

The Social Contract

Jean-Jacques Rousseau

Copyright © Jonathan Bennett 2017. All rights reserved

[Brackets] enclose editorial explanations. Small ·dots· enclose material that has been added, but can be read as though it were part of the original text. Occasional •bullets, and also indenting of passages that are not quotations, are meant as aids to grasping the structure of a sentence or a thought. Every four-point ellipsis indicates the omission of a brief passage that seems to present more difficulty than it is worth. Longer omissions are reported between brackets in normal-sized type.

First launched: December 2010

Contents

BOOK 1	1
1. The subject of the first book	1
2. The first societies	1
3. The right of the strongest	2
4. Slavery	3
5. We must always go back to a first agreement	6
6. The social compact	6
7. The sovereign	8
8. The civil state	9
9. Real estate	10
BOOK 2	12
1. Sovereignty is inalienable	12
2. Sovereignty is indivisible	12
3. Can the general will be wrong?	14
4. The limits of the sovereign power	14
5. The right of life and death	17
6. The law	18
7. The law-maker	20
8. The people	22
9. The people (continued)	23
10. The people (further continued)	24
11. Differences among systems of legislation	26
12. Classifying laws	27
BOOK 3	29
1. Government in general	29
2. The source of the variety among forms of government	31
3. Classifying governments	33
4. Democracy	34
5. Aristocracy	35
6. Monarchy	36

7. Mixed governments	39
8. No one form of government suits all countries	40
9. The signs of a good government	43
10. How government is abused. Its tendency to degenerate	44
11. The death of the body politic	46
12. How the sovereign authority is maintained	46
13. How the sovereign authority is maintained (continued)	47
14. How the sovereign authority is maintained (continued)	48
15. Deputies or representatives	49
16. What establishes government isn't a contract	51
17. What <i>does</i> establish government	51
18. How to protect the government from being taken over	52
Book 4	54
1. The general will is indestructible	54
2. Voting	55
3. Elections	57
4. The <i>comitia</i> in ancient Rome	58
5. Tribunes	63
6. Dictatorship	65
7. Censorship	66
8. Civic religion	67
9. Conclusion	73

Glossary

agreement: The item that Rousseau calls a *convention* is an event, whereas what we call ‘conventions’ (setting aside the irrelevant ‘convention’ = ‘professional get-together’) are not events but enduring states of affairs like the conventions governing the meanings of words, the standards of politeness, etc. So ‘convention’ is a wrong translation; and ‘agreement’ is right.

alienate: To alienate something that you own is to bring it about that you no longer own it; in brief, to give it away or sell it,

arbitrary: It means ‘brought into existence by the decision of some person(s)’. It’s no part of the meaning here (as it is today) that the decision was frivolous or groundless.

ensorship: This translates Rousseau’s *censure*. It doesn’t refer to censorship as we know it today; *censure* didn’t have that meaning until the 19th century. Rousseau’s topic is a role that certain officials had in some periods of the Roman republic, namely as guardians of, and spokesmen for, the people’s *mœurs* (see below). They could be thought of as an institutionalising of the ‘court of public opinion’. On page 67 we see him stretching the original sense.

compact, contract: These translate Rousseau’s *pacte* and *contrat* respectively. He seems to mean them as synonyms.

constitution: In this work a thing’s ‘constitution’ is the sum of facts about how something is *constituted*, how its parts hang together and work together (so the constitution of a state is nothing like a document). Items credited with ‘constitutions’ are organisms and political entities; the mention on page 66 of the constitution of *a people* seems aberrant.

magistrate: In this work, as in general in early modern times, a ‘magistrate’ is anyone with an official role in government. The magistracy is the set of all such officials, thought of as a single body.

mœurs: The *mœurs* of a people include their morality, their basic customs, their attitudes and expectations about how people will behave, their ideas about what is decent. . . and so on. This word—rhyming approximately with ‘worse’—is left untranslated because there’s no good English equivalent to it. English speakers sometimes use it, for the sort of reason they have for sometimes using *Schadenfreude*.

moral person: Something that isn’t literally person but is being regarded as one for some theoretical purpose. See for example pages 9 and 36.

populace: Rousseau repeatedly speaks of a ‘people’ in the singular, and we can do that in English (‘The English—what a strange people!’); but in many cases this way of using ‘people’ sounds strained and peculiar, and this version takes refuge in ‘populace’. On page 4, for instance, that saves us from ‘In every generation the people was the master. . .’.

