government," are directly the opposite of these of the single highwayman.

In the first place, they do not, like him, make themselves individually

known; or, consequently, take upon themselves personally the responsibility of their acts. On the contrary, they secretly (by secret ballot) designate some one of their number to commit the robbery in their behalf, while they keep themselves practically concealed. They say to the person thus designated: Go to A\_\_\_\_\_ B\_\_\_\_\_, and say to him that "the government" has need of money to meet the expenses of protecting him and his property. If he presumes to say that he has never contracted with us to protect him, and that he wants none of our protection, say to him that that is our business, and not his; that we CHOOSE to protect him, whether he desires us to do so or not; and that we demand pay, too, for protecting him. If he dares to inquire who the individuals are, who have thus taken upon themselves the title of "the government," and who assume to protect him, and demand payment of him, without his having ever made any contract with them, say to him that that, too, is our business, and not his; that we do not CHOOSE to make ourselves INDIVIDUALLY known to him; that we have secretly (by secret ballot) appointed you our agent to give him notice of our demands, and, if he complies with them, to give him, in our name, a receipt that will protect him against any similar demand for the present year. If he refuses to comply, seize and sell enough of his property to pay not only our demands, but all your own expenses and trouble beside. If he resists the seizure of his property, call upon the bystanders to help you (doubtless some of them will prove to be members of our band.) If, in defending his property, he should kill any of our band who are assisting you, capture him at all hazards; charge him (in one of our courts) with murder; convict him, and hang him. If he should call upon his neighbors, or any others who, like him, may be disposed to resist our demands, and they should come in large numbers to his assistance, cry out that they are all rebels and traitors; that "our country" is in danger; call upon the commander of our hired murderers; tell him to quell the rebellion and "save the country," cost what it may. Tell him to kill all who resist, though they should be hundreds of thousands; and thus strike terror into all others similarly disposed. See that the work of murder is thoroughly done; that we may have no further trouble of this kind hereafter. When these traitors shall have thus been taught our strength and our determination, they will be good loyal citizens for many years, and pay their taxes without a why or a wherefore.

It is under such compulsion as this that taxes, so called, are paid. And how much proof the payment of taxes affords, that the people consent

to "support the government," it needs no further argument to show.

2. Still another reason why the payment of taxes implies no consent, or pledge, to support the government, is that the taxpayer does not know, and has no means of knowing, who the particular individuals are who compose "the government." To him "the government" is a myth, an abstraction, an incorporeality, with which he can make no contract, and to which he can give no consent, and make no pledge. He knows it only through its pretended agents. "The government" itself he never sees. He knows indeed, by common report, that certain persons, of a certain age, are permitted to vote; and thus to make themselves parts of, or (if they choose) opponents of, the government, for the time being. But who of them do thus vote, and especially how each one votes (whether so as to aid or oppose the government), he does not know; the voting being all done secretly (by secret ballot). Who, therefore, practically compose "the government," for the time being, he has no means of knowing. Of course he can make no contract with them, give them no consent, and make them no pledge. Of necessity, therefore, his paying taxes to them implies, on his part, no contract, consent, or pledge to support them – that is, to support "the government," or the Constitution.

3. Not knowing who the particular individuals are, who call themselves "the government," the taxpayer does not know whom he pays his taxes to. All he knows is that a man comes to him, representing himself to be the agent of "the government" – that is, the agent of a secret band of robbers and murderers, who have taken to themselves the title of "the government," and have determined to kill everybody who refuses to give them whatever money they demand. To save his life, he gives up his money to this agent. But as this agent does not make his principals individually known to the taxpayer, the latter, after he has given up his money, knows no more who are "the government" – that is, who were the robbers – than he did before. To say, therefore, that by giving up his money to their agent, he entered into a voluntary contract with them, that he pledges himself to obey them, to support them, and to give them whatever money they should demand of him in the future, is simply ridiculous.

4. All political power, so called, rests practically upon this matter of money. Any number of scoundrels, having money enough to start with, can establish themselves as a "government"; because, with money, they can hire soldiers, and with soldiers extort more money; and also

compel general obedience to their will. It is with government, as Caesar said it was in war, that money and soldiers mutually supported each other; that with money he could hire soldiers, and with soldiers extort money. So these villains, who call themselves governments, well understand that their power rests primarily upon money. With money they can hire soldiers, and with soldiers extort money. And, when their authority is denied, the first use they always make of money, is to hire soldiers to kill or subdue all who refuse them more money.

For this reason, whoever desires liberty, should understand these vital facts, viz.: 1. That every man who puts money into the hands of a "government" (so called), puts into its hands a sword which will be used against him, to extort more money from him, and also to keep him in subjection to its arbitrary will. 2. That those who will take his money, without his consent, in the first place, will use it for his further robbery and enslavement, if he presumes to resist their demands in the future. 3. That it is a perfect absurdity to suppose that any body of men would ever take a man's money without his consent, for any such object as they profess to take it for, viz., that of protecting him; for why should they wish to protect him, if he does not wish them to do so? To suppose that they would do so, is just as absurd as it would be to suppose that they would take his money without his consent, for the purpose of buying food or clothing for him, when he did not want it. 4. If a man wants "protection," he is competent to make his own bargains for it; and nobody has any occasion to rob him, in order to "protect" him against his will. 5. That the only security men can have for their political liberty, consists in their keeping their money in their own pockets, until they have assurances, perfectly satisfactory to themselves, that it will be used as they wish it to be used, for their benefit, and not for their injury. 6. That no government, so called, can reasonably be trusted for a moment, or reasonably be supposed to have honest purposes in view, any longer than it depends wholly upon voluntary support.

These facts are all so vital and so self-evident, that it cannot reasonably be supposed that any one will voluntarily pay money to a "government," for the purpose of securing its protection, unless he first make an explicit and purely voluntary contract with it for that purpose.

It is perfectly evident, therefore, that neither such voting, nor such payment of taxes, as actually takes place, proves anybody's consent, or obligation, to support the Constitution. Consequently we have no evidence at all that the Constitution is binding upon anybody, or that

anybody is under any contract or obligation whatever to support it. And nobody is under any obligation to support it.

<sup>1</sup> Suppose it be "the best government on earth," does that prove its own goodness, or only the badness of all other governments?

## **Source 6 A**

**Thomas Hobbes**

**Leviathan**

**Part I. Of Man. Chapter XIII**

**Of The Natural Condition Of Mankind**

**As Concerning Their Felicity And Misery**

NATURE hath made men so equal in the faculties of body and mind as that, though there be found one man sometimes manifestly stronger in body or of quicker mind than another, yet when all is reckoned together the difference between man and man is not so considerable as that one man can thereupon claim to himself any benefit to which another may not pretend as well as he. For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination or by confederacy with others that are in the same danger with himself.

And as to the faculties of the mind, setting aside the arts grounded upon words, and especially that skill of proceeding upon general and infallible rules, called science, which very few have and but in few things, as being not a native faculty born with us, nor attained, as prudence, while we look after somewhat else, I find yet a greater equality amongst men than that of strength. For prudence is but experience, which equal time equally bestows on all men in those things they equally apply themselves unto. That which may perhaps make such equality incredible is but a vain conceit of one's own wisdom, which almost all men think they have in a greater degree than the vulgar; that is, than all men but themselves, and a few others, whom by fame, or for concurring with themselves, they approve. For such is the nature of men that howsoever they may acknowledge many others to be more witty, or more eloquent or more learned, yet they will hardly believe there be many so wise as themselves; for they see their own wit at hand, and other men's at a distance. But this proveth rather that men are in that point equal, than unequal. For there is not ordinarily a greater sign of the equal distribution of anything than that every man is contented with his share.

From this equality of ability ariseth equality of hope in the attaining of

our ends. And therefore if any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and in the way to their end (which is principally their own conservation, and sometimes their delectation only) endeavour to destroy or subdue one another. And from hence it comes to pass that where an invader hath no more to fear than another man's single power, if one plant, sow, build, or possess a convenient seat, others may probably be expected to come prepared with forces united to dispossess and deprive him, not only of the fruit of his labour, but also of his life or liberty. And the invader again is in the like danger of another.

And from this diffidence of one another, there is no way for any man to secure himself so reasonable as anticipation; that is, by force, or wiles, to master the persons of all men he can so long till he see no other power great enough to endanger him: and this is no more than his own conservation requireth, and is generally allowed. Also, because there be some that, taking pleasure in contemplating their own power in the acts of conquest, which they pursue farther than their security requires, if others, that otherwise would be glad to be at ease within modest bounds, should not by invasion increase their power, they would not be able, long time, by standing only on their defence, to subsist. And by consequence, such augmentation of dominion over men being necessary to a man's conservation, it ought to be allowed him.

Again, men have no pleasure (but on the contrary a great deal of grief) in keeping company where there is no power able to overawe them all. For every man looketh that his companion should value him at the same rate he sets upon himself, and upon all signs of contempt or undervaluing naturally endeavours, as far as he dares (which amongst them that have no common power to keep them in quiet is far enough to make them destroy each other), to extort a greater value from his contemners, by damage; and from others, by the example.

So that in the nature of man, we find three principal causes of quarrel. First, competition; secondly, diffidence; thirdly, glory.

The first maketh men invade for gain; the second, for safety; and the third, for reputation. The first use violence, to make themselves masters of other men's persons, wives, children, and cattle; the second, to defend them; the third, for trifles, as a word, a smile, a different opinion, and any other sign of undervalue, either direct in their persons or by reflection in their kindred, their friends, their nation, their profession, or their name.

Hereby it is manifest that during the time men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war as is of every man against every man. For war consisteth not in battle only, or the act of fighting, but in a tract of time, wherein the will to contend by battle is sufficiently known: and therefore the notion of time is to be considered in the nature of war, as it is in the nature of weather. For as the nature of foul weather lieth not in a shower or two of rain, but in an inclination thereto of many days together: so the nature of war consisteth not in actual fighting, but in the known disposition thereto during all the time there is no assurance to the contrary. All other time is peace.

Whatsoever therefore is consequent to a time of war, where every man is enemy to every man, the same consequent to the time wherein men live without other security than what their own strength and their own invention shall furnish them withal. In such condition there is no place for industry, because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving and removing such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short.

It may seem strange to some man that has not well weighed these things that Nature should thus dissociate and render men apt to invade and destroy one another: and he may therefore, not trusting to this inference, made from the passions, desire perhaps to have the same confirmed by experience. Let him therefore consider with himself: when taking a journey, he arms himself and seeks to go well accompanied; when going to sleep, he locks his doors; when even in his house he locks his chests; and this when he knows there be laws and public officers, armed, to revenge all injuries shall be done him; what opinion he has of his fellow subjects, when he rides armed; of his fellow citizens, when he locks his doors; and of his children, and servants, when he locks his chests. Does he not there as much accuse mankind by his actions as I do by my words? But neither of us accuse man's nature in it. The desires, and other passions of man, are in themselves no sin. No more are the actions that proceed from those passions till they know a law that forbids them; which till laws be made they cannot know, nor can any law be made till they have agreed upon the person that shall make it.

It may peradventure be thought there was never such a time nor condition of war as this; and I believe it was never generally so, over all the world: but there are many places where they live so now. For the savage people in many places of America, except the government of small families, the concord whereof dependeth on natural lust, have no government at all, and live at this day in that brutish manner, as I said before. Howsoever, it may be perceived what manner of life there would be, where there were no common power to fear, by the manner of life which men that have formerly lived under a peaceful government use to degenerate into a civil war.

But though there had never been any time wherein particular men were in a condition of war one against another, yet in all times kings and persons of sovereign authority, because of their independency, are in continual jealousies, and in the state and posture of gladiators, having their weapons pointing, and their eyes fixed on one another; that is, their forts, garrisons, and guns upon the frontiers of their kingdoms, and continual spies upon their neighbours, which is a posture of war. But because they uphold thereby the industry of their subjects, there does not follow from it that misery which accompanies the liberty of particular men.

To this war of every man against every man, this also is consequent; that nothing can be unjust. The notions of right and wrong, justice and injustice, have there no place. Where there is no common power, there is no law; where no law, no injustice. Force and fraud are in war the two cardinal virtues. Justice and injustice are none of the faculties neither of the body nor mind. If they were, they might be in a man that were alone in the world, as well as his senses and passions. They are qualities that relate to men in society, not in solitude. It is consequent also to the same condition that there be no propriety, no dominion, no mine and thine distinct; but only that to be every man's that he can get, and for so long as he can keep it. And thus much for the ill condition which man by mere nature is actually placed in; though with a possibility to come out of it, consisting partly in the passions, partly in his reason.

The passions that incline men to peace are: fear of death; desire of such things as are necessary to commodious living; and a hope by their industry to obtain them. And reason suggesteth convenient articles of peace upon which men may be drawn to agreement. These articles are they which otherwise are called the laws of nature, whereof

I shall speak more particularly in the two following chapters.

## Source 6 B

### Gustave de Molinari The Production of Security<sup>1</sup>

There are two ways of considering society. According to some, the development of human associations is not subject to providential, unchangeable laws. Rather, these associations, having originally been organized in a purely artificial manner by primeval legislators, can later be modified or remade by other legislators, in step with the progress of *social science*. In this system the government plays a preeminent role, because it is upon it, the custodian of the principle of authority, that the daily task of modifying and remaking society devolves.

According to others, on the contrary, society is a purely natural fact. Like the earth on which it stands, society moves in accordance with general, preexisting laws. In this system, there is no such thing, strictly speaking, as social science; there is only economic science, which studies the natural organism of society and shows how this organism functions.

We propose to examine, within the latter system, the function and natural organization of government.

#### THE NATURAL ORDER OF SOCIETY

In order to define and delimit the function of government, it is first necessary to investigate the essence and object of society itself.

What natural impulse do men obey when they combine into society? They are obeying the impulse, or, to speak more exactly, the instinct of sociability. The human race is essentially *sociable*. Like beavers and the higher animal species in general, men have an instinctive inclination to live in society.

Why did this instinct come into being?

Man experiences a multitude of needs, on whose satisfaction his happiness depends, and whose non-satisfaction entails suffering. Alone and isolated, he could only provide in an incomplete, insufficient manner for these incessant needs. The instinct of sociability brings him

together with similar persons, and drives him into communication with them. Therefore, impelled by the *self-interest* of the individuals thus brought together, a certain *division of labor* is established, necessarily followed by *exchanges*. In brief, we see an *organization* emerge, by means of which man can more completely satisfy his needs than he could living in isolation.

This natural organization is called *society*.

The object of society is therefore the most complete satisfaction of man's needs. The division of labor and exchange are the means by which this is accomplished.

Among the needs of man, there is one particular type which plays an immense role in the history of humanity, namely the need for security.

What is this need?

Whether they live in isolation or in society, men are, above all, interested in preserving their existence and the fruits of their labor. If the sense of justice were universally prevalent on earth; if, consequently, each man confined himself to laboring and exchanging the fruits of his labor, without wishing to take away, by violence or fraud, the fruits of other men's labor; if everyone had, in one word, an instinctive horror of any act harmful to another person, it is certain that security would exist *naturally* on earth, and that no artificial institution would be necessary to establish it. Unfortunately this is not the way things are. The sense of justice seems to be the perquisite of only a few eminent and exceptional temperaments. Among the inferior races, it exists only in a rudimentary state. Hence the innumerable criminal attempts, ever since the beginning of the world, since the days of Cain and Abel, against the lives and property of individuals.

Hence also the creation of establishments whose object is to guarantee to everyone the peaceful possession of his person and his goods.

These establishments were called *governments*.

Everywhere, even among the least enlightened tribes, one encounters a government, so universal and urgent is the need for security provided by government.

Everywhere, men resign themselves to the most extreme sacrifices rather than do without government and hence security, without realizing that in so doing, they misjudge their alternatives.

Suppose that a man found his person and his means of survival incessantly menaced; wouldn't his first and constant preoccupation be to protect himself from the dangers that surround him? This preoccupation, these efforts, this labor, would necessarily absorb the greater portion of his time, as well as the most energetic and active faculties of his intelligence. In consequence, he could only devote insufficient and uncertain efforts, and his divided attention, to the satisfaction of his other needs.

Even though this man might be asked to surrender a very considerable portion of his time and of his labor to someone who takes it upon himself to guarantee the peaceful possession of his person and his goods, wouldn't it be to his advantage to conclude this bargain?

Still, it would obviously be no less in his self-interest to procure his *security* at the lowest price possible.

## COMPETITION IN SECURITY

If there is one well-established truth in political economy, it is this:

*That in all cases, for all commodities that serve to provide for the tangible or intangible needs of the consumer, it is in the consumer's best interest that labor and trade remain free, because the freedom of labor and of trade have as their necessary and permanent result the maximum reduction of price.*

And this:

*That the interests of the consumer of any commodity whatsoever should always prevail over the interests of the producer.*

Now in pursuing these principles, one arrives at this rigorous conclusion:

*That the production of security should, in the interests of the consumers of this intangible commodity, remain subject to the law of free competition.*

Whence it follows:

*That no government should have the right to prevent another government from going into competition with it, or to require consumers of security to come exclusively to it for this commodity.*

Nevertheless, I must admit that, up until the present, one recoiled before this rigorous implication of the principle of free competition.

One economist who has done as much as anyone to extend the application of the principle of liberty, M. Charles Dunoyer, thinks “that the functions of government will never be able to fall into the domain of private activity.”<sup>2</sup>

Now here is a citation of a clear and obvious exception to the principle of free competition.

This exception is all the more remarkable for being unique.

Undoubtedly, one can find economists who establish more numerous exceptions to this principle; but we may emphatically affirm that these are not *pure* economists. True economists are generally agreed, on the one hand, that the government should restrict itself to guaranteeing the security of its citizens, and on the other hand, that the freedom of labor and of trade should otherwise be whole and absolute.

But why should there be an exception relative to security? What special reason is there that the production of security cannot be relegated to free competition? Why should it be subjected to a different principle and organized according to a different system?

On this point, the masters of the science are silent, and M. Dunoyer, who has clearly noted this exception, does not investigate the grounds on which it is based.

## **SECURITY AN EXCEPTION?**

We are consequently led to ask ourselves whether his exception is well founded, in the eyes of the economist.

It offends reason to believe that a well established natural law can admit of exceptions. A natural law must hold everywhere and always, or be invalid. I cannot believe, for example, that the universal law of gravitation, which governs the physical world, is ever suspended in any instance or at any point of the universe. Now I consider economic laws comparable to natural laws, and I have just as much faith in the principle of the division of labor as I have in the universal law of gravitation. I believe that while these principles can be *disturbed*, they admit of no exceptions.

But, if this is the case, the production of security should not be removed from the jurisdiction of free competition; and if it is removed, society as a whole suffers a loss.

Either this is logical and true, or else the principles on which economic science is based are invalid.

## THE ALTERNATIVES

It thus has been demonstrated *a priori*, to those of us who have faith in the principles of economic science, that the exception indicated above is not justified, and that the production of security, like anything else, should be subject to the law of free competition.

Once we have acquired this conviction, what remains for us to do? It remains for us to investigate how it has come about that the production of security has not been subjected to the law of free competition, but rather has been subjected to different principles.

What are those principles?

Those of *monopoly* and *communism*.

In the entire world, there is not a single establishment of the security industry that is not based on monopoly or on communism.

In this connection, we add, in passing, a simple remark.

Political economy has disapproved equally of monopoly and communism in the various branches of human activity, wherever it has found them. Is it not then strange and unreasonable that it accepts them in the security industry?

## MONOPOLY AND COMMUNISM

Let us now examine how it is that all known governments have either been subjected to the law of monopoly, or else organized according to the communistic principle.

First let us investigate what is understood by the words monopoly and communism.

It is an observable truth that the more urgent and necessary are man's needs, the greater will be the sacrifices he will be willing to endure in

order to satisfy them. Now, there are some things that are found abundantly in nature, and whose production does not require a great expenditure of labor, but which, since they satisfy these urgent and necessary wants, can consequently acquire an exchange value all out of proportion with their natural value. Take salt for example. Suppose that a man or a group of men succeed in having the exclusive production and sale of salt assigned to themselves. It is apparent that this man or group could arise the price of this commodity well above its value, well above the price it would have under a regime of free competition.

One will then say that this man or this group possesses a monopoly, and that the price of salt is a monopoly price.

But it is obvious that the consumers will not consent freely to paying the abusive monopoly surtax. It will be necessary to compel them to pay it, and in order to compel them, the employment of force will be necessary.

Every monopoly necessarily rests on force.

When the monopolists are no longer as strong as the consumers they exploit, what happens?

In every instance, the monopoly finally disappears either violently or as the outcome of an amicable transaction. What is it replaced with?

If the roused and insurgent consumers secure the means of production of the salt industry, in all probability they will confiscate this industry for their own profit, and their first thought will be, not to relegate it to free competition, but rather to exploit it, *in common*, for their own account. They will then name a director or a directive committee to operate the saltworks, to whom they will allocate the funds necessary to defray the costs of salt production. Then, since the experience of the past will have made them suspicious and distrustful, since they will be afraid that the director named by them will seize production for his own benefit, and simply reconstitute by open or hidden means the old monopoly for his own profit, they will elect delegates, representatives entrusted with appropriating the funds necessary for production, with watching over their use, and with making sure that the salt produced is equally distributed to those entitled to it. The production of salt will be organized in this manner.

This form of the organization of production has been named

communism.

When this organization is applied to a single commodity, the communism is said to be partial.

When it is applied to all commodities, the communism is said to be complete.

But whether communism is partial or complete, political economy is no more tolerant of it than it is of monopoly, of which it is merely an extension.

## **THE MONOPOLIZATION AND COLLECTIVIZATION OF THE SECURITY INDUSTRY**

Isn't what has just been said about salt applicable to security? Isn't this the history of all monarchies and all republics?

Everywhere, the production of security began by being organized as a monopoly, and everywhere, nowadays, it tends to be organized communistically.

Here is why.

Among the tangible and intangible commodities necessary to man, none, with the possible exception of wheat, is more indispensable, and therefore none can support quite so large a monopoly duty.

Nor is any quite so prone to monopolization.

What, indeed, is the situation of men who need security? Weakness. What is the situation of those who undertake to provide them with this necessary security? Strength. If it were otherwise, if the consumers of security were stronger than the producers, they obviously would dispense with their assistance.

Now, if the producers of security are originally stronger than the consumers, won't it be easy for the former to impose a monopoly on the latter?

Everywhere, when societies originate, we see the strongest, most warlike races seizing the exclusive government of the society. Everywhere we see these races seizing a monopoly on security within certain more or less extensive boundaries, depending on their number and strength.

And, this monopoly being, by its very nature, extraordinarily profitable, everywhere we see the races invested with the monopoly on security devoting themselves to bitter struggles, in order to add to *the extent of their market*, the number of their *forced* consumers, and hence the amount of their gains.

War has been the necessary and inevitable consequence of the establishment of a monopoly on security.

Another inevitable consequence has been that this monopoly has engendered all other monopolies.

When they saw the situation of the monopolizers of security, the producers of other commodities could not help but notice that nothing in the world is more advantageous than monopoly. They, in turn, were consequently tempted to add to the gains from their own industry by the same process. But what did they require in order to monopolize, to the detriment of the consumers, the commodity they produced? They required force. However, they did not possess the force necessary to constrain the consumers in question. What did they do? They borrowed it, for a consideration, from those who had it. They petitioned and obtained, at the price of an agreed upon fee, the exclusive privilege of carrying on their industry within certain determined boundaries. Since the fees for these privileges brought the producers of security a goodly sum of money, the world was soon covered with monopolies. Labor and trade were everywhere shackled, enchained, and the condition of the masses remained as miserable as possible.

Nevertheless, after long centuries of suffering, as enlightenment spread through the world little by little, the masses who had been smothered under this nexus of privileges began to rebel against the privileged, and to demand *liberty*, that is to say, the suppression of monopolies.

This process took many forms. What happened in England, for example? Originally, the race which governed the country and which was militarily organized (the aristocracy), having at its head a hereditary leader (the king), and an equally hereditary administrative council (the House of Lords), set the price of security, which it had monopolized, at whatever rate it pleased. There was no negotiation between the producers of security and the consumers. This was the rule of *absolutism*. But as time passed, the consumers, having become aware of their numbers and strength, arose against the purely arbitrary regime, and they obtained the right to negotiate with the producers over

the price of the commodity. For this purpose, they sent delegates to the *House of Commons* to discuss the level of taxes, the price of security. They were thus able to improve their lot somewhat. Nevertheless, the producers of security had a direct say in the naming of the members of the House of Commons, so that debate was not entirely open, and the price of the commodity remained above its natural value. One day the exploited consumers rose against the producers and dispossessed them of their industry. They then undertook to carry on this industry by themselves and chose for this purpose a director of operations assisted by a Council. Thus communism replaced monopoly. But the scheme did not work, and twenty years later, primitive monopoly was re-established. Only this time the monopolists were wise enough not to restore the rule of absolutism; they accepted free debate over taxes, being careful, all the while, incessantly to corrupt the delegates of the opposition party. They gave these delegates control over various posts in the administration of security, and they even went so far as to allow the most influential into the bosom of their superior Council. Nothing could have been more clever than this behavior. Nevertheless, the consumers of security finally became aware of these abuses, and demanded the reform of Parliament. This long contested reform was finally achieved, and since that time, the consumers have won a significant lightening of their burdens.

In France, the monopoly on security, after having similarly undergone frequent vicissitudes and various modifications, has just been overthrown for the second time. [De Molinari was writing one year after the revolutions of 1848 – Tr.] As once happened in England, monopoly for the benefit of one caste, and then in the name of a certain class of society, was finally replaced by communal production. The consumers as a whole, behaving like shareholders, named a director responsible for supervising the actions of the director and of his administration.

We will content ourselves with making one simple observation on the subject of this new regime.

Just as the monopoly on security logically had to spawn universal monopoly, so communistic security must logically spawn universal communism.

In reality, we have a choice of two things:

Either communistic production is superior to free production, or it is not.

If it is, then it must be for all things, not just for security.

If not, *progress* requires that it be replaced by free production.

Complete communism or complete liberty: that is the alternative!

## GOVERNMENT AND SOCIETY

But is it conceivable that the production of security could be organized other than as a monopoly or communistically? Could it conceivably be relegated to free competition?

The response to this question on the part of *political* writers is unanimous: No.

Why? We will tell you why.

Because these writers, who are concerned especially with governments, know nothing about society. They regard it as an artificial fabrication, and believe that the mission of government is to modify and remake it constantly.

Now in order to modify or remake society, it is necessary to be empowered with a *authority* superior to that of the various individuals of which it is composed.

Monopolistic governments claim to have obtained from God himself this authority which gives them the right to modify or remake society according to their fancy, and to dispose of persons and property however they please. Communistic governments appeal to human reason, as manifested in the majority of the sovereign people.

But do monopolistic governments and communistic governments truly possess this superior, irresistible authority? Do they in reality have a higher authority than that which a free government could have? This is what we must investigate.

## THE DIVINE RIGHT OF KINGS AND MAJORITIES

If it were true that society were not *naturally* organized, if it were true that the laws which govern its motion were to be constantly modified or remade, the *legislators* would necessarily have to have an immutable, sacred authority. Being the continuators of Providence on earth, they would have to be regarded as almost equal to God. If it were otherwise, would it not be impossible for them to fulfill their mission? Indeed, one cannot intervene in human affairs, one cannot attempt to direct and

regulate them, without daily offending a multitude of interests. Unless those in power are believed to have a mandate from a superior entity, the injured interests will resist.

Whence the fiction of divine right.

This fiction was certainly the best imaginable. If you succeed in persuading the multitude that God himself has chosen certain men or certain races to give laws to society and to govern it, no one will dream of revolting against these appointees of Providence, and everything the government does will be accepted. A government based on divine right is imperishable.

On one condition only, namely that divine right is believed in.

If one takes the thought into one's head that the leaders of the people do not receive their inspirations directly from providence itself, that they obey purely human impulses, the prestige that surrounds them will disappear. One will irreverently resist their sovereign decisions, as one resists anything manmade whose *utility* has not been clearly demonstrated.

It is accordingly fascinating to see the pains theoreticians of the divine right take to establish the *superhumanity* of the races in possession of human government.

Let us listen, for example, to M. Joseph de Maistre:

Man does not make sovereigns. At the very most he can serve as an instrument for dispossessing one sovereign and handing his State over to another sovereign, himself already a prince. Moreover, there has never existed a sovereign family traceable to plebeian origins. If this phenomenon were to appear, it would mark a new epoch on earth.

... It is written: *I am the Maker of sovereigns*. This is not just a religious slogan, a preacher's metaphor; it is the literal truth pure and simple; it is a law of the political world. God *makes* kings, word for word. He prepares royal races, nurtures them at the center of a cloud which hides their origins. Finally they appear, *crowned with glory and honor*; they take their places.<sup>3</sup>

According to this system, which embodies the will of Providence in certain men and which invests these chosen ones, these anointed ones with a quasi-divine authority, the *subjects* evidently have no rights at all. They must submit, *without question*, to the decrees of the sovereign authority, as if they were the decrees of Providence itself.

According to Plutarch, the body is the instrument of the soul, and the soul is the instrument of God. According to the divine right school, God selects certain souls and uses them as instruments for governing the world.

If men *had faith* in this theory, surely nothing could unsettle a government based on divine right.

Unfortunately, they have completely lost faith.

Why?

Because one fine day they took it into their heads to question and to reason, and in questioning, in reasoning, they discovered that their governors governed them no better than they, simply mortals out of communication with Providence, could have done themselves.

It was *free inquiry* that demonetized the fiction of divine right, to the point where the subjects of monarchs or of aristocracies based on divine right obey them only insofar as they think it *in their own self-interest* to obey them.

Has the communist fiction fared any better?

According to the communist theory, of which Rousseau is the high-priest, authority does not descend from on high, but rather comes up from below. The government no longer look to Providence for its authority, it looks to united mankind, to the *one, indivisible, and sovereign* nation.

Here is what the communists, the partisans of popular sovereignty, assume. They assume that human reason has the power to discover the best laws and the organization which most perfectly suits society; and that, in practice, these laws reveal themselves at the conclusion of a free debate between conflicting opinions. If there is no unanimity, if there is still dissension after the debate, the majority is in the right, since it comprises the larger number of reasonable individuals. (These individuals are, of course, assumed to be equal, otherwise the whole structure collapses.) Consequently, they insist that the decisions of the

majority must become *law*, and that the minority is obliged to submit to it, even if it is contrary to its most deeply rooted convictions and injures its most precious interests.

That is the theory; but, in practice, does the *authority* of the decision of the majority really have this irresistible, absolute character as assumed? Is it always, in every instance, respected by the minority? Could it be?

Let us take an example.

Let us suppose that socialism succeeds in propagating itself among the working classes in the countryside as it has already among the working classes in the cities; that it consequently becomes the majority in the country and that, profiting from this situation, it sends a socialist majority to the Legislative Assembly and names a socialist president. Suppose that this majority and this president, invested with sovereign authority, decrees the imposition of a tax on the rich of three billions, in order to organize the labor of the poor, as M. Proudhon demanded. Is it probable that the minority would submit peacefully to his iniquitous and absurd, yet legal, yet *constitutional* plunder?

No, without a doubt it would not hesitate to disown *the authority* of the majority and to defend its property.

Under this regime, as under the preceding, one obeys the custodians of authority only insofar as one thinks it in one's self-interest to obey them.

This leads us to affirm that the moral foundation of authority is neither as solid nor as wide, under a regime of monopoly or of communism, as it could be under a regime of liberty.

## THE REGIME OF TERROR

Suppose nevertheless that the partisans of an *artificial organization*, either the monopolists or the communists, are right; that society is not naturally organized, and that the task of making and unmaking the laws that regulate society continuously devolves upon men, look in what a lamentable situation the world would find itself. The moral authority of governors rests, *in reality*, on the self-interest of the governed. The latter having a natural tendency to resist anything harmful to their self-interest, unacknowledged authority would continually require the help

of physical force.

The monopolist and the communists, furthermore, completely understand this necessity.

If anyone, says M. de Maistre, attempts to detract from the authority of God's chosen ones, let him be turned over to the secular power, let the hangman perform his office.

If anyone does not recognize the authority of those chosen by the people, say the theoreticians of the school of Rousseau, if he resists any decision whatsoever of the majority, let him be punished as an enemy of the sovereign people, let the guillotine perform justice.

These two schools, which both take *artificial organization* as their point of departure, necessarily lead to the same conclusion: TERROR.

## THE FREE MARKET FOR SECURITY

Allow us now to formulate a simple hypothetical situation.

Let us imagine a new-born society: The men who compose it are busy working and exchanging the fruits of their labor. A natural instinct reveals to these men that their persons, the land they occupy and cultivate, the fruits of their labor, are their *property*, and that no one, except themselves, has the right to dispose of or touch this property. This instinct is not hypothetical; it exists. But man being an imperfect creature, this awareness of the right of everyone to his person and his goods will not be found to the same degree in every soul, and certain individuals will make criminal attempts, by violence or by fraud, against the persons or the property of others.

Hence, the need for an industry that prevents or suppresses these forcible or fraudulent aggressions.

Let us suppose that a man or a combination of men comes and says:

For a recompense, I will undertake to prevent or suppress criminal attempts against persons and property.

Let those who wish their persons and property to be sheltered from all aggression apply to me.

Before striking a bargain with this *producer of security*, what will the consumers do?

In the first place, they will check if he is really strong enough to protect them.

In the second place, whether his character is such that they will not have to worry about his instigating the very aggressions he is supposed to suppress.

In the third place, whether any other producer of security, offering equal guarantees, is disposed to offer them this commodity on better terms.

These terms are of various kinds.

In order to be able to guarantee the consumers full security of their persons and property, and, in case of harm, to give them a compensation proportioned to the loss suffered, it would be necessary, indeed:

1. That the producer establish certain penalties against the offenders of persons and the violators of property, and that the consumers agree to submit to these penalties, in case they themselves commit offenses;
2. That he impose certain inconveniences on the consumers, with the object of facilitating the discovery of the authors of offenses;
3. That he regularly gather, in order to cover his costs of production as well as an appropriate return for his efforts, a certain sum, variable according to the situation of the consumers, the particular occupations they engage in, and the extent, value, and nature of their properties.

If these terms, necessary for carrying on this industry, are agreeable to the consumers, a bargain will be struck. Otherwise the consumers will either do without security, or else apply to another producer.

Now if we consider the particular nature of the security industry, it is apparent that the producers will necessarily restrict their clientele to certain territorial boundaries. They would be unable to cover their costs if they tried to provide police services in localities comprising only a few clients. Their clientele will naturally be clustered around the center of their activities. They would nevertheless be unable to abuse this situation by dictating to the consumers. In the event of an abusive rise in the price of security, the consumers would always have the option of giving their patronage to a new entrepreneur, or to a neighboring entrepreneur.

This option the consumer retains of being able to buy security wherever he pleases brings about a constant emulation among all the

producers, each producer striving to maintain or augment his clientele with the attraction of cheapness or of faster, more complete and better justice.<sup>4</sup>

If, on the contrary, the consumer is not free to buy security wherever he pleases, you forthwith see open up a large profession dedicated to arbitrariness and bad management. Justice becomes slow and costly, the police vexatious, individual liberty is no longer respected, the price of security is abusively inflated and inequitably apportioned, according to the power and influence of this or that class of consumers. The protectors engage in bitter struggles to wrest customers from one another. In a word, all the abuses inherent in monopoly or in communism crop up.

Under the rule of free competition, war between the producers of security entirely loses its justification. Why would they make war? To conquer consumers? But the consumers would not allow themselves to be conquered. They would be careful not to allow themselves to be protected by men who would unscrupulously attack the persons and property of their rivals. If some audacious conqueror tried to become dictator, they would immediately call to their aid all the free consumers menaced by this aggression, and they would treat him as he deserved. Just as war is the natural consequence of monopoly, peace is the natural consequence of liberty.

Under a regime of liberty, the natural organization of the security industry would not be different from that of other industries. In small districts a single entrepreneur could suffice. This entrepreneur might leave his business to his son, or sell it to another entrepreneur. In larger districts, one company by itself would bring together enough resources adequately to carry on this important and difficult business. If it were well managed, this company could easily last, and security would last with it. In the security industry, just as in most of the other branches of production, the latter mode of organization will probably replace the former, in the end.

On the one hand this would be a monarchy, and on the other hand it would be a republic; but it would be a monarchy without monopoly and a republic without communism.

On either hand, this authority would be accepted and respected in the name of *utility*, and would not be an authority imposed by *terror*.

It will undoubtedly be disputed whether such a hypothetical situation is

realizable. But, at the risk of being considered utopian, we affirm that this is not disputable, that a careful examination of the facts will decide the problem of government more and more in favor of liberty, just as it does all other economic problems. We are convinced, so far as we are concerned, that one day societies will be established to agitate for the *freedom of government*, as they have already been established on behalf of the freedom of commerce.

And we do not hesitate to add that after this reform has been achieved, and all artificial obstacles to the free action of the natural laws that govern the economic world have disappeared, the situation of the various members of society will become *the best possible*.

## Notes

<sup>1</sup> Although this article may appear utopian in its conclusions, we nevertheless believe that we should publish it in order to attract the attention of economists and journalists to a question which has hitherto been treated in only a desultory manner and which should, nevertheless, in our day and age, be approached with greater precision. So many people exaggerate the nature and prerogatives of government that it has become useful to formulate strictly the boundaries outside of which the intervention of authority becomes anarchical and tyrannical rather than protective and profitable. [Note of the editor-in-chief of the *Journal des Economistes*, 1849.]

<sup>2</sup> In his remarkable book *De la liberté du travail* (*On the Freedom of Labor*), Vol. III, p. 253. (Published by Guillaumin.)

<sup>3</sup> *Du principe générateur des constitutions politiques*. (*On the Generating Principle of Political Constitutions*.) Preface.

<sup>4</sup> Adam Smith, whose remarkable spirit of observation extends to all subjects, remarks that the administration of justice gained much, in England, from the competition between the different courts of law:

The fees of court seem originally to have been the principal support of the different courts of justice in England. Each court endeavoured to draw to itself as much business as it could, and was, upon that account, willing to take cognizance of many suits which were not originally intended to fall under its jurisdiction. The court of king's bench instituted for the trial of criminal causes only, took

cognizance of civil suits; the plaintiff pretending that the defendant, in not doing him justice, had been guilty of some trespass or misdemeanor. The court of exchequer, instituted for the levying of the king's revenue, and for enforcing the payment of such debts only as were due to the king, took cognizance of all other contract debts; the plaintiff alleging that he could not pay the king, because the defendant would not pay him. In consequence of such fictions it came, in many case, to depend altogether upon the parties before what court they would chuse to have their cause tried; and each court endeavoured, by superior dispatch and impartiality, to draw to itself as many causes as it could. The present admirable constitution of the courts of justice in England was, perhaps, originally in a great measure, formed by this emulation, which anciently took place between their respective judges; each judge endeavouring to give, in his own court, the speediest and most effectual remedy, which the law would admit, for every sort of injustice.

– *The Wealth of Nations* (New York: Modern Library, 1937; originally 1776), p. 679.

Originally published as “De la production de la sécurité,” in *Journal des Economistes* (Feb, 1849), pp. 277-90.

## Source 6C

**Hans-Hermann Hoppe**

### **Government and the Private Production of Defense**

*It is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.*

– Declaration of Independence

I

Among the most popular and consequential beliefs of our age is the belief in collective security. Nothing less significant than the legitimacy of the modern state rests on this belief.

I will demonstrate that the idea of collective security is a myth that provides no justification for the modern state, and that all security is and must be private. First, I will present a two-step reconstruction of the myth of collective security, and at each step I will raise a few theoretical concerns.

The myth of collective security can also be called the Hobbesian myth. Thomas Hobbes, and countless political philosophers and economists after him, argued that in the state of nature, men would constantly be at each others' throats. *Homo homini lupus est*. Put in modern jargon, in the state of nature, a permanent "underproduction" of security would prevail. Each individual, left to his own devices and provisions, would spend "too little" on his own defense, resulting in permanent interpersonal warfare. The solution to this presumably intolerable situation, according to Hobbes and his followers, is the establishment of a state. In order to institute peaceful cooperation among themselves, two individuals, A and B, require a third independent party, S, as ultimate judge and peacemaker. However, this third party, S, is not just another individual, and the good provided by S, that of security, is not just another "private" good. Rather, S is a *sovereign* and has as such two unique powers. On the one hand, S can insist that his *subjects*, A and B, not seek protection from anyone but him; that is, S is a compulsory territorial monopolist of protection. On the other hand, S can determine unilaterally how much A and B must spend on their own

security; that is, S has the power to impose taxes in order to provide security “collectively.”

