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BOOK II

CHAPTER I

That Sovereignty Is Inalienable

The first and the most important consequence of the principles established above is that the general will alone can direct the forces of the state according to the end of its institution, which is the common good. For if the opposition of particular interests has made the establishment of societies necessary, it is the agreement of these same interests that has made it possible. It is what these different interests have in common that forms the social bond, and if there were not some point on which all these interests are in agreement, no society could exist. Hence it is solely on the basis of this common interest that society should be governed.

I say, therefore, that sovereignty—since it is nothing but the exercise of the general will—can never be alienated, and that the sovereign—which is nothing but a collective being—can be represented only by itself. Power may well be transferred, but not will.

Indeed, while it is not impossible for a particular will to be in agreement with the general will on some point, it is at any rate impossible for this agreement to be lasting and continual. For the particular will tends by its nature toward partiality, and the general will toward equality. It is even more impossible to have a guarantee of this agreement, even were it to endure forever: this would not be the result of art, but of chance. The sovereign may very well say, "I currently will what a given man wills, or at least what he says he wills."³⁰

30. "Will" in this sentence translates various forms of the verb *vouloir*, which could also be translated "want." Depending upon the context, forms of the verb *vouloir* have been translated by the appropriate forms of "to will" and "to want," but the possible alternative translation should be kept in mind.

But it cannot say, "What that man is going to will tomorrow, I too shall will it," because it is absurd for the will to enchain itself with regard to the future, and because it is not up to any will whatsoever to consent to anything contrary to the good of the being that wills. If, then, the people promises simply to obey, it dissolves itself by this act, it loses its status as a people. The moment there is a master, there is no longer a sovereign, and from that point onward the body politic is destroyed.

This is not to say that the commands of leaders cannot be taken for general wills, as long as the sovereign, being free to oppose them, does not do so. In such a case, the people's consent should be presumed from universal silence. This will be explained at greater length.

CHAPTER 2

That Sovereignty Is Indivisible

For the same reason that sovereignty is inalienable, it is indivisible. For the general will is either general* or it is not; it is either the will of the body of the people or only of a part. In the first case, this will when declared is an act of sovereignty and constitutes law. In the second case, it is merely a particular will, or an act of magistracy; it is at most a decree.

But our political thinkers,³¹ unable to divide the principle of sovereignty, divide its object. They divide it into force and will, into legislative power and executive power, into rights of taxation, justice, and war, into domestic administration and a power to conduct foreign affairs. Sometimes they mix all these parts together and sometimes they separate them. They turn the sovereign into a fantastical being made up of a motley assortment of pieces. It is as though they constructed a man out of several bodies—one of which had eyes, another arms, another feet—and nothing else. Japanese conjurers are said to carve up a child before the spectators' eyes, then, throwing all of his limbs into the air one after another, they make the child come back down alive and all in one piece. That is more or less like what the juggling acts of our political thinkers are like. After having dismembered the social body by a magic trick worthy of a carnival, they put the pieces back together who knows how.

* For a will to be general, it is not always necessary for it to be unanimous, but it is necessary that all the votes be counted. Any formal exclusion destroys the generality.

31. "Political thinkers" here and later in this paragraph translates *politiques*, which can refer to political actors of various kinds, including political leaders or political thinkers.

This error comes from not having established precise notions of sovereign authority, and from having mistaken for parts of this authority what are only its manifestations. Thus, for example, the act of declaring war and that of making peace have been regarded as acts of sovereignty, which they are not, because neither of these acts is a law but merely an application of the law, a particular act which decides the case at issue, as will clearly be seen once the idea attached to the word *law* is established.

By examining the other divisions in the same way, one would discover that whenever one believes one sees sovereignty divided, one is mistaken, that the rights which one takes for parts of this sovereignty are all subordinate to it and always presuppose supreme wills which these rights merely implement.

