THE GENERAL WILL IN

ROUSSEAU'S SOCIAL CONTRACT

A Thesis presented for the
degree of Ph.D. University of London

Bedford College
James McAdam
December, 1957.
ACKNOWLEDGEMENT

I wish to express my gratitude to Professor H.B. Acton, of Bedford College, for his encouragement, advice and helpful criticism.

DEDICATION

To my wife and parents who contributed to the common good loyally and unstintingly.
ABSTRACT

Sovereignty ought to remain perpetually in the will of the people. However, the contract to institute the sovereign state is illegitimate or unnecessary. There may be a practical necessity for a contract of union to bind the individuals to the common interest. The individual has, on this view, a common interest only as an associate. Likewise he has a general will for the common interest of the association. A detailed analysis of the main argument follows.

Rousseau does not use "common interest" consistently. There is the permanent common interest, supposedly constant throughout the state's existence. The successive common interest, which is really comparable to a majority vote. Finally, there is the interest in the interests of all or the common good. This is, mainly, a moral sense. The Legislator provides artificially a moral education and creates a right tradition and social solidarity, instilling a regard for the common good. The general will represents the argument that there is a good for the state which the individuals do not know of.

Rousseau advocates absolute sovereignty but, being a legislative function, it is limited by the nature of law. But a criterion of law is that the majority can make laws in accordance with their evaluation of the public utility. There are no individual rights, only sovereign rights. In this sense the general will is a moral sovereign. It is disinterested being the will for the good of all the citizens, not the sovereign will of the Kingdom of Ends. In contrast to Bosanquet it is an abstract universal; institutions, etc. are not objective embodiments of the general will. The general will is not one will, nor an analysis of a democratic state, but an ideal standard for popular sovereignty.
## Table of Contents

**Introduction** ........................................... 1  

Chapter 1. False Theories of Sovereignty ............ 1  

2. The State of Nature and the Civil State 37  

3. The Main Argument .................................. 80  

4. The Main Argument (continued) ................... 121  

5. The Legislator ....................................... 146  

6. Rousseau and Plato .................................. 179  

7. Sovereignty and Law ................................ 217  


9. Rousseau, Bosanquet and Others .................. 308  

10. Review ............................................... 346  

**Bibliography** ........................................ 390
I contend that recent criticism and interpretations of Rousseau's political philosophy tends to lead away from the general will and the Contrat social. There are two reasons for this. In the first place, both the general will and the Contrat social have been interpreted in the light of the philosophical systems of those who came after Rousseau. Predominant in this classification are the many interpretations which explain Rousseau by way of Kant. If we judge by numbers this is certainly the most influential. Beaulavon, Cassirer, Delbos, Cole, Mead and Stammler, to name the leading figures, have contributed to the "neo-Kantian" interpretation. But perhaps more deeply rooted in this country is the interpretation via Hegel. It owes much to Bosanquet. But, either for or against, Ritchie, Wallace, Green, Durkeim and Vaughan, Popper and Talmon have stressed the similarity of Rousseau's thought to that of Hegel.

In the second place, recent expositions of Rousseau's political philosophy have shifted the emphasis to the contention that Rousseau's political philosophy is consistent when considered in its entirety. That is, when all his writings are taken into account. The chief exponents of this are Beaulavon, Cassirer and Wright.
No one would wish to quarrel with the suggestion that we should try to make clear the relationship between Rousseau and later philosophers who show signs of being influenced by him. Nor with the reply that if we are to understand Rousseau's political philosophy we ought to study it whole. And not regard the one book as taking the place of a reasonably coherent system of thought.

But there are obvious and likely pitfalls in the way of both procedures. In the first there is a natural tendency to finish with what Derathé aptly calls Kantianism (or Hegelianism) "before the letter". There is also a tendency to be wise after the event. In the second, that of concentrating on all of Rousseau's works, there may be the covert suggestion that the Contrat social is in need of support by his other writings.

Whatever the reasons may be in truth, there is, I think, a need to examine the Contrat social as an independent piece of argumentation. Presumably in publishing the Contrat Social, Rousseau intended it to be treated as such.

The previous remarks also apply to the leading idea in the Contrat social, the general will, which has been made the special object of examination and analysis. The general will rightly has been called "the heart" of and "the key" to the Contrat social. ¹

It has played a major role in practical politics and has appeared in French constitutions. Although, of course, it does not follow that this solely is due to Rousseau's influence, since the idea was popular among political writers in his own time. The general will has interested many philosophers and political thinkers and its influence, in philosophy, touches both writers on ethics and political philosophy. For, like Plato's Republic, Aristotle's Politics and Green's Lectures on the Principles of Political Obligation, the general will and the Contrat social endeavour to bring morality and politics together. Finally, the general will remains one of the leading ideas in political philosophy. It seems, then, to deserve examination.

But, in proportion to its acknowledged or implied importance, the number of specialized studies made of Rousseau's general will is relatively negligible. There have been, of course, a number of articles in mind and the Proceedings of the Aristotelian Society on what is referred to as the notion of the general will.

By a specialized study then I mean one which deals exclusively with Rousseau's formulation of it as this appears

2. The best account of the historical genesis of the general will that I know of is to be found in Hendel. V. Hendel, C., Jean-Jacques Rousseau, Moralist, Volume I, p.99 ff.
in the *Contrat social*. In this classification I have not been able to discover any full-length studies. To my knowledge, only four articles on the subject have appeared in journals. The earliest, and one of the best, of these is by Vosters and appeared in 1901. But it seems to be largely unknown. Stammler's, which is also very good, appeared in 1912, but it is also very short. That written by Léon is much longer. Léon endeavours to discover the "roots" of Rousseau's idea in almost every major philosopher and philosophical movement since Plato. But the whole effect is unconvincing and the selection seems arbitrary. Moreover, he devotes only the last four pages to a specific statement regarding the general will in the *Contrat social*. Finally, there is Chevallier's contribution which was published in 1953. This is a general discussion about Rousseau's political ideas, the general will chief among them, rather than a particular exposition and examination of it.

3. The other work in which the general will plays a prominent part is the *Economie Politique*. In this, for the most part, he is repeating Diderot's ideas and, for the remainder, what is original in his conception reappears in the *Contrat social*.

4. (1) Vosters, J., "La volonté générale dans le *Contrat social*", Revue Générale, 1901.
I have tried to fill in these gaps in the treatment of the **Contrat social**, in general, and the general will, in particular, in three different but connected ways. First, I have endeavoured to present and examine the ideas and the arguments in context. Rousseau, more than most philosophers, seems to invite the exposition and criticism of his ideas removed from their context. Second, I have attempted first an analysis and an interpretation second. Less formally, I have tried to think of several possible explanations of particular passages. Then I offer an interpretation which seems to follow from the more plausible of the various explanations considered. The pitfall I endeavour to bypass is that of presenting an interpretation, or the interpretation, and consciously or unconsciously forcing the particular data into it or, alternatively, simply omitting them. The above method is as bad in philosophy as it is in science. Third, throughout I have tried to compare Rousseau's ideas and arguments to those of his proximate predecessors. Thus I refer to Grotius, Hobbes, Pufendorf, Locke, Montesquieu and Diderot. A general reason for this is that political philosophy more than any other division of the subject has a time and a place. All these thinkers are concerned with the very beginnings of the democratic movement and, consequently, deal with the same problems as Rousseau. His thought develops in opposition or in agreement with them and this influence is stronger than recent interpretations allow.
Two recently published books use approaches somewhat similar to that which I have adopted. One of these is Halbwachs edition of *Du Contrat Social*. At the end of each chapter, for example, Halbwachs gives a detailed analysis and commentary. Derathé's valuable work is an exposition of the political ideas of the natural jurists contemporary, or nearly so, with Rousseau. He also compares Rousseau's ideas to those of Hobbes and Locke. Derathé, however, has dealt with the whole of Rousseau's writings on political matters.

Whether I have agreed or disagreed with the various authorities mentioned herein, I hope the thesis has gained thereby and that I have been able to make some contribution to the subjects discussed.

Finally, Vaughan's edition of the *Contrat Social* is the source of all the quotations from this work. It was published in 1918 and reprinted in 1926 and 1947. I have used the latest of these. Because the *Contrat Social* is referred to so frequently I have taken the liberty of indicating the book by Roman numerals and the chapter in Arabic numerals. Thus Book Three, Chapter Two of the *Contrat Social* is reduced to III, 2. Where I have cited Rousseau's other writings I have used Vaughan's edition of *The Political Writings of Jean Jacques Rousseau* published in 1915 and Flammarion's edition of *Emile* published in 1941.
Chapter 1

False Theories of Sovereignty

The first few chapters of the Contrat social are designed to reveal the errors of Rousseau's immediate predecessors and to prepare the way for a right theory of sovereignty and of the state. In this chapter I shall endeavour to present Rousseau's arguments in systematic form.

For purposes of exposition Rousseau's chosen opponents can be distinguished as, first, those authors of arguments who deny that sovereignty originates in a convention or agreement, and then, those who insist on the conventional basis of sovereign powers while holding conceptions of consent or agreement which Rousseau regards as illegitimate and mistaken. The first position, as Rousseau presents it, may be either that the state and the sovereign are natural developments of the family or that the sovereign power is held by divine right and is in no way dependent on man's will or consent. This position and its corresponding arguments are to be found,
for example, in Filmer's *Patriarcha* and Bossuet's *Politique tiree de l'Ecriture Sainte*. The second position is that while maintaining that sovereignty issues from the people it is nonetheless lawful, even advantageous, for the people to transfer sovereignty, by convention, to one who becomes their ruler. This is argued in the writings of Hobbes, Grotius and Pufendorf.

The attitude taken toward each of these positions and their authors is interesting. Rousseau's criticism of the former is reasonably effective but the temper of the argument is sometimes ironical and patronizing. Regarding those whom he calls "les fauteurs du despotisme" his criticism is coloured with bitter invective. Grotius and Pufendorf, for example, are roundly accused of being paid hacks of absolutism masquerading as philosophers (II,2). So deeply is he influenced by these writers, however, that the "chapters" give the impression of marginalia collected under a single heading. Often passages are taken direct from their sources and reproduced in the *Contrat social* so that Rousseau can refute them because of this the argument is difficult and obscure.

Arguments on particular issues become arguments on general principles and sometimes a refutation of one position is intermingled with that of another.
example, when Rousseau is arguing against the position that the source of sovereign power is natural he quotes Grotius who, like himself, maintained its conventional origins.

Historically Rousseau's relationship to "les fauteurs du despotisme" is one of student to teachers. And it is a plausible argument, I think, that the agreement between them and Rousseau remains, despite Rousseau's protests, more fundamental than that between Locke and Rousseau, for example. Often Rousseau accepts principles of their theory of sovereignty, such as that sovereignty should not be divided, and merely substitutes "people" for "monarch". Again in Book II, Chapter 2 Rousseau writes of how Grotius entangles himself in his own sophistries "crainte d'en dire trop ou de n'en pas dire assez selon leurs vues, et de choquer les intérêts qu'ils avaient à concilier."; the charge, he implies, is not ignorance but "bad faith".

Interesting as it would be to examine this relationship between Rousseau and these writers, the more useful task is exposition. By endeavouring to state what

Rousseau is against we may come to understand what he wishes to put in its place. To do this satisfactorily the particular arguments must be examined in detail.

Generally speaking, jurists and political thinkers prior to Rousseau considered that sovereignty could originate lawfully in any one of four ways: by force (i.e. conquest or domination), by natural development, by divine appointment and, finally, by consent or contract of the people. Rousseau begins by arguing against the first of these.

"Si je ne considérais que la force et l'effet qui en dérive, je dirais: 'Tant qu'un peuple est contraint d'obéir et qu'il obéit, il fait bien, sitôt qu'il peut secouer le joug, et qu'il le secoue, il fait encore mieux: car, recouvrant sa liberté par le même droit qui la lui a ravie, ou il est fondé à la reprendre, ou on ne l'était point à la lui ôter'."

Whenever, that is to say, the sovereign power is not held with the free consent of the people, the people are fully justified in rebelling against the sovereign power. Apparently, however, Rousseau rejects the solution of obtaining sovereignty by the use of force, for immediately he cautions: "Mais l'ordre social est un droit sacré qui sert de base à tous les autres". This, he adds, does not mean that the state and sovereignty come from nature. The civil power is founded on a convention. This statement announces the general trend of the
argument. First we shall consider the arguments of those who advocate the natural origin and then those who base civil power on a contract.

The second chapter is directed against the natural and patriarchal explanation of the origin of sovereignty and civil power. This position was stated by Filmer and Bossuet.

Filmer's chief purpose is to argue against the view that: mankind is born free and equal, "and at liberty to choose what form of government it please, and that the power which any one man hath over others was at the first by human right bestowed according to the discretion of the multitude".

He does so by taking the family as the true model of the state and the father of a family as the true model of sovereignty. But it was not simply any family which provided the basis of his argument but the original, Adam and his children. Adam was the original patriarch. He was given sovereign power directly by God and it was possible by assiduous study of the scriptures to trace the descent of sovereign power through Hebrew patriarchs, who eventually became kings, and thence to the then holders of sovereignty.

---

2. Filmer, R., Patriarcha, p.53.
Now this argument had several advantages. First, it provided a simple explanation of sovereignty. Sovereignty did not begin with pacts. It was inherited and passed lawfully from father to son. This excludes the possibility, and the necessity, of the notion of an original contract. Second, it supplied a clear explanation of the divine right and origin of monarchical power. All sovereign power originated in Adam. Third, it was authorized by the Bible and to argue against this was either to claim special revelation or to be blasphemous. Fourth, the model was homely and easy to comprehend.

"The Father of a family governs by no other law than by his own will, not by the laws or wills of his sons or servants... And yet for all this every Father is bound by the law of nature to do his best for the preservation of his family... If we compare the natural duties of a Father with those of a King, we find them all to be one, without any difference at all but only in the latitude or extent of them." 3.

Rousseau begins his refutation by accepting that:

"La plus ancienne de toutes les sociétés et la seule naturelle est celle de la famille..." (II,2). The children are joined to their parents by necessity. But, he argues, as soon as they are able to fend for themselves it is then up to them whether they remain

---

3. IBID. p.96 & 63.
attached to the family and subservient to the sovereign rule of the father. There is no longer any natural necessity to do so. Then if the family continues in existence it does with the voluntary consent of the children "et la famille elle-même ne se maintient que par convention".

Man's first law is his own preservation and as soon as he reaches the "age de raison" he becomes his own master. The comparison between the family and the state has a certain validity since "tous étant nés égaux et libres, n'aliènent leur liberté que pour leur utilité. Toute la différence est que, dans la famille, l'amour du père pour ses enfants le paye des soins qu'il leur rend; et que, dans l'Etat, le plaisir de commander supplée à cet amour que le chef n'a pas pour ses peuples".

Rousseau then notes that he has not mentioned "roi Adam": "J'espère qu'on me saura gré de cette moderation; ...que sais-je si, par la vérification des titres, je ne me trouverais point le légitime roi du genre humain?"

We know from his Économie Politique that Rousseau did not rate Filmer highly: "J'ai cru qu'il suffirait de ce peu de lignes pour renverser l'odieux système que

4. The family is thenceforward united by consent and not the "natural" link which depended on the will of the father binding all the rest.
le chevalier Filmer a tâché d'établir dans un ouvrage intitulé Patriarcha, auquel deux hommes illustres ont fait trop d'honneur en écrivant des livres pour lui répondre. But Rousseau did not make a strong case against Filmer, despite his claim. He argues merely that the rule of the state is far more complex than that of the family because the state is itself more complex and that whereas the father may be guided by natural instinct the ruler ought to be guided by public reason. This is not, as is needed, a difference in principle.

What then is Rousseau's case against Filmer's argument in the Patriarcha? Rousseau's weakest point is what he calls "toute la différence" between the family and the state. What Filmer had argued in this regard was that there was no difference in principle between the natural duties of parent and king; each had children to care for. It is irrelevant to claim against this that the father is recompensed by love, the ruler by honour. Rousseau's third criticism regarding the

5. *Economie Politique*, I, 240. (Vaughan) Probably, he had in mind:

Locke, J. *The First Treatise of Civil Government* and Sidney, A. *Discourses Concerning Civil Government*.
difficulty of the verification of title-deeds is a telling, though obvious, one. The many kingdoms that fell through conquest are difficult to explain away in such a theory as Filmer's, which depends on there being a continuous direct descent from father to son.

The second argument is, for our purposes, very important. Rousseau compares family and state, father and chieftain: "tous étant nés égaux et libres, n'aliènent leur liberté que pour leur utilité". (II,2). The notion that there is an implied or tacit contract between parents and new born babies is at first sight ridiculous. But we may take him to mean that the child's obligation to obey the parent continues only until the child has reached the age of independence; then if the individual continues to obey his parent he does so by choice. Still, in this statement he goes too far in claiming that a people can alienate their freedom for their own utility. For, as we shall see, this is the argument of Grotius and Pufendorf which Rousseau will deny categorically.

Filmer, it will be remembered, argued against the view that men are all born free and equal; he insisted, instead, that some, the monarchs, are born to rule and others, the people, to be ruled. Rousseau attributes an
argument, similar in principle, to Aristotle:

"Aristote ... avait dit aussi que les hommes ne sont point naturellement égaux, mais que les uns naissent pour l'esclavage et les autres pour la domination ... mais il prenait l'effet pour la cause. Tout homme ne dans l'esclavage naît pour l'esclavage, rien n'est plus certain. Les esclaves perdent tout dans leurs fers, jusqu'au désir d'en sortir".(II,2).

Rousseau is right in pointing out the mistake of arguing that because there are and have been slaves the institution is natural to humankind. But, as will be argued later, he is scarcely justified in attributing so crude a view to Aristotle.

Rousseau then thinks he has disposed of those who maintain the natural basis of sovereign power. He considers next the credentials of sovereign power gained through conquest. Although the relation of "force" and "right" is treated generally it will be seen that, for Rousseau, the origins of sovereignty in force and in illegitimate conventions are inseparable since, for the most part, an illegitimate contract is one founded solely on force. What follows is for this reason a key argument.

The question is - what is meant by "le droit du

6. In brief, Rousseau seems to mistake the teleological sense of natural for the "whatever happens is natural" sense.
plus fort}? According to Rousseau analysis reveals "un galimatias inexplicable".

"La force est une puissance physique; je ne vois point quelle moralité peut résulter de ses effets. Cédre à la force est un acte de nécessité, non de volonté; c'est tout au plus un acte de prudence. En quel sens pourra-ce être un devoir? ... un brigand me surprenne au coin d'un bois, non seulement il faut par force donner la bourse; mais, quand je pourrais la soustraire, suis-je en conscience oblige de la donner? Car enfin le pistolet qu'il tient est une puissance". (I,3).

Now this appears to mean that there is no relationship whatever between morality and force; that the use of force on the part of the sovereign renders obligation void.

But what, we may ask, does Rousseau mean by "force" and "power" in this context? For it could be argued to take a slightly different case, that if we were ordered to commit a moral wrong under threat of being shot we are free to refrain from doing so and to accept the consequences. Some moralists would argue that our moral guilt is none the less real for being done under duress, simply because it was in our power to do otherwise. Other moralists might attach little or no moral blame to the individual; but even here, I should think, the severity of the action would have to be taken into account. As, for example, if one individual killed another under the threat of himself being shot if he refused. We would need to know, it seems to me,
what precisely is meant by "force" and "puissance" before we conclude no "moralité peut résulter de ses effets".

Even allowing this point to pass it remains unclear to what extent the argument is valid against Hobbes and the others, for whom it seems intended. For according to Hobbes: "It is not therefore the Victory, that giveth the right of Dominion, over the Vanquished, but his own Covenant". For Hobbes, Rousseau does not go far enough. Supposing, Hobbes might argue, the bandit had said: "I give you your life in return for your purse" and you had agreed to this, then the agreement would be no less binding because you made it out of fear for your life. The bandit's claim on your purse then does not follow from the fact that because of his holding a pistol you are "in his power", as we say, but because you have made a covenant with him. It is the promise which is binding. It is the covenant which creates the right although, admittedly, the cause of the covenant is force.

Rousseau continues his argument against establishing right on force:

"sitôt que c'est la force qui fait le droit, l'effet change avec la cause: toute force qui surmonte

7. Leviathan, Part II, Chapter 20.
What Rousseau may mean may be got at in the following way. On what grounds can a sovereign exact obedience from me? He may be able to because in some way he can make me obey him. Or he may do so on different grounds by showing that I have a duty to fulfill obeying him. These two, however, are distinct. In the first case I obey because I have to, not because I ought to (except in a prudential sense which means the same as "I have to", in this case). But as soon as the threat, which enforces my obedience, is removed the obligation is also removed since its existence is wholly dependent on my being threatened.

Now there is a perfectly good sense in which it may be said that this distinction is wrong. When we say that a "sovereign rules by right" we may mean legal right. But Rousseau presumably would not be satisfied with this since we could argue on the basis of his argument - "and what does this mean except that the sovereign's commands are law and are enforceable by
coercion?" We are now back at the position from which we began.

But is this division of Rousseau's into "right" and "force" sufficiently broad or exact to be itself meaningful? There would appear to be several relevant reasons why we obey the sovereign. We may obey because: (1), we are coerced into doing so, (2), we are afraid of the consequences of not doing so, (3), it is advantageous (which may be further analyzed into personally or publicly advantageous, immediately or on a long-term basis), (4), we have promised, (5), we feel that we ought to, that it is intrinsically right to do so.

Now, presumably, Rousseau would regard the first and the second as fundamentally one. Being forced and being afraid of being forced do not differ in principle, he might argue. The fact that we have promised is not itself relevant unless we regard promises as morally binding. Then we obey because we accept it as a moral rule that we ought to keep our promises and not because we are forced to.

The third and the fifth, those reasons regarding advantage or utility and intrinsically right, can be explained similarly. If we obey the sovereign for either of these reasons it is not because of coercion or
fear of coercion, or promising.

But as between the third and the fifth I am in doubt as to Rousseau's meaning. Certain passages in this argument that we have been considering suggest both that there is no significant relation between right and force and that right means "morally right". We would obey then only if we believed the sovereign authority to be morally justifiable and would regard any use of force on the sovereign's part as itself ensuring the nullity of the obligation. Force and right are mutually incompatible. If we do not feel morally obliged to obey the sovereign then the use of force, under any conditions, invalidates the obligation. There is no distinction between moral and political obligation. However, the way in which Rousseau finishes the chapter suggests that this interpretation, which regards "right" and "force" as mutually exclusive, is not what Rousseau had in mind.

"Convenons donc que force ne fait pas droit, et d'obéir qu'on n'est obligé qu'aux puissances légitimes". (I,3).

The meaning of this is that obligation is not founded on force alone but on the legitimate use of force. That is, no distinction is made between "force" and "puissance" but between the legitimate and non-legitimate use of force. This, in turn, would lead to holding that
under certain conditions, as yet unspecified, force can be justified in right. Which interpretation might be construed to mean that our obligation flows from some form of advantage rather than the assimilation of political to moral obligation.

In the next chapter, Chapter Four, Rousseau examines the theories of the origin of sovereignty put forward by Grotius and Pufendorf which like his own, and unlike the natural conception, found sovereignty on conventions or contracts. His conclusion is that the practical conventions advocated by them are illegitimate and therefore the proper basis of sovereignty has yet to be stated.

However, until we have discussed a preliminary point this chapter is more puzzling than it need be. Earlier I remarked on Rousseau's propensity, to be seen in this chapter, of drawing conclusions about principles from the results of arguments on a particular issue. To appreciate fully this chapter we need to discover his reason for doing so.

Earlier in Book II, Chapter 2, Rousseau criticizes Grotius as follows:

"Grotius nie que tout pouvoir humain soit
8. Grotius, De Jure Belli ... Book I, Chapter 3, Section 3, Act. 14. "Another argument men take from the saying of the philosophers, that all government was established for the benefit of those who governed, not of those who govern; from this they think it follows that, in view of the worthiness of the end they who are governed are superior to him who governs.

But it is not universally true, that all government was constituted for the benefit of the governed. For some types of governing in and of themselves have in view only the advantage of him who governs; such is the exercise of power by the master, the advantage of the slaves being only extrinsic and incidental ..."

9. Ibid. Prolegomena, Article 46.
rightly, considers the law of nature as designating what ought to be and the law of nations as what is widespread, in this regard, among most peoples. What he tends to do, on occasion, is to regard the latter as proving the former (and not merely the existence of the former). That is, he argues from its being the case that slavery is lawful among nations that it ought to be so. Slavery, in other words, is not contrary to the law of nature because it is a law of nations. Men agree generally on the lawfulness of slavery and its practice was widespread in better times and among better peoples.

Now it could be argued that Grotius is merely establishing what is the practice of nations and in this way developing what is the law of nations. Against this it must be argued that this is not objectionable in itself, but to conclude from this study that it establishes what ought to be, is. We could say that Grotius by arguing from the law of nations to the law of nature, from what is to what ought to be, is an empirical scientist who draws his conclusions in the form of value judgments. He reasons from the premiss "therefore this is what ought to be done" and in this sense "établir ... le droit par le fait".

But it might be more plausibly argued that Rousseau considers Grotius a moral philosopher who proves his
moral principles by reference to facts. That is, Grotius reasons like "this is what ought to be done because people do it". This interpretation is supported by the statement that "illustrations have greater weight in proportion as they are taken from better times and better peoples". "Better" implies a priori evaluative standard, in terms of a moral principle, by which we are able to select our facts to prove our principle. Or, more generally, to establish our previous conception of "droit" by a judicious selection of facts.

Neither alternative, the empirical scientist who draws value conclusions or the moral philosopher who proves his principle by judiciously selecting facts which conform to it, is particularly complimentary. But that Rousseau accuses Grotius of the latter is I think shown by: "On pourrait employer une méthode plus conséquente, mais non plus favorable aux tyrans". That is, I think Rousseau rightly believes that Grotius wishes to justify monarchical sovereignty, as opposed to popular sovereignty, and selects his examples in such a way as to support and justify his evaluation. This, of course, is not true of the whole of Grotius' work but it is, in general, of that

10. cf. Hobbes, De Cive, p.15. "but this declares not who shall be the judge of the wisdom and learning of all nations".
part of it, Chapters 3 and 4 of Book I, which Rousseau
cites. This will become clearer when we state Grotius'
argument from slavery.

It might be added that Rousseau would distinguish
both kinds of procedure from that which he himself puts
forward: "Les bornes du possible, dans les choses
morales, sont moins étroites que nous ne pensons: ... 
Par ce qui s'est fait, considérons ce qui se peut faire". (III,11).

Having discussed this criticism, however, we are not
much nearer to explaining why, in Chapter IV, Rousseau
draws conclusions on matters of principle from arguments
on particular points. Unless we have some knowledge of
a second characteristic of Grotius' method of argument
this chapter is puzzling. What Grotius does is to
argue from a particular instance which may record a
fact or a legal precedence to a general political
principle. Rousseau's method of criticizing Grotius
is neither to deny that it is a fact nor that it is
legal (i.e. confirms to existing law).

Analysis of this chapter reveals that Rousseau
grasped what was essential in Grotius' method of
argument, namely, that the proposed instance in fact
performs the office of being a model. And that if one's
criticism is to be effective what must be demonstrated is the total unsuitability of the instance as a model. That is, Rousseau asks the question - is the relationship of slave to master a proper model of the relationship of subject to sovereign? We can return now to the specific argument.

Grotius writes: "the opinion of those must be rejected who hold that everywhere and without exception sovereignty resides in the people,...". He maintains that this opinion can be refuted by the following argument.

"To every man it is permitted to enslave himself to any one he pleases for private ownership, as is evident both from the Hebraic and from the Roman Law. Why, then, would it not be permitted to a people having legal competence to submit itself to some one person, or to several persons, in such a way as plainly to transfer to him the legal right to govern, retaining no vestige of that right for itself? 11. And you should not say that such a presumption is not admissible; for we are not trying to ascertain what the presumption should be in case of doubt, but what can legally be done". (My emphasis).

11. I note this to support my claim that Rousseau borrowed his ideas on sovereignty from "les fauteurs du despotisme". Compare the above to Rousseau's own statement that all the associates alienate all their rights to the sovereign power "car, s'il restait quelques droits aux particuliers, comme il n'y aurait aucun supérieur commun qui put prononcer contre eux et le public, chacun étant en quelque point son propre juge, prétendrait bientôt l'être en tous...". (I,6).
Rousseau begins his argument in the following way:

"Si un particulier, dit Grotius, peut aliéner sa liberté et se rendre esclave d'un maître, pourquoi tout un peuple ne pourrait-il pas aliéner la sienne et se rendre sujet d'un roi? Il y a là bien des mots équivoques qui auraient besoin d'explication; mais tenons-nous-en à celui d'aliéner. Aliéner, c'est donner ou vendre. Or un homme qui se fait esclave d'un autre ne se donne pas; il se vend, tout au moins pour sa subsistance: mais un peuple, pourquoi se vend-il?" (I,4).

Luzac, one of the first critics of the *Contrat social*, pointed out that Grotius had spoken of transferring a right, not of giving or selling in exchange for something else. And he was right to draw attention to this.

But I believe Rousseau was philosophically, if not ethically, justified in this move. Clearly Grotius himself was arguing in terms of a contract theory of the origin of sovereignty for in the same section he writes:

"Just as ... there are many ways of living, one being better than another, and ... each is free to select that which he prefers, so also a people can select the form of government which it wishes; and the extent of its legal right in this matter is not to be measured by the superior excellence of this or that form of government, in regard to which different men hold different views, but by its free choice ... it is possible to find not a few causes which may impel a people wholly to renounce the right to govern itself ... as,

for example, if a people threatened with destruction cannot ... (defend itself); again, if a people ... can in no other way obtain the supplies needed to sustain life". 13

The force of Rousseau's argument which replaces "transfer" by "selling" is to emphasize what is implied in the latter part of Grotius' statement, namely, the legal notion of consideration. For to say that a people transfers its rights to a sovereign for either of the above reasons is to introduce "consideration" or in Rousseau's terminology they "sell" ("exchange" would be better) their freedom in return for security or their subsistence. If we refuse to admit consideration then such an arrangement as someone or some peoples "giving" his or their rights away for no return or recompense is not only illegitimate but "une chose absurde et inconcevable".

"Soit d'un homme à un homme, soit d'un homme à un peuple, ce discours sera toujours insensé; Je fais avec toi une convention toute à ta charge et toute à mon profit, que j'observerai tant qu'il me plaira, et que tu observeras tant qu'il me plaira".

13. IBID, Book I, Ch.3, Section 8, Articles 1,2 & 3.  
14. Rousseau may have in mind a statement from Hobbes' De Cive, p. 123: "But what a man may transfer on another by testament, that by the same right may he, ... give or sell away. To whomsoever therefore he shall make over the supreme power, whether by gift or sale, it is rightly made". The point remains, however, that the notion of "selling" involves a return of some sort or other.
Now, armed with the notion that the legitimacy of the arrangement between subject and sovereign depends on each being able to perform his part, Rousseau illustrates that the monarch does not, as a matter of fact, fulfil what the arrangement demands of him. The slave exchanges his liberty for his **subsistence**. What, asks Rousseau accepting the model, does a people receive in exchange for its liberty? Its subsistence? The king, he replies, is more likely to get his from the people. Peace? But what of the wars in which vainglorious monarchs continually are engaged?

Rousseau jumps from this to argue against the view that a father can enter an agreement on behalf of his children. The target of this argument is unclear. Hobbes, however, had written: "He (speaking of the Sovereign) that hath the Dominion over the Child, hath Dominion also over the Children of the Child; and over their Children's Children". And one may suspect that this passage is what Rousseau had in mind. For he argues from: "Quand chacun pourrait s'aliéner lui-même, il ne peut aliéner ses enfants;..." to "Il faudrait donc, pour qu'un gouvernement arbitraire fut légitime, qu'à chaque génération le peuple fut le maître de l'admettre

ou de le rejeter: mais alors ce gouvernement ne serait plus arbitraire". That is, if it can be shown that one generation cannot commit the next to obedience then either the succeeding generation obeys by being forced, which is illegitimate, or they contract on their own behalf. But this, says Rousseau, would make that government legitimate. On what grounds, then can it be shown that the proprietary rights of the father do not extend this far?

"Avant qu'il s's en âge de raison, le pere peut, en leur nom, stipuler des conditions pour leur conservation, ... , mais non les donner irrevocablement et sans condition; car un tel don est contraire aux fins de la nature, et passe les droits de la paternite".

This argument presupposes the former one. The father's first duty is to preserve the child and provide for its needs. The child, on the other hand, is obliged to obey the father so long as it is dependent on the father. But man's "premiere loi est de veiller a sa propre conservation". Rousseau agrees with Hobbes on this: "the first foundation of natural right is this, that every man as much as in him lies endeavours to protect his life and members".

Rousseau, then, endeavours to turn this acknowledged right against Hobbes. For the parent to make, by

16. De Cive, p.9, also Leviathan, Part II, Ch.14.
contract, the child wholly subject to another is to deny the child the right of preserving himself from the dominion of another. It is in this sense, I believe, that we are to understand that "un tel don est contraire aux fins de la nature". We deny the child the liberty which is necessary to his own preservation.

Prior to this stage of the argument Rousseau has conceded, presumably for purposes of argument, one of the main principles involved. Namely, that there are circumstances in which someone may relinquish or exchange his sovereign rights in order to obtain something else. "Quand chacun pourrait s'aliéner lui-même,...". He has denied the right of someone to transfer the rights of another but he has admitted the possibility of someone voluntarily submitting to the dominion of another. His next move is to question the rightness of this fundamental principle.

Unfortunately, it is just at this point that Rousseau is most obscure. Grotius and Pufendorf, if not Hobbes, considered the question whether it was lawful for a people to renounce its rights to govern itself in favour of a legally constituted sovereign.

Rousseau, on the other hand, contends:

"Renoncer à sa liberté, c'est renoncer à sa qualité d'homme, aux droits de l'humanité..."
Une telle renonciation est incompatible avec la nature de l'homme; et c'est ôter toute moralité à ses actions que d'ôter toute liberté a sa volonté".

Vaughan offers the following in Rousseau's support.

"There are some possessions so essential to man, so much part and parcel of his being, that he has no right to surrender them ... (the) first of these is the liberty without which his moral responsibility, and with it his whole moral life, is cut up by the roots. To surrender it is to inflict moral death upon himself". 17

Now it seems that both Rousseau and Vaughan are confusing the notions of slavery and sovereignty in their moral and derivative sense with the same notions in their legal and primary sense. The slave, it is true, had no legal rights. But I cannot see that slavery excuses the slave from moral responsibility or prevents him from being a moral agent. Slavery is undoubtedly "morally degrading" but I cannot understand, unless it is a figure of speech, what is meant by saying the slave is not a moral agent.

I am suggesting the difficulty of following Rousseau's argument if we consider it strictly in

18. I think both slavery and sovereignty are used so frequently as metaphors in moral thinking that they take on a distinctive moral connotation and function no longer as metaphors. The practice began, perhaps, with Plato where the higher passions "rule" the lower or one is a "slave" of the lower passions.
context, namely, as a refutation of a people's right to surrender its sovereign power for its own advantage. Rousseau, however, argues more effectively, in the same paragraph, when he writes:

"Enfin c'est une convention vaine et contradictoire de stipuler, d'une part, une autorité absolue, et, de l'autre, une obéissance sans bornes... Car quel droit mon esclave aurait-il contre moi, puisque tout ce qu'il a m'appartient, et que, son droit étant le mien, ce droit de moi contre moi-même est un mot qui n'a aucun sens?"

It was a common argument, handed down from Roman law, that a slave had no rights against the master. On becoming a slave he forfeited all rights. For this reason a contract between slave and master was held to be invalid. Rousseau uses this as a basis for his own argument. If the owner has the rights both of the slave and himself he is in the position of someone making a contract with himself and such a procedure is invalid. The relation between the subjects and the sovereign, if we follow Grotius in making the sovereign absolute, is precisely the same. If the people

19. According to Hobbes whatever is done from a voluntary act of will, regardless of the cause, is done freely. Rousseau contests this on the grounds that it arises from a mistaken conception of freedom. No one ought to be free to deny their use of freedom, as does someone who sells himself into slavery or a people who sells its freedom to a sovereign. This is a different conception of freedom, for it can follow from this that force might be used to prevent the sale of freedom. We shall be considering this whole question in a later chapter.
relinquish all their rights to the sovereign then for the same reasons the contract is invalid.

Rousseau next considers the question of achieving sovereignty by conquest, again, as before, arguing from the particular instance (as he seems to think) to the general rule.

"Grotius et les autres tirent de la guerre une autre origine du prétendu droit d'esclavage. Le vainqueur ayant, selon eux, le droit de tuer vaincu, celui-ci peut racheter sa vie aux dépens de sa liberté; convention d'autant plus légitime qu'elle tourne au profit de tous deux".

Although it is strictly unimportant as regards the general purpose of this chapter, Rousseau is here unjust to Grotius. What Grotius seems to be arguing is that given a choice of two alternatives it is better to enslave captives than to kill them outright, as was the custom in some nations.

Rousseau, on the other hand, reports this as though it was a significant premiss to Grotius' conclusion that absolute sovereignty is to be preferred to all others. Grotius appears to be advocating the more enlightened of the two alternatives and suggesting a way whereby those who kill their captives can be persuaded to enslave them: "for there is no suggestion of an agreement whereby they may be compelled to refrain, (i.e. from killing) if you are considering this law of nations, but
a method of persuading them by indicating the more advantageous course. (It is more to the advantage of the conqueror to enslave the captives). It is left to Rousseau to draw the conclusion "qu'elle tourne au profit de tous deux". That is, the advantage is to both captor and captive.

In answer to this Rousseau propounds a theory of war so constituted as to permit him to deny any validity to the claim that the victor has the right to enslave the captives.

According to previous theories of war no distinction was drawn between duels and wars, although Grotius had distinguished public and private wars: "A public war is that which is waged by him who has lawful authority to wage it; a private war ... by one who has not the lawful authority". But, Grotius maintained, since both have the same nature "both should be designated by one and the same term".

Against this Rousseau argued that war is not between men but only between states. On the basis of this definition he could claim that: "les particuliers

21. IBID, I, 3,1,1.
ne sont ennemis qu'accidentellement, non point comme hommes, ni même citoyens, mais comme soldats; non point comme membres de la patrie, mais comme ses défenseurs".

The purpose of war is "la destruction de l'Etat ennemi". (He might better have said the sovereign or, even more exactly, ruling power.) This being the end of war, the conqueror has the right to interfere with the people only in so far as they are the defenders of the state. Once the state (the sovereign power) has capitulated the defenders cease to be "ennemis ou instruments de l'ennemi, ils redeviennent simplement hommes,..." Since they are now private individuals the conqueror has no right to their lives. And if he has no right to their lives, the "right of slavery" cannot be dependent on this prior right.

It will be objected, perhaps, that since Rousseau's argument depends wholly on an ideal conception of war seldom if ever practised, the whole structure therefore collapses. And it is true that if we reject the theory of war Rousseau propounds it must be rejected wholesale and the argument which depends on it with it. I see no reason to take the first step.

22. I attempt to correct Rousseau on this point not because he is obscure but because his own definition of the state is "all the citizens under a certain aspect." If so, the end of war is the destruction of all the citizens.
Rousseau finishes the chapter as follows: "Ainsi de quelque sens qu'on envisage les choses, le droit d'esclavage est nul,... Ces mots, esclavage et droit, sont contradictoires; ils s'excluent mutuellement".

Why is it so necessary to Rousseau's argument to prove that slavery and right are contradictory notions? If we can answer this we shall have the basis of Rousseau's difference with "les fauteurs du despotisme".

The answer lies I think more in Rousseau's method of argument than in the argument itself. As I suggested it is to treat the "master-slave" relationship as the typical model of the theory of sovereignty advanced by his chosen opponents. He objects to a relationship between sovereign and subject which, like the master-slave relationship, gives all the rights to the sovereign and all the duties to the subject. He objects to a convention which allows no consideration to the other party. He objects finally to a convention based on force. For he regards any "master-slave" relationship whether acquiesced in by the slave himself, as illegitimate since, he argues, it is not man's nature to be a slave. No more, as we shall see later, is it a people's nature to be subject to the will of another.

The obscurity of these first chapters is due to a failure on Rousseau's part to make clear the general
differences between himself and his opponents. Perhaps the most valuable way of concluding this chapter is to attempt to make these plainer.

The chief works of Filmer and Bossuet were published after those of Grotius, Hobbes and Pufendorf. This is important only because Rousseau was more in agreement with the latter than with the former. So much so that he used the arguments of the latter against Filmer and Bossuet. Why was he, in one sense, in close agreement with those he complained most bitterly about?

The purpose and effect of the Patriarchal argument is to deny the people any sovereign rights. Grotius, Hobbes and Pufendorf seem to be in agreement on the important principle described by Grotius as the state, i.e. the people is the common subject of sovereign power and, secondly, on the equally important principle that sovereign power has its origin in the concord of wills.

Hobbes, De Cive and Leviathan, 1642 and 1651 respectively.
Pufendorf, Droit de la nature..., 1672.
Filmer, Patriarcha, 1680. (According to Filmer's editor, Laslett, the work existed before 1642 and circulated in pamphlet form (v.p.3).) 
Bossuet, Politique tirée ..., 1709.
which go to make up the state. This concord from which sovereignty was formed by a social pact and as a result of which sovereign power and rights were transferred to another. All preferred monarchical government (or the sovereignty of an individual) to any other conceivable form.

For such a position as Rousseau wishes to promote, the conception of the state as the common and original source of sovereign power performs a great service. He would tend to regard these earlier writers as representing a great advance on Filmer's and Bossuet's work. Furthermore, the notion that sovereignty is based on a popular convention is valuable to his argument. Grotius himself had glimpsed the possibilities in such an assumption:

"it may happen that a people, when choosing a king, may reserve to itself certain powers but may confer the others on the king absolutely ... the people enjoins upon the future king something in the nature of a perpetual command, or an additional stipulation is made from which it is understood that the king can be constrained or punished. A command is, in fact, the act of one having superior authority ... To constrain is not, at any rate not in all cases, the function of a superior ... yet the act of constraining is inconsistent with the position of an inferior. From the power of constraint, therefore, flows at least a recognition of parity, and in
consequence a division of the supreme power". This is the thick edge of the wedge, as Pufendorf noted: "when Grotius maintains that a people is at least the equal of its king,... he must at the same time admit that neither has sovereignty over the other, which is repugnant to the state". Pufendorf concludes, rather weakly, that the decision regarding the form that sovereignty takes belongs to the people and if they choose differently from what Grotius and Pufendorf advise they establish "not a regular state, but an ill-adjusted and sickly body".

I am trying to suggest in this schematic way what might have occurred to Rousseau, that the crucial steps to popular sovereignty are already taken. Thus, Rousseau after having accused Grotius and Pufendorf of arranging the principles of political right to favour the monarchy concludes: "Si ces deux écrivains avaient adopté les vrais principes, toutes les difficultés étaient levées, et ils eussent été toujours conséquents; mais ils auraient tristement dit la vérité, et n'auraient fait leur cour qu'au peuple".

"Les fauteurs du despotisme" had gone so far as to

maintain that the sovereign power originated in the convention of the people. Rousseau, as we shall see, retained the sovereign power perpetually in the people.

The basic difference, aside from this, arises over the nature of the convention. Rousseau argued that the twin pillars of legitimate sovereignty, conquest or consent, reduced to one. That if all right and all advantage was to the sovereign then this convention established a relation no better than that between the slave and the master. To this Rousseau opposed two main arguments: the convention must result in the people's advantage, it must be based on a moral conception of right and not merely what can be justified by "l'histoire des anciens abus,..."

In the next chapter we shall endeavour to describe the generation of Rousseau's sovereignty of the General Will beginning with the conception of the state of nature and natural rights and then to the contract which gives rise to the sovereign. The formulation of Rousseau's own conception is, as I hope to show, influenced by both Hobbes and Pufendorf.
Chapter 2.

The State of Nature and the Civil State

This chapter is divided into three parts. The first part is an attempt to provide an analysis and classification of the "state of nature" and related concepts in the Contrat social. The object of the second part is to discuss and criticize the social contract which institutes the legitimate civil state. In the third part, I will suggest an interpretation of the state as a moral person. Finally, I will give an account of the general will in relation to the conclusions of the chapter.

Rousseau uses "natural" in at least three senses. Failure to distinguish these, both on his own part and on that of his commentators, leads to misunderstanding. I shall endeavour to outline these different senses and in the course of the analysis, offer some criticisms of the first two.
(1) Most modern commentators of the *Contrat social* accept the theory that Rousseau's formulation of man's natural state or the state of nature was not intended as an historical account of how men once lived. Rather, with few exceptions, they regard Rousseau's account as a theoretical exercise the purpose of which is to divest humankind of every quality or characteristic which could be traced to, or caused by, political relationships. Rousseau in fact is performing a logical job not unlike, it may be suggested, Weber's construction of an "ideal type". He endeavours to abstract systematically man from his political heritage.