There is little use in quarreling over whether or not man is as bad and wolf-like as Hobbes supposes, except to note that Hobbes’s thesis obviously cannot mean that man is driven only and exclusively by aggressive instincts. If this were the case, mankind would have died out long ago. The fact that he did not demonstrates that man also possesses reason and is capable of constraining his natural impulses. The quarrel is only with the Hobbesian solution. *Given* man’s nature as a *rational* animal, is the proposed solution to the problem of insecurity an *improvement*? Can the institution of a state reduce aggressive behavior and promote peaceful cooperation, and thus provide for better private security and protection? The difficulties with Hobbes’s argument are obvious. For one, regardless of how bad men are, S – whether king, dictator, or elected president – is still one of them. Man’s nature is not transformed upon becoming S. Yet how can there be better protection for A and B, if S must tax them in order to provide it? Is there not a contradiction within the very construction of S as an expropriating property protector? In fact, is this not exactly what is also – and more appropriately – referred to as a *protection racket*? To be sure, S will make peace between A and B, but only so that he himself can rob both of them more profitably. Surely S is better protected, but the more he is protected, the less A and B are protected from attacks by S. Collective security, it would seem, is not better than private security. Rather, it is the private security of the state, S, achieved through the expropriation, i.e., the economic disarmament, of its subjects. Further, statisticians from Thomas Hobbes to James Buchanan have argued that a protective state, S, would come about as the result of some sort of “constitutional” contract.<sup>1</sup> Yet who in his right mind would agree to a contract that allowed one’s protector to determine unilaterally – and irrevocably – the sum that the protected must pay for his protection? The *fact* is no one ever has!<sup>2</sup>

Let me interrupt my discussion and return to the reconstruction of the Hobbesian myth. Once it is assumed that, in order to institute peaceful cooperation between A and B, it is necessary to have a state S, a twofold conclusion follows. If more than one state exists – S1, S2, S3 – then, just as there can presumably be no peace among A and B without S, so can there be no peace between the states S1, S2, and S3 as long as they remain in a state of nature (i.e., a state of anarchy) with

regard to each other. Consequently, in order to achieve *universal* peace, political centralization, unification, and ultimately the establishment of a single world government are necessary.

It is useful to indicate what can be taken as noncontroversial. To begin with, the argument is correct, as far as it goes. If the premise is correct, then the consequence spelled out does follow. The empirical assumptions involved in the Hobbesian account appear at first glance to be borne out by the facts as well. It is true that states are constantly at war with each other, and a historical tendency toward political centralization and global rule does indeed appear to be occurring. Quarrels arise only with the explanation of this fact and tendency, and the classification of a single unified world state as an improvement in the provision of private security and protection. There appears to be an empirical anomaly for which the Hobbesian argument cannot account. The reason for the warring among different states S1, S2, and S3, according to Hobbes, is that they are in a state of anarchy *vis-à-vis* each other. However, before the arrival of a single world state, not only are S1, S2, and S3 in a state of anarchy relative to each other but in fact every subject of one state is in a state of anarchy *vis-à-vis* every subject of any other state. Accordingly, just as much war and aggression should exist between the private citizens of various states as between different states. Empirically, however, this is not so. The private dealings between foreigners appear to be significantly less warlike than the dealings between different governments. Nor does this seem to be surprising. After all, state agent S, in contrast to every one of its subjects, can rely on domestic taxation in the conduct of his "foreign affairs." Given his natural human aggressiveness, is it not obvious that S will be more brazen and aggressive in his conduct toward foreigners if he can externalize the cost of such behavior onto others? Surely, I would be willing to take greater risks and engage in more provocation and aggression if I could make others pay for it. And surely there would be a tendency of one state – one protection racket – to want to expand its territorial protection monopoly at the expense of other states and thus bring about world government as the ultimate result of interstate competition.<sup>3</sup> But how is this an improvement in the provision of private security and protection? The opposite seems to be the case. The world state is the winner of all wars and the last surviving protection racket. Doesn't this make it particularly dangerous?

Will not the physical power of any single world government be

overwhelming as compared to that of any one of its individual subjects?

## II

Let me pause in my abstract theoretical considerations to take a brief look at the empirical evidence bearing on the issue at hand. As noted at the outset, the myth of collective security is as widespread as it is consequential. I am not aware of any survey on this matter, but I would venture to predict that the Hobbesian myth is accepted more or less unquestioningly by well over 90 percent of the adult population. However, to believe something does not make it true. Rather, if what one believes is false, one's actions will lead to failure. What about the evidence? Does it support Hobbes and his followers, or does it confirm the opposite anarchist fears and contentions?

The U.S. was explicitly founded as a "protective" state à la Hobbes. Let me quote to this effect from Jefferson's *Declaration of Independence*:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

Here we have it: The U.S. government was instituted to fulfill one and only one task: the protection of life and property. Thus, it should provide the perfect example for judging the validity of the Hobbesian claim as to the status of states as protectors. After more than two centuries of protective statism, what is the status of our protection and peaceful human cooperation? Was the American experiment in protective statism a success?

According to the pronouncements of our state rulers and their intellectual bodyguards (of whom there are more than ever before), we are better protected and more secure than ever. We are supposedly protected from global warming and cooling; from the extinction of animals and plants; from the abuses of husbands and wives, parents and employers; from poverty, disease, disaster, ignorance, prejudice, racism, sexism, homophobia, and countless other public enemies and dangers.

In fact, however, matters are strikingly different. In order to provide us

with all this “protection,” the state managers expropriate more than 40 percent of the incomes of private producers year in and year out. Government debt and liabilities have increased uninterruptedly, thus increasing the need for future expropriations. Owing to the substitution of government paper money for gold, financial insecurity has increased sharply, and we are continually robbed through currency depreciation. Every detail of private life, property, trade, and contract is regulated by ever higher mountains of laws (legislation), thereby creating permanent legal uncertainty and moral hazard. In particular, we have been gradually stripped of the right to exclusion implied in the very concept of private property. As sellers we cannot sell to, and as buyers we cannot buy from, whomever we wish. And as members of associations, we are not permitted to enter into whatever restrictive covenant we believe to be mutually beneficial. As Americans, we must accept immigrants we do not want as our neighbors. As teachers, we cannot get rid of ill-behaved students. As employers, we are stuck with incompetent or destructive employees. As landlords, we are forced to cope with bad tenants. As bankers and insurers, we are not allowed to avoid bad risks. As restaurant or bar owners, we must accommodate unwelcome customers. And as members of private associations, we are compelled to accept individuals and actions in violation of our own rules and restrictions. In short, the more the state has increased its expenditures on “social” security and “public” safety, the more our private property rights have been eroded, the more our property has been expropriated, confiscated, destroyed, or depreciated, and the more we have been deprived of the very foundation of all protection: economic independence, financial strength, and personal wealth.<sup>4</sup> The path of every president and practically every member of congress is littered with hundreds of thousands of nameless victims of personal economic ruin, financial bankruptcy, emergency, impoverishment, despair, hardship, and frustration.

The picture appears even bleaker when we consider foreign affairs. Never during its entire history has the continental U.S. been territorially attacked by any foreign army. (Pearl Harbor was the result of a preceding U.S. provocation, and the September 11th attacks were carried out by a terrorist organization.) Yet the U.S. has the distinction of having had a government that declared war against a large part of its own population and engaged in the wanton murder of hundreds of thousands of its own citizens. Moreover, while the relations between American citizens and foreigners do not appear to be unusually

contentious, almost from its very beginning the U.S. government relentlessly pursued aggressive expansionism. Beginning with the Spanish-American War, culminating in World War I and World War II, and continuing to the present, the U.S. government has become entangled in hundreds of foreign conflicts and risen to the rank of the world's dominant imperialist power. Thus, nearly every president since the turn of the twentieth century has also been responsible for the murder, killing, or starvation of countless innocent foreigners all over the world. In short, while we have become more helpless, impoverished, threatened and insecure, the U.S. Government has become ever more brazen and aggressive. In the name of "national" security, it "defends" us, equipped with enormous stockpiles of weapons of aggression and mass destruction, by bullying ever new "Hitlers," big or small, and all suspected Hitlerite sympathizers anywhere and everywhere outside of the territory of the U.S.<sup>5</sup>

The empirical evidence thus seems clear. The belief in a protective state appears to be a patent error, and the American experiment in protective statism a complete failure. The U.S. government does not protect us. To the contrary, there exists no greater danger to our life, property, and prosperity than the U.S. government, and the U.S. president in particular is the world's single most threatening and armed danger, capable of ruining everyone who opposes him and destroying the entire globe.

### III

Statists react much like socialists when faced with the dismal economic performance of the Soviet Union and its satellites. They do not necessarily deny the disappointing facts, but they try to argue them away by claiming that these facts are the result of a systematic discrepancy (deviancy) between "real" and "ideal" or "true" statism (i.e., socialism). To this day, socialists claim that "true" socialism has not been refuted by the empirical evidence, and that everything would have turned out well and unparalleled prosperity would have resulted if only Trotsky's, or Bukharin's, or better still their very own brand of socialism, rather than Stalin's, had been implemented. Similarly, statists interpret all seemingly contradictory evidence as only accidental. If only some other president had come to power at this or that turn in history or if only this or that constitutional change or amendment had been adopted, everything would have turned out beautifully, and unparalleled security and peace would have resulted. Indeed, this may still happen

in the future, if their own policies are employed.

We have learned from Ludwig von Mises how to respond to the socialists' evasion (immunization) strategy.<sup>6</sup> As long as the defining characteristic – the essence – of socialism, i.e., the absence of the private ownership of factors of production, remains in place, no reform will be of any help. The idea of a socialist *economy* is a *contradiction in terms*, and the claim that socialism represents a “higher,” more efficient mode of social production is absurd. In order to reach one's own ends efficiently and without waste within the framework of an exchange economy based on division of labor, it is necessary that one engage in monetary calculation (cost-accounting). Everywhere outside the system of a primitive self-sufficient single-household economy, monetary calculation is the sole tool of rational and efficient action. Only by comparing inputs and outputs arithmetically in terms of a common medium of exchange (money) can a person determine whether his actions are successful or not. In distinct contrast, socialism means to have no economy, no economizing at all, because under these conditions monetary calculation and cost-accounting are impossible by definition. If no private property in factors of production exists, then no prices for any production factor exist; hence, it is impossible to determine whether or not they are employed economically. Accordingly, socialism is not a higher mode of production but rather economic chaos and regression to primitivism.

How to respond to the statist's evasion strategy has been explained by Murray N. Rothbard.<sup>7</sup> But Rothbard's lesson, while equally simple and clear and of even more momentous implications, has remained to this day far less known and appreciated. So long as the defining characteristic – the essence – of a state remains in place, he explained, no reform, whether of personnel or constitution, will be to any avail. Given the principle of government – judicial monopoly and the power to tax – any notion of limiting its power and safeguarding individual life and property is illusory. Under monopolistic auspices the price of justice and protection must rise and its quality must fall. A tax-funded protection agency is a contradiction in terms and will lead to ever more taxes and less protection. Even if a government limited its activities exclusively to the protection of preexisting property rights (as every “protective” state is supposed to do), the further question of *how much* security to provide would arise. Motivated (like everyone else) by self-interest and the disutility of labor but with the unique power to tax,

a government's answer will invariably be the same: to *maximize expenditures* on protection – and almost all of a nation's wealth can conceivably be consumed by the cost of protection – and at the same time to *minimize the production* of protection. Furthermore, a judicial monopoly must lead to a deterioration in the quality of justice and protection. If one can only appeal to government for justice and protection, justice and protection will be perverted in favor of government – constitutions and supreme courts notwithstanding. After all, constitutions and supreme courts are state constitutions and courts, and whatever limitations to government action they might contain is determined by agents of the very institution under consideration. Accordingly, the definition of property and protection will continually be altered and the range of jurisdiction expanded to the government's advantage.

Hence, Rothbard pointed out, it follows that just as socialism cannot be reformed but must be abolished in order to achieve prosperity, so the institution of a state cannot be reformed but must be abolished in order to achieve justice and protection. "Defense in the free society (including such defense services to person and property as police protection and judicial findings)," Rothbard concluded,

would therefore have to be supplied by people or firms who (a) gained their revenue voluntarily rather than by coercion and (b) did not – as the State does – arrogate to themselves a compulsory monopoly of police or judicial protection. . . . Defense firms would have to be as freely competitive and as noncoercive against noninvaders as are all other suppliers of goods and services on the free market. Defense services, like all other services, would be marketable and marketable only.<sup>8</sup>

That is, every private property owner would be able to partake of the advantages of the division of labor and seek better protection of his property than that afforded through self-defense by cooperation with other owners and their property. Anyone could buy from, sell to, or otherwise contract with anyone else concerning protective and judicial services, and one could at any time unilaterally discontinue any such cooperation with others and fall back on self-reliant defense or change one's protective affiliations.

## Notes

<sup>1</sup> James M. Buchanan and Gordon Tullock, *The Calculus of Consent* (Ann Arbor: University of Michigan Press, 1962); James M. Buchanan, *The Limits of Liberty* (Chicago: University of Chicago Press, 1975); for a critique, see Murray N. Rothbard, "Buchanan and Tullock's Calculus of Consent," in idem, *The Logic of Action II: Applications and Criticisms from the Austrian School* (Cheltenham, U.K.: Edward Elgar, 1995); idem, "The Myth of Neutral Taxation," *The Logic of Action II*; Hans-Hermann Hoppe, *The Economics and Ethics of Private Property* (Boston: Kluwer Academic Publishers, 1993), chap.1.

<sup>2</sup> See on this in particular Lysander Spooner, *No Treason: The Constitution of No Authority* (Larkspur, Colo.: Pine Tree Press, 1966).

<sup>3</sup> See Hans-Hermann Hoppe, "The Trouble With Classical Liberalism," *Triple R. Rothbard-Rockwell Report* 9, no. 4 (1998).

<sup>4</sup> See Hans-Hermann Hoppe, "Where The Right Goes Wrong," *Triple R. Rothbard-Rockwell Report* 8, no. 4 (1997).

<sup>5</sup> See John V. Denson, ed., *The Costs of War: America's Pyrrhic Victories* (New Brunswick, N.J.: Transaction Publishers, 1997); idem, "A Century of War: Studies in Classical Liberalism" (Auburn, Ala.: Ludwig von Mises Institute, 1999). Since the end of World War II, for instance, the United States government has intervened militarily in China (1945–46), Korea (1950–53), China (1950–53), Iran (1953), Guatemala (1954), Indonesia (1958), Cuba (1959–60), Guatemala (1960), Congo (1964), Peru (1965), Laos (1964–73), Vietnam (1961–73), Cambodia (1969–70), Guatemala (1967–69), Grenada (1983), Lebanon (1983), Libya (1986), El Salvador (1980s), Nicaragua (1980s), Panama (1989), Iraq (1991–99), Bosnia (1995), Sudan (1998), Afghanistan (1998 and 2002), Yugoslavia (1999), and Iraq (2003). Moreover, the United States government has troops stationed in nearly 150 countries around the world.

<sup>6</sup> Ludwig von Mises, *Socialism* (Indianapolis: LibertyClassics, 1981); Hans-Hermann Hoppe, *A Theory of Socialism and Capitalism* (Boston: Kluwer Academic Publishers, 1989), chap. 6.

<sup>7</sup> Murray N. Rothbard, *The Ethics of Liberty* (New York: New York University Press, 1998), esp. chaps. 22 and 23.

## Source 7A

### Thucydides Peloponnesian War Book 2.34-46 Pericles' Funeral Oration

*This famous speech was given by the Athenian leader Pericles after the first battles of the Peloponnesian war. Funerals after such battles were public rituals and Pericles used the occasion to make a classic statement of the value of democracy. It is probably not an exact quote, but a composition by Thucydides representing the recollections of witnesses.*

In the same winter the Athenians gave a funeral at the public cost to those who had first fallen in this war. It was a custom of their ancestors, and the manner of it is as follows. Three days before the ceremony, the bones of the dead are laid out in a tent which has been erected; and their friends bring to their relatives such offerings as they please. In the funeral procession cypress coffins are borne in cars, one for each tribe; the bones of the deceased being placed in the coffin of their tribe. Among these is carried one empty bier decked for the missing, that is, for those whose bodies could not be recovered. Any citizen or stranger who pleases, joins in the procession: and the female relatives are there to wail at the burial. The dead are laid in the public sepulchre in the most beautiful suburb of the city, in which those who fall in war are always buried; with the exception of those slain at Marathon, who for their singular and extraordinary valour were interred on the spot where they fell. After the bodies have been laid in the earth, a man chosen by the state, of approved wisdom and eminent reputation, pronounces over them an appropriate panegyric; after which all retire. Such is the manner of the burying; and throughout the whole of the war, whenever the occasion arose, the established custom was observed. Meanwhile these were the first that had fallen, and Pericles, son of Xanthippus, was chosen to pronounce their eulogium. When the proper time arrived, he advanced from the sepulchre to an elevated platform in order to be heard by as many of the crowd as possible, and spoke as follows:

Most of my predecessors in this place have commended him who made this speech part of the law, telling us that it is well that it should be delivered at the burial of those who fall in battle. For myself, I should have thought that the worth which had displayed itself in deeds would be sufficiently rewarded by honours also shown by deeds; such as you now see in this funeral prepared at the people's cost. And I could have wished that the reputations of many brave men were not to be imperilled in the mouth of a single individual, to stand or fall according as he spoke well or ill. For it is hard to speak properly upon a subject where it is even difficult to convince your hearers that you are speaking the truth. On the one hand, the friend who is familiar with every fact of the story may think that some point has not been set forth with that fullness which he wishes and knows it to deserve; on the other, he who is a stranger to the matter may be led by envy to suspect exaggeration if he hears anything above his own nature. For men can endure to hear others praised only so long as they can severally persuade themselves of their own ability to equal the actions recounted: when this point is passed, envy comes in and with it incredulity. However, since our ancestors have stamped this custom with their approval, it becomes my duty to obey the law and to try to satisfy your several wishes and opinions as best I may.

I shall begin with our ancestors: it is both just and proper that they should have the honour of the first mention on an occasion like the present. They dwelt in the country without break in the succession from generation to generation, and handed it down free to the present time by their valour. And if our more remote ancestors deserve praise, much more do our own fathers, who added to their inheritance the empire which we now possess, and spared no pains to be able to leave their acquisitions to us of the present generation. Lastly, there are few parts of our dominions that have not been augmented by those of us here, who are still more or less in the vigour of life; while the mother country has been furnished by us with everything that can enable her to depend on her own resources whether for war or for peace. That part of our history which tells of the

military achievements which gave us our several possessions, or of the ready valour with which either we or our fathers stemmed the tide of Hellenic or foreign aggression, is a theme too familiar to my hearers for me to dilate on, and I shall therefore pass it by. But what was the road by which we reached our position, what the form of government under which our greatness grew, what the national habits out of which it sprang; these are questions which I may try to solve before I proceed to my panegyric upon these men; since I think this to be a subject upon which on the present occasion a speaker may properly dwell, and to which the whole assemblage, whether citizens or foreigners, may listen with advantage.

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

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

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

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

Nor are these the only points in which our city is worthy of admiration. We cultivate refinement without extravagance and knowledge without effeminacy; wealth we employ more for use than for show, and place the real disgrace of

poverty not in owing to the fact but in declining the struggle against it. Our public men have, besides politics, their private affairs to attend to, and our ordinary citizens, though occupied with the pursuits of industry, are still fair judges of public matters; for, unlike any other nation, regarding him who takes no part in these duties not as unambitious but as useless, we Athenians are able to judge at all events if we cannot originate, and, instead of looking on discussion as a stumbling-block in the way of action, we think it an indispensable preliminary to any wise action at all. Again, in our enterprises we present the singular spectacle of daring and deliberation, each carried to its highest point, and both united in the same persons; although usually decision is the fruit of ignorance, hesitation of reflection. But the palm of courage will surely be adjudged most justly to those, who best know the difference between hardship and pleasure and yet are never tempted to shrink from danger. In generosity we are equally singular, acquiring our friends by conferring, not by receiving, favours. Yet, of course, the doer of the favour is the firmer friend of the two, in order by continued kindness to keep the recipient in his debt; while the debtor feels less keenly from the very consciousness that the return he makes will be a payment, not a free gift. And it is only the Athenians, who, fearless of consequences, confer their benefits not from calculations of expediency, but in the confidence of liberality.

In short, I say that as a city we are the school of Hellas, while I doubt if the world can produce a man who, where he has only himself to depend upon, is equal to so many emergencies, and graced by so happy a versatility, as the Athenian. And that this is no mere boast thrown out for the occasion, but plain matter of fact, the power of the state acquired by these habits proves. For Athens alone of her contemporaries is found when tested to be greater than her reputation, and alone gives no occasion to her assailants to blush at the antagonist by whom they have been worsted, or to her subjects to question her title by merit to rule. Rather, the admiration of the present and succeeding ages will be ours, since we have not left our power without

witness, but have shown it by mighty proofs; and far from needing a Homer for our panegyrist, or other of his craft whose verses might charm for the moment only for the impression which they gave to melt at the touch of fact, we have forced every sea and land to be the highway of our daring, and everywhere, whether for evil or for good, have left imperishable monuments behind us. Such is the Athens for which these men, in the assertion of their resolve not to lose her, nobly fought and died; and well may every one of their survivors be ready to suffer in her cause.

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

resisting, rather than to live submitting, they fled only from dishonour, but met danger face to face, and after one brief moment, while at the summit of their fortune, escaped, not from their fear, but from their glory.

So died these men as became Athenians. You, their survivors, must determine to have as unfaltering a resolution in the field, though you may pray that it may have a happier issue. And not contented with ideas derived only from words of the advantages which are bound up with the defence of your country, though these would furnish a valuable text to a speaker even before an audience so alive to them as the present, you must yourselves realize the power of Athens, and feed your eyes upon her from day to day, till love of her fills your hearts; and then, when all her greatness shall break upon you, you must reflect that it was by courage, sense of duty, and a keen feeling of honour in action that men were enabled to win all this, and that no personal failure in an enterprise could make them consent to deprive their country of their valour, but they laid it at her feet as the most glorious contribution that they could offer. For this offering of their lives made in common by them all they each of them individually received that renown which never grows old, and for a sepulchre, not so much that in which their bones have been deposited, but that noblest of shrines wherein their glory is laid up to be eternally remembered upon every occasion on which deed or story shall call for its commemoration. For heroes have the whole earth for their tomb; and in lands far from their own, where the column with its epitaph declares it, there is enshrined in every breast a record unwritten with no tablet to preserve it, except that of the heart. These take as your model and, judging happiness to be the fruit of freedom and freedom of valour, never decline the dangers of war. For it is not the miserable that would most justly be unsparing of their lives; these have nothing to hope for: it is rather they to whom continued life may bring reverses as yet unknown, and to whom a fall, if it came, would be most tremendous in its consequences. And surely, to a man of spirit, the degradation of cowardice must be immeasurably more

grievous than the unfelt death which strikes him in the midst of his strength and patriotism!

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

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

exhortation. Great will be your glory in not falling short of your natural character; and greatest will be hers who is least talked of among the men, whether for good or for bad.

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

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

## **Source 7 B**

**Johann Gottfried Fichte**

**Addresses to the German Nation**

**Thirteenth Address To The German Nation**

**The Means For Our Preservation Until We Attain Our Main Object**

At the end of the preceding address we said that there were in circulation among us a number of worthless thoughts and deceptive theories as to the affairs of peoples, and that this prevented the Germans from forming such a definite view of their present situation as would be in accordance with their own special characteristics. As these vain phantoms are being held up for public veneration with great zeal just at present, and as they might be embraced by many people now that so much else has begun to topple over, solely in order to fill up the places that have become vacant, it seems appropriate to our purpose to subject these phantoms to a more serious examination than their intrinsic importance would deserve.

To begin with and before all things: the first, original, and truly natural boundaries of states are beyond doubt their internal boundaries. Those who speak the same language are joined to each other by a multitude of invisible bonds by nature herself, long before any human art begins; they understand each other and have the power of continuing to make themselves understood more and more clearly; they belong together and are by nature one and an inseparable whole. Such a whole, if it wishes to absorb and mingle with itself any other people of different descent and language, cannot do so without itself becoming confused, in the beginning at any rate, and violently disturbing the even progress of its culture. From this internal boundary, which is drawn by the spiritual nature of man himself, the marking of the external boundary by dwelling place results as a consequence; and in the natural view of things it is not because men dwell between certain mountains and rivers that they are a people, but, on the contrary, men dwell together and, if their luck has so arranged it, are protected by rivers and mountains because they were a people already by a law of nature which is much higher.

Thus was the German nation placed sufficiently united within itself by a

common language and a common way of thinking, and sharply enough severed from the other peoples in the middle of Europe, as a wall to divide races not akin. The German nation was numerous and brave enough to protect its boundaries against any foreign attack; it was left to itself, and by its whole way of thinking was little inclined to take notice of the neighboring peoples, to interfere in their affairs, or to provoke them to enmity by disturbances. As time went on, a kind fortune preserved it from direct participation in the conquest of other worlds that event which, more than any other, has been the basis of the development taken by modern world history, of the fates of peoples, and of the largest part of their ideas and opinions. Since that event, and not before, Christian Europe, which hitherto, without being clearly conscious of it, had been one, and by joint enterprises had shown itself to be one Christian Europe, I say, has split itself into various separate parts. Since that event, and not before, there has been a booty in sight which anyone might seize; and each one lusted after it in the same way, because all were able to make use of it in the same way; and each one was envious on seeing it in the hands of another.

Now, and not before, was there a reason for secret enmity and lust for war on the part of all against all. Moreover, now, and not before, did it become profitable for peoples to incorporate with themselves peoples of other descent and other languages, by conquest or, if that were not possible, by alliances, and to appropriate their forces. A people that has remained true to nature may have the wish, when its abode becomes too narrow for it, to enlarge it by conquest of the neighboring soil in order to gain more room, and then it will drive out the former inhabitants. It may have the wish to exchange a harsh and unfruitful region for a milder and more fortunate one, and in this case, too, it will drive out the former owners. It may, if it should degenerate, undertake mere pillaging raids in which, without craving after the soil or its inhabitants, it merely takes possession of every useful thing, sweeps the countries clear and then departs. Finally, it may regard the former inhabitants of the conquered soil as one of the useful things and allot them as slaves to individuals. But for it to attach to itself as a component part of the state the foreign population just as it is, that will not profit it in the least, and it will never be tempted to do so. But if the case is thus: that there is a tempting common booty to be fought for and to be won from an equally strong or even stronger rival; then the calculation is different. It matters not how much or how little the conquered people may blend with us; we can at any rate make use of

their fists to overcome the opponent we have to rob, and every man is welcome to us as an addition to our fighting strength. Now, suppose that some wise man, who wished for peace and quiet, had had his eyes opened to this state of affairs; from what source could he expect quiet to come? Obviously not from the limitation set by nature to human greed, viz., that superfluity is of no benefit to anyone; for there was a prey which tempted everyone. Just as little could he expect peace to come from the will to set a limit to one's self; for, where everyone grabs for himself everything that he can, anyone who limits himself must of necessity perish. No one wants to share with another what he then owns himself; everyone wants to rob the other of what he has, if he possibly can. If one of them is quiet, it is only because he does not think himself strong enough to begin a quarrel; he will certainly begin it as soon as he perceives the necessary strength in himself.

Hence, the only means of maintaining peace is this: that no one shall acquire enough power to be able to disturb the peace, and that each one shall know that there is just as much strength to resist on the other side as there is to attack on his side; and that thus there may arise a balance and counterbalance of the total power whereby alone, now that all other means have vanished, each one is kept in possession of what he has at present and all are kept in peace. This well-known system of a balance of power in Europe, therefore, assumes two things: first, a prey to which no one at all has any right, but for which all have a like desire; and second, the universal, ever-present, and unceasingly active lust for booty. Indeed, on these assumptions, this balance of power would be the only means of maintaining peace, if only one could find the second means, namely, that of creating the equilibrium and transforming it from an empty thought into a thing of reality.

But were these assumptions in fact to be made universally and without any exception? Had not the mighty German nation, in the middle of Europe, kept its hands off this prey, and was it not untainted by any craving for it, and almost incapable of making a claim to it? If only the German nation had remained united, with a common will and a common strength! Then, though the other Europeans might have wanted to murder each other on every sea and shore, and on every island too, in the middle of Europe the firm wall of the Germans would have prevented them from reaching each other. Here peace would have remained, and the Germans would have maintained themselves, and with themselves also a part of the other European peoples, in quiet and prosperity.

That things should remain thus did not suit the selfishness of foreign countries, whose calculations did not look more than one moment ahead. They found German bravery useful in waging their wars and German hands useful to snatch the booty from their rivals. A means had to be found to attain this end, and foreign cunning won an easy victory over German ingenuousness and lack of suspicion. It was foreign countries which first made use of the division of mind produced by religious disputes in Germany – Germany, which presented on a small scale the features of Christian Europe as a whole – foreign countries, I say, made use of these disputes to break up the close inner unity of Germany into separate and disconnected parts. Foreign countries had already destroyed their own unity naturally, by splitting into parts over a common prey; and now they artificially destroyed German unity. They knew how to present each of these separate states that had thus arisen in the lap of the one nation – which had no enemy except those foreign countries themselves, and no concern except the common one of setting itself with united strength against their seductive craft and cunning – foreign countries, I say, knew how to present each of these states to the others as a natural enemy, against which each state must be perpetually on its guard. On the other hand, they knew how to make themselves appear to the German states as natural allies against the danger threatening them from their own countrymen – as allies with whom alone they would themselves stand or fall, and whose enterprises they must in turn support with all their might. It was only because of this artificial bond that all the disputes which might arise about any matter whatever in the Old World or the New became disputes of the German races in their relation to each other. Every war, no matter what its cause, had to be fought out on German soil and with German blood; every disturbance of the balance had to be adjusted in that nation to which the whole fountainhead of such relationships was unknown; and the German states, whose separate existence was in itself contrary to all nature and reason, were compelled, in order that they might count for something, to act as makeweights to the chief forces in the scale of the European equilibrium, whose movement they followed blindly and without any will of their own. Just as in many states abroad the citizens are designated as belonging to this or that foreign party, or voting for this or that foreign alliance, but no name is found for those who belong to the party of their own country, so it was with the Germans; for long enough they belonged only to some foreign party or other, and one seldom came across a man who supported the party of the Germans and was of the opinion that this country ought to make an

alliance with itself.

This, then, is the true origin and meaning, this the result for Germany and for the world, of that notorious doctrine of a balance of power to be artificially maintained between the European states. If Christian Europe had remained one, as it ought to be and as it originally was, there would never have been any occasion to think of such a thing. That which is one rests upon itself and supports itself, and does not split up into conflicting forces which must be brought to an equilibrium. Only when Europe became divided and without a law did the thought of a balance acquire a meaning from necessity. To this Europe, divided and without a law, Germany did not belong. If only Germany at any rate had remained one, it would have rested on itself in the center of the civilized world like the sun in the center of the universe; it would have kept itself at peace, and with itself the adjacent countries; and without any artificial measures it would have kept everything in equilibrium by the mere fact of its natural existence. It was only the deceit of foreign countries that dragged Germany into their own lawlessness and their own disputes; it was they who taught Germany the treacherous notion of the balance of power, for they knew it to be one of the most effective means of deluding Germany as to its own true advantage and of keeping it in that state of delusion. This aim is now sufficiently attained, and the result that was intended is now complete before our eyes. Even if we cannot do away with this result, why should we not at any rate extirpate the source of it in our own understanding, which is now almost the only thing over which we still have sovereign power? Why should the old dream still be placed before our eyes, now that disaster has awakened us from sleep? Why should we not now at any rate see the truth and perceive the only means that could have saved us? Perhaps our descendants may do what we see ought to be done, just as we now suffer because our fathers dreamed. Let us understand that the conception of an equilibrium to be artificially maintained might have been a consoling dream for foreign countries amid the guilt and evil that oppressed them; but that this conception, being an entirely foreign product, ought never to have taken root in the mind of a German, and that the Germans ought never to have been so situated that it could take root among them. Let us understand that now at any rate we must perceive the utter worthlessness of such a conception, and must see that the salvation of all is to be found, not in it, but solely in the unity of the Germans among themselves.

Just as foreign to the German is the freedom of the seas which is so

frequently preached in our days, whether what is intended be real freedom or merely the power to exclude everyone else from it. Throughout the course of centuries, while all other nations were in rivalry, the German showed little desire to participate in this freedom to any great extent, and he will never do so. Moreover, he is not in need of it. The abundant supplies of his own land, together with his own diligence, afford him all that is needed in the life of a civilized man; nor does he lack skill in the art of making his resources serve that purpose. As for acquiring the only true advantage that world trade brings in its train, viz., the increase in scientific knowledge of the earth and its inhabitants, his own scientific spirit will not let him lack a means of exchange. Oh, if only his kindly fortune had preserved the German from indirect participation in the booty of other worlds, as it preserved him from direct participation! If only we had not been led by our credulity, and by the craving for a life as fine and as distinguished as that of other peoples, to make necessities of the wares produced in foreign parts which we could do without; if only we had made conditions tolerable for our free fellow citizen in regard to the wares we can less easily do without, instead of wishing to draw a profit from the sweat and blood of a poor slave across the seas! Then, at any rate, we should not ourselves have furnished the pretext for our present fate; war would not have been waged against us as purchasers, nor would we have been ruined because we are a market place. Almost ten years ago, before anyone could foresee what has since happened, the Germans were advised to make themselves independent of world trade, and to turn themselves into a closed commercial state. This proposal ran counter to our habits, and especially to our idolatrous veneration of coined metals; it was passionately attacked and thrust aside. Since then we have been learning, in dishonor and under the compulsion of a foreign power, to do without those things, and far more than those things, which we then protested we could not do without, though we might have done so then in freedom and with the greatest honor to ourselves. That we might seize this opportunity, since enjoyment at least is not corrupting us, to correct our ideas once for all! That we might at last see that all those swindling theories about world trade and manufacturing for the world market, though they suit the foreigner and form part of the weapons with which he has always made war on us, have no application to the Germans; and that, next to the unity of the Germans among themselves, their internal autonomy and commercial independence form the second means for their salvation, and through them for the salvation of Europe!

Now, at last let us be bold enough to look at the deceptive vision of a universal monarchy, which people are beginning to hold up for public veneration in place of that equilibrium which for some time has been growing more and more preposterous, and let us perceive how hateful and contrary to reason that vision is. Spiritual nature was able to present the essence of humanity in extremely diverse gradations in individuals and in individuality as a whole, in peoples. Only when each people, left to itself, develops and forms itself in accordance with its own peculiar quality, and only when in every people each individual develops himself in accordance with that common quality, as well as in accordance with his own peculiar quality then and then only, does the manifestation of divinity appear in its true mirror as it ought to be; and only a man who either entirely lacks the notion of the rule of law and divine order, or else is an obdurate enemy thereto, could take upon himself to want to interfere with that law, which is the highest law in the spiritual world. Only in the invisible qualities of nations, which are hidden from their own eyes – qualities as the means whereby these nations remain in touch with the source of original life – only therein is to be found the guarantee of their present and future worth, virtue, and merit. If these qualities are dulled by admixture and worn away by friction, the flatness that results will bring about a separation from spiritual nature, and this in its turn will cause all men to be fused together in their uniform and collective destruction.

As for the writers who console us for all our ills with the prospect that we, too, shall be subjects of the new universal monarchy that is beginning are we to believe them when they say that someone or other has decided upon such a grinding together of all the germs of what is human in humanity, in order to press the unresisting dough into some new form, and that so monstrous all act of brutality or enmity against the human race is possible in this age of ours? Even if, in the first place, we were willing to make our minds to believe such an utterly incredible thing, the further question arises: By what instrument is such a plan to be carried out? What sort of people is it to be which, in the present state of European culture, shall conquer the world for some new universal monarch?

For many centuries now the peoples of Europe have ceased to be savages or to rejoice in destructive activity for its own sake. All men seek behind war a final peace, behind exertion rest, behind confusion order; and all men want to see their career crowned with the peace of a quiet and domestic life. For a time they may be made enthusiastic for

war even by the mere prospect of advantage to the nation; but when the call comes again and again in the same fashion, the delusion vanishes and with it the feverish strength it produced. The longing for peace and order returns, and the question arises: For what purpose am I doing and bearing all this? All these feelings a world conqueror in our time would first have to stamp out; and, as the present age by its nature does not produce a race of savages, he would have to create one with deliberate art. But more would remain to be done. A man who has been accustomed from youth upwards to cultivated and settled countries, to prosperity and order, finds pleasure in these things wherever he sees them, if he is but permitted to be at peace for a little while; for they represent to him the background of his own longing, which after all can never quite be rooted out; and it is a source of pain to himself when he is obliged to destroy them. To offset this kindly feeling, so deeply implanted in man as a social being, and this grief and sorrow at the evils which the soldier brings upon the countries he conquers, a counterpoise must be found. There is no other than the lust for booty. If it becomes the soldier's dominating motive to acquire a fortune for himself, and if he becomes accustomed, when devastating flourishing countries, to think of nothing but what he may gain for himself from the general wretchedness, then it is to be expected that the feelings of sympathy and pity will become silent in him. In addition to that barbarous brutality, a world conqueror of our time would have to train his people to cold-blooded and deliberate lust for booty; he would not have to punish extortions, but rather to encourage them.

Moreover, the disgrace that naturally adheres to such a thing would first of all have to be cleared away, and robbery would have to be looked upon as the honorable sign of a superior mind; it would have to be reckoned among great deeds and pave the way to all dignities and honors. Where is there in modern Europe a nation so lacking in honor that it could be trained up in this way? Even supposing that a world conqueror succeeds in reshaping a nation in this fashion, the very means he takes to do it will frustrate the attainment of his object. Such a people will thenceforward regard the human beings, the countries, and the works of art that they have acquired by conquest as nothing more than a means of making money with all speed, so that they may move on and make more money. They will extort rapidly, and when they have sucked the juice out of a thing they will throw it away, regardless of what may happen to it; they will cut down the tree whose fruits they want to reach. For a man who works with such tools as these

all the arts of seduction, persuasion, and deception will be in vain. Only from a distance can such men deceive anyone; as soon as they are seen at close quarters, their brutal roughness and their shameless and insolent lust for booty will be obvious even to the feeblest mind; and the detestation of the whole human race will cry aloud upon them. With such tools as these one can indeed plunder and lay waste the earth, and grind it down to stupor and chaos, but one can never establish it as a universal monarchy.

The ideas we have mentioned, and all ideas of this kind, are products of a form of thinking which merely plays a game with itself and sometimes, too, gets caught in its own cobwebs a form of thinking which is unworthy of German thoroughness and earnestness. At best, some of these ideas, as, for example, that of a political equilibrium, are serviceable guidelines to enable one to find one's way about in the extensive and confused multiplicity of phenomena and to set it in order; but to believe that these things exist in nature, or to strive to realize them, is the same as to expect to find the poles, the meridians, and the tropics, by which our survey of earth is guided, actually marked and indicated on the surface of the globe. May it become the custom in our nation, not merely to think idly and as it were experimentally, just to see what will come of it, but to think in such a way that what we think shall be true and have a real effect in life! Then it will be superfluous to warn people against such phantoms of a political wisdom whose origin is foreign and which only deludes the Germans.

This thoroughness, earnestness, and weightiness in our way of thinking, once we have made it our own, will show itself in our life as well. We are defeated; whether we are now to be despised as well, and rightly despised, whether in addition to all other losses we are to lose our honor also that will still depend on ourselves. The fight with weapons has ended; there arises now, if we so will it, the new fight of principles, of morals, of character.

Let us give our guests a picture of faithful devotion to friends and fatherland, of incorruptible uprightness and love of duty, of all civic and domestic virtues, to take home with them as a friendly gift from their hosts; for they will return home at last sometime or other. Let us be careful not to invite them to despise us; there would, however, be no surer way for us to do this than if we either feared them beyond measure or gave up our own way of life and strove to resemble them in theirs. Be it far from us as individuals to be so unmannerly as to

provoke or irritate individuals; but as to the rest, our safest measure will be to go our own way in all things, as if we were alone with ourselves, and not to establish any relation that is not laid upon us by absolute necessity; and the surest means to this will be for each one to content himself with what the old national conditions are able to afford him, to take up his share of the common burden according to his powers, but to look upon any favor from foreigners as a disgrace and a dishonor.

Unfortunately, it has become an almost general European custom, and therefore a German custom too, for people to prefer to descend to the level of others, rather than to appear what is called singular or noticeable, when the choice is open to them; indeed, the whole system of what are esteemed good manners may perhaps be regarded as based upon that one principle. Let us Germans at the present juncture offend rather against this code of manners than against something higher. Let us remain as we are, even though that may be an offense of this kind; nay, let us become, if we can, even stronger and more determined, as we ought to be. It is the custom to tell us that we are sorely lacking in quickness and ease and grace, and that we grow too serious, too heavy, and too ponderous over everything. Let us not be in the least ashamed of this, but rather strive to deserve the accusation more and more fully and to an ever greater extent. Let us confirm ourselves in this resolve by the conviction, which is easily to be attained, that in spite of all the trouble we take, we shall never do right in the eyes of our accusers, unless we cease entirely to be ourselves, which is the same thing as ceasing to exist at all. There are certain peoples who, while preserving their own special characteristics and wishing to have them respected by others, yet recognize the special characteristics of other peoples, and permit and encourage their retention. To such peoples the Germans belong without a doubt; and this trait is so deeply marked in their whole life in the world, both past and present, that very often, in order to be just both to contemporary foreign countries and to antiquity, they have been unjust to themselves.