prince: As was common in his day, Rousseau uses ‘prince’ to stand for the chief of the government. This needn’t be a person with the rank of Prince; it needn’t be a person at all, because it could be a committee.

sovereign: This translates *souverain*. As Rousseau makes clear on page 7, he uses this term as a label for the person or group of persons holding supreme power in a state. In a democracy, the whole people constitute a sovereign, and individual citizens are members of the sovereign. In Books 3

and 4 'sovereign' is used for the legislator (or legislature) as distinct from the government = the executive.

subsistence: What is needed for survival—a minimum of food, drink, shelter etc.

wise: An inevitable translation of *sage*, but the meaning in French carries ideas of 'learned', 'scholarly', 'intellectually

able', rather more strongly than whatever it is that you and I mean by 'wise'.

you, we: When this version has Rousseau speaking of what 'you' or 'we' may do, he has spoken of what 'one' may do. It is normal idiomatic French to use *on* = 'one' much oftener than we can use 'one' in English without sounding stilted (Fats Waller: 'One never knows, do one?').

BOOK 1

This little treatise is salvaged from a much longer work that I abandoned long ago, having started it without thinking about whether I was capable of pulling it off. Of various bits that might be rescued from what I had written of that longer work, what I offer here is the most substantial and, it seems to me, the least unworthy of being published. None of the rest of it is.

I plan to address this question: With men as they are and with laws as they could be, can there be in the civil order any sure and legitimate rule of administration? In tackling this I shall try always to unite •what *right* allows with •what *interest* demands, so that •justice and •utility don't at any stage part company.

I start on this without showing that the subject is important. You may want to challenge me: 'So you want to write on politics—are you then a prince [see Glossary] or a legislator?' I answer that I am neither, and that is why I write on politics. If I were a prince or a legislator I wouldn't waste my time *saying* what should be done; I would *do* it, or keep quiet.

As I was born a citizen of a free state, and am a member of its sovereign [see Glossary], my right to vote makes it my duty to study public affairs, however little influence my voice can have on them. Happily, when I think about governments I always find that my inquiries give me new reasons for loving the government of my own country!

1. The subject of the first book

Man is born free, and everywhere he is in chains. Here's one who thinks he is the master of others, yet he is more enslaved than they are. How did this change come about? I don't know. What can make it legitimate? That's a question that I think I can answer.

If I took into account nothing but force and what can be done by force, I would say:

'As long as a people is constrained to obey, it does well to obey; as soon as it can shake off the yoke, it does even better to shake it off. If its right to do so is challenged, it can answer that: it gets its liberty back by the same 'right'—namely, force—that took it away in the first place. Any justification for taking it away equally justifies taking it back; and if there was no justification for its being taken away no justification for taking it back is called for.'

But the social order isn't to be understood in terms of force; it is a sacred right on which all other rights are based. But it doesn't come from nature, so it must be based on agreements. Before coming to that, though, I have to establish the truth of what I have been saying.

2. The first societies

The most ancient of all societies, and the only *natural* one, is the society of the family. Yet the children remain attached to the father only for as long as they need him for their preservation; as soon as this need ceases, the natural bond is dissolved. The children, released from the obedience they owed to the father, and the father, released from the care he owed his children, return equally to independence. If they remain united, this is something they do not •naturally but

•voluntarily, and the family itself is then maintained only by agreement.

This common liberty is an upshot of the nature of man. His first law is to provide for his own preservation, his first cares are those he owes to himself; and as soon as he can think for himself he is the sole judge of the right way to take care of himself, which makes him his own master.

You could call the family the *prime model* of political societies: the ruler corresponds to the father, and the people to the children; and all of them—ruler, people, father, children—because they were born free and equal don't give up their liberty without getting something in return. The whole difference is that •in the family the father's care for his children is repaid by his love for them, whereas •in the state the ruler's care for the people under him is repaid not by love for them (which he doesn't have!) but by the pleasure of being in charge.

Grotius denies that all human power is established in favour of the governed, and cites slavery as a counterexample. His usual method of reasoning is to establish •right by •fact [meaning: . . . 'to draw conclusions about what should be the case from premises about what is the case']. Not the most logical of argument-patterns, but it's one that is very favourable to tyrants.

. . . Throughout his book, Grotius seems to favour—as does Hobbes—the thesis that the human species is divided into so many herds of cattle, each with a ruler who keeps guard over them for the purpose of devouring them.