This thesis which describes Rousseau's state of nature as being in the first instance a logical construction seems borne out by Rousseau's own remarks. What historical circumstances led to the condition of civil societies? Rousseau replies: "Je l'ignore". Or "Je suppose les hommes parvenus à ce point ..." (I,1 & 6).

By calling Rousseau's construction of the natural state theoretical and logical, I mean that it would be neither proved nor disproved if the facts were otherwise. This, I presume, is what is meant by saying that the characterization is not historical. It is this primitive
apolitical, logical construction which is Rousseau's first use of "natural".

But certainly in the *Contrat social* Rousseau regarded the formulation of the state of nature as also of practical importance. Largely because it may have seemed that his predecessors constructed their theories of the state so as to counteract the alleged evils and deficiencies of what was regarded as the condition prior to or outside of civil society. For example, Grotius, Hobbes and Pufendorf all argued that any of man's works must have some imperfection and this was especially true of the civil state. Even so, they maintained it is preferable to live in the civil state than the horrid state of nature, a state of anarchy and a condition or state of war. Similarly, Locke's theory of the state follows closely the correction of the deficiencies of the state of nature. It must have seemed necessary then to criticize their formulations. And, in addition, to propose an alternative theory of the state of nature which did not lead to what Rousseau regarded as their mistakes.

1. Chiefly, the imperfection is the absolute power of the sovereign, see *De Cive*, Chapter 6, p.80, footnote.
But Rousseau's remarks on the state of nature involve principles which are recognizably Hobbesian and Lockean. When Rousseau discusses the question he uses the arguments of Hobbes against Locke and vice-versa. I shall illustrate these principles, then show how their use against one another leads to inconsistency in Rousseau's argument. Finally, it will be suggested that the result of the mixture may lead to contradiction.

Both Hobbes and Locke regard man as rational in the natural state. But Hobbes contends that where self-preservation is all that matters reason becomes guile and cunning, liberty is being able to get what you desire. Locke, on the basis of his view of the state of nature, conceives man as reasonable in the natural state. If men will consult their "natural reason" they will perceive that all men have a right to their preservation, which entails meat and food sufficient for subsistence. Hence, by natural reason, they recognize a similar right to what is necessary to all others. We find Rousseau, inconsistently, holding both views. Maintaining both that in the natural state man has "un droit illimité à tout ce qui le tente et qu'il peut atteindre;" (I,8) and that "tout homme a naturellement droit à tout ce qui lui est nécessaire;..." (I,9). Right, in the first case, is regarded as that which man has the power to maintain; in the second, only that which is necessary to his self-
Similarly, Rousseau will argue that the purpose of the state is the preservation of the individual and his possessions. (I,6). He denies also that the natural state is a condition of war. (I,4). But when the pertinent question is raised why the individual should be obliged to go to war on behalf of the state, the reply is that his life is a conditional gift of the state. The state must maintain security. To this end the means are justifiable. Besides, it is argued, it is better to fight on behalf of the state than to live in a state of nature.

"Que font-ils qu'ils ne fissent plus fréquemment et avec plus de danger, dans l'état de nature, lorsque, livrant des combats inévitables, ils défendraient au péril de leur vie ce qui leur sert à la conserver?" (II,4).

This is pure Hobbes, inconsistent with his former assertions and with his own account of the state of nature.

More serious than these inconsistencies is the possible contradiction I mentioned. The question is whether moral obligations are to be regarded as binding when devoid of political (i.e. legal) sanction. This is important since, for example, if the social contract is not morally binding other sanctions must be provided. Now Rousseau holds that in man's natural state "just" would have no application to man's conduct, his actions would not be moral (i.e. they would be amoral) and he would have no conception of duty (I,3). Given such a person we should regard him as one for
whom "moral obligation", in a practical sense, would have no meaning. Why then should he be held obliged to respect the liberty of another, as we have seen Rousseau argued in the chapter previous to this? If the injunction to respect another's right to liberty is not a moral injunction then on what grounds is it made?

In regard to this particular contradiction, Rousseau does not appear to offer relief. Rousseau seems caught between two positions. He appears to hold with Hobbes that in a state of nature moral obligations are not binding. But also he seems to hold with Locke, the view that certain rights ought to be respected in the state of nature.

Despite the occurrence in the Contrat social of elements of the theories of Hobbes and Locke (and their disruptive influence) there is yet a distinguishable logical construction of man in the natural state which is Rousseau's own.

The man of nature is independent, his first law is his own preservation and "ses premiers soins sont ceux qu'il se doit à lui-même". His liberty is maintained by, and limited to, his physical strength. Otherwise he does as he wishes, being subject only to the laws of nature.

There is no constant property, only possessions which he holds by his own strength. He is motivated solely by instinct, physical impulse and appetites. He cannot reason or perform abstractions. Nor has he a conception of duty. He is, according to Rousseau's phrase, a stupid and limited animal. His life is solitary, isolated and nomadic with no stable mutual relations with others of his kind. On the basis of this description Rousseau argues against Hobbes.

"C'est le rapport des choses [i.e. states] et non des hommes qui constitue la guerre; et l'état de guerre ne pouvant naître des simples relations personnelles, mais seulement des relations réelles, la guerre privée ou d'homme à homme ne peut exister,... dans l'état de nature, ou il n'y a point de propriété constante,..." (I,4).

How effective is this argument against Hobbes?

Whether or not property is constant in the state of nature is irrelevant. That is to say, "mine" and "thine" may have no legal meaning. But the sense of possession could lead to private war in the state of nature. Moreover, Rousseau concedes Hobbes his main point. When Hobbes writes of the state of nature as a state of "continual strife" or "perpetual war" he deserves Rousseau's objection. For a condition in which man leads a solitary existence is not described best as one of perpetual war. Also "war", as Rousseau claimed, more properly is kept to the relation of belligerent...
political powers than fights and squabbles between individuals. Nonetheless Hobbes' basic contention, what we may call the philosophical point at issue, remains unimpaired. It is that in the state of nature force prevails over right. The state of nature Hobbes sometimes refers to as one in which a condition of war prevails. It matters little whether we call this strife or war. And the distinction between a fight, a battle and a war is merely an analysis of this condition.

Up to this point we have considered in Rousseau a view of the primitive state of nature, a use of "natural" which is a logical construction. It is man and man's condition described in abstraction from all that conceivably could be owed to political relationships. The state of nature is apolitical.

But consider the alleged change that occurs when man passes from the state of nature to the civil state.

"Ce passage de l'état de nature à l'état civil produit dans l'homme un changement très remarquable, en substituant dans sa conduite la justice à l'instinct et donnant à ses actions la moralité qui leur manquait auparavant ... Quoiqu'il se prive dans cet état de plusieurs avantages qu'il tient de la nature, il en regagne de si grands, ses facultés s'exercent et se développent, ses idées s'entendent ... [that] ... si les abus de cette nouvelle condition ne le dégradaient souvent au-dessous de celle dont il est sorti, il devrait bénir sans cesse l'instant heureux qui l'en arrache pour jamais,..." (1,3).

In addition, in the civil state man gains civil liberty which comes from obeying just laws and moral liberty.
which comes from being their author.

Of this Beaulavon remarks: "Rousseau semble mêler ici l'idéal et le réel. Le plein développement de la nature morale de l'homme n'est possible que dans la société juste". But he does not draw the expected, indeed the obvious, conclusion. It is that Rousseau is presenting three steps as two - the primitive state of nature, the actual civil state, the ideal civil state. He is using in this case "l'état civil" to cover both political societies contemporary with him and the ideal state of his own construction. If he meant merely to refer to the change from a primitive condition to actual political societies, then the remainder of the Contrat social is in flat contradiction with this assertion.

(2) This brings us to Rousseau's second use of "natural". Just as in this instance "the civil state" is used to cover both what is and what ought to be so "natural" covers what might have been ("the state of nature") and what is.

Natural in this second sense plainly is derived from the first. But after the first book of the Contrat social the term is used critically almost exclusively, to characterize existing social relationships. Someone who puts his own interest before that of the state is said

---

to be attempting to apply "natural" standards of behaviour to political society. He wishes to treat himself as independent. Similarly, political societies founded on force alone are "natural" by analogy with the state of nature. In fact any civil state which is illegitimate is natural. To be a legitimate state it must conform to, and only to, Rousseau's criteria. In this sense "natural" comes to be identified with actual states and theories of the state based on illegitimate principles. Similarly individuals are "natural" if they act only from motives of self-interest.

We can see the critical use of the concept implied in the following argument.

"Que des hommes épars soient successivement asservis à un seul, ... je ne vois là qu'un maître et des esclaves, je n'y vois point un peuple et son chef; ... Cet homme, eût-il asservi la moitié du monde, n'est toujours qu'un particulier; son intérêt, séparé de celui des autres, n'est toujours qu'un intérêt privé ... " (I,5).

This is in fact a "natural" relationship. That is to say, it manifests characteristics attributed to the natural state. The ruler's interest is still a purely private interest. His authority depends exclusively on superior strength.

Another passage illustrates the same use of the concept. It shows also that a return to the natural state between men is a return from an ideal civil state.
to actual civil states as Rousseau conceives them. It is not a return to a primitive state of nature:

"A l'instant que le gouvernement usurpe la souveraineté, le pacte social est rompu; et tous les simples citoyens, rentrés de droit dans leur liberté naturelle, sont forcés, mais non pas obligés d'obéir". (III,10).

Now the significant part of this is that one is obliged to obey only legitimate powers. Rousseau will argue that states in which the sovereign is the general will alone are legitimate (II,6). This amounts to saying that all actual states and theories of the state which do not conform to this standard are both natural, in this second and derivative sense, and illegitimate.

Thus according to Rousseau's judgment all civil states contemporary with him are founded on naturalistic principles or are still, by analogy, in the state of nature. It seems to me important to make this distinction. On the basis of it we can devise two classifications.

A. (1) state of nature (a logical construction)
   (2) illegitimate political societies ("natural" by analogy with (1) above)
   (3) legitimate political society

B. (1) man's condition in natural political societies (as in A2)
   (2) the civil state (one founded on the principles
4.

of right, a Rousseau state).

We will see as the argument progresses that it presupposes classification B. The latter half of the second book has/its object a statement of the conditions necessary and adequate to the conversion of men into citizens. According to this account the conversion would not be sudden, as some commentators have suggested, but an arduous and lengthy task. This will be discussed more fully in Chapter 5.

I maintain, then, that the practical purpose of the man Contrat social is the conversion of the natural/social state into the citizen of the political state. Otherwise I find it difficult to understand the famous passage which opens the argument.

"L'homme est né libre, et partout il est dans les fers. Tel se croit le maître des autres qui ne laisse pas d'être plus esclave qu'eux. Comment ce changement s'est-il fait? Je l'ignore. Qu'est-ce qui peut le rendre légitime? Je crois pouvoir


Boutroux distinguishes between: "1. état de nature, ou règne de l'instinct; 2. état social, ou état de corruption; 3. état politique et moral, ou régénération". He also refers respectively to the states of innocence, sin and redemption.
Man's nature is to be free yet everywhere he is unfree. His chains are illegitimate political societies. Civil society is founded solely on force and not, as it ought to be, on right. The despots who allegedly are the masters of men are in fact enslaved to their own passions and self-interest. How did it happen that man who is intended for freedom is enslaved by despotism? Rousseau does not claim to know. But the task is not to cast off our chains, not to renounce political society, but to suggest a way that political society may be made legitimate. This Rousseau claims to be able to do.

(3) There remains a third use of "natural" which will be only mentioned at this point. Two characteristics are essential to man's nature, liberty and concern for self-preservation.

"Cette liberté commune est une conséquence de la nature de l'homme. Sa première loi est de veiller à sa propre conservation;..." (I,2).

"Renoncer à sa liberté, c'est renoncer à sa qualité d'homme, aux droits de l'humanité ... Une telle renonciation est incompatible avec la nature de l'homme;..." (I,4).

Liberty and concern for oneself are "natural" in

5. cf. Vaughan, C.E., editor, Du Contrat Social, Introduction, p.xxxii. "And after the opening words, which challenge all men and all nations to throw off their chains and reclaim the freedom which is their birthright ..."
the sense of being essential to one's humanity. According to Rousseau both are featured as "considerations" in the social contract.

Next to be considered are Rousseau's different versions of the passage from the state of nature to the civil state. The first occurs in the chapter directly preceding the chapter devoted to the social contract itself. It is ostensibly an account of the "état primitif".

2. The Departure

"Je suppose les hommes parvenus à ce point où les obstacles qui nuisent à leur conservation dans l'état de nature l'emportent, par leur résistance, sur les forces que chaque individu peut employer pour se maintenir dans cet état. Alors cet état primitif ne peut plus subsister; et le genre humain périrait s'il ne changeait sa manière d'être". (I,6).

Now the question that the above seems designed to answer is why should civil society have as its basis a contract. Rousseau seems to think that natural man would have no genuine choice. Certain obstacles, which Rousseau does not name, threaten the existence of individuals and they must unite to aid one another or "le genre humain périrait". If they do not act in concert "ils n'ont plus d'autre moyen pour se conserver". (I,6). The substance of this account of the departure from the state of nature
is "join or perish".

Despite the apparent exclusiveness of this alternative Rousseau still insists that "the natural man", on becoming a party to the contract, would retain his force and liberty since they are "les premiers instruments de sa conservation". (I,6). Is this a contradiction? If the individual has to choose between "join or perish" is it not pointless to insert a saving clause about natural rights? This, according to Rousseau, was substantially the argument of his opponents. Rousseau maintains, however, that the object of the social contract is the preservation of the contractors but not at the cost of their natural liberty. (I,6).

In addition to this there is a later version which provides grounds for a different interpretation.

"Il n'y a qu'une seule loi qui, par sa nature, exige un consentement unanime: c'est le pacte social, car l'association civile est l'acte du monde le plus volontaire; tout homme étant né libre et maître de lui-même, nul ne peut, sous quelque prétexte que ce puisse être, l'assujettir sans son aveu". (IV,2).

In this account so far from being under constraint of any form, the contract is "l'acte du monde le plus volontaire;..."

On the one hand, we have being constrained to join others in order to overcome obstacles which stand in the
way of our preservation and, on the other, a union which is perfectly voluntary. This difference may encourage us to think in terms of two departures from the state of nature. Or rather that the first account applies to the primitive natural state and the second to Rousseau's "natural" contemporaries. If this interpretation were accepted it could be argued that the contract was morally binding in the second case although not in the first. Then the contradiction suggested earlier would not constitute so much of a contradiction practical as a theoretical one.

With this analysis in mind we can appreciate Vaughan's judgment without necessarily agreeing with it.

"Rousseau was never able to make up his mind whether the Contract, which forms the pivot of his whole theory ... was ... a question of origins ... [or whether he was dealing] with an idea of Right". 6

It is true that the chapter which deals with the contract (I,6) is confounded by the confusion Vaughan mentions. But Rousseau must have "made up his mind". For it would be very odd, for example, to suggest the relation that ought to hold between the government and the sovereign if this advice is intended to inform primitive man of what he ought to have done.

6. IBID, p.xix.
3. The Social Contract

It seems to me that Rousseau envisages the social contract itself as the source of political right or, which comes to the same, the necessary foundation for any legitimate state. The prime evidence for this conclusion I take to be the following.

"Les clauses de ce contrat sont tellement déterminées par la nature de l'acte, que la moindre modification les rendrait vaines et de nul effet: en sorte que, bien qu'elles n'aitent peut-être jamais été formellement énoncées, elles sont partout les mêmes, partout tacitement admises et reconnues,..." (I,6).

I understand this to mean that the rightness of the contract is acknowledged universally even though the contract has not been itself constituted in positive law. In fact, it may be suggested, it is to Rousseau's advantage that this principle of right be admitted only tacitly. If it were enacted as positive law it might then have to vie for position with other legal enactments. But tacitly as a principle of right of universal application the clauses of the contract are

7. Also, however, Rousseau does seem to think that the contract has been tacitly recognized in a few exceptional cases, as in ancient Athens and Rome.
"un arme capable de détruire l'Eglise et la Royauté". Capable, that is, of contesting those who claim that civil society cannot be grounded lawfully on a contract, and all the stronger for being the implicit foundation of any just state.

To claim that it is a necessary idea of the just state is consistent with making it the necessary basis of an ideal state. This Rousseau proposes to do. The purpose, then, of the Contrat social (the book) is:

"Trouver une forme d'association qui défende et protège de toute la force commune la personne et les biens de chaque associé, et par laquelle chacun, s'unissant à tous, n'obéisse pourtant qu'à lui-même, et reste aussi libre qu'auparavant. Tel est le problème fondamental dont le Contrat social donne la solution". (1,6).

The aforementioned clauses, then, "bien entendues, se réduisent toutes a une seule, savoir: l'aliénation totale de chaque associé avec tous ses droits à toute la communauté;..." In the same chapter he adds:

"Si donc on écarter du pacte social ce qui n'est pas de son essence, on trouvera qu'il se réduit aux termes suivants: Chacun de nous met en commun sa personne et toute sa puissance sous la supreme direction de la volonté générale, et nous recevons en corps chaque membre comme partie indivisible du tout". (1,6).

The point, it may be suggested, in calling this a social contract is that the terms of the contract

---

require the individual's total allegiance to the state. Such a contract between the individual and the society is intended to minimize the individual's loyalty to partial associations. It is for this reason that he pledges his all to the state.

But this act of contract, when considered in the concrete, is very mystifying. Especially the condition that one gives oneself to all ("chacun se donnant à tous..."). We can see, I think, why Rousseau held this. His main argument in the previous chapter is in opposition to any form of convention which requires the complete surrender of sovereign rights to another individual or particular group of individuals. An illegitimate contract, as regards the institution of political society, would be one which involved giving oneself to a particular individual or a particular group of individuals. The solution, therefore, is for each to give himself to all. But how would one go about doing this?

Suppose there are four individuals A, B, C, and D. Does A contract with each consecutively i.e. A with B, A with C, etc.,? Or does A contract with B, C and D and then B with A, C and D? But either way you have (1) not one, but several contracts, (2) A giving himself (whatever this may mean) to one individual B or to all
the others B, C and D. The first solution in \( f(2) \) has been excluded previously. The second is one in which he could not possibly obey himself alone nor does he unite with all the others, he merely submits to them. But all the others, in turn, give themselves to him. This may be the answer ("chacun se donnant à tous ne se donne à personne;") but it is not very enlightening since it means that although I obey everyone else, everyone else obeys me. And the same applies to every other individual in the society. There is another possibility. A gives himself to B, C and D in return for their co-operation and B does the same, etc. Then A gets part of B, C and D in return and they get part of A. ("nous recevons en corps chaque membre comme partie indivisible du tout"). Rousseau often refers to the state as though it were a co-operative association. But this interpretation is not consistent with the contract of union, for it implies a partial renunciation and a partial participation. It is in this respect, as we shall see, more like a contract of consent.

In the succeeding chapter (I,7) Rousseau presents a formal account of the act of contracting and the origin of sovereignty. I propose next to examine and criticize this.
4. The Contract and the Origin of Sovereignty

In Book I, Chapter 5 Rousseau had argued against Grotius as follows:

"Un peuple, dit Grotius, peut se donner à un roi. Selon Grotius, un peuple est donc un peuple avant de se donner à un roi. Ce don même est un acte civil; il suppose une délibération publique. Avant donc que d'examiner l'acte par lequel un peuple élit un roi, il serait bon d'examiner l'acte par lequel un peuple est un peuple; car cet acte, étant nécessairement antérieur à l'autre, est le vrai fondement de la société".

Grotius endorses a single pact whereby a people submits to a king who, in return, secures their safety. Rousseau, following Hobbes, argues that a multitude must become first a legally constituted person before the second act is legitimate. Rousseau seems inclined to maintain that at least in Grotius' case, there must be two contracts: the contract of association (nécessairement antérieure) to the contract of submission.

Most of the jurists of the seventeenth and eighteenth century who maintained that the origin of civil society was conventional held the two-contracts view. It matters little, in reference to Rousseau,

---

whether we call the second contract one of obedience or political obligation.

Rousseau rejects the double basis of the origin of civil society in favour of a single basis, the individuals and the sovereign people. This account is unacceptable.

For whatever Rousseau may believe, the principal formula involves two separate and distinct acts. It is: "(1) let us unite to form a political society and (2) obey the general will". Here we have the act of association and the act of submission. But supposing we rejected one in favour of the other. Let us begin with retaining "let us unite to form a state". There is no logical difficulty in imagining a gathering of individuals pledging themselves to political union. But it is practically absurd. They would be contracting themselves into a civil society knowing absolutely nothing about the terms or conditions of its operation. If, on the other hand, the same gathering promised simply to obey the general will they would not be legally competent in Rousseau's eyes, since they are but a multitude of individuals each one giving himself. If he did not take this view he would be contradicting his own argument against Grotius. A people must become a people before they can give themselves to a king (or in this case
the general will). I think the notion of a common interest, which I shall endeavour to expound in the next section, may be a partial answer to this criticism. But there seems to me to be no escape from the general criticism of the formal or official version.

"On voit par cette formule que l'acte d'association referme un engagement réciproque du public avec des particuliers, et que chaque individu, contractant pour ainsi dire avec lui-même, se trouve engagé sous un double rapport: savoir, comme membre du souverain envers les particuliers, et comme membre de l'État envers le souverain". (I,7).

According to Cole: "This, to be sure, involves a superficial illogicality in that the State [the same applies to the Sovereign] exists as a moral person only by virtue of the Contract and can therefore hardly be a party to its making". This refers to Rousseau's statement that:

"cet acte d'association produit un corps moral et collectif ... Cette personne publique ... est appelée ... État quand il est passif, souverain quand il est actif,..." (I,6).

I regard the situation as involving more than a superficial illogicality. What Rousseau probably has in mind is that the individuals agree to respect their joint decisions rendered as a legal unity, the people. But I

cannot see that he gets there. I shall argue therefore that either the contract as presented is invalid and not binding or the contract is vacuous and unnecessary.

(1) If the purpose of the contract is to ensure the fidelity of the individuals to the sovereign then the contract is invalid. This is so because the purpose of the contract is to make the people sovereign. The sovereign people cannot, therefore, be both a party to the contract and the product of it. This, I think, is enough to prove my contention against the official version (l'acte d'association renferme un engagement réciproque du public avec les particuliers ... [or] ... comme membre du souverain envers les particuliers, et comme membre de l'Etat envers le souverain").

But, someone might argue, the general will, since its authority is "supreme", is the real sovereign. The general will, however, is also a product of the contract. If the general will is the sovereign then the people and the general will must be distinct, since Rousseau regards two supreme sovereigns as self-contradictory. Then "the people" are not sovereign, the individuals have been misled, the people are a mere multitude and are not a legally competent party to the contract. The contract is therefore invalid and not binding on the individuals.

(2) Otherwise, the contract must be regarded as vacuous and unnecessary. In order for the contract to be between
the sovereign people and all the individuals, the people must be regarded as sovereign prior to the completion of the contract. That is, Rousseau must consider that the people assume sovereignty in the act of associating. But if this is so the sovereign does not derive its legitimacy, or even its existence, from the contract. There must be some sense in which the people's sovereignty logically precedes the contract. And if this be so, there seems to be good reasons for concluding that the people are legitimately sovereign independently of the contract. Therefore, the contract is unnecessary and vacuous.

In general if Rousseau held the second it would do less harm to his essential position. And he certainly provides grounds for thinking that he regarded the contract as vacuous: "il n'y a ni ne peut y avoir nulle espèce de loi fondamentale obligatoire pour le corps du peuple, pas même le contrat social". (I,7). This means that the contract is not binding on the people; it is revocable, literally, at will. (also III,13).

It has been remarked that Rousseau's theory of the social contract marks both the culmination and the means of the downfall of the contract theory of the state. We have seen that it was common practice to maintain the necessity of two contracts: a contract to establish political society and a second to establish government. The second was regarded also, depending on the form of
government, as a contract of obedience to the sovereign. In this regard Rousseau may be said to represent the culmination of the theory. He seems to have come to the conclusion that if the people rightfully originate political society then the people are the true sovereign and government is derivative. Hobbes was able to make the sovereign absolute because the one holding sovereign power was not a party to the contract. The contract, therefore, was not binding on him. But at the same time he tried to maintain that the Sovereign's will was founded on the people's will. Similarly, Locke, although he did not take the notion of sovereignty as seriously as Hobbes and Rousseau ("This legislative is not the only supreme power in the commonwealth", 134) seems to have concluded that the supreme power ultimately was based on the will of the people.

"Though in a constituted commonwealth ... there can be but one supreme power, which is the legislative, ... yet the legislative being only a fiduciary power to act for certain ends, there remains still in the people a supreme power to remove or alter the legislative when they find the legislative act contrary to the trust reposed in them;... and thus the community may be said in this respect to be always the supreme power,..." (Treatise, 149).

Rousseau, in a sense, merely drew the conclusion suggested by both theories. He made the associates themselves sovereign and based sovereignty itself on the will of the people.

However, a conjunction of two factors in his theory
also provided the means of drastically impairing the contract theory of the state. If, as he says in Book II, Chapter 1, the common interest is the sole foundation of the state then this, as Hume argues, is a sufficient explanation of the origin of political society. Political obligation is explained by the addition of a second factor. If the fundamental political contract is revocable by the sovereign people then the real obligation required of the individual is due to the sovereign and not to the observance of the contract. Once you admit the right of the people to revoke the fundamental contract and provide no way of forcing them to keep their pledge then the necessity of a contract of obedience is also explained away.

By the conjunction of these factors - common interest and the sovereignty of the people - the way is prepared for the rejection of the contract theory of the state. The state arises, according to Rousseau, because men have common necessities. It is to fulfil the common interest that we obey the sovereign and we obey the sovereign as embodied in the laws.
5. The State as a Moral Person

Despite the difficulties inherent in Rousseau's account of the social contract, however, there is a sense in which it is necessary to his argument. For, like Hobbes and Pufendorf, he held the view that the state is a person and becomes a legal person only by virtue of a contract which involves all the would-be members of the state. I cannot hope to provide an adequate account of this difficult and complex notion of the state as a person. But it is an important

11. In this I endeavour to develop further the argument begun by Mestre and continued by Derathe:

(a) Mestre, A., "La notion de personnalité morale chez Rousseau", Revue du Droit Public et de Science Politique, etc., 1902.

(b) Derathe, R., Jean-Jacques Rousseau et la Science Politique, etc., Appendice III.
(and contentious) aspect of Rousseau's argument. I shall endeavour, therefore, to explain what I think is necessary for an appreciation of Rousseau's conception of it. We shall begin with a statement from Hobbes.

"A multitude ... cannot... be understood to have one will given to it by nature, but to each of the multitude a several, and therefore neither is any one action whatsoever to be attributed to it. Wherefore a multitude cannot promise, contract, acquire right, convey right ... unless it be every one apart, and man by man;... But if the same multitude do contract with one another, that the will of one man, or the agreeing wills of the major part of them, shall be received for the will of all; then it becomes one person. For it is endued with a will, and therefore can do voluntary actions, such as ... making laws, acquiring and transferring of right, and so forth; and it is ofter called the people, than the multitude. 12.

All men, according to Hobbes, have a common interest

12. De Cive, Chapter 6, p.72, footnote. I have used this account because it is clearer than that given in Leviathan, Chapters 16 and 17.
in preservation and security. But no one individual wishes to surrender his natural right of using all means for his own preservation unless he knows all men will surrender their rights. Each man of the multitude, therefore, contracts with every other to the effect that each surrenders absolutely the right of dominion in his own case (the natural right to what he can get, to do what he will, that is his in the natural state). In so doing they create the state as a legal person authorized to act on behalf of them all for the achievement of the common interest, namely, the common peace and defence.

This social pact, claims Hobbes, is not consent 13. or concord but union. He holds this distinction to be significant. In order to form a union all submit or subject their wills absolutely and without reservation to upon some man (or some council) who is not himself a party to the contract. The submission or the subjection constitutes an authorization of whatever the chosen individual sees fit to perform in order to achieve the common interest. Consent or concord differs in that one consents or agrees only in certain respects but not in others. The submission of the will is not absolute and does not apply in all things. It is for this reason that union results in one will (which is impossible for the

"consent of the multitude") since whatever is done to achieve the common purpose is done so by the will of all.

But although a civil person, it is not a real person, nor a real unity. For though there be one will for the common purpose, the will of the civil person becomes an effective unity only in the actual will of him to whom all have submitted. He alone (or a council of a few) is able to enact the will of all, without which each having his own opinion of how the common purpose is to be achieved, the civil person would revert to the anarchy of the multitude. Since he alone embodies the will of all and makes the civil person into a real one i.e. one which is able to act and will in a unified manner; there is a sense in which he is the civil person since only by him do all the particular wills become one.

It is my belief that Pufendorf did not intend to make an essential change in Hobbes' account of the state as a person. At least his political conclusions do not differ greatly from those of Hobbes. But in being more explicit and by introducing the notion of a "moral person" he made

14. De Cive, Chapter 6, pp.83-84,"the will of ... one who hath supreme authority given him, is the will of the city: he therefore contains the wills of all particular citizens".
Rousseau's task easier.

Hobbes had concluded that a person instituted by a contract was a legal subject of rights and empowered to act on behalf of its members. It was an artificial person. Pufendorf, more carefully, distinguished between a natural person and a moral person. Where a natural or physical person, i.e. a man, is a creation of nature; a moral person is created by men to fulfil certain needs. To be more precise, men sometimes impose on things already existent, by an act of will, certain qualities with the intention of bringing regularity into social relationships. The election of a magistrate is an example of the creation of a moral person in this sense. He is given, by an act of will, certain moral qualities to the end that he may temper and control the affairs of the citizens. The magistrate is, then, referred to as a simple moral person.

But we can have also a composite moral person which "is constituted when several individual men so unite that whatever, by reason of that union, they want or do, is considered as one will, one act and no more". Pufendorf holds also that: "A composite of such a nature may, and

commonly does, obtain ... rights, which individuals as
such [my emphasis] in that body cannot claim or secure
for themselves". Elsewhere he has written:

"Pour bien comprendre la nature de l'union qui
constitue les Sociétés civiles, il faut savoir encore,
que tant que plusieurs Personnes Physiques ne sont pas
jointes en une seule Personne Morale, elles n'agissent
et ne contractent aucune obligation que chacune
pour soi ... Afin donc qu'une Multitude de gens
devienne une seule Personne, à qui l'on puisse
attribuer une seule action, et qui ait certains droits
par opposition à chaque Particulier, il faut
nécessairement que tous aient ... uni leurs volontés
et leurs forces par le moyen de quelque convention;
..." 18.

(So it appears that if Grotius failed to distinguish a
multitude from a people, as Rousseau claims (1,5) when he
makes the distinction, he was the only one of "les
fauteurs de despotisme" who thus failed.)

Now, in terms of this abstract of the views of Hobbes
and Pufendorf, let us see what Rousseau had before him.
All men were regarded as having a common interest in their
mutual defence. On the basis of this declared common
interest all agreed to unite their wills to the
achievement of this common end. To unite differs from
consent in requiring the total surrender of each
individual to the sovereign power. Otherwise, according

17. Loc. cit.
18. Le Droit de la nature et des gens, Book VII, Chapter 2,
section 6, p231, (1712). Quoted by Derathé, Rousseau Et
La Science Politique ... p.402-3.
to Hobbes, self-interest is so strong in men that unless all surrender on an equal basis those who retain certain rights will take advantage of the remainder. In addition the sovereign power will be ineffective. For if each retains some rights against the sovereign what the sovereign has been empowered to do can be nullified.

All, therefore, surrender all their rights and by a pact of each with every other create a legal person. The civil person so created, however, is embodied in the actual sovereign for he alone is able to render their will effective.

Now the difficulty in Hobbes' account is to understand in what sense the people (as distinct from the multitude) constitute a civil person. For, according to Hobbes, the mutual contract of each with every other creates a legal unity holding the rights of all, then this civil person must in turn devolve the sovereign rights on someone to render the will effective. This, however, would seem to make the people the subject of sovereign rights and the actual sovereign a mere pragmatic device. Or, which is another legitimate interpretation, the individuals (as members of a multitude)

19. Of course with the exception that no individual surrenders his natural right to self-preservation.
devolve the sovereign rights on someone to render the will effective. But, it could be argued following Pufendorf, the actual sovereign then becomes a simple civil person. He is the civil person created by the social pact. He, then, and not the people is the true subject of the rights of all. In which case there seems no intelligible way in which the people become a civil person and the subject of rights.

Pufendorf, while arguing essentially the same position as Hobbes, renders the position more vulnerable by making it more explicit. His use of "moral" makes it clearer that the reason for the moral person is the regulation of social affairs in harmony with the common good. In other words, the moral person as he describes it is the state itself conceived as a sovereign power, a rational construction devised by the people for their own interests. He added also that the state can be conceived as a composite moral person which is itself a subject of rights. Plus the notion that being a member of a composite moral person does not entitle the individual
as such to rights. He has sovereign rights only as an active member of the composite moral person. Finally in the text he tended to undermine the Hobbesian position by stating that the main justification for the rule of one is purely pragmatic i.e. his effectiveness.

This review should suggest that the following passage from Rousseau is not as novel as it is often held to be: "cet acte d'association produit un corps moral et collectif, composé d'autant de membres que l'assemblée à de voix, lequel reçoit de ce même acte son unité, son moi commun, sa vie et sa volonté. Cette personne publique, qui se forme ainsi par l'union de tous les autres, etc..." (I,6).

What principal difference did Rousseau make in the development of the doctrine? Mainly, I think he had to discover a method of procedure which would (a) retain the sovereign rights in the people (b) without impairing the sovereign's effectiveness. For in the latter case he was just as eager as Hobbes to maintain the unity of the sovereign.

It may be suggested, then, that Hobbes' distinction between consent and union is as good an indication of the

---

20. Rousseau, rather oddly, shares Hobbes' opinion of monarchy: "on ne peut imaginer aucune sorte de constitution dans laquelle un moindre effort produise une action plus considérable, etc." (III,6).
meaning of Rousseau's puzzling phrase "chacun se donnant à tous" as any that might be suggested. Locke's civil state is instituted on the basis of consent, according to this distinction. For one of the chief features of Locke's account is the limitation of the civil authority to the conduct of certain activities. Whereas Hobbes and Rousseau are agreed on the superiority of a contract of union. The purpose of such a contract is the total submission of the individual to that of the sovereign. According to Hobbes it is to subject oneself "simply and in all things" and to Rousseau it is "l'alienation totale de chaque associé avec tous ses droits [my emphasis] à toute la communauté ...".

But how did Rousseau intend to retain the sovereign rights of the people? The answer was at hand. He merely ruled that the only legitimate sovereign was the will of Pufendorf's composite moral person. Each individual subjects himself to the will of the moral person. If the state could be envisaged as a composite moral person and as the subject of rights then the people or the state are the sovereign. He refused, thereby, to surrender the sovereign rights of the individual to an absolute ruler.

Rousseau, in working out his problem, hit upon the significant model of the civil state as an association. Following Hobbes, he made the common good of the
association the sole purpose of it: "c'est uniquement sur cet intérêt commun que la société doit être gouvernée". (II,1).

I believe that the purpose of Rousseau's social contract is to establish the association and to make the common interest the chief criterion of the state's operation. This requires some explanation.

Although I find it somewhat arbitrary as regards ordinary usage, we must make a distinction between (a) having interests in common and (b) having a common interest. The simplest way of illustrating the first is by definition in use. We might say that an example of having interests in common is the case where a boy is interested in a girl and the girl is interested in herself. It would seem very odd in this case to say that they have a common interest.

For our purpose we can say that to have a common interest one must be an associate; that only members of an association can have a common interest. Thus, we may have established an "Association for the Preservation of Georgian Architecture". Each associate has a common interest in the preservation of Georgian architecture. And he has this common interest only as a member of the association.

Now I wish to suggest that it is this concept of common interest that plays a major role in the Contrat social. Rousseau is far from consistent in its use but he seems to
have adopted it consciously, at least in the beginning. Using this rough distinction I shall present a new view of the general will.

"La première et la plus importante conséquence des principes ci-devant établis est que la volonté générale peut seule diriger les forces de l'État selon la fin de son institution, qui est le bien commun; car si l'opposition des intérêts particuliers a rendu nécessaire l'établissement des sociétés,... C'est ce qu'il y a de commun dans ces différents intérêts qui forme le lien social; et s'il n'y avait pas quelque point dans lequel tous les intérêts s'accordent, nulle société ne saurait exister. Or c'est uniquement sur cet intérêt commun que la société doit être gouvernée". (II,1).

Notice how closely this account of the origin of civil society follows Hobbes. Men are motivated by particular interests, which condition creates a situation which makes societies necessary. Union comes about on the basis of what their particular interests have in common. The common interest establishes the end of the association and, I believe, the purpose of the contract is to unite all on its basis.

Now, if this is plausible several things can be seen to follow. First, being an associate engenders an obligation on the part of each associate to the association and to the end which it was instituted to achieve. At least there is clearly a sense in which one may feel obliged and hold himself responsible for having a common interest as an associate whereas the same, i.e. obligation and responsibility, are inapplicable to "interests in common".
And, since this is a contract of union, the common interest requires the total surrender of every individual interest to it. Second, Rousseau develops the argument of Pufendorf, as I shall maintain in Chapter 7, that a composite moral person by social contract obtains rights which the individuals as such do not have. Individuals have rights only as associates. Third, just as one has a common interest only as an associate so one has a general will only as an associate.

This I take to be the meaning of: "En effet, chaque individu peut, comme homme, avoir une volonté particulière contraire ou dissemblable à la volonté générale qu'il a comme citoyen". (I,7). One only has a general will as a citizen or an associate. The general will is the will of the sovereign. It follows that one has a general will in precisely the same sense and for the same reason as one has of a common interest or sovereign, namely, as one/the members of the association (I,7). The general will, consequently, is solely the product of the contract of association, a political or social will.

I believe this definition of the general will as the will for the common good of the association is very important. It is true that the argument from which it is derived is largely technical, that is, it consists in showing Rousseau's development of the ideas of Hobbes and Pufendorf. But I suspect that many interpretations of the
will

genera/implicitly assume that the notion is not
directly dependent on the civil state. Whereas

according to this account it is. For example, Cassirer
comparis Rousseau to Kant and speaks of the general will

as the ethical will. Bosanquet refers to it as the

Real Will. Hendel and Cobban refer to the will of

God. Others have claimed that it is a transcendental
will or Montesquieu's spirit of the laws in another form.

But I admit that Rousseau is not always consistent
in his use of "common interest" and allied concepts.

One of the objects, therefore, in the next chapters is
to explore the various senses in which it is used.

In conclusion, I wish to consider what might be

21. Cassirer, E., The Question of Jean-Jacques Rousseau,
p. 58 and 63. v. Chapter 8 of this thesis.

22. Bosanquet, B., The philosophical Theory of the State,
Ch. 5. v. Chapter 9.

23. Hendel, C., Jean-Jacques Rousseau, Moralist, Volume I,
p. 119-120.

Cobban, A., "New Light On The Political Thought Of

"Professor Hendel put forward a suggestion that has not been
sufficiently followed up ... The idea of the general will
... [as] ... the general will of God. Here, it may be
suggested, is the source of that terrestrial general will
which is the embodiment of perfect goodness on earth ..."

24. Halbwachs, M., editor, De Contrat Social, Footnote 35,
p. 107. (my emphasis).

Quoted by Halbwachs, Ch. III.
regarded as the weakest point in my interpretation. Rousseau distinguishes the case where an individual may wish to act contrary to the common interest for his own benefit. He continues: "et regardant la personne morale qui constitue l'état comme un être de raison, parce que ce n'est pas un homme, il jouirait des droits du citoyen sans vouloir remplir les devoirs du sujet,..." (I,7).

Now, Halbwachs interprets this to mean that: "Il faut admettre que les sujets sont exposés à oublier le résultat du contrat, qui a créé un être réel (et non le Dieu artificiel de Hobbes), ayant 'son unité, son moi commun, sa vie et sa volonté'". But according to Rousseau the state is "le corps artificiel" (I,1) and we have seen that both Hobbes and Pufendorf regarded the state as a person, as having its own unity, common self and will. Halbwachs goes on to quote Duguit: "Je qualifie de métaphysiques toutes les doctrines qui voient dans l'Etat un être doué d'une personnalité distincte de celles des individus qui forment le groupement social ...". Again, however, this is contradicted by Rousseau: "le souverain, n'étant formé que des particuliers". (I,7).

It seems that Rousseau means by "regardant la personne morale qui constitue l'État comme un être de raison, etc." that although the state is a being of reason this does not entitle the individual to act contrary to the common interest. Because the sovereign state is not a determinate physical person or persons it is not, therefore, without power to penalize an offender. Thinking it merely "un être de raison" the recalcitrant individual may regard it as mere words. Whoever, Rousseau continues from this, takes this attitude and refuses to obey the sovereign will then must be forced into doing so.
Chapter 3

The Main Argument

In order properly to analyse and understand the Contrat social and, particularly, the general will it is necessary to adhere closely to Rousseau's actual argument in the context he used. To expound this main argument is my principal purpose in this and the following chapter. I have included also, as briefly as possible, some of my conclusions and criticisms which occur in later chapters so that the reader may appreciate their reference. These two chapters, that is to say, will serve also as a basis for later arguments. If the reader will take this into account I may be excused some of the stylistic shortcomings in this approach.

In the Contrat social Rousseau provides a theory of the state by which he attempts:

(1) "allier toujours ... ce que le droit permet avec ce que l'intérêt prescrit, afin que la justice et l'utilité ne se trouvent point divisées". (I, Preface)
(2) to provide a form of political association which will -

(a) protect the person and private possessions of each individual

(b) allow the individual to (i) obey himself alone and (ii) remain as free as before.

1. In Book I, Chapter 6 we are told that men unite to form a state in order to achieve, by collective action, the preservation of the person and belongings of each associate. Each associate makes a compact with every other to surrender all his rights to all the associates ("l'aliénation totale de chaque associé avec tous ses droits à toute la communauté"). In return he receives (1) the protection afforded by the collective force and (2) a guarantee that, henceforth, he will be able, although he unites with all, to obey himself alone. In addition, this association is intended to satisfy alike the demands of "right" and "interest".

Now, since the individual is obliged, as a party to the contract, to submit to the will of all the associates we should expect the supreme power, the general will in the state to coincide exactly with the will of all the members. The collective will of the members who unite to form the state must be unanimous. No one can
be forced to become a party to the contract. The contract is only legitimate if the will to become a party to it is unanimous. The social contract, says Rousseau, demands the voluntary consent of all the members (IV, 2).

This is important because if the will is unanimous it is not difficult to find good reasons for saying that the "individual obeys himself alone". If there is a law to the effect that the protection of private property is the responsibility of the state, if everyone expressed approval of this simple proposal, and this only, by voting in favour of it, then, clearly, one is justified in claiming that in obeying such a law I am obeying an expression of my own will and am therefore, in a sense, obeying myself.

Also, given that the general will, to which I submit, is the unanimous will of all, it is appropriate and proper to say that such a law, since all voted in favour of the proposal, is an expression of the will of the whole (meaning "all of the people", "everyone") people. It is abundantly clear, then, that the supreme power to which the individual surrenders, in becoming a party to the contract, is the unanimous will of all.

In Book I, Chapters 5, 6, 7 and 8 Rousseau outlines the conditions and circumstances of the social contract
on which the state is founded. Had he been plain-
spoken Rousseau might have described these conditions
and circumstances in the following manner. Every
individual acts, selects and judges in terms of certain
interests. Each individual may find that he shares
certain interests with others, just as Rousseau suggests
that all the associates show an interest in self-
preservation. Such a condition we can call the private
(or personal, or individual) interest of each being
dealing with in these earlier chapters. But in doing
shared by all. The interest, because it is shared by
all, can be called the common interest.

But it is the case that an individual is motivated
by conflicting interests. That is, he wants to fulfill
one interest of such a kind that in doing so he is
excluded from fulfilling another. Both these interests
would be called private interests. But it may be that
one interest is an interest shared by all. The individual
is then faced with the situation where he must choose
between two rival interests; one of which is a purely
private interest, the other, is a private interest
shared by all and, therefore, a common interest. To
repeat, both interests are private (or personal, or
individual) interests but one may be shared by all the
associates.

We could, then, distinguish three conditions:
(1) that where the private interest is shared by all and becomes a component part of the common interest.

(2) that where the private interest is private, but does not conflict with (1).

(3) that where the private interest conflicts with the interest described in (1).

This complex situation seems to be what Rousseau is dealing with in these opening chapters. But in doing so he fails to take account of its complexity and confuses the issue in the very beginning.