Then there are other peoples, whose ego is so closely wrapped up in itself that it never allows them the freedom to detach themselves for the purpose of taking a cool and calm view of what is foreign to them, and who are therefore compelled to believe that there is only one possible way of existence for a civilized human being, and that is always the way which some chance or other has indicated to them alone at the time; the rest of mankind all over the world have no other destiny, in their opinion, than to become just what they are, and ought to be

extremely grateful to them if they take upon themselves the trouble of molding them in this way. Between peoples of the former type there takes place an interaction of culture and education which is most beneficial to the development of man as such, and an interpenetration which nonetheless allows each one, with the good will of the other, to remain its own self. Peoples of the latter type are unable to form anything, for they are unable to apprehend anything in its actual state of existence; they only want to destroy everything that exists and to create everywhere, except in themselves, a void in which they can reproduce their own image and never anything else. Even their apparent acceptance of foreign ways when they begin is only gracious condescension on the part of the tutor to the still feeble but promising pupil. Even the figures of the ancient world that has come to an end do not please them, until they have clad them in their own garments; and they would call them from their graves, if they had the power, to train them after their own fashion. Far from me be the presumption of accusing any existing nation as a whole and without exception of such narrow-mindedness. Let us rather assume that here, too, those who express no opinion are the better sort. But if those who have appeared among us and expressed their opinions are to be judged by the opinions they have expressed, it seems to follow that they are to be placed in the class we have described. As such a statement appears to require proof, I adduce the following, passing over in silence the other manifestations of this spirit which are before the eyes of Europe. We have been at war with each other; as for us, we are defeated, and they are the victors; that is true, and is admitted; with that our opponents might doubtless be contented.

But if anyone among us went on to maintain that nevertheless we had had the just cause and deserved the victory, and that it was to be deplored that victory had not fallen to us, would this be so very wrong, and could those opponents, who, of course, for their own part may likewise think what they will, take it amiss that we should be of this opinion? But no, we must not dare to think that. We must at the same time recognize how wrong it is ever to have a will, other than theirs, and to resist them; we must bless our defeats as the best thing that could happen to us, and bless them as our greatest benefactors. It cannot be otherwise, and they hope this much of our good sense. But should I go on expounding what was expounded with great exactness almost two thousand years ago, for example, in the histories of Tacitus? That opinion of the Romans as to the relationship of the

conquered barbarians toward them, an opinion which in their case was founded on a view of things that had some excuse, the opinion that it was criminal rebellion and insurrection against divine and human laws to offer resistance to them, and that their arms could bring nothing but blessing to the nations, and their chains nothing but honor – it is this opinion that has been formed about us in these days; with great good-nature they expect us to hold it about ourselves, and they assume in advance that we do hold it. I do not take these utterances as evidence of arrogance and scorn; I can understand how such opinions may be held in earnest by people who are very conceited and narrow-minded, and how they can honestly impute the same belief to their opponents, just as I believe that the Romans really thought so; but I only raise a doubt as to whether those among us, whose conversion to that way of thinking is forever impossible, can reckon upon an agreement of any kind whatever.

We shall bring the deep contempt of foreigners upon ourselves if in their hearing we accuse each other, German races, classes, and persons, of being responsible for the fate that has befallen every one of us, and bitterly and passionately reproach each other. In the first place, all accusations of this kind are for the most part unfair, unjust, and unfounded. The causes that have brought about Germany's latest doom we have already indicated; these causes have for centuries been native to all German races without exception in the same way; the latest events are not the consequences of any particular error of any one race or its government; they have been in preparation long enough, and might just as well have happened to us long ago, if it had depended solely on the causes that lie within our own selves. In this matter the guilt or innocence of all is, one may see, equally great, and a reckoning is no longer possible. When the final result came about in haste, it was found that the separate German states did not even know themselves, their powers, and their true situation; how, then, could any one of them have the presumption to look beyond its own borders and pronounce upon the guilt of others a final judgment based on thorough knowledge?

It may be that in every race of the German fatherland the blame falls with more reason on one special class, not because it did not have more insight or greater ability than all the others, for in that respect all were equally to blame, but because it pretended that it had more insight and greater ability than all the others, for in that respect all were equally to blame, but because it pretended that it had more insight and

greater ability, and kept everyone else away from the work of administration in the various states. But, even if a reproach of this kind were well founded, who is to utter it, and why is it necessary to utter and discuss it, just at this moment, more loudly and more bitterly than ever? We see that men of letters are doing this. If they had spoken just as they do now in the days when all power and all authority were in the hands of that class, with the tacit approval of the decisive majority of the rest of mankind, who can object if they bring to remembrance what they then said, now that it has been only too well confirmed by experience? We hear also that they bring certain persons by name before the tribunal of the people, persons who formerly stood at the head of affairs, that they set forth their incapacity, their indolence, and their evil will, and clearly show how from such causes such effects were bound to follow. If, when power was still in the hands of the accused persons, and when the evils that were the inevitable result of their administration could have been warded off, these writers saw what they now see and expressed it just as loudly; if they then accused with the same vigor those whom they now find guilty, and if they left no means untried to rescue the fatherland out of their hands, and if no one listened to them; then, they do well to recall to mind the warning that was scornfully rejected. But if they have derived their present wisdom only from the course of events, from which all people since then have derived with them exactly the same wisdom, why do they now say what everyone else now knows just as well? Or further, if in those days from motives of gain they flattered, or from motives of fear they remained silent before, that class and those persons on whom, now that they have lost power, they pour the full stream of denunciation; then let them not forget henceforth, when they are stating the causes of our present miseries, to put with the nobility and the incompetent ministers and generals the writers on politics also, who know only after the event what ought to have been done, just like the common people, and who flatter the holders of power, but with malicious joy deride the fallen!

Or do they blame the errors of the past, which for all their blame is indestructible, only in order that they may not be repeated in the future; and is it solely their zeal to bring about a thorough improvement in human affairs which makes them so bold in disregarding all considerations of prudence and decency?

Gladly would we credit them with such good will, if only they were entitled by thorough insight and thorough understanding to have good will in this matter. It is not so much the particular persons who happen

to have been in the highest places, but the connection and complication of the whole, the whole spirit of the age, the errors, the ignorance, shallowness, timidity, and the uncertain tread inseparable from these things, it is the whole way of life of the age that has brought these miseries upon us; and so it is far less the persons who have acted than the places; it is everyone's fault; and everyone, even the violent fault-finders themselves, may assume with great probability that if they had been in the same place they would have been forced by their surroundings to much the same end. Let us not dream so much of deliberate wickedness and treachery! Stupidity and indolence are in nearly every case sufficient to explain the things that have happened; and this is a charge of which no one should entirely clear himself without searching self-examination. Especially in a state of affairs where there is in the whole mass a very great measure of indolence, the individual who is to force his way through must possess the power of action in a very high degree. So, even if the mistakes of individuals are ever so sharply singled out, that does not in any way lay bare the cause of the evil; nor is this cause removed by avoiding these mistakes in future. So long as men remain liable to error, they cannot do otherwise than commit errors; and even if they avoid those of their predecessors, in the infinite space of liability to error they will all too easily make new errors of their own. Only a complete regeneration, only the beginning of an entirely new spirit can help us. If they co-operate for the development of this new spirit, we shall be ready and willing to give them credit, not only for good will, but also for right and saving understanding.

These mutual reproaches, besides being unjust and useless, are extremely unwise, and must degrade us deeply in the eyes of foreigners; we not only make it easy for them to find out all about us, but positively force the knowledge on them in every way. If we never grow weary of telling them how confused and stale all things were with us, and how miserably we were governed, must they not believe that no matter how they behave toward us they are none-the-less much too good for us, and can never become too bad? Must they not believe that, because of our great clumsiness and helplessness, we are bound to accept with the humblest thanks any and every thing out of the rich store of their art of government, administration, and legislation that they have already presented to us, or have in contemplation for us in the future? Is there any need for us to confirm their already not unfavorable opinion of themselves and the low opinion they have of us? Do not

certain utterances, which would otherwise have to be taken as evidence of bitter scorn for example, that they have been the first to bring a fatherland to German countries, which previously had none, or that they have abolished that slavish dependence of persons, as such, on other persons, which used to be established by law among us – do not such utterances, when we remember what we ourselves have said, show themselves as a repetition of our own statements and an echo of our own flattering speeches? It is a disgrace, which we Germans share with no other of the European peoples whose fate in other respects has been similar to ours, that, as soon as ever foreign arms ruled over us, we behaved as if we had long been awaiting this moment, and sought to do ourselves a good turn quickly, before it was too late, by pouring forth a stream of denunciation on our governments and our rulers, whom we had formerly flattered in a way that offended against good taste, and by railing against everything represented by the word "fatherland."

How shall those of us who are not guilty ward off the disgrace from our heads and let the guilty ones stand alone? There is a means. No more scurrilous denunciations will be printed the moment it is certain that no more will be bought, and as soon as their authors and publishers can no longer reckon on readers tempted to buy them for lack of something better to do, by idle curiosity and love of gossip, or by the malicious joy of seeing those men humiliated who at one time instilled into them the painful feeling of respect. Let everyone who feels the disgrace hand back with fitting contempt a libel that is offered him to read; let him do this, although he believes he is the only one who acts in this way, until it becomes the custom among us for every man of honor to do the same; and then, without any enforcement of restrictions on books, we shall soon be free of this scandalous portion of our literature.

Finally, we debase ourselves most of all before foreigners when we lay ourselves out to flatter them. In former days certain persons among us made themselves contemptible, ludicrous, and nauseating beyond measure by offering up musty incense before our own rulers on every occasion, and by caring neither for sense nor decency, neither taste nor good manners, when they thought there was a chance of delivering a flattering address. This practice has ceased at this time, and these paeans of praise have been transformed in some cases into words of abuse. However, in order not to get out of practice, as it were, we gave our clouds of incense another direction and turned them towards the place where power now resides. Even the old way and not only the

flattery itself, but also the fact that it was not declined could not but give pain to every serious-minded German; still, we kept it to ourselves. Are we now going to make foreigners also the witnesses of this base craving of ours, and of the great clumsiness with which we give vent to it; and are we thus going to add to the contemptible exhibition of our baseness the ludicrous demonstration of our lack of adroitness? For, when we set about these things, we are lacking in all the refinement that the foreigner possesses; so as to avoid not being heard, we lay it on thick and exaggerate everything; we begin straight away with deifications and place our heroes among the stars. Another thing is that we give the impression of being driven to these paeans of praise chiefly by fear and terror; but there is nothing more ridiculous than a frightened man who praises the beauty and graciousness of a creature which in fact he takes to be a monster, and which he merely seeks to bribe by his flattery not to swallow him up.

Or are these hymns of praise perhaps not flattery, but the genuine expression of reverence and admiration which they are compelled to pay to the great genius who, according to them, now directs the affairs of mankind? How little they know, in this case too, the character of true greatness! In all ages and among all peoples true greatness has remained the same in this respect, that it was not vain; just as, on the other hand, whatever displayed vanity has always been beyond a doubt base and petty. True greatness, resting on itself, finds no pleasure in monuments erected by contemporaries, or in being called "The Great," or in the shrieking applause and adulation of the mob; rather, it rejects these things with fitting contempt, and awaits first the verdict on itself from its own indwelling judge, and then the public verdict from the judgment of posterity. True greatness has always bade this further characteristic: it is filled with awe and reverence in the face of dark and mysterious fate, it is mindful of the ever-rolling wheel of destiny, and never allows itself to be counted great or happy before its end. Hence, those who hymn its praises contradict themselves, and by using words they make their words a lie. If they believed that the object of their pretended veneration was really great, they would humbly admit that he was exalted above their acclamations and laudation, and they would honor him by reverent silence. By making it their business to praise him they show that in fact they take him to be petty and base, and so vain that their hymns of praise can give him pleasure, and that they hope thereby to divert some evil from themselves, or procure themselves some benefit.

That cry of enthusiasm: "What a sublime genius! What profound wisdom! What a comprehensive plan!" what after all does it mean when we look at it properly? It means that the genius is so great that we, too, can fully understand it, the wisdom so profound that we, too, can see through it, the plan so comprehensive that we, too, are able to imitate it complete. Hence it means that he who is praised has about the same measure of greatness as he who praises; and yet, not quite, for the latter, of course, understands the former fully and is superior to him; hence, he stands above him and, if he only exerted himself thoroughly, could no doubt achieve something even greater. He must have a very good opinion of himself who believes that he can pay court acceptably in this way; and the one who is praised must have a very low opinion of himself if he finds pleasure in such tributes.

No! Good, earnest, steady German men and countrymen, far from our spirit be such a lack of understanding, and far be such defilement from our language, which is formed to express the truth. Let us leave it to foreigners to burst into jubilation and amazement at every new phenomenon, to make a new standard of greatness every decade, to create new gods, and to speak blasphemies in order to please human beings. Let our standard of greatness be the old one: that alone is great which is capable of receiving the ideas which always bring nothing but salvation upon the peoples, and which is inspired by those ideas. But, as regards the living, let us leave the verdict to the judgment of posterity.

## Source 7 C

**Giuseppe Mazzini**

### **An Essay On the Duties of Man**

**Addressed to Workingmen (1858)**

#### **Chapter V - Duties Towards Your Country, pp. 57-63**

Your first duties – first as regards importance – are, as I have already told you, towards Humanity. You are *men* before you are either citizens or fathers. If you do not embrace the whole human family in your affection; if you do not bear witness to your belief in the Unity of that family, consequent upon the Unity of God, and in that fraternity among the peoples which is destined to reduce that Unity to action; if, wheresoever a fellow-creature suffers, or the dignity of human nature is violated by falsehood or tyranny – you are not ready, if able, to aid the unhappy, and do not feel called upon to combat, if able, for the redemption of the betrayed and oppressed – you violate your law of life, you comprehend not that Religion which will be the guide and blessing of the future.

But what can each of you, singly, *do* for the moral improvement and progress of Humanity? You can from time to time give sterile utterance to your belief; you may, on some rare occasions, perform some act of *charity* towards a brother-man not belonging to your own land – no more. But charity is not the watchword of the Faith of the Future. The watchword of the faith of the future is *Association* and fraternal cooperation towards a common aim; and this is far superior to all charity, as the edifice which all of you should unite to raise would be superior to the humble hut each one of you might build alone, or with the mere assistance of lending and borrowing stone, mortar, and tools.

But, you tell me, you cannot attempt united action, distinct and divided as you are in language, customs, tendencies, and capacity. The individual is too insignificant, and Humanity too vast. The mariner of Brittany prays to God as he puts to sea; "*Help me, my God! my boat is so small and Thy ocean so wide!*" And this prayer is the true expression of the condition of each one of you, until you find the means of infinitely multiplying your forces and powers of action.

This means was provided for you by God when He gave you a country;

when, even as a wise overseer of labour distributes the various branches of employment according to the different capacities of the workmen, he divided Humanity into distinct groups or nuclei upon the face of the earth, thus creating the germ of nationalities. Evil governments have disfigured the Divine design. Nevertheless you may still trace it, distinctly marked out – at least as far as Europe is concerned – by the course of the great rivers, the direction of the higher mountains, and other geographical conditions. They have disfigured it by their conquests, their greed, and their jealousy even of the righteous power of others; disfigured it so far that, if we except England and France, there is not perhaps a single country whose present boundaries correspond to that design.

These governments did not, and do not, recognize any country save their own families or dynasty, the egoism of caste. But the Divine design will infallibly be realized; natural divisions and the spontaneous, innate tendencies of the peoples will take the place of the arbitrary divisions, sanctioned by evil governments. The map of Europe will be redrawn. The countries of the peoples, defined by the vote of free men, will arise upon the ruins of the countries of kings and privileged castes, and between these countries harmony and fraternity will exist. And the common work of Humanity, of general amelioration, and the gradual discovery and application of its Law of life, being distributed according to local and general capacities, will be wrought out in peaceful and progressive development and advance. Then may each one of you, fortified by the power and affection of many millions, all speaking the same language, gifted with the same tendencies, and educated by the same historical tradition, hope even by your own single efforts to be able to benefit all Humanity.

O, my brothers, love your Country! Our country is our Home, a house God has given us, placing therein a numerous family that loves us, and whom we love; a family with whom we sympathize more readily and whom we understand more quickly than we do others; and which, from its being centred round a given spot, and from the homogeneous nature of its elements, is adapted to a special branch of activity. Our Country is our common workshop, whence the products of our activity are sent forth for the benefit of the whole world; wherein the tools and implements of labour we can most usefully employ are gathered together; nor may we reject them without disobeying the plan of the Almighty, and diminishing our own strength.

In labouring for our own country on the right principle, we labour for Humanity. Our country is the fulcrum of the lever we have to wield for the common good. If we abandon the fulcrum, we run the risk of rendering ourselves useless not only to Humanity but to our country itself. Before men can *associate* with the nations of which Humanity is composed, they must have a national existence. There is no true association except among equals. It is only through our country that we can have a recognized *collective* existence. Humanity is a vast army advancing to the conquest of lands unknown, against enemies both powerful and astute. The peoples are the different corps, the divisions of that army. Each of them has its post assigned to it, and its special operation to execute; and the common victory depends upon the exactitude with which those distinct operations are fulfilled. Disturb not the order of battle. Forsake not the banner given to you by God. Wheresoever you may be, in the centre of whatsoever people circumstances may have placed you, be ever ready to combat for the liberty of that people, should it be necessary, but combat in such wise that the blood you shed may reflect glory, not on yourself alone, but on your country. Say not *I*, but *We*. Let each man among you strive to incarnate his country in himself. Let each man among you regard himself as a guarantor, responsible for his fellow-countrymen, and learn so to govern his actions as to cause his country to be loved and respected through him. Your country is the sign of the Mission God has given you to fulfill towards Humanity. The faculties and forces of *all* her sons should be associated in the accomplishment of that mission. The true country is a community of free men and equals, bound together in fraternal concord to labour towards a common aim. You are bound to make it and to maintain it such. The country is not an *aggregation*, but an *association*. There is, therefore, no true country without a uniform right. There is no true country where the uniformity of that right is violated by the existence of caste privilege and inequality. Where the activity of a portion of the powers and faculties of the individual is either cancelled or dormant; where there is not a common Principle, recognized, accepted, and developed by all, there is no true Nation, no People; but only a multitude, a fortuitous agglomeration of men whom circumstances have called together and whom circumstances may again divide. In the name of the love you bear your country, you must peacefully but untiringly combat the existence of privilege and inequality in the land that gave you life.

There is but one sole legitimate privilege, the privilege of Genius when

it reveals itself united with virtue. But this is a privilege given by God, and when you acknowledge it, and follow its inspiration, you do so freely, exercising your own reason and your own choice. Every privilege which demands submission from you in virtue of power, inheritance, or any other right than the Right common to all, is a usurpation and a tyranny which you are bound to resist and destroy.

Be your country your Temple: God at the summit; a people of equals at the base.

Accept no other formula, no other moral law, if you would not dishonour alike your country and yourselves. Let all secondary laws be but the gradual regulation of your existence by the progressive application of this Supreme law. And in order that they may be such, it is necessary that *all* of you should aid in framing them. Laws framed only by a single fraction of the citizens, can never, in the very nature of things, be other than the mere expression of the thoughts, aspirations, and desires of that fraction; the representation, not of the country, but of a third or fourth part, of a class or zone of the country.

The laws should be the expression of the *universal* aspiration, and promote the *universal* good. They should be a pulsation of the heart of the nation. The entire nation should, either directly or indirectly, legislate.

By yielding up this mission into the hands of a few, you substitute the selfishness of one class for the Country, which is the union of all classes.

Country is not only a mere zone of territory. The true Country is the Idea to which it gives birth; it is the Thought of love, the sense of communion which unites in one all the sons of that territory.

So long as a single one amongst your brothers has no vote to represent him in the development of the national life, so long as there is one left to vegetate in ignorance where others are educated, so long as a single man, able and willing to work, languishes in poverty through want of work to do, you have no country in the sense in which Country ought to exist – the country of all and for all.

Education, labour, and the franchise, are the three main pillars of the Nation; rest not until you have built them thoroughly up with your own labour and exertions.

Be it yours to evolve the life of your country in loveliness and strength;

free from all servile fears or sceptical doubts; maintaining as its basis the People; as its guide the principles of its Religious Faith, logically and energetically applied; its strength, the united strength of all; its aim, the fulfillment of the mission given to it by God.

And so long as you are ready to die for Humanity, the life of your country will be immortal.

## Source 7 D

### Theodor Herzl The Jewish State

#### I.

##### Introduction

It is astonishing how little insight into the science of economics many of the men who move in the midst of active life possess. Hence it is that even Jews faithfully repeat the cry of the Anti-Semites: "We depend for sustenance on the nations who are our hosts, and if we had no hosts to support us we should die of starvation." This is a point that shows how unjust accusations may weaken our self-knowledge. But what are the true grounds for this statement concerning the nations that act as "hosts"? Where it is not based on limited physiocratic views it is founded on the childish error that commodities pass from hand to hand in continuous rotation. We need not wake from long slumber, like Rip van Winkle, to realize that the world is considerably altered by the production of new commodities. The technical progress made during this wonderful era enables even a man of most limited intelligence to note with his short-sighted eyes the appearance of new commodities all around him. The spirit of enterprise has created them.

Labor without enterprise is the stationary labor of ancient days; and typical of it is the work of the husbandman, who stands now just where his progenitors stood a thousand years ago. All our material welfare has been brought about by men of enterprise. I feel almost ashamed of writing down so trite a remark. Even if we were a nation of entrepreneurs – such as absurdly exaggerated accounts make us out to be – we should not require another nation to live on. We do not depend on the circulation of old commodities, because we produce new ones.

The world possesses slaves of extraordinary capacity for work, whose appearance has been fatal to the production of handmade goods: these slaves are the machines. It is true that workmen are required to set machinery in motion; but for this we have men in plenty, in superabundance. Only those who are ignorant of the conditions of Jews in many countries of Eastern Europe would venture to assert that Jews

are either unfit or unwilling to perform manual labor.

But I do not wish to take up the cudgels for the Jews in this pamphlet. It would be useless. Everything rational and everything sentimental that can possibly be said in their defense has been said already. If one's hearers are incapable of comprehending them; one is a preacher in a desert. And if one's hearers are broad and high-minded enough to have grasped them already, then the sermon is superfluous. I believe in the ascent of man to higher and yet higher grades of civilization; but I consider this ascent to be desperately slow. Were we to wait till over age humanity had become as charitably inclined as was Lessing when he wrote "Nathan the Wise," we should wait beyond our day, beyond the days of our children, of our grandchildren, and of our great-grandchildren. But the world's spirit comes to our aid in another way.

This century has given the world a wonderful renaissance by means of its technical achievements; but at the same time its miraculous improvements have not been employed in the service of humanity. Distance has ceased to be an obstacle, yet we complain of insufficient space. Our great steamships carry us swiftly and surely over hitherto unvisited seas. Our railways carry us safely into a mountain-world hitherto tremblingly scaled on foot. Events occurring in countries undiscovered when Europe confined the Jews in Ghettos are known to us in the course of an hour. Hence the misery of the Jews is an anachronism – not because there was a period of enlightenment one hundred years ago, for that enlightenment reached in reality only the choicest spirits.

I believe that electric light was not invented for the purpose of illuminating the drawing-rooms of a few snobs, but rather for the purpose of throwing light on some of the dark problems of humanity. One of these problems, and not the least of them, is the Jewish question. In solving it we are working not only for ourselves, but also for many other over-burdened and oppressed beings.

The Jewish question still exists. It would be foolish to deny it. It is a remnant of the Middle Ages, which civilized nations do not even yet seem able to shake off, try as they will. They certainly showed a generous desire to do so when they emancipated us. The Jewish question exists wherever Jews live in perceptible numbers. Where it does not exist, it is carried by Jews in the course of their migrations. We naturally move to those places where we are not persecuted, and there our presence produces persecution. This is the case in every

country, and will remain so, even in those highly civilized – for instance, France – until the Jewish question finds a solution on a political basis. The unfortunate Jews are now carrying the seeds of Anti-Semitism into England; they have already introduced it into America.

I believe that I understand Anti-Semitism, which is really a highly complex movement. I consider it from a Jewish standpoint, yet without fear or hatred. I believe that I can see what elements there are in it of vulgar sport, of common trade jealousy, of inherited prejudice, of religious intolerance, and also of pretended self-defense. I think the Jewish question is no more a social than a religious one, notwithstanding that it sometimes takes these and other forms. It is a national question, which can only be solved by making it a political world-question to be discussed and settled by the civilized nations of the world in council.

We are a people – one people.

We have honestly endeavored everywhere to merge ourselves in the social life of surrounding communities and to preserve the faith of our fathers. We are not permitted to do so. In vain are we loyal patriots, our loyalty in some places running to extremes; in vain do we make the same sacrifices of life and property as our fellow-citizens; in vain do we strive to increase the fame of our native land in science and art, or her wealth by trade and commerce. In countries where we have lived for centuries we are still cried down as strangers, and often by those whose ancestors were not yet domiciled in the land where Jews had already had experience of suffering. The majority may decide which are the strangers; for this, as indeed every point which arises in the relations between nations, is a question of might. I do not here surrender any portion of our prescriptive right, when I make this statement merely in my own name as an individual. In the world as it now is and for an indefinite period will probably remain, might precedes right. It is useless, therefore, for us to be loyal patriots, as were the Huguenots who were forced to emigrate. If we could only be left in peace. . . .

But I think we shall not be left in peace.

Oppression and persecution cannot exterminate us. No nation on earth has survived such struggles and sufferings as we have gone through. Jew-baiting has merely stripped off our weaklings; the strong among us were invariably true to their race when persecution broke out against

them. This attitude was most clearly apparent in the period immediately following the emancipation of the Jews. Those Jews who were advanced intellectually and materially entirely lost the feeling of belonging to their race. Wherever our political well-being has lasted for any length of time, we have assimilated with our surroundings. I think this is not discreditable. Hence, the statesman who would wish to see a Jewish strain in his nation would have to provide for the duration of our political well-being; and even a Bismarck could not do that.

For old prejudices against us still lie deep in the hearts of the people. He who would have proofs of this need only listen to the people where they speak with frankness and simplicity: proverb and fairy-tale are both Anti-Semitic. A nation is everywhere a great child, which can certainly be educated; but its education would, even in most favorable circumstances, occupy such a vast amount of time that we could, as already mentioned, remove our own difficulties by other means long before the process was accomplished.

Assimilation, by which I understood not only external conformity in dress, habits, customs, and language, but also identity of feeling and manner – assimilation of Jews could be effected only by intermarriage. But the need for mixed marriages would have to be felt by the majority; their mere recognition by law would certainly not suffice.

The Hungarian Liberals, who have just given legal sanction to mixed marriages, have made a remarkable mistake which one of the earliest cases clearly illustrates; a baptized Jew married a Jewess. At the same time the struggle to obtain the present form of marriage accentuated distinctions between Jews and Christians, thus hindering rather than aiding the fusion of races.

Those who really wished to see the Jews disappear through intermixture with other nations, can only hope to see it come about in one way. The Jews must previously acquire economic power sufficiently great to overcome the old social prejudice against them. The aristocracy may serve as an example of this, for in its ranks occur the proportionately largest numbers of mixed marriages. Jewish families which regaled the old nobility with money become gradually absorbed. But what form would this phenomenon assume in the middle classes, where (the Jews being a bourgeois people) the Jewish question is mainly concentrated? A previous acquisition of power could be synonymous with that economic supremacy which Jews are already erroneously declared to possess. And if the power they now possess

creates rage and indignation among the Anti-Semites, what outbreaks would such an increase of power create? Hence the first step towards absorption will never be taken, because this step would involve the subjection of the majority to a hitherto scorned minority, possessing neither military nor administrative power of its own. I think, therefore, that the absorption of Jews by means of their prosperity is unlikely to occur. In countries which now are Anti-Semitic my view will be approved. In others, where Jews now feel comfortable, it will probably be violently disputed by them. My happier coreligionists will not believe me till Jew-baiting teaches them the truth; for the longer Anti-Semitism lies in abeyance the more fiercely will it break out. The infiltration of immigrating Jews, attracted to a land by apparent security, and the ascent in the social scale of native Jews, combine powerfully to bring about a revolution. Nothing is plainer than this rational conclusion.

Because I have drawn this conclusion with complete indifference to everything but the quest of truth, I shall probably be contradicted and opposed by Jews who are in easy circumstances. Insofar as private interests alone are held by their anxious or timid possessors to be in danger, they can safely be ignored, for the concerns of the poor and oppressed are of greater importance than theirs. But I wish from the outset to prevent any misconception from arising, particularly the mistaken notion that my project, if realized, would in the least degree injure property now held by Jews. I shall therefore explain everything connected with rights of property very fully. Whereas, if my plan never becomes anything more than a piece of literature, things will merely remain as they are. It might more reasonably be objected that I am giving a handle to anti-Semitism when I say we are a people – one people; that I am hindering the assimilation of Jews where it is about to be consummated, and endangering it where it is an accomplished fact, insofar as it is possible for a solitary writer to hinder, or endanger anything. This objection will be especially brought forward in France. It will probably also be made in other countries, but I shall answer only the French Jews beforehand, because these afford the most striking example of my point.

However much I may worship personality – powerful individual personality in statesmen, inventors, artists, philosophers, or leaders, as well as the collective personality of a historic group of human beings, which we call a nation – however much I may worship personality, I do not regret its disappearance. Whoever can, will, and must perish, let him perish. But the distinctive nationality of Jews neither can, will, nor

must be destroyed. It cannot be destroyed, because external enemies consolidate it. It will not be destroyed; this is shown during two thousand years of appalling suffering. It must not be destroyed, and that, as a descendant of numberless Jews who refused to despair, I am trying once more to prove in this pamphlet. Whole branches of Judaism may wither and fall, but the trunk will remain.

Hence, if all or any of the French Jews protest against this scheme on account of their own "assimilation," my answer is simple: The whole thing does not concern them at all. They are Jewish Frenchmen, well and good! This is a private affair for the Jews alone. The movement towards the organization of the State I am proposing would, of course, harm Jewish Frenchmen no more than it would harm the "assimilated" of other countries. It would, on the contrary, be distinctly to their advantage. For they would no longer be disturbed in their "chromatic function," as Darwin puts it, but would be able to assimilate in peace, because the present Anti-Semitism would have been stopped for ever. They would certainly be credited with being assimilated to the very depths of their souls, if they stayed where they were after the new Jewish State, with its superior institutions, had become a reality. The "assimilated" would profit even more than Christian citizens by the departure of faithful Jews; for they would be rid of the disquieting, incalculable, and unavoidable rivalry of a Jewish proletariat, driven by poverty and political pressure from place to place, from land to land. This floating proletariat would become stationary. Many Christian citizens – whom we call Anti-Semites – now offer determined resistance to the immigration of foreign Jews. Jewish citizens cannot do this, although it affects them far more directly; for on them they feel first of all the keen competition of individuals carrying on similar branches of industry, who, in addition, either introduce Anti-Semitism where it does not exist, or intensify it where it does. The "assimilated" give expression to this secret grievance in "philanthropic" undertakings. They organize emigration societies for wandering Jews. There is a reverse to the picture which would be comic, if it did not deal with human beings. For some of these charitable institutions are created not for, but against, persecuted Jews; they are created to despatch these poor creatures just as fast and far as possible. And thus, many an apparent friend of the Jews turns out, on careful inspection, to be nothing more than an Anti-Semite of Jewish origin, disguised as a philanthropist.

But the attempts at colonization made even by really benevolent men,

interesting attempts though they were, have so far been unsuccessful. I do not think that this or that man took up the matter merely as an amusement, that they engaged in the emigration of poor Jews as one indulges in the racing of horses. The matter was too grave and tragic for such treatment. These attempts were interesting, in that they represented on a small scale the practical fore-runners of the idea of a Jewish State. They were even useful, for out of their mistakes may be gathered experience for carrying the idea out successfully on a larger scale. They have, of course, done harm also. The transportation of Anti-Semitism to new districts, which is the inevitable consequence of such artificial infiltration, seems to me to be the least of these evils. Far worse is the circumstance that unsatisfactory results tend to cast doubts on intelligent men. What is impractical or impossible to simple argument will remove this doubt from the minds of intelligent men. What is unpractical or impossible to accomplish on a small scale, need not necessarily be so on a larger one. A small enterprise may result in loss under the same conditions which would make a large one pay. A rivulet cannot even be navigated by boats, the river into which it flows carries stately iron vessels.

No human being is wealthy or powerful enough to transplant a nation from one habitation to another. An idea alone can achieve that and this idea of a State may have the requisite power to do so. The Jews have dreamt this kingly dream all through the long nights of their history. "Next year in Jerusalem" is our old phrase. It is now a question of showing that the dream can be converted into a living reality.

For this, many old, outgrown, confused and limited notions must first be entirely erased from the minds of men. Dull brains might, for instance, imagine that this exodus would be from civilized regions into the desert. That is not the case. It will be carried out in the midst of civilization. We shall not revert to a lower stage, we shall rise to a higher one. We shall not dwell in mud huts; we shall build new more beautiful and more modern houses, and possess them in safety. We shall not lose our acquired possessions we shall realize them. We shall surrender our well earned rights only for better ones. We shall not sacrifice our beloved customs; we shall find them again. We shall not leave our old home before the new one is prepared for us. Those only will depart who are sure thereby to improve their position; those who are now desperate will go first after them the poor; next the prosperous, and, last of all the wealthy. Those who go in advance will raise themselves to a higher grade, equal to those whose representatives will shortly

follow. Thus the exodus will be at the same time an ascent of the class.

The departure of the Jews will involve no economic disturbances, no crises, no persecutions; in fact, the countries they abandon will revive to a new period of prosperity. There will be an inner migration of Christian citizens into the positions evacuated by Jews. The outgoing current will be gradual, without any disturbance, and its initial movement will put an end to Anti-Semitism. The Jews will leave as honored friends, and if some of them return, they will receive the same favorable welcome and treatment at the hands of civilized nations as is accorded to all foreign visitors. Their exodus will have no resemblance to a flight, for it will be a well-regulated movement under control of public opinion. The movement will not only be inaugurated with absolute conformity to law, but it cannot even be carried out without the friendly cooperation of interested Governments, who would derive considerable benefits from it.

Security for the integrity of the idea and the vigor of its execution will be found in the creation of a body corporate, or corporation. This corporation will be called "The Society of Jews." In addition to it there will be a Jewish company, an economically productive body.

An individual who attempted even to undertake this huge task alone would be either an impostor or a madman. The personal character of the members of the corporation will guarantee its integrity, and the adequate capital of the Company will prove its stability.

These prefatory remarks are merely intended as a hasty reply to the mass of objections which the very words "Jewish State" are certain to arouse. Henceforth we shall proceed more slowly to meet further objections and to explain in detail what has been as yet only indicated; and we shall try in the interests of this pamphlet to avoid making it a dull exposition. Short aphoristic chapters will therefore best answer the purpose.

If I wish to substitute a new building for an old one, I must demolish before I construct. I shall therefore keep to this natural sequence. In the first and general part I shall explain my ideas, remove all prejudices, determine essential political and economic conditions, and develop the plan.

In the special part, which is divided into three principal sections, I shall describe its execution. These three sections are: The Jewish Company, Local Groups, and the Society of Jews. The Society is to be created

first, the Company last; but in this exposition the reverse order is preferable, because it is the financial soundness of the enterprise which will chiefly be called into question, and doubts on this score must be removed first.

In the conclusion, I shall try to meet every further objection that could possibly be made. My Jewish readers will, I hope, follow me patiently to the end. Some will naturally make their objections in an order of succession other than that chosen for their refutation. But whoever finds his doubts dispelled should give allegiance to the cause.

Although I speak of reason, I am fully aware that reason alone will not suffice. Old prisoners do not willingly leave their cells. We shall see whether the youth whom we need are at our command – the youth, who irresistibly draw on the old, carry them forward on strong arms, and transform rational motives into enthusiasm.

## **Source 8 A**

### **Aristotle Politics Book VII, Part XIII**

Returning to the constitution itself, let us seek to determine out of what and what sort of elements the state which is to be happy and well-governed should be composed. There are two things in which all well-being consists: one of them is the choice of a right end and aim of action, and the other the discovery of the actions which are means towards it; for the means and the end may agree or disagree. Sometimes the right end is set before men, but in practice they fail to attain it; in other cases they are successful in all the means, but they propose to themselves a bad end; and sometimes they fail in both. Take, for example, the art of medicine; physicians do not always understand the nature of health, and also the means which they use may not effect the desired end. In all arts and sciences both the end and the means should be equally within our control.

The happiness and well-being which all men manifestly desire, some have the power of attaining, but to others, from some accident or defect of nature, the attainment of them is not granted; for a good life requires a supply of external goods, in a less degree when men are in a good state, in a greater degree when they are in a lower state. Others again, who possess the conditions of happiness, go utterly wrong from the first in the pursuit of it. But since our object is to discover the best form of government, that, namely, under which a city will be best governed, and since the city is best governed which has the greatest opportunity of obtaining happiness, it is evident that we must clearly ascertain the nature of happiness.

We maintain, and have said in the Ethics, if the arguments there adduced are of any value, that happiness is the realization and perfect exercise of virtue, and this not conditional, but absolute. And I used the term 'conditional' to express that which is indispensable, and 'absolute' to express that which is good in itself. Take the case of just actions; just punishments and chastisements do indeed spring from a good principle, but they are good only because we cannot do without them –

it would be better that neither individuals nor states should need anything of the sort – but actions which aim at honor and advantage are absolutely the best. The conditional action is only the choice of a lesser evil; whereas these are the foundation and creation of good. A good man may make the best even of poverty and disease, and the other ills of life; but he can only attain happiness under the opposite conditions (for this also has been determined in accordance with ethical arguments, that the good man is he for whom, because he is virtuous, the things that are absolutely good are good; it is also plain that his use of these goods must be virtuous and in the absolute sense good). This makes men fancy that external goods are the cause of happiness, yet we might as well say that a brilliant performance on the lyre was to be attributed to the instrument and not to the skill of the performer.

It follows then from what has been said that some things the legislator must find ready to his hand in a state, others he must provide. And therefore we can only say: May our state be constituted in such a manner as to be blessed with the goods of which fortune disposes (for we acknowledge her power): whereas virtue and goodness in the state are not a matter of chance but the result of knowledge and purpose. A city can be virtuous only when the citizens who have a share in the government are virtuous, and in our state all the citizens share in the government; let us then inquire how a man becomes virtuous. For even if we could suppose the citizen body to be virtuous, without each of them being so, yet the latter would be better, for in the virtue of each the virtue of all is involved.

There are three things which make men good and virtuous; these are nature, habit, rational principle. In the first place, every one must be born a man and not some other animal; so, too, he must have a certain character, both of body and soul. But some qualities there is no use in having at birth, for they are altered by habit, and there are some gifts which by nature are made to be turned by habit to good or bad. Animals lead for the most part a life of nature, although in lesser particulars some are influenced by habit as well. Man has rational principle, in addition, and man only. Wherefore nature, habit, rational principle must be in harmony with one another; for they do not always agree; men do many things against habit and nature, if rational principle persuades them that they ought. We have already determined what natures are likely to be most easily molded by the hands of the legislator. All else is the work of education; we learn some things by

habit and some by instruction.

## **Source 8 B**

**Adam Ferguson**

### **An Essay on the History of Civil Society.**

#### **Part I. Sections IX, X. Of National Felicity**

##### **Of National Felicity**

Man is, by nature, the member of a community; and when considered in this capacity, the individual appears to be no longer made for himself. He must forego his happiness and his freedom, where these interfere with the good of society. He is only part of a whole; and the praise we think due to his virtue, is but a branch of that more general commendation we bestow on the member of a body, on the part of a fabric or engine, for being well fitted to occupy its place, and to produce its effect.

If this follow from the relation of a part to its whole, and if the public good be the principal object with individuals, it is likewise true, that the happiness of individuals is the great end of civil society: for in what sense can a public enjoy any good, if its members, considered apart, be unhappy?

The interests of society, however, and of its members, are easily reconciled. If the individual owe every degree of consideration to the public, he receives, in paying that very consideration, the greatest happiness of which his nature is capable; and the greatest blessing that the public can bestow on its members, is to keep them attached to itself. That is the most happy state, which is most beloved by its subjects; and they are the most happy men, whose hearts are engaged to a community, in which they find every object of generosity and zeal, and a scope to the exercise of every talent, and of every virtuous disposition.

After we have thus found general maxims, the greater part of our trouble remains, their just application to particular cases. Nations are different in respect to their extent, numbers of people, and wealth; in respect to the arts they practise, and the accommodations they have procured. These circumstances may not only affect the manners of

men; they even, in our esteem, come into competition with the article of manners itself; are supposed to constitute a national felicity, independent of virtue; and give a title, upon which we indulge our own vanity, and that of other nations, as we do that of private men, on the score of their fortunes and honours.

But if this way of measuring happiness, when applied to private men, be ruinous and false, it is so no less when applied to nations. Wealth, commerce, extent of territory, and the knowledge of arts, are, when properly employed, the means of preservation, and the foundations of power. If they fail in part, the nation is weakened; if they were entirely withheld, the race would perish: their tendency is to maintain numbers of men, but not to constitute happiness. They will accordingly maintain the wretched, as well as the happy. They answer one purpose, but are not therefore sufficient for all; and are of little significance, when only employed to maintain a timid, dejected, and servile people.

Great and powerful states are able to overcome and subdue the weak; polished and commercial nations have more wealth, and practise a greater variety of arts, than the rude: but the happiness of men, in all cases alike, consists in the blessings of a candid, an active, and strenuous mind. And if we consider the state of society merely as that into which mankind are led by their propensities, as a state to be valued from its effect in preserving the species, in ripening their talents, and exciting their virtues, we need not enlarge our communities, in order to enjoy these advantages. We frequently obtain them in the most remarkable degree, where nations remain independent, and are of a small extent.

