



A

Natural Right and History

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atives might be thought to be "the sophists," Epicurus and Carneades. The anti-idealistic tradition simply did not exist for him—as a tradition of political philosophy. For it was ignorant of the very idea of political philosophy as Hobbes understood it. It was indeed concerned with the nature of political things and especially of justice. It was also concerned with the question of the right life of the individual and therefore with the question of whether or how the individual could use civil society for his private, nonpolitical purposes: for his ease or for his glory. But it was not political. It was not public spirited. It did not preserve the orientation of statesmen while enlarging their views. It was not dedicated to the concern with the right order of society as with something that is choiceworthy for its own sake.

By tacitly identifying traditional political philosophy with the idealistic tradition, Hobbes expresses, then, his tacit agreement with the idealistic view of the function or the scope of political philosophy. Like Cicero before him, he sides with Cato against Carneades. He presents his novel doctrine as the first truly scientific or philosophic treatment of natural law; he agrees with the Socratic tradition in holding the view that political philosophy is concerned with natural right. He intends to show "what is law, as Plato, Aristotle, Cicero, and divers others have done"; he does not refer to Protagoras, Epicurus, or Carneades. He fears that his *Leviathan* might remind his readers of Plato's *Republic*; no one could dream of comparing the *Leviathan* to Lucretius' *De rerum natura*.³

Hobbes rejects the idealistic tradition on the basis of a fundamental agreement with it. He means to do adequately what the Socratic tradition did in a wholly inadequate manner. He means to succeed where the Socratic tradition had failed. He traces the failure of the idealistic tradition to one fundamental

3. *Elements*, Ep. ded.; *Leviathan*, chaps. xv (94-95), xxvi (172), xxxi (241), and xlvi (437-38).

mistake: traditional political philosophy assumed that man is by nature a political or social animal. By rejecting this assumption, Hobbes joins the Epicurean tradition. He accepts its view that man is by nature or originally an a-political and even an a-social animal, as well as its premise that the good is fundamentally identical with the pleasant.⁴ But he uses that a-political view for a political purpose. He gives that a-political view a political meaning. He tries to instil the spirit of political idealism into the hedonistic tradition. He thus became the creator of political hedonism, a doctrine which has revolutionized human life everywhere on a scale never yet approached by any other teaching.

The epoch-making change which we are forced to trace to Hobbes was well understood by Edmund Burke: "Boldness formerly was not the character of atheists as such. They were even of a character nearly the reverse; they were formerly like the old Epicureans, rather an unenterprising race. But of late they are grown active, designing, turbulent, and seditious."⁵ Political atheism is a distinctly modern phenomenon. No pre-modern atheist doubted that social life required belief in, and worship of, God or gods. If we do not permit ourselves to be deceived by ephemeral phenomena, we realize that political atheism and political hedonism belong together. They arose together in the same moment and in the same mind.

For in trying to understand Hobbes's political philosophy we must not lose sight of his natural philosophy. His natural

4. *De cive*, I, 2; *Leviathan*, chap. vi (33). Hobbes speaks more emphatically of self-preservation than of pleasure and thus seems to be closer to the Stoics than to the Epicureans. Hobbes's reason for putting the emphasis on self-preservation is that pleasure is an "appearance" whose underlying reality is "only motion," whereas self-preservation belongs to the sphere not only of "appearance" but of "motion" as well (cf. Spinoza, *Ethics*, III, 9 schol. and 11 schol.). Hobbes's emphasizing self-preservation rather than pleasure is then due to his notion of nature or of natural science and has therefore an entirely different motivation than the seemingly identical Stoic view.

5. *Thoughts on French Affairs*, in *Works of Edmund Burke* ("Bohn's Standard Library," Vol. III), p. 377.

philosophy is of the type classically represented by Democratean-Epicurean physics. Yet he regarded, not Epicurus or Democritus, but Plato, as "the best of the ancient philosophers." What he learned from Plato's natural philosophy was not that the universe cannot be understood if it is not ruled by divine intelligence. Whatever may have been Hobbes's private thoughts, his natural philosophy is as atheistic as Epicurean physics. What he learned from Plato's natural philosophy was that mathematics is "the mother of all natural science."⁶ By being both mathematical and materialistic-mechanistic, Hobbes's natural philosophy is a combination of Platonic physics and Epicurean physics. From his point of view, pre-modern philosophy or science as a whole was "rather a dream than science" precisely because it did not think of that combination. His philosophy as a whole may be said to be the classic example of the typically modern combination of political idealism with a materialistic and atheistic view of the whole.

Positions that are originally incompatible with one another can be combined in two ways. The first way is the eclectic compromise which remains on the same plane as the original positions. The other way is the synthesis which becomes possible through the transition of thought from the plane of the original positions to an entirely different plane. The combination effected by Hobbes is a synthesis. He may or may not have been aware that he was, in fact, combining two opposed traditions. He was fully aware that his thought presupposed a radical break with all traditional thought, or the abandonment of the plane on which "Platonism" and "Epicureanism" had carried on their secular struggle.

Hobbes, as well as his most illustrious contemporaries, was overwhelmed or elated by a sense of the complete failure of traditional philosophy. A glance at present and past contro-

6. *Leviathan*, chap. xlvi (438); *English Works*, VII, 346.

versies sufficed to convince them that philosophy, or the quest for wisdom, had not succeeded in transforming itself into wisdom. This overdue transformation was now to be effected. To succeed where tradition had failed, one has to start with reflections on the conditions which have to be fulfilled if wisdom is to become actual: one has to start with reflections on the right method. The purpose of these reflections was to guarantee the actualization of wisdom.

The failure of traditional philosophy showed itself most clearly in the fact that dogmatic philosophy had always been accompanied, as by its shadow, by skeptical philosophy. Dogmatism had never yet succeeded in overcoming skepticism once and for all. To guarantee the actualization of wisdom means to eradicate skepticism by doing justice to the truth embodied in skepticism. For this purpose, one must first give free rein to extreme skepticism: what survives the onslaught of extreme skepticism is the absolutely safe basis of wisdom. The actualization of wisdom is identical with the erection of an absolutely dependable dogmatic edifice on the foundation of extreme skepticism.⁷

The experiment with extreme skepticism was then guided by the anticipation of a new type of dogmatism. Of all known scientific pursuits, mathematics alone had been successful. The new dogmatic philosophy must therefore be constructed on the pattern of mathematics. The mere fact that the only certain knowledge which was available is not concerned with ends but "consists in comparing figures and motions only" created a prejudice against any teleological view or a prejudice in favor of a mechanistic view.⁸ It is perhaps more accurate to say that it strengthened a prejudice already in existence. For it is probable that what was foremost in Hobbes's mind was

7. Compare Hobbes's agreement with the thesis of Descartes's first *Meditation*.

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8. *Elements*, Ep. ded., and I, 13, sec. 4; *De cive*, Ep. ded.; *Leviathan*, chap. xi (68); cf. Spinoza, *Ethics*, I, Appendix.

dence of geometry . . . I thought it necessary in my definitions to express those motions by which lines, superficies, solids, and figures, were drawn and described." Generally stated, we have absolutely certain or scientific knowledge only of those subjects of which we are the causes, or whose construction is in our own power or depends on our arbitrary will. The construction would not be fully in our power if there were a single step of the construction that is not fully exposed to our supervision. The construction must be conscious construction; it is impossible to know a scientific truth without knowing at the same time that we have made it. The construction would not be fully in our power if it made use of any matter, i.e., of anything that is not itself our construct. The world of our constructs is wholly unenigmatic because we are its sole cause and hence we have perfect knowledge of its cause. The cause of the world of our constructs does not have a further cause, a cause that is not, or not fully, within our power; the world of our constructs has an absolute beginning or is a creation in the strict sense. The world of our constructs is therefore the desired island that is exempt from the flux of blind and aimless causation.⁹ The discovery or invention of that island seemed to

9. English Works, VII, 179 ff.; *De homine*, X, 4-5; *De cive*, XVIII, 4, and XVII, 28; *De corpore*, XXV, 1; *Elements*, ed. Toennies, p. 168; fourth objection to Descartes's *Meditations*. The difficulty to which Hobbes's view of science is exposed is indicated by the fact that, as he says, all philosophy or science "weaves consequences" (cf. *Leviathan*, chap. ix) while taking its beginning from "experiences" (*De cive*, XVII, 12), i.e., that philosophy or science is ultimately dependent on what is given and not constructed. Hobbes tried to solve this difficulty by distinguishing between the sciences proper, which are purely constructive or demonstrative (mathematics, cinematics, and political science), and physics, which has a lower status than the former (*De corpore*, XXV, 1; *De homine*, X, 5). This solution creates a new difficulty, since political science presupposes the scientific study of the nature of man, which is a part of physics (*Leviathan*, chap. ix in both versions; *De homine*, Ep. ded.; *De corpore*, VI, 6). Hobbes apparently tried to solve this new difficulty in the following manner: it is possible to know the causes of the political phenomena both by descending from the more general phenomena (the nature of motion, the nature of living beings, the nature of man) to those causes and by ascending from the political phenomena themselves, as they are known

guarantee the possibility of a materialistic and mechanistic philosophy or science, without forcing one to assume a soul or mind that is irreducible to moved matter. That discovery or invention eventually permitted an attitude of neutrality or indifference toward the secular conflict between materialism and spiritualism. Hobbes had the earnest desire to be a "metaphysical" materialist. But he was forced to rest satisfied with a "methodical" materialism.

We understand only what we make. Since we do not make the natural beings, they are, strictly speaking, unintelligible. According to Hobbes, this fact is perfectly compatible with the possibility of natural science. But it leads to the consequence that natural science is and will always remain fundamentally hypothetical. Yet this is all we need in order to make ourselves masters and owners of nature. Still, however much man may succeed in his conquest of nature, he will never be able to understand nature. The universe will always remain wholly enigmatic. It is this fact that ultimately accounts for the persistence of skepticism and justifies skepticism to a certain extent. Skepticism is the inevitable outcome of the unintelligible character of the universe or of the unfounded belief in its intelligibility. In other words, since natural things are, as such, mysterious, the knowledge or certainty engendered by nature necessarily lacks evidence. Knowledge based on the natural working of the human mind is necessarily exposed to doubt. For this reason Hobbes parts company with pre-modern nominalism in particular. Premodern nominalism had faith in the natural working of the human mind. It showed this faith especially by teaching that *natura occulte operatur in universalibus*, or that the "anticipations" by virtue of which

to everyone from experience, to the same causes (*De corpore*, VI, 7). At any rate, Hobbes emphatically stated that political science may be based on, or consist of, "experience" as distinguished from "demonstrations" (*De homine*, Ep. ded.; *De cive*, praef.; *Leviathan*, Introd. and chap. xxxii, beginning).

we take our bearings in ordinary life and in science are products of nature. For Hobbes, the natural origin of the universals or of the anticipations was a compelling reason for abandoning them in favor of artificial "intellectual tools." There is no natural harmony between the human mind and the universe.

Man can guarantee the actualization of wisdom, since wisdom is identical with free construction. But wisdom cannot be free construction if the universe is intelligible. Man can guarantee the actualization of wisdom, not in spite of, but because of, the fact that the universe is unintelligible. Man can be sovereign only because there is no cosmic support for his humanity. He can be sovereign only because he is absolutely a stranger in the universe. He can be sovereign only because he is forced to be sovereign. Since the universe is unintelligible and since control of nature does not require understanding of nature, there are no knowable limits to his conquest of nature. He has nothing to lose but his chains, and, for all he knows, he may have everything to gain. Still, what is certain is that man's natural state is misery; the vision of the City of Man to be erected on the ruins of the City of God is an unsupported hope.

It is hard for us to understand how Hobbes could be so hopeful where there was so much cause for despair. Somehow the experience, as well as the legitimate anticipation, of unheard-of progress within the sphere which is subject to human control must have made him insensitive to "the eternal silence of those infinite spaces" or to the crackings of the *moenia mundi*. In fairness to him, one must add that the long series of disappointments which subsequent generations experienced have not yet succeeded in extinguishing the hope which he, together with his most illustrious contemporaries, kindled. Still less have they succeeded in breaking down the walls which he erected as if in order to limit his vision. The conscious constructs have indeed been replaced by the unplanned workings

the new mechanistic cosmology but what later on came to be called "epistemology" becomes the substitute for teleological cosmology. But knowledge cannot remain the end if the whole is simply unintelligible: *Scientia propter potentiam.*¹¹ All intelligibility or all meaning has its ultimate root in human needs. The end, or the most compelling end posited by human desire, is the highest principle, the organizing principle. But if the human good becomes the highest principle, political science or social science becomes the most important kind of knowledge, as Aristotle had predicted. In the words of Hobbes, *Dignissima certe scientiarum haec ipsa est, quae ad Principes pertinet, hominesque in regendo genere humano occupatos.*¹² One cannot leave it, then, at saying that Hobbes agrees with the idealistic tradition in regard to the function and scope of political philosophy. His expectation from political philosophy is incomparably greater than the expectation of the classics. No Scipionic dream illumined by a true vision of the whole reminds his readers of the ultimate futility of all that men can do. Of political philosophy thus understood, Hobbes is indeed the founder.

It was Machiavelli, that greater Columbus, who had discovered the continent on which Hobbes could erect his structure. When trying to understand the thought of Machiavelli, one does well to remember the saying that Marlowe was inspired to ascribe to him: "I . . . hold there is no sin but ignorance." This is almost a definition of the philosopher. Besides, no one of consequence ever doubted that Machiavelli's study of political matters was public spirited. Being a public

11. *De corpore*, I, 6. The abandonment of the primacy of contemplation or theory in favor of the primacy of practice is the necessary consequence of the abandonment of the plane on which Platonism and Epicureanism had carried on their struggle. For the synthesis of Platonism and Epicureanism stands or falls with the view that to understand is to make.

12. Aristotle *Nicomachean Ethics* 1141^a20-22; *De cive*, praef.; cf. *Opera Latina*, IV, 487-88: the only serious part of philosophy is political philosophy.

spirited philosopher, he continued the tradition of political idealism. But he combined the idealistic view of the intrinsic nobility of statesmanship with an anti-idealistic view, if not of the whole, at any rate of the origins of mankind or of civil society.

Machiavelli's admiration for the political practice of classical antiquity and especially of republican Rome is only the reverse side of his rejection of classical political philosophy. He rejected classical political philosophy, and therewith the whole tradition of political philosophy in the full sense of the term, as useless: Classical political philosophy had taken its bearings by how man ought to live; the correct way of answering the question of the right order of society consists in taking one's bearings by how men actually do live. Machiavelli's "realistic" revolt against tradition led to the substitution of patriotism or merely political virtue for human excellence or, more particularly, for moral virtue and the contemplative life. It entailed a deliberate lowering of the ultimate goal. The goal was lowered in order to increase the probability of its attainment. Just as Hobbes later on abandoned the original meaning of wisdom in order to guarantee the actualization of wisdom, Machiavelli abandoned the original meaning of the good society or of the good life. What would happen to those natural inclinations of man or of the human soul whose demands simply transcend the lowered goal was of no concern to Machiavelli. He disregarded those inclinations. He limited his horizon in order to get results. And as for the power of chance, Fortuna appeared to him in the shape of a woman who can be forced by the right kind of men: chance can be conquered.

Machiavelli justified his demand for a "realistic" political philosophy by reflections on the foundations of civil society, and this means ultimately by reflections on the whole within which man lives. There is no superhuman, no natural, support for justice. All human things fluctuate too much to permit

i.e., death insofar as it can be avoided or avenged, supplies the ultimate guidance.¹⁸ Death takes the place of the *telos*. Or, to preserve the ambiguity of Hobbes's thought, let us say that the fear of violent death expresses most forcefully the most powerful and the most fundamental of all natural desires, the initial desire, the desire for self-preservation.

If, then, natural law must be deduced from the desire for self-preservation, if, in other words, the desire for self-preservation is the sole root of all justice and morality, the fundamental moral fact is not a duty but a right; all duties are derivative from the fundamental and inalienable right of self-preservation. There are, then, no absolute or unconditional duties; duties are binding only to the extent to which their performance does not endanger our self-preservation. Only the right of self-preservation is unconditional or absolute. By nature, there exists only a perfect right and no perfect duty. The law of nature, which formulates man's natural duties, is not a law, properly speaking. Since the fundamental and absolute moral fact is a right and not a duty, the function as well as the limits of civil society must be defined in terms of man's natural right and not in terms of his natural duty. The state has the function, not of producing or promoting a virtuous life, but of safeguarding the natural right of each. And the power of the state finds its absolute limit in that natural right and in no other moral fact.¹⁹ If we may call liberalism that political doctrine which regards as the fundamental political fact the rights, as distinguished from the duties, of man and which identifies the function of the state with the protection or the

18. *Ibid.*, I, 14, sec. 6; *De cive*, Ep. ded., I, 7, and III, 31; *Leviathan*, chaps. xiv (92) and xxvii (197). One would have to start from here in order to understand the role of the detective story in present-day moral orientation.

19. *De cive*, II, 10 end, 18-19; III, 14, 21, 27 and annot., 33; VI, 13; XIV, 3; *Leviathan*, chaps. xiv (84, 86-87), xxi (142-43), xxviii (202), and xxxii (243).

safeguarding of those rights, we must say that the founder of liberalism was Hobbes.

By transplanting natural law on the plane of Machiavelli, Hobbes certainly originated an entirely new type of political doctrine. The premodern natural law doctrines taught the duties of man; if they paid any attention at all to his rights, they conceived of them as essentially derivative from his duties. As has frequently been observed, in the course of the seventeenth and eighteenth centuries a much greater emphasis was put on rights than ever had been done before. One may speak of a shift of emphasis from natural duties to natural rights.²⁰ But quantitative changes of this character become intelligible only when they are seen against the background of a qualitative and fundamental change, not to say that such quantitative changes always become possible only by virtue of a qualitative and fundamental change. The fundamental change from an orientation by natural duties to an orientation by natural rights finds its clearest and most telling expression in the teaching of Hobbes, who squarely made an unconditional natural right the basis of all natural duties, the duties being therefore only conditional. He is the classic and the founder of the specifically modern natural law doctrine. The profound change under consideration can be traced directly to Hobbes's concern with a human guaranty for the actualization of the right social order or to his "realistic" intention. The actualization of a social order that is defined in terms of man's duties is necessarily uncertain and even improbable; such an order may well appear to be utopian. Quite different is the case of a social order that is defined in terms of the rights of man. For the rights in question express, and are meant to express,

20. Cf. Otto von Gierke, *The Development of Political Theory* (New York, 1939), pp. 108, 322, 352; and J. N. Figgis, *The Divine Right of Kings* (2d ed.; Cambridge: At the University Press, 1934); pp. 221-23. For Kant it is already a question why moral philosophy is called the doctrine of duties and not the doctrine of rights (see *Metaphysik der Sitten*, ed. Vorlaender, p. 45).

something that everyone actually desires anyway; they hallow everyone's self-interest as everyone sees it or can easily be brought to see it. Men can more safely be depended upon to fight for their rights than to fulfil their duties. In the words of Burke: "The little catechism of the rights of men is soon learned; and the inferences are in the passions."²¹ With regard to Hobbes's classic formulation, we add that the premises already are in the passions. What is required to make modern natural right effective is enlightenment or propaganda rather than moral appeal. From this we may understand the frequently observed fact that during the modern period natural law became much more of a revolutionary force than it had been in the past. This fact is a direct consequence of the fundamental change in the character of the natural law doctrine itself.

The tradition which Hobbes opposed had assumed that man cannot reach the perfection of his nature except in and through civil society and, therefore, that civil society is prior to the individual. It was this assumption which led to the view that the primary moral fact is duty and not rights. One could not assert the primacy of natural rights without asserting that the individual is in every respect prior to civil society: all rights of civil society or of the sovereign are derivative from rights which originally belonged to the individual.²² The individual as such, the individual regardless of his qualities—and not merely, as Aristotle had contended, the man who surpasses humanity—had to be conceived of as essentially complete independently of civil society. This conception is implied in the contention that there is a state of nature which antedates civil society. According to Rousseau, "the philosophers who have examined the foundations of civil society have all of them felt the necessity to go back to the state of nature." It is true that

21. *Thoughts on French Affairs*, p. 367.

22. *De cive*, VI, 5-7; *Leviathan*, chaps. xviii (113) and xxviii (202-3).

X //

the quest for the right social order is inseparable from reflection on the origins of civil society or on the prepolitical life of man. But the identification of the prepolitical life of man with "the state of nature" is a particular view, a view by no means held by "all" political philosophers. The state of nature became an essential topic of political philosophy only with Hobbes, who still almost apologized for employing that term. It is only since Hobbes that the philosophic doctrine of natural law has been essentially a doctrine of the state of nature. Prior to him, the term "state of nature" was at home in Christian theology rather than in political philosophy. The state of nature was distinguished especially from the state of grace, and it was subdivided into the state of pure nature and the state of fallen nature. Hobbes dropped the subdivision and replaced the state of grace by the state of civil society. He thus denied, if not the fact, at any rate the importance of the Fall and accordingly asserted that what is needed for remedying the deficiencies or the "inconveniences" of the state of nature is, not divine grace, but the right kind of human government. This antitheological implication of "the state of nature" can only with difficulty be separated from its intra-philosophic meaning, which is to make intelligible the primacy of rights as distinguished from duties: the state of nature is originally characterized by the fact that in it there are perfect rights but no perfect duties.²³

23. *De cive*, praef.: "conditionem hominum extra societatem civilem (quam conditionem appellare licet statum naturae)." Cf. Locke, *Treatises of Civil Government*, II, sect. 15. For the original meaning of the term, cf. Aristotle *Physics* 246¹⁰-17; Cicero *Offices* i. 67; *De finibus* iii. 16, 20; *Laws* iii. 3 (cf. also *De cive*, III, 25). According to the classics, the state of nature would be the life in a healthy civil society and not the life antedating civil society. The conventionalists assert, indeed, that civil society is conventional or artificial, but this implies a depreciation of civil society. Most conventionalists do not identify the life antedating civil society with the state of nature: they identify the life according to nature with the life of human fulfilment (be it the life of the philosopher or the life of the tyrant); the life according to nature is therefore impossible in the primeval condition that antedates civil society. On the other hand, those

duction could be achieved. In the moral teaching of Aristotle, "whose opinions are at this day, and in these parts of greater authority than any other human writings" (Hobbes), there occur two virtues which comprise all other virtues or, as we may say, two "general" virtues: magnanimity, which comprises all other virtues in so far as they contribute to the excellence of the individual, and justice, which comprises all other virtues in so far as they contribute to man's serving others. Accordingly, one could simplify moral philosophy by reducing morality either to magnanimity or else to justice. The first was done by Descartes, the second by Hobbes. The latter's choice had the particular advantage that it was favorable to a further simplification of moral doctrine: the unqualified identification of the doctrine of virtues with the doctrine of the moral or natural law. The moral law, in its turn, was to be greatly simplified by being deduced from the natural right of self-preservation. Self-preservation requires peace. The moral law became, therefore, the sum of rules which have to be obeyed if there is to be peace. Just as Machiavelli reduced virtue to the political virtue of patriotism, Hobbes reduced virtue to the social virtue of peaceableness. Those forms of human excellence which have no direct or unambiguous relation to peaceableness—courage, temperance, magnanimity, liberality, to say nothing of wisdom—cease to be virtues in the strict sense. Justice (in conjunction with equity and charity) does remain a virtue, but its meaning undergoes a radical change. If the only unconditional moral fact is the natural right of each to his self-preservation, and therefore all obligations to others arise from contract, justice becomes identical with the habit of fulfilling one's contracts. Justice no longer consists in complying with standards that are independent of human will. All material principles of justice—the rules of commutative and distributive justice or of the Second Table of the Decalogue—cease to have intrinsic validity. All material obligations arise

attainment of pleasure or the avoidance of pain; the desire for honor and glory is utterly vain, i.e., sensual pleasures are, as such, preferable to honor or glory. Hobbes had to oppose Epicurus in two crucial points in order to make possible political hedonism. In the first place, he had to reject Epicurus' implicit denial of a state of nature in the strict sense, i.e., of a prepolitical condition of life in which man enjoys natural rights; for Hobbes agreed with the idealistic tradition in thinking that the claim of civil society stands or falls with the existence of natural right. Besides, he could not accept the implication of Epicurus' distinction between natural desires which are necessary and natural desires which are not necessary; for that distinction implied that happiness requires an "ascetic" style of life and that happiness consists in a state of repose. Epicurus' high demands on self-restraint were bound to be utopian as far as most men are concerned; they had therefore to be discarded by a "realistic" political teaching. The "realistic" approach to politics forced Hobbes to lift all restrictions on the striving for unnecessary sensual pleasures or, more precisely, for the *commoda hujus vitae*, or for power, with the exception of those restrictions that are required for the sake of peace. Since, as Epicurus said, "Nature has made [only] the necessary things easy to supply," the emancipation of the desire for comfort required that science be put into the service of the satisfaction of that desire. It required, above all, that the function of civil society be radically redefined: "the good life," for the sake of which men enter civil society, is no longer the life of human excellence but "commodious living" as the reward of hard work. And the sacred duty of the rulers is no longer "to make the citizens good and doers of noble things" but to "study, as much as by laws can be effected, to furnish the citizens abundantly with all good things . . . which are conducive to delectation."²⁹

29. *De cive*, I, 2, 5, 7; XIII, 4-6; *Leviathan*, chaps. xi (63-64) and xiii end; *De corpore*, I, 6.