Philo tells us that the Emperor Caligula reasoned thus:

As a shepherd has a higher nature than his flock does, so also the shepherds of men, i.e. their rulers, have a higher nature than do the peoples under them;

from which he inferred, reasonably enough, that either kings were gods or men were beasts.

This reasoning of Caligula's is on a par with that of Hobbes and Grotius. Aristotle, before any of them, had said that men are not naturally equal because some are born for slavery and others for command.

Aristotle was right; but he mistook the effect for the cause. Every man born *in* slavery is born *for* slavery—nothing is more certain than that. Slaves lose everything in their chains, even the desire to escape from them: they love their servitude, as Ulysses' comrades loved their brutish condition when the goddess Circe turned them into pigs. So if there *are* slaves *by* nature, that's because there *have been* slaves *against* nature. Force made the first slaves, and their cowardice kept them as slaves.

I have said nothing about King Adam; or about Emperor Noah, the father of three great monarchs who shared out the universe (like Saturn's children, whom some scholars have recognised in them). [In *Genesis* 9 it is said that after the flood Noah's three sons ruled the world.] I hope to be given credit for my moderation: as a direct descendant of one of these princes—perhaps of the eldest branch—I don't know that a verification of titles wouldn't show me to be the legitimate king of the human race! Anyway, Adam was undeniably sovereign of the world, as Robinson Crusoe was of his island, as long as he was its only inhabitant; and this empire had the advantage that the monarch, safe on his throne, had nothing to fear from rebellions, wars, or conspirators.

3. The right of the strongest

The strongest is never strong enough to be always the master unless he transforms •strength into •right, and •obedience into •duty. Hence 'the right of the strongest'—a phrase that one might think is meant ironically, but is actually laid down

as a basic truth. But will no-one ever *explain* this phrase? Force is a physical power; I don't see what moral effect it can have. Giving way to force is something you have to do, not something you choose to do; or if you insist that choice comes into it, it is at most an act of •prudence. In what sense can it be a •duty?

Suppose for a moment that this so-called 'right of the strongest' exists. I maintain that we'll get out of this nothing but a mass of inexplicable nonsense. If force makes right, then if you change the force you change the right (effects change when causes change!), so that when one force overcomes another, there's a corresponding change in what is right. The moment it becomes possible to disobey •with impunity it becomes possible to disobey •legitimately. And because the strongest are always in the right, the only thing that matters is to work to become the strongest. Now, what sort of right is it that perishes when force fails? If force *makes* us obey, we can't be morally obliged to obey; and if force doesn't make us obey, then on the theory we are examining we are under no obligation to do so. Clearly, the word 'right' adds nothing to force: in this context it doesn't stand for anything.

'Obey the powers that be.' If this means submit to force, it is a good precept, but superfluous: I guarantee that it will never be violated! All power comes from God, I admit; but so does all sickness—are we then forbidden to send for the doctor? A robber confronts me at the edge of a wood: I am compelled to hand over my money, but is it the case that even if I *could* hold onto it I am morally obliged to hand it over? After all, the pistol he holds is also a power.

Then let us agree that force doesn't create right, and that legitimate powers are the only ones we are obliged to obey. Which brings us back to my original question.

4. Slavery

Since no man has a •natural authority over his fellow, and •force creates no right, we are left with •agreements [see Glossary] as the basis for all legitimate authority among men.

Grotius says:

If an individual can alienate [see Glossary] his liberty and make himself the slave of a master, why couldn't a whole people alienate its liberty and make itself subject to a king?

This contains several ambiguous words that need to be explained, but let us confine ourselves to 'alienate'. To alienate something is to give or sell it. Now, a man who becomes the slave of another does not *give* himself—he *sells* himself at the rock-bottom price of his subsistence [see Glossary]. But when a people sells itself what price is paid? Not their subsistence: Far from providing his subjects with their subsistence, a king gets his own subsistence only from them. . . . Do subjects then give their persons on condition that the king takes their goods also? I fail to see what they have left to preserve.

'The despot guarantees civic peace in the state', you may say. Granted; but what do the people gain if

- the wars his ambition brings down on them,
- his insatiable greed, and
- harassments by his ministers

bring them more misery than they'd have suffered from their own dissensions if no monarchy had been established? What do they gain if this *peace* is one of their miseries? You can live peacefully in a dungeon, but does that make it a good life? The Greeks imprisoned in the cave of the Cyclops lived there peacefully while waiting for their turn to be eaten.