To increase the numbers of mankind, may be admitted as a great and important object: but to extend the limits of any particular state, is not, perhaps, the way to obtain it; while we desire that our fellow-creatures should multiply, it does not follow, that the whole should, if possible, be united under one head. We are apt to admire the empire of the Romans, as a model of national greatness and splendour: but the greatness we admire in this case, was ruinous to the virtue and the happiness of mankind; it was found to be inconsistent with all the advantages which that conquering people had formerly enjoyed in the articles of government and manners.

The emulation of nations proceeds from their division. A cluster of

states, like a company of men, find the exercise of their reason, and the test of their virtues, in the affairs they transact, upon a foot of equality, and of separate interest. The measures taken for safety, including great part of the national policy, are relative in every state to what is apprehended from abroad. Athens was necessary to Sparta, in the exercise of her virtue, as steel is to flint in the production of fire; and if the cities of Greece had been united under one head, we should never have heard of Epaminondas or Thrasybulus, of Lycurgus or Solon.

When we reason in behalf of our species, therefore, although we may lament the abuses which sometimes arise from independence, and opposition of interest; yet, whilst any degrees of virtue remain with mankind, we cannot wish to croud, under one establishment, numbers of men who may serve to constitute several; or to commit affairs to the conduct of one senate, one legislative or executive power, which, upon a distinct and separate footing, might furnish an exercise of ability, and a theatre of glory, to many.

This may be a subject upon which no determinate rule can be given, but the admiration of boundless dominion is a ruinous error; and in no instance, perhaps, is the real interest of mankind more entirely mistaken.

The measure of enlargement to be wished for any particular state, is often to be taken from the condition of its neighbours. Where a number of states are contiguous, they should be near an equality, in order that they may be mutually objects of respect and consideration, and in order that they may possess that independence in which the political life of a nation consists.

When the kingdoms of Spain were united, when the great fiefs in France were annexed to the crown, it was no longer expedient for the nations of Great Britain to continue disjoined.

The small republics of Greece, indeed, by their subdivisions, and the balance of their power, found almost in every village the object of nations. Every little district was a nursery of excellent men, and what is now the wretched corner of a great empire, was the field on which mankind have reaped their principal honours. But in modern Europe, republics of a similar extent, are like shrubs, under the shade of a taller wood, choked by the neighbourhood of more powerful states. In their

case, a certain disproportion of force frustrates, in a great measure, the advantage of separation. They are like the trader in Poland, who is the more despicable, and the less secure, that he is neither master nor slave.

Independent communities, in the mean time, however weak, are averse to a coalition, not only where it comes with an air of imposition, or unequal treaty, but even where it implies no more than the admission of new members to an equal share of consideration with the old. The citizen has no interest in the annexation of kingdoms; he must find his importance diminished, as the state is enlarged: but ambitious men, under the enlargement of territory, find a more plentiful harvest of power, and of wealth, while government itself is an easier task. Hence the ruinous progress of empire; and hence free nations, under the shew of acquiring dominion, suffer themselves, in the end, to be yoked with the slaves they had conquered.

Our desire to augment the force of a nation is the only pretext for enlarging its territory; but this measure, when pursued to extremes, seldom fails to frustrate itself.

Notwithstanding the advantage of numbers, and superior resources in war, the strength of a nation is derived from the character, not from the wealth, nor from the multitude of its people. If the treasure of a state can hire numbers of men, erect ramparts, and furnish the implements of war; the possessions of the fearful are easily seized; a timorous multitude falls into rout of itself; ramparts may be scaled where they are not defended by valour; and arms are of consequence only in the hands of the brave. The band to which Agesilaus pointed as the wall of his city, made a defence for their country more permanent, and more effectual, than the rock and the cement with which other cities were fortified.

We should owe little to that statesman who were to contrive a defence that might supersede the external uses of virtue. It is wisely ordered for man, as a rational being, that the employment of reason is necessary to his preservation: it is fortunate for him, in the pursuit of distinction, that his personal consideration depends on his character; and it is fortunate for nations, that, in order to be powerful and safe, they must strive to maintain the courage, and cultivate the virtues, of their people. By the use of such means, they at once gain their external ends, and

are happy.

Peace and unanimity are commonly considered as the principal foundations of public felicity; yet the rivalship of separate communities, and the agitations of a free people, are the principles of political life, and the school of men. How shall we reconcile these jarring and opposite tenets? It is, perhaps, not necessary to reconcile them, 'The pacific may do what they can to allay the animosities, and to reconcile the opinions, of men; and it will be happy if they can succeed in repressing their crimes, and in calming the worst of their passions. Nothing, in the mean time, but corruption or slavery can suppress the debates that subsist among men of integrity, who bear an equal part in the administration of state.

A perfect agreement in matters of opinion is not to be obtained in the most select company; and if it were, what would become of society? 'The Spartan legislator,' says Plutarch, 'appears to have sown the seeds of variance and dissension among his countrymen:' he meant that good citizens should be led to dispute; he considered emulation as the brand by which their virtues were kindled; and seemed to apprehend, that a complaisance, by which men submit their opinions without examination, is a principal source of corruption.

Forms of government are supposed to decide of the happiness or misery of mankind. But forms of government must be varied, in order to suit the extent, the way of subsistence, the character, and the manners of different nations. In some cases, the multitude may be suffered to govern themselves; in others, they must be severely restrained. The inhabitants of a village in some primitive age, may have been safely intrusted to the conduct of reason, and to the suggestion of their innocent views; but the tenants of Newgate can scarcely be trusted, with chains locked to their bodies, and bars of iron fixed to their legs. How is it possible, therefore, to find any single form of government that would suit mankind in every condition?

We proceed, however, in the following section, to point out the distinctions, and to explain the language which occurs in this place, on the head of different models for subordination and government.

## Section X

The same subject continued

It is a common observation, that mankind were originally equal. They have indeed by nature equal rights to their preservation, and to the use of their talents; but they are fitted for different stations; and when they are classed by a rule taken from this circumstance, they suffer no injustice on the side of their natural rights. It is obvious, that some mode of subordination is as necessary to men as society itself; and this, not only to attain the ends of government, but to comply with an order established by nature.

Prior to any political institution whatever, men are qualified by a great diversity of talents, by a different tone of the soul, and ardour of the passions, to act a variety of parts. Bring them together, each will find his place. They censure or applaud in a body; they consult and deliberate in more select parties; they take or give an ascendant as individuals; and numbers are by this means fitted to act in company, and to preserve their communities, before any formal distribution of office is made.

We are formed to act in this manner; and if we have any doubts with relation to the rights of government in general, we owe our perplexity more to the subtilties of the speculative, than to any uncertainty in the feelings of the heart. Involved in the resolutions of our company, we move with the croud before we have determined the rule by which its will is collected. We follow a leader, before we have settled the ground of his pretensions, or adjusted the form of his election: and it is not till after mankind have committed many errors in the capacities of magistrate and subject, that they think of making government itself a subject of rules.

If therefore, in considering the variety of forms under which societies subsist, the casuist is pleased to inquire, What title one man, or any number of men, have to controul his actions? He may be answered, None at all, provided that his actions have no effect to the prejudice of his fellow-creatures; but if they have, the rights of defence, and the obligation to repress the commission of wrongs, belong to collective bodies, as well as to individuals. Many rude nations, having no formal tribunals for the judgement of crimes, assemble, when alarmed by any

flagrant offence, and take their measures with the criminal as they would with an enemy.

But will this consideration, which confirms the title to sovereignty, where it is exercised by the society in its collective capacity, or by those to whom the powers of the whole are committed, likewise support the claim to dominion, wherever it is casually lodged, or even where it is only maintained by force?

This question may be sufficiently answered, by observing, that a right to do justice, and to do good, is competent to every individual, or order of men, and that the exercise of this right has no limits but in the defect of power. But a right to do wrong, and commit injustice, is an abuse of language, and a contradiction in terms. It is no more competent to the collective body of a people, than it is to any single usurper. When we admit such a prerogative in the case of any sovereign, we can only mean to express the extent of his power, and the force with which he is enabled to execute his pleasure. Such a prerogative is assumed by the leader of banditti at the head of his gang, or by a despotic prince at the head of his troops. When the sword is presented by either, the traveller or the inhabitant may submit from a sense of necessity or fear; but he lies under no obligation from a motive of duty or justice.

The multiplicity of forms, in the mean time, which different societies offer to our view, is almost infinite. The classes into which they distribute their members, the manner in which they establish the legislative and executive powers, the imperceptible circumstances by which they are led to have different customs, and to confer on their governors unequal measures of power and authority, give rise to perpetual distinctions between constitutions the most nearly resembling one another, and give to human affairs a variety in detail, which, in its full extent, no understanding can comprehend, and no memory retain.

In order to have a general and comprehensive knowledge of the whole, we must be determined on this, as on every other subject, to overlook many particulars and singularities, distinguishing different governments; to fix our attention on certain points, in which many agree; and thereby establish a few general heads, under which the subject may be distinctly considered. When we have marked the characteristics which form the general points of coincidence; when we have pursued them to their consequences in the several modes of

legislation, execution, and judicature, in the establishments which relate to police, commerce, religion, or domestic life; we have made an acquisition of knowledge, which, though it does not supersede the necessity of experience, may serve to direct our inquiries, and, in the midst of affairs, to give an order and a method for the arrangement of particulars that occur to our observation.

When I recollect what the President Montesquieu has written, I am at a loss to tell, why I should treat of human affairs: but I too am instigated by my reflections, and my sentiments; and I may utter them more to the comprehension of ordinary capacities, because I am more on the level of ordinary men. If it be necessary to pave the way for what follows on the general history of nations, by giving some account of the heads under which various forms of government may be conveniently ranged, the reader should perhaps be referred to what has been already delivered on the subject by this profound politician and amiable moralist. In his writings will be found, not only the original of what I am now, for the sake of order, to copy from him, but likewise probably the source of many observations, which, in different places, I may, under the belief of invention, have repeated, without quoting their author.

The ancient philosophers treated of government commonly under three heads; the Democratic, the Aristocratic, and the Despotic. Their attention was chiefly occupied with the varieties of republican government; and they paid little regard to a very important distinction, which Mr Montesquieu has made, between despotism and monarchy. He too has considered government as reducible to three general forms; and, 'to understand the nature of each,' he observes, 'it is sufficient to recall ideas which are familiar with men of the least reflection, who admit three definitions, or rather three facts: That a republic is a state in which the people in a collective body, or a part of the people, possess the sovereign power: That monarchy is that in which one man governs, according to fixed and determinate laws: And a despotism is that in which one man, without law, or rule of administration, by the mere impulse of will or caprice, decides, and carries every thing before him.'

Republics admit of a very material distinction, which is pointed out in the general definition; that between democracy and aristocracy. In the first, supreme power remains in the hands of the collective body. Every office of magistracy, at the nomination of this sovereign, is open to every citizen; who, in the discharge of his duty, becomes the minister of

the people, and accountable to them for every object of his trust.

In the second, the sovereignty is lodged in a particular class, or order of men; who, being once named, continue for life; or by the hereditary distinctions of birth and fortune, are advanced to a station of permanent superiority. From this order, and by their nomination, all the offices of magistracy are filled; and in the different assemblies which they constitute, whatever relates to the legislation, the execution, or jurisdiction, is finally determined.

Mr Montesquieu has pointed out the sentiments or maxims from which men must be supposed to act under these different governments.

In democracy, they must love equality; they must respect the rights of their fellow-citizens; they must unite by the common ties of affection to the state. In forming personal pretensions, they must be satisfied with that degree of consideration they can procure by their abilities fairly measured with those of an opponent; they must labour for the public without hope of profit; they must reject every attempt to create a personal dependence. Candour, force, and elevation of mind, in short, are the props of democracy; and virtue is the principle of conduct required to its preservation.

How beautiful a pre-eminence on the side of popular government! and how ardently should mankind wish for the form, if it tended to establish the principle, or were, in every instance, a sure indication of its presence!

But perhaps we must have possessed the principle, in order, with any hopes of advantage, to receive the form; and where the first is entirely extinguished, the other may be fraught with evil, if any additional evil deserves to be shunned where men are already unhappy.

At Constantinople or Algiers, it is a miserable spectacle when men pretend to act on a foot of equality: they only mean to shake off the restraints of government, and to seize as much as they can of that spoil, which, in ordinary times, is ingrossed by the master they serve.

It is one advantage of democracy, that the principal ground of distinction being personal qualities, men are classed according to their abilities, and to the merit of their actions. Though all have equal

pretensions to power, yet the state is actually governed by a few. The majority of the people, even in their capacity of sovereign, only pretend to employ their senses; to feel, when pressed by national inconveniencies, or threatened by public dangers; and with the ardour which is apt to arise in crowded assemblies, to urge the pursuits in which they are engaged, or to repel the attacks with which they are menaced.

The most perfect equality of rights can never exclude the ascendant of superior minds, nor the assemblies of a collective body govern without the direction of select councils. On this account, popular government may be confounded with aristocracy. But this alone does not constitute the character of aristocratical government. Here the members of the state are divided, at least, into two classes; of which one is destined to command, the other to obey. No merits or defects can raise or sink a person from one class to the other. The only effect of personal character is, to procure the individual a suitable degree of consideration with his own order, not to vary his rank. In one situation he is taught to assume, in another to yield the pre-eminence. He occupies the station of patron or client, and is either the sovereign or the subject of his country. The whole citizens may unite in executing the plans of state, but never in deliberating on its measures, or enacting its laws. What belongs to the whole people under democracy, is here confined to a part. Members of the superior order, are among themselves, possibly, classed according to their abilities, but retain a perpetual ascendant over those of inferior station. They are at once the servants and the masters of the state, and pay with their personal attendance and their blood for the civil or military honours they enjoy.

To maintain for himself, and to admit in his fellow-citizen, a perfect equality of privilege and station, is no longer the leading maxim of the member of such a community. The rights of men are modified by their condition. One order claims more than it is willing to yield; the other must be ready to yield what it does not assume to itself: and it is with good reason that Mr Montesquieu gives to the principle of such governments the name of moderation, not of virtue.

The elevation of one class is a moderated arrogance; the submission of the other a limited deference. The first must be careful, by concealing the invidious part of their distinction, to palliate what is grievous in the public arrangement, and by their education, their cultivated manners,

and improved talents, to appear qualified for the stations they occupy. The other must be taught to yield, from respect and personal attachment, what could not otherwise be extorted by force. When this moderation fails on either side, the constitution totters. A populace enraged to mutiny, may claim the right of equality to which they are admitted in democratical states; or a nobility bent on dominion, may chuse among themselves, or find already pointed out to them, a sovereign, who, by advantages of fortune, popularity, or abilities, is ready to seize for his own family, that envied power, which has already carried his order beyond the limits of moderation, and infected particular men with a boundless ambition.

Monarchies have accordingly been found with the recent marks of aristocracy. There, however, the monarch is only the first among the nobles; he must be satisfied with a limited power; his subjects are ranged into classes; he finds on every quarter a pretence to privilege, that circumscribes his authority; and he finds a force sufficient to confine his administration within certain bounds of equity, and determinate laws.

Under such governments, however, the love of equality is preposterous, and moderation itself is unnecessary. The object of every rank is precedency, and every order may display its advantages to their full extent. The sovereign himself owes great part of his authority to the sounding titles and the dazzling equipage which he exhibits in public. The subordinate ranks lay claim to importance by a like exhibition, and for that purpose carry in every instant the ensigns of their birth, or the ornaments of their fortune. What else could mark out to the individual the relation in which he stands to his fellow-subjects, or distinguish the numberless ranks that fill up the interval between the state of the sovereign and that of the peasant? Or what else could, in states of a great extent, preserve any appearance of order, among members disunited by ambition and interest, and destined to form a community, without the sense of any common concern?

Monarchies are generally found, where the state is enlarged in population and in territory, beyond the numbers and dimensions that are consistent with republican government. Together with these circumstances, great inequalities arise in the distribution of property; and the desire of pre-eminence becomes the predominant passion. Every rank would exercise its prerogative, and the sovereign is

perpetually tempted to enlarge his own; if subjects, who despair of precedence, plead for equality, he is willing to favour their claims, and to aid them in procuring what must weaken a force, with which he himself is, on many occasions, obliged to contend. In the event of such a policy, many invidious distinctions and grievances peculiar to monarchical government, may, in appearance, be removed; but the state of equality to which the subjects approach, is that of slaves, equally dependent on the will of a master, not that of freemen in a condition to maintain their own.

The principle of monarchy, according to Montesquieu, is honour. Men may possess good qualities, elevation of mind, and fortitude; but the sense of equality, that will bear no incroachment on the personal rights of the meanest citizen; the indignant spirit, that will not court a protection, nor accept as a favour, what is due as a right; the public affection, which is founded on the neglect of personal considerations, are neither consistent with the preservation of the constitution, nor agreeable to the habits acquired in any station assigned to its members. Every condition is possessed of peculiar dignity, and points out a propriety of conduct, which men of station are obliged to maintain. In the commerce of superiors and inferiors, it is the object of ambition, and of vanity, to refine on the advantages of rank; while, to facilitate the intercourse of polite society, it is the aim of good breeding, to disguise or reject them.

Though the objects of consideration are rather the dignities of station than personal qualities; though friendship cannot be formed by mere inclination, nor alliances by the mere choice of the heart; yet men so united, and even without changing their order, are highly susceptible of moral excellence, or liable to many different degrees of corruption. They may act a vigorous part as members of the state, an amiable one in the commerce of private society; or they may yield up their dignity as citizens, even while they raise their arrogance and presumption as private parties.

In monarchy, all orders of men derive their honours from the crown; but they continue to hold them as a right, and they exercise a subordinate power in the state, founded on the permanent rank they enjoy, and on the attachment of those whom they are appointed to lead and protect. Though they do not force themselves into national councils, and public assemblies, and though the name of senate is unknown; yet the

sentiments they adopt must have weight with the sovereign; and every individual, in his separate capacity, in some measure, deliberates for his country. In whatever does not derogate from his rank, he has an arm ready to serve the community; in whatever alarms his sense of honour, he has aversions and dislikes, which amount to a negative on the will of his prince.

Intangled together by the reciprocal ties of dependence and protection, though not combined by the sense of a common interest, the subjects of monarchy, like those of republics, find themselves occupied as the members of an active society, and engaged to treat with their fellow-creatures on a liberal footing. If those principles of honour which save the individual from servility in his own person, or from becoming an engine of oppression in the hands of another, should fail; if they should give way to the maxims of commerce, to the refinements of a supposed philosophy, or to the misplaced ardours of a republican spirit; if they are betrayed by the cowardice of subjects, or subdued by the ambition of princes; what must become of the nations of Europe?

Despotism is monarchy corrupted, in which a court and a prince in appearance remain, but in which every subordinate rank is destroyed; in which the subject is told, that he has no rights; that he cannot possess any property, nor fill any station, independent of the momentary will of his prince. These doctrines are founded on the maxims of conquest; they must be inculcated with the whip and the sword; and are best received under the terror of chains and imprisonment. Fear, therefore, is the principle which qualifies the subject to occupy his station: and the sovereign, who holds out the ensigns of terror so freely to others, has abundant reason to give this passion a principal place with himself. That tenure which he has devised for the rights of others, is soon applied to his own; and from his eager desire to secure, or to extend, his power, he finds it become, like the fortunes of his people, a creature of mere imagination and unsettled caprice.

Whilst we thus, with so much accuracy, can assign the ideal limits that may distinguish constitutions of government, we find them, in reality, both in respect to the principle and the form, variously blended together. In what society are not men classed by external distinctions, as well as personal qualities? In what state are they not actuated by a variety of principles; justice, honour, moderation, and fear? It is the

purpose of science, not to disguise this confusion in its object, but, in the multiplicity and combination of particulars, to find the principal points which deserve our attention, and which, being well understood, save us from the embarrassment which the varieties of singular cases might otherwise create. In the same degree in which governments require men to act from principles of virtue, of honour, or of fear, they are more or less fully comprised under the heads of republic, monarchy, or despotism, and the general theory is more or less applicable to their particular case.

Forms of government, in fact, mutually approach or recede by many, and often insensible gradations. Democracy, by admitting certain inequalities of rank, approaches to aristocracy. In popular, as well as aristocratical governments, particular men, by their personal authority, and sometimes by the credit of their family, have maintained a species of monarchical power. The monarch is limited in different degrees: even the despotic prince is only that monarch whose subjects claim the fewest privileges, or who is himself best prepared to subdue them by force. All these varieties are but steps in the history of mankind, and mark the fleeting and transient situations through which they have passed, while supported by virtue, or depressed by vice.

Perfect democracy and despotism appear to be the opposite extremes to which constitutions of government are sometimes carried. Under the first, a perfect virtue is required; under the second, a total corruption is supposed: yet in point of mere form, there being nothing fixed in the ranks and distinctions of men, beyond the casual and temporary possession of power, societies easily pass from a condition in which every individual has an equal title to reign, into one in which they are equally destined to serve. The same qualities in both, courage, popularity, address, and military conduct, raise the ambitious to eminence. With these qualities, the citizen or the slave easily passes from the ranks to the command of an army, from an obscure to an illustrious station. In either, a single person may rule with unlimited sway; and in both, the populace may break down every barrier of order, and restraint of law.

If we suppose that the equality established among the subjects of a despotic state, has inspired its members with confidence, intrepidity, and the love of justice; the despotic prince, having ceased to be an object of fear, must sink among the croud. If, on the contrary, the

personal equality which is enjoyed by the members of a democratical state, should be valued merely as an equal pretension to the objects of avarice and ambition, the monarch may start up anew, and be supported by those who mean to share in his profits. When the covetous and mercenary assemble in parties, it is of no consequence under what leader they inlist, whether Caesar or Pompey; the hopes of rapine or power are the only motives from which they become attached to either.

In the disorder of corrupted societies, the scene has been frequently changed from democracy to despotism, and from the last too, in its turn, to the first. From amidst the democracy of corrupt men, and from a scene of lawless confusion, the tyrant ascends a throne with arms reeking in blood. But his abuses, or his weaknesses, in the station which he has gained, in their turn, awaken and give way to the spirit of mutiny and revenge. The cries of murder and desolation, which in the ordinary course of military government terrified the subject in his private retreat, are carried through the vaults, and made to pierce the grates and iron doors of the seraglio. Democracy seems to revive in a scene of wild disorder and tumult: but both the extremes are but the transient fits of paroxysm or languor in a distempered state.

If men be anywhere arrived at this measure of depravity, there appears no immediate hope of redress. Neither the ascendancy of the multitude, nor that of the tyrant, will secure the administration of justice: neither the licence of mere tumult, nor the calm of dejection and servitude, will teach the citizen that he was born for candour and affection to his fellow-creatures. And if the speculative would find that habitual state of war which they are sometimes pleased to honour with the name of the state of nature, they will find it in the contest that subsists between the despotical prince and his subjects, not in the first approaches of a rude and simple tribe to the condition and the domestic arrangement of nations.

## Source 8 C

### Jeremy Bentham

#### Introduction to the Principles of Morals and Legislation

##### Chapter 1. Of the Principle of Utility

I. Nature has placed mankind under the governance of two sovereign masters, *pain* and *pleasure*. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne. They govern us in all we do, in all we say, in all we think: every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it. In words a man may pretend to abjure their empire: but in reality he will remain subject to it all the while. The principle of utility recognizes this subjection, and assumes it for the foundation of that system, the object of which is to rear the fabric of felicity by the hands of reason and of law. Systems which attempt to question it, deal in sounds instead of sense, in caprice instead of reason, in darkness instead of light.

But enough of metaphor and declamation: it is not by such means that moral science is to be improved.

II. The principle of utility is the foundation of the present work: it will be proper therefore at the outset to give an explicit and determinate account of what is meant by it. By the principle of utility is meant that principle which approves or disapproves of every action whatsoever, according to the tendency it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in other words to promote or to oppose that happiness. I say of every action whatsoever, and therefore not only of every action of a private individual, but of every measure of government.

III. By utility is meant that property in any object, whereby it tends to produce benefit, advantage, pleasure, good, or happiness, (all this in the present case comes to the same thing) or (what comes again to the same thing) to prevent the happening of mischief, pain, evil, or unhappiness to the party whose interest is considered: if that party be the community in general, then the happiness of the community: if a particular individual, then the happiness of that individual.

IV. The interest of the community is one of the most general expressions that can occur in the phraseology of morals: no wonder that the meaning of it is often lost. When it has a meaning, it is this. The community is a fictitious *body*, composed of the individual persons who are considered as constituting as it were its *members*. The interest of the community then is, what is it? – the sum of the interests of the several members who compose it.

V. It is in vain to talk of the interest of the community, without understanding what is the interest of the individual. A thing is said to promote the interest, or to be for the interest, of an individual, when it tends to add to the sum total of his pleasures: or, what comes to the same thing, to diminish the sum total of his pains.

VI. An action then may be said to be conformable to the principle of utility, or, for shortness sake, to utility, (meaning with respect to the community at large) when the tendency it has to augment the happiness of the community is greater than any it has to diminish it.

VII. A measure of government (which is but a particular kind of action, performed by a particular person or persons) may be said to be conformable to or dictated by the principle of utility, when in like manner the tendency which it has to augment the happiness of the community is greater than any which it has to diminish it.

VIII. When an action, or in particular a measure of government, is supposed by a man to be conformable to the principle of utility, it may be convenient, for the purposes of discourse, to imagine a kind of law or dictate, called a law or dictate of utility: and to speak of the action in question, as being conformable to such law or dictate.

IX. A man may be said to be a partizan of the principle of utility, when the approbation or disapprobation he annexes to any action, or to any measure, is determined by and proportioned to the tendency which he conceives it to have to augment or to diminish the happiness of the community: or in other words, to its conformity or unconformity to the laws or dictates of utility.

X. Of an action that is conformable to the principle of utility one may always say either that it is one that ought to be done, or at least that it is not one that ought not to be done. One may say also, that it is right it should be done; at least that it is not wrong it should be done: that it is a right action; at least that it is not a wrong action. When thus interpreted, the words *ought*, and *right* and *wrong* and others of that

stamp, have a meaning: when otherwise, they have none.

XI. Has the rectitude of this principle been ever formally contested? It should seem that it had, by those who have not known what they have been meaning. Is it susceptible of any direct proof? It should seem not: for that which is used to prove everything else, cannot itself be proved: a chain of proofs must have their commencement somewhere. To give such proof is as impossible as it is needless.

XII. Not that there is or ever has been that human creature at breathing, however stupid or perverse, who has not on many, perhaps on most occasions of his life, deferred to it. By the natural constitution of the human frame, on most occasions of their lives men in general embrace this principle, without thinking of it: if not for the ordering of their own actions, yet for the trying of their own actions, as well as of those of other men. There have been, at the same time, not many perhaps, even of the most intelligent, who have been disposed to embrace it purely and without reserve. There are even few who have not taken some occasion or other to quarrel with it, either on account of their not understanding always how to apply it, or on account of some prejudice or other which they were afraid to examine into, or could not bear to part with. For such is the stuff that man is made of: in principle and in practice, in a right track and in a wrong one, the rarest of all human qualities is consistency.

XIII. When a man attempts to combat the principle of utility, it is with reasons drawn, without his being aware of it, from that very principle itself. His arguments, if they prove any thing, prove not that the principle is *wrong*, but that, according to the applications he supposes to be made of it, it is *misapplied*. Is it possible for a man to move the earth? Yes; but he must first find out another earth to stand upon.

XIV. To disprove the propriety of it by arguments is impossible; but, from the causes that have been mentioned, or from some confused or partial view of it, a man may happen to be disposed not to relish it. Where this is the case, if he thinks the settling of his opinions on such a subject worth the trouble, let him take the following steps, and at length, perhaps, he may come to reconcile himself to it.

## Source 9A

**Thomas Hobbes**  
**De Cive**  
**Philosophicall Elements of a true Citizen.**  
**Liberty**  
**Chapter I.**

**Of the state of men without Civill Society**

I. The faculties of Humane nature may be reduc'd unto four kinds; Bodily strength, Experience, Reason, Passion. Taking the beginning of this following Doctrine from these, we will declare in the first place what manner of inclinations men who are endued with these faculties bare towards each other, and whether, and by what faculty, they are born apt for Society, and so preserve themselves against mutuall violence; then proceeding, we will shew what advice was necessary to be taken for this businesse, and what are the conditions of Society, or of Humane Peace; that is to say, (changing the words onely) what are the fundamentall *Lawes of Nature*.

II. The greatest part of those men who have written ought concerning Commonwealths, either suppose, or require us, or beg of us to believe, That Man is a Creature born fit for Society: The Greeks call him *Zoon politikon*, and on this foundation they so build up the Doctrine of Civill Society, as if for the preservation of Peace, and the Government of Man-kind there were nothing else necessary, than that Men should agree to make certaine Covenants and Conditions together, which themselves should then call Lawes. Which Axiom, though received by most, is yet certainly False, and an Errour proceeding from our too slight contemplation of Humane Nature; for they who shall more narrowly look into the Causes for which Men come together, and delight in each others company, shall easily find that this happens not because naturally it could happen no otherwise, but by Accident: For if by nature one Man should Love another (that is) as Man, there could no reason be return'd why every Man should not equally Love every Man, as being equally Man, or why he should rather frequent those

whose Society affords him Honour or Profit. We doe not therefore by nature seek Society for its own sake, but that we may receive some Honour or Profit from it; these we desire Primarily, that Secondly: How by what advice Men doe meet, will be best known by observing those things which they doe when they are met: For if they meet for Traffique, it's plaine every man regards not his Fellow, but his Businesse; if to discharge some Office, a certain Market-friendship is begotten, which hath more of Jealousie in it than True love, and whence Factions sometimes may arise, but Good will never; if for Pleasure, and Recreation of mind, every man is wont to please himself most with those things which stirre up laughter, whence he may (according to the nature of that which is Ridiculous) by comparison of another mans Defects and Infirmities, passe the more currant in his owne opinion; and although this be sometimes innocent, and without offence; yet it is manifest they are not so much delighted with the Society, as their own Vain glory. But for the most part, in these kind of meetings, we wound the absent; their whole life, sayings, actions are examin'd, judg'd, condemn'd; nay, it is very rare, but some present receive a fling before they part, so as his reason was not ill, who was wont alwayes at parting to goe out last. And these are indeed the true delights of Society, unto which we are carryed by nature, (i.e.) by those passions which are incident to all Creatures, untill either by sad experience, or good precepts, it so fall out (which in many never happens) that the Appetite, of present matters, be dul'd with the memory of things past, without which, the discourse of most quick and nimble men, on this subject, is but cold and hungry.

But if it so happen, that being met, they passe their time in relating some Stories, and one of them begins to tell one which concernes himselfe; instantly every one of the rest most greedily desires to speak of himself too; if one relate some wonder, the rest will tell you miracles, if they have them, if not, they'l feign them: Lastly, that I may say somewhat of them who pretend to be wiser than others; if they meet to talk of Philosophy, look how many men, so many would be esteem'd Masters, or else they not only love not their fellowes, but even persecute them with hatred: So clear is it by experience to all men who a little more narrowly consider Humane affaires, that all free congress ariseth either from mutual poverty, or from vain glory, whence the parties met, endeavour to carry with them either some benefit, or to leave behind them that same *eudokimein*, some esteem and honour with those, with whom they have been conversant: The same is also

collected by reason out of the definitions themselves, of *Will, Good, Honour, Profitable*. For when we voluntarily contract Society, in all manner of Society we look after the object of the Will, i.e. that, which every one of those, who gather together, propounds to himselfe for good; now whatsoever seemes good, is pleasant, and relates either to the senses, or the mind, but all the mindes pleasure is either Glory, (or to have a good opinion of ones selfe) or referres to Glory in the end; the rest are Sensuall, or conducing to sensuality, which may be all comprehended under the word *Conveniencies*. All Society therefore is either for Gain, or for Glory; (i.e.) not so much for love of our Fellowes, as for love of our Selves: but no society can be great, or lasting, which begins from Vain Glory; because that Glory is like Honour, if all men have it, no man hath it, for they consist in comparison and precellence; neither doth the society of others advance any whit the cause of my glorying in my selfe; for every man must account himself, such as he can make himselfe, without the help of others. But though the benefits of this life may be much farthered by mutuall help, since yet those may be better attain'd to by Dominion, than by the society of others: I hope no body will doubt but that men would much more greedily be carryed by Nature, if all fear were removed, to obtain Dominion, than to gaine Society. We must therefore resolve, that the Originall of all great, and lasting Societies, consisted not in the mutuall good will men had towards each other, but in the mutuall fear they had of each other.

### **Born fit**

Since we now see actually a constituted Society among men, and none living out of it, since we discern all desirous of congresse, and mutuall correspondence, it may seeme a wonderfull kind of stupidity, to lay in the very threshold of this Doctrine, such a stumbling block before the Readers, as to deny Man to be born fit for Society: Therefore I must more plainly say, That it is true indeed, that to Man, by nature, or as Man, that is, as soone as he is born, Solitude is an enemy; for Infants have need of others to help them to live, and those of riper years to help them to live well, wherefore I deny not that men (even nature compelling) desire to come together. But civill Societies are not meer Meetings, but Bonds, to the making whereof, Faith and Compacts are necessary: The Vertue whereof to Children, and Fooles, and the profit whereof to those who have not yet tasted the miseries which accompany its defects, is altogether unknown; whence it happens, that those, because they know not what Society is, cannot enter into it;

these, because ignorant of the benefit it brings, care not for it. Manifest therefore it is, that all men, because they are born in Infancy, are born unapt for Society. Many also (perhaps most men) either through defect of minde, or want of education remain unfit during the whole course of their lives; yet have Infants, as well as those of riper years, an humane nature; wherefore Man is made fit for Society not by Nature, but by Education: furthermore, although Man were born in such a condition as to desire it, it followes not, that he therefore were Born fit to enter into it; for it is one thing to desire, another to be in capacity fit for what we desire; for even they, who through their pride, will not stoop to equall conditions, without which there can be no Society, do yet desire it.

### **The mutuall fear**

It is objected: It is so improbable that men should grow into civill Societies out of fear, that if they had been afraid, they would not have endur'd each others looks: They Presume, I believe, that to fear is nothing else then to be affrighted: I comprehend in this word Fear, a certain foresight of future evill; neither doe I conceive flight the sole property of fear, but to distrust, suspect, take heed, provide so that they may not fear, is also incident to the fearfull. They who go to Sleep, shut their Dores; they who Travell carry their Swords with them, because they fear Theives. Kingdomes guard their Coasts and Frontiers with Forts, and Castles; Cities are compast with Walls, and all for fear of neighbouring Kingdomes and Townes; even the strongest Armies, and most accomlisht for Fight, yet sometimes Parly for Peace, as fearing each others Power, and lest they might be overcome. It is through fear that men secure themselves, by flight indeed, and in corners, if they think they cannot escape otherwise, but for the most part by Armes, and Defensive Weapons; whence it happens, that daring to come forth, they know each others Spirits; but then, if they fight, Civill Society ariseth from the Victory, if they agree, from their Agreement.

III. The cause of mutuall fear consists partly in the naturall equality of men, partly in their mutuall will of hurting: whence it comes to passe that we can neither expect from others, nor promise to our selves the least security: For if we look on men fullgrown, and consider how brittle the frame of our humane body is, (which perishing, all its strength, vigour, and wisdome it selfe perisheth with it) and how easie a matter it is, even for the weakest man to kill the strongest, there is no reason why any man trusting to his own strength should conceive himself

made by nature above others: they are equalls who can doe equall things one against the other; but they who can do the greatest things, (namely kill) can doe equall things. All men therefore among themselves are by nature equall; the inequality we now discern, hath its spring from the Civill Law.

IV. All men in the State of nature have a desire, and will to hurt, but not proceeding from the same cause, neither equally to be condemn'd; for one man according to that naturall equality which is among us, permits as much to others, as he assumes to himself (which is an argument of a temperate man, and one that rightly values his power); another, supposing himselfe above others, will have a License to doe what he lists, and challenges Respect, and Honour, as due to him before others, (which is an Argument of a fiery spirit:) This mans will to hurt ariseth from Vain glory, and the false esteeme he hath of his owne strength; the other's, from the necessity of defending himselfe, his liberty, and his goods against this mans violence.

V. Furthermore, since the combate of Wits is the fiercest, the greatest discords which are, must necessarily arise from this Contention; for in this case it is not only odious to contend against, but also not to consent; for not to approve of what a man saith is no lesse than tacitely to accuse him of an Errour in that thing which he speaketh; as in very many things to dissent, is as much as if you accounted him a fool whom you dissent from; which may appear hence, that there are no Warres so sharply wag'd as between Sects of the same Religion, and Factions of the same Commonweale, where the Contestation is Either concerning Doctrines, or Politique Prudence. And since all the pleasure, and jollity of the mind consists in this; even to get some, with whom comparing, it may find somewhat wherein to Tryumph, and Vaunt it self; its impossible but men must declare sometimes some mutuall scorn and contempt either by Laughter, or by Words, or by Gesture, or some signe or other; than which there is no greater vexation of mind; and than from which there cannot possibly arise a greater desire to doe hurt.

VI. But the most frequent reason why men desire to hurt each other, ariseth hence, that many men at the same time have an Appetite to the same thing; which yet very often they can neither enjoy in common, nor yet divide it; whence it followes that the strongest must have it, and who is strongest must be decided by the Sword.

VII. Among so many dangers therefore, as the naturall lusts of men do

daily threaten each other withall, to have a care of ones selfe is not a matter so scornfully to be lookt upon, as if so be there had not been a power and will left in one to have done otherwise; for every man is desirous of what is good for him, and shuns what is evill, but chiefly the chiefest of naturall evils, which is Death; and this he doth, by a certain impulsion of nature, no lesse than that whereby a Stone moves downward: It is therefore neither absurd, nor reprehensible; neither against the dictates of true reason for a man to use all his endeavours to preserve and defend his Body, and the Members thereof from death and sorrowes; but that which is not contrary to right reason, that all men account to be done justly, and with right; Neither by the word *Right* is any thing else signified, than that liberty which every man hath to make use of his naturall faculties according to right reason: Therefore the first foundation of naturall Right is this, *That every man as much as in him lies endeavour to protect his life and members.*

VIII. But because it is in vaine for a man to have a Right to the end, if the Right to the necessary meanes be deny'd him; it followes, that since every man hath a Right to preserve himself, he must also be allowed a *Right to use all the means, and do all the actions, without which He cannot Preserve himself.*

IX. Now whether the means which he is about to use, and the action he is performing, be necessary to the preservation of his Life, and Members, or not, he Himself, by the right of nature, must be judg; for say another man, judg that it is contrary to right reason that I should judg of mine own perill: why now, because he judgeth of what concerns me, by the same reason, because we are equall by nature, will I judge also of things which doe belong to him; therefore it agrees with right reason (that is) it is the right of nature that I judge of his opinion, (i.e.) whether it conduce to my preservation, or not.

X. Nature hath given to *every one a right to all*. That is it was lawfull for every man in the bare state of nature, or before such time as men had engag'd themselves by any Covenants, or Bonds, to doe what hee would, and against whom he thought fit, and to possesse, use, and enjoy all what he would, or could get. Now because whatsoever a man would, it therefore seems good to him because he wills it, and either it really doth, or at least seems to him to contribute toward his preservation, (but we have already allowed him to be judge in the foregoing Article whether it doth or not, in so much as we are to hold all for necessary whatsoever he shall esteeme so) and by the 7. Article it

appeares that by the right of Nature those things may be done, and must be had, which necessarily conduce to the protection of life, and members, it followes, that in the state of nature, To have all, and do all is lawfull for all. And this is that which is meant by that common saying, *Nature hath given all to all*, from whence we understand likewise, that in the state of nature, Profit is the measure of Right.

### **In the meere state of Nature**

This is thus to be understood: What any man does in the bare state of Nature is injurious to no man; not that in such a State he cannot offend God, or break the Lawes of Nature; for Injustice against men presupposeth Humane Lawes, such, as in the State of Nature there are none: Now the truth of this proposition thus conceived is sufficiently demonstrated to the mindfull Reader in the Articles immediately foregoing; but because in certaine cases the difficulty of the conclusion makes us forget the premises, I will contract this Argument, and make it most evident to a single view; every man hath right to protect himself, as appears by the seventh Article. The same man therefore hath a right to use all the means which necessarily conduce to this end by the eight Article: But those are the necessary means which he shall judge to be such by the ninth Article. He therefore hath a right to make use, of and to doe all whatsoever he shall judge requisite for his preservation: wherefore by the judgement of him that doth it, the thing done is either right, or wrong; and therefore right. True it is therefore in the bare State of Nature, &c but if any man pretend somewhat to tend necessarily to his preservation, which yet he himself doth not confidently believe so, he may offend against the Lawes of Nature, as in the third Chapter of this Book is more at large declar'd. It hath been objected by some: If a Sonne kill his Father, doth he him no injury? I have answered, That a Sonne cannot be understood to be at any time in the State of Nature, as being under the Power and command of them to whom he ownes his protection as soon as ever he is born, namely either his Fathers, or his Mothers, or his that nourisht him, as is demonstrated in the ninth Chapter.

XI. But it was the least benefit for men thus to have a common Right to all things; for the effects of this Right are the same, almost, as if there had been no Right at all; for although any man might say of every thing, *This is mine*, yet could he not enjoy it, by reason of his Neighbour, who having equall Right, and equall power, would pretend the same thing to

be his.