Natural public law intends to give such a universally valid solution to the political problem as is meant to be universally applicable in practice. In other words, whereas, according to the classics, political theory proper is essentially in need of being supplemented by the practical wisdom of the statesman on the spot, the new type of political theory solves, as such, the crucial practical problem: the problem of what order is just here and now. In the decisive respect, then, there is no longer any need for statesmanship as distinguished from political theory. We may call this type of thinking "doctrinaireism," and we shall say that doctrinaireism made its first appearance within political philosophy—for lawyers are altogether in a class by themselves—in the seventeenth century. At that time the sensible flexibility of classical political philosophy gave way to fanatical rigidity. The political philosopher became more and more indistinguishable from the partisan. The historical thought of the nineteenth century tried to recover for statesmanship that latitude which natural public law had so severely restricted. But since that historical thought was absolutely under the spell of modern "realism," it succeeded in destroying natural public law only by destroying in the process all moral principles of politics.

*Statesmen
especially
Tyrants have
more often
been despotic
but take it
as a point
of departure.*

As regards Hobbes's teaching on sovereignty in particular, its doctrinaire character is shown most clearly by the denials which it implies. It implies the denial of the possibility of distinguishing between good and bad regimes (kingship and tyranny, aristocracy and oligarchy, democracy and ochlocracy) as well as of the possibility of mixed regimes and of "rule of law."³³ Since these denials are at variance with observed facts, the doctrine of sovereignty amounts in practice

33. *De cive*, VII, 2-4; XII, 4-5; *Leviathan*, chap. xxix (216). See, however, the reference to legitimate kings and to illegitimate rulers in *De cive*, XII, 1 and 3. *De cive*, VI, 13 end, and VII, 14, show that natural law, as Hobbes understands it, supplies a basis for objectively distinguishing between kingship and tyranny. Cf. also *ibid.*, XII, 7, with XIII, 10.

to a denial not of the existence, but of the legitimacy, of the possibilities mentioned: Hobbes's doctrine of sovereignty ascribes to the sovereign prince or to the sovereign people an unqualified right to disregard all legal and constitutional limitations according to their pleasure,³⁴ and it imposes even on sensible men a natural law prohibition against censuring the sovereign and his actions. But it would be wrong to overlook the fact that the basic deficiency of the doctrine of sovereignty is shared, if to different degrees, by all other forms of natural public law doctrines as well. We merely have to remind ourselves of the practical meaning of the doctrine that the only legitimate regime is democracy.

The classics had conceived of regimes (*politeiae*) not so much in terms of institutions as in terms of the aims actually pursued by the community or its authoritative part. Accordingly, they regarded the best regime as that regime whose aim is virtue, and they held that the right kind of institutions are indeed indispensable for establishing and securing the rule of the virtuous, but of only secondary importance in comparison with "education," i.e., the formation of character. From the point of view of natural public law, on the other hand, what is needed in order to establish the right social order is not so much the formation of character as the devising of the right kind of institutions. As Kant put it in rejecting the view that the establishment of the right social order requires a nation of angels: "Hard as it may sound, the problem of establishing the state [i.e., the just social order] is soluble even for a nation of devils, provided they have sense," i.e., provided that they are guided by enlightened selfishness; the fundamental political problem is simply one of "a good organization of the state, of

34. As for the discrepancy between Hobbes's doctrine and the practice of mankind, see *Leviathan*, chaps. xx end, and xxxi end. As for the revolutionary consequences of Hobbes's doctrine of sovereignty, see *De cive*, VII, 16 and 17, as well as *Leviathan*, chaps. xix (122) and xxix (210): there is no right of prescription; the sovereign is the present sovereign (see *Leviathan*, chap. xxvi [175]).

X forms: a) Violence in fabricating - causes
b) Oppression - potestas

which man is indeed capable." In the words of Hobbes, "when [commonwealths] come to be dissolved, not by external violence, but intestine disorder, the fault is not in men, as they are the *matter*, but as they are the *makers*, and orderers of them."³⁵ Man as the maker of civil society can solve once and for all the problem inherent in man as the matter of civil society. Man can guarantee the actualization of the right social order because he is able to conquer human nature by understanding and manipulating the mechanism of the passions.

X There is a term that expresses in the most condensed form the result of the change which Hobbes has effected. That term is "power." It is in Hobbes's political doctrine that power becomes for the first time *eo nomine* a central theme. Considering the fact that, according to Hobbes, science as such exists for the sake of power, one may call Hobbes's whole philosophy the first philosophy of power. "Power" is an ambiguous term. It stands for *potentia*, on the one hand, and for *potestas* (or *jus* or *dominium*), on the other.³⁶ It means both "physical" power and "legal" power. The ambiguity is essential: only if *potentia* and *potestas* essentially belong together, can there be a guaranty of the actualization of the right social order. The state, as such, is both the greatest human force and the highest human authority. Legal power is irresistible force.³⁷ The necessary coincidence of the greatest human force and the highest human authority corresponds strictly to the necessary coincidence of the most powerful passion (fear of violent death) and

X 35. *Leviathan*, chap. xxix (210); Kant, *Eternal Peace*, Definitive Articles, First Addition.

X V | 36. Cf., e.g., the headings of chap. x in the English and Latin versions of the *Leviathan*, and the headings of *Elements*, II, 3 and 4, with those of *De cive*, VIII and IX. For an example of the synonymous use of *potentia* and *potestas* see *De cive*, IX, 8. A comparison of the title of the *Leviathan* with the Preface of *De cive* (beginning of the section on method) suggests that "power" is identical with "generation." Cf. *De corpore*, X, 1: *potentia* is the same as *causa*. In opposition to Bishop Bramhall, Hobbes insists on the identity of "power" with "potentiality" (*English Works*, IV, 298).

37. *De cive*, XIV, 1, and XVI, 15; *Leviathan*, chap. x (56).

the most sacred right (the right of self-preservation). *Potentia* and *potestas* have this in common, that they are both intelligible only in contradistinction, and in relation, to the *actus*: the *potentia* of a man is what a man *can* do, and the *potestas* or, more generally expressed, the right of a man, is what a man *may* do. The predominance of the concern with "power" is therefore only the reverse of a relative indifference to the *actus*, and this means to the purposes for which man's "physical" as well as his "legal" power is or ought to be used. This indifference can be traced directly to Hobbes's concern with an exact or scientific political teaching. The sound use of "physical" power as well as the sound exercise of rights depends on *prudentia*, and whatever falls within the province of *prudentia* is not susceptible of exactness. There are two kinds of exactness: mathematical and legal. From the point of view of mathematical exactness, the study of the *actus* and therewith of the ends is replaced by the study of *potentia*. "Physical" power as distinguished from the purposes for which it is used is morally neutral and therefore more amenable to mathematical strictness than is its use: power can be measured. This explains why Nietzsche, who went much beyond Hobbes and declared the will to power to be the essence of reality, conceived of power in terms of "quanta of power." From the point of view of legal exactness, the study of the ends is replaced by the study of *potestas*. The rights of the sovereign, as distinguished from the exercise of these rights, permit of an exact definition without any regard to any unforeseeable circumstances, and this kind of exactness is again inseparable from moral neutrality: right declares what is permitted, as distinguished from what is honorable.³⁸ Power, as distinguished from the end for which

38. *De cive*, X, 16, and VI, 13 annot. end. Cf. *Leviathan*, chap. xxi (143), for the distinction between the permitted and the honorable (cf. Salmasius, *Defensio regia* [1649], pp. 40-45). Cf. *Leviathan*, chap. xi (64) with Thomas Aquinas *Summa contra Gentiles* iii. 31.

power is used or ought to be used, becomes the central theme of political reflections by virtue of that limitation of horizon which is needed if there is to be a guaranty of the actualization of the right social order.

Hobbes's political doctrine is meant to be universally applicable and hence to be applicable also and especially in extreme cases. This indeed may be said to be the boast of the classic doctrine of sovereignty: that it gives its due to the extreme case, to what holds good in emergency situations, whereas those who question that doctrine are accused of not looking beyond the pale of normality. Accordingly, Hobbes built his whole moral and political doctrine on observations regarding the extreme case; for the experience on which his doctrine of the state of nature is based is the experience of civil war. It is in the extreme situation, when the social fabric has completely broken down, that there comes to sight the solid foundation on which every social order must ultimately rest: the fear of violent death, which is the strongest force in human life. Yet Hobbes was forced to concede that the fear of violent death is only "commonly" or in most cases the most powerful force. The principle which was supposed to make possible a political doctrine of universal applicability, then, is not universally valid and therefore is useless in what, from Hobbes's point of view, is the most important case—the extreme case. For how can one exclude the possibility that precisely in the extreme situation the exception will prevail?³⁹

39. *Leviathan*, chaps. xiii (83) and xv (92). One may state this difficulty also as follows: In the spirit of the dogmatism based on skepticism, Hobbes identified what the skeptic Carneades apparently regarded as the conclusive refutation of the claims raised on behalf of justice, with the only possible justification of these claims: the extreme situation—the situation of the two shipwrecked men on a plank on which only one man can save himself—reveals, not the impossibility of justice, but the basis of justice. Yet Carneades did not contend that in such a situation one is compelled to kill one's competitor (*Cicero Republic* iii. 29–30): the extreme situation does not reveal a real necessity.

To speak in more specific terms, there are two politically important phenomena which would seem to show with particular clarity the limited validity of Hobbes's contention regarding the overwhelming power of the fear of violent death. In the first place, if the only unconditional moral fact is the individual's right of self-preservation, civil society can hardly demand from the individual that he resign that right both by going to war and by submitting to capital punishment. As regards capital punishment, Hobbes was consistent enough to grant that, by being justly and legally condemned to death, a man does not lose the right to defend his life by resisting "those that assault him": a justly condemned murderer retains—nay, he acquires—the right to kill his guards and everyone else who stands in his way to escape, in order to save dear life.⁴⁰ But, by granting this, Hobbes in fact admitted that there exists an insoluble conflict between the rights of the government and the natural right of the individual to self-preservation. This conflict was solved in the spirit, if against the letter, of Hobbes by Beccaria, who inferred from the absolute primacy of the right of self-preservation the necessity of abolishing capital punishment. As regards war, Hobbes, who proudly declared that he was "the first of all that fled" at the outbreak of the Civil War, was consistent enough to grant that "there is allowance to be made for natural timorousness." And as if he desired to make it perfectly clear to what lengths he was prepared to go in opposing the lupine spirit of Rome, he continues as follows: "When armies fight, there is on one side, or both, a running away: yet when they do it not out of treachery, but fear, they are not esteemed to do it unjustly, but dishonourably."⁴¹ But, by granting this, he destroyed the moral basis of national defense. The only solution to this difficulty which

40. *Leviathan*, chap. xxi (142–43); cf. also *De cive*, VIII, 9.

41. *Leviathan*, chap. xxi (143); *English Works*, IV, 414. Cf. *Leviathan*, chap. xxx (227) and *De cive*, XIII, 14, with Locke's chapter on conquest.

Society
destroys the
state

preserves the spirit of Hobbes's political philosophy is the outlawry of war or the establishment of a world state.

There was only one fundamental objection to Hobbes's basic assumption which he felt very keenly and which he made every effort to overcome. In many cases the fear of violent death proved to be a weaker force than the fear of hell fire or the fear of God. The difficulty is well illustrated by two widely separated passages of the *Leviathan*. In the first passage Hobbes says that the fear of the power of men (i.e., the fear of violent death) is "commonly" greater than the fear of the power of "spirits invisible," i.e., than religion. In the second passage he says that "the fear of darkness and ghosts is greater than other fears."⁴² Hobbes saw his way to solve this contradiction: the fear of invisible powers is stronger than the fear of violent death as long as people believe in invisible powers, i.e., as long as they are under the spell of delusions about the true character of reality; the fear of violent death comes fully into its own as soon as people have become enlightened. This implies that the whole scheme suggested by Hobbes requires for its operation the weakening or, rather, the elimination of the fear of invisible powers. It requires such a radical change of orientation as can be brought about only by the disenchantment of the world, by the diffusion of scientific knowledge, or by popular enlightenment. Hobbes's is the first doctrine that necessarily and unmistakably points to a thoroughly "enlightened," i.e., a-religious or atheistic society as the solution of the social or political problem. This most important implication of Hobbes's doctrine was made explicit not many years after his death by Pierre Bayle, who attempted to prove that an atheistic society is possible.⁴³

42. *Leviathan*, chaps. xiv (92) and xxix (215); cf. also *ibid.*, chap. xxxviii beginning; *De cive*, VI, 11; XII, 2, 5; XVII, 25 and 27.

43. A good reason for connecting Bayle's famous thesis with Hobbes's doctrine rather than with that of Faustus Socinus, e.g., is supplied by the following statement

It is, then, only through the prospect of popular enlightenment that Hobbes's doctrine acquired such consistency as it possesses. The virtues which he ascribed to enlightenment are indeed extraordinary. The power of ambition and avarice, he says, rests on the false opinions of the vulgar regarding right and wrong; therefore, once the principles of justice are known with mathematical certainty, ambition and avarice will become powerless and the human race will enjoy lasting peace. For, obviously, mathematical knowledge of the principles of justice (i.e., the new doctrine of natural right and the new natural public law that is built on it) cannot destroy the wrong opinions of the vulgar, if the vulgar are not apprised of the results of that mathematical knowledge. Plato had said that evils will not cease from the cities if the philosophers do not become kings or if philosophy and political power do not coincide. He had expected such salvation for mortal nature as can reasonably be expected, from a coincidence over which

of Bayle (*Dictionnaire*, art. "Hobbes," rem. D): "Hobbes se fit beaucoup d'ennemis par cet ouvrage [*De cive*]; mais il fit avouer aux plus clairvoyants, qu'on n'avait jamais si bien pénétré les fondements de la politique." I cannot prove here that Hobbes was an atheist, even according to his own view of atheism. I must limit myself to asking the reader to compare *De cive*, XV, 14, with *English Works*, IV, 349. Many present-day scholars who write on subjects of this kind do not seem to have a sufficient notion of the degree of circumspection or of accommodation to the accepted views that was required, in former ages, of "deviationists" who desired to survive or to die in peace. Those scholars tacitly assume that the pages in Hobbes's writings devoted to religious subjects can be understood if they are read in the way in which one ought to read the corresponding utterances, say, of Lord Bertrand Russell. In other words, I am familiar with the fact that there are innumerable passages in Hobbes's writings which were used by Hobbes and which can be used by everyone else for proving that Hobbes was a theist and even a good Anglican. The prevalent procedure would merely lead to historical errors, if to grave historical errors, but for the fact that its results are employed for buttressing the dogma that the mind of the individual is incapable of liberating itself from the opinions which rule his society. Hobbes's last word on the question of public worship is that the commonwealth *may* establish public worship. If the commonwealth fails to establish public worship, i.e., if it allows "many sorts of worship," as it may, "it cannot be said . . . that the commonwealth is of any religion at all" (cf. *Leviathan*, chap. xxxi [240] with the Latin version [p.m. 171]). XX

hand" remains ineffectual if it is not supported by the *Leviathan* or, if you wish, by the *Wealth of Nations*.

There is a remarkable parallelism and an even more remarkable discrepancy between Hobbes's theoretical philosophy and his practical philosophy. In both parts of his philosophy, he teaches that reason is impotent and that it is omnipotent, or that reason is omnipotent because it is impotent. Reason is impotent because reason or humanity have no cosmic support: the universe is unintelligible, and nature "dissociates" men. But the very fact that the universe is unintelligible permits reason to rest satisfied with its free constructs, to establish through its constructs an Archimedean basis of operations, and to anticipate an unlimited progress in its conquest of nature. Reason is impotent against passion, but it can become omnipotent if it co-operates with the strongest passion or if it puts itself into the service of the strongest passion. Hobbes's rationalism, then, rests ultimately on the conviction that, thanks to nature's kindness, the strongest passion is the only passion which can be "the origin of large and lasting societies" or that the strongest passion is the most rational passion. In the case of human things, the foundation is not a free construct but the most powerful natural force in man. In the case of human things, we understand not merely what we make but also what makes our making and our makings. Whereas the philosophy or science of nature remains fundamentally hypothetical, political philosophy rests on a nonhypothetical knowledge of the nature of man.⁴⁵ As long as Hobbes's approach prevails, "the philosophy concerned with the human things" will remain the last refuge of nature. For at some point nature succeeds in getting a hearing. The modern contention that man can "change the world" or "push back nature" is not unreasonable. One can even safely go much beyond it and say that man can expel nature with a hayfork. One ceases

45. Cf. n. 9 above.

to be reasonable only if one forgets what the philosophic poet adds, *tamen usque recurret*.

B. LOCKE

At first glance Locke seems to reject altogether Hobbes's notion of natural law and to follow the traditional teaching. He certainly speaks of man's natural rights as if they were derivative from the law of nature, and he accordingly speaks of the law of nature as if it were a law in the strict sense of the term. The law of nature imposes perfect duties on man as man, regardless of whether he lives in the state of nature or in civil society. "The law of nature stands as an eternal rule to all men," for it is "plain and intelligible to all rational creatures." It is identical with "the law of reason." It is "knowable by the light of nature; that is, without the help of positive revelation." Locke considers it entirely possible for the law of nature or the moral law to be raised to the rank of a demonstrative science. That science would make out "from self-evident propositions, by necessary consequences . . . the measures of right and wrong." Man would thus become able to elaborate "a body of ethics, proved to be the law of nature, from principles of reason, and teaching all the duties of life," or "the entire body of the 'law of nature,'" or "complete morality," or a "code" which gives us the law of nature "entire." That code would contain, among other things, the natural penal law.⁴⁶ Yet Locke never made a serious effort to elaborate that code. His failure to embark on this great enterprise was due to the problem posed by theology.⁴⁷

The law of nature is a declaration of the will of God. It is "the voice of God" in man. It can therefore be called the "law

46. *Treatises of Government*, I, secs. 86, 101; II, secs. 6, 12, 30, 96, 118, 124, 135. *An Essay concerning Human Understanding*, I, 3, sec. 13, and IV, 3, sec. 18. *The Reasonableness of Christianity (The Works of John Locke in Nine Volumes*, VI [London, 1824], 140-42).

47. Cf. Descartes's "Auctor non libenter scribit ethica" (*Oeuvres*, ed. Adam-Tanney, V, 178).

of God" or "divine law" or even the "eternal law"; it is "the highest law." It is the law of God not only in fact. It must be known to be the law of God in order to be law. Without such knowledge man cannot act morally. For "the true ground of morality . . . can only be the will and law of a God." The law of nature can be demonstrated because the existence and the attributes of God can be demonstrated. This divine law is promulgated, not only in or by reason, but by revelation as well. In fact, it first became known to man in its entirety by revelation, but reason confirms this divine law thus revealed. This does not mean that God did not reveal to man some laws which are purely positive: the distinction between the law of reason, which obliges man as man, and the law revealed in the gospel, which obliges Christians, is preserved by Locke.⁴⁸

One may wonder whether what Locke says about the relation between the law of nature and the revealed law is free from difficulties. However this may be, his teaching is exposed to a more fundamental and more obvious difficulty, to a difficulty which seems to endanger the very notion of a law of nature. He says, on the one hand, that, in order to be a law, the law of nature must not only have been given by God and be known to have been given by God, but it must in addition have as its sanctions divine "rewards and punishments, of infinite weight and duration, in another life." On the other hand, however, he says that reason cannot demonstrate that there is another life. Only through revelation do we know of the sanctions for the law of nature or of "the only true touchstone of moral rectitude." Natural reason is therefore unable

48. *Treatises*, I, secs. 39, 56, 59, 63, 86, 88, 89, 111, 124, 126, 128, 166; II, secs. 1, 4, 6, 25, 52, 135, 136 n., 142, 195; *Essay*, I, 3, secs. 6 and 13; II, 28, sec. 8; IV, 3, sec. 18, and 10, sec. 7; *Reasonableness*, pp. 13, 115, 140, 144 ("the highest law, the law of nature"), 145; *A Second Vindication of the Reasonableness of Christianity* (*Works*, VI, 229): "As men, we have God for our king, and are under the law of reason: as Christians, we have Jesus the Messiah for our king, and are under the law revealed by him in the gospel. And though every Christian, both as a deist and a Christian, be obliged to study both the law of nature and the revealed law. . . ." Cf. n. 51 below.

to know the law of nature as a law.⁴⁹ This would mean that there does not exist a law of nature in the strict sense.

This difficulty is apparently overcome by the fact that "the veracity of God is a demonstration of the truth of what he has revealed."⁵⁰ That is to say, natural reason is indeed unable to demonstrate that the souls of men shall live forever. But natural reason is able to demonstrate that the New Testament is the perfect document of revelation. And since the New Testament teaches that the souls of men shall live forever, natural reason is able to demonstrate the true ground of morality and therewith to establish the dignity of the law of nature as a true law.