To say that a man *gives* himself to someone else, i.e. hands himself over *free*, is to say something absurd and

inconceivable; such an act is null and illegitimate, simply because the man who does it is out of his mind. To say the same of a whole people is to suppose a *people* of madmen; and madness doesn't create any right.

Even if each man could alienate himself, he couldn't alienate his children: they are born men, and born free; their liberty belongs to them, and no-one else has the right to dispose of it. While they are too young to decide for themselves, their father can, in their name, lay down conditions for their preservation and well-being; but he can't make an irrevocable and unconditional *gift* of them; such a gift is contrary to the ends of nature, and exceeds the rights of paternity. So an arbitrary [see Glossary] government couldn't be legitimate unless in every generation the populace [see Glossary] was the master who was in a position to accept or reject it; but then the government would no longer be arbitrary!

To renounce your liberty is to renounce •your status as a man, •your rights as a human being, and even •your duties as a human being. There can't be any way of compensating someone who gives up everything. Such a renunciation is incompatible with man's nature; to remove all freedom from his will is to remove all morality from his actions. Finally, an 'agreement' to have absolute authority on one side and unlimited obedience on the other—what an empty and contradictory agreement that would have to be! Isn't it clear that if we are entitled to take anything and everything from a person, we can't be under any obligation to him? And isn't that fact alone—the fact that there is no equivalence, nothing to be exchanged, between the two sides—enough to nullify the 'agreement'? What right can my slave have against me? Everything that he has is mine; his right is

mine; and it doesn't make sense to speak of my right against myself.

Grotius and company cite *war* as another source for the so-called right of slavery. The winner having (they say) the right to kill the loser, the latter can buy back his life at the price of his freedom; and this agreement is all the more legitimate in being to the advantage of both parties.

But this supposed right to kill the loser is clearly not an upshot of the state of war. Men are not *naturally* one another's enemies. [The next sentence is expanded in ways that the •small dots• convention can't easily handle.] Any natural relations amongst them must exist when they are living in their primitive independence without any government or social structure; but at *that* time they have no inter-relations that are stable enough to constitute either the state of peace or the state of war. War is constituted by a relation between things, not between persons; and because the state of war can't arise out of simple personal relations but only out of thing-relations, there can't be a private war (a war of man against man) in the state of nature, where there is no ownership, or in the state of society, where everything is under the authority of the laws.

Individual combats, duels and encounters are acts that can't constitute a state. As for the private wars that were authorised by Louis IX of France. . . ., they were abuses of feudal government, which was itself an absurd system if ever there was one—contrary to the principles of natural right and to all good government.

So war is a relation not between man and man but between state and state, and individuals are enemies only accidentally, not as •men nor even as •citizens but as •soldiers; not as belonging to their country but as defenders of it.¹ And

¹ The Romans, who understood and respected the right of war more than any other nation on earth were so scrupulous about this that a citizen wasn't

the only enemies a state can have are other states; not men, because there can't be a real settled relation between things as radically different as states and men.

This principle squares with the established rules of all times and the constant practice of all civilised peoples. Declarations of war don't give notice to powers as much as to their subjects. A foreigner—whether king, individual, or whole people—who robs, kills or detains the subjects of a country without first declaring war on their prince is not an enemy but a bandit. When a full-scale war is going on, a prince is entitled to help himself to anything in the enemy country that belongs to the public, but if he is just he will respect the lives and goods of individuals—he will respect rights on which his own are based. The purpose of the war is to destroy the enemy state, so we [see Glossary] have a right to kill its defenders while they are bearing arms; but as soon as they lay down their weapons and surrender, they stop being enemies or instruments of the enemy and resume their status as simply *men*, and no-one has any right to take their lives. Sometimes it is possible to kill a state without killing any of its members; and a war doesn't give any right that isn't *needed* for the war to gain its objective. These principles are not those of Grotius: they aren't based on the authority of poets, but are derived from the nature of things and are based on reason.

What about the 'right of conquest'? The only basis for that is 'the law of the strongest!' If war doesn't give the winner the right to massacre the conquered peoples, you can't cite *that right*—a 'right' that doesn't exist—as a basis for a right to enslave those peoples. No-one has a right to

kill an enemy except when he can't make him a slave, so the right to enslave him can't be derived from the right to kill him: it's not fair dealing to make him spend his freedom so as to keep his life, over which the victor holds no right. Isn't it clear that there's a vicious circle in basing the right of life and death on the right of slavery, and the right of slavery on the right of life and death?