It would be hard to overestimate how much this lack of precision has obscured the judgments of writers on the subject of political rights when they have sought to adjudicate the respective rights of kings and peoples by the principles they have established. Anyone can see in chapters 3 and 4 of the first book of Grotius how that learned man and his translator Barbeyrac have gotten themselves tangled up, caught up in their sophisms, for fear of either saying too much or of not saying enough in accordance with their views, and of offending the interests they had to reconcile. Grotius—taking refuge in France, discontented with his fatherland, and wanting to pay court to Louis XIII, to whom his book is dedicated—spares nothing to strip the people of all their rights and to invest kings with them as artfully as possible. This would certainly also have been to the taste of Barbeyrac, who dedicated his translation to King George I of England. But unfortunately the expulsion of James II, which he calls an abdication, forced him to be on his guard, to be evasive, to equivocate so as not to make a usurper of William.³² If these two writers had adopted true principles, all their difficulties would have been avoided and they would always have been consistent. But they would have told the truth with regret and would have paid court only to the people. For truth does not lead to fortune, and the people does not confer either embassies, or professorships, or pensions.

32. In his *The Rights of War and Peace* (1625), 1.3–4, Grotius discusses the nature of the "supreme power" or sovereignty, where he denies the principle of popular sovereignty, and then the right of subjects to make war on their superiors, which he severely restricts. Hugo Grotius (1583–1645), or Huig de Groot in Dutch, was arrested and imprisoned in 1618 and then, having escaped, fled his native Holland for France in 1621. Grotius published *The Rights of War and Peace* in Paris and dedicated it to King Louis XIII of France. Jean Barbeyrac (1674–1744) translated Grotius' work into French and provided a substantial commentary of his own, publishing the work in 1724 and dedicating it to King George I of England. Barbeyrac characterizes the expulsion of King James II of England in the Glorious Revolution of 1688 that brought William and Mary to the throne as an "abdication" in a note to Grotius' *Rights of War and Peace*, 1.4.9.

CHAPTER 3

Whether the General Will Can Err

From the preceding it follows that the general will is always right³³ and always tends toward the public utility. But it does not follow that the people's deliberations always have the same rectitude. One always wants³⁴ what is good for oneself, but one does not always see it. Never is the people corrupted, but it is often deceived, and only then does it appear to want what is bad.

There is often a considerable difference between the will of all and the general will.³⁵ The latter considers only the common interest, while the former considers private interest and is merely a sum of particular wills. But take away from these same wills the pluses and minuses, which mutually cancel each other out,* and the remaining sum of the differences is the general will.

If, when the people deliberates and is adequately informed, the citizens were to have no private communication³⁷ among themselves, the general will would always result from the large number of small differences and the deliberation would always be good. But when factions—partial associations at the expense of the larger one—are formed, the will of each of these associations becomes general in relation to its members and particular in relation to the state. There can then no longer be said to be as many voters as there are men, but only as

* Each interest, states the Marquis d'Argenson, has different principles. The agreement between two individual interests is formed by opposition to that of a third.³⁶ He might have added that the agreement of all interests is formed in opposition to that of each. If there were no different interests, the common interest, never encountering any obstacle, would scarcely be felt: everything would run by itself and politics would cease to be an art.

33. "Right" translates *droit*. The sense of *droit* in this usage is that the general will is "upright" or "rightly directed."

34. Or: "wills," here and elsewhere in this chapter. See n. 30 (p. 179) above.

35. The distinction Rousseau makes between the "will of all" (*volonté de tous*) and the "general will" (*volonté générale*) requires explanation. The word "all" (*tous*) in the "will of all" in this context should be understood not as "all" in the sense of the body of citizens as a whole acting in their collective capacity as sovereign, but as the sum of the wills of "all of them" separately. In other words, the "will of all" is the sum of the wills of all persons acting as private individuals and not the result of the "general will" they all have in their capacity as citizens.

36. D'Argenson, *Considérations sur le gouvernement ancien et présent de la France* (1764), 26–27. Similarly to his citation of d'Argenson above, in the first edition of the *Social Contract* of 1762 Rousseau indicated d'Argenson's name only by the initials "M. d'A." See I.2 and n. 9 above.

37. "Private communication" translates *communication*. Rousseau's point here is not that there should be no communication among the citizens—that is, discussion and debate—but that there should not be any non-public communication among individuals.

many as there are associations. The differences become less numerous and produce a less general result. Finally, when one of these associations is so large that it prevails over all the others, you no longer have for a result a sum of small differences, but rather one single difference. Then there is no longer a general will, and the opinion that prevails is merely a private opinion.