By demonstrating that the New Testament is a document of revelation, one demonstrates that the law promulgated by Jesus is a law in the proper sense of the term. This divine law

X // 49. *Essay*, I, 3, secs. 5, 6, 13; II, 28, sec. 8; IV, 3, sec. 29; *Reasonableness*, p. 144: "But where was it that their obligation [the obligation of the just measures of right and wrong] was thoroughly known and allowed, and they received as precepts of a law; of the highest law, the law of nature? That could not be, without a clear knowledge and acknowledgment of the law-maker, and the great rewards and punishments, for those that would, or would not obey him." *Ibid.*, pp. 150-51: "The view of heaven and hell will cast a slight upon the short pleasures of this present state, and give attractions and encouragements to virtue which reason and interest, and the care of ourselves, cannot but allow and prefer. Upon this foundation, and upon this *only*, morality stands firm, and may defy all competition." *Second Reply to the Bishop of Worcester* (*Works*, III, 489; see also 474 and 480): "So unmovable is that truth delivered by the Spirit of truth, that though the light of nature gave some obscure glimmering, some uncertain hopes of a future state, yet human reason could attain to no clearness, no certainty about it, but that it was Jesus Christ alone who had 'brought life and immortality to light through the gospel' . . . this article of revelation, which . . . the Scripture assures us is established and made certain *only* by revelation." (The italics are not in the original.)

50. *Second Reply to the Bishop of Worcester*, p. 476. Cf. *ibid.*, p. 281: "I think it is possible to be certain upon the testimony of God . . . where I know that it is the testimony of God; because in such a case, that testimony is capable not only to make me believe, but, if I consider it right, to make me know the thing to be so; and so I may be certain. For the veracity of God is as capable of making me know a proposition to be true, as any other way of proof can be, and therefore I do not in such a case barely believe, but know such a proposition to be true, and attain certainty." See also *Essay*, IV, 16, sec. 14.

thing which would "displace the veil beneath which" the respectable part of society "dissembles its divisions." Whereas the cautious theoretician would scorn the appeal to prejudices, the cautious man of affairs would try to enlist all respectable prejudices in the service of the good cause. "Logic admits of no compromise. The essence of politics is compromise." Acting in this spirit, the statesmen who were responsible for the settlement of 1689 which Locke defended in the *Two Treatises*, "cared little whether their major agreed with their conclusion, if their major secured two hundred votes, and the conclusion two hundred more."⁵³ Acting in the same spirit, Locke, in his defense of the revolutionary settlement, appealed as frequently as he could to the authority of Hooker—of one of the least revolutionary men who ever lived. He took every advantage of his partial agreement with Hooker. And he avoided the inconveniences which might have been caused by his partial disagreement with Hooker by being practically silent about it. Since to write means to act, he did not proceed in an altogether different manner when composing his most theoretical work, the *Essay*: "since not all, nor the most of those that believe a God, are at the pains, or have the skill, to examine and clearly comprehend the demonstrations of his being, I was unwilling to show the weakness of the argument there spoken of [in *Essay*, IV, 10, sec. 7]; since possibly by it some men might be confirmed in the belief of a God, which is enough to preserve in them true sentiments of religion and morality."⁵⁴ Locke was always, as Voltaire liked to call him, "le sage Locke."

Locke has explained his view of caution most fully in some passages of his *Reasonableness of Christianity*. Speaking of the ancient philosophers, he says: "The rational and thinking part of mankind . . . when they sought after him, they found the

53. Macaulay, *The History of England* (New York: Allison, n.d.), II, 491.

54. *Letter to the Bishop of Worcester* (*Works*, III, 53-54).

complex argument for which we seek in vain in his writings.

One can state the issue in simpler terms as follows: The veracity of God is indeed a demonstration of any proposition which he has revealed. Yet "the whole strength of the certainty depends upon our knowledge that God revealed" the proposition in question, or "our assurance can be no greater than our knowledge is, that it is a revelation from God." And at least as regards all men who know of revelation only through tradition, "the knowledge we have that this revelation came at first from God, can never be so sure as the knowledge we have from the clear and distinct perception of the agreement or disagreement of our own ideas." Accordingly, our assurance that the souls of men shall live forever belongs to the province of faith and not to that of reason.⁶¹ Yet since without that assurance "the just measures of right and wrong" do not have the character of a law, those just measures are not a law for reason. This would mean that there does not exist a law of nature. Therefore, if there is to be "a law knowable by the light of nature, that is, without the help of positive revelation," that law must consist of a set of rules whose validity does not presuppose life after death or belief in a life after death.

Such rules were established by the classical philosophers. The pagan philosophers, "who spoke from reason, made not much mention of the Deity in their ethics." They showed that virtue "is the perfection and the excellency of our nature; that she is herself a reward, and will recommend our names to future ages," but they left "her unendowed."⁶² For they were

61. *Essay*, IV, 18, secs. 4-8; cf. n. 50 above.

62. From this it follows that, "however strange it may seem, the law-maker hath nothing to do with moral virtues and vices" but is limited in his function to the preservation of property (cf. *Treatises*, II, sec. 124; and J. W. Gough, *John Locke's Political Philosophy* [Oxford: Clarendon Press, 1950], p. 190). If virtue by itself is ineffectual, civil society must have a foundation other than human perfection or the inclination toward it; it must be based on the strongest desire in man, the desire for self-preservation, and therefore on his concern with property.

unable to show a necessary connection between virtue and prosperity or happiness, a connection which is not visible in this life and which can be guaranteed only if there is a life after death.⁶³ Still, while unassisted reason cannot establish a necessary connection between virtue and prosperity or happiness, the classical philosophers realized, and practically all men realize, a necessary connection between a kind of prosperity or happiness and a kind or part of virtue. There exists, indeed, a visible connection between "public happiness" or "the prosperity and temporal happiness of any people" and the general compliance with "*several moral rules.*" These rules, which apparently are a part of the complete law of nature, "may receive from mankind a very general approbation, without either knowing or admitting *the true ground* of morality; which can only be the will and law of a God, who sees men in the dark, has in his hands rewards and punishments, and power enough to call to account the proudest offender." But even if, and precisely if, those rules are divorced from "the true ground of morality," they stand "on their true foundations": "[Prior to Jesus], those just measures of right and wrong, which necessity had anywhere introduced, the civil laws prescribed, or philosophers recommended, stood on *their true foundations*. They were looked on as bonds of society, and conveniences of common life, and laudable practices."⁶⁴ However doubtful the status of the complete law of nature may have become in Locke's thought, the partial law of nature

63. *Reasonableness*, pp. 148-49: "Virtue and prosperity do not often accompany one another; and therefore virtue seldom had any followers. And it is no wonder she prevailed not much in a state, where the inconveniences that attended her were visible, and at hand; and the rewards doubtful, and at a distance. Mankind, who are and must be allowed to pursue their happiness, nay, cannot be hindered; could not but think themselves excused from a strict observation of rules, which appeared so little to consist of their chief end, happiness; whilst they kept them from the enjoyments of this life; and they had little evidence and security of another." Cf. *ibid.*, pp. 139, 142-44, 150-51; *Essay*, I, 3, sec. 5, and II, 28, sec. 10-12.

64. *Reasonableness*, pp. 144 and 139; *Essay*, I, 3, secs. 4, 6, and 10 (the italics are not in the original); *Treatises*, II, secs. 7, 42, and 107.

which is limited to what "political happiness"—a "good of mankind in this world"—evidently requires would seem to have stood firm. Only this partial law of nature can have been recognized by him, in the last analysis, as a law of reason and therewith as truly a law of nature.

We must now consider the relation between what we call for the time being the partial law of nature and the New Testament law. If "no more nor no less" than the entire law of nature is supplied by the New Testament, if "all the parts" of the law of nature are made out in the New Testament in a manner which is "clear, plain, and easy to be understood," the New Testament must contain in particular clear and plain expressions of those prescriptions of the law of nature with which men must comply for the sake of political happiness.⁶⁵ According to Locke, one of the rules of "the law of God and nature" is to the effect that the government "must not raise taxes on the property of the people without the consent of the people, given by themselves or their deputies." Locke does not even attempt to confirm this rule by clear and plain statements of Scripture. Another very important and characteristic rule of the law of nature as Locke understands it, denies to the conqueror a right and title to the possessions of the vanquished: even in a just war the conqueror may not "dispossess the posterity of the vanquished." Locke himself admits that this "will seem a strange doctrine," i.e., a novel doctrine. In fact, it would seem that the opposite doctrine is at least as much warranted by Scripture as is Locke's. He quotes more than once Jephtha's saying "the Lord the Judge be judge"; but he fails even to allude to the fact that Jephtha's statement is made in the context of a controversy about the right of conquest, as well as to Jephtha's entirely un-Lockean view of the rights of the conqueror.⁶⁶ One is tempted to say that Jephtha's state-

65. Cf. also *Essay*, II, 28, sec. 11.

66. *Treatises*, II, secs. 142 (cf. sec. 136 n.), 180, 184; cf. also n. 51 above. *Ibid.*, secs. 21, 176, 241; cf. *Judges* 11:12-24; cf. also Hobbes's *Leviathan*, chap. xxiv (162).

ture, the state of nature would begin after the flood, i.e., a long time after the Fall; for prior to God's grant to Noah and his sons, men did not have the natural right to meat which is a consequence of the natural right to self-preservation, and the state of nature is the state in which every man has "all the rights and privileges of the law of nature."⁷⁰ Now, if the state of nature begins a long time after the Fall, the state of nature would seem to partake of all characteristics of "the corrupt state of degenerate men." In fact, however, it is a "poor but virtuous age," an age characterized by "innocence and sincerity," not to say the golden age.⁷¹ Just like the Fall itself, the punishment for the Fall ceased to be of any significance for Locke's political doctrine. He holds that even God's curse on Eve does not impose a duty on the female sex "not to endeavor to avoid" that curse: women may avoid the pangs of child-birth "if there could be found a remedy for it."⁷²

The tension between Locke's natural law teaching and the New Testament is perhaps best illustrated by his teaching about marriage and related topics.⁷³ In the *First Treatise* he characterizes adultery, incest, and sodomy as sins. He indicates there that they are sins independently of the fact that

70. *Ibid.*, I, secs. 27 and 39; II, sec. 25; cf. also II, secs. 6 and 87; and II, secs. 36 and 38. In II, secs. 56–57, Locke seemingly says that Adam was in the state of nature prior to the Fall. According to *ibid.*, sec. 36 (cf. 107, 108, 116), the state of nature is situated in "the first ages of the world" or in "the beginning of things" (cf. Hobbes, *De civ.*, V, 2); cf. also *Treatises*, II, sec. 11, end, with Gen. 4:14–15 and 9:5–6.

71. Cf. *Reasonableness*, p. 112, and *Treatises*, I, secs. 16 and 44–45 with *ibid.*, II, secs. 110–11 and 128. Note the plural "all those [ages]" *ibid.*, sec. 110; there have been many examples of the state of nature, whereas there was only once a state of innocence.

72. *Treatises*, I, sec. 47.

73. As regards the relation between Locke's teaching concerning property and the New Testament teaching, it suffices here to mention his interpretation of Luke 18:22: "This I look on to be the meaning of the place; this, of selling all he had, and giving it to the poor, not being a standing law of [Jesus'] kingdom; but a probationary command to this young man; to try whether he truly believed him to be the Messiah, and was ready to obey his commands, and relinquish all to follow him, when he, his prince, required it" (*Reasonableness*, p. 120).

great and civil people" and the Siamites are a "civilized nation," and both the Chinese and the Siamites "want the idea and knowledge of God."⁷⁷ The "partial law of nature" is, then, not a law in the proper sense of the term.⁷⁸

We thus arrive at the conclusion that Locke cannot have recognized any law of nature in the proper sense of the term. This conclusion stands in shocking contrast to what is generally thought to be his doctrine, and especially the doctrine of the *Second Treatise*. Before turning to an examination of the *Second Treatise*, we beg the reader to consider the following facts: The accepted interpretation of Locke's teaching leads to the consequence that "Locke is full of illogical flaws and inconsistencies,"⁷⁹ of inconsistencies, we add, which are so obvious that they cannot have escaped the notice of a man of his rank and his sobriety. Furthermore, the accepted interpretation is based on what amounts to a complete disregard of Locke's caution, of a kind of caution which is, to say the least, compatible with so involving one's sense that one cannot easily be understood and with going with the herd in one's outward professions. Above all, the accepted interpretation does not pay sufficient attention to the character of the *Treatise*; it somehow assumes that the *Treatise* contains the philosophic presentation of Locke's political doctrine, whereas it contains, in fact, only its "civil" presentation. In the *Treatise*, it is less Locke the philosopher than Locke the Englishman who ad-

77. *Treatises*, I, sec. 141; *Essay*, I, 4, sec. 8; *Second Reply to the Bishop of Worcester*, p. 486. *Reasonableness*, p. 144: "Those just measures of right and wrong . . . stood on their true foundations. They were looked on as bonds of society, and conveniences of common life, and laudable practices. But where was it that their obligation was thoroughly known and allowed [prior to Jesus], and they received as precepts of a law; of the highest law, the law of nature? That could not be, without a clear knowledge and acknowledgment of the law-maker" (compare p. 213 above and n. 49 above).

78. Accordingly, Locke sometimes identifies the law of nature not with the law of reason but with reason simply (cf. *Treatises*, I, sec. 101, with II, secs. 6, 11, 181; cf. also *ibid.*, I, sec. 111, toward the end).

79. Gough, *op. cit.*, p. 123.

that, according to Hooker, some men were in fact or accidentally in the state of nature. Actually, Hooker had not said anything about the state of nature: the whole doctrine of the state of nature is based on a break with Hooker's principles, i.e., with the principles of the traditional nature law doctrine. Locke's notion of the state of nature is inseparable from the doctrine "that in the state of nature everyone has the executive power of the law of nature." He states twice in the context referred to that this doctrine is "strange," i.e., novel.⁸³

For what is the reason why, according to Locke, the admission of a law of nature requires the admission of a state of nature, and more particularly the admission that in the state of nature "every man hath the right to . . . be executioner of the law of nature"? ". . . Since it would be utterly in vain to suppose a rule set to the free actions of man, without annexing to it some enforcement of good or evil to determine his will, we must wherever we suppose a law, suppose also some reward or punishment annexed to that law." In order to be a law, the law of nature must have sanctions. According to the traditional view those sanctions are supplied by the judgment of the conscience, which is the judgment of God. Locke rejects this view. According to him, the judgment of the conscience is so far from being the judgment of God that the conscience "is nothing else but our own opinion or judgment of the moral rectitude or pravity of our own actions." Or to quote Hobbes, whom Locke tacitly follows: "private consciences . . . are but private opinions." Conscience cannot therefore be a guide; still less can it supply sanctions. Or if the verdict of the con-

83. *Treatises*, II, secs. 9, 13, and 15; cf. sec. 91 n., where Locke, quoting Hooker, refers in an explanatory remark to the state of nature which is not mentioned by Hooker; cf. also sec. 14 with Hobbes, *Leviathan*, chap. xiii (83). As regards the "strange" character of the doctrine that in the state of nature everyone has the executive power of the law of nature, cf. Thomas Aquinas *Summa theologiae* ii. 2. qu. 64, a. 3, and Suarez, *Tr. de legibus*, III, 3, secs. 1 and 3, on the one hand, and Grotius *De jure belli* ii. 20. secs. 3 and 7 and ii. 25. sec. 1, as well as Richard Cumberland, *De legibus naturali*, chap. 1, sec. 26, on the other.

science is identified with right opinion about the moral quality of our actions, it is utterly powerless by itself: "View but an army at the sacking of a town, and see what observation or sense of moral principles, or what touch of conscience, for all the outrages they do." If there are to be sanctions for the law of nature in this world, those sanctions must be supplied by human beings. But any "enforcement" of the law of nature which takes place in and through civil society appears to be the outcome of human convention. Therefore, the law of nature will not be effective in this world and hence not be a true law, if it is not effective in the state antedating civil society or government—in the state of nature; even in the state of nature everyone must be effectively responsible to other human beings. This, however, requires that everyone in the state of nature have the right to be the executioner of the law of nature: "the law of nature would, as all other laws that concern men in this world, be in vain, if there were nobody that in the state of nature had a power to execute that law." The law of nature is indeed given by God, but its being a law does not require that it be known to be given by God, because it is immediately enforced, not by God or by the conscience, but by human beings.⁸⁴

84. *Reasonableness*, p. 114: ". . . if there were no punishment for the transgressors of [Jesus' laws], his laws would not be the laws of a king, . . . but empty talk, without force, and without influence." *Treatises*, II, secs. 7, 8, 13 end, 21 end; cf. *ibid.*, sec. 11, with I, sec. 56. *Essay*, I, 3, secs. 6-9, and II, 28, sec. 6; Hobbes, *Leviathan*, chap. xxix (212). When speaking of everyone's natural right to be the executioner of the law of nature, Locke refers to "that great law of nature, 'Whoso sheddeth man's blood, by man shall his blood be shed'" (Gen. 9:6). But he omits the biblical reason, "for in the image of God made he man." The Lockean reason for the right to inflict capital punishment on murderers is that man may "destroy things noxious" to men (the italics are not in the original). Locke disregards the fact that both the murdered and the murderer are made in the image of God: the murderer "may be destroyed as a lion or a tiger, one of those wild savage beasts with whom men can have no society nor security" (*Treatises*, II, secs. 8, 10, 11, 16, 172, 181; cf. I, sec. 30). Cf. Thomas Aquinas *Summa theologiae* i. qu. 79, a. 13 and ii. 1. qu. 96, a. 5 ad 3 (cf. a. 4, obj. 1); Hooker, I, 9, sec. 2-10, sec. 1; Grotius *De jure belli, Prolegomena*, secs. 20 and 27; Cumberland, *loc. cit.*

X X

and continual dangers." It is "an ill condition." Far from being a state of peace, it is a state in which peace and quiet are uncertain. The state of peace is civil society; the state antedating civil society is the state of war.⁸⁶ This is either the cause or the effect of the fact that the state of nature is a state not of plenty but of penury. Those living in it are "needy and wretched." Plenty requires civil society.⁸⁷ Being "pure anarchy," the state of nature is not likely to be a social state. In fact, it is characterized by "want of society." "Society" and "civil society" are synonymous terms. The state of nature is "loose." For "the first and strongest desire God planted in man" is not the concern with others, not even concern with one's offspring, but the desire for self-preservation.⁸⁸

The state of nature would be a state of peace and good will if men in the state of nature were under the law of nature. But "nobody can be under a law which is not promulgated to him." Man would know the law of nature in the state of nature if "the dictates of the law of nature" were "implanted in him" or "writ in the hearts of mankind." But no moral rules are "imprinted in our minds" or "written on [our] hearts" or "stamped upon [our] minds" or "implanted." Since there is no *habitus* of moral principles, no *synderesis* or conscience, all knowledge of the law of nature is acquired by study: to know the law of nature, one must be "a studier of that law." The law of nature becomes known only through demonstration. The question, therefore, is whether men in the state of nature are capable of becoming studiers of the law of nature. "The greatest part of mankind want leisure or capacity for demonstration. . . . And you may as soon hope to have all the day-

86. *Ibid.*, II, secs. 13, 74, 90, 91 and note, 94, 105, 123, 127, 128, 131, 135 n., 136, 212, 225-27.

87. *Ibid.*, secs. 32, 37, 38, 41-43, 49.

88. *Ibid.*, secs. 21, 74, 101, 105, 116, 127, 131 beginning, 132 beginning, 134 beginning (cf. 124 beginning), 211, 220, 243; cf. I, sec. 56, with sec. 88. Cf. both passages, as well as I, sec. 97, and II, secs. 60, 63, 67, 170, with *Essay*, I, 3, secs. 3, 9, 19.

labourers and tradesmen, and spinsters and dairy-maids, perfect mathematicians, as to have them perfect in ethics this way." Yet a day laborer in England is better off than a king of the Americans, and "in the beginning all the world was America, and more so than it is now." "The first ages" are characterized by "negligent and unforeseeing innocence" rather than by habits of study.⁸⁹ The condition in which man lives in the state of nature—"continual dangers" and "penury"—make impossible knowledge of the law of nature: the law of nature is not promulgated in the state of nature. Since the law of nature must be promulgated in the state of nature if it is to be a law in the proper sense of the term, we are again forced to conclude that the law of nature is not a law in the proper sense of the term.⁹⁰

*pains & pleasure
are in sub-
jects of com-
mon sense*

What, then, is the status of the law of nature in Locke's doctrine? What is its foundation? There is no rule of the law of nature which is innate, "that is, . . . imprinted on the mind as a duty." This is shown by the fact that there are no rules of the law of nature, "which, as practical principles ought, do continue constantly to operate and influence all our actions without ceasing [and which] may be observed in all persons and all ages, steady and universal." However, "Nature . . . has put into man a desire of happiness, and an aversion to misery; these, indeed, are innate practical principles": they are universally and unceasingly effective. The desire for happiness and the pursuit of happiness to which it gives rise are not duties. But "men . . . must be allowed to pursue their happiness, nay, cannot be hindered." The desire for happiness and the pursuit of happiness have the character of an absolute right, of a natural right. There is, then, an innate natural right, while

89. Cf., above all, *Treatises*, II, secs. 11 end, and 56, with *Essay*, I, 3, sec. 8, and I, 4, sec. 12; *Treatises*, II, secs. 6, 12, 41, 49, 57, 94, 107, 124, 136; *Essay*, I, 3, secs. 1, 6, 9, 11-13, 26, 27; *Reasonableness*, pp. 146, 139, 140. Cf. n. 74 above.

90. Cf. the use of the term "crime" (as distinguished from "sin") in *Treatises*, II, secs. 10, 11, 87, 128, 218, 230, with *Essay*, II, 28, secs. 7-9.

there is no innate natural duty. To understand how this is possible, one merely has to reformulate our last quotation: pursuit of happiness is a right, it "must be allowed," because "it cannot be hindered." It is a right antedating all duties for the same reason that, according to Hobbes, establishes as the fundamental moral fact the right of self-preservation: man must be allowed to defend his life against violent death because he is driven to do so by some natural necessity which is not less than that by which a stone is carried downward. Being universally effective, natural right, as distinguished from natural duty, is effective in the state of nature: man in the state of nature is "absolute lord of his own person and possessions."⁹¹ Since the right of nature is innate, whereas the law of nature is not, the right of nature is more fundamental than the law of nature and is the foundation of the law of nature.