Even if we assume this terrible right to kill everybody, I maintain that someone enslaved in war isn't committed to do anything for his master except what he is compelled to do; and the same goes for a conquered people. [Rousseau's point here is that the enslaved individual or the conquered people doesn't *owe* the conqueror anything.] By taking an equivalent for his life, the winner hasn't done him a favour; instead of killing him without profit, he has killed him usefully. He is indeed so far from getting any authority over the slave in addition to his power over him, that the two are still in a state of war towards one another: their master/slave relation comes from that, and this enforcement of a right of war doesn't imply that there has been a peace-treaty! They have reached an agreement; but this agreement, far from ending the state of war, presupposes its continuance.

Whatever angle we look at it from, therefore, the 'right of slavery' is null and void—not only as illegitimate but also as absurd and meaningless. The words 'slave' and 'right' contradict each other, and are mutually exclusive. It will always be crazy to say to a man, or to a people: 'I make an agreement with you wholly at your expense and wholly to my advantage; I shall keep it as long as I like, and you will keep it as long as I like.'

allowed to serve as a volunteer without explicitly agreeing to serve against such-and-such a named enemy. [Rousseau throws in an anecdote about a soldier whose military oath had to be renewed because etc. He continues:] I know that the siege of Clusium and other isolated events can be cited against me; but I'm talking not about individual episodes, but about laws and customs. The Romans obeyed their laws more than any other people, and they had better laws than any other people.

5. We must always go back to a first agreement

[For 'agreement' see Glossary.] Even if I granted everything that I have refuted up to here, the supporters of despotism would be no better off. Ruling a society will always be a quite different thing from subduing a multitude. If any number of scattered individuals were successively enslaved by one man, all I can see there is a master and his slaves, and certainly not a people and its ruler. It's a •cluster, if you will, but not an •association; there's no public good there, and no body politic. This man may have enslaved half the world but he is still only an individual; his interest, apart from that of others, is never anything but a purely private interest. When this man dies, the empire he leaves behind him will remain scattered and without unity, like an oak that falls into a fire and dissolves into a heap of ashes when the fire has consumed it.

A people, says Grotius, can give itself to a king; so he must hold that a people is *a people* before it gives itself to a king. This gift is itself a civic act, which has to arise from public deliberation. Before we examine **(2)** the act by which a people gives itself to a king, let's examine **(1)** the act by which the people became a people; for **(1)** must occur before **(2)**, so that **(1)** is the true foundation of society.

Indeed, if there were no prior agreement, what would give the minority any obligation to submit to the choice of the majority (unless the election was unanimous)? A hundred men want to have a master; what gives them the right to vote on behalf of ten who don't? The law of majority voting is itself something established by agreement, and it presupposes that on at least one occasion there was a unanimous vote.

6. The social compact

Let us take it that men have reached the point at which the obstacles to their survival in the state of nature overpower each individual's resources for maintaining himself in that state. So this primitive condition can't go on; the human race will perish unless it changes its manner of existence.

Now, men can't create new forces; they can only •bring together ones that already exist, and •steer them. So their only way to preserve themselves is to unite a number of forces so that they are jointly powerful enough to deal with the obstacles. They have to bring these forces into play in such a way that they act together in a single thrust.

For forces to *add up* in this way, many people have to work together. But each man's force and liberty are what he chiefly needs for his own survival; so how can he put them into this collective effort without harming his own interests and neglecting the care he owes to himself? This difficulty, in the version of it that arises for my present subject, can be put like this:

Find a form of association that will bring the whole common force to bear on defending and protecting each associate's person and goods, doing this in such a way that each of them, while uniting himself with all, still obeys only himself and remains as free as before.'

There's the basic problem that is solved by the social contract. [This is the work's first occurrence of that phrase.]

The clauses of this contract are so settled by the nature of the act that the slightest change would make them null and void; so that although they may never have been explicitly stated, they are everywhere the same and everywhere tacitly accepted and recognised, until the social compact [see Glossary] is violated and each individual regains his •original

rights and resumes his •natural liberty, while losing the liberty-by-agreement which had been his reason for renouncing •them.