2. "En effet, chaque individu peut, comme homme, avoir une volonté particulière 2 & 3 contraire 3 ou 2 dissemblable à la volonté générale qu'il a comme citoyen:...". Rousseau then goes on to say that his private interest can influence him quite differently from the common interest. This is not true of (1). It can be true of either (2) or (3). It becomes obvious in what follows that he has (3) in mind:

"... son existence absolue, et naturellement indépendante, peut lui faire envisager ce qu'il doit à la cause commune comme une contribution gratuite, dont la perte sera moins nuisible aux autres que le payement n'en sera onéreux pour lui; ... injustice dont le progrès causerait la ruine du corps politique". (1,7).
If we take an example of the thief's relation to society we may be able both to illustrate the above distinction and indicate the point of a later argument. It is in the thief's interest as well as that of all other members of a society that personal possessions be secured. This is an instance of classification (1). As a thief his interest is also to profit by stealing the possessions of others i.e. his intent, here, is contrary to an interest common to all as in (3). We could say that this latter interest is parasitic upon the dominance of the common interest in securing private possessions. The dominance of (1), in other words, provides protection for his own belongings while he profits by stealing those of others. We might say also that his behaviour reveals a contradiction of interests in that he wishes both to maintain his own right to private property and to violate the right of others.

It does not follow that (1) and (2) are contradictory. I may be interested in collecting butterflies. This is, near enough, a purely private interest and there seems to be no obvious reason why it should conflict with (1). If, however, I took it upon myself to collect the taxes this interest in tax-collecting would no

1. v. Chapter 4, p. II.
2. It is conceivable that this argument should have influenced Kant's formulation of the argument regarding a contradiction in the practical will. Cp., in relation to the categorical imperative, the examples on suicide and borrowing money, Fundamental Principles of the Metaphysic of Morals, p. 47, (Abbot Ed.)
That this distinction be drawn is of the utmost importance. That it is not clearly drawn, nor consistently used accounts for a good deal of the confusion encountered in the succeeding arguments. For example, consider, again, the statement: "le souverain, n'étant forme que des particuliers qui le composent, n'a ni ne peut avoir d'intérêt contraire au leur; par conséquent, la puissance souveraine n'a nul besoin de garant envers les sujets, ..." (I,7). This is a true statement only about (1). (2) is irrelevant, by definition, and need not be "contrary", merely dissimilar. (3), clearly, would conflict with (1). This means that the sovereign will which expresses the interests of all and conflicts with none must be associated with (1) and that, therefore, by common interest, in this case, is meant a private interest shared by all.

3. "La première et la plus importante conséquence des principes ci-devant établis est que la volonté générale peut seule diriger les forces de l'État selon la fin de son institution, qui est le bien commun,"

This marks the association of the general will with the common good. It is, according to Rousseau, the opposition of private interests that makes the state necessary; "c'est l'accord de ces mêmes intérêts qui l'a rendu possible". (II,1). Similarly, "C'est ce
The common good, which is the end of the political association, and the common interest, which is its basis, have the same origin. Both derive from that which is common to the private interests of all the associates.

4. "En effet, s'il n'est pas impossible qu'une volonté particulière s'accorde sur quelque point avec la volonté générale, il est impossible au moins que cet accord soit durable et constant; car la volonté particulière tend, par sa nature, aux préférences, et la volonté générale à l'égalité. Il est plus impossible encore qu'on ait un garant de cet accord, quand même il devrait toujours exister; ce ne serait pas un effet de l'art, mais du hasard". (II,1)

This is perplexing; much turns on the meaning of "volonté particulière". We are told in (I,7) that qua man we have a "volonté particulière" which parallels "l'interet particulier". As citizen we have a "volonte generale" which parallels "l'interet commun".

What is meant is that when the individual wills the common interest the (his) will is general. When he wills his own interest the (his) will is particular.

Now if the argument continues symmetrically then the general will must express what is common to the wills of the individuals as in (1). If no one willed the common interest, i.e. willed generally, then according
to Rousseau "S'il n'y avait pas quelque point dans lequel tous les intérêts s'accordent, nulle société ne saurait exister". (II,1). If none sustained the common interest the state would be reduced to anarchy.

It is, therefore, unnecessarily misleading to claim that "if it is not impossible for a particular will to agree on some point with the general will, etc...", since some particular wills (i.e. individuals willing as in (1)) must always will generally just to maintain the state. Some agreement must always be the effect of art. But other individuals, he means, will their own interest to the neglect of [as might be the case in (2)] or in opposition to [as in (3)] the common interest. We then have the situation where some individuals:

(1) will the common good (and so will generally)
(2) others will their private interest (and so do not will generally)
(3) others will their private interest (and oppose the common interest).

The argument, so far, is perplexing because Rousseau claims the distinctness of the particular will and the general will while, concurrently, arguing that the general will has its origin in the wills of the particular individuals. Confusion arises through the failure to distinguish the sorts of private interest which prompt
the particular will.

In effect, two criteria appear to be operative in determining the general will. The first is "what is general to the willing". The second is "willing generally".

The particular will is associated with particular interest; the general will, with the common interest. If we assume that the argument is symmetrical, this suggests that since the common interest derives from what is common to all the particular interests, then the general will is derived from what is general to all the particular wills. Thus, according to this criterion the general will associated with the contract itself is general because of what is general to the wills of all associates, namely, the will to unite and submit to government of the will of all.

But when Rousseau writes of man as man as having a particular will and as citizen as "having" a general will, when he writes, further, of the particular will tending to be preferential and the general will leading to equality, a different criterion seems to be used. Then it is the question of the general will "as willing generally", that is of the will the object of which is general. In this case an individual "has" a general will or wills generally, if the common interest or
common good figures as a factor in his willing. Rousseau, we should notice, does not, at this point, mean that it must be the only factor. There is an appeal to the individual that his interests can be satisfied best through the common interest of all.

For illustration of these two criteria consider the following examples.

1. Two ways of determining "what is general to the wills" are:

   (1) Three men are asked to choose between two objects.

   A chooses x
   B chooses x
   C chooses y

   Whichever object is chosen by two of the men, that object (x) is said to be "general to the wills". In this case "general" is equivalent to the decision of the majority.

   (2) Three men are asked to suggest alternative courses of action.

   A suggests x, y, z,
   B suggests v, w, x
   C suggests p, q, x

   X is then the constant factor and is said to be "general to the wills" of A, B, and C. "General" is then equivalent to "common". This is the true meaning
of "common" in the sense of what is common to their willing.

2. The residents are asked to consider the building of a school in the community. Different individuals give the following replies:

A: "Yes, we need a school".
B: "Yes", then to himself, "and I shall get the contract".
C: "No, it will mean higher taxes for the community".
D: "Yes, we need a school, I have two children who require an education".
E: "Yes, attending school keeps my children off the streets".

According to the second criterion only A, C and D will generally (consider the common interest as a factor in their willing). D, the doubtful case, is not excluded because the general interest happens to coincide with her own. As we shall see Rousseau often argues that there is no necessary disagreement between the two. Also she does consider the common interest. The remainder, B and E, will particularly (consider their private interests apart from the common interest). Willing the common interest here means taking into consideration as a
factor, though not necessarily the only factor, the interests of all.

However, the first criterion (example 1,(1) on previous page), that which is general to the object of their willing, yields different results. Both criteria can be represented in tabular form.

I. what is general to their willing: desire for school. A,B,D,E.

II. willing generally, i.e. considers the common interest. A,C,D.

In I. the only person who voted against having a school was C, although he willed generally. So long as we restrict ourselves to a vote it would seem to follow that the only legitimate and practicable method of obtaining an expression of the general will is I. This is interesting because neither I. nor II. tells us what is common to all the voters. This would be the necessary procedure if we wished to discover the common interest in the strict sense that Rousseau begins with, namely, what is common to all the particular interests. The answer for A,B,C,D,E is, strictly speaking, nothing.

5. "...la volonté est générale, ou elle ne l'est pas; elle est celle du corps du peuple, ou seulement d'une partie". (II,2).

Attached to this statement is the following footnote:
"Pour qu'une volonté soit générale, il n'est pas toujours nécessaire qu'elle soit unanime, mais il est nécessaire que toutes les voix soient comptées; toute exclusion formelle rompt la généralité".

Here a new and decisive factor is introduced. In order to determine what is general to the wills of the associates universal suffrage is necessary. But universal suffrage, unless the results are unanimous, only tells us what is general to some of the people. It will not tell us what is the will of the whole people. Or, although all will be consulted the result will be determined by a part, though a major part, of the people.

It is, therefore, extremely misleading to claim that the result of the willing when "déclarée" is an act of sovereignty and makes the law. Since this suggests either that the general will is the will of the whole people which clearly it is not or that the law is made by all the people. All the people ratify the law (III,14), but, unless the result is unanimous, only the majority make it. Or, although all can approve the proposal, only the majority approve of it.

To summarize, then, in legislating, according to Rousseau, the general will need not be unanimous, as was necessary for the contract. A will which is not unanimous tells us only what is general to the wills of some of the associates. Thus the general will which need not always be unanimous is no longer general in
of
the sense/accounting for what is general to all, but
only some, of the associates. All the people ratify
the law but the law-making will does not include,
necessarily, all the people. The general will is not
therefore the will of the people but only the greater
part of the people.

It is less misleading and more consistent with his
earlier statements not to say that the general will is
"celle du corps du peuple" but the will for the common
good of all the people.

6. In Book II, Chapter 3, Rousseau writes:

"Il y a souvent bien de la différence entre
la volonté de tous et la volonté générale; celle-
ci ne regarde qu'à l'intérêt commun; l'autre
regarde à l'intérêt privé, et n'est qu'une somme
de volontés particulières: mais ôtez de ces
mêmes volontés les plus et les moins qui s'entre-
détruisent, reste pour somme des différences la
volonté générale".

To this is attached the following footnote:

"Chaque intérêt, dit le marquis d'Argenson,
a des principes différents. L'accord de deux
intérêts particuliers se forme par opposition a
celui d'un tiers". Il eût pu ajouter que l'accord
de tous les intérêts se forme par opposition à
celui de chacun. S'il n'y avait point d'intérêts
différents, à peine sentirait-on l'intérêt
commun...

In the paragraph immediately following the above
Rousseau writes: "Si, quand le peuple suffisamment
informé délibère, les citoyens n'avaient aucune
communication entre eux, du grand nombre de petites
différences résulterait toujours la volonté générale, et
la délibération serait toujours bonne". But when partial
associations arise the will of each of these becomes
general for its members. Then the votes represent the
partial associations rather than the individuals. "Les
différences deviennent moins nombreuses et donnent un
résultat moins général". (II, 3).

This particular part of the argument, perhaps because
of its vagueness, is seldom examined by commentators.
Those who have, consider it important to the general
argument. I believe they are right and that it is also
important to analyse the argument correctly. I shall
present the popular interpretation of this section and
argue that it is inadequate. The account I regard as
typical of the popular is that given by Beaulavon which,
in turn is based on that of Hayman in his book J.-J. Rousseau
Sozialphilosophie.

As a footnote to the paragraph beginning "Il y a
souvent bien de la différence, ... etc.", Beaulavon
writes:

"Si l'on considère simplement les volontes
de tous les citoyens en tant qu'ils ne songent
qu'à leurs intérêts privés, on a la volonté de
tous, assemblage incohérent, parce que, tous les
intérêts particuliers étant différents, on ne
peut en aucune façon comparer les volontés auxquelles ils servent de principes. Mais si les volontés se proposent pour but l'intérêt général, elles deviennent du même coup comparables: on peut les additionner, en éliminant les plus ou les moins qui s'entre-détruisent, et on saura ainsi ce que la majorité du peuple regarde comme conforme à l'intérêt général".

This is not clear. His criticism of the "volonté de tous" is based on the claim that when men will in terms of their private interests we cannot determine, in any coherent fashion, what they actually desire. I fail to see the force of this criticism. It would be impossible to give a coherent account of men's desires, in this case, only if they did not approve the same proposal. If they did, then we could give such an account merely by adding the votes and concluding that the majority want "such-and-such".

However, Beaulavon continues to develop his interpretation by means of an example.

"... Pierre, Paul et Jacques, lorsqu'ils ne songent qu'à leurs intérêts privés, veulent, l'un ceci pour telle raison, l'autre cela pour telle autre, etc.; ils veulent donc des choses différentes et pour des raisons différentes: impossible de tirer de là aucune volonté générale; ce n'est que la volonté de tous. Mais demandons-leur à chacun s'ils pensent telle loi conforme ou non à l'intérêt général; chacun en jugera de son point de vue particulier et pourra bien avoir un avis différent de celui de son voisin, mais du moins tous ces avis seront des réponses à une même question et on pourra en faire la somme algébrique: on aura la volonté générale". 3 II,3.

But again this is unclear. It would not follow that the individuals who considered only their private interests "veulent donc des choses différentes". Unless, unlike the second instance, they were asked, merely to state preferences on all things instead of "telle loi". Moreover, it does not follow, as Beaulavon suggests, that there is any association between the majority and this account of the general will. Plainly it may be that only the minority make the general interest a factor in their decision. Finally, and this appears to be fatal to the interpretation, there is no conceivable way of determining whether the voter has considered the general interest. All that we have as a result of voting is that so many voted and so many of this number preferred this rather than that.

I believe that in a sense this interpretation is representative of Rousseau's views but that this account, like Rousseau's, fails to make the point. Both Rousseau and Beaulavon seem to be claiming that a logical case can be made for this outline of voting procedure. What they appear to be suggesting, by means of the notion of the general will, is that for logical reasons, if not moral ones, political questions should be of general interest and answered in terms of the general interest. That is that the laws of the state should be concerned only with
matters that affect all the community and not merely to advance personal interests. Also, that in voting to make such a measure a law for the state we ought to conform to a logical standard by considering its effect on all the citizens, and not merely its effect on the particular individual. Given such conditions we would have some justification for claiming the result as an expression of the general will. This seems to be, for the most part, the point that Beaulavon attempts to express. But Beaulavon also seems to think that in this way we can determine, in practice, the general will. Rousseau, it seems to me, does not hold this particular view and for this reason I shall offer a different interpretation.

An analysis of this section of the argument must account for the argument immediately preceding it and that which follows immediately after. Also the analysis must provide grounds for explaining the fact that Rousseau appears to be giving us a description of voting procedure. These criteria are not satisfied by the analysis which is generally accepted.

In Book II, Chapter 1, Rousseau tells us that the general will is that will which wills the common interest and that the common interest is what there is in common among the different interests of the individuals. In Book II, Chapter 2, he tells us that in legislating
universal suffrage is necessary to determine the general will which is the law-making will. And that what is willed by the majority qualifies as law and, therefore, as an expression of the general will.

In Chapter 3 he admits that though the "volonté générale est toujours droite et tend toujours à l'utilité publique", the people can be mistaken and appear to will wrongly. In the next paragraph Rousseau makes the famous distinction between the general will and the will of all, in the form of an exclusive alteration. He adds, however, in the same sentence, "mais ôtez de ces mêmes volontés les plus et les moins qui s'entre-détruisent, reste pour somme des différences la volonté générale". (II, 3) He follows this by specifying certain conditions which must hold if the general will is to be expressed.

My analysis depends on there being a reasonable consistency between the part of the argument under inspection, that which has gone before and that which comes after. It seems to me that Rousseau argues as follows. Legislation does not require unanimity; a majority is sufficient to make a measure law. Majorities can be mistaken. Individuals can vote, exclusively, in terms of their self-interests, such a vote is merely an expression of a sum of particular interests. Nonetheless, it is still possible, given certain conditions, to
determine the general will by essentially mechanical means. This last step, the crucial one, appeals to coherency.

But it also gains support from the manner in which Rousseau expresses it. He distinguishes clearly, in terms of motives, the general will from the will of all. He then adds, in the same sentence "mais ôtez de ces mêmes volontes, etc".

In other words, Rousseau ascribes the general will to the majority. He admits that the political aptitude of the majority is not infallible. In such cases how are we to know the majority is expressing the general will? Then Rousseau informs us, as we might reasonably expect him to, that there is a way of discovering this, namely by a vote.

If this analysis is, so far, correct then the voting procedure proceeds as follows. The individuals are asked to approve a certain measure. Some will generally, others do not. Some vote "yes", others "no". The affirmatives cancel out the negatives and the remainder expresses the majority view, "les plus et les moins qui s'entre-détruisent, reste pour somme des différences la volonté générale".

The strength of the popular interpretation lies in its self-evident quality. For if each in voting tries to express the general will then we have good grounds for
supposing that the result is an expression of the general will.

The weakness of my interpretation, from an absolute point of view, is that we cannot be certain that Rousseau, in this cryptic statement, is outlining voting procedure. If, for example, the situation he had in mind was that of proposing measures for legislation then my interpretation should be questioned. This is because it might be possible under these circumstances to discover whether the individual was considering the general interest. Thus if A moves that the tax on carriages be \textit{abolished} and is himself a carriage-owner then our suspicions about his regard for the public interest would be aroused. However, we can be sure enough that voting is the issue. Rousseau, for example, mentions the "votants". Even if, as seems unlikely, voting was not the issue the interpretation I am contesting would be called into question also since it presupposes that voting procedure is the subject.

Now if voting procedure is the subject then unquestionably the standard analysis is inadequate. The vote is mechanical in the sense that we cannot know for certain what the motives of the individuals are by counting votes. We cannot know, therefore, whether they vote to satisfy a private interest, the interests of a partial
association or the common interest. We can say that, for the logical reason I have given, they ought to will generally but we cannot know if they do. Only they know. The accepted version of this analysis, that of Beaulavon (Haymann), seems, therefore, inadequate.

No more adequate, though somewhat similar to it, are the interpretations of Cole and Bosanquet.

Cole: "when, in a city-state resting on popular Sovereignty, all particular associations are avoided, votes guided by individual self-interest will always tend to cancel one another out, so that majority voting will result in the General Will finding expression. This clearly need not be the case, and in this respect we may charge Rousseau with pushing the democratic argument too far". 4 (Cole believes that the distinction between "la volonté générale" and "la volonté de tous" is, at this point in the argument, a moral distinction. He concludes, in part on the basis of this, that "The idea of the General Will is indeed essentially ethical ... Ethically, it is one and the same as Kant's conception of moral rationality". 5)

Bosanquet: "Only, Rousseau fancies, if you let the particular wills fight it out freely, their differences are likely to cancel each other, and the General Will to make itself felt, like any pervading factor through a chaos of definite variations". 6

5. IBID. p.xxx.
There are no good reasons for holding that Rousseau is committed either to, at this point, "pushing the democratic argument too far" or that he is being fanciful. All we are committed to is that some of the people will generally, some do not, some vote "yes", some vote "no".

The criticism of my interpretation may be that I will end by confusing the general will with the will of the majority. It is true that this interpretation brings us nearer to a will of the majority, as does Rousseau if I am correct, than the other interpretations. But, in Verney's words, Rousseau's majority is "no ordinary majority". It means, I take it, that the danger of Rousseau specifies certain conditions that must hold for the general will to be pronounced. The people must (1) know the relevant facts, (2) have reflected upon the issue. (3) The citizens must have no communication with one another. (4) There are no partial societies in the state. Or, if there are, there are so many as to render their influence negligible. If all these conditions hold and (5) "chaque citoyen n'opine que d'après lui", then the general will can be pronounced.

My interpretation of Rousseau, so far, is as follows. The individuals ought to vote in accordance with the public interest. The scrutineer cannot, however, discover the motives which prompt the vote. Nonetheless,
the vote can pronounce the general will. Under certain specified conditions (as above) the will of the majority is the general will.

Now, Rousseau's remarks on the influence of partial associations bear out this interpretation. Rousseau claims that partial associations, i.e. associations which express neither the purely private will of the individual nor the public interest of the state, create a situation where "il n'y a plus autant de votants que d'hommes, mais seulement autant que d'associations". For one who wrote in the youth of European democracy this is a perceptive comment. It means, I take it, that the danger of associations other than the general political association is that by their influence they tend to minimize the breadth of interests to which the vote is designed to give expression. For example, a contemporary argument against trade unions is that the trade union members voting on national issues tend to express the interests of their own association rather than the national or their own individual interests.

When a number of these partial associations are struggling for power then the result of a vote does not give us a truly majority vote of the people. It merely tells us which association has the greatest influence. Finally, when one such association, say the German Fascist
party, comes to predominate "vous n'avez plus pour résultat une somme de petites différences, mais une différence unique; alors il n'y a plus de volonté générale, et l'avis qui l'emporte n'est qu'un avis particulier".

If I have interpreted Rousseau correctly this means that when national issues are decided by powerful, rival organizations, e.g. a manufacturer's cartel and trade unions, or when one organization comes to dominate all the others then it is incorrect to describe this as a situation where decisions are made by majority vote. If by majority vote we refer to the votes of all the individuals, Rousseau concludes: "Il importe donc, pour avoir bien l'énoncé de la volonté générale, qu'il n'y ait pas de société partielle dans l'État, et que chaque citoyen n'opine que d'après lui". (II,3).

My main reason for putting forward such an analysis and interpretation is that I believe that, at this point in the argument, Rousseau is endeavouring still to take "les hommes tels qu'ils sont". He seeks, therefore, a means of discovering how the vote can express the general will. The vote cannot determine who, let alone how many, will generally. But it can tell us, the first criteria of the general will, what is general to the wills of the voters provided the result is an expression of the majority and not merely that of partial associations, and providing
we accept "majority" to mean "common". If not all, at least part of the task of this part of the argument (Book II, Chapter 3) is to determine the conditions necessary for declarations of the will of the majority (which is therefore "no ordinary majority"). Rousseau finishes this chapter in the following words. "Ces précautions (excluding or minimizing the effect of partial associations, etc.) sont les seules bonnes pour que la volonté générale soit toujours éclairée, et que le peuple ne se trompe point".

Rousseau has shown that, given specified conditions, the will of the majority is the general will. Or, if you prefer Beaulavon's interpretation, when all vote on an issue and consider only the general interest then the result of the vote, i.e. whatever the majority decides, declares the general will. Either they "lose their vote" or they took something to be the general interest which was not. Either way, it appears, some are to be
disappointed. This is because the vote satisfies only
the interests of the majority (or the majority of those
who will generally). The vote, it appears, can satisfy
only the public interest not the interest of each
particular person. Something of this sort seems to be what Rousseau has
in mind when he writes: "le pacte social donne au corps
politique un pouvoir absolu (the general will) sur tous
les siens..." (II,4). Since if each and every interest
was satisfied then there would be no need of absolute
power. (II,4). This
is at this point we need to review. The social compact
gave supreme (not absolute) power to the general will.
But the general will was a unanimous will. Then the
general will was characterized as the individual's will
when he willed the common interest (I,7). The common
interest, we were told in (II,1), is identified by what is
common to the interests of all the associates. Next we
were told that the general will need not necessarily be a
unanimous will, so long as all the people ratify the
proposal, the will of the majority declares the general
will (II,2). But this, I argued, only tells us what is
common to the interests of most, but not all, of the
associates. In the following chapter, I maintained,
Rousseau believes that all ought to will generally (i.e.
take the interests of all into account) but that the vote can tell us only what the majority approve not whether they will generally. According to Beaulavon (who, I believe, is giving an account of the argument in (IV,2) the vote tells us what the majority approve as conforming to the general will.

After claiming that the power of the general will is absolute in the state Rousseau writes: "Mais, outre la personne publique, nous avons à considérer les personnes privées qui la composent, et dont la vie et la liberté sont naturellement indépendantes d'elle." (II,4). This is inconsistent, as has been noted, with the clause of the social compact. Within the same chapter Rousseau claims that by virtue of the compact the individual exchanges his natural independence for liberty.

What he means to say, I think, is that the sovereign will is absolute only in matters which concern the general interest. To this, as we shall see, the law is limited. But the sovereign will reserves the right to determine what the general interest is.

At the beginning of this chapter Rousseau tells us that the power of the general will is absolute because, by contracting, the associates made it so. It would seem to follow from this that we are obliged to obey the general will because of this prior convention. But below
in the same chapter, Rousseau writes: "Les engagements qui nous lient au corps social ne sont obligatoires que parce qu'ils sont mutuels", and this means that "leur nature est telle qu'en les remplissant on ne peut travailler pour autrui sans travailler aussi pour soi". We are obliged to fulfil our engagements (i.e. accept the sovereignty of the general will) only because (and so long as?) it is to our ultimate advantage. Rousseau continues:

"Pourquoi la volonté générale est-elle toujours droite, et pourquoi tous veulent-ils constamment le bonheur de chacun d'eux, si ce n'est parce qu'il n'y a personne qui ne s'apprécie ce mot chacun, et qui ne songe à lui-même en votant pour tous? Ce qui prouve que l'égalité de droit et la notion de justice qu'elle produit dérive de la préférence que chacun se donne, et par conséquent de la nature de l'homme". (II,4)

And, of course, it proves nothing of the sort, since only a limited case is satisfied. When a proposal is placed before the people the individual can ask himself three different questions. First, is such a proposal to my advantage regardless of the advantage of others? The affirmative answer "dérive de la préférence que chacun se donne", but it could not serve consistently as a basis for the equality of rights and the notion of justice. Second, is it to the advantage of all, including myself? An affirmative answer could serve consistently as such a basis. But it would not derive from the preference each gives to himself. Third, is such a proposal to the public
advantage, it excludes the satisfaction of my own interest? This final question is, I believe, the crucial one for Rousseau's notion of political obligation. An answer to it does not derive from the preference each gives to himself but a preference that he gives to the public interest which excludes the satisfaction of his own. An affirmative answer could serve as the basis of the idea of justice. But the answer could be based also on a form of chauvinism or on a kind of perverse moral principle which insisted always that the good of others be prior to one's own.

7. "la volonté générale, pour être vraiment telle, doit l'être dans son objet ainsi que dans son essence;" (II,4). This, according to Rousseau, is the authentic general will; one which "doit partir de tous pour s'appliquer à tous". Many (Beaulavon, Cassirer, Cole, etc.) have remarked that this is a moral principle and have, because of its universality, compared it to Kant's moral principle. This, however, has nearly as many disadvantages as it has advantages. It obscures the point that in the chapter in which the definition occurs Rousseau maintains explicitly that our obligation to obey such a law is derived from its mutuality, that by obeying a law which is an act of the general will we benefit ourselves since it satisfies the common interest. Moreover, such an interpretation obscures a significant point which, I believe, is more important
to our understanding of Rousseau's general will, than the comparison to Kant.

If Kant has given us the definition of the moral will, then we could argue that what Rousseau has tried to give us is the definition of the political will, and not seek to obscure Rousseau's originality by assimilating the general will to the moral will. It is better to say that what Kant has done for morality Rousseau has done for politics and that the latter formulation seems to have influenced the formulation of the former.

The comparison is valuable from this point of view. Just as Kant attempted to state what an act of will would have to be in order to be moral, so Rousseau has stated what an act of will would have to be in order to be political.

What I am in fact proposing is that Rousseau is suggesting the logical conditions of an act of will which is appropriate to the political situation. One which does not conform to these conditions ought to be (on logical grounds) excluded from the political situation.

In this sense we can explain the general will as follows. The political will is operative when all the people take as the standard of willing the good of all the people. An act of the general will is a law. Similarly, then, we find the same logical conditions
operative in the definition of a law, "la loi réunissant l'universalité de la volonté et celle de l'objet", (II,6). Universality, then is the standard of the authentic general will both as to its origin and its object. This has as a corollary the condition that what is proposed as a law or, in other words, as an authentic act of the general will ought to be (on logical grounds) such as to conform to the standard of universality.

Thus, the individual should ask himself: is the measure I intend to propose one that could be proposed universally? And is such a measure one that could receive universal acceptance? In this way Rousseau sets a standard for what a political will and a political law ought to be. And if someone refuses to accept these standards then he is breaking the rules. Or to use a phrase of Carritt's, he is not "playing the game", which amounts to the same thing. This is, primarily, a logical argument. A building contractor who casts his vote for the construction of a new school in the hope that he will get the contract breaks the rules of the game.

I am not, of course, concerned to argue that other considerations like morality, the appeal to self-interest, the appeal to patriotism do not influence Rousseau's formulation of the general will. But this aspect of it
seems to me to be significant and generally unrecognised. The general will, to be really such, must be general in its object as well as in its essence. However, crucial problems are posed by this definition. We can say that the general will has two standards or that it incorporates two principles. One of these concerns the universality of the will, the other, the universality of its object. However, does one of these principles have priority over the other? Wherever we have the one do we or must we have the other? And if not, if that is to say one principle is absent, are we justified in claiming that an act in this case is a genuine act of the general will? If we do, are we not forsaking the definition? On such an instance is the individual obliged to obey what purports to be an act of the general will?

For example, consider the following. "On doit concevoir par là que ce qui généralise la volonté est moins le nombre des voix que l'intérêt commun qui les unit;" (II,4). This seems to mean that it is less important that the vote is decided by the majority; what generalizes the will is its object i.e. that all share the common interest. But consider this statement:

"On convient que tout ce que chacun aliène... ... seulement la partie de tout cela dont l'usage importe à la communauté; mais il faut convenir, aussi que le souverain seul est juge de cette importance". (II,4).
Rousseau appears to mean by this that it is the function of the sovereign to decide what is general and what not. The first example suggests the priority of the object of the will. The second suggests the priority of the subject of the will.

In Book II, Chapters 4 and 5, we find Rousseau still attempting to maintain that acts of the general will or the state founded on the general will always satisfy (or satisfies) any individual interest. This leads to paradoxical statements, e.g. "Tous ont à combattre, au besoin, pour la patrie, il est vrai; mais aussi nul n'a jamais à combattre pour soi". (II, 4).

In Book II, Chapter 5, he withdraws the previous grounds of obligation (i.e. mutuality), to replace it with another which is "ad hoc". "Il est expedient à l'Etat que tu meurs', il doit mourir ... sa vie n'est plus seulement un bienfait de la nature, mais un don conditionnel de l'Etat". (II, 5). This clashes oddly with the contract (I, 6) where, we are told, the purpose of the state is to protect each individual.

3. In Book II, Chapter 6, Rousseau defines a law. "If la matière sur laquelle on statue est générale comme la volonté qui statue. Then ... cet acte ... j'appelle une loi".

When, in the same chapter, Rousseau maintains that laws "ne sont que des registres de nos volontes", this is true
only for a limited case. That is when our wills conform to the definition of a law.

The ending of this chapter signals, as I have argued in Chapter 6 of this thesis, a turning point in the design and the argument of the *Contrat social*. Consider, first, the way in which Rousseau arranges his material. First, he argues against rival theories of the state. Then he proposes as a substitute a state based on a social contract which enthrones as sovereign the general will. Next he begins to tell us what the general will is, that it is linked to the common interest. We are told how the general will can be discovered in practice. We are informed that a genuine act of the general will is one in which all the people will for the good of all the people. Then that the general will acts through the laws, that in obeying the laws we obey the general will. In general the development is like a political programme in that it describes what the state would be like if the sovereign was the general will.

The next step is to provide a legislator. Now if this summary is correct then one would have thought that the task of the Legislator was to adapt constitutional institutions to conform to a state which has the general will as its sovereign. Instead we find, for the most part, something quite different.
Perhaps the key question at the end of Chapter 6 is this one:

"Comment une multitude aveugle, qui souvent ne sait ce qu'elle veut, parce qu'elle sait rarement ce qui lui est bon, exécuterait-elle d'elle-même une entreprise aussi grande,... qu'un système de législation?"

Certainly it is the most shocking. This "blind multitude" is the same group which has the function of declaring the general will. Moreover it is only the people, we have been led to believe, that did know what was good for it. The individuals have certain interests, some of which are shared by all. These latter formed the common interest or the common good (II,1). The people could determine what was the common good by asking if such and such a proposal could be willed by all and would suit all. If it could and would then it was good.

The reason for the change in emphasis appears to be, as I have tried to show in the chapter on the Legislator, that men put their personal advantage before the common good. To put it paradoxically men have common interests (luxury III, 15 and the church IV, 8), but not in the common interest, not an interest in the common good. The general will, it will be remembered, is the will for the good of all. According to the natural order, Rousseau maintains (III,2), the partial interests are always the stronger and the general will is always the weakest.
The Legislator must, therefore, seek to instil the interest in the common good in the heart of every individual; he must aid in replacing the natural order by one that is artificial. "Dans une législation parfaite, la volonté particulière ou individuelle doit être nulle". (III,2)

Although the professed goal of the Contral social is freedom, at this point I have argued that Rousseau tends to confuse freedom with social solidarity.

9. "Tant que plusieurs hommes réunis se considèrent comme un seul corps, ils n'ont qu'une seule volonté qui se rapporte à la commune conservation et au bien-être général". (IV,1).

This important statement about the general will brings Rousseau very near such a confounding of ideals. The social solidarity of the peasant society, which is presented as the ideal of political societies, does not suggest freedom.

But, Rousseau will argue, unless the citizens maintain an interest in the common good then the political power will fall into the hands of those who seek to satisfy their private interests. Then the state is on the eve of ruin. Rousseau considers two different factors as contributing to the fall of the state. I shall call these "the anarchy of wills" and "the corrupted common interest".

The first is the situation where everyone thinks
only of himself, where "le noeud social" and the interest in the good of all loses all force. The second is where the common interest itself changes. That is, that what is common to the interests of all may not be an interest in the good of all. This Rousseau describes as "L'intérêt commun s'altère".

10. "S'ensuit-il de là que la volonté générale soit anéantie ou corrompue? Non: elle est toujours constante, inaltérable et pure: mais elle est subordonnée à d'autres qui l'emportent sur elle. Chacun, détachant son intérêt de l'intérêt commun, voit bien qu'il ne peut l'en séparer tout à fait; mais sa part du mal public ne lui paraît rien auprès du bien exclusif qu'il prétend s'approprier. Ce bien excepté, il veut le bien général pour son propre intérêt ... Même en vendant son suffrage à prix d'argent, il n'èteint pas en lui la volonté générale, il l'élude". (IV,1).

The general will is that will which wills the interest in the public good. Perhaps an example will illustrate what Rousseau means by this passage.

When an individual seeks to satisfy his personal interest at the expense of the common interest he sees that it is not really possible. I seek, for example, to avoid paying my taxes but still I want to derive the benefits provided by the tax-payments. I make an "exception" in my own case. In this sense my interest is parasitic on the common interest. Making an exception of myself depends on the rest of, or the majority of,
the people not making exceptions of themselves.

The fault I commit in doing this, says Rousseau, is that of putting the wrong question to myself. Apart from making an exception of myself in this particular case I will the general good because I want to benefit from it. I do not therefore extinguish the will for the common good, I merely "put it aside" for the time being to seek my own advantage.

Rousseau might express this in language familiar to himself by saying that what I want is to be the only natural man in the civil society, while at the same time wishing to derive all the benefits of the civil society. In modern terminology I want to benefit from the security of the state while experiencing the independence of an apolitical creature.

What I must do to convince myself of the fault I have committed is to express my activity in terms of a question which is universal: is it to the advantage of the state that the exception becomes the rule? I would see, by doing this, that I would be willing the destruction of political activity.

11. "Ainsi la loi de l'ordre public dans les assemblées n'est pas tant d'y maintenir la volonté générale que de faire qu'elle soit toujours interrogée et qu'elle réponde toujours".

This appears to be consistent with the interpretation
of the passage above. Since what is suggested is not so much the disposition to concern oneself with the common good. Rather it is to use the general will as a yardstick or criterion of what is politically significant.
I think it is important, at this point, to observe the general development of the argument. Rousseau has presented what is, apparently, the ideal situation. So long as the assembly consider themselves as one body then they have one will. Or, which means the same, "les citoyens n'ayant qu'un interêt, le peuple n'avait qu'une volonté". (IV,2). However, is it true that having one interest implies a will which is the general will?

According to Rousseau - "Plus le concert regne dans les assemblées, c'est-à-dire plus les avis approchent de l'unanimité, plus aussi la volonté générale est dominante;" (IV,2) - unanimity implies the general will. He sees, however, that unanimity is not an essential criterion of the general will: "A l'autre extrémité du cercle, l'unanimité revient: c'est quand les citoyens, tombés dans la servitude, n'ont plus ni
liberté ni volonté. Alors la crainte et la flatterie changent en acclamations les suffrages,..."(IV,2).

He imagines, that is, a situation where each individual intending only his own survival or the satisfaction of a private interest votes so as to produce a unanimous opinion.

He imagines also a second situation: "quand les intérêts particuliers commencent à se faire sentir et les petites sociétés à influer sur la grande, l'intérêt commun s'altère et trouve des opposants: l'unanimité ne règne plus dans les voix; la volonté générale n'est plus la volonté de tous;"(IV,2). Here he seems to be thinking of a case where the common interest itself not only alters but becomes disputable and "trouve des opposants". However, there is an equally possible alternative suggested by Chapter 3 of Book II by the phrase "le plus vil intérêt se pare effrontément du nom sacré du bien public, alors la volonté générale devient muette;..."(IV,2).

I am thinking of the not uncommon case where we could say that the common interest changes (i.e., what is common to their interests changes), that all have but one interest, that a unanimous vote is recorded and yet "la volonté générale devient muette." The preference
given to Barabbas might be an example of this.

This example indicates, which Rousseau is aware of, that unanimity is inadequate. The instance when all motivated by fear and self-interest vote unanimously also illustrates its inadequacy. But Rousseau does not acknowledge explicitly what the above example also illustrated. In this the individuals all have but one interest and one will, the death of Christ, but their will may not be general. Therefore, although it is true that the citizens have only one interest and therefore, says Rousseau, only one will, it is not true that this is sufficient criterion of the general will.

In this case it is important to notice that the common interest itself changes, yields unanimity and still fails to record the general will. We should have to say the common interest is not an interest in the good of all. This is another way of making the point I stressed previously. Either (1) an authentic general will must be both general in its object and origin or (2) one of these criteria can be sacrificed to retain the latter. Specifically, the second would mean that an interest in the good of all is prior to its being
willed by all.

In either case it would follow that the criteria proposed by Rousseau - unanimity in voting and having but one interest and, therefore, one will - are not sufficient to establish the general will. In its strongest form this states that what is general to their wills does not, by itself, declare the general will.

11. "Hors ce contrat primitif, la voix du plus grand nombre oblige toujours tous les autres; c'est une suite du contrat même". (IV,2)

If what we have established is true, then it follows that the unqualified statement, that the minority are obliged to obey the majority, is untrue. All the citizens are obliged to obey only the general will. For the same reason it is untrue to say that "majority/"suit du contrat même." All that follows from the contract is our obligation to obey the general will, not "la voix du plus grand nombre".

Next, Rousseau considers the crucial questions:

"comment un homme peut être libre et forcé de se conformer à des volontés qui ne sont pas les siennes. Comment les opposants sont-ils libres et soumis à des lois auxquelles ils n'ont pas consenti?"(IV,2)

He objects that the question is wrongly put. This is because he answers the first by saying that the will to which the individual submits is his own will and the
second is answered by the claim that the individual consents to all the laws.

The answer to the second question is somewhat bewildering. Rousseau implies (in Book II, 3 for example) that the citizens estimate each proposal on its own merits. This procedure is rejected here.

Wright interprets "Le citoyen consent à toutes les lois,..." as meaning that the individual consents to the "reign of law". This interpretation seems to be incorrect. It is not inconsistent to consent to the rule of law and refuse consent to any particular law. In fact, it is not logically inconsistent to consent to the rule of law and yet reject a particular but complete system of positive law.

What Rousseau means by this is that the individual "consent à toutes les lois" because he consents to the sovereignty of the general will. It is consistent to argue that in submitting to the sovereignty of the general will

the individual consents to all the laws because all the laws are products of the general will.

Now I have distinguished, for explanatory purposes, the common interest (meaning what is common to the interests of all) from the interest in the good of all. It is the latter, I believe, which Rousseau has in mind when he says that the "Volonté constante de tous les membres de l'État est la volonté générale: c'est par elle qu'ils sont citoyens et libres". This appears correct because Rousseau has considered the situation where the common interest vacillates. One can suppose, as Rousseau seems to, that the interest in the good of all remains constant. The constancy of the will is derived from the constancy of the interest in the good of all, "par elle qu'ils sont citoyens et libres".

Assuming the correctness of this interpretation the footnote attached to the passage in question, in its reference to liberty, appears as a "non sequitur".

"A Genes, on lit au-devant des prisons et sur les fers des galériens ce mot, Libertas. Cette application de la devise est belle et juste. En effet il n'y a que les malfaiteurs de tous États qui empêchent le citoyen d'ètre libre. Dans un pays où tous ces gens-là seraient aux galères, on jouirait de plus parfaite liberté". (my emphasis). (IV, 2).

The view of the purpose of civil society and the conception of freedom implied by this footnote is inconsistent and of another order than the view of state and freedom it is

1a. This is the corrupted common interest, not that distinguished in Chapter 2.
intended to complement. The view of the state implied in the footnote is that the function of the state is the purely negative one of using coercion to keep the citizens law-abiding. The conception of liberty, similarly, is limited to the liberty of the law-protected citizen. It is odd that Rousseau should regard this as "la plus parfaite liberté".

The view of the state in the body of the argument is that of a state which is self-legislating. The conception of freedom is that of a people obeying laws of its own construction. The implications of the footnote, instead of supplementing the implications of the basic argument, appear irrelevant.

To return to the main argument. Rousseau says that when a law is proposed what we are asked "n'est pas précisément" if we approve the particular proposal but whether or not it conforms to the general will which is our will. The "not precisely" has a suggestion of hypocrisy about it. In fact if I understand Rousseau correctly the individual does not express his private opinion on any particular law at all. It is, in fact, the very reverse.

In a sense the question is "cooked" in that if the
question is put in this way the individual is not given, if he follows the directions, an opportunity to express his private opinion on a single piece of legislation. What he is asked is - does this conform to the general will? Is it, in other words, in accordance with the good of all? Can it be willed universally?

There is, as I have previously suggested, a kind of logical justification for this procedure. The political referendum, Rousseau seems to mean, is not a means of airing one's personal opinions or preferences but of judging what one considers to be in the national interest.

It is misleading, I think, to suggest that the individual gives his consent to any law by such a vote. What the question encourages the individual to do is to try to express what he considers to be in accordance with the good of all. This may, but also may not, express his own interest and his own preference. It is only his will in the sense that he wishes to express the general interest. It is not, at least not necessarily, an act of will which seeks to further his own ends.

Moreover, if the question is taken seriously it is a way of preventing "lobbying" or the satisfaction of private interests. The question is also, if taken seriously, a check on the wilfulness of majority voting.
For example, a majority seeks to disenfranchise a particular group. According to the implications of the question to the general will this would involve each member of the majority asking himself - if I were a member of the minority would I appreciate such treatment? This is merely another way of putting the question - is it compatible with the good of all? since the minority are a part of the whole.

If this interpretation is correct the passage does not deserve the biased interpretation that Talmon gives it.

"... at the very foundation of the principle of direct and indivisible democracy, and the expectation of unanimity, there is the implication of dictatorship... If a constant appeal to the people as a whole ... is kept up, and at the same time unanimity is postulated, there is no escape from dictatorship. This was implied in Rousseau's emphasis on the all-important point that the leaders must put only questions of a general nature to the people, and, moreover, must know how to put the right question. The question must have so obvious an answer that a different sort of answer would appear plain treason or perversion. If unanimity is what is desired, it must be engineered through intimidation, election tricks, ..." 2.

It is true that direct democracy could lead to dictatorship. But there is no necessity that it must. The proof that it has led to dictatorship does not imply that it must. There seems a confusion in Talmon's remarks between historical events and logical necessity. The

Institution of monarchy has led to absolutism but it need not.

Moreover this is an inaccurate account of what Rousseau has written. Rousseau has postulated the situation of an assembly considering a proposal of one of its members. Talmon suggests dark deeds by claiming that "the leaders" put the questions to "the people". Rousseau maintains that the proposal should be judged by reference to the good of all. Talmon says that "the leaders ... must know how to put the right question". This suggests Machiavellian tactics, as does "intimidation" and "election tricks". The question, according to Talmon, must have an obvious answer. Any other "would appear plain treason or perversion". Rousseau, it is true, wishes to make the interest in the good of all more potent than private interests. But the question - does this proposal conform to the general will? cannot be answered easily even supposing a sympathy for the interests of all.

Rousseau continues the passage, numbered as 12 on page 5, in the following way.

13. "chacun en donnant son suffrage dit son avis là-dessus; et du calcul des voix se tire la déclaration de la volonté générale. Quand donc l'avis contraire au mien l'emporte, cela ne prouve autre chose sinon que je m'étais trompé, et que ce
que j'estimais être la volonté générale ne l'était pas. Si mon avis particulier l'eût emporté, j'aurais fait autre chose que ce que j'avais voulu; c'est alors que je n'aurais pas été libre". (IV,2).

The interpretation of this passage is a controversial matter. Moreover, it is frequently criticized. Finally, it contains, I believe, the crux of what is meant by "moral liberty". Some preliminary remarks are therefore in order.

This passage differs from the controversial one in Book II, Chapter 3 in that the circumstances are clear. The individual is asked whether the proposal conforms to the general will. In voting, therefore, he will seek to express the general will i.e. will generally. Similarly, the remainder of the individuals will do the same. This, as we shall see, is important. Now we can attempt the analysis of the main argument.