Since happiness presupposes life, the desire for life takes precedence over the desire for happiness in case of conflict. This dictate of reason is at the same time a natural necessity: "the first and strongest desire God planted in men, and wrought into the very principles of their nature, is that of self-preservation." The most fundamental of all rights is therefore the right of self-preservation. While nature has put into man "a strong desire of preserving his life and being," it is only man's reason which teaches him what is "necessary and useful to his being." And reason—or, rather, reason applied to a subject to be specified presently—is the law of nature. Reason teaches that "he that is master of himself and his own life has a right, too, to the means of preserving it." Reason further teaches that, since all men are equal in regard to the desire, and hence to the right, of self-preservation, they are equal in the decisive respect, notwithstanding any natural inequalities

91. *Essay*, I, 3, secs. 3 and 12; *Reasonableness*, p. 148; *Treatises*, II, sec. 123 (cf. sec. 6). Cf. Hobbes, *De cive*, I, 7, and III, 27 n.

cerned with their self-preservation—not the contract of the fathers qua fathers or divine appointment or an end of man that is independent of the actual wills of all individuals—creates the whole power of society: "the supreme power in every commonwealth [is] but the joint power of every member of the society."⁹⁴

Locke's natural law teaching can then be understood perfectly if one assumes that the laws of nature which he admits are, as Hobbes put it, "but conclusions, or theorems concerning what conduces to the conservation and defense" of man over against other men. And it must be thus understood, since the alternative view is exposed to the difficulties which have been set forth. The law of nature, as Locke conceives of it, formulates the conditions of peace or, more generally stated, of "public happiness" or "the prosperity of any people." There is therefore a kind of sanction for the law of nature in this world: the disregard of the law of nature leads to public misery and penury. But this sanction is insufficient. Universal compliance with the law of nature would indeed guarantee perpetual peace and prosperity everywhere on earth. Failing such universal compliance, however, it may well happen that a society which complies with the law of nature enjoys less of temporal happiness than a society which transgresses the law of nature. For in both foreign and domestic affairs victory does not always favor "the right side": the "great robbers . . . are too big for the weak hands of justice in this world." There remains, however, at least this difference between those who strictly comply with the law of nature and those who do not, that only the former can act and speak consistently; only the former can consistently maintain that there is a fundamental difference between civil societies and gangs of robbers, a distinction to which every society and every government is forced to appeal time and again. In a word, the law of nature

94. *Ibid.*, secs. 4, 6-11, 13, 96, 99, 127-30, 134, 135, 142, 159.

is "a creature of the understanding rather than a work of nature"; it is "barely in the mind," a "notion," and not "in the things themselves." This is the ultimate reason why ethics can be raised to the rank of a demonstrative science.⁹⁵

One cannot clarify the status of the law of nature without considering the status of the state of nature. Locke is more definite than Hobbes in asserting that men actually lived in the state of nature or that the state of nature is not merely a hypothetical assumption.⁹⁶ By this he means, in the first place, that men actually lived, and may live, without being subject to a common superior on earth. He means, furthermore, that men living in that condition, who are studiers of the law of nature, would know how to set about remedying the inconveniences of their condition and to lay the foundations for public happiness. But only such men could know the law of nature while living in a state of nature who have already lived in civil society, or rather in a civil society in which reason has been properly cultivated. An example of men who are in the state of nature under the law of nature would therefore be an elite among the English colonists in America rather than the wild Indians. A better example would be that of any highly civilized men after the breakdown of their society. It is only one step from this to the view that the most obvious example

95. *Ibid.*, secs. 1, 12, 176-77, 202; *Essay*, III, 5, sec. 12, and IV, 12, secs. 7-9 (cf. Spinoza, *Ethics*, IV, praef. and 18 schol.). As for the element of legal fiction involved in "the law of nature and reason," cf. *Treatises*, II, sec. 98 beginning, with sec. 96. Cf. *Reasonableness*, p. 11: "the law of reason, or, as it is called, the law of nature." Cf. also Section A, n. 8 above, and nn. 113 and 119 below. Hobbes, *De cive*, Ep. ded., and *Leviathan*, chap. xv (96 and 104-5).

96. Cf. *Leviathan*, chap. xiii (83)—see also the Latin version—with *Treatises*, II, secs. 14, 100-103, 110. The reason for Locke's deviation from Hobbes is that, according to Hobbes, the state of nature is worse than any kind of government, whereas, according to Locke, the state of nature is preferable to arbitrary and lawless government. Hence Locke teaches that the state of nature is more viable from the point of view of sensible men than "absolute monarchy": the state of nature must be, or have been, actual.

of men in the state of nature under the law of nature is that of men living in civil society, in so far as they reflect on what they could justly demand from civil society or on the conditions under which civil obedience would be reasonable. Thus it becomes ultimately irrelevant whether the state of nature understood as a state in which men are subject only to the law of nature, and not to any common superior on earth, was ever actual or not.⁹⁷

It is on the basis of Hobbes's view of the law of nature that Locke opposes Hobbes's conclusions. He tries to show that Hobbes's principle—the right of self-preservation—far from favoring absolute government, requires limited government. Freedom, "freedom from arbitrary, absolute power," is "the fence" to self-preservation. Slavery is therefore against natural law except as a substitute for capital punishment. Nothing which is incompatible with the basic right of self-preservation, and hence nothing to which a rational creature cannot be supposed to have given free consent, can be just; hence civil society or government cannot be established lawfully by force or conquest: consent alone "did or could give beginning to any lawful government in the world." For the same reason Locke condemns absolute monarchy or, more precisely, "absolute arbitrary power . . . of any one or more" as well as "governing without settled standing laws."⁹⁸ In spite of the limitations which Locke demands, the commonwealth remains for him, as it was for Hobbes, "the mighty leviathan": in entering civil society, "men give up all their natural power to the society which they enter into." Just as Hobbes did, so Locke admits only one contract: the contract of union which every

97. Cf. *Treatises*, II, secs. 111, 121, 163; cf. Hobbes, *De cive*, praef.: "in jure civitatis, ciuiumque officiis investigandis opus est, non quidem ut dissolvatur civitas, sed tamen ut tamquam dissoluta consideretur."

98. *Treatises*, I, secs. 33 and 41; II, secs. 13, 17, 23, 24, 85, 90-95, 99, 131, 132, 137, 153, 175-76, 201-2; cf. Hobbes, *De cive*, V, 12, and VIII, 1-5.

individual makes with every other individual of the same multitude is identical with the contract of subjection. Just as Hobbes did, so Locke teaches that, by virtue of the fundamental contract, every man "puts himself under an obligation to everyone of that society to submit to the determination of the majority, and to be concluded by it"; that, therefore, the fundamental contract establishes immediately an unqualified democracy; that this primary democracy may by majority vote either continue itself or transform itself into another form of government; and that the social contract is therefore in fact identical with a contract of subjection to the "sovereign" (Hobbes) or to the "supreme power" (Locke) rather than to society.⁹⁹ Locke opposes Hobbes by teaching that wherever "the people" or "the community," i.e., the majority, have placed the supreme power, they still retain "a supreme power to remove or alter" the established government, i.e., they still retain a right of revolution.¹⁰⁰ But this power (which is normally dormant) does not qualify the subjection of the individual to the community or society. On the contrary, it is only fair to say that Hobbes stresses more strongly than does Locke the individual's right to resist society or the government whenever his self-preservation is endangered.¹⁰¹

99. *Treatises*, II, secs. 89, 95–99, 132, 134, 136; Hobbes, *De cive*, V, 7; VI, 2, 3, 17; VIII, 5, 8, 11; cf. also *Leviathan*, chaps. xviii (115) and xix (126).

100. *Treatises*, II, secs. 149, 168, 205, 208, 209, 230. Locke teaches, on the one hand, that society can exist without government (*ibid.*, secs. 121 end and 211) and, on the other hand, that society cannot exist without government (*ibid.*, secs. 205 and 219). The contradiction disappears if one considers the fact that society exists, and acts, without government only in the moment of revolution. If society, or "the people," could not exist and hence not act while there is no government, i.e., no lawful government, there could be no action of "the people" against the *de facto* government. The revolutionary action thus understood is a kind of majority decision which establishes a new legislative or supreme power in the very moment in which it abolishes the old one.

101. In accordance with this, Locke asserts more emphatically than did Hobbes the individual's duty of military service (cf. *Treatises*, II, secs. 88, 130, 168, 205, and 208, with *Leviathan*, chaps. xxi [142–43], xiv [86–87], and xxviii [202]).

sages in which he seems to describe the majority as such a guarantor, he is speaking of cases in which the individuals' self-preservation is threatened by tyrannical monarchic or oligarchic rulers and wherein, therefore, the last and only hope for the suffering individual obviously rests on the dispositions of the majority. Locke regarded the power of the majority as a check on bad government and a last resort against tyrannical government; he did not regard it as a substitute for government or as identical with government. Equality, he thought, is incompatible with civil society. The equality of all men in regard to the right of self-preservation does not obliterate completely the special right of the more reasonable men. On the contrary, the exercise of that special right is conducive to the self-preservation and happiness of all. Above all, since self-preservation and happiness require property, so much so that the end of civil society can be said to be the preservation of property, the protection of the propertied members of society against the demands of the indigent—or the protection of the industrious and rational against the lazy and quarrelsome—is essential to public happiness or the common good.¹⁰⁵

*and most
peace, as
in Hobbes!*

Locke's doctrine of property, which is almost literally the central part of his political teaching, is certainly its most characteristic part.¹⁰⁶ It distinguishes his political teaching most clearly not only from that of Hobbes but from the traditional teachings as well. Being a part of his natural law teaching, it partakes of all the complexities of the latter. Its peculiar difficulty can be provisionally stated as follows: Property is an institution of natural law; natural law defines the manner and

105. *Ibid.*, secs. 34, 54, 82, 94, 102, 131, 157-58.

106. After I had finished this chapter, my attention was drawn to C. B. Macpherson's article, "Locke on Capitalist Appropriation," *Western Political Quarterly*, 1951, pp. 550-66. There is considerable agreement between Mr. Macpherson's interpretation of the chapter on property and the interpretation set forth in the text. Cf. *American Political Science Review*, 1950, pp. 767-70.

the limitations of just appropriation. Men own property prior to civil society; they enter civil society in order to preserve or protect the property which they acquired in the state of nature. But, once civil society is formed, if not before, the natural law regarding property ceases to be valid; what we may call "conventional" or "civil" property—the property which is owned within civil society—is based on positive law alone. Yet, while civil society is the creator of civil property, it is not its master: civil society must respect civil property; civil society has, as it were, no other function but to serve its own creation. Locke claims for civil property a much greater sanctity than for natural property, i.e., the property which is acquired and owned exclusively on the basis of natural law, of "the highest law." Why, then, is he so anxious to prove that property antedates civil society?¹⁰⁷

The natural right to property is a corollary of the fundamental right of self-preservation; it is not derivative from compact, from any action of society. If everyone has the natural right to preserve himself, he necessarily has the right to everything that is necessary for his self-preservation. What is necessary for self-preservation is not so much, as Hobbes may seem to have believed, knives and guns as victuals. Food is conducive to self-preservation only if it is eaten, i.e., appropriated in such a manner that it becomes the exclusive property of the individual; there is then a natural right to some "private dominion exclusive of the rest of mankind." What is true of food applies *mutatis mutandis* to all other things required for

107. "There seems some inconsistency between this acceptance of 'consent' as the basis of actual property rights and the theory that government exists for the purpose of defending the natural right of property. Locke would doubtless have solved the contradiction by passing, as he constantly does, from the phraseology of the 'law of nature' to utilitarian considerations" (R. H. I. Palgrave, *Dictionary of Political Economy*, s.v. "Locke"). Locke does not have to "pass" from the law of nature to utilitarian considerations because the law of nature, as he understands it, namely, as the formulation of the conditions of peace and public happiness, is in itself "utilitarian."

self-preservation and even for comfortable self-preservation, for man has a natural right not only to self-preservation but to the pursuit of happiness as well.

The natural right of everyone to appropriate everything that is useful to him must be limited if it is not to be incompatible with the peace and preservation of mankind. That natural right must exclude any right to appropriate things which have already been appropriated by others; taking things which others have appropriated, i.e., harming others, is against the natural law. Nor does natural law encourage begging; need as such is not a title to property. Persuasion gives as little a title to property as does force. The only honest way of appropriating things is by taking them, not from other men, but directly from nature, "the common mother of all"; by making one's own what previously belonged to no one and therefore might be taken by anyone; the only honest way of appropriating things is by one's own labor. Everyone is by nature the exclusive owner of his body and hence of the work of his body, i.e., of his labor. Therefore, if a man mixes his labor—be it only the labor involved in picking berries—with things of which no one is the owner, those things become an indissoluble mixture of his exclusive property with no one's property, and therefore they become his exclusive property. Labor is the only title to property which is in accordance with natural right. "Man, by being master of himself and proprietor of his own person and the actions or labour of it, [has] in himself the great foundation of property."¹⁰⁸ Not society, but the individual—the individual prompted by his self-interest alone—is the originator of property.

Nature has set "a measure of property": there are natural law limitations to what a man may appropriate. Everyone may appropriate by his labor as much as is necessary and useful for his self-preservation. He may therefore appropriate in par-

108. *Treatises*, II, secs. 26-30, 34, 44.

ticular as much land as he can use for tilling or grazing. If he has more than he can use of one kind of things (*a*) and less than he can use of another kind (*b*), he could make *a* useful to himself by bartering it away from *b*. Hence every man may appropriate by his labor not only what is in itself useful to him but also what could become useful to him if bartered away for other useful things. Man may appropriate by his labor all those things, but only those things, which are, or may become, useful to him; he may not appropriate things which through his appropriating them would cease to be useful; he may appropriate as much as he "can make use of to any advantage of life before it spoils." He may therefore accumulate many more nuts which "last good for his eating a whole year" than plums which would "rot in a week." As for things which never spoil and, in addition, are of no "real use," such as gold, silver, and diamonds, he may "heap" as much of them as he pleases. For it is not "the largeness" of what a man appropriates by his labor (or by bartering the products of his labor) but "the perishing anything uselessly in [his] possession" which makes him guilty of a crime against the natural law. He may therefore accumulate very little of perishable and useful things. He may accumulate very much of durable and useful things. He may accumulate infinitely much of gold and silver.¹⁰⁹ The terrors of the natural law no longer strike the covetous, but the waster. The natural law regarding property is concerned with the prevention of waste; in appropriating things by his labor, man must think exclusively of the prevention of waste; he does not have to think of other human beings.¹¹⁰ *Chacun pour soi; Dieu pour nous tous.*

The law of nature regarding property, as hitherto summa-

109. *Ibid.*, secs. 31, 37, 38, 46.

110. Cf. *Ibid.*, secs. 40-44, with Cicero *Offices* ii. 12-14: the same type of example which Cicero uses for proving the virtue of man's helping man is used by Locke for proving the virtue of labor.

tions are required because there is enough and as good left for others which has not yet been appropriated by anyone. According to the original law of nature, man may appropriate by his labor as much gold and silver as he pleases because these things are of no value in themselves.¹¹⁴ In civil society almost everything has been appropriated; land in particular has become scarce. Gold and silver are not only scarce but, through the invention of money, they have become "so valuable to be hoarded up."¹¹⁵ One should therefore expect that the original law of nature has been replaced by rules imposing much severer restrictions on appropriation than those which existed in the state of nature.¹¹⁶ Since there is no longer enough and as good left in common for everyone, equity would seem to demand that man's natural right to appropriate as much as he can use should be restricted to the right to appropriate as much as he needs, lest the poor be "straitened." And, since gold and silver are now immensely valuable, equity would seem to demand that man should lose the natural right to accumulate as much money as he pleases. Yet Locke teaches exactly the opposite: the right to appropriate is much more restricted in the state of nature than in civil society. One privilege enjoyed by man in the state of nature is indeed denied to man living in civil society: labor no longer creates a sufficient title to property.¹¹⁷ But this loss is only a part of the enormous gain which the right of appropriation makes after "the first ages" have come to their end. In civil society the right of appropriation is completely freed from the shackles by which it

114. *Ibid.*, secs. 33, 34, 37, 46.

115. *Ibid.*, secs. 45 and 48.

116. "The obligations of the law of nature cease not in society but only *in many cases* are drawn closer" (*ibid.*, sec. 135) (the italics are not in the original). The case of property does not belong to the "many cases" of which Locke speaks.

117. "Labour, *in the beginning*, gave a right to property" (*ibid.*, sec. 45); "labour could *at first begin* a title of property" (sec. 51); cf. also secs. 30 and 35 (the italics are not in the original).

was still fettered under Locke's original law of nature: the introduction of money has introduced "larger possessions and a right to them"; man may now "rightfully and without injury, possess more than he himself can make use of."¹¹⁸ Although Locke stresses the fact that the invention of money has revolutionized property, he does not say a word to the effect that the natural right to heap as much gold and silver as one pleases has been affected by that revolution. According to the natural law—and this means according to the moral law—man in civil society may acquire as much property of every kind, and in particular as much money, as he pleases; and he may acquire it in every manner permitted by the positive law, which keeps the peace among the competitors and in the interest of the competitors. Even the natural law prohibition against waste is no longer valid in civil society.¹¹⁹

118. *Ibid.*, secs. 36, 48, 50.

119. Luigi Cossa, *An Introduction to the Study of Political Economy* (London, 1893), p. 242: Locke "escapes, by roundly asserting the productive power of labour, the old error of Hobbes, who counted the soil and thrift as components of production." According to Locke, the original law of nature regarding property remains valid in relations between civil societies, for "all commonwealths are in the state of nature one with another" (*Treatises*, II, secs. 183 and 184; cf. Hobbes, *De cive*, XIII, 11, and XIV, 4, as well as *Leviathan*, chaps. xiii [83] and xxx [226]). Hence the original law of nature determines the rights over the vanquished which the conqueror in a just war acquires; e.g., the conqueror in a just war does not acquire title to the landed property of the conquered, but he may take away their money as reparation for damages received, for "such riches and treasure . . . have but a fantastical imaginary value; nature has put no such upon them" (*Treatises*, II, secs. 180-84). In making this statement, Locke is not oblivious of the fact that money is immensely valuable in civil societies and that conquest presupposes the existence of civil societies. The difficulty is resolved by the following consideration: The primary function of Locke's disquisition on conquest is to show that conquest cannot give title to lawful government. He had, therefore, to show in particular that the conqueror does not become the lawful governor of the conquered by becoming the proprietor of their land; hence he had to stress the essential difference between land and money and the greater value for self-preservation of the former. Furthermore, he speaks in this context of a situation where trade and industry have come to a standstill, and not comfortable self-preservation but bare self-preservation (of the innocent part of the conquered people) is at stake. This situation is radically different from the situation which exists in the state of nature proper: in the former situa-

plenty but is the cause of it. Unlimited appropriation without concern for the need of others is true charity.

Labor no doubt supplies the original title to property. But labor is also the origin of almost all value: "labour makes the far greatest part of the value of things we enjoy in this world." Labor ceases to supply a title to property in civil society; but it remains, what it always has been, the origin of value or of wealth. Labor is eventually important, not as creating a title to property, but as the origin of wealth. What, then, is the cause of labor? What is it that induces men to work? Man is induced to work by his wants, his selfish wants. Yet what he needs for his bare self-preservation is very little and therefore does not require much work; the picking-up of acorns and the gathering of apples from trees suffice. Real work—the improvement of the spontaneous gifts of nature—presupposes that man is not satisfied with what he needs. His appetites will not be enlarged if his views are not enlarged first. The men of larger views are "the rational," who are a minority. Real work presupposes, furthermore, that man is willing and able to undergo the present hardship of work for the sake of future convenience; and "the industrious" are a minority. "The lazy and inconsiderate part of men" makes "the far greater number." The production of wealth requires, therefore, that the industrious and rational, who work hard spontaneously, take the lead and force the lazy and inconsiderate to work against their will, if for their own good. The man who works hard at improving the gifts of nature in order to have not merely what he needs but what he can use, and for no other reason, "does not lessen but increase the common stock of mankind." He is a greater benefactor of mankind than those who give alms to the poor; the latter lessen rather than increase the common stock of mankind. More than that. By appropriating as much as they can use, the industrious and rational reduce the extent of "the great commons of the world"

which lies waste; through "such enclosure," they create a kind of scarcity which forces the lazy and inconsiderate to work much harder than they otherwise would and thus to improve their own condition by improving the condition of all. But real plenty will not be produced if the individual does not have an incentive to appropriate more than he can use. Even the industrious and rational will relapse into the drowsy laziness so characteristic of early man, as long as their *amor habendi* can have no other objects than things which are useful in themselves, like fertile land, useful animals, and commodious houses. The labor required for creating plenty will not be forthcoming if there exists no money: "Find out something that hath the use and value of money among his neighbours, you shall see the same man will begin presently to enlarge his possessions" "beyond the use of his family and a plentiful supply to its consumption." While labor is then the necessary cause of plenty, it is not its sufficient cause; the incentive to that labor which is productive of real plenty is the acquisitiveness—the desire for having more than man can use—which comes into being through the invention of money. We must add the remark that that which money began comes to its fruition only through the discoveries and inventions fostered by natural science: "the study of nature . . . may be of greater benefit to mankind than the monuments of exemplary charity that have, at so great charge, been raised by the founders of hospitals and alms-houses. He that first . . . made public the virtue and right use of *kin-kina* . . . saved more from the grave, than those who built . . . hospitals."¹²¹

If the end of government is nothing but "the peace, the safety, and public good of the people"; if peace and safety are the indispensable conditions of plenty, and the public good of

121. *Treatises*, II, secs. 34, 37, 38, 40–44, 48–49; *Essay*, I, 4, sec. 15, and IV, 12, sec. 12; cf. Hobbes, *Leviathan*, chap. xxiv: "Money the blood of a commonwealth."

the people is identical with plenty; if the end of government is therefore plenty; if plenty requires the emancipation of acquisitiveness; and if acquisitiveness necessarily withers away whenever its rewards do not securely belong to those who deserve them—if all this is true, it follows that the end of civil society is “the preservation of property.” “The great and chief end . . . of men’s uniting into commonwealths and putting themselves under government is the preservation of their property.” By this central statement Locke does not mean that men enter civil society in order to preserve those “narrow bounds of each man’s small property” within which their desires were confined by “the simple, poor way of living” “in the beginning of things” or in the state of nature. Men enter society in order not so much to preserve as to enlarge their possessions. The property which is to be “preserved” by civil society is not “static” property—the small farm which one has inherited from one’s fathers and which one will hand down to one’s children—but “dynamic” property. Locke’s thought is perfectly expressed by Madison’s statement: “The protection of [different and unequal faculties of *acquiring* property] is the first object of government.”¹²²

It is one thing to say that the end of government or of society is the preservation of property or the protection of the unequal acquisitive faculties; it is an entirely different thing and, as it would seem, an entirely superfluous thing to say, as Locke does, that property antedates society. Yet, by saying that property antedates civil society, Locke says that even civil property—the property owned on the basis of positive law—is in the decisive respect independent of society: it is not the creation of society. “Man,” i.e., the individual, has “still in himself the great foundation of property.” Property is cre-

122. *Treatises*, II, secs. 42, 107, 124, 131; *The Federalist*, No. 10 (the italics are not in the original). Cf. n. 104 above.

ated by the individual and in different degrees by different individuals. Civil society merely creates the conditions under which the individuals can pursue their productive-acquisitive activity without obstruction.

Locke's doctrine of property is directly intelligible today if it is taken as the classic doctrine of "the spirit of capitalism" or as a doctrine regarding the chief objective of public policy. Since the nineteenth century, readers of Locke have found it hard to understand why he used "the phraseology of the law of nature" or why he stated his doctrine in terms of natural law. But to say that public happiness requires the emancipation and the protection of the acquisitive faculties amounts to saying that to accumulate as much money and other wealth as one pleases is right or just, i.e., intrinsically just or by nature just. And the rules which enable us to distinguish between what is by nature just and by nature unjust, either absolutely or under specific conditions, were called the "propositions of the law of nature." Locke's followers in later generations no longer believed that they needed "the phraseology of the law of nature" because they took for granted what Locke did not take for granted: Locke still thought that he had to prove that the unlimited acquisition of wealth is not unjust or morally wrong.