Properly understood, these clauses come down to one—the total alienation [see Glossary] of each associate, together with all his rights, to the whole community. This may seem drastic, but three features of it make it reasonable.

(i) Because each individual gives himself *entirely*, what is happening here for any one individual is the same as what is happening for each of the others, and, because this is so, no-one has any interest in making things tougher for everyone but himself.

(ii) Because the alienation is made without reserve, .i.e. without anything being held back, the union is as complete as it can be, and no associate has anything more to demand. To see why the association *has to* be done in this way, consider what the situation would be if the individuals retained certain rights. In the absence of any superior to decide issues about this, each individual would be his own judge in the first case that came up, and this would lead him to ask to be his own judge across the board; this would continue the state of nature, and the association would necessarily become inoperative or tyrannical.

(iii) Each man in giving himself to everyone gives himself to no-one; and •the right over himself that the others get is matched by •the right that he gets over each of them. So he gains as much as he loses, and *also* gains extra force for the

preservation of what he has.

Filtering out the inessentials, we'll find that the social compact comes down to this:

'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.'

[This is the first occurrence in this work of the phrase 'the general will'.] This act of association instantly replaces •the individual-person status of each contracting party by •a moral and collective body, composed of as many members as the assembly has *voix* [= 'voices' or 'votes']; and receiving from this act its unity, its common identity, its life and its will. This public person that is formed by the union of all the other persons used to be called a 'city',² and these days is called a 'republic' or a 'body politic'. Its members call it

- a 'state' when thinking of it as passive,
- a 'sovereign' when thinking of it as active, and
- a 'power' when setting it alongside others of the same kind.

Those who are associated in it are collectively called 'a people', and are separately called 'citizens' (as sharing in the sovereign power) and 'subjects' (as being under the state's laws. But these terms are often muddled and confused with one another: it is enough to know how to distinguish them when they are being used with precision.

² The real meaning of 'city' has been almost wholly lost in modern times; most people mistake a town for a city, and a townsman for a citizen. They don't know that houses make a town, but citizens a city. . . . I have never read of the title 'citizens' being given to the subjects of any prince, not even the ancient Macedonians or the English of today, though they are nearer liberty than anyone else. Only the French casually adopt the label 'citizens'; that's because they have no idea of its real meaning (you can see that from their dictionaries!). . . . They think of the name as expressing •a virtue rather than •a right. When Bodin was trying to talk about our citizens and our townsmen, he blundered badly by confusing these two classes with one another. M. d'Alembert avoided that error in his article on Geneva, clearly distinguishing the four orders of men (or even five, counting mere foreigners) who dwell in our town, of which only two make up the republic. I don't know of any other French writer who has understood the real meaning of the word 'citizen'.

7. The sovereign

This formula shows us that •the act of association involves a two-way commitment between the public and the individuals •belonging to it•, and •that each individual, in making a contract with himself (so to speak), acquires two commitments: **(a)** as a member of the state he has a commitment to the sovereign, and **(b)** as a member of the sovereign [see Glossary] he has a commitment to each of the individuals, he being one of them. There is a maxim of civil law that no-one is bound by undertakings he has made to himself, but that doesn't apply here, because the present topic is incurring an obligation to •a whole of which one is a part, and that is very different from incurring an obligation to •oneself.

The proceeding I have been describing can't give the sovereign a commitment to itself. As I have just pointed out, an individual subject can have a commitment to himself in this sense: as an individual he has a commitment to the sovereign, and as a member of the sovereign he has a commitment to himself. But the sovereign can't have a commitment to itself; it doesn't have two distinct roles •such that a commitment could go from it in one role and towards it in the other•. For the sovereign to have a commitment to itself would be like an individual person having a commitment to himself; it just isn't possible. And so it is against the nature of the body politic for the sovereign to impose on itself a law that it can't infringe: there isn't and can't be any kind of basic law that is binding on the body of the people—even the social contract itself can't do that. This doesn't mean that the body politic can't enter into commitments with others [i.e. with other states]. . . . It *can* do that, because in relation to what is external to it—i.e. in relation to other states or sovereigns—the sovereign is just a simple being, an individual.

But the body politic, i.e. the sovereign, owes its very existence to the sanctity of •the contract; so it can never commit itself, even to another state, to do anything that conflicts with •that original act—e.g. to alienate any part of itself, or to submit to another sovereign. •I'm saying not that the sovereign *ought* not to do such a thing, but that it *can't* do so: violation of the act •of contract-making• by which it exists would be self-annihilation; and nothing can be created by something that has gone out of existence!