It is assumed that all the voters seek to express the general will. The resulting vote declares the general will. The majority vote decides the general will.

If, Rousseau argues, you lose your vote this proves that you are wrong in your judgment. Moreover, although your vote opposed that of the majority, the majority preserves your freedom.

It is obvious what Rousseau means in the latter case.
Your will is to express the general will. If you did not express the general will you would have done the opposite of what you willed and, so, you would not be free. However, the majority does express the general will and since you willed it, expresses your will also. The majority thereby preserves your freedom.

In support of this Rousseau adds a clause which is tautological in nature.

"Ceci suppose, il est vrai, que tous les caractères de la volonté générale sont encore dans la pluralité; quand ils cessent d'y être, quelque parti qu'on prenne il n'y a plus de liberté". (IV,2). In other words this supposes that the majority expressed the general will.

But I think the success of the argument supposes more than this. As a preliminary remark, the general will is general in its origin; it must also will the good of all. The success of the argument supposes, in the first place, that the form of the question is the only legitimate form that a political question can take. But we could imagine a situation where, all the qualities of the general will were inherent in the majority; where all considered the interests of all, and still believe that justice was not done. That if the general will received expression, then it was both
mistaken and unjust. For the general will is a political will not, a moral one. It is universal for a particular state, not all rational beings.

In the second place, the argument that the majority "corrects" the minority is too weak to bear the weight Rousseau puts on it. If all will the general will, why is the majority right? It cannot be because they will generally. All willed generally. It is true, of course, that "those who wear the shoe can tell best where it pinches" i.e. on matters of policy those who are affected by it may know better the course to follow. But this is as often a hindrance as much as a help. What then convinces the minority that the majority truly will the interest of all and what convinces them that the majority is not mistaken about the good of all? It seems to reduce to the fact that the minority is the minority and the majority, the majority. This is not a strong enough basis for Rousseau claims.

This means that the problem that the individual faces is not whether to obey the majority and be free in doing so but whether the majority vote has expressed the constant will of the members. Here, it seems, there is always room for doubt.

Rousseau admits (II,3 and II,6) that the majority can err in its judgment. A large part of the success of
the argument is dependent on the weak claim that the majority could not be wrong often enough to disenchant the individual.

The Minority and Morality

Before we discuss the main question of the minority being morally obliged to accept the majority's right of sovereignty certain of Rousseau's red herrings have to be removed from our path. Like T.H. Green, I understand that a basic principle of the Contrat Social is that our obedience to laws is founded on "consent". It is true that "consent" is something of a chameleon. In one formula (the contract itself) we consent to obey the general will and thus the laws (this may be interpreted as accepting the rule of law), (I,6), another formula ("Toute loi que le peuple en personne n'a pas ratifiée est nulle; ce n'est point une loi". III,15) implies that the people ratifies each particular law and still another states that the individual consents to all the laws. (IV,2). So whatever the formula, consent is paid lip-service.

Green takes this central notion and measures some of Rousseau's statements by it, and finds them wanting.
Since I find myself in whole-hearted agreement with his remarks, I shall only state them.

The context for the first remark is Rousseau's preparation for the announcement that the social contract implied the rule of the majority. Rousseau writes:

"il n'y a qu'une seule loi qui, par sa nature, exige un consentement unanime; c'est le pacte social: car l'association civile est l'acte du monde le plus volontaire,... Si donc, lors du pacte social, il s'y trouve des opposants, leur opposition n'invalidé pas le contrat, elle empêche seulement qu'ils n'y soient compris: ce sont des étrangers parmi les citoyens". (IV, 2).

Green comments: "But this does not explain how they are to be rightfully controlled, on the principle that the only rightful control is founded on consent; or if they are not controlled what is the value of the 'social compact'?".

Rousseau adds: "Quand l'Etat est institué, le consentement est dans la résidence; habiter le territoire, c'est se soumettre à la souveraineté". (IV, 2). But this, as Green says is to abandon the doctrine of obligation being founded on consent.

3. Green, T.H. Lectures, etc., p. 88.
4. IBD., p. 39.
Although I agree with Green's criticisms it may be useful to suggest why I think Rousseau inserted these conditions so late in the argument. The context, I think, indicates the reason. Both conditions immediately precede the paragraph in which Rousseau maintains "La volonté constante de tous les membres de l'Etat est la volonté générale:..." If my will does not coincide with the political will then there must be some device to contain me. If I seek constantly, in other words, to satisfy my particular desires at the expense of the common interest. In these conditions it is hypocritical to claim either that I consented to obey all the laws when I did my best to break them; or that my will was the constant will of all the members if I spent my time opposing the "constant will" at every point.

Rousseau might have such individuals in mind when he added these conditions. Whatever the reason "consent" is excluded.

Rousseau is also inconsistent when he maintains that the silence of the people implies consent to the prince's will and that, therefore, his decisions can be taken as enactments of the general will. This conflicts with the principle that a legitimate expression of the general will can only proceed from the sovereign legislative
assembly. In practice the former principle is the denial of popular sovereignty. We can now return to the main argument.

Rousseau has maintained that the individual or the minority who, attempting to legislate the general will, are overruled by the majority are mistaken. He argues, too, that they are obliged by the contract to obey the majority. This raises two questions: (1) can I be morally obliged to accept a law made by the majority? (2) how can I be said to be free in obeying a will which is not my own? (I show that the will of the majority is not my own will when the result of my vote disagrees with the majority vote). We shall consider these questions in some detail.

Beaulavon and Wright claim that in obeying the will of the majority I am free and morally obliged to accept the will of the majority. It is best to begin by considering in what sense does the contract imply the dominance of the general will?

Wright's treatment of the question is extremely dubious. 

"But when I am outvoted and subjected to a law I do not like, am I still at liberty? Assuredly. I never dreamed that liberty meant having my own way in all things ... A fine consent it would have been if I had offered to obey the law in case it suited me! In other words, I knew that the sovereign would seldom be unanimous and that the rule of the majority would be the only way in which the general will could work. I understood the rule of the majority to be inherent in the pact, and I consented to it at the start. In this way all the laws it makes go back to the unanimity of the pact empowering it to make
(1) He considers the objections in their most trivial form. The question should not be "am I still at liberty?" but am I free when I obey a will which is not my own. It is not the question of obeying a will that "suits me" or caters to a whim. It is the question of why we are obliged to obey a law we do not approve of and, perhaps, we think evil in its consequences.

(2) In the second part beginning "In other words," he attempts to bludgeon our memory. It is extremely unlikely, I suggest, that the party to the contract would have inferred this. If he had any notion at all of what the general will implied he would have thought it implied the unanimous will of the association. Prior to the chapter stating the terms of the contract, Rousseau's only reference to a majority occurs in his argument against Grotius:

"En effet, s'il n'y avait point de convention antérieure, où serait, a moins que l'élection ne fût unanime, l'obligation pour le petit nombre de se soumettre au choix du grand?... La loi de la pluralité des suffrages est elle-même un établissement de convention ..." (I,5).

From this the individual would conclude that majority rule can be decided only by a convention, not that it can be deduced from one.

Both Beaulavon and Wright use substantially the same argument to show the grounds of my moral obligation.

Wright: "I know as well that the majority rules over me, not by virtue of its numbers or its force, for these could make no right, but only by virtue of my own consent to its authority". 99.

Beaulavon: "Directement ou indirectement, toute loi tire sa valeur morale et son autorité légitime du consentement unanime des citoyens". 32.

But none of the contractors consented to the majority rule. They consented to the supreme rule of the general will. It was the unanimous will of the association, which came from all and applied to all, universal in origin and essence - they agreed to obey.

Wright argues further that: "The consent was necessary to the law, and my main desire as a civil being is a reign of law. I can have it only as I honour my consent; and to have my main desire, I need hardly say again, is liberty". It has been suggested, however, that it is consistent to favour the reign of law and refuse consent to any particular law. Even if this were not true "the reign of law" is not in question.

What needs to be shown is that in obeying a law made by the majority I (as one of the minority) am obeying an act of the general will. Now if it is known that I promised allegiance to the general will and it could be shown that the majority had expressed the general will, then it would be plausible to accept a moral obligation to the will of the majority. But the reason why the individual is unlikely to acknowledge moral obligation derives from the notion of the general will itself.

It has two components; it must be general in its origin and object. The majority, if we accept Rousseau's argument on this point, may satisfy the first condition. But a conflict is likely to arise as to who is the best judge of the second component, namely, that the law is for the good of all. The conscientious citizen may find his choice a difficult one.

It does not help to tell him "the majority which has as its will the general will" since in doubting the competency of the majority to express the common good, he is doubting whether "tous les caractères de la volonté générale sont encore dans la pluralité ..." (IV,2). And if he is forced to obey the majority in these circumstances he would be neither morally to obey the majority or free in obeying it.

The Dilemma

We have now the material necessary to state the basic dilemma Rousseau faced in the Contrat Social. I shall try to indicate that, on the basis of the argument, Rousseau's solution is unsatisfactory.

Rousseau is seldom taken seriously when he maintains that "chacun, s'unissant à tous, n'obéisse pourtant qu'à lui-même". (I,6). Rousseau would have
agreed, I am sure, that in his theory the people also "obeyed themselves" alone since this is but another way of saying that the people are sovereign.

Now under what conditions can the citizen be said "to obey himself alone" and the people be sovereign? This, I believe is the important and original part of "le probleme fundamental dont le Contrat donne la solution". Rousseau's answer is, in the former, when the citizen seeks to express the general will; in the latter, when "la volonté de tous" is "la volonté générale."

I think it is more instructive, at this point, to observe the development of the argument at the individual's level. The question is how can I be a member of an association like the state and still do what I want to do, do what I will to do. The answer is by framing your acts of will in such a way as to satisfy all the associates and by forebearing from willing to act otherwise. This, we can say, is for Rousseau the necessary condition of political association. On one version, you are only obliged to do this as long as the majority of your fellow associates. Your obligation to prescribe to the will of the majority is, similarly, dependent on the
majority honouring its obligation to will generally (IV,2).

At the level of the people an act of will must be also framed universally in order for the people to be sovereign and its acts laws.

Whenever an individual or a sum of individuals wills particularly, wills, that is, to satisfy an interest which is other than the general interest, then that individual or sum of individuals expresses a desire to remain in the state of nature. This may be so although such persons are a part of a "de facto" political society. In such a case, according to Rousseau, these individuals want the advantages of civil society and none of its disadvantages (their will is not the general will) nor are their relations political.

It is "uniquement sur cet intérêt commun que la société doit être gouvernée". (II,1). Given the conditions we wish to satisfy, the only possible basis of political society is one on which all can agree and yet will prejudice none. Such a basis is, according to Rousseau, the common interest. The will for the common interest is the general will. The citizen is the individual whose will is the general will. "La volonté générale peut seule diriger les forces de
l'Etat selon la fin de son institution, qui est le bien commun". (II,1).

When, therefore, Rousseau maintains (III,2) that in a "de facto" state the particular will is always strongest and the general will weakest; that in a perfect act of legislation the will for the purely private interest is negligible then we must understand him to mean that all states fall short of the ideal state. Man is "partout ... dans les fers". (I,1).

Freedom, justice, utility, and the preservation of property and person are all dependent on all submitting to the sovereignty of the general will. Now, Rousseau means the general will to be defined rigorously. He states four conditions for an act of the general will. (1) It must not be particular in its reference. (2) On the contrary, it must be of general significance, matter to the community at large. (3) All the associates must will (4) for the good of all.

Rousseau, at this point, advances the argument that only the people can express the general will. His reason for this is that insofar as all the individuals will as a people then as a people they are incorruptible. They are incorruptible because as such they will the common good. The people may be mistaken as to what is
the common good but, unlike the individual, they never knowingly will the satisfaction of a private interest. He concludes, therefore, that given a people willing the good of all the will of the majority shall be regarded as expressing the general will. The minority can be mistaken, but since the will of the minority is the general will (i.e. the minority endeavour to express the general will) the majority preserves their freedom by preventing them from willing what they do not want.

I have argued that this argument is unconvincing. It is tautological since it means only that the majority who will the general will will the general will. It is unconvincing because the problem of the conscientious citizen is whether, in fact, the majority will generally. The fact that it is a majority ought to be irrelevant.

An individual who argues this way is contesting Rousseau on the grounds of part of his own argument, namely, who is best able to know the good of all, the conscientious citizen or the conscientious majority? Rousseau's answer to this must be categorically in favour of the latter. Since if the minority can be right about the general good sometime, who is to say when it is right and when wrong? There seems no good answer to this.

When we descend from the situation of the ideal,
state, where all will the general will, to political realities the dilemma is most clearly observable. Groethuysen expresses it very well.

"Il y a là en quelque sorte un dilemme. Ne pas voir la différence entre la volonté générale et la volonté de tous, c'est détruire l'infaillibilité de la volonté générale, et insister sur cette différence, c'est mettre en question la souveraineté du peuple. Vous avez rendu le peuple souverain en établissant la souveraineté de la volonté générale, mais plus vous exaltez la volonté générale, plus vous en faites un idéal, et moins cette idée semble correspondre à la réalité sociale, moins elle semble pouvoir être identifiée à la volonté de tous.

The dilemma can also be worded as follows. Is it better to allow the people the right of legislation even though the people may express this freedom in a way which is inconsistent with an expression of the general will? Or, is it better to maintain that no matter what (or how) the majority of the people in fact will, the sovereign is the general will, a will which is for the common good? We shall see that this dilemma appears and re-appears throughout the Contrat social. Acceptance of the former constitutes acceptance of the majority principle i.e. whatever the majority decides is always right. Acceptance of the latter, that is, the majority is right if and only if its legislative will conforms to certain standards, is a practical denial, taking "les hommes tels qu'ils sont," of the sovereign rights of the people.
stress this is that a general will does not presuppose a contract. General wills are characteristic of any association of any sort. For example, Rousseau emphatically denies the argument that the government body is established by a contract and yet he does say that as an association the government has a general will. Moreover, although Rousseau maintains that the general will of the state is always right and is everything that it ought to be, this is not true of other general wills.

"Mais quand il se fait des brigues, des associations partielles aux dépens de la grande, la volonté de chacune de ces associations devient générale par rapport à ses membres, et particulière par rapport à l'État:..." (II,3).

For here a band of criminals has a general will so that the association has no intrinsic worth simply because it has a general will. The only logical condition of having a general will is the having of a common interest as associates. (It would be interesting to know if Rousseau would accept the argument that whatever the general will, of the criminal association, proclaimed was good. For then it would be clear that the general will was a purely relative notion. Relative, that is, to the good of the association; I believe he would.)

What the social contract does then is to sanction the state as the supreme association and the general
will as the supreme sovereign. On this version the contract of union requires the individual to accept the sovereign will simply and in all things. Groethuysen puts the essential point well.

"L'acte d'association n\'est fait que conférer à la réalité sociale un caractère de droit, ou plutôt il est une supposition juridique pour donner force de loi aux décisions de la volonté générale".

Any gathering of individuals, then, has a general will as an association of members who have a common interest. What the social contract does is pledge its members to the fulfilment of the common interest which they share as associates.

Now I believe that Rousseau, once the contract is completed, finds himself in much the same position as Hobbes was in before him. Rousseau claims the general or sovereign will is a unified will. But it can be one will only, Rousseau believes, if all will the common interest. He must advance, therefore, a plan whereby the sovereign will or the will of the people as a "person" becomes, in Hobbes phrase, a real unity and not merely a judicial one.

This interpretation is, however, unorthodox and I must endeavour to justify it by comparing it to one that is more orthodox and endeavour to show that the latter is mistaken.

F.C. Green in his new book on Rousseau spends a
few pages trying to determine how Rousseau envisaged the remarkable change of man from a state of primitive independence to the civil state. He follows Vaughan in believing that it was a sudden change. His conclusion regarding this confusing section of the *Contrat social* is that:

"Jean-Jacques, brooding over his vision of man's terrible fate in this life or death crisis, felt that the 'very remarkable change' might well have been effected by a sudden expansion of human intelligence such as does in fact occur in the case of individuals whose existence is suddenly threatened".

Later in his account Green adds: "In trying to picture the genesis of this new association, Rousseau visualizes it as a spontaneous act of communion and mutual trust out of which, *in a flash* (my emphasis), something completely new emerges: a moral and collective body, 'une personne publique'." Finally, of the Legislator he remarks: "Nor is it clear why Jean-Jacques assumes that the Lawgiver is addressing a body that has no 'esprit social', that is to say, no notion of a common interest when surely that is implicit in the original act which produced the *social contract*".  

The first question that must be asked is why Green believes that this change in man's condition was

"sudden" or, rather, what he means by this. I think it is because he does not appreciate the fact that the phrase "corps moral" is a judicial concept inherited from Hobbes and Pufendorf. For the only indication that I can find that justifies Green's use of "sudden", and "in a flash" is the following.

"A l'insta[t my emphasis], au lieu de la personne particulière de chaque contratant, cet acte d'association produit un corps moral et collectif,..." (I,6). This is no different than what Hobbes and Pufendorf had claimed, that the individuals once they have contracted mutually form a judicial person.

The second question is why Green thinks the individuals should have no "esprit social", as a result of the contract "that is to say, no notion of a common interest". The answer to this may be that the common interest serves only as the basis of their union. And, in addition, that Rousseau may not have believed that the contract alone was a sufficient guarantee that the individuals would remain united in willing the common interest.

The third question is why Rousseau invokes, according to Green, "that enigmatic personage, the Lawgiver", to encourage the people to remain faithful to the common interest. The answer to this question is,
I believe, that Rousseau held that the road to citizenship and moral liberty was long and arduous and that natural and independent man needed guidance along it.

In other words I maintain that regarding the social contract (I,5-9) are designed to set forth the abstract conditions of rightful sovereignty. The portion of the argument we are about to consider is intended to state the practical and concrete considerations involved in establishing a state founded on principles of right.

A preliminary remark will suggest the interpretation I intend to give. When Locke writes of the sovereignty of the people, as we shall see in Chapter 3, he means either merely the majority of the people or the majority of their representatives in their legislative capacity. But because of a conjunction of two factors Rousseau intends something different. These factors are first, his ultimate view of the relation between the state and morality and, immediately, his choice of a contract of union. We shall consider only the latter. Rousseau regards a majority as not unified; it is merely an aggregation of wills. A people, on the other hand, will as one. The task before us, then, is to discover what makes a people.

This is a significant question for the understanding of Rousseau. It differs from the question which Rousseau
considered, in company with Locke and Hobbes, namely, what makes a state a state. The answer to this is a social contract. But what makes a people a people? Rousseau's answer is primarily moral and philosophical not, as one might expect, sociological.

But it is nonetheless, in the context given, a curious question. Consider, briefly, the following passages.

(1) On veut toujours son bien, mais on ne le voit pas toujours; jamais on ne corrompt le peuple, mais souvent on le trompe, et c'est alors seulement qu'il paraît vouloir ce qui est mal". (II,3).

(2) "Les particuliers voient le bien qu'ils rejettent; le public veut le bien qu'il ne voit pas. Tous ont également besoin de guides. Il faut obliger les uns à conformer leurs volontés à leur raison". (II,6).

Normally we might interpret the first as being typically republican. If we institute popular sovereignty the people's will is right. You may be able to corrupt kings but the people are incorruptible. But the second passage shows that Rousseau does not rest content with a sovereign will that can often be fooled. The Legislator must guide the people to the knowledge of their own good. The two passages also bring out the sense in which this is a curious usage of "people". For, as we saw, in Book I, Chapter 6, the people is composed only of the particulars. Now, Rousseau tells us,
the individuals know the good but reject it whereas the people will their good but do not know it. This, it may be suggested, is like saying that you find wine delicious but do not like the taste of grapes.

But since Rousseau is unwilling to accept the majority principle as enunciated by Locke ("For that which acts any community being only the consent of the individuals of it,...it is necessary the body should move that way whither the greater force carries it, which is the consent of the majority;"), we must acknowledge the other alternative. The "people" is how the individuals ought to will. It is the individuals willing as though they were one person with one will.

This, of course, is open to an objection which constitutes a further proof of the invalidity of the original contract. For on this version the individuals perform an act of contract with something that does not yet exist in an empirical sense. To appropriate Rousseau's phrase, "entre choses de diverses natures on ne peut fixer aucun vrai rapport". And if we cannot establish a relationship then certainly we cannot establish a contract.

From the quoted passages we can derive an indication 2. Locke, J., Second Treatise..., section 96.
of two of the Legislator's tasks. In the case of the individuals he is a teacher. For the people he is a constitutional expert. A simple concrete example may serve to illustrate Rousseau's intention at this point of the argument. Let us imagine that a group of young men wish to form a rugby team. None of them has ever played rugby before. We can imagine also that they decide to engage someone to act as their coach. Now among the various things that he will do as their coach is to instruct them in and supply them with stratagems. That is he will instruct them in manoeuvres which they will use as a team. How the team should line up for a penalty kick or what position to take as a team in their defensive area. This aspect of his coaching is analogous to the Legislator's function as a constitutional expert since he is concerned also with the group rather than with the individual. Now one of the moves open to the coach regarding the individuals is to create in them team spirit. That is, a concern for the team as a whole rather than for their individual prowess. A player who plays in order that the team may win is called a "team-player". We can call the person who plays for his own glory, an individualist. By analogy, one of the Legislator's main tasks is to turn all the individualists into team-players. This
Rousseau refers to as the conversion of independent natural man into a citizen. Citizen, therefore, takes on an evaluation as well as a purely legal connotation.

Rousseau, I have argued, does not take a simple view of the sovereignty of the people. A people connotes all the individuals willing as one and no contract is itself capable of ensuring this. Rousseau is interested in the question what makes a people worthy of sovereignty. And a preliminary question, which shows the influence of Montesquieu, is what makes a people such as they are. I think this point of view is borne out by this quotation.

"Pour qu'un peuple naissant pût goûter les saines maximes de la politique et suivre les règles fondamentales de la raison d'État, il faudrait que l'effet pût devenir la cause; que l'esprit social, qui doit être l'ouvrage de l'institution, présidât à l'institution même; et que les hommes fussent avant les lois ce qu'ils doivent devenir par elles". (I, 7).

It also disproves the theory, sometimes held, that the mere act of contract changes man from a state of animal innocence to political godliness.

Now in the chapter preceding the introduction of the Legislator Rousseau maintains those whom the contract made legislators are in fact:

"une multitude aveugle, qui souvent ne sait ce qu'elle veut, parce qu'elle sait rarement ce qui lui est bon". (I, 6).

That the supreme authority: "La volonté générale est
toujours droite, mais le jugement qui le guide n'est pas toujours éclairé". In addition, the individuals know the good and refuse to do it; the people wills the good but does not know it.

Having explained that "the people" is another way of saying how the individuals ought to will, I believe we can remove some of the paradox from these statements. Consider the group as individuals. There you will find all the motives and behaviour of the natural man - self-seeking, independent, etc. But the individual recognizes that he has a common interest with the others and ought to work towards it. He may be said, therefore, to refuse the good. Now suppose these same individuals will the common good. Then we may see that they are a people, and that because of their will they are always right. Now merely to have good intentions, which is what the above amounts to, is not to know what the good is. The task of the Legislator is to lead, and not merely to show, the people to the good. The

3. I think different interpretations could be put on this. It might be argued that the general will is always right subjectively. It is in the right because it is the will of the people and not an absolute monarch, for instance. Or, the general will is right objectively, since its object is always the common good. Or both might be combined. Since the people's will is always for the common good it is always right.

notion of a guide, which Rousseau himself uses, imparts some of this; the analogy of a teacher is better. For the Legislator is one who does not merely show what is there. He sometimes says what ought to be there and what ought not to be seen.

"Il faut lui [the general will] faire voir les objets tels qu'ils sont quelquefois tels qu'ils doivent lui paraître, lui montrer le bon chemin qu'elle cherche, la garantir de la séduction des volontés particulières,... "(II,6).

In the following passage Rousseau states very clearly what the Legislator should try to do.

"Celui qui ose entreprendre d'instituter un peuple doit se sentir en état de changer pour ainsi dire la nature humaine, de transformer chaque individu, qui par lui-même est un tout parfait et solitaire ... de substituer une existence partielle et morale à l'existence physique et indépendante que nous avons tous reçue de la nature". (II,7)

Now it might be suggested that here Rousseau means that independence which is natural to man must give way to social co-operation in the civil state. It means rather that the individual must learn to resolve to put the common good before his private good in all things. It is submission.

"Plus ces forces naturelles sont mortes et anéanties, plus les acquises sont grandes et durables, plus aussi l'institution est solide et parfaite: en sorte que si chaque citoyen n'est rien, ne peut rien, que par tous les autres,..." (II,7).

Undoubtedly this also involves what I shall refer to as Rousseau's version of the rule of law. Namely, that
by obeying laws which are general the individual is absolved from the particular dependence which absolute monarchy creates. But it remains true that the Legislator's main task is the creation of patriots, those who are loyal to the common good, rather than partners who profit by it.

The "ignorance" of Rousseau's natural contemporaries is in fact more properly called moral perversity. Their refusal to accept certain institutions is due more to selfishness than lack of understanding.

"Les sages qui veulent parler au vulgaire leur langage au lieu, du sien n'en sauraient être entendus... Les Vues trop générales et les objets trop éloignés sont également hors de sa portée: chaque individu, ne goûtant d'autre plan de gouvernement que celui se rapporte à son intérêt particulier,..."

Rousseau claims that in the past great legislators have duped the people for the people's benefit. To make unpalatable improvements more acceptable, they have made political changes through religious pronouncements.

"Le Législateur met les décisions dans la bouche des immortels, pour entraîner par l'autorité divine ceux que ne pourrait ébranler la prudence humaine".

He approves the use of this principle in instituting a people.

I think we ought to enquire more thoroughly into the reason for the Legislator. On the one hand he represents
a substitute for tradition. For Rousseau recognizes that it is largely tradition which makes a band of individuals into a people. He quotes with approval:

"Dans la naissance des sociétés, dit Montesquieu, ce sont les chefs des républiques qui font l'institution, et c'est ensuite l'institution qui forme les chefs des républiques". In his own case Rousseau would understand by this that if the Legislator is given a free hand to choose and institute the institutions he prefers, the institutions in turn will influence the character of the people and their leaders. Even more clearly a recommendation for the importance of tradition is the following.

In establishing a system of law the Legislator must deal with several kinds of law. Of these one is "la plus importante de toutes",

"qui ne se grave ni sur le marbre, ni sur l'airain, mais dans les coeurs des citoyens; qui fait la véritable constitution de l'Etat; qui prend tous les jours de nouvelles forces; qui, lorsque les autres lois vieillissent ou s'éteignent, les ranime ou les supplée, conserve un peuple dans l'esprit de son institution, et substitue insensiblement la force de l'habitude à celle de l'autorité. 4. Je parle des moeurs, des coutumes, et surtout de l'opinion; partie inconnue à nos politiques, mais de laquelle dépend le succès de toutes les autres; partie dont le grand législateur s'occupe en secret, tandis qu'il paraît se borner à des règlements particuliers, qui ne sont que le cintre de la voûte, dont les moeurs, plus lentes à naître, forment enfin l'inébranlable clef." (II,12).

4. My emphasis.
But, on the other hand, Rousseau's approach to the problem of instituting a people is clearly rationalistic. The Legislator represents a deliberate and conscious attempt to interfere with the natural processes. A dissatisfaction with a "waiting-on-the-day" attitude to the achievement of proper political life is in evidence. The Legislator is also, then, the representative of Reason. Thus Rousseau describes the Legislator's qualifications as: "il faudrait une intelligence supérieure qui vit toutes les passions des hommes, et qui n'en approuvât aucune;..." Later, in the same chapter he speaks of the Legislator as: "Cette raison sublime, qui s'élève au-dessus de la portée des hommes vulgaires,..." (II,7).

But, surely, it will be objected, it is inconsistent to plump both for a traditional society and a rational ordering of society, from top to bottom. We must try to explain Rousseau's procedure here. Rousseau is excluded from appealing to tradition and in this respect the Legislator is a subterfuge "to institute a tradition". He is excluded from direct appeal because to do so is to pursue by implication the "natural" traditional solution that he has already rejected. For Rousseau, as for

5. See Chapter 1 of this thesis. Filmer represents one version of the traditional argument.
Hobbes, the state just does not grow, it must manifest from the very beginning a rational construction. But Rousseau, because of his preoccupation with "a people", is of two minds about tradition. For he sees that the two classes of peoples he admires most are what they are because of a traditional way of life. His admiration of the simple peasant society of the Swiss states, with their traditional simple moral codes, is well known (IV,1). Similarly, he rated highest of all the political life of Sparta and Rome and traced much of their national character to the rigid and stark structure of their society.

This suggests that Rousseau's dissatisfaction with the states and peoples he observed, his natural contemporaries, stemmed not from their being traditional but from their traditional way of life being wrong. Thus his criticism is not of tradition in itself but of a wrong tradition. What then is a right tradition? A right tradition is one which is informed by reason. A right tradition is one which embodies knowledge of goodness and influences the members of the society. Thus the Legislator's office is to construct a traditional society informed and directed by reason. We might compare Rousseau's device of the Legislator to Kant's dictum to the effect that he has found the philosopher's stone who can make reason practical.
The effort is unconvincing and the character unbelievable. It may be thought that Rousseau admits this himself when he writes that: "Il faudrait des dieux pour donner des lois aux hommes". But by his own account Rousseau needs the Legislator. He insists, nonetheless, that the Legislator has no real power and that whatever he does must be done with the approval of the general will of the people. But this saving clause is very unconvincing. The reason for the Legislator is that the individuals are too "self-centred" to concern themselves with the common good. As a people they do not know what political life is all about. In short, they are incapable of popular sovereignty and require instruction at two levels.

I believe, however, that the Legislator not only represents a crucial change in the course of the argument but that the reasoning which introduces the need of him contradicts the previous argument. As I understand the First Book of the *Contrat social* the salient contention is that by submitting only to the general will the individuals can derive all the advantages offered by the state and still remain free. Or as Rousseau puts it,

"La première et la plus important conséquence des principes ci-devant établis est que la volonté générale peut seule diriger les forces de l'État selon la fin de son institution, qui est le bien commun ... " (II,1).
Now we see that the Legislator represents an authoritative agent different from the individual and the general will and nowise immediately deducible from the terms of the contract. This discloses a contradiction in the argument because it means that there is an authority instituted for the express purpose of directing the general will. Whereas Rousseau has assured us that there is but one supreme authority which alone directs the forces of the state, the general will. Either the general will is self-sufficient in which case the Legislator is redundant. But apparently Rousseau will not accept this. Or knowledge, the Legislator as the personification of Reason, and the general will of the people must proceed in tandem (with knowledge steering). This is what Rousseau desired, for the effect of the Legislator's intervention would be that: "Alors des lumières publiques résulte l'union de l'entendement et de la volonté dans le corps social; de là l'exact concours des parties, et enfin la plus grande force du tout". (II,6). In the next section we shall inspect the nature of the Legislator's work.

2. Criteria for Instituting A People

Rousseau's question: "Quel peuple est donc propre à la législation?" is representative of the procedure of this part of the argument. By comparison to the
First Book, it is an odd question. There where the argument is abstract the impression is given that any individuals can rightfully, and therefore ought to, institute a state where the people are sovereign. But Rousseau is now being both more practical and pragmatic. The question, is in the first place, what people is capable of obeying good laws and, in the second, how does a people become worthy of popular sovereignty and of governing themselves. Or, to put it another way, what conditions are necessary to institute a people capable of obeying just laws of their own making?

Rousseau in this more practical mood excludes immediately, in general terms, certain peoples. Those in the first category have not the capacity to make and obey good laws. A people settled in evil ways and customs are not capable of becoming their own master.

"Quand une fois les coutumes sont établies et les préjugés enracinés; c'est une entreprise dangereuse et vaine de vouloir les réformer; le peuple ne peut pas même souffrir qu'on touche à ses maux pour les détruire, semblable à ces malades stupides et sans courage qui frémissent à l'aspect du médecin". (II,10).

He adds the fatalistic maxim: "On peut acquérir la liberté, mais on ne la recouvre jamais". (II,3).

In the second category are peoples who inhabit areas which are unsuitable.

"La liberté, n'étant pas un fruit de tous les climats, n'est pas à la portée de tous les peuples. Plus on médite ce principe établi par Montesquieu,
plus on en sent la vérité; plus on le conteste, plus on donne occasion de l'établir par de nouvelles preuves ... Les lieux ingrats et stériles, où le produit ne vaut pas le travail, doivent rester incultes et déserts, ou seulement peuplés de sauvages: les lieux où le travail des hommes ne rend exactement que le nécessaire doivent être habités par des peuples barbares; tout politique y serait impossible:..." (III,8).

The Legislator is now ready to begin his task. First he must make himself aware of the particular conditions in which the people live and of their particular characteristics and needs.

"Comme, avant d'élever un grand édifice, l'architecte observe et sonde le sol pour voir s'il en peut soutenir le poids, le sage instituteur ne commence pas par rédiger de bonnes lois en elles-mêmes, mais il examine auparavant si le peuple auquel il les destine est propre à les supporter". (II,8).

In selecting a people worthy of legislation the Legislator must select those who are able to yield to the obedience that good laws demand. They must be capable of self-discipline. The people must submit "aux lois de l'Etat comme à celles de la nature et reconnaissant le même pouvoir dans la formation de l'homme et dans celle de la Cité, [obey] avec liberté, et portassent docilement le joug de la félicité publique". (II,7).

The Legislator must also appreciate that:

"Les mêmes lois ne peuvent convenir à tant de provinces diverses qui ont des mœurs différentes, qui vivent sous des climats opposés, et qui ne peuvent souffrir la même forme de gouvernement". (II,9 v. also II,11).

This same devotion to what the particular circumstances warrant appears again later.
"si le Législateur, se trompant dans son objet, prend un principe différent de celui qui naît de la nature des choses;... on verra les lois s'affaiblir insensiblement, la constitution s'alterer, et l'État ne cessera d'être agité jusqu'à ce qu'il soit détruit ou changé, et que l'invincible nature ait repris son empire". (II,11).

The same preoccupation is evident in his considerations of the physical aspects of the state. Local peculiarities must be taken into account, viz., whether or not the populace is dependent on the sea or the forests for its livelihood, etc. But there is one general feature which must be given precedence over all others: "C'est qu'on jouisse de l'abondance et de la paix". Without this, says Rousseau, application to the particular necessities are "toutes inutiles". (II,10). Prosperity is necessary to the existence of the state and is dependent on the prosperity of the individual.

"Dans tous les Gouvernements du monde, la personne publique consomme et ne produit rien. D'où lui vient donc la substance consommée? Du travail de ses membres. C'est le superflu des particuliers qui produit le nécessaire du public". (III,8).

This principle being true it follows that lands fortuned by a temperate climate are the most prosperous. Thus according to Rousseau (and Montesquieu) the type of climate will determine the kind of government most advantageous to the people.

"Distinguiions toujours les lois générales des causes particulières qui peuvent en modifier l'effet... il n'en serait pas moins vrai que, par l'effet du climat, le despotisme convient aux pays chaud, la
This judgment follows on the previous one. Warm climates produce a surplus of food and thus suit a large populace. A large populace is best controlled by a single individual who can amass all the public power in his own hands. Cold climates produce the bare minimum and thus prohibit established political associations. Temperate climates yield a quantity of food which is sufficient to satisfy a moderate number of individuals, neither too large nor too small, and thus furnishes conditions adequate to civil life. Thus Rousseau's advice is to:

"Peuplez également le territoire, étendez-y partout les mêmes droits, portez-y partout l'abondance et la vie; c'est ainsi que l'Etat deviendra tout à la fois le plus fort et le mieux gouverné qu'il soit possible". (III,13).

Following this line of argument it comes as no surprise, then, to learn that the best form of government is that which ensures "la conservation et la prospérité de ses membres" (III,9). But what Rousseau regards as the "surest sign" of best government ought to cause confusion.

"C'est leur nombre et leur population ... Toute chose d'ailleurs égale, le Gouvernement sous lequel, sans moyens étrangers, sans naturalisations ... les citoyens peuplent et multiplient davantage est infailliblement le meilleur". (III,9).

According to such a standard as this the most populous...
state would be the best. But then it would be best suited to despotism and least fit for legislation.

Rousseau's consistent preference, however, is for a small state both as to extent and population. The smaller state because of its concentration is stronger in proportion to the larger. Administration is made easier. Since large states demand, for Rousseau, monarchical government the people are forced to pay for the luxuries of royalty. (Since the public person is dependent economically on the labour of the individuals.) Large states, too, require a strong government to maintain them and thus a stronger repressive force on the people and thence less liberty (II,9,III,1&6). We shall see later that the moral attributes of a good state are also connected to its smallness.

We learn a good deal about Rousseau's notion of the best state by noticing the features he admires most in historic peoples:

"Par ce qui s'est fait considérons ce qui se peut faire. Je ne parlerai pas des anciennes républiques de la Grèce; mais la république romaine était, ce me semble, un grand État, et la ville de Rome une grande ville". (III,12).

The reason for Rousseau's admiration of the ancient states is not difficult to discover.

"On connaît le goût des premiers Romains pour la vie champêtr e. Ce goût leur venait du sage instituteur qui unit à la liberté les travaux rustiques et militaires, et relégu a pour ainsi dire à la ville les arts, les métiers, l'intrigue, la
fortune et l'esclavage". (IV,4).

Simple morals, the disinterestedness of public service, the liking for agriculture and the scorn of commerce and love of gain are, for Rousseau, characteristic of republican Rome. These qualities, along with patriotism, (of Cicero, he remarks significantly, "quoique Romain, aimant mieux sa gloire que sa patrie" IV,6) are the most admired.

Like Plato, he rejects angrily "le tracas du commerce et des arts ... l'avidité intérêt du gain" and the softness and love of amenities. He scorns the "attiédissement de l'amour de la patrie" which he finds in modern peoples.

"Sitôt que le service public cesse d'être la principale affaire des citoyens, et qu'ils aiment mieux servir de leur bourse que de leur personne l'Etat est déjà près de sa ruine". (III,15).

A well constituted state is one in which public affairs dominate private ones.

When he is not developing the conception of the ideal state he tends to use purely pragmatic evaluations. This is especially true when he deals with the forms of government. In specifying the forms of government he follows the classical classifications. Democracy is government by the many, aristocracy government by the few and monarchy government by one. Democracy is rejected on several accounts. Chief among these is the fact that democracy requires the people to turn their attention to private interests and there is too great a temptation for
men to wish to gain profit while holding public office. All things being equal an elective aristocracy is to be preferred:

"En un mot, c'est l'ordre le meilleur et le plus naturel que les plus sages gouvernent la multitude, quand on est sûr qu'ils la gouvernent pour son profit, et non pour le leur". (III,5).

But this again ought to be considered relatively to the population, geography and climate, as we have seen. In a large state monarchy is the best form of government since, all force and power being gathered and centralized, the monarch is best able to provide efficient service and peace and security. Against monarchy, Rousseau argues, is the evil inherent in its practitioners of always preferring their private good to that of the public good. But in the final analysis, says Rousseau, these divisions make no practical difference. There are no pure types in actual practice. All government is in fact a mixture of the one or the other. What matters is that the form of government is suitable to the circumstances.

This rather cavalier attitude to government is apt to deceive until we achieve a better understanding of popular sovereignty. Briefly, Rousseau holds that any government rightfully can do is to execute the sovereign will. All that matters, then, is what form of government can perform this office most efficiently in the given circumstances.

What Rousseau considers to be the ideal ingredients
are important for the insight we gain into the state best fitted for legislation.

"Quel peuple est donc propre à la législation? Celui qui, se trouvant déjà lié par quelque union d'origine, d'intérêt ou de convention, n'a point encore porté le vrai joug des lois; celui qui n'a ni coutumes... bien enracinées; celui qui ne craint pas d'être accablé par une invasion subite;... celui dont chaque peut être connu de tous, et où l'on n'est point forcé de charger un homme d'un plus grand fardeau qu'un homme ne peut porter;... enfin celui qui réunit la consistance d'un ancien peuple avec la docilité d'un peuple nouveau. Ce qui rend pénible l'ouvrage de la législation est moins ce qu'il faut détruire; et ce qui rend le succès si rare, c'est l'impossibilité de trouver la simplicité de la nature jointe aux besoins de la société". (II,10).

3. Preservation of the State and the People

In Book I, Chapter 6, Rousseau writes that when the public person is considered as active, that is in its sovereign capacity, it is referred to as the people; when passive, as the state. He does not maintain this distinction throughout. But here it shall be used to distinguish the devices designed, in the first place, to defend and protect the state and, in the second, to maintain the unanimity of willing.

When the state is attacked two courses are open to the people. They can appoint members of the government to carry out the will of the people. This is a particular appointment and the magistrates so appointed merely put the will of the people into effect. Or, when the danger
is so apparent, they may prefer to silence the laws i.e. suspend the legislative authority and appoint a supreme magistrate, the dictator. Then the will of the people is clear, the preservation of the state, and the dictator has supreme executive power. Rousseau is against a professional military. The citizens must fight their own wars. The failure of contemporary peoples to do so is associated with their lack of patriotism and their slavery to finance.

"Faut-il marcher au combat? ils payent des troupes et restent chez eux;" (III,15).

The remaining political institutions and institutional enactments are aimed at keeping the people responsive to the general will. We have seen, in Chapter 3, that ideally Rousseau would have no partial associations within the supreme association. One reason for this preference, and certainly an important one, is that membership in a partial association tends to sap the interest in the common interest. The general will gains a rival in the corporate will of the association. Since it is impossible to do away with minor associations altogether (the government, for example) Rousseau's second choice is to multiply the number of associations. One possible explanation of this is that if the general will is to have rivals it is best to have them as weak as possible.

Another institution is the tribunate.
"Il sert quelquefois à protéger le souverain contre le Gouvernement,... quelquefois à soutenir le Gouvernement contre le peuple,... et quelquefois à maintenir l'équilibre de part et d'autre,... (IV,5).

Rousseau does not say how this could be done.

More interesting, I think, are the roles of the censorship and the civil religion. We shall begin with the first.

"Il est inutile de distinguer les moeurs d'une nation des objets de son estime; car tout cela tient au même principe et se confond nécessairement... ce n'est point la nature, mais l'opinion, qui décide du choix de leurs plaisirs. Redressez les opinions des hommes, et leurs moeurs s'épureront d'elles-mêmes... Qui juge des moeurs juge de l'honneur; et qui juge de l'honneur prend sa loi de l'opinion.

The Censor is comparable to the Legislator in one respect in that he is permitted to hoodwink the multitude."

"La censure maintient les moeurs en empêchant les opinions de se corrompre, en conservant leur droiture par de sages applications, quelquefois même en les fixant lorsqu'elles sont encore incertaines". (IV,7).

In defining his function Rousseau says merely that:

"Loin donc que le tribunal censorial soit l'arbitre de l'opinion du peuple, il n'en est que le déclarateur ..."

But even so he is not the Lord Chamberlain. Imagine what it would be like, especially in a small state, to have the current moral code and rules enunciated frequently! Chapman suggests that Rousseau believes that individuals and peoples are brought to evil ways by the influence of opinion. This accords well with

Rousseau's remarks in other works. Chapman also claims that instead of proposing a moral education free from the influence of public opinion (as was Emile's) Rousseau, in the Contrat social no longer criticizes this. He himself decides to use opinion in moral education. I believe Chapman is right as the quoted passage above suggests i.e. "Qui juge des moeurs juge de l'honneur;..." By declaring opinions on public morality the Censor can use opinion to create appropriate moral beliefs in the young. So far from being only the declarer of current public morality this seems to be potentially a very powerful political instrument.

The place of the civil religion requires a few remarks by way of introduction. It may be suggested that one of the purposes of the Rousseau state is to repair, what might be called, the schism within the individual. Rousseau's theory of the state is intended to unite: "ce que le droit permet avec ce que l'intérêt prescrit, afin que la justice et l'utilité ne se trouvent point divisées". In the personal life this means that the state is so devised as to remove the conflict of motives between private interest and public duty. In so far as this applies to the civil religion, the civil religion is a device by which external beliefs (i.e. those which may not be of the individual's creation) are artificially encouraged.
Rousseau distinguishes three kinds of religion. First there is the true theism, the religion of the Gospels which is pure Christianity. Second, the national religions which were common among earlier peoples. Third, there is the religion of the priest, such as is practised by the Lamas and the Roman Catholic church. Each is rejected. The third creates contradictory duties; the individual is torn between loyalty to the church and the state. The second leads to much spilling of blood.

The reasons for rejecting the first are the most interesting of all: "loin d'attacher les coeurs des citoyens à l'Etat, elle les en détache comme de toutes les choses de la terre. Je ne connais rien de plus contraire à l'esprit social". (IV,8). It weakens the individual's loyalty to the state and therefore, the of public patriotism.

Pure Christianity, Rousseau remarks, is the brotherhood of all men. And this/its condemnation.