It was indeed easy for Locke to see a problem where later men saw only an occasion for applauding progress or themselves, since in his age most people still adhered to the older view according to which the unlimited acquisition of wealth is unjust or morally wrong. This also explains why, in stating his doctrine of property, Locke "so involved his sense, that it is not easy to understand him" or went as much as possible "with the herd." While therefore concealing the revolutionary character of his doctrine of property from the mass of his readers, he yet indicated it clearly enough. He did this by occasionally mentioning and apparently approving the older view. He traced the introduction of "larger possessions and a

right to them" to "the desire of having more than man" needs, or to an increase in "covetousness," or to "*amor sceleratus habendi*, evil concupiscence." In the same vein he speaks disparagingly of "little pieces of yellow metal" and of "sparkling pebbles."¹²³ But he soon drops these *naiseries*: the burden of his chapter on property is that covetousness and concupiscence, far from being essentially evil or foolish, are, if properly channeled, eminently beneficial and reasonable, much more so than "exemplary charity." By building civil society on "the low but solid ground" of selfishness or of certain "private vices," one will achieve much greater "public benefits" than by futilely appealing to virtue, which is by nature "unendowed." One must take one's bearings not by how men should live but by how they do live. Locke almost quotes the words of the apostle, "God who giveth us richly all things to enjoy," and he speaks of "God's blessings poured on [man] with a liberal hand," and yet "nature and the earth furnish only the almost worthless materials as in themselves."¹²⁴ He says that God is "sole lord and proprietor of the whole world," that men are God's property, and that "man's propriety in the creatures is nothing but that liberty to use them which God has permitted"; but he also says that "man in the state of nature [is] absolute lord of his own person and possessions."¹²⁵ He

123. *Treatises*, II, secs. 37, 46, 51 end, 75, 111.

124. *Ibid.*, I, secs. 40, 43; II, secs. 31, 43. Cf. Locke's statements about the relative importance of the gifts of nature and human labor with a statement from Ambrose's *Hexaemeron*, translated by George Boas, in *Essays on Primitivism and Related Ideas in the Middle Ages* (Baltimore: Johns Hopkins Press, 1948), p. 42.

125. *Treatises*, I, sec. 39; II, secs. 6, 27, 123. Incidentally, it may be remarked that if "man in the state of nature [is] absolute lord of his own . . . possessions" or if property is "for the benefit and sole advantage of the proprietor," the natural right of children "to inherit the goods of their parents" (*ibid.*, I, secs. 88, 93, 97; II, sec. 190) is subject to the crucial qualification that the children have this right if the parents do not dispose of their property otherwise, as they may, according to Locke (I, sec. 87; II, secs. 57, 65, 72, 116 end). The natural right of the children to inherit their parents' property amounts, then, merely to this, that if the parents die intestate, it is assumed that they would have preferred their children to strangers as heirs of their estate. Cf. I, sec. 89, with Hobbes, *De cive*, IX, 15.

says that "it will always be a sin in any man of estate to let his brother perish for want of affording him relief out of his plenty." But in his thematic discussion of property, he is silent about any duties of charity.¹²⁶

Locke's teaching on property, and therewith his whole political philosophy, are revolutionary not only with regard to the biblical tradition but with regard to the philosophic tradition as well. Through the shift of emphasis from natural duties or obligations to natural rights, the individual, the ego, had become the center and origin of the moral world, since man—as distinguished from man's end—had become that center or origin. Locke's doctrine of property is a still more "advanced" expression of this radical change than was the political philosophy of Hobbes. According to Locke, man and not nature, the work of man and not the gift of nature, is the origin of almost everything valuable: man owes almost everything valuable to his own efforts. Not resigned gratitude and consciously obeying or imitating nature but hopeful self-reliance and creativity become henceforth the marks of human nobility. Man is effectively emancipated from the bonds of nature, and therewith the individual is emancipated from those social bonds which antedate all consent or compact, by the emancipation of his productive acquisitiveness, which is necessarily, if accidentally, beneficent and hence susceptible of becoming the strongest social bond: restraint of the appetites is replaced by a mechanism whose effect is humane. And that emancipation is achieved through the intercession of the prototype of conventional things, i.e., money. The world in which human creativity seems to reign supreme is, in fact, the world which has replaced the rule of nature by the rule of con-

126. *Treatises*, I, sec. 42 (as for the use of the term "sin," cf. n. 90 above). Cf. *ibid.*, sec. 92: "Property . . . is for the benefit and *sole* advantage of the proprietor" (the italics are not in the original). As regards the mention of the duty of charity in the chapter on conquest (ii, sec. 183), see n. 119 above. Cf. n. 73 above.

vention. From now on, nature furnishes only the worthless materials as in themselves; the forms are supplied by man, by man's free creation. For there are no natural forms, no intelligible "essences": "the abstract ideas" are "the inventions and creatures of the understanding, made by it for its own use." Understanding and science stand in the same relation to "the given" in which human labor, called forth to its supreme effort by money, stands to the raw materials. There are, therefore, no natural principles of understanding: all knowledge is acquired; all knowledge depends on labor and is labor.¹²⁷

Locke is a hedonist: "That which is properly good or bad, is nothing but barely pleasure or pain." But his is a peculiar hedonism: "The greatest happiness consists" not in enjoying the greatest pleasures but "in the having those things which produce the greatest pleasures." It is not altogether an accident that the chapter in which these statements occur, and which happens to be the most extensive chapter of the whole *Essay*, is entitled "Power." For if, as Hobbes says, "the power of a man . . . is his present means, to obtain some future apparent good," Locke says in effect that the greatest happiness consists in the greatest power. Since there are no knowable natures, there is no nature of man with reference to which we could distinguish between pleasures which are according to nature and pleasures which are against nature, or between pleasures which are by nature higher and pleasures which are by nature lower: pleasure and pain are "for different men . . . very different things." Therefore, "the philosophers of old did in vain inquire, whether *summum bonum* consisted in riches, or bodily delights, or virtue, or contemplation?" In the absence of a *summum bonum*, man would lack completely a star and

127. Speaking of a concession which his opponents ought not to make, Locke says: "For this would be to destroy that *bounty of nature they seem so fond of*, whilst they make the knowledge of those principles to depend on the *labour of our thoughts*" (*Essay*, I, 2, sec. 10) (the italics are not in the original).

compass for his life if there were no *summum malum*. "Desire is always moved by evil, to fly it."¹²⁸ The strongest desire is the desire for self-preservation. The evil from which the strongest desire recoils is death. Death must then be the greatest evil: Not the natural sweetness of living but the terrors of death make us cling to life. What nature firmly establishes is that from which desire moves away, the point of departure of desire; the goal toward which desire moves is secondary. The primary fact is want. But this want, this lack, is no longer understood as pointing to something complete, perfect, whole. The necessities of life are no longer understood as necessary for the complete life or the good life, but as mere inescapabilities. The satisfaction of wants is therefore no longer limited by the demands of the good life but becomes aimless. The goal of desire is defined by nature only negatively—the denial of pain. It is not pleasure more or less dimly anticipated which elicits human efforts: "the chief, if not only, spur to human industry and action is uneasiness." So powerful is the natural primacy of pain that the active denial of pain is itself painful. The pain which removes pain is labor.¹²⁹ It is this pain, and hence a defect, which gives man originally the most important of all rights: sufferings and defects, rather than merits or virtues, originate rights. Hobbes identified the rational life with the life dominated by the fear of fear, by the fear which relieves us from fear. Moved by the same spirit, Locke identifies the rational life with the life dominated by the pain which relieves pain. Labor takes the place of the art which imitates nature; for labor is, in the words of Hegel, a negative attitude toward nature. The starting point of human efforts is misery: the state of nature is a state of wretchedness. The way toward happiness is a movement away from the state of nature, a movement away from nature: the negation of nature is the way

128. *Essay*, II, 21, secs. 55, 61, 71; chap. 20, sec. 6.

129. *Treatises*, II, secs. 30, 34, 37, 42.

individual and those of society, the solution consisting in a certain type of society.⁴ This interpretation is exposed to a decisive objection. Rousseau believed to the end that even the right kind of society is a form of bondage. Hence he cannot have regarded his solution to the problem of the conflict between the individual and society as more than a tolerable approximation to a solution—an approximation which remains open to legitimate doubts. The farewell to society, authority, restraint, and responsibility or the return to the state of nature remains therefore for him a legitimate possibility.⁵ The question is, then, not how he solved the conflict between the individual and society but rather how he conceived of that insoluble conflict.

Rousseau's *First Discourse* provides a key to a more precise formulation of this question. In that earliest of his important writings he attacked the sciences and the arts in the name of virtue: the sciences and the arts are incompatible with virtue, and virtue is the only thing which matters.⁶ Virtue apparently requires support by faith or theism, although not necessarily by monotheism.⁷ Yet the emphasis rests on virtue itself. Rousseau indicates the meaning of virtue clearly enough for his purpose by referring to the examples of the citizen-philosopher Socrates, of Fabricius, and, above all, of Cato: Cato was "the greatest of men."⁸ Virtue is primarily political virtue, the

4. The classic formulation of this interpretation of Rousseau is to be found in Kant's "Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht," Siebenter Satz (*The Philosophy of Kant*, ed. Carl J. Friedrich ["Modern Library" ed.], pp. 123-27).

5. *C.S.*, I, 1; II, 7, 11; III, 15; *Émile*, I, 13-16, 79-80, 85; *Second Discourse*, pp. 65, 147, 150, 165.

6. *First Discourse*, pp. 97-98, 109-10, 116. Hachette, I, 55: Morality is infinitely more sublime than the marvels of the understanding.

7. *First Discourse*, pp. 122, 140-41; *Émile*, II, 51; *Julie*, pp. 502 ff., 603; *Montagne*, p. 180.

8. *First Discourse*, pp. 120-22; *Second Discourse*, p. 150; *Julie*, p. 325. Hachette, I, 45-46: Original equality is "the source of all virtue." *Ibid.*, p. 59: Cato has given the human race the spectacle and the model of the purest virtue which has ever existed.

virtue of the patriot or the virtue of a whole people. Virtue presupposes free society, and free society presupposes virtue: virtue and free society belong together.⁹ Rousseau deviates from his classical models at two points. Following Montesquieu, he regards virtue as the principle of democracy: virtue is inseparable from equality or from the recognition of equality.¹⁰ Secondly, he believes that the knowledge which is required for virtue is supplied, not by reason, but by what he calls the "conscience" (or "the sublime science of the simple souls") or by sentiment or by instinct. The sentiment which he has in mind will prove to be originally the sentiment of compassion, the natural root of all genuine beneficence. Rousseau saw a connection between his inclination toward democracy and his preference for sentiment above reason.¹¹

Since Rousseau assumed that virtue and free society belong together, he could prove that science and virtue are incompatible by proving that science and free society are incompatible. The reasoning underlying the *First Discourse* can be reduced to five chief considerations, which are indeed only insufficiently developed in that work but which become sufficiently clear if, in reading the *First Discourse*, one takes into account Rousseau's later writings.¹²

9. *Narcisse*, pp. 54, 56, 57 n.; *Émile*, I, 308; *C.S.*, I, 8; *Confessions*, I, 244.

10. Hachette, I, 41, 45–46; *Second Discourse*, pp. 66, 143–44; *Montagne*, p. 252. Compare the quotation from Plato's *Apology of Socrates* (21^b ff.) in the *First Discourse* (pp. 118–20) with the Platonic original: Rousseau fails to quote Socrates' censure of the (democratic or republican) statesmen; and he substitutes for Socrates' censure of the artisans a censure of the artists.

11. *First Discourse*, p. 162; *Second Discourse*, pp. 107–10; *Émile*, I, 286–87, 307; *Confessions*, I, 199; Hachette, I, 31, 35, 62–63.

12. This procedure is unobjectionable, since Rousseau himself said that he did not yet reveal his principles fully in the *First Discourse* and that that work is inadequate also for other reasons (*First Discourse*, pp. 51, 56, 92, 169–70); and, on the other hand, the *First Discourse* reveals more clearly than do the later writings the unity of Rousseau's fundamental conception.

According to Rousseau, civil society is essentially a particular or, more precisely, a closed society. Civil society, he holds, can be healthy only if it has a character of its own, and this requires that its individuality be produced or fostered by national and exclusive institutions. These institutions must be animated by a national "philosophy," by a way of thinking that is not transferable to other societies: "the philosophy of each people is little apt for another people." On the other hand, science or philosophy is essentially universal. Science or philosophy necessarily weakens the power of the national "philosophies" and therewith the attachment of the citizens to the particular way of life, or the manners, of their community. In other words, whereas science is essentially cosmopolitan, society must be animated by a spirit of patriotism, by a spirit which is by no means irreconcilable with national hatreds. Political society being a society that has to defend itself against other states, it must foster the military virtues, and it normally develops a warlike spirit. Philosophy or science, on the contrary, is destructive of the warlike spirit.¹³ Furthermore, society requires that its members be fully devoted to the common good or that they be busy or active on behalf of their fellows: "Every idle citizen is a scoundrel." On the other hand, the element of science is admittedly leisure, which is falsely distinguished from idleness. In other words, the true citizen is devoted to duty, whereas the philosopher or scientist selfishly pursues his pleasure.¹⁴ In addition, society requires that its members adhere without question to certain religious beliefs. These salutary certainties, "our dogmas" or "the sacred dogmas authorized by the laws," are endangered by

13. *First Discourse*, pp. 107, 121-23, 141-46; *Narcisse*, pp. 49 n., 51-52, 57 n.; *Second Discourse*, pp. 65-66, 134-35, 169-70; *C.S.*, II, 8 (toward the end); *Emile*, I, 13; *Gouvernement de Pologne*, chaps. ii and iii; *Montagne*, pp. 130-33.

14. *First Discourse*, pp. 101, 115, 129-32, 150; *Hachette*, I, 62; *Narcisse*, pp. 50-53; *Second Discourse*, p. 150; *D'Alembert*, pp. 120, 123, 137; *Julie*, p. 517; *Emile*, I, 248.

science. Science is concerned with truth as such, regardless of its utility, and thus by reason of its intention is exposed to the danger of leading to useless or even harmful truths. In fact, however, the truth is inaccessible, and therefore the quest for truth leads to dangerous error or to dangerous skepticism. The element of society is faith or opinion. Therefore, science, or the attempt to replace opinion by knowledge, necessarily endangers society.¹⁵ Moreover, free society presupposes that its members have abandoned their original or natural freedom in favor of conventional freedom, that is, in favor of obedience to the laws of the community or to uniform rules of conduct, to the making of which everyone can have contributed. Civil society requires conformity or the transformation of man as natural being into the citizen. But the philosopher or scientist must follow his "own genius" with absolute sincerity or without any regard to the general will or the communal way of thinking.¹⁶ Finally, free society comes into being through

15. *First Discourse*, pp. 107, 125-26, 129-33, 151, 155-57; *Narcisse*, pp. 56, 57 n.; *Second Discourse*, pp. 71, 152; *C.S.*, II, 7; *Confessions*, II, 226. Hachette, I, 38 n.: "Ce serait en effet un détail bien flétrissant pour la philosophie, que l'exposition des maximes pernicieuses et des dogmes impies de ses diverses sectes ... y-a-t-il une seule de toutes ces sectes qui ne soit tombée dans quelque erreur dangereuse? Et que devons-nous dire de la distinction des deux doctrines, si avidement reçue de *tous* les philosophes, et par laquelle ils professraient en secret des sentiments contraires à ceux qu'ils enseignaient publiquement? Pythagore fut le premier qui fut usage de la doctrine intérieure; il ne la découvrait à ses disciples qu'après de longues épreuves et avec le plus grand mystère. Il leur donnait en secret des leçons d'athéisme, et offrit solennellement des hécatombes à Jupiter. Les philosophes se trouvaient si bien de cette méthode, qu'elle se répandit rapidement dans la Grèce, et de là dans Rome, comme on le voit par les ouvrages de Cicéron, qui se moquait avec ses amis des dieux immortels, qu'il attestait avec tant d'emphase sur le tribunal aux harangues. La doctrine intérieure n'a point été portée d'Europe à la Chine; mais elle y est née aussi avec la philosophie; et c'est à elle que les Chinois sont redévalues de cette foule d'athées ou de philosophes qu'ils ont parmi eux. L'histoire de cette fatale doctrine, faite par un homme instruit et sincère, serait un terrible coup porté à *la philosophie ancienne et moderne*." (The italics are not in the original.) Cf. *Confessions*, II, 329.

16. *First Discourse*, pp. 101-2, 105-6, 158-59; *Second Discourse*, p. 116; *C.S.*, I, 6, 8; II, 7; *Émile*, I, 13-15.

the substitution of conventional equality for natural inequality. The pursuit of science, however, requires the cultivation of talents, that is, of natural inequality; its fostering of inequality is so characteristic of it that one is justified in saying that concern with superiority, or pride, is the root of science or philosophy.¹⁷

It was by means of science or philosophy that Rousseau established the thesis that science or philosophy is incompatible with free society and hence with virtue. In so doing, he tacitly admitted that science or philosophy can be salutary, i.e., compatible with virtue. He did not leave it at this tacit admission. In the very *First Discourse*, he bestowed high praise upon the learned societies whose members must combine learning and morality; he called Bacon, Descartes, and Newton the teachers of the human race; he demanded that scholars of the first rank should find honorable asylum at the courts of princes, in order from there to enlighten the peoples concerning their duties and thus contribute to the peoples' happiness.¹⁸

Rousseau has suggested three different solutions to this contradiction. According to the first suggestion, science is bad for a good society and good for a bad society. In a corrupt society, in a society ruled despotically, the attack on all sacred opinions or prejudices is legitimate because social morality cannot become worse than it already is. In such a society, only science can provide man with a measure of relief: the discussion of the foundations of society may lead to the discovery of palliatives for the prevailing abuses. This solution would suffice if Rousseau had addressed his works only to his contemporaries, i.e., to members of a corrupt society. But he wished to live as a writer beyond his time, and he foresaw a revolution. He wrote, therefore, also with a view to the requirements of a

17. *First Discourse*, pp. 115, 125-26, 128, 137, 161-62; *Narcisse*, p. 50; *Second Discourse*, p. 147; C.S., I, 9 (end); Hachette, I, 38 n.

18. *First Discourse*, pp. 98-100, 127-28, 138-39, 151-52, 158-61; *Narcisse*, pp. 45, 54.

good society and, in fact, of a more perfect society than had ever existed before, which might be established after the revolution. This best solution to the political problem is discovered by philosophy and only by philosophy. Hence philosophy cannot merely be good for a bad society; it is indispensable for the emergence of the best society.¹⁹

According to Rousseau's second suggestion, science is good for "the individuals," i.e., for "some great geniuses" or "some privileged souls" or "the small number of true philosophers," among whom he counts himself, but bad for "the peoples" or "the public" or "the common men" (*les hommes vulgaires*). Hence he attacked in the *First Discourse*, not science as such, but popularized science or the diffusion of scientific knowledge. The diffusion of scientific knowledge is disastrous not only for society but for science or philosophy itself; through popularization, science degenerates into opinion, or the fight against prejudice becomes itself a prejudice. Science must remain the preserve of a small minority; it must be kept secret from the common man. Since every book is accessible not only to the small minority but to all who can read, Rousseau was forced by his principle to present his philosophic or scientific teaching with a great deal of reserve. He believed, indeed, that in a corrupt society, like the one in which he lived, the diffusion of philosophic knowledge can no longer be harmful; but, as was said before, he wrote not merely for his contemporaries. The *First Discourse* must be understood in the light of these facts. The function of that work is to warn away from science, not all men, but only the common men. When Rousseau rejects science as simply bad, he speaks in the character of a common man addressing common men. But he intimates that, far from being a common man, he is a philosopher.

19. *First Discourse*, p. 94 (cf. 38, 46, 50); *Narcisse*, pp. 54, 57-58, 60 n.; *Second Discourse*, pp. 66, 68, 133, 136, 141, 142, 145, 149; *Julie*, Preface (beginning); *C.S.*, I, 1; *Beaumont*, pp. 471-72.

who merely appears in the guise of a common man and that, far from ultimately addressing "the people," he addresses only those who are not subjugated by the opinions of their century, of their country, or of their society.²⁰

It might then seem that it was Rousseau's belief in the fundamental disproportion between science and society (or "the people") which was the primary reason for his belief that the conflict between the individual and society is insoluble or for his making an ultimate reservation on behalf of "the individual," i.e., of the few "privileged souls" against the claims of even the best society. This impression is confirmed by the fact that Rousseau finds the foundations of society in the needs of the body and that he says of himself that nothing related to the interest of his body could ever truly occupy his soul; he himself finds in the joys and raptures of pure and disinterested contemplation—for example, the study of plants in the spirit of Theophrastus—perfect happiness and a godlike self-sufficiency.²¹ Thus the impression grows that Rousseau sought to restore the classical idea of philosophy as opposed to the En-

20. *First Discourse*, pp. 93–94, 108 n., 120, 125, 132–33, 152, 157–62, 227; Hachette, I, 23, 26, 31, 33, 35, 47 n. 1, 48, 52, 70; *Second Discourse*, pp. 83, 170, 175; D'Alembert, pp. 107–8; Beaumont, p. 471; Montagne, pp. 152–53, 202, 283. A critic of the *First Discourse* had said: "On ne saurait mettre dans un trop grand jour des vérités qui heurtent autant de front le goût général...." Rousseau replied to him as follows: "Je ne suis pas tout-à-fait de cet avis, et je crois qu'il faut laisser des osselets aux enfants" (Hachette, I, 21; cf. also *Confessions*, II, 247). Rousseau's principle was to say the truth "en toute chose utile" (Beaumont, pp. 472, 495; Réveries, IV); hence one may not only suppress or disguise truths devoid of all possible utility but may even be positively deceitful about them by asserting their contraries, without thus committing the sin of lying. The consequence regarding harmful or dangerous truths is obvious (cf. also *Second Discourse*, end of the First Part, and Beaumont, p. 461). Compare Dilthey, *Gesammelte Schriften*, XI, 92: "[Johannes von Mueller spricht] von der sonderbaren Aufgabe: 'sich so auszudrücken, dass die Obrigkeiten die Wahrheit lernen, ohne dass ihn die Untertanen verstünden, und die Untertanen so zu unterrichten, dass sie vom Glück ihres Zustandes recht überzeugt sein möchten.'"

21. *First Discourse*, p. 101; Montagne, p. 206; *Confessions*, III, 205, 220–21; Réveries, V–VII.

lightenment. It is certainly in opposition to the Enlightenment that he reasserts the crucial importance of the natural inequality of men in regard to intellectual gifts. But one must add at once that the instant Rousseau takes hold of the classical view he succumbs again to the powers from which he sought to liberate himself. The same reason which forces him to appeal from civil society to nature forces him to appeal from philosophy or science to nature.²²

The contradiction of the *First Discourse* regarding the value of science is solved as completely as Rousseau ever solved it by his third suggestion, of which the first and second suggestions are parts. The first and second suggestions solve the contradiction by distinguishing between two kinds of addressees of science. The third suggestion solves the contradiction by distinguishing between two kinds of science: a kind of science which is incompatible with virtue and which one may call "metaphysics" (or purely theoretical science) and a kind of science which is compatible with virtue and which one may call "Socratic wisdom." Socratic wisdom is self-knowledge; it is knowledge of one's ignorance. It is therefore a kind of skepticism, an "involuntary skepticism" but not a dangerous one. Socratic wisdom is not identical with virtue, for virtue is "the science of the simple souls," and Socrates was not a simple soul. Whereas all men can be virtuous, Socratic wisdom is the preserve of a small minority. Socratic wisdom is essentially ancillary; the humble and silent practice of virtue is the only thing that matters. Socratic wisdom has the function of defending "the science of the simple souls," or the conscience, against all kinds of sophistry. The need for such defense is not accidental and not limited to times of corruption. As one of Rousseau's greatest disciples put it, simplicity or innocence is a wonderful thing indeed, but it can easily be misled; "therefore

22. *First Discourse*, p. 115 n.; *Narcisse*, pp. 52-53; *Second Discourse*, pp. 89, 94, 109, 165; *Julie*, pp. 415-17; *Émile*, I, 35-36, 118, 293-94, 320-21. Hachette, I, 62-63: "osera-t-on prendre le parti de l'instinct contre la raison? C'est précisément ce que je demande."

wisdom which otherwise consists in doing or in forbearing to do rather than in knowing, is in need of science." Socratic wisdom is needed, not for the sake of Socrates, but for the sake of the simple souls or of the people. The true philosophers fulfil the absolutely necessary function of being the guardians of virtue or of free society. Being the teachers of the human race, they, and they alone, can enlighten the peoples as to their duties and as to the precise character of the good society. In order to fulfil this function, Socratic wisdom requires as its basis the whole of theoretical science; Socratic wisdom is the end and crown of theoretical science. Theoretical science, which is not intrinsically in the service of virtue and is therefore bad, must be put into the service of virtue in order to become good.²³ It can become good, however, only if its study remains the preserve of the few who are by nature destined to guide the peoples; only an esoteric theoretical science can become good. This is not to deny that, in times of corruption, the restriction on the popularization of science can and must be relaxed.