In order for the general will to be expressed well, it is therefore important that there be no partial society in the state and that each citizen give only his own opinion.* Such was the unique and sublime institution of the great Lycurgus. That if there are partial societies, their number must be multiplied and inequality among them must be prevented, as was done by Solon, Numa, Servius.³⁸ These are the only good precautions to ensure that the general will is always enlightened and that the people is not deceived.

CHAPTER 4

On the Limits of the Sovereign Power

If the state or the city is merely a moral person whose life consists in the union of its members, and if its most important concern is that of its own self-preservation, it has to have a universal and compulsory force to move and arrange each part in the manner best suited to the whole. Just as nature gives each man absolute power over all his members, the social compact gives the body politic absolute power over all its members, and it is this same power which, directed by the general will, bears, as I have said, the name "sovereignty."

But aside from the public person, we have to consider the private persons who make it up and whose life and freedom are naturally independent of it. It is a question, therefore, of clearly distinguishing between the respective rights

* It is true, states Machiavelli, that some divisions are harmful to republics and some are helpful. Those are harmful that are accompanied by sects and partisans; those are helpful that are maintained without sects and partisans. Thus, since a founder of a republic cannot provide that there be no enmities in it, he has to provide at least that there not be sects. Florentine Histories, book 7.³⁹

38. Solon (c. 638–558 BC) was an Athenian statesman and lawmaker who made democratic reforms. Numa Pompilius was the legendary second king of Rome, and was traditionally held to have ruled from 715 to 673 BC. Servius Tullius was the legendary sixth king of Rome, and was said to have ruled from 578 to 535 BC. For Rousseau's discussion of these institutions by Servius in particular, see IV.4 below.

39. Niccolò Machiavelli, *Florentine Histories* (1532), 7.1, p. 276, quoted by Rousseau in Italian: *Vera cosa è, states Machiavelli, che alcune divisioni nucono alle repubbliche, e alcune giovano: quelle nucono che sono dalle sette e da partigiani accompagnate: gelle giovano che senza sette, senza partigiani si mantengono. Non potendo adunque provvedere un fondatore d'una republic ache non siano inimicizie in quella, hà da proveder almeno che non vi siano sette.*

of the citizens and of the sovereign* and between the duties the former have to fulfill in their capacity as subjects and the natural right they should enjoy in their capacity as men.

It is acknowledged that through the social compact each person alienates only that portion of the entirety of his power, his goods, and his freedom the use of which matters to the community, but it must also be acknowledged that the sovereign alone is judge of what matters.

A citizen owes all the services he can render to the state as soon as the sovereign requests them. But the sovereign, for its part, cannot burden the subjects with any chains useless to the community. It cannot even will to do so, for nothing is done without a cause under the law of reason, any more than under the law of nature.

The commitments that bind us to the social body are obligatory only because they are mutual, and their nature is such that in fulfilling them one cannot work for someone else without also working for oneself. Why is the general will always right, and why do all constantly will the happiness of each one of them, if not because there is no one who does not appropriate the word *each* to himself, and who does not consider himself when voting for all? This proves that the equality of right and the notion of justice it produces derives from the preference that each person has for himself and consequently from the nature of man, that the general will—to be truly general—should be so in its object as well as in its essence, that it should come from all in order to be applied to all, and that it loses its natural rectitude when it is directed toward some individual and determinate object, because then, in judging what is foreign to us, we have no true principle of equity to guide us.

Indeed, as soon as it is a question of a particular fact or right, regarding an issue which has not been regulated by a general and prior convention, the matter is in dispute. It is a lawsuit in which the interested private individuals are one of the parties and the public is the other, but in which I see neither what law must be followed nor what judge should decide. It would be ridiculous in this case to try to turn to an express decision of the general will, a decision which can be only the determination of one of the parties and which is, consequently, merely a foreign and particular will as far as the other party is concerned, and which is apt in this situation to be unjust and subject to error. Thus, just as a particular will cannot represent the general will, so the general will in turn

changes nature when it has a particular object, and, inasmuch as it is general, it cannot decide concerning either a particular man or fact. When the people of Athens, for example, appointed or discharged its leaders, awarded honors to some person, imposed penalties on another, and indiscriminately performed all the acts of government by a multitude of particular decrees, the people then no longer had a general will properly speaking. It no longer acted as a sovereign but as a magistrate. This will appear to be contrary to commonly held ideas, but I must be allowed the time to present my own.