One of the reasons for rejecting religion generally is that institutionally it is a rival association more powerful, in some cases, than the state itself. Rousseau proposes, therefore, that a civil religion be instituted. Its dogmas are to be few in number and simple in nature:

"L'existence de la Divinité puissante, intelligente, bienfaisante ... la vie à venir, le bonheur des justes, le châtiment des méchants, la sainteté du contrat social et des lois [my emphasis]: " (IV,3).

Its chief purpose is variously but candidly stated.

"Or, il importe bien à l'Etat que chaque citoyen ait une
religion qui lui fasse aimer ses devoirs;..." (IV,9).
An "atheist" of this religion has no religious significance. He is one who is "insociable,... incapable d'aimer sincerement les lois, la justice, et d'immoler au besoin sa vie a son devoir". And if an individual promises to honour the dogmas then acts as if he did not believe them (he may think what he likes), let him be punished by death "il a commis le plus grand des crimes; il a menti devant les lois". There is only one religious dogma that Rousseau refuses. It is intolerance.

Schinz's thesis on the significance of the chapter on the civil religion is well-known. All scholars agree that the chapter was added considerably later, after the main body of the argument was complete. Schinz argues that Rousseau suddenly realized that the contract, being a rational construction, was insufficient to maintain the cohesion of the state. That, in fact, the state had no real basis and the "Civil Religion" was added hastily to give it one. There is, so far as I can see, nothing to lead one to hold so radical a theory. Religion, is, I believe, perhaps the strongest aid or support that the state can have. But for Rousseau it seems to be only another support and is not intended to supplant the social

contract. It is adopted for much the same reason that Rome is said to have deified her rulers, appropriated Stoic morality and, finally, embraced Christianity. Namely, to forge an emotional bond between the individual, the laws and the state. His dissatisfaction with other forms of religion: "Tout ce qui rompt l'unité sociale ne vaut rien; toutes les institutions qui mettent l'homme en contradiction avec lui-même ne valent rien" serves to emphasize the value he puts on the civil religion.

**Conclusion**

Philosophically the important difference made by the material of this chapter is the notion that the general will ought to be directed by disinterested reason. Reason, in this personified way, knows the good of a particular people better than they do themselves. But I would point out in conclusion that although the Legislator is representative of disinterested reason Rousseau points that his object is the good of a particular people in particular circumstances. The

---

8. Considered on its own, the chapter on Civil Religion contains interesting anticipations of later work. The remarks on true deism can be associated with Kant's *Religion Within The Limits Of Reason Alone*. The above quotation is reminiscent of much that occurs in Hegel and Marx.
Legislator's moral teaching is limited in this respect.

Most commentaries of the *Contrat social* skip hurriedly over the matters discussed in this chapter. I believe this is a mistake for I think that the subjects discussed form, in their relation to each other, a fairly consistent whole. In the next chapter I will suggest that much of this part of the doctrine is strongly reminiscent of Plato.

The aim of this chapter is to establish and assess the influence of Plato's thought on Rousseau's *Contrat social*. I believe that the influence is so extensive as to justify the claim that an important part of the argument is Platonic in origin.

Many commentators have paid their respects to the influence of Plato. It is maintained that "in his theory of the state Rousseau was from the outset a Platonist: Plato's *Republic* early became one of his favourite texts". Cassirer also writes that with Rousseau's conception "the state is faced with a new demand and challenge which has rarely been sounded as sharply and firmly since the days of Plato. For the essential task, the point of departure and the basis of all government, is the task of education".  1. Cassirer, E., Rousseau. Part One, pp. 55-57. 2. Cassirer, E., *Rousseau.* New York, Doubleday, p. 62.
Chapter 6.

Rousseau and Plato

The aim of this chapter is to establish and assess the influence of Plato's thought on Rousseau's Contrat social. I believe that the influence is so extensive as to justify the claim that an important part of the argument is Platonic in origin.

Many commentators have paid their respects to the influence of Plato. It is maintained that "in his theory of the state Rousseau was from the outset a Platonist: Plato's Republic early became one of his favourite texts". Cassirer also writes that with Rousseau's conception "the state is faced with a new demand and challenge which has rarely been sounded so sharply and firmly since the days of Plato. For its essential task, the point of departure and the basis of all government, is the task of education". Barker

makes the perceptive comment that "the philosophy of the Contrat social ... ends by going back to the idealization of the Polis proclaimed in Plato's Republic (that and not 'a return to nature', is the real return of Rousseau) ..." Sabine calls his chapter on Rousseau "The Rediscovery of the Community". He writes: "What Rousseau got from Plato was a general outlook. It included, first, the conviction that political subjection is essentially ethical and only secondarily a matter of law and power. Second and more important, he took from Plato the presumption, implicit in all the philosophy of the city-state, that the community is the chief moralizing agency and therefore represents the highest moral value". In his introduction to his edition of the Contrat social de Jouvenel cites certain beliefs held in common such as the injurious effect that art may have on morals. In addition Hendel claims that he intended to write "an extensive work, 'Rousseau the Platonist,'..." He has never done so but in his book on Rousseau he refers

---

to the strong influence exerted by Plato and contemporary
Platonists. Wright, Derathe and Vaughan also
acknowledge Rousseau's debt to Plato. What each account
of the relationship lacks is an attempt to state the
broad philosophical position shared by Plato and Rousseau.
Without such a framework their statements lose much of
their value.

Now we know that Rousseau read Plato's Statesman,
since he refers to it in the chapter entitled the
Legislator (II,7). We know also that he read the Laws
since he quotes section 723 of that work in the Economie
Politique. He considered the Republic the greatest
tract ever written on education and he seems to have put
a similar value on it as a work on politics and morals.

"In his Confessions Rousseau speaks of having
conceived the design of a general work on Institutions
politiques ... as early as 1744, when he was a secretary
to the French Ambassador in Venice ... " 7. It is
unanimously agreed that Rousseau's advertisement means
that what we know as the Contrat social is what Rousseau
abstracted from the major work on political institutions.

6. IBID., especially Chapter I.
"Ce petit traité est extait d'un ouvrage plus étendu ... Des divers morceaux qu'on pouvait tirer de ce qui était fait ... "

The evidence pertaining to Rousseau's high regard for the Republic is associated with the above account. Dreyfus-Brisac, an earlier editor of the Contrat social, reports this interesting comment:

" ... une autre ébauche de préface que M. Streckeisen-Moulton publie en tête de ce qu'il appelle les fragments des Institutions Politiques, et avec une sorte de plan écrit par Rousseau sur le revers de la feuille où se trouve cette préface, et qui porte sans une autre indication les titres suivants: 'Grandeur des Nations; des Lois; de la Religion; ... Abus de la Société; Culture des sciences; Examen de la République de Platon'." 8

It is possible that the list may have been intended as chapter-headings of the Political Institutions. Or it may have been simply the subjects that were to be discussed and dealt with. Whichever it is the inclusion of the last attests to the importance Rousseau attached to the Republic.

What I shall try to do, then, is to outline a basic philosophical position as regards politics and morals which is maintained by Plato and Rousseau. The task is made easier since the material of the previous chapter is arranged and organized with the comparison in mind. I

do not claim to give a perfect interpretation of Plato. So long as the principles I cite are typical of Plato's thought, that will be enough for my purpose.

In both, the notion of what morals is determines to a large extent the form and the content of the political organization. In Plato the typical moral question is not - "Knowing the difference between good and wrong action, why do we choose to act wrongly?" but "Why do we not recognize and do the right action?" Rousseau also took this approach to moral judgment: "On aime toujours ce qui est beau ou ce qu'on trouve tel; mais c'est sur ce jugement qu'on se trompe:" (IV,7). And both holding that, in some sense, ignorance was the cause of wrong action maintained that education must be the main solution.

But to appreciate Plato's (and Rousseau's) conception of ignorance and the therapeutic value of education it is necessary to contrast Plato's with that of Socrates. For on this important point they differ in principle.

Socrates' standard procedure was to engage a popular expert in conversation and then to reveal his ignorance by dialectical means. The ignorance revealed, the discourse could continue but now with the purpose of making known to the symposiast, and Socrates would claim to himself as well, something approaching the real nature of the
subject under discussion. In the purely Socratic teaching moral problems were solvable in principle, at least, by patient clarification and definition. The Socratic teaching presupposes that all men are amenable to philosophical persuasion of this kind.

Plato, on the other hand, holds a conception more akin to that expressed in the modern aphorism "a little knowledge is a dangerous thing". The "knowledge", for example, taught by the sophists which advocated worldly success and scoffed at traditional beliefs really demonstrated a species of dangerous ignorance. In the Laws Plato calls this a "very grievous unwisdom". To combat and correct this kind of ignorance Plato required the education of all the citizens, an education which, until the age of 20 at least, is very different from the Socratic teaching. Plato's approach to moral problems is, to use James' phrase, very "tough-minded" and aristocratic by comparison. This, of course, can be traced to a quite different conception of the morally good, but it is also true that Plato did not believe that all men equally were capable of the abstract and disinterested reasoning that led to the knowledge of goodness. In fact only the rulers, a select few with

9. Presumably, this process would not be incompatible with the political procedure referred to as deliberative democracy.
demonstrable philosophical capacities, could achieve knowledge of the Good and act in that knowledge.

According to Plato's educational system the teaching of the young was regarded as most important. The chief purpose of this teaching is the inculcation of civic virtue. The rulers teach the young to do what is best for the community. The most intelligent of the youths are chosen to undergo further training and they will eventually replace the rulers who taught them. Only the rulers have knowledge of the common good. The remainder, the warriors and the producers, act only in right belief or opinion which is simply the conviction that what is right, in any given instance, is what contributes to the common good. Plato is not clear on this but presumably the warrior class has some appreciation of why it is morally good to prefer the good of the whole to their own good but the producers simply obey the rulers.

The purpose of the entire educational system is to produce a traditional state which preserves civic virtue in all its citizens. Plato then makes an interesting suggestion. He remarks, first, that "in those legends we were discussing ... we can turn fiction to account; not knowing the facts about the distant past, we can make our fiction as good an embodiment of truth as possible". (Republic 332.) This principle he proposes to put in practice as follows. "I shall try to convince, first the
Rulers and the soldiers, and then the whole community, that all that nurture and education which we gave them was only something they seemed to experience, as it were, in a dream". (Republic, 414). Then follows the well known myth of the metals.

Now it is to our purpose to ask why Plato should make this extraordinary suggestion. It is because, I think, of the same logical difficulty which as we saw bothered Rousseau. The object in each case seems to be to achieve a traditional society which itself becomes the ultimate moral educator. But also only reason is capable of knowledge of the good and therefore of founding the society. The purpose of the myth of the metals and the introduction of the Legislator seems to derive from the desire to hold both that only reason is capable of instituting the state and deceiving the citizens as to its true origin. A traditional belief is stronger than a rational belief.

The comparison with Plato also serves to emphasize the sense in which Rousseau is anti-democratic. Neither he nor Plato believed that the majority were capable of knowing their own good. This is made clear by passages from each which are strikingly similar.

Plato: "... is not blindness precisely the condition of men who are entirely cut off from knowledge of any reality, and have in their soul no clear pattern of perfect truth, which they might study in every detail and constantly
refer to ... before they proceed to embody notions of justice, honour, and goodness in earthly institutions ..." (Republic, 484).

Rousseau: "Comment une multitude aveugle, qui souvent ne sait ce qu'elle veut, parce qu'elle sait rarement ce qui lui est bon,... Les sages qui veulent parler au vulgaire leur langage au lieu du sien n'en sauraient être entendus ..." (II,7).

Only reason can guide men to knowledge of virtue. The people themselves are incapable of this since they are not guided by reason. It is better for all if reason, in the person of the ruler or the Legislator, leads them. What matters, and what is the moral justification, is that the rulers and the Legislator act on behalf of those they serve and not for their own benefit.

Someone who was not familiar with the way in which Plato develops the principle, that government ought to be the advantage of the governed, might understand it differently. He might presume that the ruler ought to be himself governed in ruling by the desires and pleasures of those he rules. This is not an unnatural interpretation to put on the principle if it is considered in abstraction.

10. It is interesting to note also the similarity of the argument against which Plato and Rousseau argue. In each case Thrasymachus and Grotius are held to argue (a) in favour of political conditions as they are (b) that government not only is, but should be, to the advantage of the ruler.
But we will understand Plato's development of the principle (and, I believe, Rousseau's as well) if we consider briefly Plato's analogies regarding government. They provide a convenient, though admittedly oversimplified, view of his moral and political philosophy.

These are the analogies of art or craftsmanship, medicine and education. The view of governing as being a kind of super-art is probably the most characteristic of the analogies. It is used freely in both the Republic and the Statesman. The ruler, like the craftsman, has a knowledge of the end. A knowledge, that is, of what he seeks to achieve or produce. And because, it is held, he alone has knowledge of the end it is right that he should rule. Similarly with the medical analogy, no one objects to the physician using his superior knowledge of a disorder in order to cure the patient. In addition, although the patient might find the treatment disagreeable the treatment is for the patient's benefit and not that of the physician. The same applies to a disorder in the body politic which the physician-ruler ought to cure even if the patients find the treatment unpleasant.

"And surely most people insist on this - that the lawgivers shall enact laws of such a kind that the masses of the people accept them willingly; just as one might insist that trainers or doctors should make their treatments or cures of men's bodies pleasurable ... But in fact one often has to be content if one can bring a body into a sound and healthy state with no great amount of pain". (Laws, 684c).
This becomes a justification for enforcing individuals to become just which is comparable in general terms to Rousseau's "on le forcera à être libre". Finally, we have the educational analogy. This draws its strength from the recognized right of the teacher to enforce obedience and discipline, because obedience and discipline are accepted as being for the good of the pupil and not of the teacher. And, of course, the educational analogy implies also the teacher's superiority of knowledge.

All three analogies have in common the implication that it is morally right that those ignorant of moral virtue should be subject to the morally wise. The argument is to be found in the Republic, the Statesman and the Laws. It is also formulated as the fundamental political principle.

"Only in the hands of the select few or of the enlightened individual can we look for that right exercise of political power which is itself the one true constitution". (Statesman, 297c).

This is repeated in the Republic.

"If a state is constituted on natural principles, the wisdom it possesses as a whole will be due to the knowledge residing in the smallest part,... Such knowledge is the only kind that deserves the name of wisdom, and it appears to be ordained by nature that the class privileged to possess it should be the smallest of all". (Republic, 418).

I believe that the extent to which Rousseau accepted and presented this principle in the Contrat social
is not adequately appreciated. I shall compare, therefore, the two more closely. This shall be done in two ways. First, by noting the distinct similarities between Plato's wise politician (for this principle in some form or another, ruler or law-giver, is dominant in the three works) and Rousseau's Legislator. Second, by citing the key passages in Rousseau's argument which illustrate the homogeneity. In this fashion, it is hoped, we can follow the way in which Plato and Rousseau develop the principle of government in the interest of the governed.

We shall begin by giving evidence and reasons for suggesting that Rousseau's Legislator is a reconstruction of Plato's wise politician.

Plato: "[The one who is moved by rational] desire will abandon those pleasures of which the body is the instrument and be concerned only with the pleasure which the soul enjoys independently - ..." (Republic, 485).

Rousseau: (of the Legislator's task) "... il faudrait une intelligence supérieure qui vit toutes les passions des hommes, et qui n'en éprouvât aucune;..." (II, 7).

In each case we have the individual who is himself rational, and who directs his life rationally (but who at the same time knows the passions of others without indulging in them) being called to direct the lives of other men. In "le bonheur fut indépendant de nous, et qui pourtant voulût bien s'occuper du nôtre;..." we are
reminded of the persuasion which Socrates feels would be necessary "to bring compulsion to bear on the noblest natures". (Republic, 519).

The method of instituting the whole programme is also the same in both.

Plato: "He will take society and human character as his canvas, and begin by scraping it clean". (Republic, 500).

Rousseau: He is "le mécanicien qui invente la machine ... Celui qui ose entreprendre d'instituer un peuple doit se sentir en état de changer pour ainsi dire la nature humaine,..." (II,7).

It is significant that both similes accurately portray the necessity of reason beginning anew to correct the mistakes which man has made. Their view is not one of repair or adjustments to be made to the existing political structures and societies but "inventing" and "scraping the canvas clean". This conception of the right state being initially a rational construction is, I think, important. We shall see also that Bosanquet holds that Rousseau's Legislator signifies Rousseau's satisfaction with the effects of tradition on political life. But I believe this comparison which shows the dissatisfaction with things as they are and have been is a true explanation of Rousseau's Legislator.

We can compare the two thinkers on their advocacy of the wise man's right to deceive the people for their
own good.

Plato: "If anyone, then, is to practise deception,... it must be the Rulers of the Commonwealth, acting for its benefit;..." (Republic, 388).

Rousseau: "Cette raison sublime, qui s'élève au-dessus de la portée des hommes vulgaires, est celle dont le Législateur met les décisions dans la bouche des immortels, pour entraîner par l'autorité divine ceux que ne pourrait ébranler la prudence humaine". (II,7).

Finally, in this respect, we should recall the aim of Plato in all three works which is to unite "philosophical wisdom and political power" and compare this to Rousseau's statement relating the good effects that will result from the Legislator's intervention.

"Alors des lumière à publiques résulte l'union de l'entendement et de la volonté dans le corps social; de là l'exact concours des parties, et enfin la plus grande force du tout". (II,8).

From all this it is difficult to doubt the influence of Plato on Rousseau's "Legislator".

This basic likeness indicates, of course, the wider ground common to Plato and Rousseau. In its briefest form the Platonic argument we are considering might be put as follows. Morally bad action is due to mistakes of judgment and ignorance. These can be corrected only by the tutorship of the morally wise. The justification of the rational ruler with his superior knowledge is that he seeks the advantage of the subject and not his own. This argument I take to be central to Rousseau's
conception of the Legislator. The people and the General Will lack an understanding of what is good for them.
The office of the Legislator, of reason, is to direct the people and the general will to the good. (II,6). But the Legislator must not work for his own gain. Instead he must serve the good of the people.

I am sure the Legislator is a deliberate imitation of Plato's principle. And if it is then Rousseau either failed to understand or misrepresents Aristotle's argument on slavery, which, as we have seen, in Chapter I, he roundly criticized. For the difference between Rousseau's Legislator and Aristotle's argument in favour of slavery is not a difference in principle. Aristotle's argument has two parts. (1) "... the lower sort are by nature slaves, and it is better for them as for all inferiors that they should be under the rule of the master. For ... he who participates in rational principle enough to apprehend, but not to have, such a principle, is a slave by nature". (Politics, 1254B) and (2) "the superior in virtue ought to rule, or be master". (Politics, 1255A).

Unquestionably Rousseau is entitled to reject slavery on moral grounds. My point is only that Aristotle's argument, that those who are not themselves capable of rational knowledge benefit from the rule of
those who are both rational and virtuous, is not different from the argument which justifies the Legislator.

It is possible, and it would be interesting, to consider other views Rousseau held in common with Plato. However, I believe that I have established fundamental points of contact. I now wish to consider in more detail how Plato influences the argument of the Contrat social at this point. This shall be done under four headings which are: (1) the common attitude to what Rousseau refers to as the "incorrigibles", (2) the sense of "ethos" and the common admiration of Sparta, (3) the "city-state" itself as an educational organ, (4) the morality of the common good.

(1) The Incorrigibles

By the incorrigibles I mean those individuals or peoples who are held to be evil and wicked beyond reform. Both Plato and Rousseau recognize their existence. Eventually they must raise difficulties since whether considered as individuals or collectively they are not allowed for in the belief that no one knowingly chooses evil. The incorrigible individual is not ignorant in the ordinary sense; he knows right from wrong and knowingly chooses to act wrongly.

This is plainly stated in Rousseau. In Book II,
Chapter 6, he says of individuals "Les particuliers voient le bien qu'ils rejettent;..." In Book II, Chapter 3, he says that the people cannot be corrupted but it can be deceived. I have suggested, however, that this is "the people" as they ought to be. The singular form "it" seems to suggest that this is the people considered as a unity (the individuals "willing as one"). He seems to think, at any rate, that there are incorrigible peoples in the same way as there are irremediable individuals.

"La plupart des peuples, ainsi que des hommes, ne sont dociles que dans leur jeunesse; ils deviennent incorrigibles en vieillissant. Quand une fois les coutumes sont établies et les préjugés enracinés, c'est une entreprise ... vaine de vouloir les réformer;..." (II,8).

It is interesting, although not important, to notice the common attitude. Both speak of those who are incorrigible as of one who is inflicted with an illness. It is in this respect that Plato has recourse to the medical analogy. Rousseau, similarly, regards the majority of peoples mentioned above. He continues:

"le peuple ne peut pas même souffrir qu'on touche à ses maux pour les détruire, semblable à ces malades stupides ... qui frémissent à l'aspect du médecin". (II,8).

They suffer from a kind of moral sickness or blindness which prohibits their acting rightly. However we may regard this explanation it appears certain that such individuals are harmful to the state.
Thus Plato pronounces:

"... if any citizen is convicted ... of committing some great and infamous wrong against gods, parents, or State - the judge shall regard him as already incurable, reckoning that, in spite of all the training and nurture he has had from infancy, he has not refrained from the worst iniquity". (Laws, 854E).

Rousseau, in principle agrees: "il peut le bannir non comme impie, mais comme insociable, comme incapable d'aimer sincèrement les lois,..." (IV,3). It can be said, therefore, that both Plato and Rousseau were convinced that some could not be taught to act rightly and in accordance with the laws. Further, they were convinced that such a group were not fit subjects for the city-state as they envisaged it. In the case of a people they were considered beyond all possible reform and excluded in the beginning. If individuals were convicted of wronging the state they could be killed outright or banished from the state. Such individuals are, according to Rousseau, "insociables".

(2) The Influence of the Ethos

In the Laws (693B&G) Plato states that the ideal state should be one which has friendship and harmony between its members. Rousseau suggests the same ideal in praising the peasant society (IV,1). But their ideal state would involve more than mere sociability. Strauss believes that none of the moderns understood the "ethos"
characteristic of the Greek city-state as well as Rousseau. The influence of the ethos can be described as the sense of community. The idea had as strong an influence on Rousseau as on Plato. To this extent Sabine is correct in maintaining that Rousseau "rediscovered community".

Both were inspired by the idea of the state as a community which manifested a real unity of individuals as opposed to a multitude of independent individuals each pursuing the satisfaction of his own desires. In order to have this sense of oneness the political organization had to be small since such an intimate fellowship as "ethos" connotes presupposes direct contact and mutual personal knowledge. There seems little reason to doubt that Rousseau had the "polis" in mind when he described his version of the conditions required for an ideal state. These have been reproduced at the end of the previous chapter. In particular the passage in which he states as a condition: "celui dont chaque membre peut être connu de tous" (II,10) is reminiscent of classical accounts of the city-state.

But Sabine would have been more exact if he had claimed that the sentiment of community which Plato and

Rousseau advocated was not the result of free and spontaneous sociability. Their goal was not so much sociability as what we might call solidarity. It was the idea of creating artificially the sense of community. In part this approach can be traced to their rationalism. But it can be attributed, with equal justice, to their common admiration of Sparta.

Particularly in Rousseau, the greatness of Sparta as a state was due to the individual citizen's determination to identify his objectives with those of the city-state. Or, in the extreme case, to accept without question the objectives as his own. This reproduced throughout all the citizens' disunity. We see this idea repeated in the *Contrat social* especially in the Civil Religion which has as its principal function to encourage the individual's loyalty to the good of the state. The features of life in common which tend to relax social unity are equally abhorrent to Plato and Rousseau. This is mentioned by de Jouvenel: "Mais l'amour de Sparte est un choix, contre les lettres, contre l'élegance, contre le luxe, contre l'éloquence ... Et s'il accable Périblé, c'est avec Platon". Neither approved of the arts, luxury and commerce. They were dangerous to the public morals. Both discouraged factions because, like

---

commerce, they provided interests in competition with the common interest of all.

Rousseau's notion of civic unity is indicated in the passage from the chapter concerning the Legislator:

"transformer chaque individu, qui par lui-même est un tout parfait et solitaire, en partie d'un plus grand tout dont cet individu reçoive en quelque sorte sa vie et son être;..." (II,7)

There is also a long passage in Emile on the same subject which throws further light on Rousseau's intentions.

"Au dehors le Spartiate était ambitieux, avare, inique; mais le desintéressement, l'équité, la concorde régnaient dans ses murs. Défiez-vous de ces cosmopolites (13) qui vont chercher loin dans leurs livres des devoirs qu'ils dédaignent de remplir autour d'eux. Telle philosophie aime les Tartares, pour être dispensé d'aimer ses voisins. L'homme naturel est tout pour lui; il est l'unité numérique, l'entier absolu, qui n'a de rapport qu'à lui-même ou à son semblable. L'homme civil n'est qu'une unité fractionnaire qui tient au dénominateur, et dont la valeur est dans son rapport avec l'entier, qui est le corps social. Les bonnes institutions sociales sont celles qui savent le mieux dénaturer l'homme, lui ôter son existence absolu pour lui en donner une relative, et transporter le moi dans l'unité commune;..." 14.

This notion of the freedom of the fraction, of giving a life to gain a life, seems closely conjoined with the deepest of Plato's thought on the unity of the city-state. When, therefore, Rousseau writes of the articles of his civil religion "comme sentiments de sociabilité sans

13. v. Chapter 10 in this respect.
lesquels il est impossible d'être bon citoyen ni sujet fidèle", it is clear that he does not rely on a natural sociability. But rather on the creation of artificial sentiments of solidarity and unity.

Rousseau's ideal state would be one in which the subjects are noted for their simple morals, their ready obedience to the laws and their loyalty to the state. Any movement away from this condition is a movement towards the state's dissolution. This, of course, has its counterpart in the Republic (543A) in the chapter entitled "The Fall of the Ideal State". That the state will fall is taken as a natural consequence.

Plato: "Hard as it may be for a state so framed to be shaken, yet, since all that comes into being must decay, even a fabric like this will not endure for ever, but will suffer dissolution".

Rousseau: "Telle est la pente naturelle et inévitable des Gouvernements les mieux constitués. Si Sparte et Rome ont péri, quel Etat peut espérer de durer toujours?... Le corps politique, aussi bien que le corps de l'homme, commence à mourir dès sa naissance, et en lui-même les causes de sa destruction".

In each case the death of the body politic, as Rousseau refers to it, is accepted as being in the "nature of things". And although Plato attributed the fall of the state to the inconstancy of the birth cycle in reproducing the right type of character the direct cause is the same for each. It is the strength of human desires, the disposition to individual selfishness and
the placing of individual interests above the interests of the city-state.

Plato: "There is an evil, great above all others, which most men have, implanted in their souls, and which each one of them excuses in himself ... the cause of all sins ... lies in the person's excessive love of self". (Laws, 731E).

Rousseau: The state is weakened "quand les intérêts particuliers commencent à se faire sentir ..." It is near its ruin when "le plus vil intérêt se pare effrontément du nom sacré du bien public". (IV,1).

Civic education brings about the unity of the state and is designed to preserve it. This is the fundamental notion that the community itself has the most profound influence on the development of character. This, of course, has its negative as well as its positive aspect. We will begin with the former.

(3) The Educational Role of the City

"Do you hold the popular belief that, here and there, certain young men are demoralized by the private instructions of some individual sophist? Does that sort of influence amount to much? Is not the public itself the greatest of all sophists (my emphasis), training up young men and women alike, into the most accomplished specimens of the character it desires to produce". (Republic, 491-2). The educational influence of the city could be a powerful force of evil. The laxity of public
morals formed the character of the young after the image of their elders. The philosopher concentrates chiefly on the young: "unlike other reformers, he will not consent to take in hand either an individual or a state or to draft laws, until he has a clean surface to work on or has cleansed it himself". (Republic, 500-1).

Now Cassirer attributes much the same view to Rousseau.

"What Voltaire, D'Alembert, Diderot, regarded as mere defects of society, as mere mistakes in organization which must be gradually eliminated, Rousseau saw rather as the guilt of society,..." 15.

And he goes on to claim that:

"He [Rousseau] created, as it were, a new subject of responsibility,... This subject is not individual man, but human society... Selfish love, which contains the cause of all future depravity... is exclusively to be charged to society".

Thus, Cassirer maintains, Rousseau placed the responsibility for evil "where no one before him had looked for it". 16.

However, the quotation cited above from Plato causes us to doubt Cassirer's claim. There is nothing original about putting the blame on society since it was common practice and thought to hold that "the city was the school of the citizen". Rousseau may have given new and vital impetus to the idea but it is an exaggeration to say that he invented it.

16. IBID., p.75.
But did Rousseau hold, in the *Contrat social* that society itself was the cause of evil? This is rather difficult to answer. In one sense Rousseau seems to deny this. In a republican state, he claims,

"la voix publique n'élève presque jamais aux premières places que des hommes éclairés et capables, qui les remplissent avec honneur;... Le peuple se trompe bien moins sur ce choix que le prince;" (III,6).

Plato never would have shared this optimism. It is far more likely that he would have regarded such public officials as those who have studied the moods and desires of the public beast and catered to its appetites. (Republic, 493). I think we must say either that Rousseau is simply inconsistent or explain his inconsistency by maintaining that his philosophical argument is overpowered by his republican sentiments.

For the whole tenor of his argument puts him on the side of Plato. The common people, considered as individuals, are no more fit for the role of sovereignty than the self-seeking monarch described in Book I, Chapter 5, and for the same reason. Add to this Rousseau's bitter indictment of society in Book III, Chapter 15, and I think we get reasonable grounds for agreeing with Cassirer that society as it is is the cause of evil. We shall consider next the positive aspect of the city-state as the ultimate moral teacher.

Rousseau makes a point of noting the ancient meaning
attached to "the city". It occurs when he is citing, following the jurists of his time, the various terms used to signify the state. To "cité" he attaches the following remark.

"Le vrai sens de ce mot s'est presque entièrement effacé chez les modernes: la plupart prennent une ville pour une cité, et un bourgeois pour un citoyen. Ils ne savent pas que les maisons font la ville, mais que les citoyens font la cité". (1,6, fte.).

This indicates, I think, Rousseau's deliberate identification with classical political thinking. Rousseau follows Plato's educational system closely. We can outline Plato's intention as follows.

The wisest of the younger generation are to be educated to achieve knowledge of the Good and knowledge of the end of the state and the means of attaining it. They are to foster a system of civic education in order to inculcate awareness of public duties. Only the rulers are to have knowledge of what is good for the whole. If these are provided for: "It will all be easy enough, if only they will see to 'the one great thing', as the saying goes, though I would rather call it the one thing that is sufficient: education and nurture". (Republic 423). So long as the Guardians carefully follow this blue print the rest of the citizens can be trained to take their place in it. If the citizen of every rank fulfils his function within the supreme plan then the coming
generation will grow up to see their place in it, without need of coercion and restraint, and thus be educated by their fellow citizens and the influence of the public morals and institutions. This, as I understand it, is Plato's civic education. He explains it, briefly, as follows.

"... when a community has once made a good start, its growth proceeds in a sort of cycle. If a sound system of nurture and education is maintained, it produces a man of good disposition; and these in their turn, taking advantages of such education, develop into better men than their forebears ..." (Republic, 423).

On most of the significant points Rousseau concurs. We have first of all the Legislator who has a knowledge of the end (i.e. what is the good for the state and how it ought to achieve it). The Legislator is instructed to concentrate on the morals and mores of each society, for these are the cornerstone on which everything else depends, the basis of the success of the political organization (II,12). Once a sound moral temper is attained then the people are capable of ruling themselves. Rousseau's achievement, like Plato's, is the product of careful nurture and gradual education. It is the tradition of the society, the moral and mores, informed now by Reason, which is the ultimate educational organ. Here we have a pure, though admittedly idealized, copy of the Platonic doctrine of civic education.
17. Foster remarks that a part of Plato's goal is the return to the "first city" portrayed in the Republic (369ff.). Rousseau undoubtedly shares this desire and not a return to nature as portrayed in Book I. Both exalt a city which, to use Plato's term, is healthy. "The community I have described seems to me the ideal one, in sound health as it were: but if you want to see one suffering from inflammation, there is nothing to hinder us". (Republic, 372).

But a curious note inserts itself here. On this matter of the "first city" Rousseau, although frequently described as a revolutionary, appears more reactionary than Plato. The style of this portion seems deliberately ironic, a realization of the futility of aspiring to return to a simple state (whatever Plato's final aims may have been). But Rousseau displays, in his eulogy of Sparta and Rome a genuine yearning for Glaucon's "community of pigs"; a citizenry with an essentially mechanical, unconscious and unreflective morality.

However, we can endeavour to be more precise about the goal of the public education than this. The ultimate

18. Compare, in this respect, Rousseau's remarks on the peasent society (IV,1).
standard of public morality is the common interest or the common good.

(4) The Morality of Common Interest

Previously we have noted a difficulty that Rousseau faces in regard to the relation between individual and common interest: "le souverain, n'étant formé que des particuliers qui le composent, n'a ni peut avoir d'intérêt contraire au leur;... Mais il n'en est pas ainsi des sujets envers le souverain, auquel, malgré l'intérêt commun,..." they may endeavour to act against the common interest. That is, he holds, the common interest is a composite of all the individual interests and cannot, for this reason, be contrary to individual interest. It satisfies, therefore, both justice and interest. Each shares equally in the common interest and benefits equally from its satisfaction. But this gives rise to two problems. Despite the merits of a state operated on this basis some will attempt to pursue interests of their own which may be contrary to the common interest. Also the people do not really know what is best for them. The common interest is not always the motive of action; it is the purpose of the public education to make it so. The function of the Legislator, of disinterested reason is to lead the people to the knowledge of their own good.
"Tous ont également besoin de guides. Il faut obliger les uns [the individuals] à conformer leurs volontés à leur raison; il faut apprendre à l'autre [the people] à connaître ce qu'il veut". (II, 6).

The morality of common interest is, then, that system of values which puts the good of the whole city before the good of any individual. The individual is to learn to will the general good rather than his own particular good.

When we speak of Platonic morality most often we mean the attainment of "knowledge of the form of the Good". But in terms of knowledge, as distinct from other types of cognition, only the rulers have direct knowledge of the Good. The sense in which the producers and warriors are aware of morally right action is derivative. If we take the four stages of cognition as our model, it should follow that the producers are aware of right action only in the sense that they accept unquestioningly whatever public moral standards prevail. The warriors have right belief. This is a result of a more intensive education which has the purpose of inculcating moral beliefs. As a result of this education they have conviction, whereas the producers are subject merely to the influence of public opinion regarding moral standards.

Ideally at least Rousseau's citizens are to be taught also to act rightly. Rousseau's educational system, even allowing for its informality, seems to fall between the convictions of right belief and the influence of public
opinion. Plato is unclear, or so I find him, about the precise difference between right belief and opinion. It may be thought that the former is more hardened or better schooled. The difference, perhaps, is between being convinced of something and accepting it on pure faith. But presumably the education of the warriors makes some demands on their reason, since it is in terms of intelligence that the warriors and rulers are selected to share the same earlier education. Whereas what is demanded of Plato's producers is a performance, which is not dependent on understanding or conviction.

In the chapter on the Legislator Rousseau suggests something like right belief or conviction.

"Ainsi donc le Législateur ne pouvant employer ni la force ni le raisonnement, c'est une nécessité qu'il recoure à une autorité d'un autre ordre,..." (II,7).

The Legislator clothes his recommendations in the form of religious pronouncements and in this way makes his truths palatable to men. Another possibility is suggested by Rousseau's remarks on opinion.

"Chez tous les peuples du monde, ce n'est point la nature, mais l'opinion, qui décide du choix de leurs plaisirs. Redressez les opinions des hommes, et leurs moeurs s'épureront d'elles-mêmes... Qui juge des moeurs juge de l'honneur; et qui juge de l'honneur prend sa loi de l'opinion". (IV,7).

It must be remembered that Rousseau thought that "la censure peut être utile pour conserver les moeurs, jamais pour les rétablir".
Even so, it seems to me that Chapman is justified in his claim that the *Contrat social* differs importantly from *Emile* since in the former Rousseau uses the force of public opinion to inculcate a public morality. Whereas in *Emile* Rousseau argued that a moral education necessitated the isolation of the child and especially from the influence of public morality which was held to be false. Chapman claims that Rousseau has decided to use the force of public opinion to aid his own public moral education. He concludes, very properly it seems to me, that the aim in *Emile* seems to be to create a morally autonomous personality; whereas in the *Contrat social* it is to stifle reason at its roots and with it the creation of an autonomous agent.

Here the effect is rather more at the level of the producer whose education fluctuates with the public moral standards. This is true also of the dogmas of the civil religion. He seems to think that what matters is the performance in accordance with the dogmas rather than belief in them or understanding of them. For what convicts the "insociable" is if he "se conduit comme ne les croyant pas". (IV,8).

In some respects in holding the morality of common interest Rousseau went further than Plato. The point of the passage showing the coincidence of individual and common interest is that although the individual interest
may be occasionally contrary to the common interest the common interest always agrees with the individual interest. Plato never maintained this. When it was objected that the Guardians would never be happy living in the stringent manner suggested for them, Plato did not deny this. Instead he replied "our aim in founding the commonwealth was not to make any one class specially happy, but to secure the greatest possible happiness for the community as a whole". (Republic 419). Making the same point later he adds: "the law is ... [concerned] ... to ensure the welfare of the commonwealth as a whole. By persuasion or constraint it will unite the citizens in harmony". (520). And he also held, which Rousseau never admitted, that "Law can never issue an injunction binding on all which really embodies what is best for each ..." (Laws, 294B).

However, on the notion of unity Plato and Rousseau are in complete agreement. This explains, I think, Rousseau's rejection of political parties.

"C'est ce qu'en certain pays on ose appeler le Tiers État. Ainsi l'intérêt particulier de deux ordres est mis au premier et second rang; l'intérêt public n'est qu'au troisième". (III,15).

Plato and Rousseau must hold necessarily that there is "one good" and one only for the state. For this political parties are not only unnecessary but are harmful and pernicious. Their basis depends on the establishment of differing interests.
Conclusion

By way of summing up this chapter I will quote a few passages from Chapman's *Rousseau-Totalitarian or Liberal?* This, to my knowledge, is the latest book on Rousseau's political thought. In Chapter 6, entitled "Intensification of Social Sentiment", Chapman makes a contribution to Rousseau studies which could serve as the basis of a powerful argument against the current Kantian interpretation of Rousseau.

"Social sentiment [he writes] may take the form either of social interest or social spirit. The distinction is between growth in men of interest in others and concern for their welfare, and growth of group feeling, a sense of unity with and attachment to others. The intense forms of these attitudes are, respectively, humanitarianism and patriotism". Rightly he points out: "Intense social spirit - namely, patriotism - based on deliberate conditioning of men, may so weaken his capacity

19. It seems to me that this valuable distinction could be developed more profitably if it were labelled "cosmopolitanism" and "patriotism". For this is the form it takes in Rousseau: "Défiez-vous de ces cosmopolites... Tel philosophe aime les Tartares, pour être dispensé d'aimer ses voisins". I take up this point briefly in contrasting Rousseau to Diderot in the final chapter.

for rational insight that he is deprived not only of conscience and social interest but also of moral freedom."

"In civic education Rousseau seeks deliberately to inculcate moral attitudes so that people will be disposed to feel emotions of obligation and approval in response to appropriate judgments. Their ethical beliefs and feelings are built into them". He maintains also that "authority is used to forbid exercise of reason as to the validity of the dogmas [of the civil religion]". The tendency of political education of this sort is to produce "a manufactured patriot, politically free and self-governing, but rendered incapable by his education of being morally free".

I agree with this argument and differ only in giving it a wider background by comparing Rousseau to Plato. To me the argument seems all of a piece. The Platonic-figure of the Legislator is called upon to purge the individuals of their natural inclinations and to provide, through guidance, knowledge of their own good as a group. "The Legislator" is in contradiction to the system originally outlined in Book I of the Contrat social since

21. IBID, p.56.
22. IBID, p.61.
23. IBID, p.66.
24. IBID, p.71.
he is essentially an agent external to it, another authority. The Censor is also a Platonic-figure. His function is that of regulating public morals, of announcing what they are and so educating or indoctrinating beliefs, by the use of public opinion, appropriate to the cultivation of the morality of the common good. The Censor has his counterpart in the elders of the Laws. Finally, there is the civil religion "qui lui fasse aimer ses devoirs" and discourages him from becoming "insociable".

Two views of the general will follow naturally from this part of the argument. In so far as the public education, in its different forms, has the aim of keeping the individual responsive to the general will, the general will appears as an ideal standard of public morality. It is a symbol or a representation of the general good. That is to say there is a good for the state which the individual may know but reject and which as a group, despite their good will, they are ignorant of. It is the function to reform the one and to inform the other. The second also follows from the comparison with the Platonic philosophy.

"Il y a une Volonté Générale quand on est plus attentif à l'intérêt commun qu'à l'intérêt particulier, quand on est plus ému pour l'amour du groupe que l'amour de soi, quand les citoyens enfin se considèrent comme un seul corps, et ils n'ont qu'une seule volonté qui se rapporte à la commune conservation et au bien-être
This chapter has two goals. First, it attempts to provide a basis for the understanding of the Contrat social by comparing it to Plato's thought. Second, to provide a basis for the assertion that the Contrat social contains two philosophies, one of a Platonic-type and another of a Kantian-type. This is useful if one believes, as I do, that the two are practically and psychologically incompatible.

Admittedly, Rousseau is a lower-level Platonist. That is, he is influenced at the level at which Plato forms his state with Sparta as a model. Not at the level at which he is educating the philosopher to attain knowledge of the Good. It is, in other words, the state suited to creation of the good citizen and not to the philosopher. Rousseau's design is, I think, moral reform. The public education and all that goes with it is a form of therapy to annihilate bad social habits and to replace them with virtuous ones. But in attempting to make the association more real to men and by endeavouring to bind them more closely to the common interest, he ends by making the

25. De Jouvenel, B., editor, Du Contrat Social, Introduction, p.17. The quotation from the Contrat social may be misleading since Rousseau applies it to the peasant society. Here, presumably, the social sentiment is not created artificially whereas in this argument it is. We may say that Rousseau's desire is to reproduce this condition artificially. Then de Jouvenel's definition applies perfectly.
association more real than the associates. It is, in its way, an education as radical as that envisaged by Condorcet but with the essentially Platonic purpose of moral regeneration.

The previous chapter contained some important conclusions. We have seen that there are good grounds for deciding that Rousseau's political philosophy is influenced strongly by Plato. If we accept Rousseau's argument then we acknowledge that a right state ought to be instituted by the social contract. But the implications of the previous chapter are that a mere contract is not sufficient to institute a people. A people requires a moral education of a very thorough kind to get it to accept the rule of the general will in all things. Civic virtue, which is the habit of putting the good of the state before private good, seems to be regarded as the necessary condition of popular sovereignty and of political and moral liberty. The task in this chapter is to begin the examination of what is involved in Rousseau's conception of sovereignty.
Sovereignty and Law

The previous chapter contained some important conclusions. We have seen that there are good grounds for deciding that Rousseau's political philosophy is influenced strongly by Plato. If we accept Rousseau's argument then we acknowledge that a right state ought to be instituted by the social contract. But the implications of the previous chapter are that a mere contract is not sufficient to institute a people. A people requires a moral education of a very thorough kind to get it to accept the rule of the general will in all things. Civic virtue, which is the habit of putting the good of the state before private good, seems to be regarded as the necessary condition of popular sovereignty and of political and moral liberty. The task in this chapter is to begin the examination of what is involved in Rousseau's conception of sovereignty.

As a suggestion of the kind of connection I perceive between the past chapter and the subject of the present one I offer further interpretations of a statement which is, and probably will remain, contentious.
"Ce passage de l'état de nature à l'état civil produit dans l'homme un changement très remarquable, en substituant dans sa conduite la justice à l'instinct et donnant à ses actions la moralité qui leur manquait auparavant." (I, 8).

Briefly, and in outline form, there seem to be four ways in which this might be understood. First, we could treat it as a statement of anthropological conjecture. This seems to be F.C. Green's approach and he concludes that Rousseau may have thought that this traumatic experience caused a sudden cataclysmic change in man's nature. Second, we can regard it as exaggerated praise of the advantages of actual civil society over the natural state. Because of the confusion between different states mentioned in Chapter 2 this is a possible solution. For Rousseau seems to have felt obliged to provide a logical explanation of the departure from the natural state. But it puts Rousseau in the totally unacceptable position of one who favours the "status quo". Third, another interpretation is suggested by the chapter previous to this. If the common interest is the standard of what is and what is not moral and if the common interest logically presupposes a state based on Rousseau's form of the social contract, then morality and justice are dependent on the civil state. I think this interpretation deserves consideration. But it does not explain adequately, by itself, the particular nature of Rousseau's conception of morality. Fourth, there is an
interpretation which could be based on the previous chapters and would provide a possible link to the next.