XII. If now to this naturall proclivity of men, to hurt each other, which they derive from their Passions, but chiefly from a vain esteeme of themselves: You adde, the right of all to all, wherewith one by right invades, the other by right resists, and whence arise perpetuall jealousies and suspicions on all hands, and how hard a thing it is to provide against an enemy invading us, with an intention to oppresse, and ruine, though he come with a small Number, and no great Provision; it cannot be deny'd but that the naturall state of men, before they entr'd into Society, was a meer War, and that not simply, but a War of all men, against all men; for what is WAR, but that same time in which the will of contesting by force, is fully declar'd either by Words, or Deeds? The time remaining, is termed PEACE.

XIII. But it is easily judg'd how disagreeable a thing to the preservation either of Man-kind, or of each single Man, a perpetuall War is: But it is perpetuall in its own nature, because in regard of the equality of those that strive, it cannot be ended by Victory; for in this state the Conquerour is subject to so much danger, as it were to be accounted a Miracle, if any, even the most strong should close up his life with many years, and old age. They of America are Examples hereof, even in this present Age: Other Nations have been in former Ages, which now indeed are become Civill, and Flourishing, but were then few, fierce, short-lived, poor, nasty, and destroy'd of all that Pleasure, and Beauty of life, which Peace and Society are wont to bring with them. Whosoever therefore holds, that it had been best to have continued in that state in which all things were lawfull for all men, he contradicts himself; for every man, by naturall necessity desires that which is good for him: nor is there any that esteemes a war of all against all, which necessarily adheres to such a State, to be good for him. And so it happens that through feare of each other we think it fit to rid our selves of this condition, and to get some fellowes; that if there needs must be war, it may not yet be against all men, nor without some helps.

XIV. Fellowes are gotten either by constraint, or by consent; By Constraint, when after fight the Conqueror makes the conquered serve him either through feare of death, or by laying fetters on him: By consent, when men enter into society to helpe each other, both parties consenting without any constraint. But the Conqueror may by right compell the Conquered, or the strongest the weaker, (as a man in health may one that is sick, or he that is of riper yeares a childe)

unlesse he will choose to die, to give caution of his future obedience. For since the right of protecting our selves according to our owne wills proceeded from our danger, and our danger from our equality, its more consonant to reason, and more certaine for our conservation, using the present advantage to secure our selves by taking caution; then, when they shall be full growne and strong, and got out of our power, to endeavour to recover that power againe by doubtfull fight. And on the other side, nothing can be thought more absurd, than by discharging whom you already have weak in your power, to make him at once both an enemy, and a strong one. From whence we may understand likewise as a Corollarie in the naturall state of men, *That a sure and irresistible Power confers the right of Dominion, and ruling over those who cannot resist*; insomuch, as the right of all things, that can be done, adheres essentially, and immediately unto this omnipotence hence arising.

XV. Yet cannot men expect any lasting preservation continuing thus in the state of nature (i.e.) of War, by reason of that equality of power, and other humane faculties they are endued withall. Wherefore to seek Peace, where there is any hopes of obtaining it, and where there is none, to enquire out for Auxiliaries of War, is the dictate of right Reason; that is, the Law of Nature, as shall be shewed in the next Chapter.

## **Dominion**

### **Chapter V.**

#### **Of the causes, and first begining of civill Government**

I. It is of it selfe manifest, that the actions of men proceed from the will, and the will from hope, and feare, insomuch as when they shall see a greater good, or lesse evill, likely to happen to them by the breach, than observation of the Lawes, they'l wittingly violate them. The hope therefore which each man hath of his security, and self-preservation, consists in this, that by force or craft he may disappoint his neighbour, either openly, or by stratagem. Whence we may understand, that the naturall lawes, though well understood, doe not instantly secure any man in their practise, and consequently, that as long as there is no caution had from the invasion of others, there remains to every man

that same primitive Right of self-defence, by such means as either he can or will make use of (that is) a Right to all things, or the Right of warre; and it is sufficient for the fulfilling of the naturall law, that a man be prepared in mind to embrace Peace when it may be had.

II. It is an old saying, That all lawes are silent in the time of warre, and it is a true one, not onely if we speak of the civill, but also of the naturall lawes, provided they be referr'd not to the mind, but to the actions of men, by the third Chapter, Art. 29. And we mean such a war as is of all men against all men; such as is the meer state of nature; although in the warre of nation against nation a certain mean was wont to be observed. And therefore in old time there was a manner of living, and as it were a certain oeconomy, which they called *leotrikon*, living by Rapine, which was neither against the law of nature, (things then so standing) nor voyd of glory to those who exercised it with valour, not with cruelty. Their custome was, taking away the rest, to spare life, and abstain from Oxen fit for plough, and every instrument serviceable to husbandry, which yet is not so to be taken, as if they were bound to doe thus by the law of nature, but that they had regard to their own glory herein, lest by too much cruelty, they might be suspected guilty of feare.

III. Since therefore the exercise of the naturall law is necessary for the preservation of Peace, and that for the exercise of the naturall law security is no lesse necessary, it is worth the considering what that is which affords such a security: for this matter nothing else can be imagined, but that each man provide himselfe of such meet helps, as the invasion of one on the other may bee rendered so dangerous, as either of them may think it better to refrain, than to meddle. But first it is plain, that the consent of two or three cannot make good such a security; because that the addition but of one, or some few on the other side, is sufficient to make the victory undoubtedly sure, and hartens the enemy to attaque us. It is therefore necessary, to the end the security sought for may be obtained, that the number of them who conspire in a mutuall assistance be so great, that the accession of some few to the enemies party may not prove to them a matter of moment sufficient to assure the victory.

IV. Furthermore, how great soever the number of them is who meet on self-defence, if yet they agree not among themselves of some excellent means whereby to compasse this, but every man after his own manner shall make use of his endeavours, nothing will be done;

because that divided in their opinions they will be an hinderance to each other, or if they agree well enough to some one action through hope of victory, spoyle, or revenge, yet afterward through diversity of wits, and Counsels, or emulation, and envy, with which men naturally contend, they will be so torne and rent, as they will neither give mutuall help, nor desire peace, except they be constrained to it by some common feare. Whence it followes, that the consent of many, (which consists in this onely, as we have already defined in the foregoing section, that they direct all their actions to the same end, and the common good) that is to say, that the society proceeding from mutuall help onely, yeelds not that security which they seek for, who meet, and agree in the exercise of the above-named lawes of nature; but that somewhat else must be done, that those who have once consented for the common good, to peace and mutuall help, may by fear be restrained, lest afterward they again dissent, when their private Interest shall appear discrepant from the common good.

V. Aristotle reckons among those animals which he calls Politique, not man only, but divers others; as the Ant, the Bee, &c. which though they be destitute of reason, by which they may contract, and submit to government, notwithstanding by consenting, (that is to say) ensuing, or eschewing the same things, they so direct their actions to a common end, that their meetings are not obnoxious unto any seditions. Yet is not their gathering together a civill government, and therefore those animals not to be termed politicall, because their government is onely a consent, or many wills concurring in one object, not (as is necessary in civill government) one will. It is very true that in those creatures, living only by sense and appetite, their consent of minds is so durable, as there is no need of any thing more to secure it, and (by consequence) to preserve peace among them, than barely their naturall inclination. But among men the case is otherwise. For first among them there is a contestation of honour and preferment; among beasts there is none: whence hatred and envy, out of which arise sedition and warre, is among men; among beasts no such matter. Next, the naturall appetite of Bees, and the like creatures, is conformable, and they desire the common good which among them differs not from their private; but man scarce esteems any thing good which hath not somewhat of eminence in the enjoyment, more than that which others doe possesse. Thirdly, those creatures which are voyd of reason, see no defect, or think they see none, in the administration of their Common-weales; but in a multitude of men there are many who supposing themselves wiser than

others, endeavour to innovate, and divers Innovators innovate divers wayes, which is a meer distraction, and civill warre. Fourthly, these brute creatures, howsoever they may have the use of their voyce to signify their affections to each other, yet want they that same art of words which is necessarily required to those motions in the mind, whereby good is represented to it as being better, and evill as worse than in truth it is; But the tongue of man is a trumpet of warre, and sedition; and it is reported of Pericles, that he sometimes by his elegant speeches thundered, and lightened, and confounded whole Greece it selfe. Fifthly, they cannot distinguish between *injury* and *harme*; Thence it happens that as long as it is well with them, they blame not their fellowes: But those men are of most trouble to the Republique, who have most leasure to be idle; for they use not to contend for publique places before they have gotten the victory over hunger, and cold. Last of all, the consent of those brutall creatures is naturall, that of men by compact onely, (that is to say) artificiall; it is therefore no matter of wonder if somewhat more be needfull for men to the end they may live in peace. Wherefore consent, or contracted society, without some common power whereby particular men may be ruled through feare of punishment, doth not suffice to make up that security which is requisite to the exercise of naturall justice.

VI. Since therefore the conspiring of many wills to the same end doth not suffice to preserve peace, and to make a lasting defence, it is requisite that in those necessary matters which concern Peace and selfe-defence, there be but one will of all men. But this cannot be done, unlesse every man will so subject his will to some other one, to wit, either Man or Counsell, that whatsoever his will is in those things which are necessary to the common peace, it be received for the wills of all men in generall, and of every one in particular. Now the gathering together of many men who deliberate of what is to be done, or not to be done, for the common good of all men, is that which I call a COUNSELL.

VII. This submission of the wills of all those men to the will of one man, or one Counsell, is then made, when each one of them obligeth himself by contract to every one of the rest, not to resist the will of that one man, or counsell, to which he hath submitted himselfe; that is, that he refuse him not the use of his wealth, and strength, against any others whatsoever (for he is supposed still to retain a Right of defending himselfe against violence) and this is called UNION. But we understand that to be the will of the counsell, which is the will of the major part of

those men of whom the Counsell consists.

VIII. But though the will it self be not voluntary, but only the beginning of voluntary actions (for we will not to will, but to act) and therefore falls least of all under deliberation, and compact; yet he who submits his will to the will of an other, conveighs to that other the Right of his strength, and faculties; insomuch as when the rest have done the same, he to whom they have submitted hath so much power, as by the terrour of it hee can conforme the wills of particular men unto unity, and concord.

IX. Now union thus made is called a City, or civill society, and also a civill Person; for when there is one will of all men, it is to be esteemed for one Person, and by the word (*one*) it is to be knowne, and distinguished from all particular men, as having its own Rights and properties; insomuch as neither any one Citizen, nor all of them together (if we except him whose will stands for the will of all) is to be accounted the City. A CITY therefore (that we may define it) is *one Person*, whose will, by the compact of many men, is to be received for the will of them all; so as he may use all the power and faculties of each particular person, to the maintenance of peace, and for common defence.

X. But although every City be a civill Person, yet every civill Person is not a City; for it may happen that many Citizens, by the permission of the City, may joyne together in one Person, for the doing of certain things. These now will be civill Persons, as the companies of Merchants, and many other Convents; but Cities they are not, because they have not submitted themselves to the will of the company simply, and in all things, but in certain things onely determined by the City; and on such termes as it is lawfull for any one of them to contend in judgement against the body it selfe of the sodality; which is by no means allowable to a Citizen against the City; such like societies therefore are civill Persons subordinate to the City.

XI. In every city, That Man, or Counsell, to whose will each particular man hath subjected his will (so as hath been declared) is said to have the SUPREME POWER, or CHIEFE COMMAND, or DOMINION; which Power, and Right of commanding, consists in this, that each Citizen hath conveighed all his strength and power to that man, or Counsell; which to have done (because no man can transferre his power in a naturall manner) is nothing else than to have parted with his Right of resisting. Each Citizen, as also every subordinate civill Person, is called the SUBJECT of him who hath the chiefe command.

XII. By what hath been sayed, it is sufficiently shewed, in what manner, and by what degrees many naturall Persons, through desire of preserving themselves, and by mutuall feare, have growne together into a civill Person, whom we have called a *City*. But they who submit themselves to another for feare, either submit to him whom they feare, or some other whom they confide in for protection; They act according to the first manner who are vanquished in warre, that they may not be slain; they according to the second, who are not yet overcome, that they may not be overcome. The first manner receives its beginning from naturall Power, and may be called the naturall beginning of a *City*; the latter from the Counsell, and constitution of those who meet together, which is a beginning by institution. Hence it is, that there are two kinds of *Cities*, the one naturall, such as is the paternall, and despoticall; the other institutive, which may be also called politicall. In the first the Lord acquires to himselfe such Citizens as he will; in the other the Citizens by their own wills appoint a Lord over themselves, whether he be one man, or one company of men endued with the command in chiefe. But we will speak in the first place of a *City* politicall or by institution, and next of a *City* naturall.

## Source 9 B

John Locke

### The Second Treatise of Civil Government

#### Chapter VIII. Of the Beginning of Political Societies.

Sect. 95. MEN being, as has been said, by nature, all free, equal, and independent, no one can be put out of this estate, and subjected to the political power of another, without his own consent. The only way whereby any one divests himself of his natural liberty, and puts on the *bonds of civil society*, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any, that are not of it. This any number of men may do, because it injures not the freedom of the rest; they are left as they were in the liberty of the state of nature. When any number of men have so *consented to make one community or government*, they are thereby presently incorporated, and make *one body politic*, wherein the *majority* have a right to act and conclude the rest.

Sect. 96. For when any number of men have, by the consent of every individual, made a *community*, they have thereby made that *community* one body, with a power to act as one body, which is only by the will and determination of the *majority*: for that which acts any community, being only the consent of the individuals of it, and it being necessary to that which is one body to move one way; it is necessary the body should move that way whither the greater force carries it, which is the *consent of the majority*: or else it is impossible it should act or continue one body, *one community*, which the consent of every individual that united into it, agreed that it should; and so every one is bound by that consent to be concluded by the *majority*. And therefore we see, that in assemblies, impowered to act by positive laws, where no number is set by that positive law which impowers them, the *act of the majority* passes for the act of the whole, and of course determines, as having, by the law of nature and reason, the power of the whole.

Sect. 97. And thus every man, by consenting with others to make one body politic under one government, puts himself under an obligation, to every one of that society, to submit to the determination of the *majority*, and to be concluded by it; or else this *original compact*, whereby he

with others incorporates into *one society*, would signify nothing, and be no compact, if he be left free, and under no other ties than he was in before in the state of nature. For what appearance would there be of any compact? what new engagement if he were no farther tied by any decrees of the society, than he himself thought fit, and did actually consent to? This would be still as great a liberty, as he himself had before his compact, or any one else in the state of nature hath, who may submit himself, and consent to any acts of it if he thinks fit.

Sect. 98. For if *the consent of the majority* shall not, in reason, be received as *the act of the whole*, and conclude every individual; nothing but the consent of every individual can make any thing to be the act of the whole: but such a consent is next to impossible ever to be had, if we consider the infirmities of health, and avocations of business, which in a number, though much less than that of a common-wealth, will necessarily keep many away from the public assembly. To which if we add the variety of opinions, and contrariety of interests, which unavoidably happen in all collections of men, the coming into society upon such terms would be only like *Cato's* coming into the theatre, only to go out again. Such a constitution as this would make the mighty *Leviathan* of a shorter duration, than the feeblest creatures, and not let it outlast the day it was born in: which cannot be supposed, till we can think, that rational creatures should desire and constitute societies only to be dissolved: for where the *majority* cannot conclude the rest, there they cannot act as one body, and consequently will be immediately dissolved again.

Sect. 99. Whosoever therefore out of a state of nature unite into a *community*, must be understood to give up all the power, necessary to the ends for which they unite into society, to the *majority* of the community, unless they expressly agreed in any number greater than the majority. And this is done by barely agreeing to *unite into one political society*, which is *all the compact* that is, or needs be, between the individuals, that enter into, or make up a *common-wealth*. And thus that, which begins and actually *constitutes any political society*, is nothing but the consent of any number of freemen capable of a majority to unite and incorporate into such a society. And this is that, and that only, which did, or could give beginning to any *lawful government* in the world.

Sect. 100. To this I find two objections made.

First, *That there are no instances to be found in story, of a company of*

*men independent, and equal one amongst another, that met together, and in this way began and set up a government.*

*Secondly, It is impossible of right, that men should do so, because all men being born under government, they are to submit to that, and are not at liberty to begin a new one.*

Sect. 101. To the first there is this to answer, That it is not at all to be wondered, that *history* gives us but a very little account of *men, that lived together in the state of nature*. The inconveniences of that condition, and the love and want of society, no sooner brought any number of them together, but they presently united and incorporated, if they designed to continue together. And if we may not suppose *men* ever to have been *in the state of nature*, because we hear not much of them in such a state, we may as well suppose the armies of *Salmanasser* or *Xerxes* were never children, because we hear little of them, till they were men, and imbodyed in armies. Government is everywhere antecedent to records, and letters seldom come in amongst a people till a long continuation of civil society has, by other more necessary arts, provided for their safety, ease, and plenty: and then they begin to look after the history of their founders, and search into their *original*, when they have outlived the memory of it: for it is with *common-wealths* as with particular persons, they are commonly *ignorant of their own births and infancies*: and if they know any thing of their *original*, they are beholden for it, to the accidental records that others have kept of it. And those that we have, of the beginning of any polities in the world, excepting that of the *Jews*, where God himself immediately interposed, and which favours not at all paternal dominion, are all either plain instances of such a beginning as I have mentioned, or at least have manifest footsteps of it.

Sect. 102. He must shew a strange inclination to deny evident matter of fact, when it agrees not with his hypothesis, who will not allow, that shew a strange inclination to deny evident matter of fact, when it agrees not with his hypothesis, who will not allow, that the *beginning of Rome* and *Venice* were by the uniting together of several men free and independent one of another, amongst whom there was no natural superiority or subjection. And if *Josephus Acosta's* word may be taken, he tells us, that in many parts of *America* there was no government at all. *There are great and apparent conjectures*, says he, *that these men, speaking of those of Peru, for a long time had neither kings nor common-wealths, but lived in troops, as they do this day in Florida, the*

Cheriquanas, *those of Brazil, and many other nations, which have no certain kings, but as occasion is offered, in peace or war, they choose their captains as they please*, 1. i. c. 25. If it be said, that every man there was born subject to his father, or the head of his family; that the subjection due from a child to a father took not away his freedom of uniting into what political society he thought fit, has been already proved. But be that as it will, these men, it is evident, were actually *free*; and whatever superiority some politicians now would place in any of them, they themselves claimed it not, but by consent were all *equal*, till by the same consent they set rulers over themselves. So that their *politic societies* all began from a voluntary union, and the mutual agreement of men freely acting in the choice of their governors, and forms of government.

Sect. 103. And I hope those who went away from *Sparta* with *Palantus*, mentioned by *Justin*, 1. iii. c. 4. will be allowed to have been *freemen independent* one of another, and to have set up a government over themselves, by their own consent. Thus I have given several examples, out of history, of *people free and in the state of nature*, that being met together incorporated and *began a common-wealth*. And if the want of such instances be an argument to prove that *government* were not, nor could not be so *begun*, I suppose the contenders for paternal empire were better let it alone, than urge it against natural liberty: for if they can give so many instances, out of history, of *governments begun* upon paternal right, I think (though at best an argument from what has been, to what should of right be, has no great force) one might, without any great danger, yield them the cause. But if I might advise them in the case, they would do well not to search too much into the *original of governments*, as they have begun *de facto*, lest they should find, at the foundation of most of them, something very little favourable to the design they promote, and such a power as they contend for.

Sect. 104. But to conclude, reason being plain on our side, that men are naturally free, and the examples of history shewing, that the *governments* of the world, that were begun in peace, had their beginning laid on that foundation, and were *made by the consent of the people*; there can be little room for doubt, either where the right is, or what has been the opinion, or practice of mankind, about the *first erecting of governments*.

Sect. 105. I will not deny, that if we look back as far as history will direct us, towards the *original of common-wealths*, we shall generally find

them under the government and administration of one man. And I am also apt to believe, that where a family was numerous enough to subsist by itself, and continued entire together, without mixing with others, as it often happens, where there is much land, and few people, the government commonly began in the father: for the father having, by the law of nature, the same power with every man else to punish, as he thought fit, any offences against that law, might thereby punish his transgressing children, even when they were men, and out of their pupilage; and they were very likely to submit to his punishment, and all join with him against the offender, in their turns, giving him thereby power to execute his sentence against any transgression, and so in effect make him the law-maker, and governor over all that remained in conjunction with his family. He was fittest to be trusted; paternal affection secured their property and interest under his care; and the custom of obeying him, in their childhood, made it easier to submit to him, rather than to any other. If therefore they must have one to rule them, as government is hardly to be avoided amongst men that live together; who so likely to be the man as he that was their common father; unless negligence, cruelty, or any other defect of mind or body made him unfit for it? But when either the father died, and left his next heir, for want of age, wisdom, courage, or any other qualities, less fit for rule; or where several families met, and consented to continue together; there, it is not to be doubted, but they used their natural freedom, to set up him, whom they judged the ablest, and most likely, to rule well over them. Conformable hereunto we find the people of *America*, who (living out of the reach of the conquering swords, and spreading domination of the two great empires of *Peru* and *Mexico*) enjoyed their own natural freedom, though, *ceteris paribus*, they commonly prefer the heir of their deceased king; yet if they find him any way weak, or uncapable, they pass him by, and set up the stoutest and bravest man for their ruler.

Sect. 106. Thus, though looking back as far as records give us any account of peopling the world, and the history of nations, we commonly find the *government* to be in one hand; yet it destroys not that which I affirm, *viz.* that the *beginning of politic society* depends upon the consent of the individuals, to join into, and make one society; who, when they are thus incorporated, might set up what form of government they thought fit. But this having given occasion to men to mistake, and think, that by nature government was monarchical, and belonged to the father, it may not be amiss here to consider, why people in the

beginning generally pitched upon this form, which though perhaps the father's pre-eminency might, in the first institution of some commonwealths, give a rise to, and place in the beginning, the power in one hand; yet it is plain that the reason, that continued the form of *government in a single person*, was not any regard, or respect to paternal authority; since all petty *monarchies*, that is, almost all monarchies, near their original, have been commonly, at least upon occasion, *elective*.

Sect. 107. First then, in the beginning of things, the father's government of the childhood of those sprung from him, having accustomed them to the *rule of one man*, and taught them that where it was exercised with care and skill, with affection and love to those under it, it was sufficient to procure and preserve to men all the political happiness they sought for in society. It was no wonder that they should pitch upon, and naturally run into that form of government, which from their infancy they had been all accustomed to; and which, by experience, they had found both easy and safe. To which, if we add, that *monarchy* being simple, and most obvious to men, whom neither experience had instructed in forms of government, nor the ambition or insolence of empire had taught to beware of the encroachments of prerogative, or the inconveniences of absolute power, which monarchy in succession was apt to lay claim to, and bring upon them, it was not at all strange, that they should not much trouble themselves to think of methods of restraining any exorbitances of those to whom they had given the authority over them, and of balancing the power of government, by placing several parts of it in different hands. They had neither felt the oppression of tyrannical dominion, nor did the fashion of the age, nor their possessions, or way of living, (which afforded little matter for covetousness or ambition) give them any reason to apprehend or provide against it; and therefore it is no wonder they put themselves into such a *frame of government*, as was not only, as I said, most obvious and simple, but also best suited to their present state and condition; which stood more in need of defence against foreign invasions and injuries, than of multiplicity of laws. The equality of a simple poor way of living, confining their desires within the narrow bounds of each man's small property, made few controversies, and so no need of many laws to decide them, or variety of officers to superintend the process, or look after the execution of justice, where there were but few trespasses, and few offenders. Since then those, who like one another so well as to join into society, cannot but be

supposed to have some acquaintance and friendship together, and some trust one in another; they could not but have greater apprehensions of others, than of one another: and therefore their first care and thought cannot but be supposed to be, how to secure themselves against foreign force. It was natural for them to put themselves under a *frame of government* which might best serve to that end, and chuse the wisest and bravest man to conduct them in their wars, and lead them out against their enemies, and in this chiefly be their *ruler*.

Sect. 108. Thus we see, that the *kings of the Indians in America*, which is still a pattern of the first ages in Asia and Europe, whilst the inhabitants were too few for the country, and want of people and money gave men no temptation to enlarge their possessions of land, or contest for wider extent of ground, are little more than *generals of their armies*; and though they command absolutely in war, yet at home and in time of peace they exercise very little dominion, and have but a very moderate sovereignty, the resolutions of peace and war being ordinarily either in the people, or in a council. Tho' the war itself, which admits not of plurality of governors, naturally devolves the command into the *king's sole authority*.

Sect. 109. And thus in *Israel* itself, the *chief business of their judges, and first kings*, seems to have been *to be captains in war*, and leaders of their armies; which (besides what is signified by *going out and in before the people*, which was, to march forth to war, and home again in the heads of their forces) appears plainly in the story of *Jephtha*. The *Ammonites* making war upon *Israel*, the *Gileadites* in fear send to *Jephtha*, a bastard of their family whom they had cast off, and article with him, if he will assist them against the *Ammonites*, to make him their ruler; which they do in these words, *And the people made him head and captain over them*, Judg. xi. ii. which was, as it seems, all one as to be *judge*. *And he judged Israel*, judg. xii. 7. that is, was their *captain-general six years*. So when *Jotham* upbraids the *Shechemites* with the obligation they had to *Gideon*, who had been their *judge* and ruler, he tells them, *He fought for you, and adventured his life far, and delivered you out of the hands of Midian*, Judg. ix. 17. Nothing mentioned of him but what he did as a *general*: and indeed that is all is found in his history, or in any of the rest of the judges. And *Abimelech* particularly is called *king*, though at most he was but their *general*. And when, being weary of the ill conduct of *Samuel's sons*, the children of *Israel* desired a *king, like all the nations to judge them, and to go out*

*before them, and to fight their battles*, I. Sam viii. 20. God granting their desire, says to *Samuel*, *I will send thee a man, and thou shalt anoint him to be captain over my people Israel, that he may save my people out of the hands of the Philistines*, ix. 16. As if the only *business* of a king had been to lead out their armies, and fight in their defence; and accordingly at his inauguration pouring a vial of oil upon him, declares to *Saul*, that *the Lord had anointed him to be captain over his inheritance*, x. 1. And therefore those, who after *Saul's* being solemnly chosen and saluted king by the tribes at *Mispah*, were unwilling to have him their king, made no other objection but this, *How shall this man save us?* v. 27. as if they should have said, this man is unfit to be our king, not having skill and conduct enough in war, to be able to defend us. And when God resolved to transfer the government to *David*, it is in these words, *But now thy kingdom shall not continue: the Lord hath sought him a man after his own heart, and the Lord hath commanded him to be captain over his people*, xiii. 14. As if the whole *kingly authority* were nothing else but to be their *general*: and therefore the tribes who had stuck to *Saul's* family, and opposed *David's* reign, when they came to *Hebron* with terms of submission to him, they tell him, amongst other arguments they had to submit to him as to their king, that he was in effect their king in *Saul's* time, and therefore they had no reason but to receive him as their king now. Also (say they) *in time past, when Saul was king over us, thou wast he that reddest out and broughtest in Israel, and the Lord said unto thee, Thou shalt feed my people Israel, and thou shalt be a captain over Israel*.

Sect. 110. Thus, whether a family by degrees grew up into a common-wealth, and the fatherly authority being continued on to the elder son, every one in his turn growing up under it, tacitly submitted to it, and the easiness and equality of it not offending any one, every one acquiesced, till time seemed to have confirmed it, and settled a right of succession by prescription: or whether several families, or the descendants of several families, whom chance, neighbourhood, or business brought together, uniting into society, the need of a general, whose conduct might defend them against their enemies in war, and the great confidence the innocence and sincerity of that poor but virtuous age, (such as are almost all those which begin governments, that ever come to last in the world) gave men one of another, made the first beginners of common-wealths generally put the rule into one man's hand, without any other express limitation or restraint, but what the nature of the thing, and the end of government required: which ever of

those it was that at first put the rule into the hands of a single person, certain it is no body was intrusted with it but for the public good and safety, and to those ends, in the infancies of common-wealths, those who had it commonly used it. And unless they had done so, young societies could not have subsisted; without such nursing fathers tender and careful of the public weal, all governments would have sunk under the weakness and infirmities of their infancy, and the prince and the people had soon perished together.

Sect. 111. But though the *golden age* (before vain ambition, and *amor sceleratus habendi*, evil concupiscence, had corrupted men's minds into a mistake of true power and honour) had more virtue, and consequently better governors, as well as less vicious subjects, and there was then *no stretching prerogative* on the one side, to oppress the people; *nor* consequently on the other, any *dispute about privilege*, to lessen or restrain the power of the magistrate, and so no contest betwixt rulers and people about governors or government: yet, when ambition and luxury in future ages<sup>1</sup> would retain and increase the power, without doing the business for which it was given; and aided by flattery, taught princes to have distinct and separate interests from their people, men found it necessary to examine more carefully *the original and rights of government*; and to find out ways *to restrain the exorbitances*, and *prevent the abuses* of that power, which they having intrusted in another's hands only for their own good, they found was made use of to hurt them.

Sect. 112. Thus we may see how probable it is, that people that were naturally free, and by their own consent either submitted to the government of their father, or united together out of different families to make a government, should generally put the *rule into one man's hands*, and chuse to be under the conduct of a *single person*, without so much as by express conditions limiting or regulating his power, which they thought safe enough in his honesty and prudence; though they never dreamed of monarchy being *Jure Divino*, which we never heard of among mankind, till it was revealed to us by the divinity of this last age; nor ever allowed paternal power to have a right to dominion, or to be the foundation of all government. And thus much may suffice to shew, that as far as we have any light from history, we have reason to conclude, that all peaceful beginnings of *government* have been *laid in the consent of the people*. I say *peaceful*, because I shall have occasion in another place to speak of conquest, which some esteem a way of beginning of governments.

*The other objection I find urged against the beginning of polities, in the way I have mentioned, is this, viz.*

Sect. 113. *That all men being born under government, some or other, it is impossible any of them should ever be free, and at liberty to unite together, and begin a new one, or ever be able to erect a lawful government.*

If this argument be good; I ask, how came so many lawful monarchies into the world? for if any body, upon this supposition, can shew me any one man in any age of the world *free* to begin a lawful monarchy, I will be bound to shew him ten other *free men* at liberty, at the same time to unite and begin a new government under a regal, or any other form; it being demonstration, that if any one, *born under the dominion* of another, may be so *free* as to have a right to command others in a new and distinct empire, every one that is born under the dominion of another may be so free too, and may become a ruler, or subject, of a distinct separate government. And so by this their own principle, either all men, however *born*, are *free*, or else there is but one lawful prince, one lawful government in the world. And then they have nothing to do, but barely to shew us which that is; which when they have done, I doubt not but all mankind will easily agree to pay obedience to him.

Sect. 114. Though it be a sufficient answer to their objection, to shew that it involves them in the same difficulties that it doth those they use it against; yet I shall endeavour to discover the weakness of this argument a little farther.

*All men, say they, are born under government, and therefore they cannot be at liberty to begin a new one. Every one is born a subject to his father, or his prince, and is therefore under the perpetual tie of subjection and allegiance.* It is plain mankind never owned nor considered any such natural subjection that they were born in, to one or to the other that tied them, without their own consents, to a subjection to them and their heirs.

Sect. 115. For there are no examples so frequent in history, both sacred and profane, as those of men withdrawing themselves, and their obedience, from the jurisdiction they were born under, and the family or community they were bred up in, and *setting up new governments* in other places; from whence sprang all that number of petty commonwealths in the beginning of ages, and which always multiplied, as long as there was room enough, till the stronger, or more fortunate,

swallowed the weaker; and those great ones again breaking to pieces, dissolved into lesser dominions. All which are so many testimonies against paternal sovereignty, and plainly prove, that it was not the natural right of the *father* descending to his heirs, that made governments in the beginning, since it was impossible, upon that ground, there should have been so many little kingdoms; all must have been but only one universal monarchy, if men had not been at *liberty to separate* themselves from their families, and the government, be it what it will, that was set up in it, and go and make distinct common-wealths and other governments, as they thought fit.

Sect. 116. This has been the practice of the world from its first beginning to this day; nor is it now any more hindrance to the freedom of mankind, that they are *born under constituted and ancient polities*, that have established laws, and set forms of government, than if they were born in the woods, amongst the unconfined inhabitants, that run loose in them: for those, who would persuade us, that *by being born under any government, we are naturally subjects to it*, and have no more any title or pretence to the freedom of the state of nature, have no other reason (bating that of paternal power, which we have already answered) to produce for it, but only, because our fathers or progenitors passed away their natural liberty, and thereby bound up themselves and their posterity to a perpetual subjection to the government, which they themselves submitted to. It is true, that whatever engagements or promises any one has made for himself, he is under the obligation of them, but *cannot*, by any *compact* whatsoever, *bind his children or posterity*: for his son, when a man, being altogether as free as the father, any *act of the father can no more give away the liberty of the son*, than it can of any body else: he may indeed annex such conditions to the land, he enjoyed as a subject of any common-wealth, as may oblige his son to be of that community, if he will enjoy those possessions which were his father's; because that estate being his father's property, he may dispose, or settle it, as he pleases.

Sect. 117. And this has generally given the occasion to mistake in this matter; because common-wealths not permitting any part of their dominions to be dismembered, nor to be enjoyed by any but those of their community, the son cannot ordinarily enjoy the possessions of his father, but under the same terms his father did, by becoming a member of the society; whereby he puts himself presently under the government he finds there established, as much as any other subject of that

common-wealth. And thus the *consent of freemen, born under government*, which only *makes them members of it*, being given separately in their turns, as each comes to be of age, and not in a multitude together; people take no notice of it, and thinking it not done at all, or not necessary, conclude they are naturally subjects as they are men.

Sect. 118. But, it is plain, *governments* themselves understand it otherwise; they claim *no power over the son, because of that they had over the father*; nor look on children as being their subjects, by their fathers being so. If a subject of *England* have a child, by an *English* woman in *France*, whose subject is he? Not the king of *England's*; for he must have leave to be admitted to the privileges of it: nor the king of *France's*; for how then has his father a liberty to bring him away, and breed him as he pleases? and who ever was judged as a *traytor* or *deserter*, if he left, or warred against a country, for being barely born in it of parents that were aliens there? It is plain then, by the practice of governments themselves, as well as by the law of right reason, that *a child is born a subject of no country or government*. He is under his father's tuition and authority, till he comes to age of discretion; and then he is a freeman, at liberty what government he will put himself under, what body politic he will unite himself to: for if an *Englishman's* son, born in *France*, be at liberty, and may do so, it is evident there is no tie upon him by his father's being a subject of this kingdom; nor is he bound up by any compact of his ancestors. And why then hath not his son, by the same reason, the same liberty, though he be born any where else? Since the power that a father hath naturally over his children, is the same, wherever they be born, and the ties of natural obligations, are not bounded by the positive limits of kingdoms and common-wealths.

Sect. 119. *Every man* being, as has been shewed, *naturally free*, and nothing being able to put him into subjection to any earthly power, but only his own *consent*; it is to be considered, what shall be understood to be a *sufficient declaration* of a man's *consent, to make him subject* to the laws of any government. There is a common distinction of an express and a tacit consent, which will concern our present case. No body doubts but an express *consent*, of any man entering into any society, makes him a perfect member of that society, a subject of that government. The difficulty is, what ought to be looked upon as a *tacit consent*, and how far it binds, i.e. how far any one shall be looked on to have consented, and thereby submitted to any government, where he

has made no expressions of it at all. And to this I say, that every man, that hath any possessions, or enjoyment, of any part of the dominions of any government, doth thereby give his *tacit consent*, and is as far forth obliged to obedience to the laws of that government, during such enjoyment, as any one under it; whether this his possession be of land, to him and his heirs for ever, or a lodging only for a week; or whether it be barely travelling freely on the highway; and in effect, it reaches as far as the very being of any one within the territories of that government.

Sect. 120. To understand this the better, it is fit to consider, that every man, when he at first incorporates himself into any commonwealth, he, by his uniting himself thereunto, annexed also, and submits to the community, those possessions, which he has, or shall acquire, that do not already belong to any other government: for it would be a direct contradiction, for any one to enter into society with others for the securing and regulating of property; and yet to suppose his land, whose property is to be regulated by the laws of the society, should be exempt from the jurisdiction of that government, to which he himself, the proprietor of the land, is a subject. By the same act therefore, whereby any one unites his person, which was before free, to any commonwealth, by the same he unites his possessions, which were before free, to it also; and they become, both of them, person and possession, subject to the government and dominion of that commonwealth, as long as it hath a being. Whoever therefore, from thenceforth, by inheritance, purchase, permission, or otherways, *enjoys any part of the land*, so annexed to, and under the government of that commonwealth, must take it with the condition it is under; that is, *of submitting to the government of the common-wealth*, under whose jurisdiction it is, as far forth as any subject of it.

Sect. 121. But since the government has a direct jurisdiction only over the land, and reaches the possessor of it, (before he has actually incorporated himself in the society) only as he dwells upon, and enjoys that; the obligation any one is under, by virtue of such enjoyment, to *submit to the government, begins and ends with the enjoyment*; so that whenever the owner, who has given nothing but such a *tacit consent* to the government, will, by donation, sale, or otherwise, quit the said possession, he is at liberty to go and incorporate himself into any other commonwealth; or to agree with others to begin a new one, *in vacuis locis*, in any part of the world, they can find free and unpossessed: whereas he, that has once, by actual agreement, and any *express*

declaration, given his *consent* to be of any common-wealth, is perpetually and indispensably obliged to be, and remain unalterably a subject to it, and can never be again in the liberty of the state of nature; unless, by any calamity, the government he was under comes to be dissolved; or else by some public act cuts him off from being any longer a member of it.

Sect. 122. But submitting to the laws of any country, living quietly, and enjoying privileges and protection under them, *makes not a man a member of that society*: this is only a local protection and homage due to and from all those, who, not being in a state of war, come within the territories belonging to any government, to all parts whereof the force of its laws extends. But this no more *makes a man a member of that society*, a perpetual subject of that common-wealth, than it would make a man a subject to another, in whose family he found it convenient to abide for some time; though, whilst he continued in it, he were obliged to comply with the laws, and submit to the government he found there. And thus we see, that *foreigners*, by living all their lives under another government, and enjoying the privileges and protection of it, though they are bound, even in conscience, to submit to its administration, as far forth as any denison; yet do not thereby come to be *subjects or members of that common-wealth*. Nothing can make any man so, but his actually entering into it by positive engagement, and express promise and compact. This is that, which I think, concerning the beginning of political societies, and that *consent which makes any one a member of any common-wealth*.

## Notes:

<sup>1</sup> At first, when some certain kind of regiment was once approved, it may be nothing was then farther thought upon for the manner of governing, but all permitted unto their wisdom and discretion which were to rule, till by experience they found this for all parts very inconvenient, so as the thing which they had devised for a remedy, did indeed but increase the sore which it should have cured. They saw, that to live by one man's will, became the cause of all men's misery. This constrained them to come unto laws wherein all men might see their duty before hand, and know the penalties of transgressing them. Hooker's Eccl. Pol. I. i. sect. 10.

## Source 9 C

**Jean-Jacques Rousseau**

### **Social Contract**

#### **6. The Social Compact**

I SUPPOSE men to have reached the point at which the obstacles in the way of their preservation in the state of nature show their power of resistance to be greater than the resources at the disposal of each individual for his maintenance in that state. That primitive condition can then subsist no longer; and the human race would perish unless it changed its manner of existence.

But, as men cannot engender new forces, but only unite and direct existing ones, they have no other means of preserving themselves than the formation, by aggregation, of a sum of forces great enough to overcome the resistance. These they have to bring into play by means of a single motive power, and cause to act in concert.

This sum of forces can arise only where several persons come together: but, as the force and liberty of each man are the chief instruments of his self-preservation, how can he pledge them without harming his own interests, and neglecting the care he owes to himself? This difficulty, in its bearing on my present subject, may be stated in the following terms:

*"The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before."* This is the fundamental problem of which the *Social Contract* provides the solution.

The clauses of this contract are so determined by the nature of the act that the slightest modification would make them vain and ineffective; so that, although they have perhaps never been formally set forth, they are everywhere the same and everywhere tacitly admitted and recognised, until, on the violation of the social compact, each regains his original rights and resumes his natural liberty, while losing the conventional liberty in favour of which he renounced it.

These clauses, properly understood, may be reduced to one – the total alienation of each associate, together with all his rights, to the whole community; for, in the first place, as each gives himself absolutely, the conditions are the same for all; and, this being so, no one has any interest in making them burdensome to others.

Moreover, the alienation being without reserve, the union is as perfect as it can be, and no associate has anything more to demand: for, if the individuals retained certain rights, as there would be no common superior to decide between them and the public, each, being on one point his own judge, would ask to be so on all; the state of nature would thus continue, and the association would necessarily become inoperative or tyrannical.

Finally, each man, in giving himself to all, gives himself to nobody; and as there is no associate over whom he does not acquire the same right as he yields others over himself, he gains an equivalent for everything he loses, and an increase of force for the preservation of what he has.

If then we discard from the social compact what is not of its essence, we shall find that it reduces itself to the following terms:

*"Each of us puts his person and all his power in common under the supreme direction of the general will, and, in our corporate capacity, we receive each member as an indivisible part of the whole."*

At once, in place of the individual personality of each contracting party, this act of association creates a moral and collective body, composed of as many members as the assembly contains votes, and receiving from this act its unity, its common identity, its life and its will. This public person, so formed by the union of all other persons formerly took the name of *city*, and now takes that of *Republic* or *body politic*; it is called by its members *State* when passive. *Sovereign* when active, and *Power* when compared with others like itself. Those who are associated in it take collectively the name of *people*, and severally are called *citizens*, as sharing in the sovereign power, and *subjects*, as being under the laws of the State. But these terms are often confused and taken one for another: it is enough to know how to distinguish them when they are being used with precision.