As soon as this multitude is united into one body in this way, any offence against one of the members is an attack on the body, and any offence against the body will be resented by the members. Thus, the two contracting parties—the individual member and the body politic—are obliged by duty and by self-interest to give each other help. . . .

Now, because the sovereign is made out of nothing but its constituent individuals, it doesn't and can't have any interest contrary to theirs; so there's no need for it to provide its subjects with guarantee •of treating them well•, because •the body can't possibly wish to hurt all its members, and—as we'll see later on—•it can't hurt any individual one of them either. The sovereign, merely by virtue of what it *is*, is always what it *ought to be*.

But the situation is different with respect to the relation of the subjects to the sovereign: despite their common interest, the sovereign would have no security that the subjects would behave as they have committed themselves to behaving unless it found some way to be assured of their fidelity.

The fact is that each individual •as a man can have a particular will that doesn't fit, and even conflicts with, the general will that he has •as a citizen. His individual self-interest may speak to him quite differently from how the common interest does. He looks at the situation in this way:

'I have an absolute and naturally independent existence; I'm not something that exists only because certain items have come together in an association. So what I am said to 'owe' to the common cause—i.e. to the body politic or sovereign whose existence is in that way dependent on the conduct of its members—is really a gift, a hand-out; if I withhold it, that won't harm anyone else as much as it will benefit me. As for the 'moral person' that constitutes the state, that's not a man but a mere mental construct.'

So he may wish to enjoy the rights of citizenship without being ready to fulfill the duties of a subject; and if that went on for long enough it would destroy the body politic.

To protect the social compact from being a mere empty formula, therefore, it silently includes the undertaking that anyone who refuses to obey the general will is to be compelled to do so by the whole body. This single item in the compact can give power to all the other items. It means nothing less than that each individual **will be forced to be free**. It's obvious how *forcing* comes into this, but... *to be free?* Yes, because this is the condition which, by **giving** each citizen to his country, secures him against all personal dependence, i.e. secures him against being **taken** by anyone or anything else. This is the key to the working of the political machine; it alone legitimises civil commitments which would otherwise be absurd, tyrannical, and liable to frightful abuses.

8. The civil state

This passage from •the state of nature to •the civil state produces a very remarkable change in man: the role that instinct used to play in his conduct is now taken over by a sense of justice, and his actions now have a moral aspect

that they formerly lacked. The voice of duty has taken over from physical impulses and a sense of what is right has take over from appetite; and now—only now—the man who has until now considered only himself finds himself forced to act on different principles and to consult his reason before listening to his inclinations. In this civil state he is deprived of many advantages that he got from nature, but he gets enormous benefits in return—his faculties are so stimulated and developed, his ideas are extended, his feelings ennobled, and his whole soul uplifted. All this happens to such an extent that if the abuses of this new condition didn't often pull him down to something lower than he was in the state of nature, he would be bound to bless continually the happy moment that took him from it for ever, and out of a dull and limited animal made a thinking being, a man.

Let us get a statement of profit and loss in terms that make it easy to compare the two sides. What man loses by the social contract is

- his natural liberty and
- an unrestricted right to anything he wants and can get.

What he gains

- civil liberty and
- the ownership of everything he possesses.

If we're to weigh these up accurately, we must distinguish

- natural** liberty, which is limited only by the individual's powers, from
- civil** liberty, which is limited by the general will.

And we must distinguish

- possession**, which is merely the effect of force or the principle of 'first come, first served', from
- property**, which can only be based on a positive title.

We could add on the 'profit' side the fact that in the civil state a man acquires moral liberty, which alone makes him truly

master of himself; for the drive of sheer appetite is •slavery, while obedience to a law that we prescribe to ourselves is •liberty. But I have said too much about this in other places; and the philosophical meaning of the word ‘liberty’ doesn’t concern us here.

9. Real estate

At the moment when the community comes into existence, each of its members *gives himself to it*—himself just as he is, with any powers that he has, including all his possessions. It is *not* the case that this transfer of all his goods changes them from being •possessions in his hands to being •property in the hands of the sovereign; but because the city’s powers are incomparably greater than any individual’s, public possession is stronger and more irrevocable, without being any more legitimate. [The rest of this paragraph is expanded in ways that the •small dots• convention can’t easily signify.] Actually, from the point of view of the members of this state its possession of each member’s goods *is* legitimate, because the state is the master of all their goods by the social contract which is the basis of all rights *within the state*. But that doesn’t hold for foreigners, because for them ownership depends solely on the ‘first come, first served’ principle, which also serves for states in their ownership of territory.