It is that Rousseau is here suggesting the merits of the ideal civil state. This requires neither a miraculous transformation nor praise of civil society as such. Rousseau is understood as having advocated the social contract as the legitimate basis of political society but also as having maintained the rightness of a moral education at the end of which a people will be fit to rule itself. Politically this argument is currently unpopular. It may be expressed by saying that some peoples are not ready for responsible or national sovereignty. Preparation, education and guidance are necessary before they can make a success of so difficult an undertaking. But although the argument often is disparaged the policy that follows from it is common practise.

Rousseau put the argument in this form.

"La jeunesse n'est pas l'enfance. Il est pour les nations comme pour les hommes un temps de jeunesse, ou, si l'on veut, de maturité, qu'il faut attendre avant de les soumettre à des lois; ... " (II, 8).

The inference is that a people, like a youth, must be taught responsibility before it can know moral liberty and obey laws of its own making.

The discussion of sovereignty will be divided into two chapters, this and the succeeding one. In this chapter I
shall discuss the relation of sovereign to executive, the current theory that Rousseau's sovereign is both absolute and limited, what is meant by "laws ought not to be particular but general" and, finally, the connection between sovereignty, the laws and rights. In the chapter that follows this I shall concentrate on what might be called the subjective aspect of Sovereignty. That is, the sovereign considered as the maker of the laws. This chapter will be perhaps more valuable for our further understanding of the general will. However, both chapters have sovereignty as their subject-matter and can be viewed as continuous.

Before I begin the proper work of this chapter I wish to state briefly what seems to me to be Rousseau's most valuable contribution to political philosophy. He, above all others, pushed the doctrine of popular sovereignty or the sovereignty of the people to its extreme limits. Rousseau has the great merit, from a philosophical point of view, of stating the extreme case. Many of his conclusions are, for that reason, useless to the politician. It is especially interesting that Burke's criticism (at the beginning of the Reflections on the French Revolution) of the French philosophers is that they presented the popular imagination with the extreme case, as though it was the normal practice of politics. The examination and endorsement of fundamental principles of political right can be harmful and dangerous, according to Burke. But for
political philosophy Rousseau's formulations ought not to be obscured. As regards popular sovereignty, then, Rousseau dealt with the end of the series.

If we mean by the sovereign people the whole of the people as sovereign, as in strictness we should mean, then it is natural that we should speak of obeying ourselves. But we seldom stop to consider, in rigorous fashion, what we mean by "the people", in this case, or "self-determination". Whether the latter reduces to the whole people obeys itself or each citizen obeys himself. It is because Rousseau at least attempted to formulate these concepts in their extreme form and endeavoured to provide means of their practical application that he warrants examination.

1. Sovereignty and the Executive

The general administration of the state is divided in terms of functions into those who make the law and those who carry it into effect. The former function is limited to the people as a whole, the latter refers to various bodies and personages appointed by the people or recommended by the legislator. Briefly, then, we shall examine the relation between the two, calling the latter, for convenience, the executive. Although Rousseau generally applies this term more narrowly to the government.

To explain the relationship Rousseau makes use of a rough analogy between someone willing an act and the physical
force expended to carry out the act initiated by the will.

"Toute action libre a deux causes qui concourant à la produire : l'une morale, savoir la volonté qui détermine l'acte; l'autre physique, savoir la puissance qui l'exécute ...
Le corps politique a les mêmes mobiles: on y distingue de même la force et la volonté; celle-ci sous le nom de puissance législative, l'autre sous le nom de puissance executive." (III,1)

The governmental body: "Ce n'est absolument qu'une commission, un emploi, dans lequel, simples officiers du souverain, ils exercent en son nom le pouvoir dont il les a fuits dépositaires, et qu'il peut limiter, modifier, et rependre quand il lui plaît,..." (III,1)

The analogy tends to be somewhat misleading as the government also has a general will, i.e. a will for the good of the governmental association. I shall quote the passages stating this which show also the relationship the various acts of will ought to have to one another.

"Nous pouvons distinguer dans la personne du magistrat trois volontés essentiellement différentes: premi èremen t, la volonté propre de l'individu, qui ne tend qu'à son avantage particulier; secondement, la volonté commune des magistrats, qui se rapporte uniquement à l'avantage du prince [i.e. government], et qu'on peut appel er volonté de corps, laquelle est générale par rapport au Gouvernement, et particulière par rapport à l'État, dont le Gouvernement fait partie; en troisième lieu, la volonté du peuple on la volonté souveraine, laquelle est générale, tant par rapport à l'État considéré comme le tout, que par rapport au Gouvernement considéré comme partie du tout."
"Dans une législation parfaite, la volonté particulière ou individuelle doit être nulle; la volonté de corps propre au Gouvernement très subordonné; et par conséquent la volonté générale ou souveraine toujours dominante et le règle unique de toutes les autres.

Selon l'ordre naturel, au contraire, ces différentes volontés deviennent plus actives à mesure qu'elles se concentrent. Ainsi la volonté générale est toujours la plus faible, la volonté de corps a le second rang, et la volonté particulière le premier de tous; de sorte que, dans le Gouvernement, chaque membre est premièrement soi-même, et puis magistrat, et puis citoyen: gradation directement opposée à celle qu'exige l'ordre social. [My emphasis] (III, 2)

(This passage is, I think, one of the most revealing in the Contrat Social stating as it does the order of values according to Rousseau's conception of the ideal state. Especially so when this is compared to the Legislator's purpose).

Rousseau distinguishes between a law, which can be made only by the general will and a decree or an act of magistracy, made by the particular will of the government. (II, 2). But what is the relation between a law and a decree? Rousseau is very vague on this. In one place he asserts that "la puissance exécutive ne peut appartenir à la généralité comme législatrice ou souveraine, parce que cette puissance [executive] ne consiste qu'en des actes particuliers qui ne sont point du ressort de la Loi ..." (III, 1). Later he implies a different relation: "La Loi n'étant que la déclaration de la volonté générale, il est clair que, dans la puissance législative, le peuple ne peut être représenté; mais il peut et doit l'être
dans la puissance exécutive, qui n'est que la force appliquée à la Loi." (III,15). He implies that a decree ought to be only the application in a particular instance of the law. From this it would seem to follow that where no law covered the action in question, either there would need to be a system of laws which was exhaustive or the magistrate would be powerless. For the individual, according to the doctrine is obliged to obey only the laws.

The remaining political institutions and persons are similarly restricted to giving expression to the sovereign will. This would apply to the tribunate, the dictator, the censor and the legislator. In the case of the last two the relationship tends to be very paradoxical since, on the one hand, they presuppose a people sufficiently enlightened to perceive the advantage to be gained from their institution; on the other, the institutions are brought into existence to enlighten the people.

Although, therefore, many functions could be brought under the heading of "executive" this is largely irrelevant. That is, it matters little that the executive is a plurality of functions. The important point is that the sovereign always be unified. Sovereignty is the exercise of the legislative power, i.e. law-making: "la puissance législative appartient au peuple, et ne peut appartenir qu'à lui." (III,1). To divide the sovereign power is to destroy it, and the rights of the people with it.
2. **Sovereignty - Absolute and Limited**

One of the more enduring criticisms of the *Contrat Social* is that it begins with an extravagant claim for individual liberty in the political state ("chacun, s'unissant à tous, n'obéisse pourtant qu'à lui-même") and ends in collective despotism. Rousseau creates a sovereign whose power is no whit less than that devised by Hobbes. The classic exposition of this argument is contained in Vaughan's introductions to his editions of *The Political Writings of Rousseau* (1915) and *Du Contrat Social* (1918). In recent years, however, Rousseau has acquired defenders against this charge. Beaulavon's introduction to his edition of the *Contrat Social* is the earliest (1922) and remains one of the best. Derathé, however, puts the argument in defence of Rousseau in its most successful form.¹

Derathé begins by attacking the argument that Rousseau asserts two contradictory propositions,² that the sovereign is both absolute and limited. He cites the "locus classicus"

---

¹ To my mind Derathé's study of Rousseau's theory of sovereignty is indispensable for the understanding of it. V. Derathé, *Rousseau et la Science Politique* ... (1950) especially p.333-364.

² V. Janet, P., "Examen critique du Contrat Social de J-J Rousseau", Extrait de la Revue Critique de législation et de Jurisprudence, 1854, p.4. "Rousseau est un des premiers politiques qui fait voir qu'il y a dans l'homme quelque chose d'inaliénable, indépendant de toute convention. Il est malheureux que lui-même démente si vite son principe, et qu'oubliant à son tour le droit des individus ... il le sacrifie presque absolument à la suprématie illimitée de l'Etat."
"le pouvoir souverain, tout absolu ... qu'il est, ne passe ni ne peut passer les bornes des conventions générales, ... " (II, 4). In the first place, he explains, it was common practice among jurists of the time to hold this view. He quotes several authorizations of which I shall reproduce only one.

"Ne crions pas au paradoxe, car il s'agit - là d'une affirmation banale ... 'il faut, écrit par exemple Jurieu, exactement distinguer deux choses ... c'est le pouvoir absolu et le pouvoir sans bornes ... en reconnaissant la puissance absolue comme légitime, nous soutenons que la puissance sans bornes est contre toute sorte de lois divines et humaines. Le pouvoir absolu, c'est garder toute la souveraineté sans partage est réunie dans un seul; mais il n'y a aucune souveraineté qui n'ait ses bornes." 3

Derathé presents his conclusion as follows.

"Le pouvoir présente donc ce double caractère d'être à la fois absolu et limité. Il est absolu parce qu'il n'existe pas de puissance humaine qui lui soit supérieure, et que ses droits ou ses prérogatives ne sauraient être fixés par la constitution de l'État. mais il est limité parce qu'il ne peut rien statuer sur un objet individuel. Tel est le

3. Jurieu, P., Lettres pastorales, (1689), t.III, p.375. Quoted by Derathé, Ibid, p.340. (It might be mentioned also that earlier Suarez and then Pufendorf distinguished between the "absolute" and "arbitrary" exercise of sovereign power. The latter contravened natural law.)
paradoxe auquel aboutit la théorie de la souveraineté chez Rousseau et qui a dérouté la plupart de ses interprètes.\(^4\)

There are several ways of expressing this. There is in the state no power or institution which is superior to the sovereign, not even the social contract itself. And this means, as Derathé says, that Rousseau's sovereign would not be constrained by constitutional safeguards since it is empowered to abrogate them at will. Nor is the Sovereign power constrained by its own pronouncements: "il est contre la nature du corps politique que le souverain s'impose une loi qu'il ne puisse enfreindre ... il n'y a ni ne peut y avoir nulle espèce de loi fondamentale obligatoire pour le corps du peuple, pas même le contrat social." (I, 7).

But at the same time the Sovereign's activity or power is limited. It is limited because the Sovereign power is the legislative power. That is to say, the sovereign can express its will legitimately only through the laws. Rousseau's notion of a law defines law in such a way as to prevent its being prejudicial to any individual. Or better, law penalizes actions rather than persons. Law is limited also to matters of general consequence. And since the sovereign can act legitimately only through the laws it is limited by the definition of law.

I propose to accept this as the correct theoretical formulation of the nature of Rousseau's sovereignty. I accept,
that is, that the power of the sovereign is absolute in its sphere. But because sovereignty is legitimate only when expressed by law and because the definition of law is intended to limit the sphere of its application, the sovereign is limited. It does not follow that in practice this guarantees individual liberty or makes of it a just sovereign. What does follow from De Ráth's argument is that if Vaughan and Janet are to be rebutted law must be the principal safeguard against collective despotism. It must examine, therefore, Rousseau's definition of law.

3. **Particularity and Generality**

Rousseau's definition of law is, in my opinion, one of the most unsatisfactory parts of the Contrat Social. A law is defined as follows:

"Quand tout le peuple statue sur tout le peuple, il ne considère que lui-même; et s'il se forme alors un rapport, c'est de l'objet entier sans un point de vue à l'objet entier sans un autre point de vue, sans aucune division du tout. Alors la matière sur laquelle on statue est générale comme la volonté qui statue. C'est cet acte que j'appelle une loi." (II, 6).

In the case of the authorship of a law, this establishes two conditions. From the point of view of legality and of justice, it is necessary that all the people, without
exception, legislate. It is, however, law itself that concerns us here.

Rousseau attempts to make this definition more clear by stating that law ought not to be particular in its reference but only general. "Particularity" is used in two senses. "Generality" is explained in three different ways. We shall examine particularity first.

First, a matter which lies outside the state's jurisdiction is particular in regard to the sovereignty of the general will and, therefore, cannot be a matter of law (II, 4). Second, is the case where the legislators may be required to rule on a matter which is strange to them. It is, on such an occasion, a matter which concerns a part of the people and on which all would have to express their will. This too is rejected.

5. Mercier, L., writing in 1791, tried to adapt Rousseau's sovereignty of the general will to fit the national assembly.

"il [Rousseau] va y répondre: 'la volonté générale est toujours pour la parti favorable à l'intérêt public, c'est-à-dire le plus équitable; des sorte qu'il ne faut être que juste pour s'assurer de suivre la volonté générale. En n'est-ce pas là ce qui a fait la force invincible de l'assemblée nationale?' J-J Rousseau, considéré comme l'un des premiers auteurs de la Révolution. This is, of course, contrary to the above principle.
"Il serait ridicule de vouloir alors s'en rapporter à une expresse décision de la volonté générale, qui ne peut être que la conclusion de l'une des parties, et qui, par conséquent, n'est pour l'autre qu'une volonté étrangère, particulière, portée en cette occasion à l'injustice et sujette à l'erreur." (II, 4). Subject to error, presumably, because the proposers would support the proposal and the remainder of the legislators would lack sufficient knowledge to make a just decision on a matter strange to them. According to this criterion English legislators ought not to make a law which specifies that a Scottish regiment should wear trews instead of the kilt or vice-versa. Rousseau is not thinking, it should be added, of a system of law in reference to an empire - such as the Roman or the British, in which these criteria would be more important - but of an individual state.

The main argument against particularity is that self-interest is so strong a motive in man that each would endeavour to judge in his own favour. This principle, it may be remarked, is the basis of Rousseau's criticism of a democratic government, that is, one in which all, or a majority of the people are elected to positions of administration. Each would use his privileged position to grant favours in his own case.6

6. "Il n'est pas bon que celui qui fait les lois les exécute, ni que le corps détourne son attention des vues générales pour les donner aux objets particuliers. Rien n'est plus dangereux que l'influence des intérêts privés dans les affaires publiques, et l'abus des lois par le Gouvernement est un mal moindre que la corruption du législateur, suite infaillible des vues particulières. " [emphasis added]. III, 4.
On one side, then, it is an attempt to exclude "vested interests" in the State by making the object of the law refer only to general matters. This is intended, also, to exclude the case where two have an interest in common in an article which by its nature is not shareable. Law then, we could say, ought not to be particular (ought not to be concerned with particular matters) because particularity leads to partiality and because "l'affaire devient contentieuse." (II, 4). Still, this notion remains unclear, to me at least. Rousseau continues this attempt to define law by holding that it must be general.

In the first place "general" means "abstract".

"Quand je dis que l'objet des lois est toujours général, j'intends que la loi considère les sujets en corps et les comme abstraites, jamais un homme comme individu ni une action particulière." (II, 6).

He gives these examples.

"Ainsi la Loi peut bien statuer qu'il y aura des privilèges, mais elle n'en plusiers classes de citoyens, assigner même les qualités qui donneront droit à ces classes, mais elle ne peut nommer tels et tels pour y être admis; ... en un mot, tout fonction qui se rapporte à un objet individuel n'appartient point à le puissance législatur." (II, 6).

In Book Two, Chapter Four, he gives another.

"Quand le peuple d'Athènes, par exemple, nommait on cassait ses chefs, décernait des honneurs à l'un, imposait des
peines à l'autre, et, par des multitudes de décrets particuliers, exerçait indistinctement tous les actes du Gouvernement, le peuple alors n'avait plus de volonté générale proprement dite; il n'agissait plus comme souverain, mais comme magistrat." (II, 4).

In this account "not particular" and "abstract" are held to be complementary terms. Strictly, however, are the exclusion of "particularity" and the acceptance of "abstraction", in this sense, suitable for a definition of law? A logically necessary condition of civil law, I should have thought, is that it specifies. It distinguishes one class of objects, or actions or persons from others. If something does not do this its credentials as law are very peculiar. There must be some sense, then, in which a law particularizes and especially is this true of criminal law.

Vaughan, rightly it seems to me, makes this the basis of his criticism of Rousseau's conception of a law.

7. This is interesting. Apparently there have existed states in which there was the sovereignty of the general will. Very pointedly, however, they are regarded as the exception rather than the rule. In the above case, all the people having abrogated their rights as sovereign, the tacit contract is invalidated and men are forced but not obliged to obey the sovereign. V. Chapter 2 of this thesis.

8. That is, a law of the state: "tant qu'on se contentera de n'attacher à ce mot [law] que des idées métaphysiques, on continuera de raisonner sans s'entendre; et quand on aura dit ce que c'est qu'une loi de la nature, on n'en savra pas mieux ce que c'est une loi de l'Etat." (II, 6).
"A law," he insists, "must always be general in its scope. If it be aimed at any one man, or group of men, it is null and void. Now it is safe to say that, on any strict interpretation of this canon, a large number of the laws enacted in all states ought never to have been passed. An act regulating the Liquor Trade or Limited Liability companies ... a merchant Shipping Act - all these are directed against - at the least, they injuriously affect - particular classes or groups of men. All therefore are, on Rousseau's principles, so many violations of Right. Yet without them, no state .... could hold together for a moment. Derathé admits the justice of the criticism that no state could operate on the basis of this canon of law yet he still holds, although he does not specify his grounds, that law safeguards individual liberty."

"Or, si la loi telle que la conçoit Rousseau incontestablement une sauvegarde pour l'individu, il faut bien reconnaître tantefois qu'elle reste un idéal dont le législateur peut tout au plus s'inspirer. Pratiquement ce serait singulièrement limiter l'activité des législateurs que de les astreindre à ne voter que des lois applicables à tous."10

This argument of Derethé's seems very weak. Surely a canon of civil law which serves to stifle legislation is self-condemned.

Rousseau himself, however, appears to place greater emphasis on "generality" as it is connected with "equality", believing, perhaps, that equality encompasses the degree of abstraction that he desires. Derathé holds that this is the important feature of Rousseau's view of law: "L'égalité devient ainsi la base du système et la véritable garantie des droits de chacun." But there seem to be two distinct senses in which equality is used by Rousseau. I propose to examine each of these and to judge Derathé's claim in terms of them. "Ainsi, ... tout acte de souveraineté, c'est-à-dire tout acte authentique de la volonté générale, oblige ou favorise également tous les citoyens; en sorte que le souverain connaît seulement le corps de la nation, et ne distingue aucun de ceux qui la composent." (II, 4)

Wright expresses this well: "Nothing can be law that obligates an individual or group in any special way... for the moment they set an individual or group apart for special favour or disfavour, they are no longer the whole people, and their will no longer general. The general will must of its nature fall on all alike; and only then ... do we have a law." 12

Law according to this definition is that which applies to all and to all equally. This could provide an interesting argument against Hobbes. A general interpretation of Hobbes' view of law would seem to be that a law is that which the

sovereign or ruler commands. Rousseau, on the contrary, regards a law as an agreement or a convention binding upon all the people. In a complicated way it might be argued that Hobbes also held a conventional view of law in that, although law is the command of the sovereign, the people have made this procedure legitimate by the primitive covenant. But I don't think this can be said to be Hobbes' typical view. He seems to hold that the ruler makes law and is, therefore, above law. Rousseau's definition is an argument against such an interpretation.

"Sur cette idée, on voit à l'instant qu'il ne faut plus demander à qui il appartient de faire des lois, puisqu'elles sont des actes de la volonté générale; ni si le prince est au-dessus des lois, puisqu'il est membre de l'Etat; ... " (II, 6).

However, this definition of law, that it applies universally and equally, severely limits legislation. It would limit it, it seems to me, wholly to constitutional laws like universal suffrage. This criterion is not an adequate safeguard in civil and criminal law where it obviously does not apply. Rousseau himself seems aware of this. By what right, he asks, can the sovereign put a criminal death? He answers.

(1) "Le traité social a pour fin la conservation des contractants. Qui veut la fin veut aussi les moyens ... Qui veut conserver sa vie aux dépens des autres doit la donner aussi pour eux guard il faut ... " (II, 5).
(2) "D'ailleurs, tout malfaiteur, attaquant le droit social, devient par ses forfaits rebelle et traître à la patrie; il cesse d'en être membre en violent ses lois ... il a rompu le traité social, ... " (II, 5).

These arguments are in opposition to one another and we can explain them best by calling the former the "in" argument and the latter, the "out" argument. The "in" argument maintains that the individual agreed, as a party to the contract, to be ruled by the laws. He, therefore, "consents" to the penalty, his own death. The "out" argument, on the contrary, claims that the malefactor is not really a member, but an enemy of the state who has broken the contract binding upon all. Such argumentation fails to inspire confidence.

He acknowledges, too, that this criterion of applying to all and to all equally does not fit the case of criminal law.

"Mais, dira-t-on, la condamnation d'un criminel est un acte particulier. D'accord: aussi cette condamnation n'appartient - elle point au souverain; c'est un droit qu'il peut conférer sans pouvoir l'exercer lui-même. Toutes mes idées se tiennent, mais je ne saurais les exposer toutes à la fois." (II, 5).

It requires an even greater stretch of this criterion to encompass the notion of legal grace. And, Rousseau adds, the sovereign's "droit enceci n'est-il pas bien net." Grace or pardon, in civilized countries at least, is just that action of
the sovereign which must consider particular or even unique circumstances.

What Rousseau would appear to be advocating in relation to the laws on criminal and civil actions is the notion of generality connected with the equality of all before the law. Or rather, what should be said is that one could infer from "cette condamnation n'appartient - elle point au souverain; c'est un droit qu'il pent conférer sans pouvoir l'exercer lui-même" the idea of equality before the law. That is to say, the notion that the law does not penalize any particular individual but is formulated by the sovereign in such a way that anyone who does some act which the law prohibits is liable to the consequences which the law enjoins. Which consequences then are applied in particular instances by the magistrate. But all this must be deduced, somewhat arbitrarily, from Rousseau's vague remarks. It seems to me, therefore, that we have insufficient evidence to draw the conclusion of Derathé that equality is a real guarantee of the rights of each. For it may provide protection in terms of laws which apply to all and to all equally, although even this criterion will be challenged in the next few pages, but Rousseau says nothing definite about the whole area usually encompassed by civil and criminal laws.

Rousseau sometimes argues as if a generalization was in itself a guarantee of justice. As an aside it may be noted
that generalizations of an equalitarian sort are the chief tool of the oppression and discrimination of minorities. I believe that persecution would be far less effective if it did not deal at the persuasive level almost exclusively in generalizations. For example, we can imagine that the following conversation took place in Nazi Germany.

A. "I understand that you intend to burn down the shop of Abraham Glick. You and I have been neighbours and friends of his for years. Why do you wish to do this?"

B. "I have nothing against Abraham personally (i.e. as a particular individual), but he is a Jew and all Jews, etc."

Finally, law must be general in its reference in the same sense that legislation is limited to matters which affect the community at large. This criterion is even more vague than the former. And it is subject to great abuse. It might have been made more clear if Rousseau had given some examples. Unfortunately he has given only one. We might contrive an example from his discussion of taxes in the Économie Politique.

He claims there that tax levies ought to be light on the necessities, on those things which are important to all. But that: "on établisse de fortes taxes sur la livrée, sur les équipages ... sur les professions risieuses, comme baladdins, chanteurs, historiens, en un mot, sur cette foule d'objets de luxe, d'amusement ... qui frappent tous les yeux ... "

13. Économie Politique, I, p.272 (Vaughan's edition of the Political Writings of Rousseau.)
whatever the merits or demerits of luxury and entertainment taxes, the law in this case is particular in its reference.

A more interesting example is suggested by Wright.

"Whether I eat flesh or fish, or whether I wear blue or black, the sovereign can seldom care; ... When I give the state my 'all', it is implicit in the nature of the case that I give only 'all' that matters to the state ... But ... Whether I eat flesh may be the state's concern in some emergency when there is not enough to go around, and even whether I wear blue may be of some public interest if some chemist finds that certain dye-stuffs spread disease."

The point which interests me in this example is that in given circumstances anything may matter to the community at large, even something so unexpected as the colour and material of one's suit. This, I think, is brought out also by Rousseau's sole example of this sense of "general".

"Le droit que le pacte social donne au souverain sur les objets ne passe point, comme je l'ai dit les bornes de l'utilité publique.... Or, il importe bien à l'Etat que chaque citoyen ait une religion qui lui fasse aimer ses devoirs ... " (IV, 3).

For it is not obvious that a religion which makes the individual love his civic duties is a necessary consequence of the public utility.

This brings us to the final point. The sovereign is limited, says Rousseau, to things which "importe à la
communauté; mais il faut convenir aussi que le souverain seul
est juge de cette importance." (II, 4). In the next paragraph
he adds: "Tous les services qu'un citoyen peut rendre à l'Etat,
il les lui doit sitôt que le souverain les demande; mais le
souverain de son cote ne peut changer les sujets d'aucune chaîne
inutile à la communauté: il ne peut pas même le vouloir; car,
sous la loi de raison, rien ne se fait sans cause, non plus que
sens le loi de nature." (II, 4).

We have then (1) legitimate law (or rightful sovereignty)
is concerned only with matters of general interest to the
community at large, but (2) the sovereign (and not the individual)
is sole judge of this. But now supposing the individual bel­
ieves that the majority, which declares an act of sovereignty,
exceeds its rightful limits. Does he then have rights against
the state. No, he would be simply mistaken.

"Quand donc l'avis contraire au mien l'emporte, cela ne
preuve autre chose sinon je m'étais trompé, et que ce que
j'estimais être la volonté générale ne l'était pas." (IV, 2).

The point at issue then would seem to be this. The
sovereign is the sole judge of what matters to the community,
or what accords with the public utility. Now if this principle
prevails, in practice, over that which says the sovereign is
limited to generalities (i.e. matters which apply to all and
to all equally), then I cannot see that there is any true
protection given to individual liberty.
Rousseau's chief argument in support of the statement that the sovereign people would limit themselves, in fact, to generalities, seems very weak: "le souverain de son côté ne peut charger les sujets d'aucune chaîne inutile à la communauté: il ne peut même le vouloir; car, sous la loi de raison, rien ne se fait sans cause, ..." (II, 4). The important question is could they charge the individuals with chains that hindered some of them? And if the majority can decide what is "general" i.e. the procedure which accords with the public interest, the answer is in the affirmative.

Beaulavon argues, along with Derethé and Wright, that Rousseau's definition of the law, as being general in its object, safeguards individual liberty. But towards the end of his argument he admits that: "Ces garanties d'ordre logique peuvent sembler, dans la réalité bien fragiles,"¹⁵ and concludes "La perfection de l'État dépend de la pureté de la volonté générale ... C'est donc de la valeur du citoyen que dépend la valeur de la loi."¹⁶

If the whole question of what is general is decided by the evaluation of the majority as to what accords with the public interest (and since there cannot be legitimately any constitutional checks on the sovereign) then ultimately the

individual concerned about his rights is dependent on (or at the mercy of) the goodwill of his associates. Thus if Rousseau's sovereignty is not tyrannical, as Vaughan and others have claimed, there are no effective safeguards in Rousseau's conception of law to prevent its becoming so.

4. Sovereignty, Law and Rights

My understanding of sovereignty, law and rights and their relation to one another also leads me to disagree with the contemporary interpretations put forward by Beaulavon, Derathé and del Vecchio. I shall quote passages which are typical of their views.

Beaulavon: "On voit donc se poser maintenant sous une forme précise le problème du Contrat social: à quelles conditions une société humaine peut-elle exister, sans détruire la liberté et l'égalité naturelles mais au contraire en leur donnant une extension et des garanties qu'elles ne sauraient avoir, en fait, avant l'organisation de l'État? ... La valeur morale du pacte, son caractère obligatoire et saint viennent de ce qu'il est la conséquence, la traduction sociale de la loi naturelle." 17

Deuthé: "Comme elle [The alienation of all natural rights] est suivie d'une restitution, elle n'est qu'un artifice ou une fiction juridique destinée à assurer aux

individus l'exercice de leurs droits ... Celui-ci abandonne sans doute des droits absolus, mais dont il n'est assuré de jouir qu'autant qu'il vit solitaire ... Par contre, il reçoit en échange un droit limité ... L'État ne le prie donc pas de tous les droits, mais lui en assure l'exercice dans les limites fixées par la loi.\textsuperscript{18}

del Vecchio: "By this sort of novation, or transformation, of natural rights into civil, the citizens have assured by the State those rights which they already possessed by nature."\textsuperscript{19} "Similar to the political theory of Locke ... is that of Rousseau who, having laid down the natural rights of the individual as the basis of the State with strict logic reasserts their validity as natural rights even against the public authority, if it does not honour them as civil rights..."

There is one passage which gives support, in particular, to the argument of Derathé and del Vecchio. When, says Rousseau, the individual surrenders all his belongings to the state: "Ce n'est pas que; par cet acte, la possession change de nature en chargeant de mains, et devienne propriété dans celles du souverain; mais comme les forces de la cité sont incomparablement plus grandes que celles d'un particulier, la possession publique est aussi, dans le fait, plus forte et plus irrévocable, sans être plus légitime, ... " (I, 8).\textsuperscript{20}

\begin{itemize}
  \item \textsuperscript{18} Derathé, R., Rousseau Et La Science Politique, p.348-9. also p.356.\textsuperscript{18}
  \item \textsuperscript{19} del Vecchio, G., The Philosophy of Law, p.98.\textsuperscript{19}
  \item \textsuperscript{20} del Vecchio, G., Justice, p.165.\textsuperscript{20}
  \item \textsuperscript{21} notice the appeal to self interest here.\textsuperscript{21}
\end{itemize}
But in the same chapter he adds that what is singular in this alienation is that it does change "possession" into "legitimate property", "changer l'usurpation en un véritable droit." He continues, more in the "restitution" vein suggested by Derethé: "par une cession avantageuse au public et plus encore à eux-mêmes, ils ont, pour ainsi dire, acquis tout ce qu'ils ont donné ..." But a paragraph later a passage gives new insight into Rousseau's meaning.

"De quelque manière que se fasse cette acquisition, le droit que chaque particulier a sur son propre fonds est toujours subordonné au droit que la communauté a sur tous: ..." (I, 9).

In support of the general trend of their argument also are the following passages. In considering the limits of sovereign power: "Il s'agit donc de bien distinguer les droits respectifs des citoyens et du souverain et les devoirs qu'ont à remplir les premiers en qualité de sujets, du droit naturel dont ils doivent jouir en qualité d'hommes." (II, 4). Once admit the distinction that the sovereign is absolute but limited by the law and it follows, says Rousseau, that there is no "renonciation véritable", that instead of alienation they (the individuals) make a profitable exchange. (II, 4).

Now, let it be admitted that either Rousseau is inconsistent or did not realize the full implications of his theory of rights, then I shall try to show that these interpretations misrepresent the classical formulation of natural
rights and obscure Rousseau's original and important contribution to the discussion of rights.

For, in the first place, what is meant by the social translation of natural rights, what sort of natural right theory is it that correctly allows a limited natural right, limited and fixed by the laws of the state? I find this use of terms difficult to follow when compared to the classical theory of natural law, as it appears in Stoic thought and natural law and rights in Locke. To claim that natural rights are limited and fixed by the law of the state would seem to contradict the idea of natural rights. According to the usual interpretation natural rights are those rights which belong irrevocably to the individual simply by virtue of his rationality. They are natural in the sense either that they are given by God or are an essential characteristic of man's being. The main point at issue is that natural rights are not derived from his being a member of the state or of any political association, but simply by virtue of his being a rational being. The individual, it follows, is entitled rightfully to withstand any interference on the part of the government, or any form of political power which endangers these rights. Interference with the natural rights of the individuals gives them legitimate

22. Locke, J., The Second Treatise, etc., section 11, "reason, the common rule and measure God hath given to mankind."
justification for rebellion.\textsuperscript{23} The political powers have exceeded the limits of the trust granted them by the individuals.\textsuperscript{24} The state, or the government may exist to guarantee natural rights. But to limit them and embody them in laws seems a contradiction. They are then no longer natural rights but civil or political rights. They are, that is to say, rights held by virtue of one's being a citizen and not in terms of common rationality or humanity or any other extra-political criterion.

This, it seems to me, is the new conception put forward by Rousseau. Wright expresses Rousseau's view very neatly.

"We may as well admit that there are no natural rights so imprescriptible that no society may take them from us, for they are literally unthinkable; there are no such things as rights except as a society creates them."\textsuperscript{25}

According to my understanding of Rousseau one holds rights by virtue of one's membership in the sovereign but not otherwise. Sovereign rights are corporate rights.

"car, s'il restait quelques droits aux particuliers, comme il n'y aurait aucun supérieur commun qui pût prononcer entre eux et le public, chacun, étant en quelque point son

\textsuperscript{23} Locke, J., \textit{The Second Treatise}, etc., Chapter 19.
\textsuperscript{24} Ibid, Section 131.
\textsuperscript{25} Wright, E., \textit{The Meaning of Rousseau}, p.95.
propre juge, prétendrait bientôt l'être en tous; l'état de nature subsisterait, et l'association deviendrait nécessairement tyrannique ou vaine." (I, 6)

If, on the one hand, a particular or particulars retained their rights of dominion the remainder would be subjected to them. If, on the other, the particulars sought to retain certain rights they could be only rights held against the sovereign will of the people. This would be illegitimate since the sovereign ought to be absolute and unified, and harmful since it would frustrate the sovereign power and render it ineffective.

The individual must be "garantit de toute dépendance personnelle; ..." (I, 7). All exercise of power must be impersonal. The solution proposed by Rousseau is that:

"le pacte fondamental substitue au contraire une égalité morale et légitime à ce que la nature avait pu mettre d'inégalité physique entre les hommes ... ils deviennent tous égaux par convention et de droit." (I, 9).

Thus Rousseau's solution is different, for the same reason, from both Hobbes and Locke. The objection to Hobbes is that he allows certain individuals (the member or members of the sovereign) to retain the natural right of dominion or sovereign rights in their own case, denying sovereign rights to all. The objection to Locke is that he allowed personal dependence in another sense, namely, that individuals retained
certain rights which they rightfully could protect from the encroachments of the sovereign. All sovereign power, according to Rousseau, must remain in the hands of the people (against Hobbes) but only in all the people. The individuals as human or rational beings do not have individual rights. Against Locke, it is only as an associate, as a member of the sovereign state that the individuals have rights.

"Les droits de l'homme dans l'état social ne sont pas des droits qui restent pour ainsi dire en dehors de la société et que la société lui conserverait comme malgré elle ... Le droit que vous déclamez, c'est le droit du citoyen libre, qui consiste à être membre du soverain ... Le droit auquel vous participez, c'est le droit du peuple, ...."\(^{26}\)

The basis of all rights is the general will. Its dependence is impersonal. In accepting the sovereignty of the general will and of the law we obey all the people. This is one important reason why Rousseau argues so pointedly that a true act of sovereignty is never merely the decision of the majority. It is the decision of all. A minority therefore is not deprived equally of natural rights but they have made a mistake in judging the general good.

Rousseau's theory of rights is well expressed in the following passage: "le pacte social établit entre les citoyens une telle égalité, qu'ils s'engagent tous des mêmes conditions et doivent jouir tous des mêmes droits." (II, 4). The one right of which the individual ought never to be deprived is the

sovereign right of legislation. A law which has not been ratified by each and every individual is null and void. But the sovereign right is not a natural right. It is logically dependent on the state. It is a relative right since it is only legitimate when exercised as a member of the sovereign. The right to legislate is therefore the foundation of all other rights. The individual ought not to be deprived of it: "la participation égale de tous à la souveraineté... est un droit absolu. En priver des individus, c'est leur retirer le titre d'hommes libres..."27 A people, that is, all the associates together can dissolve, however, the sovereign state.

"Qu'il n'y a dans l'État aucune loi fondamentale qui ne se puisse révoquer, non pas même le pacte social: car si tous les citoyens s'assemblaient pour rompre ce pacte d'un commun accord, on ne peut douter qu'il ne fût très légitimement." (III, 18). All then regain their natural rights.

In terms of this account of Rousseau's theory of rights what is to be made of del Vecchio's assertion that Rousseau attests the right of the individual against the public authority if it does not honour his rights as civil rights? I find this a hard question to answer in terms of Rousseau's theory largely because Rousseau does not admit differences of this kind between the individual and the sovereign. The sovereign, he says,

since it is formed of the individuals who compose it "n'a nul besoin de garant envers les sujets," (I, 7) and "demander jusqu'où s'étendent les droits respectifs du souverain et des citoyens, c'est demander jusqu'à quel point ceux-ci peuvent s'engager avec eux-mêmes, ... " (II, 4).

It is not even clear what rights an individual (as distinguished from the people) would have against an executive action which interfered with individual rights since the government is merely an agent of the sovereign will. The advantage to Rousseau's contemporaries would appear to be that rights are invested in such a way as to render illegitimate the so-called sovereign rights of kings. Also, their rights are protected, by the state, from the interference of other individuals and other states. But it does not seem to be Rousseau's view that the state exists to guarantee natural rights. Groethuysen connects this with one of Rousseau's fundamental beliefs in the Contrat Social: "Tout droit individuel, tout liberté particulière suppose une scission entre l'individu et la société ... Ce serait vouloir être à la fois dans la société et dehors du corps politique, ce serait se mettre vituellement en contradiction avec soi-même."28

The implications of this account of rights, of sovereignty and law are two in number. We have seen that the sovereign is the legal subject of rights (Chapter 2). The implication
here is that, at least in the area of political right, the general will would be the subject of moral judgments. For according to this account it is not the individual conscience or individual reason which judges of right and wrong but the general will of the citizens. Also, implied is the idea that the essential rights of man, liberty and self-preservation, are to be fulfilled, if fulfilled at all, through the sovereign right of the citizen.

"Rousseau a renversé les valeurs; il a mis le citoyen avant l'homme."29

This, as Beaulavon said earlier, puts a great deal of importance on the citizens.

Chapter 9

Sovereignty, The Law and Moral Liberty

In the previous chapter we examined the objective aspect of sovereignty. Sovereignty is expressed through the laws. Laws, according to Rousseau, are acts of the general will. The chapter concentrated chiefly on the inquiry into what is meant by saying that laws are general in their object. In this chapter we shall deal with the other aspect of sovereignty which involves the subjects or the author of the laws. What is Rousseau's basic contention in regard to sovereignty? Rousseau answers this by maintaining that in a rightly-ordered state the individual, while uniting with others, "n'obéisse pourtant qu'à lui-même, et reste aussi libre qu'auparavant". (I,6). Undoubtedly Rousseau connects this with the highest stage of liberty, moral liberty. We need then to discover the connection between "obeying yourself alone" and moral liberty and to suggest how both are related to sovereignty.

Now the condition of "obeying oneself alone" and
especially "remaining as free as before" alludes to the characteristics of man in the natural condition. Man in the natural state has no checks upon his will except those of nature itself. But for the dominion of the laws of nature the natural man is lawless. Natural liberty is independence. It is the condition in which man's will is subject to no restraint.

In effect a large part of Tronchin's case against the argument put forward in the Contrat social is that Rousseau's sovereignty sanctions the natural and lawless behaviour of the multitude. In 1762, the same year in which the Contrat social was published, the Petit Conseil of Geneva ordered the burning of the Contrat social and Emile. Jean Robert Tronchin was procureur-général and presented the charges on behalf of the government. Pertinent among these was that the books "tendent à détruire ... tous les gouvernements". Rousseau, on the contrary, claimed that his work was not intended to be critical of contemporary politics and obscured its originality by writing that: "Locke ... [les mêmes

---

1. Tronchin, Henri-Robert, Conclusions ... sur le Contrat social, Appendix XI in Dreyfus-Brisac edition of Du Contrat social. "L'anarchie et la liberté confondues, le chaos de l'état de nature porte dans le système des sociétés civiles, ...(Spink, Vaughan and Derathé claim that Jean Robert-Tronchin was the author)."
matières] a traitées exactement dans les mêmes principes que moi".

I have not the space to devote to the complexities of this issue. We need only note that on this particular aspect of it Tronchin was nearer right than wrong. Whether Rousseau intended it or not the *Contrat social* was critical of all governments; would, if its principles were carried into effect, have led to the uprooting of governments and therefore Rousseau was not merely imitating Locke.

For Locke, as we have seen, equivocated on the question of the residence of the "supreme power"; assigning it at one time to the whole community, at another to the legislative assembly. Rousseau, on the other hand, made the whole community the legislative assembly and unequivocally assigned the sovereign power to all the people. No government, Geneva included, was so constituted.

In addition Rousseau claimed that only the people had the right to establish the government (III,16), that the moment the people were legitimately assembled in their office as sovereign the government was, for that time, suspended; (III,14); that, finally, the sovereign people

could if it wished rightfully dispense with all
government (III,18). He maintained in addition that
any government in which the people were not sovereign
was illegitimate (II,6). In effect, then, the *Contrat
social* condemned all governments. What he intended, no
doubt, was the condemnation of political institutions
founded on might instead of right. But Rousseau would
need to be extremely naive to believe that the *Contrat
social* would not influence the practice of politics.
For, there was a strong popular movement against the
Petit Conseil in Geneva at the time. The council seems
to have believed that the *Contrat social* would serve as
a propaganda for it. In this they and their spokesman
Tronchin seem to have been right. According to one
report: "A Genève, il fit sensation", and two hundred
copies were sold in a week. Another report of June,
1762, maintained: "nos bourgeois n'en disent pas moins
que le Contrat social est l'arsenal de la liberté,..." 3.
This report may or may not be generally true but the
fact that it was so received, if only by a minority,

---

3. Quoted by Derathé, R., "Réfutations Du Contrat Social", Annales, pp.8-9, vol. XXXII from Corresp. génér., no. 1539,
t.vii, p. 154.
attests to what I wish to claim.

Whatever Rousseau's intention may have been the Contrat social directly supports the popular movement of the time. And it seems to have been condemned because it advocated taking the sovereign power out of the hands of "de facto" sovereigns and into the hands of the people. Thus so far from being judged as a programme of founding civil society on a basis of utility and right it was condemned as a mandate for republicanism which would undermine the legal position of all government. Its doctrine would lead to anarchy. In a word, the contemporary judgment of the Contrat social envisaged the message as equivalent to a return to the Hobbesian state of nature. This reaction is largely incorrect although significant and interesting.

For although the initial impact is its claim for popular liberty, this is a superficial judgment. The questions that really interested Rousseau are: under what conditions is a people fit to govern itself? (II,10) and at what point is a people of sufficient political maturity to make its own laws and be responsible for its own affairs? It is important to emphasize this difference since Rousseau would regard popular liberty as commonly understood in his time as merely enthroning as sovereign the individual and selfish wills of many for that of a few. Clearly this was not his prime objective. To say
that Rousseau favoured republican government of any sort is to say altogether too little.

To succeed to a true view of Rousseau's conception of sovereignty we need to compare him to Plato. We need to think of Rousseau, like Socrates and his colleagues, as "founding a city", as laying down the conditions for political society and, particularly, of the sovereignty of the people. In this restricted sense the Contrat social is utopian. Rousseau notes this himself in the Lettres: "on se fut contenté de reléguer le Contrat social avec la République de Platon ... dans le pays des chimères".

(There is one notable difference between Plato and


So that I may not be misunderstood regarding this dispute between Rousseau and Tronchin I offer this summary (since the question lies beyond the limits I have set myself). Ultimately I would agree with the majority of authorities in saying that Rousseau had not received justice. I want merely to point out that Tronchin's judgment was prudent in terms of his ends, perceptive and perfectly natural in the circumstances (whatever the motives that inspired it). Also, whatever Rousseau's intention may have been, in effect the Contrat social was ammunition for the republican movement. Rousseau's consistent view in regard to the movement is consistent with what I say above: he favours popular sovereignty but wishes to succeed to it gradually, following a conservative policy. This, too, is characteristic of the Contrat social.
Rousseau, however, which tends to discredit Rousseau's comparison. Plato does not maintain, so far as I know, that there were or would be states like that envisaged in the Republic. Rousseau, on the other hand, finds states in the past such as Rome and political societies of his own time sufficiently like his ideal to serve as instances of the class. For this reason Rousseau sometimes writes like a publicist rather than a utopian.)

Especially in contrast with his great predecessors does Rousseau deserve comparison with Plato. For Hobbes, it may be said, continually is concerned with the optimum strength of political power. Locke is concerned with the limits of political power. Rousseau, though he deals with both of these, concentrates on what is the right political power to ensure the good of all and the satisfaction of the interests of all. But before we proceed further we need to analyze more carefully the conception of common interest.