## Source 9 D

### David Hume Of The Original Contract

As no party, in the present age, can well support itself without a philosophical or speculative system of principles annexed to its political or practical one, we accordingly find, that each of the factions into which this nation is divided has reared up a fabric of the former kind, in order to protect and cover that scheme of actions which it pursues. The people being commonly very rude builders, especially in this speculative way, and more especially still when actuated by party-zeal, it is natural to imagine that their workmanship must be a little unshapely, and discover evident marks of that violence and hurry in which it was raised. The one party, by tracing up government to the Deity, endeavoured to render it so sacred and inviolate, that it must be little less than sacrilege, however tyrannical it may become, to touch or invade it in the smallest article. The other party, by founding government altogether on the consent of the people, suppose that there is a kind of *original contract*, by which the subjects have tacitly reserved the power of resisting their sovereign, whenever they find themselves aggrieved by that authority, with which they have, for certain purposes, voluntarily intrusted him. These are the speculative principles of the two parties, and these, too, are the practical consequences deduced from them.

I shall venture to affirm, *That both these systems of speculative principles are just; though not in the sense intended by the parties: and, That both the schemes of practical consequences are prudent; though not in the extremes to which each party, in opposition to the other, has commonly endeavoured to carry them.*

That the Deity is the ultimate author of all government, will never be denied by any, who admit a general providence, and allow, that all events in the universe are conducted by an uniform plan, and directed to wise purposes. As it is impossible for the human race to subsist, at least in any comfortable or secure state, without the protection of government, this institution must certainly have been intended by that beneficent Being, who means the good of all his creatures: and as it has universally, in fact, taken place, in all countries, and all ages, we

may conclude, with still greater certainty, that it was intended by that omniscient Being who can never be deceived by any event or operation. But since he gave rise to it, not by any particular or miraculous interposition, but by his concealed and universal efficacy, a sovereign cannot, properly speaking, be called his vicegerent in any other sense than every power or force, being derived from him, may be said to act by his commission. Whatever actually happens is comprehended in the general plan or intention of Providence; nor has the greatest and most lawful prince any more reason, upon that account, to plead a peculiar sacredness or inviolable authority, than an inferior magistrate, or even an usurper, or even a robber and a pirate. The same Divine Superintendent, who, for wise purposes, invested a Titus or a Trajan with authority, did also, for purposes no doubt equally wise, though unknown, bestow power on a Borgia or an Angria. The same causes, which gave rise to the sovereign power in every state, established likewise every petty jurisdiction in it, and every limited authority. A constable, therefore, no less than a king, acts by a divine commission, and possesses an indefeasible right.

When we consider how nearly equal all men are in their bodily force, and even in their mental powers and faculties, till cultivated by education, we must necessarily allow, that nothing but their own consent could, at first, associate them together, and subject them to any authority. The people, if we trace government to its first origin in the woods and deserts, are the source of all power and jurisdiction, and voluntarily, for the sake of peace and order, abandoned their native liberty, and received laws from their equal and companion. The conditions upon which they were willing to submit, were either expressed, or were so clear and obvious, that it might well be esteemed superfluous to express them. If this, then, be meant by the *original contract*, it cannot be denied, that all government is, at first, founded on a contract, and that the most ancient rude combinations of mankind were formed chiefly by that principle. In vain are we asked in what records this charter of our liberties is registered. It was not written on parchment, nor yet on leaves or barks of trees. It preceded the use of writing, and all the other civilized arts of life. But we trace it plainly in the nature of man, and in the equality, or something approaching equality, which we find in all the individuals of that species. The force, which now prevails, and which is founded on fleets and armies, is plainly political, and derived from authority, the effect of established government. A man's natural force consists only in the vigour of his

limbs, and the firmness of his courage; which could never subject multitudes to the command of one. Nothing but their own consent, and their sense of the advantages resulting from peace and order, could have had that influence.

Yet even this consent was long very imperfect, and could not be the basis of a regular administration. The chieftain, who had probably acquired his influence during the continuance of war, ruled more by persuasion than command; and till he could employ force to reduce the refractory and disobedient, the society could scarcely be said to have attained a state of civil government. No compact or agreement, it is evident, was expressly formed for general submission; an idea far beyond the comprehension of savages: each exertion of authority in the chieftain must have been particular, and called forth by the present exigencies of the case: the sensible utility, resulting from his interposition, made these exertions become daily more frequent; and their frequency gradually produced an habitual, and, if you please to call it so, a voluntary, and therefore precarious, acquiescence in the people.

But philosophers, who have embraced a party (if that be not a contradiction in terms), are not contented with these concessions. They assert, not only that government in its earliest infancy arose from consent, or rather the voluntary acquiescence of the people; but also that, even at present, when it has attained its full maturity, it rests on no other foundation. They affirm, that all men are still born equal, and owe allegiance to no prince or government, unless bound by the obligation and sanction of a *promise*. And as no man, without some equivalent, would forego the advantages of his native liberty, and subject himself to the will of another, this promise is always understood to be conditional, and imposes on him no obligation, unless he meet with justice and protection from his sovereign. These advantages the sovereign promises him in return; and if he fail in the execution, he has broken, on his part, the articles of engagement, and has thereby freed his subject from all obligations to allegiance. Such, according to these philosophers, is the foundation of authority in every government, and such the right of resistance possessed by every subject.

But would these reasoners look abroad into the world, they would meet with nothing that, in the least, corresponds to their ideas, or can warrant so refined and philosophical a system. On the contrary, we find everywhere princes who claim their subjects as their property, and

assert their independent right of sovereignty, from conquest or succession. We find also everywhere subjects who acknowledge this right in their prince, and suppose themselves born under obligations of obedience to a certain sovereign, as much as under the ties of reverence and duty to certain parents. These connexions are always conceived to be equally independent of our consent, in Persia and China; in France and Spain; and even in Holland and England, wherever the doctrines above-mentioned have not been carefully inculcated. Obedience or subjection becomes so familiar, that most men never make any inquiry about its origin or cause, more than about the principle of gravity, resistance, or the most universal laws of nature. Or if curiosity ever move them, as soon as they learn that they themselves and their ancestors have, for several ages, or from time immemorial, been subject to such a form of government or such a family, they immediately acquiesce, and acknowledge their obligation to allegiance. Were you to preach, in most parts of the world, that political connexions are founded altogether on voluntary consent or a mutual promise, the magistrate would soon imprison you as seditious for loosening the ties of obedience; if your friends did not before shut you up as delirious, for advancing such absurdities. It is strange that an act of the mind, which every individual is supposed to have formed, and after he came to the use of reason too, otherwise it could have no authority; that this act, I say, should be so much unknown to all of them, that over the face of the whole earth, there scarcely remain any traces or memory of it.

But the contract, on which government is founded, is said to be the *original contract*; and consequently may be supposed too old to fall under the knowledge of the present generation. If the agreement, by which savage men first associated and conjoined their force, be here meant, this is acknowledged to be real; but being so ancient, and being obliterated by a thousand changes of government and princes, it cannot now be supposed to retain any authority. If we would say any thing to the purpose, we must assert that every particular government which is lawful, and which imposes any duty of allegiance on the subject, was, at first, founded on consent and a voluntary compact. But, besides that this supposes the consent of the fathers to bind the children, even to the most remote generations (which republican writers will never allow), besides this, I say, it is not justified by history or experience in any age or country of the world.

Almost all the governments which exist at present, or of which there

remains any record in story, have been founded originally, either on usurpation or conquest, or both, without any presence of a fair consent or voluntary subjection of the people. When an artful and bold man is placed at the head of an army or faction, it is often easy for him, by employing, sometimes violence, sometimes false presences, to establish his dominion over a people a hundred times more numerous than his partisans. He allows no such open communication, that his enemies can know, with certainty, their number or force. He gives them no leisure to assemble together in a body to oppose him. Even all those who are the instruments of his usurpation may wish his fall; but their ignorance of each other's intention keeps them in awe, and is the sole cause of his security. By such arts as these many governments have been established; and this is all the *original contract* which they have to boast of.

The face of the earth is continually changing, by the increase of small kingdoms into great empires, by the dissolution of great empires into smaller kingdoms, by the planting of colonies, by the migration of tribes. Is there anything discoverable in all these events but force and violence? Where is the mutual agreement or voluntary association so much talked of?

Even the smoothest way by which a nation may receive a foreign master, by marriage or a will, is not extremely honourable for the people; but supposes them to be disposed of, like a dowry or a legacy, according to the pleasure or interest of their rulers.

But where no force interposes, and election takes place; what is this election so highly vaunted? It is either the combination of a few great men, who decide for the whole, and will allow of no opposition; or it is the fury of a multitude, that follow a seditious ringleader, who is not known, perhaps, to a dozen among them, and who owes his advancement merely to his own impudence, or to the momentary caprice of his fellows.

Are these disorderly elections, which are rare too, of such mighty authority as to be the only lawful foundation of all government and allegiance?

In reality, there is not a more terrible event than a total dissolution of government, which gives liberty to the multitude, and makes the determination or choice of a new establishment depend upon a number, which nearly approaches to that of the body of the people: for

it never comes entirely to the whole body of them. Every wise man then wishes to see, at the head of a powerful and obedient army, a general who may speedily seize the prize, and give to the people a master which they are so unfit to choose for themselves. So little correspondent is fact and reality to those philosophical notions.

Let not the establishment at the *Revolution* deceive us, or make us so much in love with a philosophical origin to government, as to imagine all others monstrous and irregular. Even that event was far from corresponding to these refined ideas. It was only the succession, and that only in the regal part of the government, which was then changed: and it was only the majority of seven hundred, who determined that change for near ten millions. I doubt not, indeed, but the bulk of those ten millions acquiesced willingly in the determination: but was the matter left, in the least, to their choice? Was it not justly supposed to be, from that moment, decided, and every man punished, who refused to submit to the new sovereign? How otherwise could the matter have ever been brought to any issue or conclusion?

The republic of Athens was, I believe, the most extensive democracy that we read of in history: yet if we make the requisite allowances for the women, the slaves, and the strangers, we shall find, that that establishment was not at first made, nor any law ever voted, by a tenth part of those who were bound to pay obedience to it; not to mention the islands and foreign dominions, which the Athenians claimed as theirs by right of conquest. And as it is well known that popular assemblies in that city were always full of license and disorder, notwithstanding the institutions and laws by which they were checked; how much more disorderly must they prove, where they form not the established constitution, but meet tumultuously on the dissolution of the ancient government, in order to give rise to a new one? How chimerical must it be to talk of a choice in such circumstances?

The Achæans enjoyed the freest and most perfect democracy of all antiquity; yet they employed force to oblige some cities to enter into their league, as we learn from Polybius.

Harry the IVth and Harry the VIth of England, had really no title to the throne but a parliamentary election; yet they never would acknowledge it, lest they should thereby weaken their authority. Strange, if the only real foundation of all authority be consent and promise?

It is in vain to say, that all governments are, or should be, at first,

founded on popular consent, as much as the necessity of human affairs will admit. This favours entirely my pretension. I maintain, that human affairs will never admit of this consent, seldom of the appearance of it; but that conquest or usurpation, that is, in plain terms, force, by dissolving the ancient governments, is the origin of almost all the new ones which were ever established in the world. And that in the few cases where consent may seem to have taken place, it was commonly so irregular, so confined, or so much intermixed either with fraud or violence, that it cannot have any great authority.

My intention here is not to exclude the consent of the people from being one just foundation of government where it has place. It is surely the best and most sacred of any. I only pretend, that it has very seldom had place in any degree, and never almost in its full extent; and that, therefore, some other foundation of government must also be admitted.

Were all men possessed of so inflexible a regard to justice, that, of themselves, they would totally abstain from the properties of others; they had for ever remained in a state of absolute liberty, without subjection to any magistrate or political society: but this is a state of perfection, of which human nature is justly deemed incapable. Again, were all men possessed of so perfect an understanding as always to know their own interests, no form of government had ever been submitted to but what was established on consent, and was fully canvassed by every member of the society: but this state of perfection is likewise much superior to human nature. Reason, history, and experience shew us, that all political societies have had an origin much less accurate and regular; and were one to choose a period of time when the people's consent was the least regarded in public transactions, it would be precisely on the establishment of a new government. In a settled constitution their inclinations are often consulted; but during the fury of revolutions, conquests, and public convulsions, military force or political craft usually decides the controversy.

When a new government is established, by whatever means, the people are commonly dissatisfied with it, and pay obedience more from fear and necessity, than from any idea of allegiance or of moral obligation. The prince is watchful and jealous, and must carefully guard against every beginning or appearance of insurrection. Time, by degrees, removes all these difficulties, and accustoms the nation to regard, as their lawful or native princes, that family which at first they

considered as usurpers or foreign conquerors. In order to found this opinion, they have no recourse to any notion of voluntary consent or promise, which, they know, never was, in this case, either expected or demanded. The original establishment was formed by violence, and submitted to from necessity. The subsequent administration is also supported by power, and acquiesced in by the people, not as a matter of choice, but of obligation. They imagine not that their consent gives their prince a title: but they willingly consent, because they think, that, from long possession, he has acquired a title, independent of their choice or inclination.

Should it be said, that, by living under the dominion of a prince which one might leave, every individual has given a *tacit* consent to his authority, and promised him obedience; it may be answered, that such an implied consent can only have place where a man imagines that the matter depends on his choice. But where he thinks (as all mankind do who are born under established governments) that, by his birth, he owes allegiance to a certain prince or certain form of government; it would be absurd to infer a consent or choice, which he expressly, in this case, renounces and disclaims.

Can we seriously say, that a poor peasant or artisan has a free choice to leave his country, when he knows no foreign language or manners, and lives, from day to day, by the small wages which he acquires? We may as well assert that a man, by remaining in a vessel, freely consents to the dominion of the master; though he was carried on board while asleep, and must leap into the ocean and perish, the moment he leaves her.

What if the prince forbid his subjects to quit his dominions; as in Tiberius's time, it was regarded as a crime in a Roman knight that he had attempted to fly to the Parthians, in order to escape the tyranny of that emperor?<sup>1</sup> Or as the ancient Muscovites prohibited all travelling under pain of death? And did a prince observe, that many of his subjects were seized with the frenzy of migrating to foreign countries, he would, doubtless, with great reason and justice, restrain them, in order to prevent the depopulation of his own kingdom. Would he forfeit the allegiance of all his subjects by so wise and reasonable a law? Yet the freedom of their choice is surely, in that case, ravished from them.

A company of men, who should leave their native country, in order to people some uninhabited region, might dream of recovering their native freedom; but they would soon find, that their prince still laid claim to

them, and called them his subjects, even in their new settlement. And in this he would but act conformably to the common ideas of mankind.

The truest *tacit* consent of this kind that is ever observed, is when a foreigner settles in any country, and is beforehand acquainted with the prince, and government, and laws, to which he must submit: yet is his allegiance, though more voluntary, much less expected or depended on, than that of a natural born subject. On the contrary, his native prince still asserts a claim to him. And if he punish not the renegade, where he seizes him in war with his new prince's commission; this clemency is not founded on the municipal law, which in all countries condemns the prisoner; but on the consent of princes, who have agreed to this indulgence, in order to prevent reprisals.

Did one generation of men go off the stage at once, and another succeed, as is the case with silkworms and butterflies, the new race, if they had sense enough to choose their government, which surely is never the case with men, might voluntarily, and by general consent, establish their own form of civil polity, without any regard to the laws or precedents which prevailed among their ancestors. But as human society is in perpetual flux, one man every hour going out of the world, another coming into it, it is necessary, in order to preserve stability in government, that the new brood should conform themselves to the established constitution, and nearly follow the path which their fathers, treading in the footsteps of theirs, had marked out to them. Some innovations must necessarily have place in every human institution; and it is happy where the enlightened genius of the age give these a direction to the side of reason, liberty, and justice: but violent innovations no individual is entitled to make: they are even dangerous to be attempted by the legislature: more ill than good is ever to be expected from them: and if history affords examples to the contrary, they are not to be drawn into precedent, and are only to be regarded as proofs, that the science of politics affords few rules, which will not admit of some exception, and which may not sometimes be controlled by fortune and accident. The violent innovations in the reign of Henry VIII. proceeded from an imperious monarch, seconded by the appearance of legislative authority: those in the reign of Charles I. were derived from faction and fanaticism; and both of them have proved happy in the issue. But even the former were long the source of many disorders, and still more dangers; and if the measures of allegiance were to be taken from the latter, a total anarchy must have place in human society, and a final period at once be put to every government.

Suppose that an usurper, after having banished his lawful prince and royal family, should establish his dominion for ten or a dozen years in any country, and should preserve so exact a discipline in his troops, and so regular a disposition in his garrisons that no insurrection had ever been raised, or even murmur heard against his administration: can it be asserted that the people, who in their hearts abhor his treason, have tacitly consented to his authority, and promised him allegiance, merely because, from necessity, they live under his dominion? Suppose again their native prince restored, by means of an army, which he levies in foreign countries: they receive him with joy and exultation, and shew plainly with what reluctance they had submitted to any other yoke. I may now ask, upon what foundation the prince's title stands? Not on popular consent surely: for though the people willingly acquiesce in his authority, they never imagine that their consent made him sovereign. They consent; because they apprehend him to be already, by birth, their lawful sovereign. And as to that tacit consent, which may now be inferred from their living under his dominion, this is no more than what they formerly gave to the tyrant and usurper.

When we assert, that all lawful government arises from the consent of the people, we certainly do them a great deal more honour than they deserve, or even expect and desire from us. After the Roman dominions became too unwieldy for the republic to govern them, the people over the whole known world were extremely grateful to Augustus for that authority which, by violence, he had established over them; and they shewed an equal disposition to submit to the successor whom he left them by his last will and testament. It was afterwards their misfortune, that there never was, in one family, any long regular succession; but that their line of princes was continually broken, either by private assassinations or public rebellions. The *prætorian* bands, on the failure of every family, set up one emperor; the legions in the East a second; those in Germany, perhaps a third; and the sword alone could decide the controversy. The condition of the people in that mighty monarchy was to be lamented, not because the choice of the emperor was never left to them, for that was impracticable, but because they never fell under any succession of masters who might regularly follow each other. As to the violence, and wars, and bloodshed, occasioned by every new settlement, these were not blameable because they were inevitable.

The house of Lancaster ruled in this island about sixty years; yet the partisans of the white rose seemed daily to multiply in England. The

present establishment has taken place during a still longer period. Have all views of right in another family been utterly extinguished, even though scarce any man now alive had arrived at the years of discretion when it was expelled, or could have consented to its dominion, or have promised it allegiance? – a sufficient indication, surely, of the general sentiment of mankind on this head. For we blame not the partisans of the abdicated family merely on account of the long time during which they have preserved their imaginary loyalty. We blame them for adhering to a family which we affirm has been justly expelled, and which, from the moment the new settlement took place, had forfeited all title to authority.

But would we have a more regular, at least a more philosophical, refutation of this principle of an original contract, or popular consent, perhaps the following observations may suffice.

All *moral* duties may be divided into two kinds. The *first* are those to which men are impelled by a natural instinct or immediate propensity which operates on them, independent of all ideas of obligation, and of all views either to public or private utility. Of this nature are love of children, gratitude to benefactors, pity to the unfortunate. When we reflect on the advantage which results to society from such humane instincts, we pay them the just tribute of moral approbation and esteem: but the person actuated by them feels their power and influence antecedent to any such reflection.

The *second* kind of moral duties are such as are not supported by any original instinct of nature, but are performed entirely from a sense of obligation, when we consider the necessities of human society, and the impossibility of supporting it, if these duties were neglected. It is thus *justice*, or a regard to the property of others, *fidelity*, or the observance of promises, become obligatory, and acquire an authority over mankind. For as it is evident that every man loves himself better than any other person, he is naturally impelled to extend his acquisitions as much as possible; and nothing can restrain him in this propensity but reflection and experience, by which he learns the pernicious effects of that license, and the total dissolution of society which must ensue from it. His original inclination, therefore, or instinct, is here checked and restrained by a subsequent judgment or observation.

The case is precisely the same with the political or civil duty of *allegiance* as with the natural duties of justice and fidelity. Our primary instincts lead us either to indulge ourselves in unlimited freedom, or to

seek dominion over others; and it is reflection only which engages us to sacrifice such strong passions to the interests of peace and public order. A small degree of experience and observation suffices to teach us, that society cannot possibly be maintained without the authority of magistrates, and that this authority must soon fall into contempt where exact obedience is not paid to it. The observation of these general and obvious interests is the source of all allegiance, and of that moral obligation which we attribute to it.

What necessity, therefore, is there to found the duty of *allegiance* or obedience to magistrates on that of *fidelity* or a regard to promises, and to suppose, that it is the consent of each individual which subjects him to government, when it appears that both allegiance and fidelity stand precisely on the same foundation, and are both submitted to by mankind, on account of the apparent interests and necessities of human society? We are bound to obey our sovereign, it is said, because we have given a tacit promise to that purpose. But why are we bound to observe our promise? It must here be asserted, that the commerce and intercourse of mankind, which are of such mighty advantage, can have no security where men pay no regard to their engagements. In like manner, may it be said that men could not live at all in society, at least in a civilized society, without laws, and magistrates, and judges, to prevent the encroachments of the strong upon the weak, of the violent upon the just and equitable. The obligation to allegiance being of like force and authority with the obligation to fidelity, we gain nothing by resolving the one into the other. The general interests or necessities of society are sufficient to establish both.

If the reason be asked of that obedience, which we are bound to pay to government, I readily answer, *Because society could not otherwise subsist*; and this answer is clear and intelligible to all mankind. Your answer is, *Because we should keep our word*. But besides, that no body, till trained in a philosophical system, can either comprehend or relish this answer; besides this, I say, you find yourself embarrassed when it is asked, *Why we are bound to keep our word*? Nor can you give any answer but what would, immediately, without any circuit, have accounted for our obligation to allegiance.

But *to whom is allegiance due? And who is our lawful sovereign?* This question is often the most difficult of any, and liable to infinite discussions. When people are so happy that they can answer, *Our*

*present sovereign, who inherits, in a direct line, from ancestors that have governed us for many ages*, this answer admits of no reply, even though historians, in tracing up to the remotest antiquity the origin of that royal family, may find, as commonly happens, that its first authority was derived from usurpation and violence. It is confessed that private justice, or the abstinence from the properties of others, is a most cardinal virtue. Yet reason tells us that there is no property in durable objects, such as lands or houses, when carefully examined in passing from hand to hand, but must, in some period, have been founded on fraud and injustice. The necessities of human society, neither in private nor public life, will allow of such an accurate inquiry; and there is no virtue or moral duty but what may, with facility, be refined away, if we indulge a false philosophy in sifting and scrutinizing it, by every captious rule of logic, in every light or position in which it may be placed.

The questions with regard to private property have filled infinite volumes of law and philosophy, if in both we add the commentators to the original text; and in the end, we may safely pronounce, that many of the rules there established are uncertain, ambiguous, and arbitrary. The like opinion may be formed with regard to the succession and rights of princes, and forms of government. Several cases no doubt occur, especially in the infancy of any constitution, which admit of no determination from the laws of justice and equity; and our historian Rapin pretends, that the controversy between Edward the Third and Philip de Valois was of this nature, and could be decided only by an appeal to heaven, that is, by war and violence.

Who shall tell me, whether Germanicus or Drusus ought to have succeeded to Tiberius, had he died while they were both alive, without naming any of them for his successor? Ought the right of adoption to be received as equivalent to that of blood, in a nation where it had the same effect in private families, and had already, in two instances, taken place in the public? Ought Germanicus to be esteemed the elder son, because he was born before Drusus; or the younger, because he was adopted after the birth of his brother? Ought the right of the elder to be regarded in a nation, where he had no advantage in the succession of private families? Ought the Roman empire at that time to be deemed hereditary, because of two examples; or ought it, even so early, to be regarded as belonging to the stronger, or to the present possessor, as being founded on so recent an usurpation?

Commodus mounted the throne after a pretty long succession of excellent emperors, who had acquired their title, not by birth, or public election, but by the fictitious rite of adoption. That bloody debauchee being murdered by a conspiracy, suddenly formed between his wench and her gallant, who happened at that time to be *Prætorian Præfect*; these immediately deliberated about choosing a master to human kind, to speak in the style of those ages; and they cast their eyes on Pertinax. Before the tyrant's death was known, the *Præfect* went secretly to that senator, who, on the appearance of the soldiers, imagined that his execution had been ordered by Commodus. He was immediately saluted emperor by the officer and his attendants, cheerfully proclaimed by the populace, unwillingly submitted to by the guards, formally recognized by the senate, and passively received by the provinces and armies of the empire.

The discontent of the *Prætorian* bands broke out in a sudden sedition, which occasioned the murder of that excellent prince; and the world being now without a master, and without government, the guards thought proper to set the empire formally to sale. Julian, the purchaser, was proclaimed by the soldiers, recognized by the senate, and submitted to by the people; and must also have been submitted to by the provinces, had not the envy of the legions begotten opposition and resistance. Pescennius Niger in Syria elected himself emperor, gained the tumultuary consent of his army, and was attended with the secret good-will of the senate and people of Rome. Albinus in Britain found an equal right to set up his claim; but Severus, who governed Pannonia, prevailed in the end above both of them. That able politician and warrior, finding his own birth and dignity too much inferior to the imperial crown, professed, at first, an intention only of revenging the death of Pertinax. He marched as general into Italy, defeated Julian, and, without our being able to fix any precise commencement even of the soldiers' consent, he was from necessity acknowledged emperor by the senate and people, and fully established in his violent authority, by subduing Niger and Albinus.

*Inter hæc Gordianus Cæsar* (says Capitolinus, speaking of another period) *sublatus a militibus. Imperator est appellatus, quia non erat alius in præsenti.* It is to be remarked, that Gordian was a boy of fourteen years of age.

Frequent instances of a like nature occur in the history of the emperors; in that of Alexander's successors; and of many other countries: nor can

anything be more unhappy than a despotic government of this kind; where the succession is disjointed and irregular, and must be determined, on every vacancy, by force or election. In a free government, the matter is often unavoidable, and is also much less dangerous. The interests of liberty may there frequently lead the people, in their own defence, to alter the succession of the crown. And the constitution, being compounded of parts, may still maintain a sufficient stability, by resting on the aristocratical or democratical members, though the monarchical be altered, from time to time, in order to accommodate it to the former.

In an absolute government, when there is no legal prince who has a title to the throne, it may safely be determined to belong to the first occupant. Instances of this kind are but too frequent, especially in the eastern monarchies. When any race of princes expires, the will or destination of the last sovereign will be regarded as a title. Thus the edict of Louis the XIVth, who called the bastard princes to the succession in case of the failure of all the legitimate princes, would, in such an event, have some authority.<sup>2</sup> Thus the will of Charles the Second disposed of the whole Spanish monarchy. The cession of the ancient proprietor, especially when joined to conquest, is likewise deemed a good title. The general obligation, which binds us to government, is the interest and necessities of society; and this obligation is very strong. The determination of it to this or that particular prince, or form of government, is frequently more uncertain and dubious. Present possession has considerable authority in these cases, and greater than in private property; because of the disorders which attend all revolutions and changes of government.

We shall only observe, before we conclude, that though an appeal to general opinion may justly, in the speculative sciences of metaphysics, natural philosophy, or astronomy, be deemed unfair and inconclusive, yet in all questions with regard to morals, as well as criticism, there is really no other standard, by which any controversy can ever be decided. And nothing is a clearer proof, that a theory of this kind is erroneous, than to find, that it leads to paradoxes repugnant to the common sentiments of mankind, and to the practice and opinion of all nations and all ages. The doctrine, which founds all lawful government on an *original contract*, or consent of the people, is plainly of this kind; nor has the most noted of its partisans, in prosecution of it, scrupled to affirm, *that absolute monarchy is inconsistent with civil society, and so can be no form of civil government at all*,<sup>3</sup> and *that the supreme power*

*in a state cannot take from any man, by taxes and impositions, any part of his property, without his own consent or that of his representatives.*<sup>4</sup> What authority any moral reasoning can have, which leads into opinions so wide of the general practice of mankind, in every place but this single kingdom, it is easy to determine.

The only passage I meet with in antiquity, where the obligation of obedience to government is ascribed to a promise, is in Plato's *Crito*; where Socrates refuses to escape from prison, because he had tacitly promised to obey the laws. Thus he builds a *Tory* consequence of passive obedience on a *Whig* foundation of the original contract.

New discoveries are not to be expected in these matters. If scarce any man, till very lately, ever imagined that government was founded on compact, it is certain that it cannot, in general, have any such foundation.

The crime of rebellion among the ancients was commonly expressed by the terms *neoterizein*, *novas res moliri*.

#### Notes:

<sup>1</sup> Tacit. *Ann.* vi. Cap. 14.

<sup>2</sup> It is remarkable, that in the remonstrance of the Duke of Bourbon and the legitimate princes, against this destination of Louis the XIVth, the doctrine of the *original contract* is insisted on even in that absolute government. The French nation, say they, choosing Hugh Capet and his posterity to rule over them and their posterity, where the former line fails, there is a tacit right reserved to choose a new royal family; and this right is invaded by calling the bastard princes to the throne, without the consent of the nation. But the Comte de Boulainvilliers, who wrote in defence of the bastard princes, ridicules this notion of an original contract, especially when applied to Hugh Capet; who mounted the throne, says he, by the same arts which have ever been employed by all conquerors and usurpers. He got his title, indeed, recognized by the states after he had put himself in possession: but is this a choice or contract? The Comte de Boulainvilliers, we may observe, was a noted republican; but being a man of learning, and very conversant in history, he knew that the people were almost never consulted in these revolutions and new establishments, and that time alone bestowed right and authority on what was commonly at first founded on force and

violence. See *Etat de la France*, vol. iii.

<sup>3</sup> See Locke on Government, chap. vii. 5 90.

<sup>4</sup> Ibid., chap. xi. 55 138, 139, 140.

## **Source 10 A**

### **Aristotle Politics Book VII, Part VIII**

As in other natural compounds the conditions of a composite whole are not necessarily organic parts of it, so in a state or in any other combination forming a unity not everything is a part, which is a necessary condition. The members of an association have necessarily some one thing the same and common to all, in which they share equally or unequally for example, food or land or any other thing. But where there are two things of which one is a means and the other an end, they have nothing in common except that the one receives what the other produces. Such, for example, is the relation which workmen and tools stand to their work; the house and the builder have nothing in common, but the art of the builder is for the sake of the house. And so states require property, but property, even though living beings are included in it, is no part of a state; for a state is not a community of living beings only, but a community of equals, aiming at the best life possible. Now, whereas happiness is the highest good, being a realization and perfect practice of virtue, which some can attain, while others have little or none of it, the various qualities of men are clearly the reason why there are various kinds of states and many forms of government; for different men seek after happiness in different ways and by different means, and so make for themselves different modes of life and forms of government. We must see also how many things are indispensable to the existence of a state, for what we call the parts of a state will be found among the indispensables. Let us then enumerate the functions of a state, and we shall easily elicit what we want:

First, there must be food; secondly, arts, for life requires many instruments; thirdly, there must be arms, for the members of a community have need of them, and in their own hands, too, in order to maintain authority both against disobedient subjects and against external assailants; fourthly, there must be a certain amount of revenue, both for internal needs, and for the purposes of war; fifthly, or rather first, there must be a care of religion which is commonly called worship; sixthly, and most necessary of all there must be a power of

deciding what is for the public interest, and what is just in men's dealings with one another.

These are the services which every state may be said to need. For a state is not a mere aggregate of persons, but a union of them sufficing for the purposes of life; and if any of these things be wanting, it is as we maintain impossible that the community can be absolutely self-sufficing. A state then should be framed with a view to the fulfillment of these functions. There must be husbandmen to procure food, and artisans, and a warlike and a wealthy class, and priests, and judges to decide what is necessary and expedient.

## Source 10 B

Immanuel Kant

### The Natural Principle of the Political Order

Whatever metaphysical theory may be formed regarding the *Freedom of the Will*, it holds equally true that the *manifestations of the Will* in human actions, are determined like all other external events, by universal natural laws. Now History is occupied with the narration of these manifestations as facts, however deeply their causes may lie concealed. Hence in view of this natural principle of regulation, it may be hoped that when the play of the freedom of the human Will is examined on the great scale of universal history, a regular march will be discovered in its movements; and that, in this way, what appears to be tangled and unregulated in the case of individuals, will be recognised in the history of the whole species as a continually advancing, though slow, development of its original capacities and endowments. Thus marriages, births and deaths appear to be incapable of being reduced to any rule by which their numbers might be calculated beforehand, on account of the great influence which the free will of man exercises upon them; and yet the annual Statistics of great countries prove that these events take place according to constant natural laws. In this respect they may be compared with the very inconstant changes of the weather which cannot be determined beforehand in detail, but which yet, on the whole, do not fail to maintain the growth of plants, the flow of rivers, and other natural processes, in a uniform uninterrupted course. Individual men, and even whole nations, little think, while they are pursuing their own purposes – each in his own way and often one in direct opposition to another – that they are advancing unconsciously under the guidance of a Purpose of Nature which is unknown to them, and that they are toiling for the realisation of an End which, even if it were known to them, might be regarded as of little importance.

Men, viewed as a whole, are not guided in their efforts merely by instinct, like the lower animals; nor do they proceed in their actions, like the citizens of a purely rational world, according to a preconcerted plan. And so it appears as if no regular systematic History of mankind would be possible, as in the case, for instance, of bees and beavers. Nor can one help feeling a certain repugnance in looking at the conduct of men

as it is exhibited on the great stage of the World. With glimpses of wisdom appearing in individuals here and there, it seems, on examining it externally as if the whole web of human history were woven out of folly and childish vanity and the frenzy of destruction, so that at the end one hardly knows what idea to form of our race, albeit so proud of its prerogatives. In such circumstances, there is no resource for the Philosopher but, while recognising the fact that a *rational conscious purpose* cannot be supposed to determine mankind in the play of their actions as a whole, to try whether he cannot discover a *universal purpose of Nature* in this paradoxical movement of human things, and whether in view of this purpose, a history of creatures who proceed without a plan of their own, may nevertheless be possible according to a determinate plan of Nature. – We will accordingly see whether we can succeed in finding a clue to such a History; and in the event of doing so, we shall then leave it to nature to bring forth the man who will be fit to compose it. Thus did she bring forth a Kepler who, in an unexpected way, reduced the eccentric paths of the planets to definite Laws; and then she brought forth a Newton, who explained those Laws by a universal natural Cause.

#### FIRST PROPOSITION.

All the capacities implanted in a Creature by nature, are destined to unfold themselves, completely and conformably to their End, in the course of time.

This Proposition is established by Observation, external as well as internal or anatomical, in the case of all animals. An organ which is not to be used, or an arrangement which does not attain its End, is a contradiction in the teleological science of Nature. For, if we turn away from that fundamental principle, we have then before us a Nature moving without a purpose, and no longer conformable to law; and the cheerless gloom of chance takes the place of the guiding light of Reason.

#### SECOND PROPOSITION.

In Man, as the only rational creature on earth, those natural capacities which are directed towards the use of his Reason, could be completely developed only in the species and not in the individual.

Reason, in a creature, is a faculty of which it is characteristic to extend

the laws and purposes involved in the use of all its powers far beyond the sphere of natural instinct, and it knows no limit in its efforts. Reason, however, does not itself work by instinct, but requires experiments, exercise and instruction in order to advance gradually from one stage of insight to another. Hence each individual man would necessarily have to live an enormous length of time in order to learn by himself how to make a complete use of all his natural Endowments. Otherwise, if Nature should have given him but a short lease of life – as is actually the case – Reason would then require the production of an almost inconceivable series of generations, the one handing down its enlightenment to the other, in order that her germs, as implanted in our species may be at last unfolded to that stage of development which is completely conformable to her inherent design. And the point of time at which this is to be reached, must, at least in Idea, form the goal and aim of man's endeavours, because his natural capacities would otherwise have to be regarded as, for the most part, purposeless and bestowed in vain. But such a view would abolish all our practical principles, and thereby also throw on Nature the suspicion of practising a childish play in the case of man alone, while her wisdom must otherwise be recognised as a fundamental principle in judging of all other arrangements.

### THIRD PROPOSITION.

Nature has willed that Man shall produce wholly out of himself all that goes beyond the mechanical structure and arrangement of his animal existence, and that he shall participate in no other happiness or perfection but what he has procured for himself, apart from Instinct, by his own Reason.

Nature, according to this view, does nothing that is superfluous, and is not prodigal in the use of means for her Ends. As she gave man Reason and freedom of Will on the basis of reason, this was at once a clear indication of her purpose in respect of his endowments. With such equipment, he was not to be guided by instinct, nor furnished and instructed by innate knowledge; much rather must he produce everything out of himself. The invention of his own covering and shelter from the elements, and the means of providing for his external security and defence, – for which nature gave him neither the horns of the bull, nor the claws of the lion, nor the fangs of the dog, – as well as all the sources of delight which could make life agreeable, his very insight and

prudence, and even the goodness of his Will, all these were to be entirely his own work. Nature seems to have taken pleasure in exercising her utmost parsimony in this case and to have measured her animal equipments very sparingly. She seems to have exactly fitted them to the most necessitous requirements of the mere beginning of an existence, as if it had been her will that Man, when he had at last struggled up from the greatest crudeness of life to the highest capability and to internal perfection in his habit of thought, and thereby also – so far as it is possible on earth – to happiness, should claim the merit of it as all his own and owe it only to himself. It thus looks as if Nature had laid more upon his rational *self-esteem* than upon his mere well-being. For in this movement of human life, a great host of toils and troubles wait upon man. It appears, however, that the purpose of nature was not so much that he should have an agreeable life, but that he should carry forward his own self-culture until he made himself worthy of life and well-being. In this connection it is always a subject of wonder that the older generations appear only to pursue their weary toil for the sake of those who come after them, preparing for the latter another stage on which they may carry higher the structure which Nature has in view; and that it is to be the happy fate of only the latest generations to dwell in the building upon which the long series of their forefathers have laboured, without so much as intending it and yet with no possibility of participating in the happiness which they were preparing. Yet, however mysterious this may be, it is as necessary as it is mysterious, when we once accept the position that one species of animals was destined to possess Reason, and that, forming a class of rational beings mortal in all the individuals but immortal in the species, it was yet to attain to a complete development of its capacities.

#### FOURTH PROPOSITION.

The means which Nature employs to bring about the development of all the capacities implanted in men, is their mutual Antagonism in society, but only so far as this antagonism becomes at length the cause of an Order among them that is regulated by Law.

By this Antagonism, I mean the *unsocial sociability* of men; that is, their tendency to enter into society, conjoined, however, with an accompanying resistance which continually threatens to dissolve this society. The disposition for this lies manifestly in human nature. Man has an inclination to *socialise* himself by associating with others,

because in such a state he feels himself more than a natural man, in the development of his natural capacities. He has, moreover, a great tendency to *individualise* himself by isolation from others, because he likewise finds in himself the unsocial disposition of wishing to direct everything merely according to his own mind; and hence he expects resistance everywhere just as he knows with regard to himself that he is inclined on his part to resist others. Now it is this resistance or mutual antagonism that awakens all the powers of man, that drives him to overcome all his propensity to indolence, and that impels him through the desire of honour or power or wealth, to strive after rank among his fellow-men – whom he can neither bear to interfere with himself, nor yet let alone. Then the first real steps are taken from the rudeness of barbarism to the culture of civilisation, which particularly lies in the social worth of man. All his talents are now gradually developed, and with the progress of enlightenment a beginning is made in the institution of a mode of thinking which can transform the crude natural capacity for moral distinctions, in the course of time, into definite practical principles of action; and thus a pathologically constrained combination into a form of society, is developed at last to a *moral* and rational whole. Without those qualities of an unsocial kind, out of which this Antagonism arises – which viewed by themselves are certainly not amiable but which everyone must necessarily find in the movements of his own selfish propensities – men might have led an Arcadian shepherd life in complete harmony, contentment and mutual love, but in that case all their talents would have forever remained hidden in their germ. As gentle as the sheep they tended, such men would hardly have won for their existence a higher worth than belonged to their domesticated cattle; they would not have filled up with their rational nature the void remaining in the Creation, in respect of its final End. Thanks be then to Nature for this unsociableness, for this envious jealousy and vanity, for this unsatiable desire of possession, or even of power! Without them all the excellent capacities implanted in mankind by nature, would slumber eternally undeveloped. Man wishes concord; but Nature knows better what is good for his species, and she will have discord. He wishes to live comfortably and pleasantly; but Nature wills that, turning from idleness and inactive contentment, he shall throw himself into toil and suffering even in order to find out remedies against them, and to extricate his life prudently from them again. The natural impulses that urge man in this direction, the sources of that unsociableness and general antagonism from which so many evils arise, do yet at the same time impel him to new exertion of his powers,

and consequently, to further development of his natural capacities. Hence they clearly manifest the arrangement of a wise Creator, and do not at all, as is often supposed, betray the hand of a malevolent spirit that has deteriorated His glorious creation, or spoiled it from envy.

#### FIFTH PROPOSITION.

The greatest practical Problem for the human race, to the solution of which it is compelled by Nature, is the establishment of a Civil Society, universally administering Right according to Law.