It should be understood from this that what generalizes the will is less the number of voices than the common interest that unites them. For in this institution each necessarily submits to the conditions which he imposes on the others—an admirable agreement of interest and justice which gives the common deliberations an equitable character that is seen to vanish when discussing any particular affair for want of a common interest which unites and identifies the rule of the judge with that of the party.

From whatever direction the principle is approached, the same conclusion is always reached: namely, that the social compact establishes among the citizens an equality such that they all commit themselves under the same conditions and should all enjoy the same rights. Thus, by the nature of the compact every act of sovereignty—that is, every authentic act of the general will—either obligates or favors all of the citizens equally, in such a way that the sovereign recognizes only the body of the nation and does not single out any of those who make it up. What, then, precisely is an act of sovereignty? It is not an agreement⁴⁰ between a superior and an inferior, but rather an agreement between the body and each of its members—an agreement which is legitimate because it has the social contract as its basis, equitable because it is common to all, useful because it has no object other than the general welfare, and solid because it has the public force and the supreme power as its guarantor. As long as subjects are subjected only to such agreements, they do not obey anyone, but obey only their own will. And to ask how far the respective rights of the sovereign and the citizens extend is to ask how far they can commit themselves to one another—each toward all and all toward each of them.

It is clear from this that the sovereign power—entirely absolute, entirely sacred, entirely inviolable as it is—does not exceed and cannot exceed the limits of general agreements, and that every man may fully dispose of the por-

* Attentive readers: please do not rush to accuse me of inconsistency here. Given the poverty of the language, I have not been able to avoid some inconsistency in my terminology. But wait.

40. "Agreement" here and in the rest of this chapter translates *convention*, which is elsewhere translated "convention."

tion of his goods and his freedom left to him by these agreements. As a result, it is never right for the sovereign to burden one subject more than another, because in that case, since the matter becomes particular, its power is no longer competent.

Once these distinctions are acknowledged, it is so manifestly false that the social contract involves any genuine renunciation on the part of the private individuals, that, as a result of this contract, their situation actually proves to be preferable to what it had been beforehand, and that, instead of an alienation, they have only made an advantageous exchange of an uncertain and precarious mode of existence for a better and more secure one, of natural independence for freedom, of the power to harm others for their own security, and of their force, which others could overcome, for a right which the social union renders invincible. Their very life, which they have dedicated to the state, is continually protected by it, and when they risk it for its defense what are they then doing except giving back to it what they have received from it? What are they doing that they did not do more frequently and with greater danger in the state of nature, when, waging inevitable battles, they defended the means for preserving their life at the risk of losing it? All have to fight for the fatherland as needed, it is true, but then again no one ever has to fight for himself. Do we not still gain by running only a portion of the risks for the sake of what provides our security as we would have to run for our own sake as soon as we are deprived of it?

CHAPTER 5

On the Right of Life and Death

It is asked how private individuals who have no right to dispose of their own lives can transfer to the sovereign this same right that they do not have. This question appears difficult to resolve only because it is badly posed. Every man has a right to risk his own life in order to preserve it. Has anyone ever said that someone who jumps out of a window to escape a fire is guilty of suicide? Has this crime ever even been imputed to someone who perishes in a storm, even though he was not unaware of its danger when he set out?

The social treaty has as its end the preservation of the contracting parties. Whoever wills the end also wills the means, and these means are inseparable from certain risks, even from certain losses. Whoever wants to preserve his life at the expense of others should also give it up for them when he has to. Hence the citizen is no longer judge of the danger to which the law wills that he be exposed, and when the prince has said to him, "It is expedient to the state that you should die," he ought to die, because it is only on this condition that

he has lived in safety until then, and because his life is no longer solely a blessing of nature, but is a conditional gift of the state.

The death penalty imposed on criminals can be considered more or less from the same point of view. It is in order not to become the victim of an assassin that one consents to die if one becomes an assassin oneself. Under this treaty, far from disposing of one's own life, one thinks only of guaranteeing it, and it cannot be presumed that any of the contracting parties is at that time planning to have himself hanged.