1. Common Interest

According to Hobbes the object of political society is the satisfaction of the common interest (Leviathan, Chapter 14). The aim of every individual is to seek peace so far as his preservation is unthreatened. If it be threatened his aim is self-preservation. Thus, according
to Hobbes, fundamental to every person are the interests in peace and self-preservation. The covenant on which civil society is founded authorizes the sovereign "to the end he may use the strength and means of them all, as he shall think expedient for their Peace and Common Defence". (Leviathan, Chapter 17).

This is interesting for our analysis. That these desires are "natural" to all men, are common to the interests of all appears as an a priori psychological principle. The same appears in Rousseau in the formula of the contract (I,6) since it is there assumed that all men do have an interest in the preservation of their persons and belongings, and obeying themselves alone, etc. 1. This conception of common interest is significant for three reasons. The common interest is static, unchanging and eternal. It is known and authorized by all and can, therefore, as Hobbes claims be enforced with the consent of all. Finally, it is supposed to be prior to other interests because while their interests might waver the common interest, in this sense, remains firm. I shall call this the permanent common interest.

If the "Peace and Common Defence" is the sole basis of the covenant then, according to Hobbes, the best procedure is to discover the means of satisfying that interest. The sovereign will is the will most capable
of doing this. The aim of politics is to maintain the optimum strength of the sovereign to achieve the common end.  

2. In addition to the above, however, Rousseau propounds a conception of common interest which is determined as "what is common to all the interests of the associates" (II,1). This caters specifically to the notion of popular sovereignty. Its difference from the above can be stated paradoxically as: (1) popular sovereignty is established on the basis of the common interest (as above) and (2) the common interest is established by popular sovereignty. I shall call this the successive common interest.

The successive common interest is the opposite of the Hobbesian "common interest" and implies a different theory of sovereignty, namely popular sovereignty. The main difference is that the individuals are never precisely in the Leviathan's position because they can never be sure what the common interest is until it is determined by the vote. When, therefore, Rousseau says that we ought to vote according to the common interest what he means is according to what we think it ought to be, not according to what it is. (Since we cannot know this until we know what is common to the interests expressed i.e. until we know the results of the vote.)

3. We are urged, therefore, to will the good of all, not what is good to all; what is in the interests of all, not what interests all. This is because we cannot know what
all consider good or what interests everyone on any particular issue until the results of the vote are known. But, Rousseau believes, you can express the common interest if, in voting, you will the interests of all. This, of course, in the individual's case need not be so. That is you may discover that what you took to be the common interest is not in fact, as the vote reveals, the common interest. You must then conclude that you were mistaken about the common interest.

It seems, then, that in order to clarify the argument of the *Contrat social* we should distinguish three distinct conceptions.

1. The original and static common interest on which the contract is founded. This Rousseau shares with Hobbes. (It is ambiguous in Rousseau's contract since the desire to obey the general will implies the second sense).

2. The successive common interest by the expression of which legislation is determined. If the vote reveals what is the common interest i.e. what is common to the majority of interest, then it follows that one cannot predict with certainty, prior to the vote, what the common interest will be.

3. The interest of each in the interests of all.
Rousseau's theory seems to be, for it is never entirely clear, that if all will the interests of all from this the common interest will result.

About these distinctions I wish to make three points. (1) The third is the "common interest" only if it is common to all (or most). This interest is what one wills if one wills generally.

(2) One might have assumed that the original common interest had priority over the successive common interest. This, for Rousseau, does not follow since he holds that the contract itself can be annulled by a unanimous vote of the people or, which amounts to the same thing, if the contract is not supported by the common interest.

(3) The general will wills the interests of all. But there are times, according to Rousseau, when what is common to the interests of all is not an interest in the interest of all. These situations I have called, for the sake of exposition, (a) the anarchy of wills (when, for example, each thinks only of his own preservation IV,2) and (b) the corrupted common interest (e.g. everyone is interested in commerce).

5. This, too, is ambiguous. Does one vote for what he thinks is the interest of all or what he thinks ought to be the interest of all? See (3) above.
There are, then, in the Contrat social three possible situations which could apply to all.

1. An interest held in common with all others.
2. What is common to the interests of all (or most).
3. An interest in the interests of all.

The first and second could be the same except that the second could not be known until the vote was declared. The third need not be either the first or the second.

If Rousseau had held that the state ought to be regulated solely on the basis of an original common interest which was held to be unchanging then we should have expected him to follow Hobbes. Or, if he held exclusively that the state be regulated on the declared common interest then he would have intended to enthrone the unqualified power of the will of the majority. What he in fact advocated, though this is oversimplified, is the sovereignty of the majority willing the good of all.

2. The Influence of Plato

Thus one of the chief problems of the Contrat social is how to get the individuals to will the interests of all in preference to the satisfaction of their private interests.

Part of the difficulty of interpreting Rousseau on the particular issue of the function of the Legislator
is due to a mixture of two sorts of knowledge.

"Les particuliers voient le bien qu'ils rejettent; le public veut le bien qu'ils rejettent; le public veut le bien qu'il ne voit pas". (II,6).

In the second case it is consistent with what follows to understand this as referring to a people who are politically innocent or immature. If so one could say that being unfamiliar with popular sovereignty they need the guidance of a constitutional expert. But such an interpretation would not apply to the individuals.

Their ignorance is of a kind that was familiar to Plato. Plato differed from Socrates in recognizing that intellectual debate wasn't suited to all natures. Some individuals are morally "ignorant" to the point of perversity. This conviction, apparently, Rousseau shares. The failure of the individuals cannot be ascribed to a lack of insight but to a rejection of it.

Rousseau, then, seems to accept the Platonic doctrine that there is a good for the people, that there ought to be an interest in the interests of all which interest is not a feature of all interests. He accepts also the decisive premiss that a purely rational figure would know this good and would act on the behalf of the

6. Laws, 691 B.
interests of the people to provide the means of expressing the good in their institutions.

Men, both as individuals and as a people, must be guided by reason (I,8 and II,6). The Legislator is to provide a people with a rational tradition and a system of moral habits (the latter task "le grand législateur s'occupe en secret"). The ultimate goal is a people (politically innocent or immature) capable of self-legislation. Rousseau conceives the task as mainly one of education. By analogy this procedure suggests Aristotle's notion of teaching children virtuous habits before they come to appreciate the principles which are their ground. In this way, Rousseau may mean, men schooled by virtuous habits and rationally-ordered institutions themselves may become virtuous and their laws good. Indeed he writes, with approval, of a traditional way of life which "substitue insensiblement la force de l'habitude à celle de l'autorité". (II,12).

Rousseau follows Plato, too, in looking to the Spartan model for guidance and similarly adopts it. Rousseau advocates a patriotic education to provide a sentiment of social solidarity among the people. The legislator by means of customs and institutions must socialize the individual will. As Strauss puts it, "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". A social spirit is artificially
created. Religion, customs, public opinion are used
along with patriotism to inculcate the feeling for the
common good. All these suggest the Laws, each is part
of aiding "judgment" in choosing the good.

But, manifestly, it is not judging in any good
sense of that word. If the common good were willed
by the people it would not be a spontaneous act of the
understanding but rather, as Rousseau seems to intend
it to be, an automatic response fashioned by a traditional
education of a specific type. The general effect, as
Vosters remarks, is neither an appreciation of the
understanding, nor an act of will but an artificial
sentiment for the common good.

Now there is a profound contradiction between all
this and the aspect of sovereignty we will consider
shortly. This contradiction, in part, involves the
conception of reason and rationality in the Contrat social.
Reason as exemplified in the Legislator I shall call

7. Strauss, L., Natural Right and History, p.287.
8. Vosters, J., "La volonté générale dans le Contrat
social", Revue Générale, p.352. /1901/
philosophical reason, since it is taken from Plato. The notion of reason allied to the "common interest" or the common good may be either calculation or public reason; depending on whether or not reason is instrumental to the achievement of private ends or to the common good of all the citizens.

Philosophical reason is "une intelligence supérieure qui vit toutes les passions des hommes et qui n'en éprouvât aucune;" Like Plato's philosopher-king, who is moved by purely rational desire, the Legislator must "know" the interests of the citizens without himself being interested. Thus philosophical reason is disinterested in the sense that it seeks to satisfy no interest but it may be used for the benefit of the interest of another. Philosophical reason is of such a kind as to preclude the level of understanding, public reason, acquired of the citizens: "Cette raison sublime, qui s'élève au-dessus de la portée des hommes vulgaires ..."(II,7).

Public reason is not disinterested in the same sense. We have seen that Rousseau implies what might be called a conception of political rationality. An individual is "reasonable" or "rational" when he appreciates that he benefits, on the whole, from a political organization which is regulated by the general will of the community, since such a will is directed to the satisfaction of the common interest which he shares and, in part, determines.
Much of the argument of the *Contrat social*, more than commonly is acknowledged, is devoted to expounding this notion of enlightened calculation. But he sees also the weakness of mere calculation: "Les particuliers voient le bien qu'ils rejettent;..." (II,6). Where many passages argue the compatibility of individual and common interest, this quotation serves notice of the eternal possibility of practical conflict between what the common good enjoins and the individual desires. "Enlightened individuals may see the good of society, but there is no guarantee that they will espouse it if it conflicts with their private good. Calculation and self-interest are not strong enough as social bonds".

Rousseau's prime difficulty arises from trying to entertain the two notions of reason in the one theory. For the notion of philosophical reason presupposes that the good, or what is desired, is what is judged so by reason alone. Whereas the second determines the good as that which is judged to be good by the declared common interest of the people. Now Rousseau implies a harmony between these philosophical and political goods. For he declares that the Legislator must teach the individual to prefer the common good to his own. But of course it does

not follow that even the common good is related to the object of philosophically rational desire.

Rousseau attempts to meet this difficulty in the following way. Calculation, or public reason, I have shown to give way to philosophical reason which means, in effect, that philosophical or disinterested reason knows better the interest of the individuals than they themselves. Once you admit this, of course, the problem is on another level. The problem then is, if there is the higher good, unknown to the individuals, is it necessary that they appreciate it?

Now it is interesting that Rousseau does not think, in his Platonic moments, that the individuals should reach for the good susceptible to disinterested reason. Rousseau wants a state of patriots and not philosophers. The individual who considers things "sub specie aeternitatis" is as dangerous to the state as the "natural" man who puts his own interests first, for both may conflict with what is in the interests of all. So we find Rousseau denying by implication both the place of philosophical and political reason and declaring in favour of artificial sentiment.

To put this contradiction in another way. To say that the good (in this case what is in the interests of all) is perceived by reason alone is to imply that the good is universal and would be the same for all peoples.
To say that the good is perceived by political reason is to mean that the good is the common good meaning by this, in turn, what is chosen by (or satisfies the interests of) all the people.

Rousseau attempts to keep the universally and perfectly rational good in a position of influence by instituting a rationally-ordered tradition. But the means are sufficient only to the satisfaction of public reason, namely, of keeping the people patriotic. The good is, consequently, only politically good. What is good to a particular people is not what is universally and rationally good.

To be consistent Rousseau would have to establish a state whose citizens were philosophers (in Plato's sense) then, presumably, the common good would coincide with the universal and perfectly rational good. Instead he had consented to a state whose citizens are patriots. Patriots, in this special sense, are, those who acknowledge the common interest to be their interest.

Those who go to make up Rousseau's sovereign, therefore,

10. This does not dispense with the need of the Legislator; at least at the level of transforming the individual into a patriot, since a minority will always endeavour to claim priority for their own interests. As Strauss shrewdly remarks, "the transformation of natural man into a citizen is a problem coeval with society itself ..." Presumably his place would be taken by the rational tradition and civil education he invokes.
can be neither philosophers nor those who seek to satisfy their own advantage at public expense; since an individual whose desires are purely rational would be just as harmful as one whose desires are purely immediate and appetitive. This is because the standard becomes the interest of all the associates. In sum, the will of the state is not, and cannot be, purely rational since it must be always the will of all the individuals. But to make this last point it is best to compare Rousseau with Kant. First, however, we need to enlarge on the differences between Rousseau and Plato.

3. Rousseau and Plato Contrasted

The Platonic element in the Contrat social influences Rousseau's doctrine of popular sovereignty in the following way. Rousseau does not accept the will of the majority as sovereign. He places a check upon the sovereign will by maintaining that the majority is

ll. cf. Burke, E., Reflections on the Revolution, Works, Vol. 4, p.7. "...I cannot stand forward, and give praise or blame to anything which relates to human actions,... on a simple view of the object, as it stands stripped of every relation, in all the nakedness and solitude of metaphysical abstraction. Circumstances ... give in reality to every political principle its distinguishing and discriminating effect. The circumstances are what render every civil and political scheme beneficial or noxious to mankind."
sovereign only if the will of the majority is directed to the satisfaction of the interests of all.

But Rousseau is at the opposite pole from Plato, and from classical political philosophy in general, when he maintains that: "Les lois ne sont proprement que les conditions de l'association civile. Le peuple soumis aux lois, en doit être l'auteur; il n'appartient qu'à ceux qui s'associent de régler les conditions de la société". (II,6). This passage is taken from the chapter which immediately precedes "Du Législateur". Apparently Rousseau sees nothing contradictory in their juxtaposition but surely Plato would have denied both the right and the wisdom of Rousseau's claim.

Plato would understand "the Legislator" because, like Plato's Statesmen, he acts on behalf of the interests of the people. He is better fitted to guide the individuals to the knowledge of their own interests and the means of satisfying them than they are themselves. Rousseau implies, in II,7, that although the people ought to be the author of their own laws they would only harm themselves in doing so since they, unlike the Legislator, do not know what their good is.

But against this typically Platonic argument Rousseau puts another that deliberately, in effect defies it.

"un peuple est toujours le maître de changer
ses lois, même les meilleures; car, s'il lui plaît de se faire mal à lui-même, qui est-ce qui a droit de l'empêcher?" (II,12).

This is the extreme statement which someone in the position of Tronchin could point to as a slogan likely to incite the popular movement. It emphasizes in a dramatic fashion how far Rousseau is from Plato. The former argument expresses the wisdom and rightness of the action of a rational and disinterested agent acting on behalf of those ignorant of their own good. The latter argument expresses the absolute right of a people to act on its own behalf, acknowledging no master, even though the people themselves ignorant of their own best interests.

Thus there is a theory of freedom in the Contrat social which is utterly foreign to the political philosophy of Plato. Rousseau's notion of liberty is derived, in the first place, from man's "natural liberty" and natural liberty signifies only man's right to freedom. Rousseau considers this natural right to liberty as applying not only to any man but to any people. For this reason individuals or peoples cannot transfer their right to sovereignty, for to allow another to act for you is, according to Rousseau, to renounce liberty and the rights of humanity. (I,4).

12. This is "natural liberty" in the third sense, explained in Chapter I.
But "natural liberty", as above, is not moral liberty. It is true, according to Rousseau, that "c'est ôter toute moralité à ses actions que d'ôter toute liberté à sa volonté". But it depends on how this right is used whether moral liberty is achieved.

Rousseau defines moral liberty in these words: "l'impulsion du seul appétit est esclavage, et l'obéissance à la loi qu'on s'est prescrite est liberté". (I,8). The mode of expression immediately suggests Kant and several authorities have stressed Kant's debts to Rousseau. Mead believes that Kant's universal formulation of the categorical imperative is a generalization of Rousseau's conception of law. Cole holds that Kant's categorical imperative was Rousseau's General Will restated in terms of personal ethical behaviour. Delbos, Weil and Derathé believe that Kant's "practical reason" is contained in the works of Rousseau in a rudimentary form. Finally, Cassirer maintains that

Rousseau produced "the most categorical form of a pure ethics of obligation ... that was established before Kant. 16. I shall not attempt to prove or disprove these judgments but will use the comparison to Kant merely to throw light on Rousseau's notion of sovereignty. In passing, however, I hope to provide grounds for saying that Cassirer's judgment, in reference to the Contrat social is far-fetched and also that the alleged coincidence of ethical viewpoints is exaggerated, at least as regards the Contrat social.

4. Rousseau, Kant and Sovereignty

The fundamental position shared by Rousseau and Kant is that true freedom consists in obedience to rational and universal laws that we prescribe to ourselves. Now it is important to emphasize what this common conception of freedom includes, since also I shall strive to show that Rousseau and Kant are incomparable in important respects.

Being free in this sense entails being free as regards the laws of nature and being free as regards obedience to the will of another. It involves

subscribing to laws, but since the laws are a product of our own rational will, they become the means of the realization of freedom and not its limitation. At this general level their conceptions of freedom are markedly similar, especially in comparison with predecessors like Plato and Hobbes.

We may suppose that this common conception of freedom is due to the prominent place of the notion of law in the thoughts of both Rousseau and Kant. Thus central ideas of Kant's moral philosophy are explained by means of political language - laws, sovereignty and autonomy. They share, further, another fundamental position that due to a difference in mode of expression may be overlooked.

Rousseau in Book I, Chapter 4 reiterates, in legal language, a distinction made by the Stoics. According to a phrase of Aristotle a slave is that which belongs to another. Thus a slave was regarded in law as part of a man's chattels. Chattels, and therefore slaves, were such as could be traded, or in Rousseau's phrase, "alienated". Rousseau wishes to deny this. He does so by maintaining that no man is a slave and that liberty of

17. Aristotle, Politics, 1254a.
will cannot be alienated. It is plain, I think, that Rousseau does have this distinction in mind when he writes: "Renoncer à sa liberté, c'est renoncer à sa qualité d'homme;... Une telle renonciation est incompatible avec la nature de l'homme;..." (I,4). And part, at least, of what he means by it is that if by a slave we mean that which can be alienated then no man is a slave.

I suggest that Kant, using economic terminology, attempts the same distinction. The language we use to describe slavery makes it obvious that the slave is regarded as a means, for that which has exchange value is a means. When Kant writes of man being a potential member of a possible kingdom of ends and that man is that being who is an end unto himself, he seems also to make this distinction between the nature of a slave and a freeman. Especially in the distinction between "price" and "dignity" is this apparent.

"In the kingdom of ends everything has either a price or a dignity. If it has a price, something else can be put in its place as equivalent; if it is exalted above all price and so admits of no equivalent, then it has a dignity". 18.

Both Rousseau and Kant, in their different ways, attempt to expound this difficult principle of human

18. The Moral Law, Paton edition, section 77. All references to this work will be to this edition.
liberty. The ground of the principle in each case appears to be ethical. This circumlocution is necessary because in Kant the context makes it plain that the principle is morally significant whereas in Rousseau the context indicates that the principle is significant as a rule of political right. Thus for Kant it is a moral rule to treat all men as ends in themselves. Whereas Rousseau is concerned mainly with arguing that neither an individual nor a people can rightfully contract with another to rule over him or them.

But what seems common to Kant and Rousseau, on this issue, is that to treat someone as a means is to imply, as Aristotle suggested in his definition of a slave, that some individuals are not capable of reasoning and making decisions for themselves. In a phrase, which combines what Aristotle, Rousseau and Kant say on the subject, a slave is one who is not capable himself of making laws (or perhaps rules) to guide his conduct but only of obeying those laid down by others. When Rousseau and Kant claim that each individual is a legislator they deny this. This particular agreement is symptomatic of the larger philosophical ground that Rousseau and Kant represent for political and moral philosophy. For they claim that true politics and true morality require each individual to be his own law-maker. This, for Kant, means that the individual formulates a rule of conduct the force of
which for him will be law-like. Whereas, for Rousseau, the individual endorses a course of action which he subscribes to, or accepts, as law.

Rousseau merely propounds this principle of liberty as a political right not to be violated. Kant gives some justification of it as a moral principle. The basis of man's dignity is his Autonomy, which involves being "free in respect of all laws of nature, obeying only those laws which he makes himself and in virtue of which his maxims can have their part in the making of universal law (to which he at the same time subjects himself)".

The principle of Autonomy is expressed by Kant as follows.

"A rational being belongs to the kingdom of ends as a member, when, although he makes its universal laws, he is also himself subject to these laws. He belongs to it as its head, when as the maker of laws he is himself subject to the will of no other". 21.

The device of regarding the same individual as at once subject and sovereign is what is unique in Rousseau's

19. I imply here a distinction between moral and political right which might be distinguished satisfactorily by saying that in claiming a political right we claim endorsement for it in law, but usually we do not do so on a question of moral right. Thus we do not make it a law that men be treated as ends in themselves though we make law which prohibits a man contracting himself into slavery. Such a contract is invalid in law.

20. The Moral Law, Section 79.

21. Ibid., section 75.
political theory and makes it somewhat plausible to argue that "man obeys himself alone". Before Kant, Rousseau had said that a citizen is one who makes universal laws while he is at the same time subject to them. And because he is subject to such laws, Rousseau argued, he may not be said to be subject to the will of another. Indeed, this Janus-principle of having a sovereign face and a subject face, constitutes Rousseau's solution of the problem of popular sovereignty.

How, then, did Rousseau conceive the problem of popular sovereignty? Rousseau had argued three principal points against his opponents: the standard of legislation is the public benefit and not a particular individual's benefit; the state should be founded on the will of the people and not on force, the people should make the law and the government be merely the servant of the general will; each and every individual should be a legislating member of the state.

The tyrant who rules the multitude does so by force and in terms of his private interest. According to Rousseau, being a body politic presupposes a public good and government by public consent. (I,5). But supposing, by means of the contract of association, we base political society on consent and regulate it for the public benefit. What is to guarantee that the public will not become a greater
tyrant than the individual who rules to satisfy his private interest? Does the substitution of the many for the one make a qualitative difference? Or do you not merely increase the number of sovereigns, maintaining force as the real foundation of sovereignty and merely rendering force less effective?

"Glaucan suggests that they [the laws] have arisen by agreement of the many, who impose them on one another and on the more powerful few. But collectively the many are still the stronger; and between this view and that of Thrasyfachus there is no difference in principle. Either way, laws are made in the interest of those who make them;..." 22.

Rousseau tried to protect himself from the charge of the tyranny of the many by insisting that the true sovereign in the state would be the general will. In effect, Rousseau's solution sanctions popular sovereignty if the people exercise this sovereignty only through the laws and if the author of the laws is the general will i.e. an act of will which proceeds from all the people and encompasses all the people without discrimination. In this way, then, the individual is the "author" of a universal law which he accepts as the rule of his own conduct.

This much being so it seems to me that we present Rousseau's doctrine of sovereignty most clearly by

---

appropriating "autonomy" as the connection between sovereignty and moral liberty.

We can then say that an individual is autonomous when his will is the general will for then his willing would correspond exactly to what the law required of him. He would experience no constraint and would be perfectly free. He would be free, also, from the slavery of mere "appetitive desires" for in uniting his will to the general will he takes as his standard the interests of all and not the mere satisfaction of his private desires. Rousseau's theory of sovereignty in its connection with moral liberty amounts to this. The individual in obeying the law is morally free because the law is a product of his own will. But this is not an arbitrary will since the rule of conduct he legislates is rational and universally applicable to all the citizens.

A people achieves its autonomy when "la volonté de tous" corresponds exactly to "la volonté générale" for it is then the case that the interest and inclination expressed by the sum of individual wills in no way conflicts with what the law requires. (Rewording the problem of popular sovereignty in this way, however, only serves to illustrate that, in the main, the general will remains the ineducible middle term between the people's will, as the total sum of individual wills, and the laws.
Since we mean normally by the "autonomy" of a nation merely that it obeys laws of its own making. Not that the laws conform to an objective standard of the law itself which, in this case, the general will represents.) Nonetheless by adopting the notion of autonomy and borrowing something of its meaning from Kant we stand the best chance of understanding sovereignty and its relation to moral liberty.

At this point I intend to leave the comparison of Rousseau and Kant to take up a matter which bears on the main ideas of this chapter, namely, sovereignty and moral liberty. This done I will attempt to distinguish Rousseau's thought from that of Kant.

Rousseau holds that in practice a small state would be necessary both for popular sovereignty and moral liberty. I shall try to state Rousseau's reasons, and other conceivable ones, for maintaining this. And, in addition, we might benefit from an illustration of sovereignty in action i.e. how Rousseau conceived the sovereign would operate.

5. The City-State and Moral Liberty

In chapter 5 I have dealt with other aspects of Rousseau's preference for the state of "city-state" dimensions. His reasons for this preference fall into three categories. The small state tends to be stronger
while administration is made easier. Order is kept more conveniently. Patriotism and morality are better nurtured. All attest to the influence of Plato Laws and the classical world generally. They also indicate the influence of Montesquieu, for much attention is paid to the general problem of administration and public economy.

But these matters all lie outside our present purview. We have to consider, only, why the small state is related to sovereignty and moral liberty. The answer lies in the notion of the "popular assembly", for popular assembly is only possible in the face-to-face relationship of the city-state. Rousseau justifies the need for popular assembly as follows:

"Le souverain, n'ayant d'autre force que la puissance législative, n'agit que par des lois; et les lois n'étant que des actes authentiques de la volonté générale, le souverain ne saurait agir que quand le peuple est assemblé". (III,12).

Popular Assembly

(1) Popular assembly does not, of course, refer to the form of government in the state (that elected body whose task is to administer the law) but rather the form which the state in its capacity as sovereign takes to make the law. For this reason it is strictly incorrect to speak of Rousseau as an advocate of "self-government", at least if we accept his definition of government. Less elegant
but correct is the statement that Rousseau prescribes "self-legislation". Popular assembly is the political form by which the people expresses its sovereignty.

The legislative procedure by popular assembly is itself simple. The people assemble, issues are proposed, discussed, voted on and, thus, law is made. As before the ancient democracies were Rousseau's models.

"Chez les Grecs, tout ce que le peuple avait à faire, il faisait par lui-même: il était sans cesse assemblé sur la place". (III,15).

"Quant à la manière de recueillir les suffrages, elle était chez les premiers Romains aussi simple que leurs moeurs ... Chacun donnait son suffrage à haute voix, un greffier les écrivait à mesure ..." (IV,4).

The absent premiss in the quotation from III,12 above is that: "souveraineté ne peut être représenté ... elle consiste essentiellement dans la volonté générale, et la volonté ne se représente point". (III,15). The alternative to legislation through popular assembly is, as Rousseau sees it, representation. He seems justified in assuming this. Both Hobbes and Locke put forward theories of legislation which, though vastly different from another, were representative. Rousseau mentions also "le tiers état" and the English system.

Rousseau's objections to representation in legislation are clear enough. He is against any political system which allows others to make decisions for the individual which are crucial to his well-being and that of the state. He is against any system which does not
allow the individual to contribute directly to legislation.

The ground of the statement is that the general will can be derived only from the votes of all the people. Therefore, only a total assembly can express the general will and, thence, the law. In this derivative sense a popular assembly is a necessary condition of legislation. "Toute loi que le peuple en personne n'a pas ratifiée est nulle; ce n'est point une loi". (III,15). Since a popular assembly is only practicable in a small state we may say that for the above reason a small state is implied.

(2) But it seems that other reasons are relevant and, perhaps, are better reasons. Rousseau states one other, the difficulty in large states of keeping the people responsive to the general will or, more broadly to political matters. "Sitôt que quelqu'un dit des affaires de l'Etat: Que m'importe? on doit compter que l'Etat est perdu". (III,15).

(3) Another argument which favours the small state concerns the logical nature of a law. It will be remembered that one of the criteria of a law is the issue's significance for the whole community. Another is that a law must not be particular in its reference. But the larger state, I imagine, the fewer are the
things which matter to all; the more numerous become 
those which are particular and local in reference.

But we need to know precisely why the size of the 
state is related to sovereignty and moral liberty. Why -

"Tout bien examiné, je ne vois pas qu'il soit 
désormais possible au souverain [not the individual 
as such] de conserver parmi nous [i.e. modern 
people] l'exercice de ses droits, si la cite n'est 
très petite". (III,15).

(4) One support of this is that total assembly is 
needful when law is conceived as a convention or an 
agreement (II,4). It would not, of course, be necessary 
to the conception of law as a command. But an agreement 
or convention would not be binding on the individual 
unless he did agree or subscribe to it. This, I suspect, 
is one of Rousseau's reasons for arguing that whether 
or not the individual loses or is successful in his 
voting, he approves and "agrees" with the majority 
decision.

(5) Rousseau also considers moral liberty in reference 
to the population of the state. The Sovereign, says 
Rousseau, "ne peut etre considéré que collectivement et 
en corps; mais chaque particulier, en qualité de sujet, 
est considéré comme individu:..." (III,1). If the state 
is composed of ten thousand citizens, then the 
individual has only $\frac{1}{10,000}$ share of the sovereignty, 
though he remains wholly under the control of the 
sovereign. But if the state is composed of one hundred
thousand citizens, then the individual has only \( \frac{1}{100,000} \) share of the sovereignty, though he remains absolutely controlled by the sovereign. Rousseau concludes:

"Alors, le sujet restant toujours un, le rapport du souverain augmente en raison du nombre des citoyens. D'où il suit que, plus l'Etat s'agrandit, plus la liberté diminue". (III,1).

Now if moral liberty consists solely in "l'obéissance à la loi qu'on s'est prescrite ..." (I,8), the number of citizens is irrelevant. For if all the citizens are regarded as subscribing to the results of the vote regardless of how they voted then there might as well be a million citizens as one hundred. Rousseau may have in mind that the \( \frac{1}{100,000} \) th. vote carries less weight than the \( \frac{1}{10,000} \) th. vote. But this is strictly irrelevant. In fact this passage appears to me to be quite damaging and argues against the notion of the individual's moral liberty, regardless of the size of the state.

Rousseau has aimed, we know, to produce a pattern of state in which "chacun, s'unissant à tous, n'obéisse pourtant qu'à lui-même, et reste aussi libre qu'auparavant". (I,6). Here we have a concrete example of how little chance the individual has of achieving his personal desire. In a small state the odds are one in ten thousand, in a larger state the odds increase. Freedom, then, is a matter of degree, of quantity.
Barker has a phrase for this relationship between the sovereign and the subject which I think is just: "if the citizen is $\frac{1}{10,000}$ part of the sovereign, he is the whole of a slave".

Rousseau would object to this, however, by saying that this confuses natural liberty with moral liberty. To do so, of course, he would have to admit that "obeying oneself alone" is not what it appears to be. Natural liberty is "getting your own way", satisfying a particular interest. But what, then, does Rousseau's moral liberty really mean? It reduces, I think, to this. In order for every individual "to obey himself alone" everyone has to answer the same question in the same way. This is the only way in which popular sovereignty can express the will of all and so the will of each. When the individual seeks to express the general will in his willing this, in fact, is what he attempts to do. For each citizen, according to Rousseau, considers the question: what is the good of all, myself included? He then wills the good of all, along with all the others, and accepts the answer the majority provides as his own. In the last analysis, moral liberty consists in trying to identify with the general will.

(6) Rousseau should have argued also, it seems to me, that the general will is more readily discernible in a small state than in a large one and thus moral liberty
is more of a probability. The general will is directed to the interests of all. The individual is morally free when he prescribes to the laws but in order to do this he prescribes also to the general will. It is only in a small state, as Rousseau himself argues, that "Le premier qui les propose ne fait que dire ce que tous ont déjà senti,..." (IV,1), and the common interest is readily perceived. It follows that the object of the general will is likewise apparent in a small state and that by willing generally moral liberty is more easily attainable.

The difficulty, surely, lies here. It is one thing to base the state on the common interest. It is quite another when the day-by-day functioning of the state business is regulated by the changing common interests of the people. Rousseau is committed to the latter view. In a large state this procedure would be excluded not only because of the complexities involved in ratifying legislation but more so in endeavouring to estimate the common good in a particular instance. One reason for this is that a large state tends to develop conflicting interests and the idea of there being a common interest becomes remote as the population increases. This it seems to me is the best reason for saying that Rousseau's political theory implies a small state. We can now return to Rousseau and Kant.
6. Rousseau and Kant (Continued)

It seemed helpful to compare Rousseau and Kant for several reasons. By stressing their views on individual liberty and judgment we see that Rousseau's philosophy is modern and post-Reformation. Their view of freedom in contrast to Hobbes, for example, is similar. For both Rousseau and Kant, freedom is more than licence, and more than "being free under the law". It is the notion that real freedom lies in making laws ourselves and subscribing to them. Laws, which because they are rational and universal, in no way infringe the rights of others.

We have seen, too, that Rousseau and Kant shared what would be called the same logical language and pattern, namely, that of sovereignty and autonomy. I also maintained that Rousseau's notion of sovereignty is understood correctly when explained in terms of autonomy. A people is truly autonomous and free when the Will of All is the General Will. In making these general comparisons I endeavoured chiefly to state my interpretation of Rousseau's sovereignty of the general will. The comparison of Rousseau to Kant is a well-beaten path and in what follows I have tried to avoid old ground.

According to Schilpp "for a century and a half it
has virtually been taken for granted among Kant scholars that up to the close of the seventeen sixties Kant was a docile disciple of Rousseau ...." But it is only recently that the process of interpretation has been reversed and Kant used to interpret Rousseau. At the time of writing the Kantian interpretation seems to be the one that is most respected. Mainly this is due to Cassirer's essay entitled *The Question of Jean-Jacques Rousseau* (Germany, 1932, France, 1932, America, 1954), but Delbes, del Vecchio, Haymann and Stammler also have contributed to it. More generally, it is the ethical interpretation of the general will which is the accepted one. I hope that my account may cast some doubt on the advisability of maintaining this rigid position. Because of striking similarities it is too easy to become a victim of the criticism of which Derathé justly charges Cassirer: "à vouloir faire de sa doctrine une sorte de kantisme avant la lettre, on finit par la dénaturer ou la mutiler".

Both Rousseau and Kant, I have claimed, agree on the view that man (in general) is free when he obeys laws of

---

his own making. It is a criterion of a law for both to ask - can I will that such and such a programme be made universal? If I can answer in the affirmative, then I will such a programme as law.

But the "given" in each case is different; Rousseau is concerned with a people, Kant, with the individual. The Contrat social is much more a work on political philosophy than most modern commentators seem willing to admit. For this reason the resemblance between the formulation of the law, in each case, is significant from a logical point of view rather than indicating the likeness of their ethical systems. Rousseau's is by design a political law suitable, therefore, for a state and differs in important respects, as we might expect, from the Kantian moral law.

The Kantian law is universal, in one sense, in that a criterion of a maxim we propose as a law is whether or not such a maxim could rank as a universal law of nature i.e. be consistent with the form of a law of nature. It is universal also in the sense that it could be willed by all rational beings. These are conditions of the moral law.

But the political law and, particularly Rousseau's

formulation of it, is on different logical ground. In comparing the universality of the moral law to natural law Kant follows Locke. A passage in the *Contrat social* is directed, I think, at Locke and Rousseau's reply to Locke applies equally well to Kant.

"Mais qu'est-ce donc enfin qu'une loi? tant qu'on se contentera de n'attacher à ce mot que des idées métaphysiques, on continuera de raisonner sans s'entendre, et quand on aura dit ce que c'est qu'une loi de la nature, on n'en saura pas mieux ce que c'est qu'une loi de l'État". (II,6).

We can perhaps make the point clearer by considering an example which Rousseau does regard as a law of the state.

"le souverain statue qu'il y aura un corps de gouvernement établi sous telle ou telle forme; et il est clair que cet acte est une loi". (III,17).

It is clear also that the criterion is that the form of government is consistent with the interests and needs of the people. What is not in question is whether the form of government is consistent with the system of nature or is such as could be willed by all rational beings.

The properties that have been mentioned, rationality and universality, can be ascribed correctly to Rousseau's conception of the law but in each reference we shall mean something different than Kant. This, however, is bound up with the most important difference between the political and the moral law.

The moral law, according to Kant, proceeds from an act of will which is rational and purely disinterested. That is, in willing we do not aim to satisfy any interest
(although, in fact, we may satisfy an interest, namely, the interest in morality as such). The significant feature of the political law, as Rousseau describes it, is that by means of it we satisfy an interest which makes political life possible. Now it is true, as I have said, that rationality and disinterestedness can be predicated correctly of the political law.

By disinterestedness in this sense, however, we mean the quality of law which does not aim at satisfying a particular interest but one which is general. By rational we do not mean a law such as could be willed by any possible rational agent but a rule which could be agreeable to anyone who was willing to satisfy his rational self-interest at the expense of his purely selfish desires. Thus self-interest remains the standard of judgment although it presupposes a degree of rationality which can realize the virtues of cooperative enterprise. The rationale of subscribing to this notion of a political law is that by so doing, though we fail to satisfy a private interest, we provide the grounds of satisfying interests common to all. Because, therefore, the deliberate aim in willing generally is to satisfy an interest the general will is heteronomous.

The notion of universality and the law must receive,
as I have implied, similar interpretation. When the object of the sovereign will is universal we mean by this that we will to satisfy an interest such as all would will. But by "all" we mean all the citizens and this entails, for Rousseau, satisfying the interests of a particular group. If we willed universally, in the accepted sense of the term, we would not will the laws of a state but Kant's Kingdom of Ends. A law which sought to satisfy the interests of all rational beings or no interests at all would not be the law of a state.

The argument can be summarized as follows. First, Rousseau's conception of a political law does not cause him to stress the analogy between the political law and a universal law of nature. In the example whether such and such a form of government is chosen rather than another, may be of universal significance to citizens but it is significant only for the members of a particular state. It is not logically contradictory to prefer an aristocratic rather than a democratic form of government.

Secondly, by the universality of law Rousseau does not signify that law be such as to be willed by all.

27. I realize that this statement is contentious in Rousseau interpretation and I shall return to it in the last chapter.
rational beings. Rather law is rational in its formulation in that it supplies a rationally agreeable basis for political society. Thirdly, which is most important, willing generally is disinterested in that we do not seek to satisfy a private interest but the means of satisfying interests common to all.

7. Cassirer's Interpretation

If this account is true of the Contrat social then so far as Cassirer's remarks apply to the Contrat social they are exaggerations. "He [Rousseau] did not enquire into happiness or utility; he was concerned with the dignity of man and with the means of securing and realizing it". "Rousseau's ethics is ... the most categorical form of a pure ethics of obligation that was established before Kant".

The onus, it seems to me, is on those who favour the Kantian interpretation to explain why, at crucial points, Rousseau failed to make explicit (1) his concern for a pure ethics of obligation and (2) the absolute exclusion of any appeal to utility or interest. Why Rousseau, if this interpretation be true, set out to unite "la justice et l'utilité". (I, Preface). Why property should be

29. IBID., p.96.
regulated in terms of the common interest (I,9). Why Rousseau should hold that "c'est uniquement sur cet intérêt commun que la société doit être gouvernée". (II,1). Why Rousseau is committed to the absurd argument that the individual in being killed in battle is furthering his interests (II,5). Why he demands of justice that it ought to be reciprocal (II,6). Why he deprecates monarchy as a form of government because the monarch seeks to satisfy his own instead of the general interest (III,6). Why, at the end of *Contrat social*, Rousseau should still maintain that: "Ce bien particulier excepté, il veut le bien général pour son propre intérêt,..." (IV,1).

Despite this exaggeration Cassirer has drawn attention to a feature of Rousseau's philosophy which needs to be emphasized and explained.

"Rousseau did not by any means regard the state as a mere 'association', as a community of interests and an equilibrium of the interests of individual wills. According to him, it is not a mere empirical collection of certain dispositions, impulses, and vacillating appetites, but the form in which the will, as ethical will, really exists. In that state alone can wilfulness develop into will. Law in its pure and strict sense is not a mere external bond that holds in individual wills and prevents their scattering; rather it is the constituent principle of these wills, the element that confirms and justifies them spiritually. It wishes to rule subjects only inasmuch as, in its very act, it also makes and educates them into citizens". 30.

Even this is not to be taken whole. I believe that Rousseau did conceive the state, though I agree "not merely", as an empirical collection of vacillating appetites. In fact it is plausible to argue that Rousseau, like Plato, appeals directly to different, if not vacillating, appetites. Unlike Plato he does not keep the classes of moralist, patriot and appetitive, distinct. However, I do think that Cassirer's statement is warranted and shall try to put much the same point as Cassirer seems to have in mind.

The state has more than pragmatic value. It becomes a means of realizing individual and collective freedom. In Book One of the Contrat social Rousseau argues against two views: that the state ought to be based on force and that political power ought to be used for the benefit of the ruler. In place of these he maintains that the state ought to be based on will and sovereignty should be given to the people to use for the public benefit. As a result of basing the state on will the people would be free in the sense that they would actually share in the making of law, could determine what should and should not be done, and would not therefore be forced to work for the benefit of the ruler.

But soon we discover that Rousseau has in mind much more than this. He has criticized the ruler because his
sovereignty serves only to augment his private interest (I,5). He then argues that the will of the people (la volonté de tous) is likely to lead to the same sort of sovereignty. It becomes increasingly clear as the argument progresses that there is a great difference between the sovereignty of will (or the state based on will) and the sovereignty of the general will. The latter differs from the former in that the latter is the will of the people for the common good and not for the satisfaction of their purely private interests.

Thus the general will comes to serve as a standard or an ideal of what popular sovereignty should be. In so far as a people, or an individual, achieves this standard then they are free. And to the extent that the laws of a people express this standard they become the repository of the general will and a means of educating, by their influence and example, future generations of citizens.

Rousseau's main point, as I understand him, is that the individual is "natural" in one sense in that he does not understand what political society involves or what being a citizen means. The state, and its laws, can be the chains that bind us or the means of our liberation. But we have failed to appreciate political society, in fact have scarcely advanced beyond the selfish ruler, if we use political society merely to advance private interests. Political society, by its very nature,
involves goals which are shareable. The general will, is, therefore, the will of the state because in willing generally we will the good of all; and the will of the citizen is the general will. Becoming a citizen involves an education in citizenship; being a citizen involves making the public good your own good.

A statement from Delbos comparing Kant and Rousseau seems to invite the same confusion as Cassirer's "ethical will".

"Le fondement de l'obligation morale est dans l'autonomie. Or qu'est-ce cela, sinon la 'volonté générale' de Rousseau intérieurisée, transposée de l'ordre social dans l'ordre de la moralité?" 31.

There is an interesting likeness suggested here. Rousseau's view of law, namely that an act of sovereignty is a convention, or an agreement between sovereign and subject, involves a commitment to the law which is distinct from being forced to obey it. This commitment might be compared to the way in which Kant held we were committed to the moral law. But the categorical imperative commands unconditionally because its command is a moral duty and for no other reason. Whereas the political law commands unconditionally, in one sense, because a lawless political society, for Rousseau, is

a contradiction.

But the law is also conditional in that:

"Les engagements qui nous lient au corps social ne sont obligatoires que parce qu'ils sont mutuels; et leur nature est telle qu'en les remplissant on ne peut travailler pour autrui sans travailler aussi pour soi". (II,4).

It is, of course, true that Rousseau believed that the sovereignty of the general will could make the ground of our obligation to obey the law a matter of internal compulsion rather than external compulsion. But it is obvious for example that this distinction of Kant's is a rough and ready one which in no sense distinguishes what is characteristic of his ethic.

"Compulsion is the external impulsive ground and, when it applies, the action belongs to the legal sphere; duty is the internal ground, and in this case the action is ethical". 32.

While, then, it is true to say that ideally the political and the moral law are both self-imposed, it is not true that the ground of obligation is the same. We obey the political law, according to Rousseau, because it is conventional, a way of achieving ends otherwise unattainable or, on a higher level, because we have a rational appreciation of law-making as a means of realizing our moral freedom. But neither of

these would serve as the ground of our obligation to a moral duty. It seems that Delbos' notion of "internalizing" the general will puts the political law on all fours with the moral law.

There is, we can see, a strong tendency among commentators to suggest that the differences between Rousseau's notion of the law as a product of the general will and Kant's notion of the moral law are merely verbal. I have put various arguments against this and have tried to develop what seemed true in these claims. Now, as briefly as possible, I wish to add a further argument designed to show that according to Rousseau's plan the difference must be essential. If I speak of "morality" I refer to its most general use, as the code of conduct determining what is right and wrong. This, to my mind, is not to be confused with the pure morality of Kant.

I have argued in previous chapters that the morality of the *Contrat social* is the morality of civic or political virtue. The main point to make against the "neo-Kantians" is that it could not be otherwise; that moral liberty is civic or the liberty of the citizen. Moral liberty is achieved when our will expresses the general will. Now the standard of the general will is the good of all the citizens. (It is thus not a purely rational good or a purely rational will). If, among all the citizens, you willed universally in the Kantian sense, then you would
not will the general will, the common good of the citizens. Moreover, your will would not influence the law because unlike the majority you do not will the state's advantage. The only law in which willing universally in the Kantian sense approximates is, as both Rousseau and Kant realized, the natural law. Kant believed that the validity of the moral law depended on its taking the form of the natural law. Rousseau, we could say, made the good of the city the moral law.

Rousseau's theory of the state commits him to this argument. This is so because the state is based on the common interest; there is but one interest for citizen and sovereign alike. He endeavoured, therefore, to solve the special problem presented by any theory of multiple sovereignty, namely, there can be only one sovereign, if there is more than one we imply a higher authority to judge between them. But if there be a higher authority, then the sovereign is not truly sovereign (i.e. supreme).