It is only in a Society which possesses the greatest Liberty, and which consequently involves a thorough Antagonism of its members – with, however, the most exact determination and guarantee of the limits of this Liberty in order that it may coexist with the liberty of others – that the highest purpose of Nature, which is the development of all her capacities, can be attained in the case of mankind. Now Nature also wills that the human race shall attain through itself to this, as to all the other ends for which it was destined. Hence a Society in which Liberty *under external laws* may be found combined in the greatest possible degree with irresistible Power, or a perfectly *just* Civil Constitution, is the highest natural problem prescribed to the human species. And this is so, because Nature can only by means of the solution and fulfilment of this problem, realise her other purposes with our race. A certain necessity compels man, who is otherwise so greatly prepossessed in favour of unlimited freedom, to enter into this state of coercion and restraint. And indeed, it is the greatest necessity of all that does this; for it is created by men themselves whose inclinations make it impossible for them to exist long beside each other in wild lawless freedom. But in such a complete growth as the Civil Union, these very inclinations afterwards produce the best effects. It is with them as with the trees in a forest; for just because everyone strives to deprive the other of air and sun, they compel each other to seek them both above, and thus they grow beautiful and straight, whereas those that in freedom and apart from one another shoot out their branches at will, grow stunted and crooked and awry. All the culture and art that adorn humanity, and the fairest social order, are fruits of that unsociableness which is necessitated of itself to discipline itself and which thus constrains man, by compulsive art, to develop completely the germs of his Nature.

## SIXTH PROPOSITION.

This Problem is likewise the most difficult of its kind, and it is the latest to be solved by the Human Race.

The difficulty which the mere idea of this Problem brings into view, is that man is an *animal*, and if he lives among others of his kind he *has need of a Master*. For he certainly misuses his freedom in relation to his fellow-men; and, although as a rational creature, he desires a law which may set bounds to the freedom of all, yet his own selfish animal inclinations lead him wherever he can, to except himself from it. He, therefore, requires a master to break his self-will, and compel him to obey a Will that is universally valid, and in relation to which everyone may be free. Where, then, does he obtain this master? Nowhere but in the Human Race. But this master is an animal too, and also requires a master. Begin, then, as he may, it is not easy to see how he can procure a supreme Authority over public justice that would be essentially just, whether such an authority may be sought in a single person or in a society of many selected persons. The highest authority has to be *just in itself*, and yet to be a *man*. This problem, is, therefore, the most difficult of its kind; and, indeed, its perfect solution is impossible. Out of such crooked material as man is made of nothing can be hammered quite straight. So it is only an approximation to this Idea that is imposed upon us by Nature.<sup>1</sup> It further follows that this problem is the last to be practically worked out, because it requires correct conceptions of the nature of a possible Constitution, great experience founded on the practice of ages, and above all a good will prepared for the reception of the solution. But these three conditions could not easily be found together; and if they are found it can only be very late in time, and after many attempts to solve the problem had been made in vain.

## SEVENTH PROPOSITION.

The problem of the establishment of a perfect Civil Constitution is dependent on the problem of the regulation of the external relations between the States conformably to Law; and without the solution of this latter problem it cannot be solved.

What avails it to labour at the arrangement of a Commonwealth as a Civil Constitution regulated by law among individual men? The same unsociableness which forced men to it, becomes again the cause of

each Commonwealth assuming the attitude of uncontrolled freedom in its external relations, that is, as one State in relation to other States; and consequently, any one State must expect from any other the same sort of evils as oppressed individual men and compelled them to enter into a Civil Union regulated by law. Nature has accordingly again used the unsociableness of men, and even of great societies and political bodies, her creatures of this kind, as a means to work out through their mutual Antagonism a condition of rest and security. She works through wars, through the strain of never relaxed preparation for them, and through the necessity which every State is at last compelled to feel within itself, even in the midst of peace, to begin some imperfect efforts to carry out her purpose. And, at last, after many devastations, overthrows, and even complete internal exhaustion of their powers, the nations are driven forward to the goal which Reason might have well impressed upon them, even without so much sad experience. This is none other than the advance out of the lawless state of savages and the entering into a Federation of Nations. It is thus brought about that every State, including even the smallest, may rely for its safety and its rights, not on its own power or its own judgment of Right, but only on this great International Federation (*Fœdus Amphictionum*), on its combined power, and on the decision of the common will according to laws. However visionary this idea may appear to be – and it has been ridiculed in the way in which it has been presented by an Abbé de St Pierre or Rousseau (perhaps because they believed its realisation to be so near) – it is nevertheless the inevitable issue of the necessity in which men involve one another. For this necessity must compel the Nations to the very resolution – however hard it may appear – to which the savage in his uncivilised state, was so unwillingly compelled, when he had to surrender his brutal liberty and seek rest and security in a Constitution regulated by law. – All wars are, accordingly, so many attempts – not, indeed, in the intention of men, but yet according to the purpose of Nature – to bring about new relations between the Nations; and by destruction or at least dismemberment of them all, to form new political corporations. These new organisations, again, are not capable of being preserved either in themselves or beside one another, and they must therefore pass in turn through similar new Revolutions, till at last, partly by the best possible arrangement of the Civil Constitution within, and partly by common convention and legislation without, a condition will be attained, which, in the likeness of a Civil Commonwealth and after the manner of an Automaton, will be able to preserve itself.

Three views may be put forward as to the way in which this condition is to be attained. In the first place, it may be held that from an *Epicurean* concourse of causes in action, it is to be expected that the States, like the little particles of matter, will try by their fortuitous conjunctions all sort of formations which will be again destroyed by new collisions, till at last some one constitution will by *chance* succeed in preserving itself in its proper form, – a lucky accident which will hardly ever come about! In the second place, it may rather be maintained that Nature here pursues a regular march in carrying our species up from the lower stage of animality to the highest stage of humanity, and that this is done by a compulsive art that is inherent in man, whereby his natural capacities and endowments are developed in perfect regularity through an apparently wild disorder. Or, in the third place, it may even be asserted, that out of all these actions and reactions of men as a whole, nothing at all – or at least nothing rational – will ever be produced; that it will be in the future as it has ever been in the past, and that no one will ever be able to say whether the discord which is so natural to our species, may not be preparing for us, even in this civilised state of society, a hell of evils at the end; nay, that it is not perhaps advancing even now to annihilate again by barbaric devastation, this actual state of society and all the progress hitherto made in civilisation, – a fate against which there is no guarantee under a government of blind chance, identical as it is with lawless freedom in action, unless a connecting wisdom is covertly assumed to underlie the system of Nature. Now, which of these views is to be adopted, depends almost entirely on the question, whether it is rational to recognise *harmony and design* in the *parts* of the Constitution of Nature, and to deny them of the *whole*? We have glanced at what has been done by the seemingly purposeless state of savages; how it checked for a time all the natural capacities of our species but at last by the very evils in which it involved mankind, it compelled them to pass from this state, and to enter into a civil Constitution, in which all the germs of humanity could be unfolded. And, in like manner, the barbarian freedom of the States when once they were founded, proceeded in the same way of progress. By the expenditure of all the resources of the Commonwealth in military preparations against each other, by the devastations occasioned by war, and still more by the necessity of holding themselves continually in readiness for it, the full development of the capacities of mankind are undoubtedly retarded in their progress; but, on the other hand, the very evils which thus arise, compel men to find out means against them. A law of Equilibrium is thus discovered for the regulation of the really

wholesome antagonism of contiguous States as it springs up out of their freedom; and a united Power, giving emphasis to this law, is constituted, whereby there is introduced a universal condition of public security among the Nations. And that the powers of mankind may not fall asleep, this condition is not entirely free from *danger*; but it is at the same time not without a principle which operates, so as to *equalise* the mutual action and reaction of these powers, that they may not destroy each other. Before the last step of bringing in a universal Union of the States is taken – and accordingly when human nature is only half way in its progress – it has to endure the hardest evils of all, under the deceptive semblance of outward prosperity; and Rousseau was not so far wrong when he preferred the state of the savages, if the last stage which our race has yet to surmount be left out of view. We are *cultivated* in a high degree by Science and Art. We are *civilised*, even to excess, in the way of all sorts of social forms of politeness and elegance. But there is still much to be done before we can be regarded as *moralised*. The idea of morality certainly belongs to real Culture; but an application of this idea which extends no farther than the likeness of morality in the sense of honour and external propriety, merely constitutes civilisation. So long, however, as States lavish all their resources upon vain and violent schemes of aggrandisement, so long as they continually impede the slow movements of the endeavour to cultivate the newer habits of thought and character on the part of the citizens, and even withdraw from them all the means of furthering it, nothing in the way of moral progress can be expected. A long internal process of improvement is thus required in every Commonwealth as a condition for the higher culture of its citizens. But all apparent good that is not grafted upon a morally good disposition, is nothing but mere illusion and glittering misery. In this condition the Human Race will remain until it shall have worked itself, in the way that has been indicated, out of the existing chaos of its political relations.

#### EIGHTH PROPOSITION.

The history of the human race, viewed as a whole, may be regarded as the realisation of a hidden plan of Nature to bring about a political Constitution, internally, and, for this purpose, also externally perfect, as the only state in which all the capacities implanted by her in Mankind can be fully developed.

This proposition is a corollary from the preceding proposition. We see

by it that philosophy may also have its millennial view, but in this case, the Chiliasm is of such a nature that the very idea of it – although only in a far-off way – may help to further its realisation; and such a prospect is, therefore, anything but visionary. The real question is, whether experience discloses anything of such a movement in the purpose of Nature. I can only say *it does a little*; for the movement in this orbit appears to require such a long time till it goes full round, that the form of its path and the relation of its parts to the whole, can hardly be determined out of the small portion which the human race has yet passed through in this relation. The determination of this problem is just as difficult and uncertain as it is to calculate from all previous astronomical observations what course our sun, with the whole host of his attendant train, is pursuing in the great system of the fixed stars, although on the ground of the total arrangement of the structure of the universe and the little that has been observed of it, we may infer, confidently enough, to the result of such a movement. Human Nature, however, is so constituted that it cannot be indifferent even in regard to the most distant epoch that may affect our race, if only it can be expected with certainty. And such indifference is the less possible in the case before us when it appears that we might by our own rational arrangements hasten the coming of this joyous period for our descendants. Hence the faintest traces of the approach of this period will be very important to ourselves. Now the States are already involved in the present day in such close relations with each other, that none of them can pause or slacken in its internal civilisation without losing power and influence in relation to the rest; and, hence the maintenance, if not the progress, of this end of Nature is, in a manner, secured even by the ambitious designs of the States themselves. Further, Civil Liberty cannot now be easily assailed without inflicting such damage as will be felt in all trades and industries, and especially in commerce; and this would entail a diminution of the powers of the State in external relations. This Liberty, moreover, gradually advances further. But if the citizen is hindered in seeking his prosperity in any way suitable to himself that is consistent with the liberty of others the activity of business is checked generally; and thereby the powers of the whole State, again, are weakened. Hence the restrictions on personal liberty of action are always more and more removed, and universal liberty even in Religion comes to be conceded. And thus it is that, notwithstanding the intrusion of many a delusion and caprice, *the spirit of Enlightenment* gradually arises as a great Good which the human race must derive even from the selfish purposes of aggrandisement on

the part of its rulers, if they understand what is for their own advantage. This Enlightenment, however, and along with it a certain sympathetic interest which the enlightened man cannot avoid taking in the good which he perfectly understands, must by and by pass up to the throne and exert an influence even upon the principles of Government. Thus although our rulers at present have no money to spend on public educational institutions, or in general on all that concerns the highest good of the world – because all their resources are already placed to the account of the next war – yet they will certainly find it to be to their own advantage at least not to hinder the people in their own efforts in this direction, however weak and slow these may be. Finally, war itself comes to be regarded as a very hazardous and objectionable undertaking, not only from its being so artificial in itself and so uncertain as regards its issue on both sides, but also from the afterpains which the State feels in the ever-increasing burdens it entails in the form of national debt – a modern infliction – which it becomes almost impossible to extinguish. And to this is to be added the influence which every political disturbance of any State of our continent – linked as it is so closely to others by the connections of trade – exerts upon all the States and which becomes so observable that they are forced by their common danger, although without lawful authority, to offer themselves as arbiters in the troubles of any such State. In doing so, they are beginning to arrange for a great future political Body, such as the world has never yet seen. Although this political Body may as yet exist only in a rough outline, nevertheless a feeling begins, as it were, to stir in all its members, each of which has a common interest in the maintenance of the whole. And this may well inspire the hope that after many political revolutions and transformations, the highest purpose of Nature will be at last realised in the establishment of a universal *Cosmopolitical Institution*, in the bosom of which all the original capacities and endowments of the human species will be unfolded and developed.

#### NINTH PROPOSITION.

A philosophical attempt to work out the Universal History of the world according to the plan of Nature in its aiming at a perfect Civil Union, must be regarded as possible, and as even capable of helping forward the purpose of Nature.

It seems, at first sight, a strange and even an absurd proposal to suggest the composition of a *History* according to the idea of how the

course of the world must proceed, if it is to be conformable to certain rational laws. It may well appear that only a *Romance* could be produced from such a point of view. However, if it be assumed that Nature, even in the play of human freedom, does not proceed without plan and design, the idea may well be regarded as practicable; and, although we are too shortsighted to see through the secret mechanism of her constitution, yet the idea may be serviceable as a clue to enable us to penetrate the otherwise planless *Aggregate* of human actions as a whole, and to represent them as constituting a *System*. For, the idea may so far be easily verified. Thus, suppose we start from the history of *Greece*, as that by which all the older or contemporaneous History has been preserved, or at least accredited to us.<sup>2</sup> Then, if we study its influence upon the formation and malformation of the political institutions of the Roman people, which swallowed up the Greek States, and if we further follow the influence of the Roman Empire upon the Barbarians who destroyed it in turn, and continue this investigation down to our own day, conjoining with it episodically the political history of other peoples according as the knowledge of them has gradually reached us through these more enlightened nations, we shall discover a regular movement of progress through the political institutions of our Continent, which is probably destined to give laws to all other parts of the world. Applying the same method of study everywhere, both to the internal civil constitutions and laws of the States, and to their external relations to each other, we see how in both relations the good they contained served for a certain period to elevate and glorify particular nations, and with themselves, their arts and sciences, – until the defects attaching to their institutions came in time to cause their overthrow. And yet their very ruin leaves always a germ of growing enlightenment behind, which being further developed by every revolution, acts as a preparation for a subsequent higher stage of progress and improvement. Thus, as I believe, we can discover a clue which may serve for more than the explanation of the confused play of human things, or for the art of political prophecy in reference to future changes in States, – a use which has been already made of the history of mankind, even although it was regarded as the incoherent effect of an unregulated freedom! Much more than all this is attained by the idea of Human History viewed as founded upon the assumption of a universal plan in Nature. For this idea gives us a new ground of hope, as it opens up to us a consoling view of the future, in which the human species is represented in the far distance as having at last worked itself up to a condition in which all the germs implanted in it by Nature may

be fully developed, and its destination here on earth fulfilled. Such a *justification of Nature*, – or rather, let us say, of *Providence*, – is no insignificant motive for choosing a particular point of view in contemplating the course of the world. For, what avails it, to magnify the glory and wisdom of the creation in the irrational domain of Nature, and to recommend it to devout contemplation, if that part of the great display of the supreme wisdom, which presents the End of it all in the history of the Human Race, is to be viewed as only furnishing perpetual objections to that glory and wisdom? The spectacle of History if thus viewed would compel us to turn away our eyes from it against our will; and the despair of ever finding a perfect rational Purpose in its movement, would reduce us to hope for it, if at all, only in another world.

This Idea of a Universal History is no doubt to a certain extent of an *a priori* character, but it would be a misunderstanding of my object were it imagined that I have any wish to supplant the empirical cultivation of History, or the narration of the actual facts of experience. It is only a thought of what a philosophical mind – which, as such, must be thoroughly versed in History – might be induced to attempt from another standpoint. Besides, the praiseworthy circumstantiality with which our history is now written, may well lead one to raise the question as to how our remote posterity will be able to cope with the burden of history as it will be transmitted to them after a few centuries? They will surely estimate the history of the oldest times, of which the documentary records may have been long lost, only from the point of view of what will interest them; and no doubt this will be what the nations and governments have achieved, or failed to achieve, in the universal world-wide relation. It is well to be giving thought to this relation; and at the same time to draw the attention of ambitious rulers and their servants to the only means by which they can leave an honourable memorial of themselves to latest times. And this may also form a *minor* motive for attempting to produce such a philosophical History.

## Notes:

<sup>1</sup> The part that has to be played by man is, therefore, a very artificial one. We do not know how it may be with the inhabitants of other planets or what are the conditions of their nature; but, if we execute well the commission of Nature, we may certainly flatter ourselves to the

extent of claiming a not insignificant rank among our neighbours in the universe. It may perhaps be the case that in those other planets every individual completely attains his destination in this life. With us it is otherwise; only the species can hope for this.

<sup>2</sup> It is only a *learned Public* which has had an uninterrupted existence from its beginning up to our time, that can authenticate Ancient History. Beyond it, all is *terra incognita*; and the History of the peoples who lived out of its range, can only be begun from the date at which they entered within it. In the case of the *Jewish* People this happened in the time of the Ptolemies, through the Greek Translation of the Bible, without which little faith would have been given to their *isolated* accounts of themselves. From that date, taken as a beginning when it has been determined, their records may then be traced upwards. And so it is with all other peoples. The first page of Thucydides, says Hume, is the beginning of all true History.

## Source 10 C

**Georg Wilhelm Friedrich Hegel**

**Philosophy of Right.**

**The State. §§ 257, 258**

### § 257

The state is the actuality of the ethical Idea. It is ethical mind *qua* the substantial will manifest and revealed to itself, knowing and thinking itself, accomplishing what it knows and in so far as it knows it. The state exists immediately in custom, mediately in individual self-consciousness, knowledge, and activity, while self-consciousness in virtue of its sentiment towards the state, finds in the state, as its essence and the end-product of its activity, its substantive freedom.

Remark: The *Penates* are inward gods, gods of the underworld; the mind of a nation (Athene for instance) is the divine, knowing and willing itself. Family piety is feeling, ethical behaviour directed by feeling; political virtue is the willing of the absolute end in terms of thought.

### § 258

The state is absolutely rational inasmuch as it is the actuality of the substantial will which it possesses in the particular self-consciousness once that consciousness has been raised to consciousness of its universality. This substantial unity is an absolute unmoved end in itself, in which freedom comes into its supreme right. On the other hand this final end has supreme right against the individual, whose supreme duty is to be a member of the state.

Remark: If the state is confused with civil society, and if its specific end is laid down as the security and protection of property and personal freedom, then the interest of the individuals as such becomes the ultimate end of their association, and it follows that membership of the state is something optional. But the state's relation to the individual is quite different from this. Since the state is mind objectified, it is only as one of its members that the individual himself has objectivity, genuine individuality, and an ethical life. Unification pure and simple is the true content and aim of the individual, and the individual's destiny is the living of a universal life. His further particular satisfaction, activity and

mode of conduct have this substantive and universally valid life as their starting point and their result.

Rationality, taken generally and in the abstract, consists in the thorough-going unity of the universal and the single. Rationality, concrete in the state, consists (a) so far as its *content* is concerned, in the unity of objective freedom (i.e. freedom of the universal or substantial will) and subjective freedom (i.e. freedom of everyone in his knowing and in his volition of particular ends); and consequently, (b) so far as its *form* is concerned, in self-determining action on laws and principles which are thoughts and so universal. This Idea is the absolutely eternal and necessary being of mind.

But if we ask what is or has been the historical origin of the state in general, still more if we ask about the origin of any particular state, of its rights and institutions, or again if we inquire whether the state originally arose out of patriarchal conditions or out of fear or trust, or out of Corporations, &c., or finally if we ask in what light the basis of the state's rights has been conceived and consciously established, whether this basis has been supposed to be positive divine right, or contract, custom, &c. – all these questions are no concern of the Idea of the state. We are here dealing exclusively with the philosophic science of the state, and from that point of view all these things are mere appearance and therefore matters for history. So far as the authority of any existing state has anything to do with reasons, these reasons are culled from the forms of the law authoritative within it.

The philosophical treatment of these topics is concerned only with their inward side, with the thought of their concept. The merit of Rousseau's contribution to the search for this concept is that, by adducing the will as the principle of the state, he is adducing a principle which has thought both for its form and its content, a principle indeed which is thinking itself, not a principle, like gregarious instinct, for instance, or divine authority, which has thought as its form only. Unfortunately, however, as Fichte did later, he takes the will only in a determinate form as the individual will, and he regards the universal will not as the absolutely rational element in the will, but only as a 'general' will which proceeds out of this individual will as out of a conscious will. The result is that he reduces the union of individuals in the state to a contract and therefore to something based on their arbitrary wills, their opinion, and their capriciously given express consent; and abstract reasoning proceeds to draw the logical inferences which destroy the absolutely

divine principle of the state, together with its majesty and absolute authority. For this reason, when these abstract conclusions came into power, they afforded for the first time in human history the prodigious spectacle of the overthrow of the constitution of a great actual state and its complete reconstruction *ab initio* on the basis of pure thought alone, after the destruction of all existing and given material. The will of its re-founders was to give it what they alleged was a purely rational basis, but it was only abstractions that were being used; the Idea was lacking; and the experiment ended in the maximum of frightfulness and terror.

Confronted with the claims made for the individual will, we must remember the fundamental conception that the objective will is rationality implicit or in conception, whether it be recognised or not by individuals, whether their whims be deliberately for it or not. We must remember that its opposite, i.e. knowing and willing, or subjective freedom (the only thing contained in the principle of the individual will) comprises only one moment, and therefore a one-sided moment, of the Idea of the rational will, i.e. of the will which is rational solely because what it is implicitly, that it also is explicitly.

The opposite to thinking of the state as something to be known and apprehended as explicitly rational is taking external appearances – i.e. contingencies such as distress, need for protection, force, riches, &c. – not as moments in the state's historical development, but as its substance. Here again what constitutes the guiding thread of discovery is the individual in isolation – not, however, even so much as the *thought* of this individuality, but instead only empirical individuals, with attention focused on their accidental characteristics, their strength and weakness, riches and poverty, &c. This ingenious idea of ignoring the absolute infinity and rationality in the state and excluding thought from apprehension of its inward nature has assuredly never been put forward in such an unadulterated form as in Herr von Haller's *Restauration der Staatswissenschaft*. I say 'unadulterated', because in all other attempts to grasp the essence of the state, no matter on what one-sided or superficial principles, this very intention of comprehending the state rationally has brought with it thoughts, i.e. universal determinations. Herr von Haller, however, with his eyes open, has not merely renounced the rational material of which the state consists, as well as the form of thought, but he has even gone on with passionate fervour to inveigh against the form and the material so set aside. Part of what Herr von Haller assures us is the 'widespread' effect of his principles. This *Restauration* undoubtedly owes to the fact that, in his

exposition, he has deliberately dispensed with thought altogether, and has deliberately kept his whole book all of a piece with its lack of thought. For in this way he has eliminated the confusion and disorder which lessen the force of an exposition where the accidental is treated along with hints of the substantial, where the purely empirical and external are mixed with a reminiscence of the universal and rational, and where in the midst of wretched inanities the reader is now and again reminded of the loftier sphere of the infinite. For the same reason again his exposition is consistent. He takes as the essence of the state, not what is substantive but the sphere of accident, and consistency in dealing with a sphere of that kind amounts to the complete inconsistency of utter thoughtlessness which jogs along without looking behind, and is just as much at home now with the exact opposite of what it approved a moment ago.

Addition: The state in and by itself is the ethical whole, the actualisation of freedom; and it is an absolute end of reason that freedom should be actual. The state is mind on earth and consciously realising itself there. In nature, on the other hand, mind actualises itself only as its own other, as mind asleep. Only when it is present in consciousness, when it knows itself as a really existent object, is it the state. In considering freedom, the starting-point must be not individuality, the single self-consciousness, but only the essence of self-consciousness; for whether man knows it or not, this essence is externally realised as a self-subsistent power in which single individuals are only moments. The march of God in the world, that is what the state is. The basis of the state is the power of reason actualising itself as will. In considering the Idea of the state, we must not have our eyes on particular states or on particular institutions. Instead we must consider the Idea, this actual God, by itself. On some principle or other, any state may be shown to be bad, this or that defect may be found in it; and yet, at any rate if one of the mature states of our epoch is in question, it has in it the moments essential to the existence of the state. But since it is easier to find defects than to understand the affirmative, we may readily fall into the mistake of looking at isolated aspects of the state and so forgetting its inward organic life. The state is no ideal work of art; it stands on earth and so in the sphere of caprice, chance, and error, and bad behaviour may disfigure it in many respects. But the ugliest of men, or a criminal, or an invalid, or a cripple, is still always a living man. The affirmative, life, subsists despite his defects, and it is this affirmative factor which is our theme here.

Footnote: I have described the book sufficiently to show that it is of an original kind. There might be something noble in the author's indignation by itself, since it was kindled by the false theories, mentioned above, emanating principally from Rousseau, and especially by the attempt to realise them in practice. But to save himself from these theories, Herr von Haller has gone to the other extreme by dispensing with thought altogether and consequently it cannot be said that there is anything of intrinsic value in his virulent hatred of all laws and legislation, of all expressly and legally determinate rights. The hatred of law, of right made determinate in law, is the shibboleth whereby fanaticism, flabby-mindedness, and the hypocrisy of good intentions are clearly and infallibly recognised for what they are, disguise themselves as they may.

Originality like Herr von Haller's is always a curious phenomenon, and for those of my readers who are not yet acquainted with his book I will quote a few specimen passages. This is how he lays down his most important basic proposition: 'Just as, in the inorganic world, the greater dislodges the less and the mighty the weak .... so in the animal kingdom, and then amongst human beings, the same law appears in nobler' (often, too, surely in ignobler?) 'forms', and 'this, therefore, is the eternal, unalterable, ordinance of God, that the mightier rules, must rule, and will always rule'. It is clear enough from this, let alone from what follows, in what sense 'might' is taken here. It is not the might of justice and ethics, but only the irrational power of brute force. Herr von Haller then goes on to support this doctrine on various grounds, amongst them that 'nature with amazing wisdom has so ordered it that the mere sense of personal superiority irresistibly ennoble the character and encourages the development of just those virtues which are most necessary for dealing with subordinates'. He asks with a great elaboration of undergraduate rhetoric [*ibid.*] 'whether it is the strong or the weak in the kingdom of science who more misuse their trust and their authority in order to achieve their petty selfish ends and the ruin of the credulous; whether to be a past master in legal learning is not to be a pettifogger, a leguleius, one who cheats the hopes of unsuspecting clients, who makes white black and black white, who misapplies the law and makes it a vehicle for wrongdoing, who brings to beggary those who need his assistance and tends them as the hungry vulture tends the innocent lamb', &c., &c. Herr von Haller forgets here that the point of this rhetoric is to support his proposition that the rule of the mightier is an everlasting ordinance of God; so presumably it is by the

same ordinance that the vulture rends the innocent lamb, and that hence the mighty are quite right to treat their unsuspecting clients as the weak and to make use of knowledge of the law to empty their pockets. It would be too much, however, to ask that two thoughts should be put together where there is really not a single one.

It goes without saying that Herr von Haller is an enemy of codes of law. In his view, the laws of the land, are on the one hand, in principle 'unnecessary, because they spring self-explanatory from the laws of nature'. If men had remained satisfied with 'self-explanatory' as the basis of their thinking, then they would have been spared the endless labour devoted, since ever there were states, to legislation and legal codes, and which is still devoted thereto and to the study of positive law. 'On the other hand, laws are not exactly promulgated for private individuals, but as instructions to puisne judges, acquainting them with the will of the high court'. Apart from that, the provision of law-courts is (and all over the place) not a state duty, but a favour, help rendered by the authorities, and 'quite supererogatory'; it is not the most perfect method of guaranteeing men's rights; on the contrary, it is an insecure and uncertain method, 'the only one left to us by our modern lawyers. They have reft us of the other three methods, of just those which lead most swiftly and surely to the goal, those which, unlike law-courts, friendly nature has given to man for the safeguarding of his rightful freedom'. And these three methods are – what do you suppose? – (1) Personal acceptance and inculcation of the law of nature; (2) Resistance to wrong; (3) Flight, when there is no other remedy. Lawyers are unfriendly indeed, it appears, in comparison with the friendliness of nature! 'But the natural, divine, law, given to everyone by nature the all-bountiful, is: Honour everyone as thine equal' (on the author's principles this should read 'Honour not the man who is thine equal, but the one who is mightier'); 'hurt no man who hurts thee not; demand from him nothing but what he owes' (but what does he owe?); 'nay more, love thy neighbour and serve him when thou canst'. The 'implanting of this law' is to make a legislator and a constitution superfluous. It would be curious to see how Herr von Haller makes it intelligible why legislators and constitutions have appeared in the world despite this 'implanting'.

In vol. iii, the author comes to the 'so-called national liberties', by which he means the laws and constitutions of nation states. Every legally constituted right is in this wide sense of the word a 'liberty'. Of these laws he says, *inter alia*, that 'their content is usually very insignificant,

although in books a high value may be placed on documentary liberties of that kind'. When we then realise that the author is speaking here of the national liberties of the German Estates, of the English people (e.g. Magna Carta which is little read, and on account of its archaic phraseology still less understood, the Bill of Rights, and so forth), of the people of Hungary, &c., we are surprised to find that these Possessions, formerly so highly prized, are only insignificant; and no less Surprised to learn that it is only in books that these nations place a value on laws whose co-operation has entered into every coat that is worn and every crust that is eaten, and still enters into every day and hour of the lives of everyone.

To carry quotation further, Herr von Haller speaks particularly, ill of the Prussian General Legal Code, because of the 'incredible' influence on it of the errors of false philosophy (though in this instance at any rate the fault cannot be ascribed to Kant's philosophy, a topic on which Herr von Haller is at his angriest), especially where it speaks of the state, the resources of the state, the end of the state, the head of the state, his duties, and those of civil servants, and so forth. Herr von Haller finds particularly mischievous 'the right of defraying the expenses of the state by levying taxes on the private wealth of individuals, on their businesses, on goods produced or consumed. Under those circumstances, neither the king himself (since the resources of the state belong to the state and are not the private property of the king), nor the Prussian citizens can call anything their own, neither their person nor their property; and all subjects are bondslaves to the law, since they may not withdraw themselves from the service of the state.'

In this welter of incredible crudity, what is perhaps most comical of all is the emotion with which Herr von Haller describes his unspeakable pleasure in his discoveries – 'a joy such as only the friend of truth can feel when after honest search he has become confident that he has found as it were' (yes indeed? 'is it were' is right!) 'the voice of nature, the very word of God'. (The truth is that the word of God very clearly distinguishes its revelations from the voices of nature and unregenerate man.) The author could have sunk to the ground in open amazement, a stream of joyful tears burst from his eyes, and living religious feeling sprang up in him there and then. Herr von Haller might have discovered by his 'religious feeling' that he should rather bewail his condition as the hardest chastisement of God. For the hardest thing which man can experience is to be so far excluded from thought and reason, from respect for the laws, and from knowing how infinitely

important and divine it is that the duties of the state and the rights of the citizens, as well as the rights of the state and the duties of the citizens, should be defined by law – to be so far excluded from all this that absurdity can foist itself upon him as the word of God.

## Source 10 D

### Murray N. Rothbard The Anatomy Of The State\*

#### What the State Is Not

The State is almost universally considered an institution of social service. Some theorists venerate the State as the apotheosis of society; others regard it as an amiable, though often inefficient, organization for achieving social ends; but almost all regard it as a necessary means for achieving the goals of mankind, a means to be ranged against the "private sector" and often winning in this competition of resources. With the rise of democracy, the identification of the State with society has been redoubled, until it is common to hear sentiments expressed which violate virtually every tenet of reason and common sense such as, "we are the government." The useful collective term "we" has enabled an ideological camouflage to be thrown over the reality of political life. If "we are the government," then anything a government does to an individual is not only just and untyrannical but also "voluntary" on the part of the individual concerned. If the government has incurred a huge public debt which must be paid by taxing one group for the benefit of another, this reality of burden is obscured by saying that "we owe it to ourselves"; if the government conscripts a man, or throws him into jail for dissident opinion, then he is "doing it to himself" and, therefore, nothing untoward has occurred. Under this reasoning, any Jews murdered by the Nazi government were *not* murdered; instead, they must have "committed suicide," since they *were* the government (which was democratically chosen), and, therefore, anything the government did to them was voluntary on their part. One would not think it necessary to belabor this point, and yet the overwhelming bulk of the people hold this fallacy to a greater or lesser degree.

We must, therefore, emphasize that "we" are *not* the government; the government is *not* "us." The government does not in any accurate sense "represent" the majority of the people.<sup>1</sup> But, even if it did, even if 70 percent of the people decided to murder the remaining 30 percent, this would still be murder and would not be voluntary suicide on the part of the slaughtered minority.<sup>2</sup> No organicist metaphor, no irrelevant

bromide that "we are all part of one another," must be permitted to obscure this basic fact.

If, then, the State is not "us," if it is not "the human family" getting together to decide mutual problems, if it is not a lodge meeting or country club, what is it? Briefly, the State is that organization in society which attempts to maintain a monopoly of the use of force and violence in a given territorial area; in particular, it is the only organization in society that obtains its revenue not by voluntary contribution or payment for services rendered but by coercion. While other individuals or institutions obtain their income by production of goods and services and by the peaceful and voluntary sale of these goods and services to others, the State obtains its revenue by the use of compulsion; that is, by the use and the threat of the jailhouse and the bayonet.<sup>3</sup> Having used force and violence to obtain its revenue, the State generally goes on to regulate and dictate the other actions of its individual subjects. One would think that simple observation of all States through history and over the globe would be proof enough of this assertion; but the miasma of myth has lain so long over State activity that elaboration is necessary.

### **What the State Is**

Man is born naked into the world, and needing to use his mind to learn how to take the resources given him by nature, and to transform them (for example, by investment in "capital") into shapes and forms and places where the resources can be used for the satisfaction of his wants and the advancement of his standard of living. The only way by which man can do this is by the use of his mind and energy to transform resources ("production") and to exchange these products for products created by others. Man has found that, through the process of voluntary, mutual exchange, the productivity and hence, the living standards of all participants in exchange may increase enormously. The only "natural" course for man to survive and to attain wealth, therefore, is by using his mind and energy to engage in the production-and-exchange process. He does this, first, by finding natural resources, and then by transforming them (by "mixing his labor" with them, as Locke puts it), to make them his individual *property*, and then by exchanging this property for the similarly obtained property of others. The social path dictated by the requirements of man's nature, therefore, is the path of "property rights" and the "free market" of gift or exchange

of such rights. Through this path, men have learned how to avoid the "jungle" methods of fighting over scarce resources so that A can only acquire them at the expense of B and, instead, to multiply those resources enormously in peaceful and harmonious production and exchange.

The great German sociologist Franz Oppenheimer pointed out that there are two mutually exclusive ways of acquiring wealth; one, the above way of production and exchange, he called the "economic means." The other way is simpler in that it does not require productivity; it is the way of seizure of another's goods or services by the use of force and violence. This is the method of one-sided confiscation, of theft of the property of others. This is the method which Oppenheimer termed "the political means" to wealth. It should be clear that the peaceful use of reason and energy in production is the "natural" path for man: the means for his survival and prosperity on this earth. It should be equally clear that the coercive, exploitative means is contrary to natural law; it is parasitic, for instead of adding to production, it subtracts from it. The "political means" siphons production off to a parasitic and destructive individual or group; and this siphoning not only subtracts from the number producing, but also lowers the producer's incentive to produce beyond his own subsistence. In the long run, the robber destroys his own subsistence by dwindling or eliminating the source of his own supply. But not only that; even in the short-run, the predator is acting contrary to his own true nature as a man.

We are now in a position to answer more fully the question: what is the *State*? The State, in the words of Oppenheimer, is the "organization of the political means"; it is the systematization of the predatory process over a given territory.<sup>4</sup> For crime, at best, is sporadic and uncertain; the parasitism is ephemeral, and the coercive, parasitic lifeline may be cut off at any time by the resistance of the victims. The State provides a legal, orderly, systematic channel for the predation of private property; it renders certain, secure, and relatively "peaceful" the lifeline of the parasitic caste in society.<sup>5</sup> Since production must always precede predation, the free market is anterior to the State. The State has never been created by a "social contract"; it has always been born in conquest and exploitation. The classic paradigm was a conquering tribe pausing in its time-honored method of looting and murdering a conquered tribe, to realize that the time-span of plunder would be longer and more secure, and the situation more pleasant, if the conquered tribe were allowed to live and produce, with the conquerors

settling among them as rulers exacting a steady annual tribute.<sup>6</sup> One method of the birth of a State may be illustrated as follows: in the hills of southern "Ruritania," a bandit group manages to obtain physical control over the territory, and finally the bandit chieftain proclaims himself "King of the sovereign and independent government of South Ruritania"; and, if he and his men have the force to maintain this rule for a while, lo and behold! a new State has joined the "family of nations," and the former bandit leaders have been transformed into the lawful nobility of the realm.

### **How the State Preserves Itself**

Once a State has been established, the problem of the ruling group or "caste" is how to maintain their rule.<sup>7</sup> While force is their *modus operandi*, their basic and long-run problem is ideological. For in order to continue in office, *any* government (not simply a "democratic" government) must have the support of the majority of its subjects. This support, it must be noted, need not be active enthusiasm; it may well be passive resignation as if to an inevitable law of nature. But support in the sense of acceptance of some sort it must be; else the minority of State rulers would eventually be outweighed by the active resistance of the majority of the public. Since predation must be supported out of the surplus of production, it is necessarily true that the class constituting the State – the full-time bureaucracy (and nobility) – must be a rather small minority in the land, although it may, of course, purchase allies among important groups in the population. Therefore, the chief task of the rulers is always to secure the active or resigned acceptance of the majority of the citizens.<sup>8,9</sup>

Of course, one method of securing support is through the creation of vested economic interests. Therefore, the King alone cannot rule; he must have a sizable group of followers who enjoy the prerequisites of rule, for example, the members of the State apparatus, such as the full-time bureaucracy or the established nobility.<sup>10</sup> But this still secures only a minority of eager supporters, and even the essential purchasing of support by subsidies and other grants of privilege still does not obtain the consent of the majority. For this essential acceptance, the majority must be persuaded by *ideology* that their government is good, wise and, at least, inevitable, and certainly better than other conceivable alternatives. Promoting this ideology among the people is the vital social task of the "intellectuals." For the masses of men do not create

their own ideas, or indeed think through these ideas independently; they follow passively the ideas adopted and disseminated by the body of intellectuals. The intellectuals are, therefore, the "opinion-molders" in society. And since it is precisely a molding of opinion that the State most desperately needs, the basis for age-old alliance between the State and the intellectuals becomes clear.

It is evident that the State needs the intellectuals; it is not so evident why intellectuals need the State. Put simply, we may state that the intellectual's livelihood in the free market is never too secure; for the intellectual must depend on the values and choices of the masses of his fellow men, and it is precisely characteristic of the masses that they are generally uninterested in intellectual matters. The State, on the other hand, is willing to offer the intellectuals a secure and permanent berth in the State apparatus; and thus a secure income and the panoply of prestige. For the intellectuals will be handsomely rewarded for the important function they perform for the State rulers, of which group they now become a part.<sup>11</sup>

The alliance between the State and the intellectuals was symbolized in the eager desire of professors at the University of Berlin in the nineteenth century to form the "intellectual bodyguard of the House of Hohenzollern." In the present day, let us note the revealing comment of an eminent Marxist scholar concerning Professor Wittfogel's critical study of ancient Oriental despotism: "The civilization which Professor Wittfogel is so bitterly attacking was one which could make poets and scholars into officials."<sup>12</sup> Of innumerable examples, we may cite the recent development of the "science" of strategy, in the service of the government's main violence-wielding arm, the military.<sup>13</sup> A venerable institution, furthermore, is the official or "court" historian, dedicated to purveying the rulers' views of their own and their predecessors' actions.<sup>14</sup>

Many and varied have been the arguments by which the State and its intellectuals have induced their subjects to support their rule. Basically, the strands of argument may be summed up as follows: (a) the State rulers are great and wise men (they "rule by divine right," they are the "aristocracy" of men, they are the "scientific experts"), much greater and wiser than the good but rather simple subjects, and (b) rule by the extent government is inevitable, absolutely necessary, and far better, than the indescribable evils that would ensue upon its downfall. The union of Church and State was one of the oldest and most successful

of these ideological devices. The ruler was either anointed by God or, in the case of the absolute rule of many Oriental despotisms, was himself God; hence, any resistance to his rule would be blasphemy. The States' priestcraft performed the basic intellectual function of obtaining popular support and even worship for the rulers.<sup>15</sup>

Another successful device was to instill fear of any alternative systems of rule or nonrule. The present rulers, it was maintained, supply to the citizens an essential service for which they should be most grateful: protection against sporadic criminals and marauders. For the State, to preserve its own monopoly of predation, did indeed see to it that private and unsystematic crime was kept to a minimum; the State has always been jealous of its own preserve. Especially has the State been successful in recent centuries in instilling fear of *other* State rulers. Since the land area of the globe has been parceled out among particular States, one of the basic doctrines of the State was to identify itself with the territory it governed. Since most men tend to love their homeland, the identification of that land and its people with the State was a means of making natural patriotism work to the State's advantage. If "Ruritania" was being attacked by "Waldavia," the first task of the State and its intellectuals was to convince the people of Ruritania that the attack was really upon *them* and not simply upon the ruling caste. In this way, a war between *rulers* was converted into a war between *peoples*, with each people coming to the defense of its rulers in the erroneous belief that the rulers were defending *them*. This device of "nationalism" has only been successful, in Western civilization, in recent centuries; it was not too long ago that the mass of subjects regarded wars as irrelevant battles between various sets of nobles.