Furthermore, in attacking the social right every wrongdoer becomes a rebel and a traitor to his fatherland through his crimes—he ceases to be a member of it in violating its laws and he even wages war against it. Then the preservation of the state is incompatible with his own, so that one of the two must perish, and when the guilty person is put to death, it is less as a citizen than as an enemy. The proceedings, the decision, are the proofs and the declaration that he has broken the social treaty, and consequently that he is no longer a member of the state. Hence as he acknowledges himself to be such, at the very least by his residence, he should be cut off from it by exile as a violator of the compact or by death as a public enemy. For such an enemy is not a moral person, he is a man, and in that case killing the vanquished is the right of war.

But, it will be said, the condemnation of a criminal is a particular act. Agreed. And this condemnation does not belong to the sovereign; it is a right the sovereign can confer without itself having the power to exercise. My ideas all fit together, but I cannot very well present them all at once.

Moreover, the frequency of corporal punishments is always a sign of weakness or idleness in the government. There is not a single wicked person who could not be made good for something. One only has the right to put to death, even as an example, someone who cannot be preserved without danger.

With regard to the right to pardon, or to exempt a guilty person from the penalty prescribed by the law and pronounced by the judge, it belongs only to the one who is above the judge and the law—that is, to the sovereign. Still, its right in this matter is not altogether clear, and the occasions for exercising it are quite rare. In a well-governed state there are few punishments, not because many pardons are granted, but because there are few criminals. The high number of crimes ensures their impunity when the state is declining. Under the Roman Republic never were the senate or the consuls tempted to grant pardons; nor did the people itself do so, although it sometimes revoked its own verdict. Frequent pardons proclaim that crimes will soon no longer need them, and anyone can see where that leads. But I feel my heart murmur and hold

back my pen. Let us leave these questions to be discussed by the just man who has never lapsed and who has never himself been in need of pardon.

CHAPTER 6

On Law

Through the social compact we have given existence and life to the body politic. It is now a question of giving it movement and will through legislation. For the original act through which this body is formed and united does not determine anything further about what it should do to preserve itself.

What is good and in accordance with order is so by the nature of things and independently of human conventions. All justice comes from God; he alone is its source. But if we knew how to receive it from on high, we would need neither government nor laws. Without doubt, there is a universal justice emanating from reason alone. But in order to be acknowledged among us, this justice must be reciprocal. Considering things from a human standpoint, the laws of justice are ineffectual among men for want of a natural sanction. They merely benefit the wicked and harm the just when the latter observes them toward everyone while no one observes them toward him. Conventions and laws are therefore necessary to unite rights with duties and to bring justice back to its object. In the state of nature, where everything is common, I owe nothing to those to whom I have promised nothing, I recognize as belonging to someone else only what is useless to me. This is not so in the civil state, where all rights are settled by the law.

But what in the end, then, is a law? As long as people are satisfied with attaching only metaphysical ideas to this word, they will continue reasoning without understanding one another, and when they have stated what a law of nature is, they will not thereby have any better idea of what a law of the state is.

I have already said that there is no general will regarding a particular object. Indeed, this particular object is either within the state or outside of the state. If it is outside of the state, a will that is foreign to it is not general in relation to it. And if this object is within the state, it is part of it. Then a relation is formed between the whole and its part that makes of them two separate beings, of which the part is one and the whole minus that part is the other. But the whole minus a part is not the whole, and as long as this relation persists there is no longer a whole but only two unequal parts, from which it follows that the will of one of them is no longer general in relation to the other.

But when the whole people enacts statutes regarding the whole people, it considers only itself, and if a relation is then formed, it is between the entire object from one point of view toward the entire object from another point of

view, without any division of the whole. Then the subject matter of the statute is general like the will that enacts. It is this act that I call a law.

When I say that the object of the laws is always general, I mean that the law considers the subjects as a body and their actions in the abstract, never any man as an individual or any particular act. Thus, the law can very well enact that there will be privileges, but it cannot confer them on anyone by name. The law can create several classes of citizens, even specify the qualifications for having a right to membership in these classes, but it cannot name this or that person for admission to them. It can establish a royal government and a hereditary succession, but it cannot elect a king or name a royal family. In a word, any function that relates to an individual object does not belong to the legislative power.