Of the two ways of getting a right to something in the state of nature, namely

- (i) being the first occupier of it, and
- (ii) being the strongest,

(i) provides a right—‘first come, first served’—that is more real than (ii) does; but it doesn’t become a true right until *property*-rights are established. Every man has naturally a right to everything he needs; but the positive act that makes something his *property* excludes him from everything else.

Having acquired share, he ought to limit himself to that, and can’t have any further claim on the community. That’s why the first-occupier right, which is so weak in the state of nature, claims the respect of every man in civil society. What a man respects in this right is not so much •what belongs to someone else as •what doesn’t belong to him.

In general, to authorize a first occupier’s right over any bit of ground three conditions must be satisfied:

- the ground wasn’t already occupied by someone else;
- he occupies only as much as he needs for his subsistence;
- he takes possession of this ground not by an empty ceremony but by labour and cultivation.

His work on the land is the only sign of ownership that others should respect if he doesn’t have a legal title.

In allowing the right of first occupancy on condition that the land was needed and was worked on, aren’t we stretching that right as far as it can go? Could such a right be left with no limits or restrictions? To claim to be the master of a plot of common ground will it be enough merely to set foot on it? If a man has the strength to expel others for a moment, does that deprive them of any right to return? If a man or a people seize an immense territory and shut out the rest of the world, won’t this be merely a *grab* that ought to be punished? The answer is surely ‘yes’, because such an act steals from others the living-space and means of subsistence that nature gave them in common. When Balboa stood on the sea-shore and took possession of the south seas and the whole of South America in the name of the Spanish crown, was that enough to dispossess all their actual inhabitants and to shut out from those territories all the princes of the world? If so, there’s no need for all these ceremonies; the Catholic King can take possession of the whole universe all at once, tacking on a rider excluding from his claim any

territories that were already possessed by other princes!

We can imagine •how adjacent pieces of land belonging to individuals become, when they are combined, public territory, and •how the right of sovereignty over the subjects comes to be extended to being a right over their real estate. This makes the land-owners even more dependent •on the sovereign; •they have more to lose if things go wrong between them and the sovereign; and •this is a guarantee of their fidelity. The advantage of this apparently wasn't felt by ancient monarchs, who called themselves kings of **the Persians, the Scythians, or the Macedonians**, apparently regarding themselves as rulers of men rather than as masters of a country. Today's kings are cleverer: they call themselves kings of **France, of Spain, of England** and so on. Holding the land in this way, they are quite confident of holding the inhabitants.

This alienation in which individuals transfer their goods to the community has a special feature, namely that far from •depriving the individuals of their goods it •assures them of legitimate possession, changing

•'I have taken possession of this (somehow)' into 'I have a genuine right to this', and

•'I have the enjoyment of this' into 'I own this'.

Thus the possessors, •in their role as those to whom the

public good has been entrusted, and •having their rights respected by all the state's members and maintained against foreign aggression by all its forces, have made a transfer that benefits both the public and still more themselves, thereby acquiring (as it were) everything that they gave up. This paradox is easily explained by distinguishing the sovereign's right from the owner's rights over the same estate—as we shall see later on.

It can also happen that men •begin to unite before they possess anything, •subsequently occupy a tract of land that is enough for them all, and then •enjoy it in common, or share it out among themselves (either equally or in proportions fixed by the sovereign). But however the acquisition is made, each individual's right to his own estate is always subordinate to the community's right over everyone's estate; without this, the social tie would be fragile and the exercise of sovereignty would be feeble.

To bring this chapter and this book to an end, I'll remark on a fact that should be the basis for any social system, namely: The basic compact doesn't **destroy** natural inequality; rather, it **replaces** •such physical inequalities as nature may have set up between men by •an equality that is moral and legitimate, so that men who may be unequal in strength or intelligence become equal by agreement and legal right.³

³ Under bad governments, this equality is only apparent and illusory: all it does is to keep the pauper in his poverty and the rich man in the position he has usurped. Laws in fact are always useful to those who have possessions and harmful to those who don't; from which it follows that the social state is advantageous to men only when everyone has something and no-one has too much.