Many and subtle are the ideological weapons that the State has wielded through the centuries. One excellent weapon has been tradition. The longer that the rule of a State has been able to preserve itself, the more powerful this weapon; for then, the X Dynasty or the Y State has the seeming weight of centuries of tradition behind it.<sup>16</sup> Worship of one's ancestors, then, becomes a none too subtle means of worship of one's ancient rulers. The greatest danger to the State is independent intellectual criticism; there is no better way to stifle that criticism than to attack any isolated voice, any raiser of new doubts, as a profane violator of the wisdom of his ancestors. Another potent ideological force is to deprecate the individual and exalt the collectivity of society. For since any given rule implies majority acceptance, any ideological danger to that rule can only start from one or a few

independently-thinking individuals. The new idea, much less the new critical idea, must needs begin as a small minority opinion; therefore, the State must nip the view in the bud by ridiculing any view that defies the opinions of the mass. "Listen only to your brothers" or "adjust to society" thus become ideological weapons for crushing individual dissent.<sup>17</sup> By such measures, the masses will never learn of the nonexistence of their Emperor's clothes.<sup>18</sup> It is also important for the State to make its rule seem inevitable; even if its reign is disliked, it will then be met with passive resignation, as witness the familiar coupling of "death and taxes." One method is to induce historiographical determinism, as opposed to individual freedom of will. If the X Dynasty rules us, this is because the Inexorable Laws of History (or the Divine Will, or the Absolute, or the Material Productive Forces) have so decreed and nothing any puny individuals may do can change this inevitable decree. It is also important for the State to inculcate in its subjects an aversion to any "conspiracy theory of history;" for a search for "conspiracies" means a search for motives and an attribution of responsibility for historical misdeeds. If, however, any tyranny imposed by the State, or venality, or aggressive war, was caused *not* by the State rulers but by mysterious and arcane "social forces," or by the imperfect state of the world or, if in some way, *everyone* was responsible ("We Are All Murderers," proclaims one slogan), then there is no point to the people becoming indignant or rising up against such misdeeds. Furthermore, an attack on "conspiracy theories" means that the subjects will become more gullible in believing the "general welfare" reasons that are always put forth by the State for engaging in any of its despotic actions. A "conspiracy theory" can unsettle the system by causing the public to doubt the State's ideological propaganda.

Another tried and true method for bending subjects to the State's will is inducing guilt. Any increase in private well-being can be attacked as "unconscionable greed," "materialism," or "excessive affluence," profit-making can be attacked as "exploitation" and "usury," mutually beneficial exchanges denounced as "selfishness," and somehow with the conclusion always being drawn that more resources should be siphoned from the private to the "public sector." The induced guilt makes the public more ready to do just that. For while individual persons tend to indulge in "selfish greed," the failure of the State's rulers to engage in exchanges is supposed to signify *their* devotion to higher and nobler causes – parasitic predation being apparently morally and esthetically lofty as compared to peaceful and productive

work.

In the present more secular age, the divine right of the State has been supplemented by the invocation of a new god, Science. State rule is now proclaimed as being ultrascientific, as constituting planning by experts. But while "reason" is invoked more than in previous centuries, this is not the true reason of the individual and his exercise of free will; it is still collectivist and determinist, still implying holistic aggregates and coercive manipulation of passive subjects by their rulers.

The increasing use of scientific jargon has permitted the State's intellectuals to weave obscurantist apologia for State rule that would have only met with derision by the populace of a simpler age. A robber who justified his theft by saying that he really helped his victims, by his spending giving a boost to retail trade, would find few converts; but when this theory is clothed in Keynesian equations and impressive references to the "multiplier effect," it unfortunately carries more conviction. And so the assault on common sense proceeds, each age performing the task in its own ways.

Thus, ideological support being vital to the State, it must unceasingly try to impress the public with its "legitimacy," to distinguish its activities from those of mere brigands. The unremitting determination of its assaults on common sense is no accident, for as Mencken vividly maintained:

The average man, whatever his errors otherwise, at least sees clearly that government is something lying outside him and outside the generality of his fellow men – that it is a separate, independent, and hostile power, only partly under his control, and capable of doing him great harm. Is it a fact of no significance that robbing the government is everywhere regarded as a crime of less magnitude than robbing an individual, or even a corporation? . . . What lies behind all this, I believe, is a deep sense of the fundamental antagonism between the government and the people it governs. It is apprehended, not as a committee of citizens chosen to carry on the communal business of the whole population, but as a separate and autonomous corporation, mainly devoted to exploiting the population for the benefit of its own members. . . . When a private citizen is robbed, a worthy man is deprived of the fruits of his industry and thrift; when the government is robbed, the worst that happens is that certain rogues and loafers have less money to play with than

they had before. The notion that they have earned that money is never entertained; to most sensible men it would seem ludicrous.<sup>19</sup>

### **How the State Transcends Its Limits**

As Bertrand de Jouvenel has sagely pointed out, through the centuries men have formed concepts designed to check and limit the exercise of State rule; and, one after another, the State, using its intellectual allies, has been able to transform these concepts into intellectual rubber stamps of legitimacy and virtue to attach to its decrees and actions. Originally, in Western Europe, the concept of divine sovereignty held that the kings may rule only according to divine law; the kings turned the concept into a rubber stamp of divine approval for any of the kings' actions. The concept of parliamentary democracy began as a popular check upon absolute monarchical rule; it ended with parliament being the essential part of the State and its every act totally sovereign. As de Jouvenel concludes:

Many writers on theories of sovereignty have worked out one . . . of these restrictive devices. But in the end every single such theory has, sooner or later, lost its original purpose, and come to act merely as a springboard to Power, by providing it with the powerful aid of an invisible sovereign with whom it could in time successfully identify itself.<sup>20</sup>

Similarly with more specific doctrines: the "natural rights" of the individual enshrined in John Locke and the Bill of Rights, became a statist "right to a job"; utilitarianism turned from arguments for liberty to arguments against resisting the State's invasions of liberty, etc.

Certainly the most ambitious attempt to impose limits on the State has been the Bill of Rights and other restrictive parts of the American Constitution, in which written limits on government became the fundamental law to be interpreted by a judiciary supposedly independent of the other branches of government. All Americans are familiar with the process by which the construction of limits in the Constitution has been inexorably broadened over the last century. But few have been as keen as Professor Charles Black to see that the State has, in the process, largely transformed judicial review itself from a limiting device to yet another instrument for furnishing ideological

legitimacy to the government's actions. For if a judicial decree of "unconstitutional" is a mighty check to government power, an implicit or explicit verdict of "constitutional" is a mighty weapon for fostering public acceptance of ever-greater government power.

Professor Black begins his analysis by pointing out the crucial necessity of "legitimacy" for any government to endure, this legitimation signifying basic majority acceptance of the government and its actions.<sup>21</sup> Acceptance of legitimacy becomes a particular problem in a country such as the United States, where "substantive limitations are built into the theory on which the government rests." What is needed, adds Black, is a means by which the government can assure the public that its increasing powers are, indeed, "constitutional." And this, he concludes, has been the major historic function of judicial review.

Let Black illustrate the problem:

The supreme risk [to the government] is that of disaffection and a feeling of outrage widely disseminated throughout the population, and loss of moral authority by the government as such, however long it may be propped up by force or inertia or the lack of an appealing and immediately available alternative. Almost everybody living under a government of limited powers, must sooner or later be subjected to some governmental action which as a matter of private opinion he regards as outside the power of government or positively forbidden to government. A man is drafted, though he finds nothing in the Constitution about being drafted. . . . A farmer is told how much wheat he can raise; he believes, and he discovers that some respectable lawyers believe with him, that the government has no more right to tell him how much wheat he can grow than it has to tell his daughter whom she can marry. A man goes to the federal penitentiary for saying what he wants to, and he paces his cell reciting . . . "Congress shall make no laws abridging the freedom of speech." . . . A businessman is told what he can ask, and must ask, for buttermilk.

The danger is real enough that each of these people (and who is not of their number?) will confront the concept of governmental limitation with the reality (as he sees it) of the flagrant overstepping of actual limits, and draw the obvious conclusion as to the status of his government with respect to legitimacy.<sup>22</sup>

This danger is averted by the State's propounding the doctrine that one agency must have the ultimate decision on constitutionality and that this agency, in the last analysis, must be part of the federal government.<sup>23</sup> For while the seeming independence of the federal judiciary has played a vital part in making its actions virtual Holy Writ for the bulk of the people, it is also and ever true that the judiciary is part and parcel of the government apparatus and appointed by the executive and legislative branches. Black admits that this means that the State has set itself up as a judge in its own cause, thus violating a basic juridical principle for aiming at just decisions. He brusquely denies the possibility of any alternative.<sup>24</sup>

Black adds:

The problem, then, is to devise such governmental means of deciding as will [hopefully] reduce to a tolerable minimum the intensity of the objection that government is judge in its own cause. Having done this, you can only hope that this objection, *though theoretically still tenable* [italics mine], will practically lose enough of its force that the legitimating work of the deciding institution can win acceptance.<sup>25</sup>

In the last analysis, Black finds the achievement of justice and legitimacy from the State's perpetual judging of its own cause as "something of a miracle."<sup>26</sup>

Applying his thesis to the famous conflict between the Supreme Court and the New Deal, Professor Black keenly chides his fellow pro-New Deal colleagues for their shortsightedness in denouncing judicial obstruction:

[t]he standard version of the story of the New Deal and the Court, though accurate in its way, displaces the emphasis. . . . It concentrates on the difficulties; it almost forgets how the whole thing turned out. The upshot of the matter was [and this is what I like to emphasize] that after some twenty-four months of balking . . . the Supreme Court, without a single change in the law of its composition, or, indeed, in its actual manning, *placed the affirmative stamp of legitimacy on the New Deal, and on the whole new conception of government in America.*<sup>27</sup>

In this way, the Supreme Court was able to put the quietus on the large body of Americans who had had strong constitutional objections to the

## New Deal:

Of course, not everyone was satisfied. The Bonnie Prince Charlie of constitutionally commanded laissez-faire still stirs the hearts of a few zealots in the Highlands of choleric unreality. But there is no longer any significant or dangerous public doubt as to the constitutional power of Congress to deal as it does with the national economy. . . .

We had no means, other than the Supreme Court, for imparting legitimacy to the New Deal.<sup>28</sup>

As Black recognizes, one major political theorist who recognized – and largely in advance – the glaring loophole in a constitutional limit on government of placing the ultimate interpreting power in the Supreme Court was John C. Calhoun. Calhoun was not content with the "miracle," but instead proceeded to a profound analysis of the constitutional problem. In his *Disquisition*, Calhoun demonstrated the inherent tendency of the State to break through the limits of such a constitution:

A written constitution certainly has many and considerable advantages, but it is a great mistake to suppose that the mere insertion of provisions to restrict and limit the power of the government, *without investing those for whose protection they are inserted with the means of enforcing their observance* [my italics] will be sufficient to prevent the major and dominant party from abusing its powers. Being the party in possession of the government, they will, from the same constitution of man which makes government necessary to protect society, be in favor of the powers granted by the constitution and opposed to the restrictions intended to limit them. . . . The minor or weaker party, on the contrary, would take the opposite direction and regard them [the restrictions] as essential to their protection against the dominant party. . . . But where there are no means by which they could compel the major party to observe the restrictions, the only resort left them would be a strict construction of the constitution. . . . To this the major party would oppose a liberal construction. . . . It would be construction against construction – the one to contract and the other to enlarge the powers of the government to the utmost. But of what possible avail could the strict construction of the minor party be, against the liberal construction of the major,

when the one would have all the power of the government to carry its construction into effect and the other be deprived of all means of enforcing its construction? In a contest so unequal, the result would not be doubtful. The party in favor of the restrictions would be overpowered. . . . The end of the contest would be the subversion of the constitution, . . . the restrictions would ultimately be annulled and the government be converted into one of unlimited powers.<sup>29</sup>

One of the few political scientists who appreciated Calhoun's analysis of the Constitution was Professor J. Allen Smith. Smith noted that the Constitution was designed with checks and balances to limit any one governmental power and yet had then developed a Supreme Court with the monopoly of ultimate interpreting power. If the Federal Government was created to check invasions of individual liberty by the separate states, who was to check the Federal power? Smith maintained that implicit in the check-and-balance idea of the Constitution was the concomitant view that no one branch of government may be conceded the ultimate power of interpretation: "It was assumed by the people that the new government could not be permitted to determine the limits of its own authority, since this would make it, and not the Constitution, supreme."<sup>30</sup>

The solution advanced by Calhoun (and seconded, in this century, by such writers as Smith) was, of course, the famous doctrine of the "concurrent majority." If any substantial minority interest in the country, specifically a state government, believed that the Federal Government was exceeding its powers and encroaching on that minority, the minority would have the right to veto this exercise of power as unconstitutional. Applied to state governments, this theory implied the right of "nullification" of a Federal law or ruling within a state's jurisdiction.

In theory, the ensuing constitutional system would assure that the Federal Government check any state invasion of individual rights, while the states would check excessive Federal power over the individual. And yet, while limitations would undoubtedly be more effective than at present, there are many difficulties and problems in the Calhoun solution. If, indeed, a subordinate interest should rightfully have a veto over matters concerning it, then why stop with the states? Why not place veto power in counties, cities, wards? Furthermore, interests are not only sectional, they are also occupational, social, etc. What of

bakers or taxi drivers or any other occupation? Should *they* not be permitted a veto power over their own lives? This brings us to the important point that the nullification theory confines its checks to *agencies of government* itself. Let us not forget that federal and state governments, and their respective branches, are still states, are still guided by their own state interests rather than by the interests of the private citizens. What is to prevent the Calhoun system from working in reverse, with states tyrannizing over *their* citizens and only vetoing the federal government when it tries to intervene to *stop* that state tyranny? Or for states to acquiesce in federal tyranny? What is to prevent federal and state governments from forming mutually profitable alliances for the joint exploitation of the citizenry? And even if the private occupational groupings were to be given some form of "functional" representation in government, what is to prevent them from using the State to gain subsidies and other special privileges for themselves or from imposing compulsory cartels on their own members?

In short, Calhoun does not push his pathbreaking theory on concurrence far enough: he does not push it down to the *individual* himself. If the individual, after all, is the one whose rights are to be protected, then a consistent theory of concurrence would imply veto power by every individual; that is, some form of "unanimity principle." When Calhoun wrote that it should be "impossible to put or to keep it [the government] in action without the concurrent consent of all," he was, perhaps unwittingly, implying just such a conclusion.<sup>31</sup> But such speculation begins to take us away from our subject, for down this path lie political systems which could hardly be called "States" at all.<sup>32</sup> For one thing, just as the right of nullification for a state logically implies its right of secession, so a right of individual nullification would imply the right of any individual to "secede" from the State under which he lives.<sup>33</sup>

Thus, the State has invariably shown a striking talent for the expansion of its powers beyond any limits that might be imposed upon it. Since the State necessarily lives by the compulsory confiscation of private capital, and since its expansion necessarily involves ever-greater incursions on private individuals and private enterprise, we must assert that the State is profoundly and inherently *anticapitalist*. In a sense, our position is the reverse of the Marxist dictum that the State is the "executive committee" of the ruling class in the present day, supposedly the capitalists. Instead, the State – the organization of the political means – constitutes, and is the source of, the "ruling class" (rather, ruling *caste*), and is in permanent opposition to *genuinely*

private capital. We may, therefore, say with de Jouvenel:

Only those who know nothing of any time but their own, who are completely in the dark as to the manner of Power's behaving through thousands of years, would regard these proceedings [nationalization, the income tax, etc.] as the fruit of a particular set of doctrines. They are in fact the normal manifestations of Power, and differ not at all in their nature from Henry VIII's confiscation of the monasteries. The same principle is at work; the hunger for authority, the thirst for resources; and in all of these operations the same characteristics are present, including the rapid elevation of the dividers of the spoils. Whether it is Socialist or whether it is not, Power must always be at war with the capitalist authorities and despoil the capitalists of their accumulated wealth; in doing so it obeys the law of its nature.<sup>34</sup>

### **What the State Fears**

What the State fears above all, of course, is any fundamental threat to its own power and its own existence. The death of a State can come about in two major ways: (a) through conquest by another State, or (b) through revolutionary overthrow by its own subjects – in short, by war or revolution. War and revolution, as the two basic threats, invariably arouse in the State rulers their maximum efforts and maximum propaganda among the people. As stated above, any way must always be used to mobilize the people to come to the State's defense in the belief that they are defending themselves. The fallacy of the idea becomes evident when conscription is wielded against those who refuse to "defend" themselves and are, therefore, forced into joining the State's military band: needless to add, no "defense" is permitted them against this act of "their own" State.

In war, State power is pushed to its ultimate, and, under the slogans of "defense" and "emergency," it can impose a tyranny upon the public such as might be openly resisted in time of peace. War thus provides many benefits to a State, and indeed every modern war has brought to the warring peoples a permanent legacy of increased State burdens upon society. War, moreover, provides to a State tempting opportunities for conquest of land areas over which it may exercise its monopoly of force. Randolph Bourne was certainly correct when he wrote that "war is the health of the State," but to any particular State a

war may spell either health or grave injury.<sup>35</sup>

We may test the hypothesis that the State is largely interested in protecting *itself* rather than its subjects by asking: which category of crimes does the State pursue and punish most intensely – those against private citizens or those against *itself*? The gravest crimes in the State's lexicon are almost invariably not invasions of private person or property, but dangers to its *own* contentment, for example, treason, desertion of a soldier to the enemy, failure to register for the draft, subversion and subversive conspiracy, assassination of rulers and such economic crimes against the State as counterfeiting its money or evasion of its income tax. Or compare the degree of zeal devoted to pursuing the man who assaults a policeman, with the attention that the State pays to the assault of an ordinary citizen. Yet, curiously, the State's openly assigned priority to its *own* defense against the public strikes few people as inconsistent with its presumed *raison d'être*.<sup>36</sup>

### How States Relate to One Another

Since the territorial area of the earth is divided among different States, inter-State relations must occupy much of a State's time and energy. The natural tendency of a State is to expand its power, and externally such expansion takes place by conquest of a territorial area. Unless a territory is stateless or uninhabited, any such expansion involves an inherent conflict of interest between one set of State rulers and another. Only one set of rulers can obtain a monopoly of coercion over any given territorial area at any one time: complete power over a territory by State X can only be obtained by the expulsion of State Y. War, while risky, will be an ever-present tendency of States, punctuated by periods of peace and by shifting alliances and coalitions between States.

We have seen that the "internal" or "domestic" attempt to limit the State, in the seventeenth through nineteenth centuries, reached its most notable form in constitutionalism. Its "external," or "foreign affairs," counterpart was the development of "international law," especially such forms as the "laws of war" and "neutrals' rights."<sup>37</sup> Parts of international law were originally purely private, growing out of the need of merchants and traders everywhere to protect their property and adjudicate disputes. Examples are admiralty law and the law merchant. But even the governmental rules emerged voluntarily and were not imposed by any international super-State. The object of the "laws of war" was to

limit inter-State destruction *to the State apparatus itself*, thereby preserving the innocent "civilian" public from the slaughter and devastation of war. The object of the development of neutrals' rights was to preserve private civilian international commerce, even with "enemy" countries, from seizure by one of the warring parties. The overriding aim, then, was to limit the extent of any war, and, particularly to limit its destructive impact on the private citizens of the neutral and even the warring countries.

The jurist F.J.P. Veale charmingly describes such "civilized warfare" as it briefly flourished in fifteenth-century Italy:

the rich burghers and merchants of medieval Italy were too busy making money and enjoying life to undertake the hardships and dangers of soldiering themselves. So they adopted the practice of hiring mercenaries to do their fighting for them, and, being thrifty, businesslike folk, they dismissed their mercenaries immediately after their services could be dispensed with. Wars were, therefore, fought by armies hired for each campaign. . . . For the first time, soldiering became a reasonable and comparatively harmless profession. The generals of that period maneuvered against each other, often with consummate skill, but when one had won the advantage, his opponent generally either retreated or surrendered. It was a recognized rule that a town could only be sacked if it offered resistance: immunity could always be purchased by paying a ransom. . . . As one natural consequence, no town ever resisted, it being obvious that a government too weak to defend its citizens had forfeited their allegiance. Civilians had little to fear from the dangers of war which were the concern only of professional soldiers.<sup>38</sup>

The well-nigh absolute separation of the private civilian from the State's wars in eighteenth-century Europe is highlighted by Nef:

Even postal communications were not successfully restricted for long in wartime. Letters circulated without censorship, with a freedom that astonishes the twentieth-century mind. . . . The subjects of two warring nations talked to each other if they met, and when they could not meet, corresponded, not as enemies but as friends. The modern notion hardly existed that . . . subjects of any enemy country are partly accountable for the belligerent acts of their rulers. Nor had the warring rulers any

firm disposition to stop communications with subjects of the enemy. The old inquisitorial practices of espionage in connection with religious worship and belief were disappearing, and no comparable inquisition in connection with political or economic communications was even contemplated. Passports were originally created to provide safe conduct in time of war. During most of the eighteenth century it seldom occurred to Europeans to abandon their travels in a foreign country which their own was fighting.<sup>39</sup>

And trade being increasingly recognized as beneficial to both parties; eighteenth-century warfare also counterbalances a considerable amount of "trading with the enemy."<sup>40</sup>

How far States have transcended rules of civilized warfare in this century needs no elaboration here. In the modern era of total war, combined with the technology of total destruction, the very idea of keeping war limited to the State apparati seems even more quaint and obsolete than the original Constitution of the United States.

When States are not at war, agreements are often necessary to keep frictions at a minimum. One doctrine that has gained curiously wide acceptance is the alleged "sanctity of treaties." This concept is treated as the counterpart of the "sanctity of contract." But a treaty and a genuine contract have nothing in common. A contract transfers, in a precise manner, titles to private property. Since a government does not, in any proper sense, "own" its territorial area, any agreements that it concludes do not confer titles to property. If, for example, Mr. Jones sells or gives his land to Mr. Smith, Jones's heir cannot legitimately descend upon Smith's heir and claim the land as rightfully his. The property title has already been transferred. Old Jones's contract is automatically binding upon young Jones, because the former had already transferred the property; young Jones, therefore, has no property claim. Young Jones can only claim that which he has inherited from old Jones, and old Jones can only bequeath property which he still owns. But if, at a certain date, the government of, say, Ruritania is coerced or even bribed by the government of Waldavia into giving up some of its territory, it is absurd to claim that the governments or inhabitants of the two countries are forever barred from a claim to reunification of Ruritania on the grounds of the sanctity of a treaty. Neither the people nor the land of northwest Ruritania are owned by either of the two governments. As a corollary, one government can

certainly not bind, by the dead hand of the past, a later government through treaty. A revolutionary government which overthrew the king of Ruritania could, similarly, hardly be called to account for the king's actions or debts, for a government is not, as is a child, a true "heir" to its predecessor's property.

### **History as a Race Between State Power and Social Power**

Just as the two basic and mutually exclusive interrelations between men are peaceful cooperation or coercive exploitation, production or predation, so the history of mankind, particularly its economic history, may be considered as a contest between these two principles. On the one hand, there is creative productivity, peaceful exchange and cooperation; on the other, coercive dictation and predation over those social relations. Albert Jay Nock happily termed these contesting forces: "social power" and "State power."<sup>41</sup> Social power is man's *power over nature*, his cooperative transformation of nature's resources and insight into nature's laws, for the benefit of all participating individuals. Social power is the power over nature, the living standards achieved by men in mutual exchange. State power, as we have seen, is the coercive and parasitic seizure of this production – a draining of the fruits of society for the benefit of nonproductive (actually antiproducer) rulers. While social power is over nature, State power is *power over man*. Through history, man's productive and creative forces have, time and again, carved out new ways of transforming nature for man's benefit. These have been the times when social power has spurred ahead of State power, and when the degree of State encroachment over society has considerably lessened. But always, after a greater or smaller time lag, the State has moved into these new areas, to cripple and confiscate social power once more.<sup>42</sup> If the seventeenth through the nineteenth centuries were, in many countries of the West, times of accelerating social power, and a corollary increase in freedom, peace, and material welfare, the twentieth century has been primarily an age in which State power has been catching up – with a consequent reversion to slavery, war, and destruction.<sup>43</sup>

In this century, the human race faces, once again, the virulent reign of the State – of the State now armed with the fruits of man's creative powers, confiscated and perverted to its own aims. The last few centuries were times when men tried to place constitutional and other limits on the State, only to find that such limits, as with all other

attempts, have failed. Of all the numerous forms that governments have taken over the centuries, of all the concepts and institutions that have been tried, none has succeeded in keeping the State in check. The problem of the State is evidently as far from solution as ever. Perhaps new paths of inquiry must be explored, if the successful, final solution of the State question is ever to be attained.<sup>44</sup>

## Notes:

\* *Egalitarianism as a Revolt Against Nature and Other Essays* by Murray N. Rothbard (Auburn: Mises Institute, 2000 [1974]), pp. 55-88.

<sup>1</sup> We cannot, in this chapter, develop the many problems and fallacies of "democracy." Suffice it to say here that an individual's true agent or "representative" is always subject to that individual's orders, can be dismissed at any time and cannot act contrary to the interests or wishes of his principal. Clearly, the "representative" in a democracy can never fulfill such agency functions, the only ones consonant with a libertarian society.

<sup>2</sup> Social democrats often retort that democracy – majority choice of rulers – logically implies that the majority must leave certain freedoms to the minority, for the minority might one day become the majority. Apart from other flaws, this argument obviously does not hold where the minority *cannot* become the majority, for example, when the minority is of a different racial or ethnic group from the majority.

<sup>3</sup> Joseph A. Schumpeter, *Capitalism, Socialism, and Democracy* (New York: Harper and Bros., 1942), p. 198. The friction or antagonism between the private and the public sphere was intensified from the first by the fact that . . . the State has been living on a revenue which was being produced in the private sphere for private purposes and had to be deflected from these purposes by political force. The theory which construes taxes on the analogy of club dues or of the purchase of the service of, say, a doctor only proves how far removed this part of the social sciences is from scientific habits of mind.

Also see Murray N. Rothbard, "The Fallacy of the 'Public Sector,'" *New Individualist Review* (Summer, 1961): 3ff.

<sup>4</sup> Franz Oppenheimer, *The State* (New York: Vanguard Press, 1926) pp. 24–27:

There are two fundamentally opposed means whereby man, requiring sustenance, is impelled to obtain the necessary means for satisfying his desires. These are work and robbery, one's own labor and the forcible appropriation of the labor of others. . . . I propose in the following discussion to call one's own labor and the equivalent exchange of one's own labor for the labor of others, the "economic means" for the satisfaction of need while the unrequited appropriation of the labor of others will be called the "political means". . . . The State is an organization of the political means. No State, therefore, can come into being until the economic means has created a definite number of objects for the satisfaction of needs, which objects may be taken away or appropriated by warlike robbery.

<sup>5</sup> Albert Jay Nock wrote vividly that

the State claims and exercises the monopoly of crime. . . . It forbids private murder, but itself organizes murder on a colossal scale. It punishes private theft, but itself lays unscrupulous hands on anything it wants, whether the property of citizen or of alien.

Nock, *On Doing the Right Thing, and Other Essays* (New York: Harper and Bros., 1929), p. 143; quoted in Jack Schwartzman, "Albert Jay Nock – A Superfluous Man," *Faith and Freedom* (December, 1953): 11.

<sup>6</sup> Oppenheimer, *The State*, p. 15:

What, then, is the State as a sociological concept? The State, completely in its genesis . . . is a social institution, forced by a victorious group of men on a defeated group, with the sole purpose of regulating the dominion of the victorious group of men on a defeated group, and securing itself against revolt from within and attacks from abroad. Teleologically, this dominion had no other purpose than the economic exploitation of the vanquished by the victors.

And de Jouvenel has written: "the State is in essence the result of the successes achieved by a band of brigands who superimpose themselves on small, distinct societies." Bertrand de Jouvenel, *On Power* (New York: Viking Press, 1949), pp. 100–01.

<sup>7</sup> On the crucial distinction between "caste," a group with privileges or

burdens coercively granted or imposed by the State and the Marxian concept of "class" in society, see Ludwig von Mises, *Theory and History* (New Haven, Conn.: Yale University Press, 1957), pp. 112ff.

<sup>8</sup> Such acceptance does not, of course, imply that the State rule has become "voluntary"; for even if the majority support be active and eager, this support is not unanimous by every individual.

<sup>9</sup> That every government, no matter how "dictatorial" over individuals, must secure such support has been demonstrated by such acute political theorists as Étienne de la Boétie, David Hume, and Ludwig von Mises. Thus, cf. David Hume, "Of the First Principles of Government," in *Essays, Literary, Moral and Political* (London: Ward, Locke, and Taylor, n.d.), p. 23; Étienne de la Boétie, *Anti-Dictator* (New York: Columbia University Press, 1942), pp. 8–9; Ludwig von Mises, *Human Action* (Auburn, Ala.: Mises Institute, 1998), pp. 188ff. For more on the contribution to the analysis of the State by la Boétie, see Oscar Jaszi and John D. Lewis, *Against the Tyrant* (Glencoe, Ill.: The Free Press, 1957), pp. 55–57.

<sup>10</sup> La Boétie, *Anti-Dictator*, pp. 43–44.

Whenever a ruler makes himself dictator . . . all those who are corrupted by burning ambition or extraordinary avarice, these gather around him and support him in order to have a share in the booty and to constitute themselves petty chiefs under the big tyrant.

<sup>11</sup> This by no means implies that all intellectuals ally themselves with the State. On aspects of the alliance of intellectuals and the State, cf. Bertrand de Jouvenel, "The Attitude of the Intellectuals to the Market Society," *The Owl* (January, 1951): 19–27; idem, "The Treatment of Capitalism by Continental Intellectuals," in F.A. Hayek, ed., *Capitalism and the Historians* (Chicago: University of Chicago Press, 1954), pp. 93–123; reprinted in George B. de Huszar, *The Intellectuals* (Glencoe, Ill.: The Free Press, 1960), pp. 385–99; and Schumpeter, *Imperialism and Social Classes* (New York: Meridian Books, 1975), pp. 143–55.

<sup>12</sup> Joseph Needham, "Review of Karl A. Wittfogel, *Oriental Despotism*," *Science and Society* (1958): 65. Needham also writes that "the successive [Chinese] emperors were served in all ages by a great company of profoundly humane and disinterested scholars," p. 61. Wittfogel notes the Confucian doctrine that the glory of the ruling class

rested on its gentleman scholar-bureaucrat officials, destined to be professional rulers dictating to the mass of the populace. Karl A. Wittfogel, *Oriental Despotism* (New Haven, Conn.: Yale University Press, 1957), pp. 320–21 and passim. For an attitude contrasting to Needham's, cf. John Lukacs, "Intellectual Class or Intellectual Profession?" in de Huszar, *The Intellectuals*, pp. 521–22.

<sup>13</sup> Jeanne Ribs, "The War Plotters," *Liberation* (August, 1961): 13. "[s]trategists insist that their occupation deserves the 'dignity of the academic counterpart of the military profession.'" Also see Marcus Raskin, "The Megadeath Intellectuals," *New York Review of Books* (November 14, 1963): 6–7.

<sup>14</sup> Thus the historian Conyers Read, in his presidential address, advocated the suppression of historical fact in the service of "democratic" and national values. Read proclaimed that "total war, whether it is hot or cold, enlists everyone and calls upon everyone to play his part. The historian is not freer from this obligation than the physicist." Read, "The Social Responsibilities of the Historian," *American Historical Review* (1951): 283ff. For a critique of Read and other aspects of court history, see Howard K. Beale, "The Professional Historian: His Theory and Practice," *The Pacific Historical Review* (August, 1953): 227–55. Also cf. Herbert Butterfield, "Official History: Its Pitfalls and Criteria," *History and Human Relations* (New York: Macmillan, 1952), pp. 182–224; and Harry Elmer Barnes, *The Court Historians Versus Revisionism* (n.d.), pp. 2ff.

<sup>15</sup> Cf. Wittfogel, *Oriental Despotism*, pp. 87–100. On the contrasting roles of religion vis-à-vis the State in ancient China and Japan, see Norman Jacobs, *The Origin of Modern Capitalism and Eastern Asia* (Hong Kong: Hong Kong University Press, 1958), pp. 161–94.

<sup>16</sup> De Jouvenel, *On Power*, p. 22:

The essential reason for obedience is that it has become a habit of the species. . . . Power is for us a fact of nature. From the earliest days of recorded history it has always presided over human destinies . . . the authorities which ruled [societies] in former times did not disappear without bequeathing to their successors their privilege nor without leaving in men's minds imprints which are cumulative in their effect. The succession of governments which, in the course of centuries, rule the same society may be looked on as one underlying government which

takes on continuous accretions.

<sup>17</sup> On such uses of the religion of China, see Norman Jacobs, *passim*.

<sup>18</sup> H.L. Mencken, *A Mencken Chrestomathy* (New York: Knopf, 1949), p. 145:

All [government] can see in an original idea is potential change, and hence an invasion of its prerogatives. The most dangerous man, to any government, is the man who is able to think things out for himself, without regard to the prevailing superstitions and taboos. Almost inevitably he comes to the conclusion that the government he lives under is dishonest, insane and intolerable, and so, if he is romantic, he tries to change it. And even if he is not romantic personally he is very apt to spread discontent among those who are.

<sup>19</sup> *Ibid.*, pp. 146–47.

<sup>20</sup> De Jouvenel, *On Power*, pp. 27ff.

<sup>21</sup> Charles L. Black, Jr., *The People and the Court* (New York: Macmillan, 1960), pp. 35ff.

<sup>22</sup> *Ibid.*, pp. 42–43.

<sup>23</sup> *Ibid.*, p. 52:

The prime and most necessary function of the [Supreme] Court has been that of validation, not that of invalidation. What a government of limited powers needs, at the beginning and forever, is some means of satisfying the people that it has taken all steps humanly possible to stay within its powers. This is the condition of its legitimacy, and its legitimacy, in the long run, is the condition of its life. And the Court, through its history, has acted as the legitimation of the government.

<sup>24</sup> To Black, this "solution," while paradoxical, is blithely self-evident:

the final power of the State . . . must stop where the law stops it. And who shall set the limit, and who shall enforce the stopping, against the mightiest power? Why, the State itself, of course, through its judges and its laws. Who controls the temperate? Who teaches the wise? (*Ibid.*, pp. 32–33)

And:

Where the questions concern governmental power in a sovereign nation, it is not possible to select an umpire who is outside government. Every national government, so long as it is a government, must have the final say on its own power. (Ibid., pp. 48–49)

<sup>25</sup> Ibid., p. 49.

<sup>26</sup> This ascription of the miraculous to government is reminiscent of James Burnham's justification of government by mysticism and irrationality:

In ancient times, before the illusions of science had corrupted traditional wisdom, the founders of cities were known to be gods or demigods. . . . Neither the source nor the justification of government can be put in wholly rational terms . . . why should I accept the hereditary or democratic or any other principle of legitimacy? Why should a principle justify the rule of that man over me? . . . I accept the principle, well . . . because I do, because that is the way it is and has been.

James Burnham, *Congress and the American Tradition* (Chicago: Regnery, 1959), pp. 3–8. But what if one does not accept the principle? What will "the way" be then?

<sup>27</sup> Black, *The People and the Court*, p. 64.

<sup>28</sup> Ibid., p. 65.

<sup>29</sup> John C. Calhoun, *A Disquisition on Government* (New York: Liberal Arts Press, 1953), pp. 25–27. Also cf. Murray N. Rothbard, "Conservatism and Freedom: A Libertarian Comment," *Modern Age* (Spring, 1961): 219.

<sup>30</sup> J. Allen Smith, *The Growth and Decadence of Constitutional Government* (New York: Henry Holt, 1930), p. 88. Smith added:

it was obvious that where a provision of the Constitution was designed to limit the powers of a governmental organ, it could be effectively nullified if its interpretation and enforcement are left to the authorities as it designed to restrain. Clearly, common sense required that no organ of the government should be able

to determine its own powers.

Clearly, common sense and "miracles" dictate very different views of government (p. 87).

<sup>31</sup> Calhoun, *A Disquisition on Government*, pp. 20–21.

<sup>32</sup> In recent years, the unanimity principle has experienced a highly diluted revival, particularly in the writings of Professor James Buchanan. Injecting unanimity into the present situation, however, and applying it only to *changes* in the *status quo* and not to existing laws, can only result in another transformation of a limiting concept into a rubber stamp for the State. If the unanimity principle is to be applied only to *changes* in laws and edicts, the nature of the initial "point of origin" then makes all the difference. Cf. James Buchanan and Gordon Tullock, *The Calculus of Consent* (Ann Arbor: University of Michigan Press, 1962), *passim*.

<sup>33</sup> Cf. Herbert Spencer, "The Right to Ignore the State," in *Social Statics* (New York: D. Appleton, 1890), pp. 229–39.

<sup>34</sup> De Jouvenel, *On Power*, p. 171.

<sup>35</sup> We have seen that essential to the State is support by the intellectuals, and this includes support against their two acute threats. Thus, on the role of American intellectuals in America's entry into World War I, see Randolph Bourne, "The War and the Intellectuals," in *The History of a Literary Radical and Other Papers* (New York: S.A. Russell, 1956), pp. 205–22. As Bourne states, a common device of intellectuals in winning support for State actions, is to channel any discussion within the limits of basic State policy and to discourage any fundamental or total critique of this basic framework.

<sup>36</sup> As Mencken puts it in his inimitable fashion:

This gang ("the exploiters constituting the government") is well nigh immune to punishment. Its worst extortions, even when they are baldly for private profit, carry no certain penalties under our laws. Since the first days of the Republic, less than a few dozen of its members have been impeached, and only a few obscure understrappers have ever been put into prison. The number of men sitting at Atlanta and Leavenworth for revolting against the extortions of the government is always ten times as great as the number of government officials condemned for oppressing the taxpayers to their own gain. (Mencken, *A Mencken*

*Chrestomathy*, pp. 147–48)

For a vivid and entertaining description of the lack of protection for the individual against incursion of his liberty by his "protectors," see H.L. Mencken, "The Nature of Liberty," in *Prejudices: A Selection* (New York: Vintage Books, 1958), pp. 138–43.

<sup>37</sup> This is to be distinguished from modern international law, with its stress on maximizing the extent of war through such concepts as "collective security."

<sup>38</sup> F.J.P. Veale, *Advance to Barbarism* (Appleton, Wis.: C.C. Nelson, 1953), p. 63. Similarly, Professor Nef writes of the War of Don Carlos waged in Italy between France, Spain, and Sardinia against Austria, in the eighteenth century:

at the siege of Milan by the allies and several weeks later at Parma . . . the rival armies met in a fierce battle outside the town. In neither place were the sympathies of the inhabitants seriously moved by one side or the other. Their only fear as that the troops of either army should get within the gates and pillage. The fear proved groundless. At Parma the citizens ran to the town walls to watch the battle in the open country beyond. (John U. Nef, *War and Human Progress* [Cambridge, Mass.: Harvard University Press, 1950], p. 158. Also cf. Hoffman Nickerson, *Can We Limit War?* [New York: Frederick A. Stoke, 1934])

<sup>39</sup> Nef, *War and Human Progress*, p. 162.

<sup>40</sup> Ibid., p. 161. On advocacy of trading with the enemy by leaders of the American Revolution, see Joseph Dorfman, *The Economic Mind in American Civilization* (New York: Viking Press, 1946), vol. 1, pp. 210–11.

<sup>41</sup> On the concepts of State power and social power, see Albert J. Nock, *Our Enemy the State* (Caldwell, Idaho: Caxton Printers, 1946). Also see Nock, *Memoirs of a Superfluous Man* (New York: Harpers, 1943), and Frank Chodorov, *The Rise and Fall of Society* (New York: Devin-Adair, 1959).

<sup>42</sup> Amidst the flux of expansion or contraction, the State always makes sure that it seizes and retains certain crucial "command posts" of the economy and society. Among these command posts are a monopoly of

violence, monopoly of the ultimate judicial power, the channels of communication and transportation (post office, roads, rivers, air routes), irrigated water in Oriental despotisms, and education – to mold the opinions of its future citizens. In the modern economy, money is the critical command post.

<sup>43</sup> This parasitic process of "catching up" has been almost openly proclaimed by Karl Marx, who conceded that socialism must be established through seizure of capital *previously accumulated* under capitalism.

<sup>44</sup> Certainly, one indispensable ingredient of such a solution must be the sundering of the alliance of intellectual and State, through the creation of centers of intellectual inquiry and education, which will be independent of State power. Christopher Dawson notes that the great intellectual movements of the Renaissance and the Enlightenment were achieved by working outside of, and sometimes against, the entrenched universities. These academia of the new ideas were established by independent patrons. See Christopher Dawson, *The Crisis of Western Education* (New York: Sheed and Ward, 1961).