With this idea in mind, it is immediately clear that it is no longer necessary to ask to whom it belongs to make laws, because they are acts of the general will; nor whether the prince is above the laws, because he is a member of the state; nor whether the law can be unjust, because no one is unjust toward himself; nor how one is both free and yet subject to the laws, because they merely register our wills.

It is also clear that, since the law combines the universality of the will and that of the object, what any man—regardless of who he may be—orders on his own authority is not a law. What even the sovereign orders concerning a particular object is not a law either, but is instead a decree, nor is it an act of sovereignty, but instead one of magistracy.

I therefore call a republic any state ruled by laws, whatever the form of administration may be: for then alone does the public interest govern and does the commonwealth truly exist. Every legitimate government is republican.* I will explain later what government is.

The laws are, strictly speaking, nothing but the conditions of the civil association. The people subject to the laws should be their author. It belongs only to those who are forming an association to regulate the conditions of the society. But how will they regulate them? Will it be by a common accord, through a sudden inspiration? Does the body politic have an organ to enunciate its wills? Who will give it the foresight necessary to formulate its acts and publish them in advance, or how will they be declared in time of need? How will a blind multitude, which often does not know what it wants because it

* By this word I do not mean only an aristocracy or a democracy, but in general any government guided by the general will, which is the law. In order to be legitimate, not only must the government not be confounded with the sovereign, but it must be its minister. In this case, monarchy itself is a republic. This will become clearer in the following book.

rarely knows what is good for it, carry out by itself an undertaking as vast, as difficult as a system of legislation? By itself the people always wants the good, but by itself it does not always see it. The general will is always right, but the judgment that guides it is not always enlightened. It must be made to see objects as they are, sometimes as they should appear to it to be, be shown the good path it seeks, be safeguarded against seduction by particular wills, be brought to regard considerations of time and place, to weigh the appeal of present and perceptible advantages against the dangers of remote and hidden evils. Private individuals see the good they reject; the public wants the good it does not see. All are equally in need of guides. The first must be obliged to make their wills conform to their reason; the latter must be taught to know what it wants. Then the union of understanding and will in the social body results from public enlightenment, and from this union results the smooth working of the parts, and, finally, the greatest force of the whole. From this arises the need for a lawgiver.

CHAPTER 7

On the Lawgiver

To discover the best rules of society suited to each nation would require a superior intelligence who saw all of men's passions and experienced none of them, who had no relation to our nature and who knew it profoundly, whose happiness was independent of ours and who was yet quite happy to attend to ours; finally, one who, preparing distant glory for himself in the fullness of time, could work in one age and enjoy the reward in another.* Gods would be needed to give laws to men.

The same reasoning that Caligula used with respect to fact was used by Plato with respect to right in order to define the civil or royal man he seeks in his book on ruling.⁴¹ But if it is true that a great prince is a rare man, what

* A people becomes famous only once its legislation begins to decline. No one knows for how many centuries the institutions established by Lycurgus produced the Spartans' happiness before the rest of Greece took note of them.

41. For Caligula's remark, see the passage from Philo of Alexandria *On the Embassy to Caius* (or *Gaius*) (*De Legatione ad Caium*) cited in n. 11 to p. 165. For Plato, see *Statesman* 261c-d: "To supervise the soulless things, as if it were a master-builder's job, is never the characteristic of the royal science, but it is nobler and grander, always in possession of its power in the case of animals and about these very things. . . . But we won't find the statesman at least to be a nurse-in-private, like the oxdriver or horse-groom, but with more of a resemblance to a horse-feeder or cattle-feeder" (trans. Seth Bernardete [Chicago: University of Chicago Press, 1984]).

about a great lawgiver? The first need merely follow the model which the second must propose. The latter is the mechanic who invents the machine, the former is merely the workman who puts it together and makes it work. At the birth of societies, states Montesquieu, it is the leaders of republics who create the institutions, and afterward it is the institutions that form the leaders of republics.⁴²

He who dares to undertake to establish a people's institutions must feel that he is capable of changing, so to speak, human nature; of transforming each individual, who by himself is a complete and solitary whole, into a part of a greater whole from which that individual receives as it were his life and his being; of weakening man's constitution in order to reinforce it; of substituting a partial and moral existence for the physical and independent existence we have all received from nature. In a word, it is necessary for him to take away man's own forces in order to give him forces which are foreign to him and of which he cannot make use without the help of others. The more these natural forces are dead and annihilated, the more powerful and lasting are the ones he has acquired, and the more solid and complete is the institution as well. As a result, when each citizen is nothing, can do nothing, except with all the others, and when the force acquired by the whole is equal or superior to the sum of the natural forces of all the individuals, the legislation can be said to be at the highest point of perfection it might attain.