This solution might be regarded as final if the virtuous citizen and not "natural man" were Rousseau's ultimate standard. But according to him, the very philosopher comes closer to natural man in certain respects than does the virtuous citizen. It suffices here to refer to the "idleness" which the philosopher shares with natural man.²⁴ In the name of nature, Rousseau questioned not only philosophy but the city and virtue as well. He was forced to do so because his Socratic wisdom is ultimately based on theoretical science or, rather on a particular kind of theoretical science, namely, modern natural science.

23. *First Discourse*, pp. 93, 97, 99–100, 107, 118–22, 125, 128, 129, 130 n., 131–32, 152–54, 161–62; Hachette, I, 35; *Narcisse*, pp. 47, 50–51, 56; *Second Discourse*, pp. 74, 76; *Emile*, II, 13, 72, 73; *Beaumont*, p. 452. Cf. Kant, *Grundlegung zur Metaphysik der Sitten*, Erster Abschnitt (toward the end).

24. *First Discourse*, pp. 105–6; *Second Discourse*, pp. 91, 97, 122, 150–51, 168; *Confessions*, II, 73; III, 205, 207–9, 220–21; *Rêveries*, VI (end) and VII.

To understand Rousseau's theoretical principles, one must turn to his *Discourse on the Origin of Inequality*. Contrary to the inclinations of most present-day students, he always regarded this work (the *Second Discourse*) as "a work of the greatest importance." He claimed that in it he had developed his principles "completely," or that the *Second Discourse* is the writing in which he had revealed his principles "with the greatest boldness, not to say audacity."²⁵ The *Second Discourse* is indeed Rousseau's most philosophic work; it contains his fundamental reflections. In particular, the *Social Contract* rests on the foundations laid in the *Second Discourse*.²⁶ The *Second Discourse* is decidedly the work of a "philosopher." Morality is regarded there, not as an unquestioned or unquestionable presupposition, but as an object or as a problem.

The *Second Discourse* is meant to be a "history" of man. That history is modeled on the account of the fate of the human race which Lucretius gave in the fifth book of his poem.²⁷ But Rousseau takes that account out of its Epicurean context and puts it into a context supplied by modern natural and social science. Lucretius had described the fate of the human race in order to show that that fate can be perfectly understood without recourse to divine activity. The remedies for the ills which he was forced to mention, he sought in philosophic withdrawal from political life. Rousseau, on the other hand, tells the story of man in order to discover that political order which is in accordance with natural right. Furthermore, at least at the outset, he follows Descartes rather than Epicurus: he assumes that animals are machines and that man transcends

25. *Confessions*, II, 221, 246.

26. Cf. especially *C.S.*, I, 6 (beginning), which shows that the *raison d'être* of the social contract is set forth, not in the *C.S.*, but in the *Second Discourse*. Cf. also *C.S.*, I, 9.

27. *Second Discourse*, p. 84; cf. also *Confessions*, II, 244. See Jean Morel, "Recherches sur les sources du discours de l'inégalité," *Annales de la Société J.-J. Rousseau*, V (1909), 163-64.

the general mechanism, or the dimension of (mechanical) necessity, only by virtue of the spirituality of his soul. Descartes had integrated the "Epicurean" cosmology into a theistic framework: God having created matter and established the laws of its motions, the universe with the exception of man's rational soul has come into being through purely mechanical processes; the rational soul requires special creation because thinking cannot be understood as a modification of moved matter; rationality is the specific difference of man among the animals. Rousseau questions not only the creation of matter but likewise the traditional definition of man. Accepting the view that brutes are machines, he suggests that there is only a difference of degree between men and the brutes in regard to understanding or that the laws of mechanics explain the formation of ideas. It is man's power to choose and his consciousness of this freedom which cannot be explained physically and which proves the spirituality of his soul. "It is then not so much the understanding which constitutes the specific difference of man among the animals as his quality of a free agent." // xx Yet, whatever Rousseau might have believed concerning this subject, the argument of the *Second Discourse* is not based on the assumption that freedom of the will is of the essence of man, or, more generally expressed, the argument is not based on dualistic metaphysics. Rousseau goes on to say that the cited definition of man is subject to dispute, and he therefore replaces "freedom" by "perfectibility"; no one can deny the fact that man is distinguished from the brutes by perfectibility. Rousseau means to put his doctrine on the most solid ground; he does not want to make it dependent on dualistic metaphysics, which is exposed to "insoluble objections," to "powerful objections," or to "insurmountable difficulties."²⁸ The argument of the *Second Discourse* is meant to be acceptable

28. *Second Discourse*, pp. 92-95, 118, 140, 166; *Julie*, p. 589 n.; *Émile*, II, 24, 37; *Beaumont*, pp. 461-63; *Rêveries*, III. Cf. *First Discourse*, p. 178.

to materialists as well as to others. It is meant to be neutral with regard to the conflict between materialism and antimate-rialism, or to be "scientific" in the present-day sense of the term.²⁹

The "physical" investigation³⁰ of the *Second Discourse* is meant to be identical with a study of the basis of natural right and therewith of morality; the "physical" investigation is meant to disclose the precise character of the state of nature. Rousseau takes it for granted that, in order to establish natural right, one must return to the state of nature. He accepts Hobbes's premise. Dismissing the natural right teaching of the ancient philosophers, he says that "Hobbes has seen very well the defect of all modern definitions of natural right." "The moderns" or "our jurists" (as distinguished from "the Roman jurists," i.e., Ulpian) erroneously assumed that man is by nature capable of the full use of his reason, i.e., that man as man is subject to perfect duties of natural law. Rousseau obviously understands by "the modern definitions of natural right" the traditional definitions which still predominated in the academic teaching of his time. He agrees, then, with Hobbes's attack on the traditional natural law teaching: natural law must have its roots in principles which are anterior to reason, i.e., in passions which need not be specifically human. He further agrees with Hobbes in finding the principle of natural law in the right of self-preservation, which implies the right of each to be the sole judge of what are the proper means for his self-preservation. This view presupposes, according to both thinkers, that life in the state of nature is "solitary," i.e., that it is characterized by the absence not only of society but even of sociability.³¹ Rousseau expresses his loyalty to the

29. As regards the prehistory of this approach, see above, pp. 173-74 and 203-4.

30. *Second Discourse*, pp. 75, 173.

31. *Ibid.*, pp. 76, 77, 90, 91, 94-95, 104, 106, 118, 120, 151; *Julie*, p. 113; *C.S.*, I, 2; II, 4, 6; cf. also *Emile*, II, 45.

spirit of Hobbes's reform of the natural law teaching by substituting for "that sublime maxim of reasoned justice 'Do unto others as you would have them to do unto you' . . . this much less perfect, but perhaps more useful maxim 'Do good to yourself with as little evil as possible to others.' " He tries no less seriously than Hobbes to find the basis of justice by "taking men as they are," and not as they ought to be. And he accepts Hobbes's reduction of virtue to social virtue.³²

Rousseau deviates from Hobbes for the same two reasons for which he deviates from all previous political philosophers. In the first place, "the philosophers who have examined the foundations of society, have all of them felt the necessity to go back to the state of nature, but not one of them has arrived there." All of them have painted civilized man while claiming to paint natural man or man in the state of nature. Rousseau's

32. *Second Discourse*, p. 110; cf. also *C.S.*, I (beginning); *D'Alembert*, pp. 246, 248; and *Confessions*, II, 267. Rousseau was fully aware of the antibiblical implications of the concept of the state of nature. For this reason, he originally presented his account of the state of nature as altogether hypothetical; the notion that the state of nature was once actual contradicts the biblical teaching which every Christian philosopher is obliged to accept. But the teaching of the *Second Discourse* is not that of a Christian; it is the teaching of a man addressing mankind; it is at home in the Lyceum at the time of Plato and of Xenocrates, and not in the eighteenth century; it is a teaching arrived at by applying the natural light to the study of man's nature, and nature never lies. In accordance with these statements, Rousseau asserts later on that he has proved his account of the state of nature. What remains hypothetical, or less certain than the account of the state of nature, is the account of the development leading from the state of nature to despotism, or "the history of governments." At the end of the First Part of the bipartite work, Rousseau calls the state of nature a "fact": the problem consists in linking "two facts given as real" "by a sequence of intermediate and actually or supposedly unknown facts." The given facts are the state of nature and contemporary despotism. It is to the intermediate facts, and not to the characteristics of the state of nature, that Rousseau refers when he says in the first chapter of the *C.S.* that he does not know them. If Rousseau's account of the state of nature were hypothetical, his whole political teaching would be hypothetical; the practical consequence would be prayer and patience and not dissatisfaction and, wherever possible, reform. Cf. *Second Discourse*, pp. 75, 78-79, 81, 83-85, 104, 116-17, 149, 151-52, 165; cf. also the reference to the "thousands of centuries" required for the development of the human mind (*ibid.*, p. 98) with the biblical chronology; see also Morel, *op. cit.*, p. 135.

predecessors attempted to establish the character of natural man by looking at man as he is now. This procedure was reasonable as long as it was assumed that man is by nature social. Making this assumption, one could draw the line between the natural and the positive or the conventional by identifying the conventional with what is manifestly established by convention. One could take it for granted that at least all those passions which arise in man independently of the fiat of society are natural. But once one denies, with Hobbes, man's natural sociality, one must regard it as possible that many passions which arise in man as we observe him are conventional in so far as they originate in the subtle and indirect influence of society and hence of convention. Rousseau deviates from Hobbes because he accepts Hobbes's premise; Hobbes is grossly inconsistent because, on the one hand, he denies that man is by nature social and, on the other hand, he tries to establish the character of natural man by referring to his experience of men which is the experience of social man.³³ By thinking through Hobbes's critique of the traditional view, Rousseau was brought face to face with a difficulty which embarrasses most present-day social scientists: not the reflection on man's experience of men, but only a specifically "scientific" procedure, seems to be able to lead one to genuine knowledge of the nature of man. Rousseau's reflection on the state of nature, in contradistinction to Hobbes's reflection, takes on the character of a "physical" investigation.

Hobbes had identified natural man with the savage. Rousseau frequently accepts this identification and accordingly makes extensive use of the ethnographic literature of the age. But his doctrine of the state of nature is, in principle, independent of this kind of knowledge, since, as he points out, the savage is already molded by society and therefore no longer a natural man in the strict sense. He also suggests some experi-

33. *Second Discourse*, pp. 74-75, 82-83, 90, 98, 105-6, 137-38, 160, 175.

ments which might be helpful for establishing the character of natural man. But these experiments, being entirely a matter of the future, cannot be the basis of his doctrine. The method which he uses is a "meditation on the first and most simple operations of the human soul"; those mental acts which presuppose society cannot belong to man's natural constitution, since man is by nature solitary.³⁴

The second reason why Rousseau deviates from Hobbes can be stated as follows. Hobbes had taught that if natural right is to be effectual, it must be rooted in passion. On the other hand, he had conceived of the laws of nature (of the rules prescribing man's natural duties), apparently in the traditional manner, as dictates of reason; he had described them as "conclusions or theorems." Rousseau draws the conclusion that, since Hobbes's criticism of the traditional view is sound, one must question Hobbes's conception of the laws of nature: not only the right of nature but the laws of nature or man's natural duties or his social virtues must be rooted directly in passion; they must have a much more powerful support than reasoning or calculation. By nature, the law of nature "must speak immediately with the voice of nature"; it must be prerational, dictated by "natural sentiment" or by passion.³⁵

Rousseau has summed up the result of his study of natural man in the statement that man is by nature good. This result can be understood as the outcome of a criticism of Hobbes's doctrine which is based on Hobbes's premises. Rousseau argues as follows: Man is by nature asocial, as Hobbes admitted. But pride or *amour-propre* presupposes society. Hence natural man cannot be proud or vain, as Hobbes had contended that he is. But pride or vanity is the root of all viciousness, as Hobbes had also contended. Natural man is therefore free from all

34. *Ibid.*, pp. 74-77, 90, 94-95, 104, 124, 125, 174; cf. also Condorcet, *Esquisse d'un tableau historique des progrès de l'esprit humain*, Première Époque (beginning).

35. *Second Discourse*, pp. 76-77, 103, 107-10; cf. also *Émile*, I, 289.

viciousness. Natural man is swayed by self-love or the concern with self-preservation; he will therefore hurt others if he believes that by doing so he will preserve himself; but he will not be concerned with hurting others for its own sake, as he would be if he were proud or vain. Furthermore, pride and compassion are incompatible; to the extent to which we are concerned with our prestige, we are insensitive to the sufferings of others. The power of compassion decreases with the increase of refinement or convention. Rousseau suggests that natural man is compassionate: the human race could not have survived prior to the existence of any conventional restraints if the powerful promptings of the instinct of self-preservation had not been mitigated by compassion. He seems to assume that the instinctive desire for the preservation of the species bifurcates into the desire for procreation and compassion. Compassion is the passion from which all social virtues derive. He concludes that man is by nature good because he is by nature swayed by self-love and compassion and free from vanity or pride.³⁶

For the same reason for which natural man lacks pride, he also lacks understanding or reason and therewith freedom. Reason is coterminous with language, and language presupposes society: being presocial, natural man is prerational. Here again Rousseau draws a necessary conclusion from Hobbes's premises which Hobbes had not drawn. To have reason means to have general ideas. But general ideas, as distinguished from the images of memory or imagination, are not the products of a natural or unconscious process; they presuppose definitions; they owe their being to definition. Hence they presuppose language. Since language is not natural, reason is not natural. From this we can understand best why Rousseau replaces the traditional definition of man as a rational animal by a new definition. Furthermore, since natural man is prerational, he is utterly incapable of any knowledge of the law of nature which

36. *Second Discourse*, pp. 77, 87, 90, 97-99, 104, 107-10, 116, 120, 124-25, 147, 151, 156-57, 160-61, 165, 176-77.

is the law of reason, although "he attributes to himself [in accordance] with reason the right to the things which he needs." Natural man is premoral in every respect: he has no heart. Natural man is subhuman.³⁷

Rousseau's thesis that man is by nature good must be understood in the light of his contention that man is by nature subhuman. Man is by nature good because he is by nature that subhuman being which is capable of becoming either good or bad. There is no natural constitution of man to speak of: everything specifically human is acquired or ultimately depends on artifice or convention. Man is by nature almost infinitely perfectible. There are no natural obstacles to man's almost unlimited progress or to his power of liberating himself from evil. For the same reason, there are no natural obstacles to man's almost unlimited degradation. Man is by nature almost infinitely malleable. In the words of the Abbé Raynal, the human race is what we wish to make it. Man has no nature in the precise sense which would set a limit to what he can make out of himself.³⁸

37. *Ibid.*, pp. 85, 89, 93-94, 98-99, 101, 102, 105-6, 109, 111, 115, 118, 157, 168. Morel (*op. cit.*, p. 156) points in the right direction by saying that Rousseau "substitue à la fabrication naturelle des idées générales, leur construction scientifiquement réfléchie" (cf. above, pp. 172-74). In Rousseau's model, Lucretius' poem (v. 1028-90), the genesis of language is described without any reference to a genesis of reason: reason belongs to man's natural constitution. In Rousseau, the genesis of language coincides with the genesis of reason (*C.S.*, I, 8; *Beaumont*, pp. 444, 457).

38. Rousseau's contention that man is by nature good is deliberately ambiguous. It expresses two incompatible views—a rather traditional view and a thoroughly anti-traditional one. The first view can be stated as follows: Man is by nature good; he is bad through his own fault; almost all evils are of human origin: almost all evils are due to civilization; civilization has its root in pride, i.e., in the misuse of freedom. The practical consequence of this view is that men ought to bear the now inevitable evils of civilization in a spirit of patience and prayer. According to Rousseau, this view is based on belief in biblical revelation. In addition, natural man or man in the state of nature, as Rousseau describes him, is incapable of pride; hence pride cannot have been the reason for his leaving the state of nature (a state of innocence) or for his embarking on the venture of civilization. More generally expressed, natural man lacks freedom of will; hence he cannot misuse his freedom; natural man is characterized, not by freedom, but by perfectibility. Cf. *Second Discourse*, pp. 85, 89, 93-94, 102, 160; *C.S.*, I, 8; cf. above, n. 32.

If man's humanity is acquired, that acquisition must be explained. In accordance with the requirements of a "physical investigation," man's humanity must be understood as a product of accidental causation. This problem had hardly existed for Hobbes. But it arose necessarily on the basis of his premises. He had distinguished between the natural or mechanical production of natural beings and the voluntary or arbitrary production of human constructs. He had conceived of the world of man as a kind of universe within the universe. He had conceived of man's leaving the state of nature and establishing civil society as a kind of revolt of man against nature. His notion of the whole required, however, as Spinoza had indicated, that the dualism of the state of nature and the state of civil society, or the dualism of the natural world and the world of man, be reduced to the monism of the natural world or that the transition from the state of nature to civil society, or man's revolt against nature, be understood as a natural process.³⁹ Hobbes had concealed from himself this necessity, partly because he erroneously assumed that presocial man is already a rational being, a being capable of making contracts. The transition from the state of nature to civil society therefore coincided for him with the conclusion of the social contract. But Rousseau was forced by his realization of the necessary implications of Hobbes's premises to conceive of that transition as consisting in, or at least as decisively prepared by, a natural process: man's leaving the state of nature, his embarking on the venture of civilization, is due not to a good or a bad use of his freedom or to essential necessity but to mechanical causation or to a series of natural accidents.

Man's humanity or rationality is acquired. Reason comes later than the elementary wants of the body. Reason emerges in the process of satisfying these wants. Originally, these simple and uniform wants are easily satisfied. But this very

39. Cf. Spinoza's criticism of Hobbes in *Ep.* 50 with *Tr. theol.-pol.*, chap. iv (beginning) and *Ethics* III praef.; cf. above, chap. v, A, n. 9.

natural right teaching reaches its critical stage. By thinking through that teaching, Rousseau was brought face to face with the necessity of abandoning it completely. If the state of nature is subhuman, it is absurd to go back to the state of nature in order to find in it the norm for man. Hobbes had denied that man has a natural end. He had believed that he could find a natural or nonarbitrary basis of right in man's beginnings. Rousseau showed that man's beginnings lack all human traits. On the basis of Hobbes's premise, therefore, it became necessary to abandon altogether the attempt to find the basis of right in nature, in human nature. And Rousseau seemed to have shown an alternative. For he had shown that what is characteristically human is not the gift of nature but is the outcome of what man did, or was forced to do, in order to overcome or to change nature: man's humanity is the product of the historical process. For a moment—the moment lasted longer than a century—it seemed possible to seek the standard of human action in the historical process. This solution presupposed that the historical process or its results are unambiguously preferable to the state of nature or that that process is "meaningful." Rousseau could not accept that presupposition. He realized that to the extent to which the historical process is accidental, it cannot supply man with a standard, and that, if that process has a hidden purpose, its purposefulness cannot be recognized except if there are trans-historical standards. The historical process cannot be recognized as progressive without previous knowledge of the end or purpose of the process. To be meaningful, the historical process must culminate in perfect knowledge of the true public right; man cannot be, or have become, the seeing master of his fate if he does not have such knowledge. It is, then, not knowledge of the historical process but knowledge of the true public right which supplies man with the true standard.

It has been suggested that Rousseau's predicament was due

to reflect upon whether and how far the demands of justice have a support which is independent of human enactments. Rousseau could not have returned to the academic natural right teaching of his time except by simply adopting the traditional natural theology on which that teaching was explicitly or implicitly based.⁴²

The character, as well as the content, of natural right may be decisively affected by the way in which the origin of man is conceived. This does not do away with the fact that natural right is addressed to man as he is now and not to the stupid animal which lived in Rousseau's state of nature. It is therefore difficult to understand how Rousseau could have based his natural right teaching on what he believed he knew of natural man or man in the state of nature. His conception of the state of nature points toward a natural right teaching which is no longer based on considerations of man's nature, or it points toward a law of reason which is no longer understood as a law of nature.⁴³ Rousseau may be said to have indicated the character of such a law of reason by his teaching concerning the general will, by a teaching which can be regarded as the outcome of the attempt to find a "realistic" substitute for the traditional natural law. According to that teaching, the limitation of human desires is affected, not by the ineffectual requirements of man's perfection, but by the recognition in all others of the same right which one claims for one's self; all others necessarily take an effective interest in the recognition of their rights, whereas no one, or but a few, take an effective interest in human perfection of other men. This being the case, my desire transforms itself into a rational desire by being "generalized," i.e., by being conceived as the content of a law which binds all members of society equally; a desire which survives

42. Cf. *C.S.*, II, 6 (see chap. iii, n. 18, above). As for the connection between the *C.S.* and the *Second Discourse*, see nn. 26 and 32 above.