The lawgiver is in every respect an extraordinary man in the state. If he must be so by his genius, he is no less so by his office. It is not magistracy; it is not sovereignty. This office, which constitutes the republic, is not part of its constitution. It is a particular and superior function which has nothing in common with the human realm. For if he who has command over men should not have command over the laws, so neither should he who has command over the laws have command over men. Otherwise, his laws—ministers of his passions—would often serve merely to perpetuate his injustices, and he could never avoid having particular views debase the sanctity of his work.

When Lycurgus gave his fatherland laws, he began by abdicating the kingship. It was the custom of most Greek cities to entrust the establishment of their laws to foreigners. The modern republics of Italy often imitated this practice.

42. Montesquieu, *Considerations on the Causes of the Greatness of the Romans and Their Decline* (1734), chap. 1, p. 25. This passage first appeared in the 1748 edition of the *Considerations*.

The republic of Geneva did likewise, and to good effect.* Rome in its finest period beheld all the crimes of tyranny reborn in its midst, and found itself on the verge of perishing as a result of having united the lawgiving authority and the sovereign power in the same hands.

Yet even the Decemvirs themselves never arrogated to themselves the right to have any law passed on their authority alone. *Nothing we propose to you, they would say to the people, can become law without your consent. Romans, be yourselves the authors of the laws that should create your happiness.*⁴⁴

He who drafts the laws, therefore, does not have and should not have any legislative right. And the people itself cannot—even if it wanted to—divest itself of this nontransferable right, because according to the fundamental compact it is only the general will that obligates private individuals, and because there can be no assurance that a particular will is consonant with the general will until it has been submitted to the free suffrage of the people. I have already said this, but it is not useless to repeat it.

Thus one finds at one and the same time two seemingly incompatible things in the work of the legislator: an undertaking beyond human strength and, to execute it, an authority that amounts to nothing.

A further difficulty warrants attention. The wise who want to speak in their own language to the vulgar rather than in the language of the vulgar cannot be understood by them. For there are a thousand kinds of ideas which are impossible to translate into the language of the people. Overly general views and overly remote objectives are equally beyond its grasp. Each individual, appreciating no other plan of government than that which bears on his particular interest, has difficulty perceiving the advantages he is to derive from the constant privations imposed by good laws. In order for a nascent people to be able to appreciate sound maxims of politics and to follow the fundamental rules of statecraft, the effect would have to become the cause: the social spirit that is to be

* Those who consider Calvin merely as a theologian fail to understand the extent of his genius. The drawing up of our wise edicts, in which he played a large part, does him as much honor as his *Institutes*. Whatever revolution time may bring about in our rites, as long as love of the fatherland and of freedom is not extinguished among us, never will the memory of that great man cease to be blessed.⁴³

43. Jean Calvin (1509–64) was a French theologian whose *Institutes of the Christian Religion* (1536) was one of the most influential works of the Protestant Reformation. In the same year as he published this work, he was invited to Geneva to reform church government and religious rites.

44. The Decemvirs was a commission of ten men appointed for one year by the Romans in 452 BC to draw up a code of laws. After their year in office, the commissioners were reappointed for a second year, after which they refused to leave office, causing an uprising by the Roman people that forced them to resign.

the work of the institution would have to preside over the institution itself, and men would have to be prior to the laws what they are to become through the laws. Hence, therefore, since the lawgiver can use neither force nor reasoning, he must of necessity have recourse to an authority of a different order which might be able to motivate without violence and persuade without convincing.

This is what has at all times forced the fathers of nations to resort to the intervention of heaven and to honor the gods with their own wisdom, so that peoples—subject to the laws of state as to those of nature, and recognizing the same power in the formation of man as in that of the city—obey with freedom and bear the yoke of public felicity with docility.

This sublime reason, which exceeds the grasp of vulgar men, is the reason whose decisions the legislator puts into the mouth of the immortals, in order to motivate by divine authority those who could not be swayed by human prudence.* But it does not belong to just any man to make the gods speak, or to make himself believed when he proclaims himself their interpreter. The great soul of the lawgiver is the true miracle that must prove his mission. Any man can engrave stone tablets, or bribe an oracle, or feign secret dealings with some divinity, or train a bird to speak in his ear, or find other crude ways to impress the people. Someone who can do only this much might even by chance assemble a mob of madmen, but he will never found an empire, and his extravagant work will soon perish along with him. Trifling tricks may form a fleeting bond; only wisdom makes it lasting. The Jewish law, which still endures, that of Ishmael's child, which has ruled half of the world for ten centuries, even today still proclaim the great men who dictated them. And whereas proud philosophy or the blind spirit of partisanship sees in them merely lucky imposters, the true politician admires in their institutions that great and powerful genius that presides over enduring establishments.⁴⁵

One need not conclude from all this with Warburton that among us politics

* And truly, states Machiavelli, there was never any orderer of extraordinary laws for a people who did not have recourse to God, because otherwise they would not have been accepted. For a prudent individual knows many goods that do not have in themselves evident reasons with which one can persuade others. Discourses on Titus Livy, book 1, chapter 11.⁴⁶

45. "Politician" here translates *politiques*. See n. 31 to p. 180. Rousseau appears to allude here to Voltaire, whose play *Fanaticism, or Mohammed* (1741) presents Mohammed as a charlatan. See Rousseau, *Letter to d'Alembert*, *Collected Writings*, 10:271–73, 360.

46. Machiavelli, *Discourses on Livy* (1531), 1.11, p. 35, quoted by Rousseau in Italian: *E veramente, states Machiavelli, mai non fù alcuno ordinatore di leggi straordinarie in un popolo, che non ricorresse a Dio, perche altrimenti non sarebbero accettate; perche sono molti beni conosciuti da uno prudente, i quali non hanno in se ragioni evidenti da potergli persuadere ad altrui.*

and religion have a common goal, but that at the origin of nations the one serves as an instrument of the other.⁴⁷

CHAPTER 8

On the People

Just as an architect, before putting up a large building, examines and tests the soil to see whether it can support the weight, so the wise founder does not begin by drawing up laws which are good in themselves, but first examines whether the people for whom he intends them is fit to bear them. It is for this reason that Plato refused to give laws to the Arcadians and the Cyrenians, since he knew those two peoples were wealthy and could not tolerate equality.⁴⁸ It is for this reason that there were good laws and wicked men in Crete, as Minos had merely disciplined a people teeming with vices.

A thousand nations on earth have shined which could never have tolerated good laws, and even those that could have tolerated them could do so only a very short time in their entire lifetimes. Most peoples, like most men, are docile only in their youth; they become incorrigible as they grow old. Once customs are established and prejudices rooted, it is a dangerous and futile undertaking to seek to reform them. The people cannot even bear having what ails it touched so as to destroy it, like those stupid and cowardly patients who tremble at the sight of the doctor.

This is not to say that, just as certain illnesses unhinge men's minds and deprive them of their memory of the past, there are not sometimes violent periods during the lifetimes of states when revolutions have the same effect on peoples as certain crises have on individuals, when the horror of the past serves as a kind of forgetting, and when the state, set ablaze by civil wars, is so to speak reborn from its ashes and recovers the vigor of youth as it escapes death's clutches. Such was Sparta at the time of Lycurgus, such was Rome after the Tarquins, and such with us were Holland and Switzerland after the expulsion of the tyrants.

But these events are rare. They are exceptions the reason for which is always found in the particular constitution of the state so excepted. They cannot even occur twice with the same people, for it can free itself as long as it is merely barbarous, but it can no longer do so when the civil mainspring is worn

47. See William Warburton, *The Divine Legation of Moses Demonstrated on the Principles of a Religious Deist*, 2 vols., (1737–41), bk. 2, sect. 5.

48. See Plutarch *Life of Lucullus* 2.