43. Cf. *C.S.*, II, 4, and *Second Discourse*, p. 77.

ual in relation to society is preserved if the place which Hobbes had assigned to calculation or self-interest is assigned to passion or sentiment. Rousseau refused, then, to return to the conception of man as a social animal because he was concerned with the radical independence of the individual, i.e., of every human being. He retained the notion of the state of nature because the state of nature guaranteed the individual's radical independence. He retained the notion of the state of nature because he was concerned with such a natural standard as favored in the highest possible degree the independence of the individual.⁴⁵

Rousseau could not have maintained the notion of the state of nature if the depreciation or ex-inanition of the state of nature which he unintentionally effected had not been outweighed in his thought by a corresponding increase in the importance of independence or freedom, i.e., of the most characteristic feature of man in the state of nature. In Hobbes's doctrine, freedom, or the right of everyone to be the sole judge of the means conducive to his self-preservation, had been subordinate to self-preservation; in the case of conflict between freedom and self-preservation, self-preservation takes precedence. According to Rousseau, however, freedom is a higher good than life. In fact, he tends to identify freedom with virtue or with goodness. He says that freedom is obedience to the law which one has given to one's self. This means, in the first place, that not merely obedience to the law but legislation itself must originate in the individual. It means, secondly, that freedom is not so much either the condition or the consequence of virtue as virtue itself. What is true of virtue can also be said of goodness, which Rousseau distinguished from virtue: freedom is identical with goodness; to be free, or to be one's self, is to be good—this is one meaning of his thesis that man is by nature good. Above all, he suggests that the traditional defini-

45. Hachette, I, 374; *Emile*, I, 286-87, 306, II, 44-45.

tion of man be replaced by a new definition according to which not rationality but freedom is the specific distinction of man.⁴⁶ Rousseau may be said to have originated "the philosophy of freedom." The connection between the developed form of "the philosophy of freedom," i.e., German idealism, and Rousseau, and hence Hobbes, was realized by no one more clearly than by Hegel. Hegel noted the kinship between Kant's and Fichte's idealism and "the anti-socialistic systems of natural right," i.e., those natural right doctrines which deny man's natural sociality and "posit the being of the individual as the first and highest thing."⁴⁷

"The anti-socialistic systems of natural right" had emerged by virtue of a transformation of Epicureanism. According to the Epicurean doctrine, the individual is by nature free from all social bonds because the natural good is identical with the pleasant, i.e., fundamentally with what is pleasant to the body. But, according to the same doctrine, the individual is by nature kept within definite bounds because there is a natural limit to pleasure, namely, the greatest or highest pleasure: endless striving is against nature. Hobbes's transformation of Epicureanism implied the liberation of the individual not only from all social bonds which do not originate in his will but also from any natural end. Rejecting the notion of a natural end of a man, he no longer understood by the "good life" of the individual his compliance with, or assimilation to, a universal pattern which is apprehended before it is willed. He

46. *Second Discourse*, pp. 93 (cf. Spinoza, *Ethics*, III, 9 schol.), 116, 130, 138, 140-41, 151; C.S., I, 1 (beginning), 4, 8, 11 (beginning); III, 9 n. (end). Cf. the headings of the first two parts of Hobbes's *De cive*; also Locke, *Treatises*, II, secs. 4, 23, 95, 123.

47. "Wissenschaftliche Behandlungsarten des Naturrechts," *Schriften zur Politik und Rechtsphilosophie*, ed. Lasson, pp. 346-47: "In einer niedrigern Abstraktion ist die Unendlichkeit zwar auch als Absolutheit des Subjekts in der Glückseligkeitslehre überhaupt, und im Naturrecht insbesondere von den Systemen, welche anti-sozialistisch heissen und das Sein des einzelnen als das Erste und Höchste setzen, herausgehoben, aber nicht in die reine Abstraktion, welche sie in dem Kantischen oder Fichteschen Idealismus erhalten hat." Cf. Hegel's *Encyclopädie*, secs. 481-82.

mitted the existence of such a freedom. For he had implicitly admitted that if the traditional dualism of substances, of mind and of body, is abandoned, science cannot be possible except if meaning, order, or truth originates solely in man's creative action, or if man has the freedom of a creator.⁵⁰ Hobbes was, in fact, compelled to replace the traditional dualism of body and mind, not by materialistic monism, but by the novel dualism of nature (or substance) and freedom. What Hobbes had, in fact, suggested in regard to science was applied by Rousseau to morality. He tended to conceive of the fundamental freedom, or of the fundamental right, as such a creative act as issues in the establishment of unconditional duties and in nothing else: freedom is essentially self-legislation. The ultimate outcome of this attempt was the substitution of freedom for virtue or the view that it is not virtue which makes man free but freedom which makes man virtuous.

cf. Plato!

It is true that Rousseau distinguishes true freedom or moral freedom, which consists in obedience to the law that one has given to one's self and which presupposes civil society, not only from civil freedom but, above all, from the natural freedom which belongs to the state of nature, i.e., to a state characterized by the rule of blind appetite and hence by slavery in the moral sense of the term. But it is also true that he blurs these distinctions. For he also says that in civil society everyone "obeys only himself and remains as free as he was before," i.e., as he was in the state of nature. This means that natural freedom remains the model for civil freedom, just as natural equality remains the model for civil equality.⁵¹ Civil freedom, in its turn, being in a way obedience to one's self alone, certainly comes very close to moral freedom. The blurring of the distinctions between natural freedom, civil freedom, and moral

50. See pp. 172-74 above.

51. C.S., I, 6, 8; *Second Discourse*, p. 65. As for the ambiguity of "freedom," cf. also *Second Discourse*, pp. 138-41.

desire for self-preservation. Deviating from his predecessors, he contends that at the beginning, or in the original state of nature, the promptings of the desire for self-preservation were tempered by compassion and that the original state of nature was considerably changed through accidental necessity, prior to man's entering civil society; civil society becomes necessary or possible only in a very late stage of the state of nature. The decisive change which took place within the state of nature consisted in the weakening of compassion. Compassion was weakened because of the emergence of vanity or pride and ultimately because of the emergence of inequality and therefore of the dependence of man on his fellows. As a consequence of this development, self-preservation became increasingly difficult. Once the critical point is reached, self-preservation demands the introduction of an artificial substitute for natural compassion, or of a conventional substitute for that natural freedom and that natural equality which existed at the beginning. It is the self-preservation of everyone which requires that the closest possible approximation to original freedom and equality be achieved within society.⁵³

The root of civil society must then be sought exclusively in the desire for self-preservation or in the right of self-preservation. The right to self-preservation implies the right to the means required for self-preservation. Accordingly, there exists a natural right to appropriation. Everyone has by nature the right to appropriate to himself what he needs of the fruits of the earth. Everyone may acquire through his labor, and only through his labor, an exclusive right to the produce of the land which he has cultivated, and therewith an exclusive right to the land itself, at least until the next harvest. Continuous cultivation may even legitimate continuous possession of the land cultivated, but it does not create property right in that

53. *Second Discourse*, pp. 65, 75, 77, 81, 109-10, 115, 118, 120, 125, 129, 130, 134; *C.S.*, I, 6 (beginning); I, 2.

land; property right is the creation of positive law; prior to the sanction by positive law, land is usurped, i.e., acquired by force, and not truly owned. Otherwise, natural right would hallow the right of the first occupier to the detriment of the right of self-preservation of those who, perhaps through no fault of their own, failed to take possession of land; the poor retain the natural right to acquire as free men what they need for self-preservation. If they are unable to appropriate what they need by cultivating a plot of their own because everything has already been appropriated by others, they may use force. Thus a conflict arises between the right of the first occupiers and the right of those who must rely on force. The need for appropriation of the necessities of life transforms the latest stage of the state of nature into the most horrible state of war. Once this point has been reached, it is to the interest of everyone, of the poor as well as of the rich, that right should succeed to violence, i.e., that peace be guaranteed through convention or compact. This amounts to saying that "according to the maxim of the wise Locke, there could not be injustice where there is no property" or that in the state of nature everyone has "an unlimited right to everything which tempts him and which he can get." The compact which is at the basis of factual societies transformed men's factual possessions as they existed at the end of the state of nature into genuine property. It therefore sanctioned earlier usurpation. Factual society rests on a fraud perpetrated by the rich against the poor: political power rests on "economic" power. No improvement can ever cure this original defect of civil society; it is inevitable that the law should favor the haves against the have-nots. Yet, in spite of this, the self-preservation of everyone requires that the social contract be concluded and kept.⁵⁴

The social contract would endanger the individual's self-preservation if it did not allow him to remain the judge of the

54. *Second Discourse*, pp. 82, 106, 117, 118, 125, 128-29, 131-35, 141, 145, 152; *C.S.*, I, 2, 8, 9; II, 4 (toward the end); *Emile*, I, 309; II, 300.

Freedom in society is possible only by virtue of the complete surrender of everyone (and in particular of the government) to the will of a free society. By surrendering all his rights to society, man loses the right to appeal from the verdicts of society, i.e., from the positive law, to natural right: all rights become social rights. Free society rests and depends upon the absorption of natural right by positive law. Natural right is legitimately absorbed by the positive law of a society which is constructed in accordance with natural right. The general will takes the place of the natural law. "By the very fact that he is, the sovereign is always what he ought to be."⁵⁶

Rousseau sometimes called the free society as he conceived of it a "democracy." Democracy is closer to the equality of the state of nature than is any other regime. Yet democracy must be "wisely tempered." While everyone must have a vote, the votes must be "arranged" in such a manner as to favor the middle class and the rural population as against la canaille of the big towns. Otherwise, those who have nothing to lose might sell freedom for bread.⁵⁷

The absorption of natural right by the positive law of a properly qualified democracy would be defensible if there were a guaranty that the general will—and this means, for all practical purposes, the will of the legal majority—could not err. The general will or the will of the people never errs in so far as it always wills the good of the people, but the people do not always see the good of the people. The general will is therefore in need of enlightenment. Enlightened individuals may see the good of society, but there is no guaranty that they will espouse it if it conflicts with their private good. Calculation

56. *C.S.*, I, 7; II, 3, 6. Cf. *ibid.*, II, 12 ("Division of Laws") with the parallels in Hobbes, Locke, and Montesquieu, to say nothing of Hooker and Suarez; Rousseau does not even mention natural law.

57. *Second Discourse*, pp. 66, 143; *Julie*, pp. 470-71; *C.S.*, IV, 4; *Montagne*, pp. 252, 300-301. Cf. Rousseau's criticism of the aristocratic principle of the classics in *Narcisse*, pp. 50-51, and in the *Second Discourse*, pp. 179-80.

and self-interest are not strong enough as social bonds. Both the people as a whole and the individuals are then equally in need of a guide; the people must be taught to know what it wills, and the individual, who as a natural being is concerned exclusively with his private good, must be transformed into a citizen who unhesitatingly prefers the common good to his private good. The solution of this twofold problem is supplied by the legislator, or the father of a nation, i.e., by a man of superior intelligence, who, by ascribing divine origin to a code which he has devised or by honoring the gods with his own wisdom, both convinces the people of the goodness of the laws which he submits to its vote and transforms the individual from a natural being into a citizen. Only by the action of the legislator can the conventional acquire, if not the status, at least the force, of the natural. It goes without saying that the arguments by which the legislator convinces the citizens of his divine mission or of the divine sanction for his code are necessarily of doubtful solidity. One might think that, once the code were ratified, a "social spirit" developed, and the wise legislation accepted on account of its proved wisdom rather than its pretended origin, the belief in the superhuman origin of the code would no longer be required. But this suggestion overlooks the fact that the living respect for old laws, "the prejudice of antiquity" which is indispensable for the health of society, can only with difficulty survive the public questioning of the accounts regarding their origin. In other words, the transformation of natural man into a citizen is a problem coeval with society itself, and therefore society has a continuous need for at least an equivalent to the mysterious and awe-inspiring action of the legislator. For society can be healthy only if the opinions and sentiments engendered by society overcome and, as it were, annihilate the natural sentiments. That is to say, society must do everything possible to render the citizens oblivious of the very facts that political

philosophy brings to the center of their attention as the foundations of society. Free society stands or falls by a specific obfuscation against which philosophy necessarily revolts. The problem posed by political philosophy must be forgotten if the solution to which political philosophy leads is to work.⁵⁸

It is true, no doubt, that Rousseau's doctrine of the legislator is meant to clarify the fundamental problem of civil society rather than to suggest a practical solution, except in so far as that doctrine adumbrates Rousseau's own function. The precise reason why he had to abandon the classical notion of the legislator was that that notion is liable to obscure the sovereignty of the people, i.e., to lead, for all practical purposes, to the substitution of the supremacy of the law for the full sovereignty of the people. The classical notion of the legislator is irreconcilable with Rousseau's notion of freedom which leads to the demand for periodic appeals from the whole established order to the sovereign will of the people or from the will of past generations to the will of the living generation. Rousseau, therefore, had to find a substitute for the action of the legislator. According to his final suggestion, the function originally intrusted to the legislator must be discharged by a civil religion described from somewhat different points of view in the *Social Contract*, on the one hand, and the *Emile*, on the other. Only the civil religion will engender the sentiments required of the citizen. We need not go into the question of whether Rousseau himself fully subscribed to the religion which he presented in the profession of faith of the Savoyard vicar, a question that cannot be answered by reference to what he said when he was persecuted on account of that profession. What is decisive is the fact that, according to his explicit views about the relation of knowledge, faith, and the people,

58. *Narcisse*, p. 56; *Second Discourse*, pp. 66-67, 143; C.S., II, 3, 6-7; III, 2, 11. Compare the reference to miracles in the chapter on the legislator (C.S., II, 7) with the explicit discussion of the problem of miracles in *Montagne*, ii-iii.

From this we can understand Rousseau's attitude toward the family or, more precisely, toward conjugal and paternal love as well as toward heterosexual love simply. Love is closer to the original state of nature than is civil society, duty, or virtue. Love is simply incompatible with compulsion and even self-compulsion; it is free or it is not. It is for this reason that conjugal and paternal love can be "the sweetest sentiments," or even "the sweetest sentiments of nature," "which are known to man" and that heterosexual love simply can be "the sweetest of passions" or "the most delicious sentiment which can enter the human heart." These sentiments give rise to "rights of the blood" and "rights of love"; they create bonds which are more sacred than any man-made bonds. Through love, man achieves a closer approximation to the state of nature on the level of humanity than he does through a life of citizenship or virtue. Rousseau returns from the classical city to the family and the loving couple. Using his own language, we may say that he returns from the concern of the citizen to the noblest concern of the bourgeois.⁶²

Yet, at least according to that writing of Rousseau in which he revealed his principles "with the greatest boldness, not to say audacity," there is an element of the conventional or of the factitious even in love.⁶³ Love being a social phenomenon and man being by nature asocial, it becomes necessary to consider whether the solitary individual is not capable of the closest approximation to the state of nature which is possible on the level of humanity. Rousseau has spoken in glowing terms of the charms and raptures of solitary contemplation. By "solitary contemplation" he does not understand philosophy or the culmination of philosophy. Solitary contemplation, as he understands it, is altogether different from, not to say hostile to,

62. *Second Discourse*, pp. 122, 124; *D'Alembert*, pp. 256-57; *Julie*, pp. 261, 331, 392, 411 (cf. also pp. 76, 147-48, 152, 174 n., 193, 273-75); *Rêveries*, x (p. 164).

63. *Second Discourse*, pp. 111, 139.

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thinking or observation. It consists of, or it leads up to, "the feeling of existence," i.e., the pleasant feeling of one's own existence. If man has withdrawn from everything outside himself, if he has emptied himself of every affection other than the feeling of existence, he enjoys the supreme felicity—godlike self-sufficiency and impassibility; he finds consolation only in himself by being fully himself and by belonging fully to himself, since the past and the future are extinguished for him. It is in giving himself completely to this feeling that civilized man completes the return to the primitive state of nature on the level of humanity. For, whereas sociable man derives the feeling of his existence, as it were, exclusively from the opinions of his fellows, natural man—indeed even the savage—feels his existence naturally; he gives himself "to the sole feeling of his present existence without any idea of the future." The feeling of existence is "man's first feeling." It is more fundamental than the desire for self-preservation; man is concerned with the preservation of his existence because existence itself, mere existence, is by nature pleasant.⁶⁴

The feeling of existence as Rousseau experienced and described it has a rich articulation which must have been lacking in the feeling of existence as it was experienced by man in the state of nature. Here at last civilized man or those civilized men who have returned from civil society to solitude reach a degree of happiness of which the stupid animal must have been utterly incapable. In the last analysis it is only this superiority of civilized man, or of the best among civilized men, which permits Rousseau to contend without hesitation that, while the emergence of civil society was bad for the human species or for the common good, it was good for the individual.⁶⁵ The ultimate justification of civil society is, then, the fact that it allows a certain type of individual to enjoy the supreme felicity by withdrawing from civil society, i.e., by living at its

64. *Ibid.*, pp. 96, 118, 151, 165; *Emile*, I, 286; *Réveries*, V and VII. See above, pp. 261-62.

65. *Second Discourse*, pp. 84, 116, 125-26; *Beaumont*, p. 471.

fringes. Whereas in the earliest of his important writings the citizen of Geneva had said that "every useless citizen may be regarded as a pernicious man," he says in his last writing that he himself always was indeed a useless citizen, yet that his contemporaries have done wrong in proscribing him from society as a pernicious member, instead of merely removing him from society as a useless member.⁶⁶ The type of man foreshadowed by Rousseau, which justifies civil society by transcending it, is no longer the philosopher but what later came to be called the "artist." His claim to privileged treatment is based on his sensitivity rather than on his wisdom, on his goodness or compassion rather than on his virtue. He admits the precarious character of his claim: he is a citizen with a bad conscience. Yet, since his conscience accuses not merely himself but at the same time the society to which he belongs, he is inclined to regard himself as the conscience of society. But he is bound to have a bad conscience for being the bad conscience of society.

One must contrast the dreamlike character of Rousseau's solitary contemplation with the wakefulness of philosophic contemplation. In addition, one must take into consideration the insoluble conflict between the presuppositions of his solitary contemplation and his natural theology (and therewith the morality based on that theology). Then one realizes that the claim which he raises on behalf of the individual, or of some rare individuals, over against society lacks clarity and definiteness. More precisely, the definiteness of the act of claiming contrasts sharply with the indefiniteness of the content of the claim. This is not surprising. The notion that the good life consists in the return on the level of humanity to the state of nature, i.e., to a state which completely lacks all human traits, necessarily leads to the consequence that the individual claims such an ultimate freedom from society as lacks any definite human content. But this fundamental defect of the

66. *First Discourse*, p. 131; *Rêveries*, VI (end).

as it were, by Edmund Burke. Burke sided with Cicero and with Suarez against Hobbes and against Rousseau. "We continue, as in the last two ages, to read, more generally than I believe is now done on the Continent, the authors of sound antiquity. These occupy our minds." Burke sided with "the authors of sound antiquity" against "the Parisian philosophers" and especially against Rousseau, the originators of a "new morality" or "the bold experimenters in morality." He repudiated with scorn "that philosophy which pretends to have made discoveries in the *terra australis* of morality.⁶⁸ His political activity was indeed guided by devotion to the British constitution, but he conceived of the British constitution in a spirit akin to that in which Cicero had conceived of the Roman polity.

Burke did not write a single theoretical work on the principles of politics. All his utterances on natural right occur in statements *ad hominem* and are meant to serve immediately a specific practical purpose. Accordingly, his presentation of political principles changed, to a certain degree, with the change of the political situation. Hence he might easily appear to have been inconsistent. In fact, he adhered throughout his career to the same principles. A single faith animated his actions in favor of the American colonists, in favor of the Irish Catholics, against Warren Hastings, and against the French Revolution. In accordance with the eminently practical bent of his thought, he stated his principles most forcefully and most clearly when such a statement was most urgently needed, i.e., when these principles were attacked both most intransigently and most effectively—after the outbreak of the French Revolution. The French Revolution affected his expectations in regard to the future progress of Europe; but it hardly af-

68. *The Works of Edmund Burke* ("Bohn's Standard Library"), II, 385, 529, 535, 541; VI, 21-23. Cited hereafter as "Works."

fected, it hardly did more than confirm, his views of what is right or wrong both morally and politically.⁶⁹

The practical character of Burke's thought partly explains why he did not hesitate to use the language of modern natural right whenever that could assist him in persuading his modern audience of the soundness of a policy which he recommended. He spoke of the state of nature, of the rights of nature or of the rights of man, and of the social compact or of the artificial character of the commonwealth.⁷⁰ But he may be said to integrate these notions into a classical or Thomistic framework.

We must confine ourselves to a few examples. Burke is willing to grant that men in the state of nature, "uncovenanted" men, have natural rights; in the state of nature, everyone has "the right of self-defense, the first law of nature," the right to govern himself, i.e., "to judge for himself, and to assert his own cause," and even "a right to every thing." But "by having a right to every thing, they want every thing." The state of nature is the state of "our naked, shivering nature" or of our nature not yet affected in any way by our virtues, or of original barbarism. Hence the state of nature and "the full rights of men" which belong to it cannot supply the standard for civilized life. All wants of our nature—certainly, all higher wants of our nature—point away from the state of nature toward civil society: not "the state of rude nature" but civil society is the true state of nature. Burke grants that civil society is "the offspring of convention" or "a contract." But it is "a contract," "a partnership" of a particular kind—"a partnership in every virtue, and in all perfection." It is a contract in

69. *Ibid.*, II, 59–62; III, 104; VI, 144–53. As regards the issue of progress, cf. II, 156; III, 279, 366; VI, 31, 106; VII, 23, 58; VIII, 439; *Letters of Edmund Burke: A Selection*, ed. Harold J. Laski, p. 363 (cited hereafter as "Letters"); cf. also *Burke, Select Works*, ed. E. J. Payne, II, 345.

70. Cf., e.g., *Works*, I, 314, 348, 470; II, 19, 29–30, 145, 294–95, 331–33, 366; III, 82; V, 153, 177, 216; VI, 29.

almost the same sense in which the whole providential order, "the great primeval contract of eternal society," can be said to be a contract.⁷¹

Burke admits that the purpose of civil society is to safeguard the rights of man and especially the right to the pursuit of happiness. But happiness can be found only by virtue, by the restraints "which are imposed by the virtues upon the passions." Hence the subjection to reason, to government, to law, or "the restraints on men, as well as their liberties, are to be reckoned among their rights." Man can never act "without any moral tie," since "men are never in a state of total independence of each other." Man's will must always be under the dominion of reason, prudence, or virtue. Burke therefore seeks the foundation of government "in a conformity to our duties" and not in "imaginary rights of men." Accordingly, he denies the contention that all our duties arise from consent or from contract.⁷²

The discussion regarding the "imaginary rights of men" centers on the right of everyone to be the sole judge of what is conducive to his self-preservation or to his happiness. It was this alleged right which seemed to justify the demand that everyone must have some share, and, in a sense, as large a share as anyone else, in political power. Burke questions this demand by going back to the principle on which the alleged basic right is founded. He grants that everyone has a natural right to self-preservation and to the pursuit of happiness. But he denies that everyone's right to self-preservation and to the pursuit of happiness becomes nugatory if everyone does not have the right to judge of the means conducive to his self-preservation and to his happiness. The right to the satisfaction of wants or to the advantages of society is therefore not necessarily a right to participation in political power. For the judg-

71. *Ibid.*, II, 220, 332-33, 349, 368-70; III, 82, 86; V, 212, 315, 498.

72. *Ibid.*, II, 310, 331, 333, 538; III, 109; V, 80, 122, 216, 424.

the convention, the original compact, i.e., the established constitution, is the highest authority. Since the function of civil society is the satisfaction of wants, the established constitution derives its authority less from the original convention or from its origin than from its beneficent working through many generations or from its fruits. The root of legitimacy is not so much consent or contract as proved beneficence, i.e., prescription. Only prescription, as distinguished from the original compact of "unconvenanted" savages, can reveal the wisdom of the constitution and therefore legitimate the constitution. The habits produced on the basis of the original compact, and especially the habits of virtue, are infinitely more important than the original act itself. Only prescription, as distinguished from the original act, can hallow a given social order. The people is so little the master of the constitution that it is its creature. The strict notion of the sovereignty of the people implies that the present generation is sovereign: "present convenience" becomes the only "principle of attachment" to the constitution. "The temporary possessors and life-renters" in the commonwealth, "unmindful of what they have received from their ancestors," inevitably become unmindful "of what is due to their posterity." The people, or for that matter any other sovereign, is still less master of the natural law; natural law is not absorbed by the will of the sovereign or by the general will. As a consequence, the distinction between just and unjust wars retains its full significance for Burke; he abhors the notion that one should determine the foreign policy of a nation exclusively in terms of its "material interest."⁷⁴

Burke does not deny that under certain conditions the people may alter the established order. But he admits this only as an

74. *Ibid.*, II, 58, 167, 178, 296, 305-6, 331-32, 335, 349, 359-60, 365-67, 422-23, 513-14, 526, 547; III, 15, 44-45, 54-55, 76-85, 409, 497, 498; V, 203-5, 216; VI, 3, 21-22, 145-47; VII, 99-103.

society is radically artificial. Hence the virtues of the citizen cannot be grafted "on the stock of the natural affections." But civil society is assumed to be not only necessary but noble and sacred. Accordingly, the natural sentiments, all natural sentiments, must be ruthlessly sacrificed to the alleged requirements of patriotism or of humanity. The French revolutionists arrive at these requirements by approaching human affairs in the attitude of scientists, of geometricians or of chemists. Hence, they are, from the outset, "worse than indifferent about those feelings and habitudes, which are the support of the moral world." They "consider men in their experiments, no more than they do mice in an air pump, or in a recipient of mephitic gas." Accordingly, "they are ready to declare that they do not think two thousand years too long a period for the good that they pursue." "Their humanity is not dissolved. They only give it a long prorogation. . . . Their humanity is at their horizon—and, like the horizon, it always flies before them." It is this "scientific" attitude of the French revolutionists or of their teachers which also explains why their disoluteness, which they oppose as something natural to the conventions of earlier gallantry, is "an unfashioned, indelicate, sour, gloomy, ferocious medley of pedantism and lewdness."⁷⁷

Burke opposes, then, not merely a change in regard to the substance of the moral teaching. He opposes likewise, and even primarily, a change in regard to its mode: the new moral teaching is the work of men who think about human affairs as geometricians think about figures and planes rather than as acting men think about a business before them. It is this fundamental change from a practical to a theoretical approach which, according to Burke, gave the French Revolution its unique character.

"The present revolution in France seems to me . . . to bear

77. *Works*, II, 311, 409, 419, 538–40; V, 138, 140–42, 209–13.

little resemblance or analogy to any of those which have been brought about in Europe, upon principles merely political. It is a revolution of doctrine and theoretic dogma. It has a much greater resemblance to those changes which have been made upon religious grounds, in which a spirit of proselytism makes an essential part." The French Revolution, therefore, has a certain resemblance to the Reformation. Yet "this spirit of general political faction," or this "armed doctrine," is "separated from religion" and is, in fact, atheistic; the "theoretic dogma" guiding the French Revolution is purely political. But, since that revolution extends the power of politics to religion and "even to the constitution of the mind of man," it is the first "*complete revolution*" in the history of mankind. Its success cannot be explained, however, by the political principles which animate it. Those principles have at all times had a powerful appeal, since they are "most flattering to the natural propensities of the unthinking multitude." Hence there have been earlier insurrectionary attempts "grounded on these rights of men," like the Jacquerie and John Ball's insurrection in the Middle Ages and the efforts of the extreme wing during the English Civil War. But none of these attempts was successful. The success of the French Revolution can be explained only by that one among its features which distinguishes it from all parallels. The French Revolution is the first "philosophic revolution." It is the first revolution which was made by men of letters, philosophers, "thoroughbred metaphysicians," "not as subordinate instruments and trumpeters of sedition, but as the chief contrivers and managers." It is the first revolution in which "the spirit of ambition is connected with the spirit of speculation."⁷⁸

In opposing this intrusion of the spirit of speculation or of

78. *Ibid.*, II, 284-87, 299, 300, 302, 338-39, 352, 361-62, 382-84, 403-5, 414, 423-24, 527; III, 87-91, 164, 350-52, 354, 376, 377, 379, 442-43, 456-57; V, 73, 111, 138, 139, 141, 245, 246, 259 (the italics are in the original).

theory into the field of practice or of politics, Burke may be said to have restored the older view according to which theory cannot be the sole, or the sufficient, guide of practice. He may be said to have returned to Aristotle in particular. But, to say nothing of other qualifications, one must add immediately that no one before Burke had spoken on this subject with equal emphasis and force. One may even say that, from the point of view of political philosophy, Burke's remarks on the problem of theory and practice are the most important part of his work. He spoke more emphatically and more forcefully on this problem than Aristotle in particular had done because he had to contend with a new and most powerful form of "speculatism," with a political doctrinairism of philosophic origin. That "speculist" approach to politics came to his critical attention a considerable time before the French Revolution. Years before 1789, he spoke of "the speculatists of our speculating age." It was the increased political significance of speculation which, very early in his career, most forcefully turned Burke's attention to "the old quarrel between speculation and practice."⁷⁹

It was in the light of that quarrel that he conceived his greatest political actions: not only his action against the French Revolution but his action in favor of the American colonists as well. In both cases the political leaders whom Burke opposed insisted on certain rights: the English government insisted on the rights of sovereignty and the French revolutionists insisted on the rights of man. In both cases Burke proceeded in exactly the same manner: he questioned less the rights than the wisdom of exercising the rights. In both cases he tried to restore the genuinely political approach as against a legalistic approach. Now he characteristically regarded the legalistic approach as one form of "speculatism," other forms being the approaches of the historian, the meta-

79. *Ibid.*, I, 311; II, 363; III, 139, 356; V, 76; VII, 11.

in reaction to the very rules which uncontradicted previous experience pronounced to be universally valid: man is inventive in good and in evil. Therefore it may happen that "experience upon other data [than the actual circumstances of the case], is of all things the most delusive."⁸³

It follows from this that history is only of very limited value. From history "much political wisdom may be learned," but only "as habit, not as precept." History is liable to turn man's understanding from "the business before him" to misleading analogies, and men are naturally inclined to succumb to that temptation. For it requires a much greater effort to articulate a hitherto unarticulated situation in its particular character than to interpret it in the light of precedents which have been articulated already. "I have constantly observed," Burke says, "that the generality of people are fifty years, at least, behind hand in their politics . . . in books everything is settled for them, without the exertion of any considerable diligence or sagacity." This is not to deny that the politician sometimes needs history for the sake of "the business before him." Reason and good sense absolutely prescribe, e.g., "whenever we are involved in difficulties from the measures we have pursued, that we should take a strict review of those measures" or that we should "enter into the most ample historical detail." History has this in common with practical wisdom—that both are concerned with particulars; and it has this in common with theory—that the objects of history, i.e., past actions or transactions (*acta*), are not objects of action proper (*agenda*), i.e., things which we have to do now. Thus history, or "retrospective wisdom," creates the delusion that it could "serve admirably to reconcile the old quarrel between speculation and practice."⁸⁴

Another way in which men try to evade the hardship in-

83. *Ibid.*, I, 277-78, 312, 365; II, 372, 374-75, 383; III, 15-17; V, 78, 153-54, 257.

84. *Ibid.*, I, 311, 384-85; II, 25; III, 456-57; V, 258.

ruin of the constitution," i.e., that one does something which in practical thought would bespeak "a bad habit." In contradistinction to theory, practice is limited by past decisions and, therefore, by what is established. In human affairs, possession passes for a title, whereas there is no presumption in favor of the accepted view in theoretical matters.⁹⁰

X || Speculation, being essentially "private," is concerned with the truth without any regard to public opinion. But "national measures" or "political problems do not primarily concern truth or falsehood. They relate to good or evil." They relate to peace and "mutual convenience," and their satisfactory handling requires "unsuspecting confidence," consent, agreement, and compromise. Political action requires "a judicious management of the temper of the people." Even in giving "a direction . . . to the general sense of the community," it must "follow . . . the public inclination." Regardless of what one might have to think of "the abstract value of the voice of the people, . . . opinion, the great support of the State, [depends] entirely upon that voice." Hence it may easily happen that what is metaphysically true is politically false. "Established opinions," "allowed opinions which contribute so much to the public tranquillity," must not be shaken, although they are not "infallible." Prejudices must be "appeased." Political life requires that fundamental principles proper, which, as such, transcend the established constitution, be kept in a state of dormancy. Temporary solutions of continuity must be "kept from the eye," or a "politic, well-wrought veil" must be thrown over them. "There is a sacred veil to be drawn over the beginnings of all governments." Whereas speculation is "innovating," whereas the "waters" of science "must be troubled, before they can exert their virtues," practice must keep as closely as possible to precedent, example, and tradition: "old custom . . . is the great support of all the govern-

90. *Ibid.*, I, 87, 193, 323, 336, 405; II, 26, 427-28, 548, 552; VI, 19; VII, 127.

ments in the world." Society rests, indeed, on consent. Yet the consent cannot be achieved by reasoning alone, and in particular not by the mere calculation of the advantages of living together—a calculation which may be completed in a brief span of time—but solely by habits and prejudices which grow up only in long periods. Whereas theory rejects error, prejudice, or superstition, the statesman puts these to use.⁹¹

The intrusion of theory into politics is liable to have an unsettling and inflaming effect. No actual social order is perfect. "Speculative inquiries" necessarily bring to light the imperfect character of the established order. If these inquiries are introduced into political discussion, which, of necessity, lacks "the coolness of philosophic inquiry," they are liable "to raise discontent in the people" in regard to the established order, discontent which may make rational reform impossible. The most legitimate theoretical problems become, in the political arena, "vexatious questions" and cause "a spirit of litigation" and "fanaticism." Considerations transcending "the arguments of states and kingdoms" must be left "to the schools; for there only they may be discussed with safety."⁹²

As may be inferred from the preceding paragraphs, Burke is not content with defending practical wisdom against the encroachments of theoretical science. He parts company with the Aristotelian tradition by disparaging theory and especially metaphysics. He uses "metaphysics" and "metaphysician" frequently in a derogatory sense. There is a connection between this usage and the fact that he regards Aristotle's natural philosophy as "unworthy of him," whereas he considers Epicurean physics to be "the most approaching to rational."⁹³

91. *Ibid.*, I, 87, 190, 257, 280, 307, 352, 375, 431, 432, 471, 473, 483, 489, 492, 502; II, 27-29, 33-34, 44, 292, 293, 306, 335, 336, 349, 429-30, 439; III, 39-40, 81, 109, 110; V, 230; VI, 98, 243, 306-7; VII, 44-48, 59, 60, 190; VIII, 274; *Letters*, pp. 299-300.

92. *Works*, I, 259-60, 270-71, 432; II, 28-29, 331; III, 12, 16, 25, 39, 81, 98-99, 104, 106; VI, 132.

93. *Ibid.*, VI, 250-51.

There is a connection between his strictures on metaphysics and the skeptical tendencies of his contemporaries Hume and Rousseau. At least so much must be said that Burke's distinction between theory and practice is radically different from Aristotle's, since it is not based on a clear conviction of the ultimate superiority of theory or of the theoretical life.

For the support of this contention, we do not have to rely entirely on a general impression derived from Burke's usage and the bent of his thought. He wrote one theoretical work: *A Philosophical Inquiry into the Origin of Our Ideas of the Sublime and Beautiful*. In that work he speaks in a nonpolemical tone about the limitations of theoretic science: "When we go but one step beyond the immediate sensible qualities of things, we go out of our depth. All we do after is but a faint struggle, that shows we are in an element which does not belong to us." Our knowledge of bodily and mental phenomena is limited to the manner of their operation, to their How; it can never reach their Why. The very title of the inquiry reveals the ancestry of Burke's sole theoretic effort; it is reminiscent of Locke and of Burke's acquaintance, Hume. Of Locke, Burke says that "the authority of this great man is doubtless as great as that of any man can be." The most important thesis of the *Sublime and Beautiful* is in perfect agreement with British sensualism and in explicit opposition to the classics; Burke denies that there is a connection between beauty, on the one hand, and perfection, proportion, virtue, convenience, order, fitness, and any other such "creatures of the understanding," on the other. That is to say, he refuses to understand visible or sensible beauty in the light of intellectual beauty.⁹⁴

The emancipation of sensible beauty from its traditionally assumed directedness toward intellectual beauty foreshadows or accompanies a certain emancipation of sentiment and instinct from reason, or a certain depreciation of reason. It is this

94. *Ibid.*, I, 114 ff., 122, 129, 131, 143-44, 155; II, 441; VI, 98.

novel attitude toward reason which accounts for the nonclassical overtones in Burke's remarks on the difference between theory and practice. Burke's opposition to modern "rationalism" shifts almost insensibly into an opposition to "rationalism" as such.⁹⁵ What he says about the deficiencies of reason is indeed partly traditional. On some occasions he does not go beyond depreciating the judgment of the individual in favor of "the judgment of the human race," the wisdom of "the species" or "the ancient, permanent sense of mankind," i.e., the *consensus gentium*. On other occasions he does not go beyond depreciating the experience which the individual can acquire in favor of the much more extensive and varied experience of "a long succession of generations" or of "the collected reason of ages."⁹⁶ The novel element in Burke's critique of reason reveals itself least ambiguously in its most important practical consequence: he rejects the view that constitutions can be "made" in favor of the view that they must "grow"; he therefore rejects in particular the view that the best social order can be or ought to be the work of an individual, of a wise "legislator" or founder.⁹⁷

To see this more clearly, it is necessary to contrast Burke's view of the British constitution, which he regarded, to say the

95. In the *Sublime and Beautiful*, Burke says that "our gardens, if nothing else, declare we begin to feel that mathematical ideas are not the true measures of beauty," and that this wrong view "arose from the Platonic theory of fitness and aptitude" (*Works*, I, 122). In the *Reflections on the Revolution in France*, he compares the French revolutionists to the French "ornamental gardeners" (*Works*, II, 413). Cf. *ibid.*, II, 306, 308; I, 280.

96. *Works*, II, 359, 364, 367, 435, 440; VI, 146-47.

97. Friedrich von Gentz, the German translator of the *Reflections on the Revolution in France*, says: "Konstitutionen können schlechterdings nicht gemacht werden, sie müssen sich, wie Natur-Werke, durch allmähliche Entwicklung von selbst bilden. . . . Diese Wahrheit ist die kostbarste, vielleicht die einzige wirklich neue (denn höchstens geahnt, aber nicht vollständig erkannt wurde sie zuvor), um welche die französische Revolution die höhere Staatswissenschaft bereichert hat" (*Staats-schriften und Briefe* [Munich, 1921], I, 344) (the italics are not in the original).

least, as second to none, with the classical view of the best constitution. According to the classics, the best constitution is a contrivance of reason, i.e., of conscious activity or of planning on the part of an individual or of a few individuals. It is in accordance with nature, or it is a natural order, since it fulfills to the highest degree the requirements of the perfection of human nature, or since its structure imitates the pattern of nature. But it is not natural as regards the manner of its production: it is a work of design, planning, conscious making; it does not come into being by a natural process or by the imitation of a natural process. The best constitution is directed toward a variety of ends which are linked with one another by nature in such a manner that one of these ends is the highest end; the best constitution is therefore directed particularly toward that single end which is by nature the highest. According to Burke, on the other hand, the best constitution is in accordance with nature or is natural also and primarily because it has come into being not through planning but through the imitation of natural process, i.e., because it has come into being without guiding reflection, continuously, slowly, not to say imperceptibly, "in a great length of time, and by a great variety of accidents"; all "new fancied and new fabricated republics" are necessarily bad. The best constitution is therefore not "formed upon a regular plan or with any unity of design" but directed toward "the greatest variety of ends."⁹⁸

One goes beyond what Burke himself says if one ascribes to him the view that a sound political order must be the product of History. What came to be called "historical" was, for Burke, still "the local and accidental." What came to be called "historical process" was for him still accidental causation or accidental causation modified by the prudential handling of situations as they arose. Accordingly, the sound political order for him, in the last analysis, is the unintended out-

98. *Works*, II, 33, 91, 305, 307-8, 439-40; V, 148, 253-54.

come of accidental causation. He applied to the production of the sound political order what modern political economy had taught about the production of public prosperity: the common good is the product of activities which are not by themselves ordered toward the common good. Burke accepted the principle of modern political economy which is diametrically opposed to the classical principle: "the love of lucre," "this natural, this reasonable . . . principle," "is the grand cause of prosperity to all states."⁹⁹ The good order or the rational is the result of forces which do not themselves tend toward the good order or the rational. This principle was first applied to the planetary system and thereafter to "the system of wants," i.e., to economics.¹⁰⁰ The application of this principle to the genesis of the sound political order was one of the two most important elements in the "discovery" of History. The other, equally important, element was supplied by the application of the same principle to the understanding of man's humanity; man's humanity was understood as acquired by virtue of accidental causation. This view, of which the classic exposition is to be found in Rousseau's *Second Discourse*, led to the consequence that "the historical process" was thought to culminate in an absolute moment: the moment in which man, the product of blind fate, becomes the seeing master of his fate by understanding for the first time in an adequate manner what is right and wrong politically and morally. It led to a "complete revolution," to a revolution extending "even to the constitution of the mind of man." Burke denies the possibility of an absolute moment; man can never become the seeing master of

99. *Ibid.*, II, 33; V, 313; VI, 160; *Letters*, p. 270. As for Burke's agreement with the modern "economical politicians," see especially *Works*, I, 299, 462; II, 93, 194, 351, 431-32; V, 89, 100, 124, 321; VIII, 69. One of the few things which Burke seems to have learned through the French Revolution is that power and influence do not necessarily go with property. Compare *Works*, III, 372, 456-57; V, 256, with VI, 318; see also Barker, *op. cit.*, p. 159.

100. Cf. Hegel, *Rechtsphilosophie*, sec. 189 Zusatz.

ern political economy, could appear to have emerged through a modification of the traditional belief in Providence. That modification is usually described as "secularization." "Secularization" is the "temporalization" of the spiritual or of the eternal. It is the attempt to integrate the eternal into a temporal context. It therefore presupposes that the eternal is no longer understood as eternal. "Secularization," in other words, presupposes a radical change of thought, a transition of thought from one plane to an entirely different plane. This radical change appears in its undisguised form in the emergence of modern philosophy or science; it is not primarily a change within theology. What presents itself as the "secularization" of theological concepts will have to be understood, in the last analysis, as an adaptation of traditional theology to the intellectual climate produced by modern philosophy or science both natural and political. The "secularization" of the understanding of Providence culminates in the view that the ways of God are scrutable to sufficiently enlightened men. The theological tradition recognized the mysterious character of Providence especially by the fact that God uses or permits evil for his good ends. It asserted, therefore, that man cannot take his bearings by God's providence but only by God's law, which simply forbids man to do evil. In proportion as the providential order came to be regarded as intelligible to man, and therefore evil came to be regarded as evidently necessary or useful, the prohibition against doing evil lost its evidence. Hence various ways of action which were previously condemned as evil could now be regarded as good. The goals of human action were lowered. But it is precisely a lowering of these goals which modern political philosophy consciously intended from its very beginning.

Burke was satisfied that the French Revolution was thoroughly evil. He condemned it as strongly and as unqualifiedly as we today condemn the Communist revolution. He regarded it as possible that the French Revolution, which conducted "a

prepared an approach to human affairs which is even more foreign to classical thought than was the very "radicalism" of the theorists of the French Revolution. Political philosophy or political theory had been from its inception the quest for civil society as it ought to be. Burke's political theory is, or tends to become, identical with a theory of the British constitution, i.e., an attempt to "discover the latent wisdom which prevails" in the actual. One might think that Burke would have to measure the British constitution by a standard transcending it in order to recognize it as wise, and to a certain extent he undoubtedly does precisely this: he does not tire of speaking of natural right, which, as such, is anterior to the British constitution. But he also says that "our constitution is a prescriptive constitution; it is a constitution whose sole authority is that it has existed time out of mind" or that the British constitution claims and asserts the liberties of the British "as an estate especially belonging to the people of this kingdom, without any reference whatever to any other more general or prior right." Prescription cannot be the sole authority for a constitution, and therefore recourse to rights anterior to the constitution, i.e., to natural rights, cannot be superfluous unless prescription by itself is a sufficient guaranty of goodness. Transcendent standards can be dispensed with if the standard is inherent in the process; "the actual and the present is the rational." What could appear as a return to the primeval equation of the good with the ancestral is, in fact, a preparation for Hegel.¹⁰⁴

We have noted before that what appeared later on as the discovery of History was originally rather the recovery of the distinction between theory and practice. That distinction had been blurred by the doctrinairism of the seventeenth and eighteenth centuries or, what is fundamentally the same thing, by

104. *Works*, II, 306, 359, 443; III, 110, 112; VI, 146; Hegel, *op. cit.*, Vorrede; cf. also Barker, *op. cit.*, p. 225.

the understanding of all theory as essentially in the service of practice (*scientia propter potentiam*). The recovery of the distinction between theory and practice was from the outset modified by skepticism in regard to theoretical metaphysics, a skepticism which culminated in the depreciation of theory in favor of practice. In accordance with these antecedents, the highest form of practice—the foundation or formation of a political society—was viewed as a quasi-natural process not controlled by reflection; thus it could become a purely theoretical theme. Political theory became understanding of what practice has produced or of the actual and ceased to be the quest for what ought to be; political theory ceased to be "theoretically practical" (i.e., deliberative at a second remove) and became purely theoretical in the way in which metaphysics (and physics) were traditionally understood to be purely theoretical. There came into being a new type of theory, of metaphysics, having as its highest theme human action and its product rather than the whole, which is in no way the object of human action. Within the whole and the metaphysic that is oriented upon it, human action occupies a high but subordinate place. When metaphysics came, as it now did, to regard human action and its product as the end toward which all other beings or processes are directed, metaphysics became philosophy of history. Philosophy of history was primarily theory, i.e., contemplation, of human practice and therewith necessarily of completed human practice; it presupposed that significant human action, History, was completed. By becoming the highest theme of philosophy, practice ceased to be practice proper, i.e., concern with *agenda*. The revolts against Hegelianism on the part of Kierkegaard and Nietzsche, in so far as they now exercise a strong influence on public opinion, thus appear as attempts to recover the possibility of practice, i.e., of a human life which has a significant and undetermined future. But these attempts increased the confusion, since they

destroyed, as far as in them lay, the very possibility of theory. "Doctrinairism" and "existentialism" appear to us as the two faulty extremes. While being opposed to each other, they agree with each other in the decisive respect—they agree in ignoring prudence, "the god of this lower world."¹⁰⁵ Prudence and "this lower world" cannot be seen properly without some knowledge of "the higher world"—without genuine *theoria*.

Among the great theoretical writings of the past, none seems to be nearer in spirit to Burke's statements on the British constitution than Cicero's Republic. The similarity is all the more remarkable since Burke cannot have known Cicero's masterpiece, which was not recovered until 1820. Just as Burke regards the British constitution as the model, Cicero contends that the best polity is the Roman polity; Cicero chooses to describe the Roman polity rather than to invent a new one, as Socrates had done in Plato's *Republic*. These contentions of Burke and of Cicero are, if taken by themselves, in perfect agreement with the classical principles: the best polity being essentially "possible," it could have become actual at some place and at some time. One should note, however, that, whereas Burke assumed that the model constitution was actual in his time, Cicero assumed that the best polity had been actual in the past but was no longer actual. Above all, Cicero made it perfectly clear that the characteristics of the best polity can be determined without regard to any example, and especially to the example of the Roman polity. In the respect under discussion, there is no difference between Cicero and Plato in particular; Plato commenced a sequel to his *Republic*, namely the *Critias*, in which the "invented" polity of the *Republic* was to be shown to have been actual in the Athenian past. The following agreement between Burke and Cicero seems to be more important: just as Burke traced the excellence of the British constitution to the fact that it had come into

105. *Works*, II, 28.