To solve this Rousseau proposed three conditions: (1) all must get the "same answer" (2) the answer must be the right one (3) it must be uniformly acceptable. He argued, therefore, that if all willed generally conditions (2) and (3) would be satisfied and for (1) that those who disagreed with the majority must be regarded as mistaken. Because the "generality" is restricted to the state, the standard of morality, the standard of right and wrong, is
the general good. From the point of view of the "moral theory" in the *Contrat social* Bradley, and not Kant, is the logical successor to Rousseau.

I do not deny that Rousseau and Kant are spiritually akin; both, for example, shared the view that the free will is man's distinctively human quality. Nor that they shared certain logical language and devices which led to the taking up of comparable philosophical positions, particularly, the roles played by sovereignty, autonomy, will and freedom. In fact I have been persuaded that Rousseau is illuminated by the comparison to Kant.

But, in conclusion, I remain unrepentant in failing to appreciate the value to be gained by assimilating Rousseau's conception of the law and the general will to Kant's conception of the moral law and the moral will.

It seems to me that Strauss has described the exercise of sovereignty correctly.

"Voting on a law means to conceive of the object of one's private or natural will as the object of a law which is binding on all equally and benefits all equally, or to restrict one's selfish desire by considering the undesirable consequences which would follow if everyone else indulged his selfish desire as well". 34.

I would agree with Kant that "the law of the State falls short of morality" while holding that the law of the state can have an excellence of its own.

Sovereignty Concluded.

I shall conclude by attempting to make a general statement of such a kind as to summarize the main argument.

Sovereignty and moral liberty can be explained by appropriating and adapting Kant's notion of autonomy. Law originates, in the first place, in individual willing but to be really law the sovereign will must be general. Thus the individual is held to be morally free in willing generally and a people is morally free when "la volonté de tous" is identical with the "volonté générale". Then the law is truly a product of our own will and, in Rousseau's words, we obey no one but ourselves. This I have tried to show is not natural liberty which involves doing only what our private interests prompt.

Nonetheless there remains in the Contrat social, which the Kantian interpretation puts aside, an argument which appeals to what might be called the conception of natural liberty. This involves saying that by willing generally we serve our interest because in this form,

35. Kant, I., Lectures on Ethics, p.73.
36. For this sense of natural liberty see Chapter 2 or p.2 of this chapter.
the political interest, we have a good chance of satisfying it. Reason here performs the role of calculation. This it seems to me is the predominant trend of the argument in the *Contrat social*.

But by developing, somewhat differently, the point suggested by Cassirer the argument also appeals to what I call the conception of moral liberty. In this a higher degree of enlightenment is presupposed. In the above argument the individual is a citizen because he can by being a citizen achieve ends otherwise unattainable. In this the individual deliberately chooses the public good because it is the public good. Reason here can be called civic reason since we want to suggest the attitude to reason taken by the individual who appreciates sovereignty as the means to the freedom of all. With it goes the general will as the form of the will which is proper to civil and moral liberty, and not merely as a means of satisfying an interest held in common with others.
Chapter 9

Rousseau, Bosanquet and Others

In this chapter I propose to consider first Bosanquet's interpretation of Rousseau's General Will. Following this I will examine other interpretations, Green's being chief among them, which raise different but related problems. Finally, the "idea" of the general will will be given brief consideration.

Recent criticism of Rousseau has tended to ignore Bosanquet's interpretation of Rousseau's General Will. The reason for this, I suspect, is that critics and interpreters of Rousseau feel that Bosanquet used Rousseau's "general will" to serve his own ends, and undoubtedly Bosanquet did regard Rousseau's general will as a step in the right direction. Bosanquet explains his purpose as follows: "The present chapter will be devoted to explaining the idea of a General Will with reference to Rousseau's presentation of it, and the rest of the work will develop and apply it more freely". Two tasks,

therefore, go hand in hand, the interpretation of Rousseau's General Will is a means of furthering Bosanquet's own thesis.

But clearly, from our point of view, we are justified in regarding this simply as an interpretation and are not obliged to provide an account of Bosanquet's political philosophy.

This said, I believe that one is justified in arguing that Bosanquet did not wait till the end of the chapter in order to "develop and apply it [Rousseau's idea of the General Will] more freely". To take an obvious example. Someone who had never read Rousseau's *Contrat social* would conclude from reading Bosanquet that the terms General Will and Real Will are interchangeable and regarded in this way by Rousseau. Bosanquet does not announce that he is substituting this term "Real Will" as a more satisfactory rendering of Rousseau's meaning. The same applies to the many other terms - like rational will, free will and good will - which to my knowledge do not appear in the *Contrat social*. If this is to be an interpretation I believe the reader deserves more explanation than he gets as to why this change in nomenclature is necessary, or superior to that which Rousseau himself uses.

My opinion of Bosanquet's interpretation is that it is valuable in the sense that certain of Rousseau's remarks
implied and required the exposition that Bosanquet offers. But it is not adequate, for we do not receive anything like a complete interpretation of Rousseau's General Will. Bosanquet selects, but what he selects as typical or true of Rousseau are just those isolated and perplexing passages that others leave unexplained. For this reason, if for no other, he deserves close study.

Very briefly, I wish to suggest three general differences between Rousseau and Bosanquet which lead to misinterpretations of Rousseau.

First, Rousseau, for better or worse, held a social contract theory of the state. Bosanquet emphasizes this but does not give a sufficient explanation of the difference this makes between Rousseau's theory of the state and his own. The contract theory of the state takes, necessarily, the individual as the real and the state as an artificial abstraction. Bosanquet, on the contrary, holds that the individual is a social being, that the individual apart from the state is an abstraction. The purpose of the contract theory, then, is to explain the state. What needs explaining, in Bosanquet's view, is the individual apart from it. He regards, therefore, the contract as an unnecessary fiction.

Nonetheless Rousseau remains within the tradition
of the contract theorists of the state's origin. He maintains that the individuals by union form not only the state but also the General Will. With Bosanquet, however, the General Will is regarded as substantival and the individual wills are adjectival. He maintains that this is also Rousseau's view. But if, as Rousseau claims, the General Will is a product of the contract (of individuals willing, we could say), it is at least "prima facie" true that the General Will is adjectival to the willing of the individuals. It is not enough to claim that Rousseau really thought the General Will was substantival to the individual wills. What must be shown is how it could be, given Rousseau's (for that matter, any) version of the contract.

Secondly, Rousseau takes more seriously the notion of the state as a work of art than Bosanquet allows. Rousseau believed, in the manner of Plato, that the beginning of the state, to use Plato's phrase, should be a clean canvas on which the philosopher, guided by his reason, can use his materials to the best advantage. Bosanquet failed to notice, or at least to mention, this different appreciation of the role of reason in politics.
For example, Bosanquet regards Rousseau's "Legislator" as a paradoxical way of asserting that tradition, particularly traditional laws and institutions, do express the General Will. But I think I am right in suggesting that the Legislator is Rousseau's inept way of inserting reason into the course of history so as to legislate ordinances and institutions which can embody and express the General Will. In other words, Rousseau wishes to substitute a rational tradition for a wrong one. If such a conception is paradoxical today, it was a familiar occupation in the eighteenth century. Bosanquet argues that Rousseau believed that laws actualized the General Will. Rousseau, however, thought that according to his standards "tres peu de nations ont des lois" (III,15) and this, if Bosanquet is right, is surely an odd belief for Rousseau to have.

3. In much the same vein Bosanquet believes that Rousseau's task is the justification of the state. "Rousseau knows, ... that something which can look like utter bondage is a fact; and ... has to be justified ... the rhetorical antithesis 'and everywhere is in chains' [therefore] must be abandoned". This interpretation is a necessary correction to those who persist in asserting that Rousseau's opening paragraph urges us to cast aside our chains, that freedom is impossible in the state. But Rousseau's intention in this paragraph and throughout the Contrat social is to criticize actual political devices and to prepare the way for better ones. Bosanquet is right, on the one hand, in thinking that Rousseau does not condemn the state as such. But wrong in thinking that Rousseau must justify the fact of political associations. Bosanquet suggests that Rousseau prefers any actual state to the individualist's state of nature. It seems plain that Rousseau rejected
Thirdly, although Bosanquet never mentions it, Rousseau never really rejected egoism. Throughout the *Contrat social* he seems convinced that the sovereignty of the General Will is not incompatible with the satisfaction of individual interest. Bosanquet states that the private interest as such is incompatible with the General Will. Apparently he does not appreciate that Rousseau believed that private interest could be satisfied in so far as it was satisfied through the common interest.

In his interpretation Bosanquet regards as primary Rousseau's proposition that the legitimate state can force its recalcitrant members to be free. Rightly, I think, he does not restrict this proposition to recognized criminals but rather to the general relation between the will of the state and the particular wills of the individuals.

Bosanquet's interpretation of the General Will as a Real Will begins at this point. And I propose to state his position using the proposition "on le forcerà à être libre" in his generalized sense.

3. (cont.) both, v., for example, "The more I study the works of men in their institutions, the more clearly I see that, in their efforts after independence, they become slaves, and that their very freedom is wasted in vain attempts to assure its continuance". *Emile*, Book 5.

4. This means, it has been suggested to me, that we are not really egoists if we are all egoists together!
In its context, as is seldom noted, the meaning of Rousseau's phrase is fairly innocuous. Men are freer under the rule of law, where all force is legalised in the state, than under the rule of might. If, however, the individual is allowed to oppose the community this can result only in the downfall of the state. Under the rule of law each individual is "garanti de toute (such) dépendance personnelle...." (I,7).

Nonetheless, and perhaps Bosanquet was of the same opinion, there is a paradoxical air about this. For it amounts to saying that if some are put in prison then all are free. It does not follow, as Bosanquet believes, that Rousseau meant more by this then he claimed. Rousseau refers to "forcing freedom" only twice, in I,7 and III,2, note 2, and in both cases the context makes it clear that all are free if malefactors are imprisoned. Still, and here I agree with Bosanquet's implication, the principle which results from the generalization of the proposition needs explanation.

5. In fact, he says exactly this in Book IV, Chapter 2, n.2. "En effet il n'y a que les malfaiteurs de tous Etats qui empêchent le citoyen d'être libre. Dans un pays où tous ces gens-là seraient aux galères, on jouirait de la plus parfaite liberté".
According to Bosanquet we can see the difference between the "actual" and the "real will" and how this bears on the generalization if we refer to an example taken from Mill. Someone wishes to cross a dangerous bridge not knowing it to be dangerous. In stopping him we do not do so "against his will" but in terms of what we can infer reasonably his real will would be, namely, not to cross a dangerous bridge. In forcing him to act in terms of his real will we are forcing him to do what he would choose to do if he acted in terms of his rational will. The example is meant to show that there are occasions when we presume a "real will" at variance with the individual's desire. This example, however, is only an approximation.

The main argument is that no one should be allowed to act contrary to what his freedom implies. Thus, he

6. IBID., p.90,v, also p.65 and 100. In the particular case of a criminal the analogy would not hold, unless we restrict the analogy to someone who committed a crime impulsively. The habitual or professional criminal does not act from immediate desire, nor would he forego his intention on being informed of the risks his occupation entails. No one, unless he has a more compelling reason, would wish to cross a dangerous bridge. But we cannot assume that the professional criminal would wish to be put in jail to prevent his own criminal action. Indeed, he fulfils his function only in so far as he escapes his just deserts.
argues, quoting Rousseau, no one ought to be allowed to contract himself into slavery because man's nature is to be free. What is this freedom that man cannot repudiate even if he wishes? It is, according to Bosanquet, rational freedom. Man is free only if he acts according to what his will implies and his will implies that he act rationally. It follows, then, that to act according to one's inclinations is to be unfree. We have seen that Rousseau held such a view of the relation of reason to inclination. In the civil state man learns "consulter sa raison avant d'écouter ses penchants ... l'impulsion du seul appétit est esclavage ..." (1,8).

Bosanquet argues that the conception of rational freedom achieved through the Real Will stems from its providing a positive freedom for the individual in the state. The views of his adversaries, he claims, restrict freedom to a negative significance, namely, the absence of restraint. The freedom gained by willing the Real Will

7. This part of the doctrine seems to mean that to will such and such means to will rationally. To will rationally is, by definition, contradictory. Therefore, only the rational will is real. This is distinct from Rousseau's particular will which though motivated by the passions is not denied reality.
is explained as being freed from the restraint imposed on us by our lower or base desires. By forcing the individual to act rightly we are freeing him from the captivity of his base self. Rousseau deserves this interpretation, presumably, because the phrase "l'impulsion du seul appetit est esclavage" seems to be the above argument in capsule form.

Now, how is this argument supposed to be related to Rousseau? Rousseau, with the exceptions we have noted, never insisted that men be forced to do what they ought to do... Bosanquet claims that the will of the state is more real than the will of any individual because it is more rational. The action of the state appears to be forced to the subjective and egotistical caprice of the individual. But man's real desire is to be what he ought to be and what he ought to be is rational and free. In so far as he is rational, and all men as men are to some

3. Notice that one's own inclinations and the physical strength must be on the same level and opposed to rationality. Both the passions and physical strength are characteristic of the state of nature (1,8). It follows that rationality is characteristic of the civil state. Such an analysis supports Bosanquet's thesis. v.p.16.

9. But, as Plamenatz has argued, if we insist that the lower self which is motivated by appetitive desires is divorced from the real self, then it must follow that this is still a negative freedom. Freedom is the absence of restraint on the real self "caused" by the unreal self. v. Plamentz, J., *Conserv*, Freedom and Obligation, p.50.
degree rational, he appreciates the state as a more complete manifestation of his own Real Will. From the objective side, it could be said, force appears as will.

The distinctive function of the state, according to Bosanquet, is the use of force. Unless its procedure can be justified "self-government" must continue, he argues, to be paradoxical. The fact that he interprets Rousseau in this way suggests that he believes that Rousseau had the same problem. I believe that he is right but that his "solution", as it has been outlined, is more of a supplement to the Contrat Social than a statement of its views. It is important, then, to show that Rousseau had a similar problem.

My contention is that the following statement, though Rousseau does not appear to be aware of it, implies and requires such an interpretation as Bosanquet offers.

"Le citoyen consent à toutes les lois, même à celles qu'on passe malgré lui, et même à celles à celles qui le punissent quand il ose en violer quelqu'une. La volonté constante de tous les membres de l'État est la volonté générale; c'est par elle qu'ils sont citoyens et libres". (IV,2).

Any citizen, according to both Bosanquet and Rousseau wills the common good. Even those who by their consistent action indicate they do not and who are punished. What must be supposed in their case is an act of will contrary to the one which brings about the
opposition to the common good. Bosanquet calls this the Real Will and Rousseau, the constant will. In each case the opposite is an immediate desire which is not regarded as characteristic of the individual's willing. Now if the individual is not of the majority and we claim that, nevertheless, the majority express his will and guarantee his freedom then it seems as though what pretends to be the individual's will must appear to him as force. We have seen that Bosanquet's interpretation focuses on the solution of this very problem.

There is one difficulty, however, which Bosanquet overlooks. Rousseau's argument implied such a problem but he forestalled it by claiming that the contract entails the individual's obligation to the majority (IV,2). If he had been consistent, however, he would have argued that the individual was obliged only to obey the General Will, as was stated in the contract (I,6). Now I have argued that the conscientious citizen in doubting whether the majority vote expresses the general will is doubting the majority's ability to record the general will. He is not doubting whether they are the majority. And if he is forced to accept an opinion contrary to his own as his own then the majority appear as force and
not as will. Thus if Rousseau had continued consistently he would have been faced with the problem Bosanquet attributes to him.

Then someone in the minority, if we follow Bosanquet's method of argument, must be supposed to have a "real will" at variance with the individual's immediate desire. We shall argue, as before, that the will of the state which is the Real Will corrects the irrationality of the individual and forces him to be free. And the Real Will forces him to be free because his will is to be rational.

The most eligible candidate for the class of Real Wills in the Contrat social is, I suppose, the "constant will". Here we have the similar opposition between an impulsive and immediate desire and a will which is constant. But although the problem is fundamentally the same, Rousseau's solution, in so far as it can be called a solution, bears little resemblance to that of Bosanquet.

The constant will is not the rational or the real
will. Both Bosanquet and Rousseau would maintain, though in different words, that the constant and the real will are more characteristic of the individual's willing than the impulsive and appetitive desires. But the difference is precisely this. Bosanquet means characteristic of what is real to man as man, his rationality. Rousseau means what is characteristic of man as citizen and that is his desire to will the general good. So though we gain from Bosanquet better insight into the problem of the General Will his interpretation or solution in terms of the Real Will tends to be only misleading.

I would agree, I think, that because of Rousseau's remarks on "forcing man to be free", on the distinct opposition between reason and inclinations, etc., we have a right to expect such an argument as Bosanquet's provides. But I cannot find it in the Contrat social.

To conclude this study of Bosanquet's interpretation of Rousseau's General Will we need to show how Bosanquet's Real Will is arrived at then, briefly, to show that Rousseau's General Will is differently constituted. The task of exposition is difficult but I believe the account that follows is adequate for the purposes of comparison.

On pages 110 and 111 of the Philosophical Theory of
the State Bosanquet provides an account of the process by which an actual will becomes a Real Will. From an understanding of this central passage we can develop his main argument.

He writes: "In order to obtain a full statement of what we will, what we want at any moment must at least be corrected and amended by what we want at other moments; and this cannot be done without also correcting and amending it so as to harmonise it with what others want, which involves an application of the same process to them.... And if it were to be supplemented and readjusted so as to stand not merely for the life which on the whole we manage to live, but for a life ideally without contradiction, it would appear to us quite remote from anything which we know. Such a process of harmonising and readjusting a mass of data to bring them into a rational shape is what is meant by criticism".

This might be explained better if put into schematic form, however crude. We shall take a person "P" and number each successive "actual will". We will have then the scheme for "what we want at any moment must be corrected by what we want at other moments;...". We can express all these "actual wills" belonging to P in a series:

\[ P_1, P_2, P_3, P_4, \ldots \text{etc.} \]

where each sign (\( P_1 \), etc.) stands for an expression of "actual will". The result of the "critical" process would have to be, to be satisfactory to Bosanquet, something \( P_X \) which more closely approximated to the Real Will than any of the actual wills taken separately.
because PX has undergone this "criticism".

(For mere explanatory purposes we need not consider the "wills" of others, though this would be done in a civilized state. If we did the partial result is POy where "P" is the person's desire or actual will correlated with "O" the desires of other persons to give a result "y". If this result is checked with "P's" ideal conception of what his will ought to be (or what by observing numerous instances he has found it to be) and "O's" similarly and if this is correlated e.g. with the constitution and ordinances (because these are regarded as also embodying "past" wills), from all these and other relevant factors we derive Rz where "R" is the Real Will and "z" is "desires manifested in different forms", tested against and by one another. I take a more simple, but adequate, case below.)

The factor Px would be different from any unit of the series (i.e. P1 or P4) and yet P would be constant throughout and small x would be regarded, perhaps we could say, as a refinement or a purification of the actual wills represented by the small numbers. Px would not be an aggregate of the units nor would be it an average unit. It would be at once different from any one of them and yet characteristic of all of them.
We can take certain circumstances arising from the actions of a deliberative democracy as providing a rough example of Bosanquet's thesis. Namely, the result reached by such an assembly providing the members were agreed beforehand that there was one answer which they would accept as being for each the right answer. This "right answer" would have to be neither a mere compromise or a majority decision. It might happen, for example, that a "meeting of minds" could produce an answer that no one "mind" could provide individually, but that when the answer "emerged" it would be immediately recognized and acceptable to all, indeed, as if it was each member's own solution.

By some such means as this the Real Will must be explained, for what Bosanquet wants is a "will" which is

11. Theoretically this would seem to be the purest empirical form of the general will. What is general, on this view, must be at once different from an average or an aggregation or what is common to the majority or even to all of them. The decision of a deliberative democracy might possibly render a general solution in this sense. Also it would be supported and acknowledged by all. Bosanquet, however, argues that customs, laws and ordinances are more general than a deliberative democracy. Many laws, however, are archaic museum pieces which are not general nor rational to any considerable part of the state. In what sense, for example, is a law enforcing compulsory church attendance general to the rational will of the citizens?
at once objectively good, which he thinks it approaches by virtue of this refinement or criticism, and yet subjectively recognizable as "my" will. We can see what Bosanquet is aiming at when he maintains that customs, institutions and laws are the objective forms of the Real Will and express it more faithfully than the act of any individual will.

The above example, therefore, is not sufficient by itself since the analysis of customs, institutions and laws differ considerably; from an extreme of being derived from relatively unconscious sources in the case of customs to acute consciousness in the case of some laws, with institutions occupying a mean position between customs and laws. Thus for Bosanquet the Real Will is both conscious and unconscious in its constitution.

According to Bosanquet this kind of General Will emerges from an intelligent appreciation of "The Legislator" (II, 7). With this in mind we must try to see where Rousseau and Bosanquet differ. Bosanquet offers two criticisms of Rousseau's General Will.

"He aims at eliciting a direct opinion, uncontaminated by external influence or interest, from each and every member of the citizen body... but the very core of the common good represented by the life of a modern Nation-State is its profound and complex organisation, which makes it greater than the conscious momentary will of any individual" 12

12. IBID., p.108.
Bosanquet implies, in this criticism, that Rousseau's General Will is an abstract universal. For according to his own political philosophy each part of the complex organisation of political institutions, which go to make up the state, actualizes the General Will. A political will which is put forward as being universal must take account also of institutions which, according to Bosanquet, influence more profoundly the will of the state.

Next, he argues:

"He is appealing from the organised life, institutions, and selected capacity of a nation to that nation regarded as an aggregate of isolated individuals. And, therefore, he is enthroning as sovereign, not the national mind, but that aggregate of private interests and ideas which he has himself described as the Will of All". 13

The criticism intended here is that the General Will is but an aggregation of merely particular, and therefore abstract individuals which bear no relation to one another. The particular will, and so the sum of particular wills, expresses a private affair as such. There are then these two criticisms. That what is willed is either an abstract and formal universal will (a criticism like that of saying that Rousseau's notion of a purely general law is mistaken in that it would not specify anything). Or, that what is willed is merely the sum of particular desires, an aggregation of dissimilar particulars, the will of all.

This is a perceptive account of the components of Rousseau's General Will, although in my review I hope to show that it is an over-simplified one.

The differences between Bosanquet and Rousseau might become clearer in a political setting. It might be argued that Bosanquet is really an over-subtle conservative and that Rousseau, by comparison, is a new but cautious liberal. Rousseau is not in line with classical Liberalism because, like Bosanquet, he holds that all rights are civil rights.

It is obvious, I think, that Bosanquet's criticism of Rousseau is in the conservative tradition. Thus he charges Rousseau with neglecting the "organised life, institutions, and selected capacity of a nation, etc.". He objects also that Rousseau's General Will is abstractly universal and out of touch with all the complexities which go to make up the actual fabric of political life. This, too, is a charge similar to that which Burke brought against the French liberalism of his time.

But let us take a concrete situation and imagine how each in turn, in terms of their philosophy, would deal with it. Consider the case of changing the constitution. It is not easy to see how a change in the constitution could

---

14. Compare, for example, Bosanquet and Rousseau with Locke on this issue. I shall have more to say about Rousseau's conception of rights in the final chapter.
result from Bosanquet's political philosophy. But one suspects that it would be a subtle thing of gradually maturing dissatisfactions and tentative agreements which had stood the test of much "criticism" conscious and unconscious.

Nonetheless Rousseau, on this issue, takes a more cautious and less radical view than Bosanquet's criticism suggests and most critics give him credit for. An act of sovereignty is necessary to make a constitutional change. For this Rousseau would appear to desire the following conditions:

1. A people of political maturity, the creation of a rational tradition (II,7). The function of such a tradition is, as it were to "funnel" their desires and to socialize the will. My point here is that this conception is not unlike Bosanquet's "selected capacity of a nation".

2. A true concern for the general good of all the people and not merely for a particular vested interest. Thus, though universal, the general good is that of a particular people and, therefore, not abstract in the sense that natural law is abstract.

3. All the people must vote. That is, it is not merely a representative group that is consulted. Then the majority willing generally would be permitted
Rousseau's cautious and conservative attitude emerges in his discussion of the general question we are reviewing:

"Il est vrai que ces changements sont toujours dangereux, et qu'il ne faut jamais toucher au gouvernement établi que lorsqu'il devient incompatible avec le bien public; mais cette circonspection est une maxime de politique, et non pas une règle de droit; ... Il est vrai encore qu'on ne saurait, ... observer avec trop de soin toutes les formalités requises pour distinguer un acte régulier et legitime d'un tumulte séditieux, et la volonté de tout un peuple des clamours d'une faction". (III,18).

Now it is true that this is too vague. Who, to single out its weakest point, distinguishes the will of the whole people from the clamour of a faction? But still, I believe, it emphasizes the high importance that Rousseau in common with Bosanquet puts on the role of tradition in politics.

Rousseau's main argument, however, is opposed both to Bosanquet's Real Will, which is truly organic, that is, resides in the functional inter-relationships of the institutions and to the separation of powers advocated by liberalism. For both lay great stress on constitutional safeguards, though of different kinds. Rousseau would argue against this. Take all the precautions possible,

15. "qu'il n'y a dans l'État aucune loi fondamentale qui ne se puisse révoquer, non pas meme le pacte social;" (III,18).
16. v. also III,11.
provide whatever legal apparatus you think necessary, but unless the sovereign people are concerned with the public good these will be useless, perhaps, even pernicious.

It might be remarked, in conclusion, that Bosanquet's criticism amounts, in fact, to a refutation of Rousseau's theory of popular sovereignty. But it is strange that so fundamental a part of the argument of the Contrat social should be refuted only by implication.

Other Interpretations

We shall consider next other interpretations of Rousseau's General Will, beginning with the relation of the General Will to the conscience.

At first glance it is not easy to see why such an interpretation should be offered. Rousseau does not refer to the conscience anywhere in the Contrat social and when he does so in the Manuscrit, it is only to discard the conscience and to proclaim its irrelevancy to a study of politics.


18. The Political Writings of Rousseau, Vaughan's edition, Volume I, p. 448,452
On the other hand the conscience is regarded by some authorities as a central concept in Rousseau's purely moral philosophy. We might expect, if ignorant of the passage in the Manuscrit, to find a place for it in the Contrat social. Also, qualities attributed to the conscience and the General Will are alike. We can refer briefly to these.

Rousseau defines the conscience as an innate impulse which draws or brings us to the good and makes us love the good. Similarly, it will be remembered, a characteristic of the General Will is to will the good (II,6). Both conscience and General Will, it may be said, direct us to the good. And both, in doing so, require the guidance of reason.

19. I cannot claim to have made an independent study of Rousseau's complex theory of conscience. Perhaps the best studies of it are found in:
(2) Derathe, R., Le Rationalisme de J.-J. Rousseau, Ch.3.
(3) Haymann, F., "Une définition de la conscience par J.-J. Rousseau", Annales, vol. XXXII.
Of these that of Derathe is the most authoritative.
20. "Si Rousseau... fait dépendre le développement de la conscience des lumières de la raison, il soumet également la raison à la direction de la conscience". Derathe, R., Le Rationalisme de J.-J. Rousseau, p.125.
What has interested the interpreters of the General Will, however, is mainly the relation of the General Will to the conscience. This, plainly, is the more important question for us to consider. In this regard there seem to be four possibilities.

(1) The expression "civic conscience", for example, in referring to the General Will emphasizes a metaphor or an analogy.

(2) Individual conscience and the General Will are harmonious in society.

(3) There is no relation at all.

(4) The historical function of the individual conscience is replaced by the General Will.

Groethuysen makes an interesting statement which might be classified either under (1) or (4).

"Chacun, en votant, fera un effort pour dépasser sa volonté personnelle, et retrouvera en lui ce qu'il sait être la volonté générale; il fera appel à sa conscience de citoyen et non à sa conscience individuelle. Il dira: je constate que telle doit être la volonté de mon peuple, et je vote en conséquence. Il dira: le peuple veut, et non: je veux". 21

Leon believes that Rousseau's ultimate aim was to design a state in which there was a harmony between the conscience and the General Will. But he does not give

a clear account of how this was to be accomplished.

Dorathe develops possibility (3) and puts the whole question in its most interesting light.

"Chez Rousseau, la théorie de la conscience et celle de la volonté générale se sont formées indépendamment l'une de l'autre. Ce sont les deux courants de pensée qui suivent chacun leur route, sans jamais se rencontrer. Rousseau aboutit à des conclusions différentes selon qu'il raisonne en politique ou pense en moraliste ... Chez Rousseau, il y a deux autorités morales auxquelles le citoyen doit se référer pour diriger sa conduite: la volonté générale et la conscience. L'une et l'autre sont une règle de justice. Des lors le dualisme subsiste et le conflit reste possible entre ce que prescrit la conscience et ce qu'ordonne la loi. La solution la plus simple serait sans doute d'admettre que la conscience individuelle reprend tous ses droits dans le domaine où la volonté générale cesse d'être compétente".

But, Derathe continues, the sovereignty of the individual conscience is left very indeterminate. "De toute façon", he concludes, "ce n'est pas une solution d'admettre que la conscience est le guide de l'homme et la volonté générale la règle du citoyen".

22. Léon, P., "L'idée de volonté générale...etc." Archives, p.197. ff. The answer to this, I suggest, is that if the "volonté générale" is determined by the "volonté de tous", that is to say a vote, then the harmony cannot be taken for granted.

23. This tends to be misleading since it suggests that the citizen in the Contrat social or the Economie Politique is in such a dilemma. What he means, I think, is that in some of Rousseau's writings the conscience is the "autorité morale" and in others, the General Will.

If Derathe is correct in claiming that the General Will is distinguished clearly from Conscience there would seem to be a "non sequitur" between Rousseau's purely moral and political writings. I suspect he is right. There is another, and more radical thesis, however, which could refer to the *Contrat social* and which ought to be considered. This is that the historical function of individual conscience is replaced by the General Will. One merit of this thesis is that it would make possible a relation between morality and politics so that the latter is the ground of the establishment of the former.

For reasons connected with the history of philosophy Burgelin's recent interpretation deserves to be mentioned. According to Burgelin the General Will is "pure reason" or "pure logos". He offers this definition: "Cette raison universelle s'appelle la volonté générale". Subsequently he acknowledges that the General Will is also based on interest (Le lien réel qui unit les hommes ne saurait donc être ce pur logos." but seems to believe that this aspect of the General Will is a result of adapting the theory to practice ("Ainsi, théoriquement, la loi est la raison, la souveraineté 'n'étant que l'expérience de la volonté générale' est encore la raison").

recognition of interest is regarded as a concession to experience and an imperfection in the purity of the General Will. To support this view Burgelin quotes Rousseau's Manuscrit of the Contrat social.

"Que la volonté générale soit dans chaque individu un acte pur de l'entendement qui raisonne dans le silence de passions sur ce que l'homme peut exiger de lui, nul n'en disconviendra". 27

This definition, however, is an exact quotation, except for "nul n'en disconviendra", from Diderot's Droit naturel. Rousseau reproduces this definition in order to criticize it. For Diderot, natural law and the law of reason are the same. He believed, therefore, that by the use of one's reason the individual can discern the natural law and, thus, the rule of conduct between man and man. "General will" connotes the apprehension of this rule of conduct and this, in turn, provides a sufficient basis for social relationships. Anyone who refuses to heed the dictates of reason "est l'ennemi du genre humain". It is Diderot, and not Rousseau, who holds that the General Will is pure and universal reason.

Rousseau, then, reproduces Diderot's definition, agrees that "nul n'en disconviendra". But immediately

28. Talmon also believes that this is Rousseau's definition. v. Talmon, J., The Origins of Totalitarian Democracy, p.41.
29. Vaughan, C.E., "Droit Naturel, Article de Diderot (1755)", Political Writings of Rousseau, I, p.432, et.
before the definition is quoted Rousseau writes: "Il ne s'agit pas de m'apprendre ce que c'est que justice; il s'agit de me montrer quel intérêt j'aie d'être juste".

The passage continues:

"En effet, que la volonté générale soit dans chaque individu ..., nul n'en disconviendra. Mais où est l'homme qui puisse ainsi se séparer de lui-même? et, si le soin de sa propre conservation est le premier précepte de la nature, peut-on le forcer de regarder ainsi l'espèce en general pour s'imposer, à lui, des devoirs dont il ne voit point la liaison avec sa constitution particulière?"

Rousseau, it seems, accepts that the General Will is a rational will but also, and this is the effect of his criticism, that it is based on a truly personal interest. The General Will is a social will only in so far as it satisfies interest. The General Will's basis in the interest of the citizens is an essential part of its definition and is not a mere concession to empirical demands. His criticism of Diderot and those who share this view supports this claim and is interesting from the point of view of Rousseau's more general thesis.

"... nous ne commençons proprement à devenir hommes qu'après avoir été citoyens. Par où l'on voit ce qu'il faut penser de ces pretendus cosmopolites qui, justifiant leur amour pour la patrie par leur amour pour le genre humain, se vantent d'aimer tout le monde, pour avoir droit d'aimer personne".

Not only is the state the proper cradle of justice but

man's true nature is realized first in his citizenship.

Diderot related his conception of the General Will to the general society of mankind. Rousseau's criticism of Diderot's article takes the notion of general society as central and is entitled "De la Société générale du Genre humain". Later in his book Burgelin offers a definition which, I think, could be used to distinguish Rousseau's conception from that of Diderot: "la société est à la fois la mère des citoyens et le produit de leurs intérêts". On the one hand Rousseau breathed new life into the Greek conception of the state and, on the other, intentionally borrowed from the Utilitarian, Hobbes. The emphasis Burgelin himself puts on "pure logos" tends to give us a false view both of Rousseau's meaning and what would appear to be his intention.

Speaking generally, Green's account of the General Will is a more faithful interpretation of Rousseau's than that of Bosanquet. Like Rousseau, the main distinguishing mark of the General Will is its attention to the community of interest as the basis of the state's operation. Like Rousseau too, and unlike Bosanquet, Green demonstrates a lack of interest in a precise technical sense of "will".

32. "La volonté générale peut seule diriger les forces de l'État selon la fin de son institution, qui est le bien commun". (II,1).
In fact Green uses "will" interchangeably with "sense" or "desire".

For my purposes, however, the main interest of Green's account lies in the general question it has raised. This question may be more easily appreciated, at first, in an exaggerated form. It is sometimes held that a good argument against Rousseau's General Will is that in fact no such will exists. And if this is true it is idle mischief to claim that the General Will is the sovereign power in the state.

Bosanquet, of course, offers an interpretation along these lines.

"The General Will is of the nature of a principle operating among and underneath a great variety of confusing and disguising factors, and can only be defined by the help of an 'as such' or 'in so far as'. It is ... the will of the whole society 'as such' ..." 34

According to Green, on the same question, although we may acknowledge a determinate human being as holding the power to enforce the laws and thus call him "sovereign", we must not suppose that he controls

"the real power which governs the actions and forebearances of the people, even those actions and forebearances (only a very small part) which are prescribed by the sovereign. This power is a much more complex ... [and] less easily determinable,

33. "A certain desire either is or is not the general will." Green, T.H., Lectures On The Principles Of Political Obligation, Section 96. v. also quotation above.
34. Bosanquet, B., Philosophical Theory Of The State, p.99.
thing; but a sense of possessing common interests, a desire for common objects on the part of the people, is always the condition of its existence. Let this sense or desire — which may properly be called general will — cease to operate, or let it come into general conflict with the sovereign’s commands i.e. the Austinian sovereign, and the habitual obedience will cease also". 35

Is there any basis for such an account of the General Will of the Contrat social? The following seems the most likely one. Rousseau compares the state (and by extension the state’s existence) to an association. An association is defined by the common interest of its members. The General Will is the will, on the part of its members, for that interest. If the interest in the association as such is neglected by the executive or by the people themselves the state is near, its ruin.

Now it may be that Rousseau would have accepted Green’s account but if so this feature of the General Will plays a small part in the Contrat social. For it must be remembered, not every general will is, for Rousseau, of intrinsic worth. Any association, be it one of bandits or traitors, has a general will, a will for the good of the association and the common interest of its members. In so far then as an individual is a member of the state he, as a member of the association, may be said to will generally when he supports the state and its interests. As I understand Rousseau, however, he believes

35. Op. cit., section 34. It should be noted, I think, that Green’s General Will is necessarily conscious whereas Bosanquet does not make this requirement.
that there is to some degree a will for the state's good but that this will is virtually non-existent and impotent in comparison to man's propensity to will his own private good and that of subsidiary associations. For this reason much of the argument is devoted to persuasion and suggesting means of encouraging the development of the capacity to will the General Will.

The fact that it is considered appropriate to criticize Rousseau's General Will on the grounds that no such sovereign will exists is due, however, to Bosanquet's paradoxical question - "How can there be a Will which is no one's Will?" and his suggestion that this is a part of Rousseau's conception. I suspect also that Bosanquet's interpretation is based on Rousseau's statement that although the people may not will the common good the General Will is "toujours constant, inalterable et pure: mais elle est subordonnée à d'autres qui l'emportent sur elle". (IV,1).

36. In this respect we might say that it is highly "artificial" to will the good of the state in preference to our own good or that of, for instance, our family. Our own good and that of our family are "natural" compared to the good of the state. We need to overcome our "inclinations" in order to will generally.

37. Carritt, E.F., Morals And Politics, p.145. "As I can form no idea of wills which are not wills of rational beings ... and as there appears no evidence what such wills will, or how many there are, or whether they exist, I shall leave this attempt to put political behaviour above or below the sphere of morality..." Carritt attributes this view in part to Rousseau, in part to Bosanquet.
This, it seems to me, is an incorrect interpretation. I do not believe that Rousseau meant that a will continued in active existence when no one willed it. This is to neglect the force of "subordonnée". A more reasonable, and consistent explanation is that although the individuals may be seduced from willing generally, the desire for the common interest remains, but it is overpowered by private or vested interests.

I would agree with those who reject such a view of the General Will as Green presents. In so far as it is general it is not will. In so far as it is will it is not general. Green writes of: "that impalpable congeries of the hopes and fears of a people, bound together by common interests and sympathy, which we call the general will". If this vague and heterogeneous mixture of desires, hopes, wishes, etc. is what is meant by General Will, there seems no great harm in it so long as this is not supposed to be "a will". And so far as the will is general, that is, the people intentionally and deliberately will the common good, to the exclusion of myriad other motives that characterize legislation and other political organs, this willing must be acknowledged too infrequent and rare to fulfil what the theory requires. Namely, that all or most

38.3 Green, T.N., Lectures On The Principles Of Political Obligation, Section 36.
of the citizens in fact will the good of all.

In conclusion, however, there seems to be no good reason for maintaining that Rousseau is responsible for a view of the General Will such as we have considered. What he did hold is that the individual member of the state has an interest in the common interest although this interest is sometimes overpowered by interests subordinate to the common interest. What is questionable, it could be argued, is the assertion that the General Will is the (only) constant will (IV, 2). Is it more constant than the will for the good of the family, for example, and if so, why?

Latterly, the question we have been discussing raises another which is often called the "idea of the general will", and might also be called the logic of the general will. To take an example. What justification is there in referring to the General Will as one? Or, to be more specific, what makes the will one? For presumably this question is assumed answered when Rousseau uses expressions like "the sovereign will" or "the will of the people". This assumption should not pass without examination.

Rousseau's answer to questions about the oneness of the will seems to me to be particularly weak. The chapter

39. I have in mind a number of articles regarding Bosanquet's Real Will theory which appeared in the Aristotelian Society Proceedings and Mind between 1917 and 1923.
heading of (II,2), "Que la Souveraineté est indivisible", suggests that we are to be told what makes the general will one will. Rousseau's answer to this is that the general will is indivisible because it is general, which is not much help.

He criticizes other views because they divide the sovereign will in its principle and its object. An act of the sovereign will is a law and a law must necessarily be general in its principle and in its object. But this does not explain what is meant by referring to a will, nor does it explain, or even attempt to, how or if the general will could be one in its origin.

When it comes to definition, however, this implied distinction between "principle" and "object" seems to be lost sight of and the latter predominates: "Ce qui généralise la volonté est ... l'intérêt commun qui les unit; ..." (II,4). It is true, of course, that according to Rousseau the General Will is one will because it is the will of the whole body of the state in comparison to that of a part. But it has also been remarked that what makes the state a whole as distinct from an aggregation of units is, according to Rousseau, the self-same common interest which unites the members (I,5). In the last analysis then what makes the will one is that all the members will a
common object, namely, the common interest or good. The question remains, then, does this make "one will"?

I cannot see that it does. What this amounts to is that the alleged unity of the social being (1,6) lies in the unity of the object which each distinct "will" of each distinct individual aims at. There is nothing in this to assert the existence of the General Will as an individual will. What Rousseau seems to suppose is that the existence of a common good necessarily implies the existence of a common will. Why this should follow is not at all clear. All that is asserted is all the people willing the good of all and this does not constitute grounds for maintaining that the General Will is one will.

To conclude, the General Will may be best explained graphically. We can do so by making a number of dots in a straight line to represent "individuals willing", a number of lines proceeding from each dot to represent, in each case, a will. Some distance away all the lines would meet in a circle to represent the object of these "common" wills, the common good. And what then, according to

---

41. Rousseau's conception of "common good" and "common Interest" is also highly ambiguous. "A" is concerned with his preservation, as is "B". What "A" and "B" have in common is a concern for self-preservation. This does not mean that "A" and "B" have the same object, for "A" can be unconcerned about "B"'s preservation and vice-versa.
Rousseau, makes the will general and unified and the individuals into a unity called "the state" is the unity of the object willed.
Chapter 10

Review

"ce que j'appelle la vertu dans la république est l'amour de la patrie ... Ce n'est point une vertu morale, ni une vertu chrétienne, c'est la vertu politique; celle-ci est le ressort qui fait mouvoir le gouvernement républicain ..."

1. Montesquieu.

"... un auteur déclare a donné la vertu pour principe à la république,... mais ... ce beau génie ... n'a pas vu que l'autorité souveraine étant partout la même, la même principe doit avoir lieu dans tout État bien constitué," (III,5).

We have accumulated now considerable material bearing on the same subject - Rousseau's general will in the Contrat social. It would be helpful to try to discover a significant pattern among the numerous properties of the general will that have been established and considered. One way of doing this is to begin with the pattern of tension between morality and interest. It will be remembered that Rousseau put the following purpose in the forefront of his thesis.

"Je tâcherai d'allier toujours dans cette

It seems to me that we are justified in treating this broadly, as an attempt to satisfy the demands of both morality and interest, since morality is dependent necessarily on the state and reaches its zenith therein. It seems to me also that we are well advised to take this dual-purpose more seriously than contemporary critics are wont to do. In particular the emphasis on interest needs development.

Beaulavon adds a footnote, in his edition of the *Contrat social*, to the passage just quoted.

"On méconnait donc l'intention de Rousseau quand on voit en lui un pur 'utilitaire'!" 2

Of the many commentaries I have studied none has considered Rousseau from this point of view. My experience is that modern criticism tends to disregard the question of "interest" and "utility" altogether and endeavours to maintain that Rousseau is wholly a rationalist in his *Contrat social*. This, in various degrees, is true of the interpretations of Cassirer, Bosanquet,

---

2. Beaulavon, G., editor, *Du Contrat social*, footnote, p.118. Presumably, Beaulavon means by "utilitarian" one who puts his own interest before justice and right. If he does not mean this the force of "donc" is unclear.
Derathé and Burgelin. In this thesis I have tried to give a balanced account of these interpretations and there is no need to extend this remark further. What we can do is to try to show how the tension between interest and morality contributes to the complexity of the conception of the general will. For it is apparent that if interest and right are to be satisfied the general will as the principal idea of the *Contrat social* must be the ground of their harmony.

We can begin by listing three conceptions of the general will according to Rousseau.

1. The willing of all for common means to private ends.
2. The willing of all for social ends for their own sake.
3. Conceiving the laws as rational ends and as the way to the moral freedom of all.

Taking this list as a point of general reference I shall argue that although Rousseau moves, in the course of his argument, from the first to the third, in the end he tries to satisfy both the first and the third. It will be enough, for the moment, to say there is, for Rousseau, a strong correlation between morality and disinterestedness.

3. I am indebted to Professor H.D. Lewis for this approach. The source is quoted on page 363 of this chapter. However his list is intended to cover different theories of the general will, namely, Rousseau's, Green and Bosanquet.
From this it follows that if Rousseau is to continue to satisfy the requirements of interest and morality alike, the General Will never can be a purely moral will. I will try to give reasons for such a conclusion.

In Chapter 2 of this thesis I tried to make a distinction between "man in the state of nature" and man who lived or wished to live according to the standards characteristic of the state of nature although he lived, or wished to live, in civil society. The distinction is then between (1) a logical construction, "man in the state of nature" who is apolitical, and (2) a critical idea, "natural man in civil society" who is unpolitical. I attach some importance to this distinction and particularly to the second characterization. It is critical because Rousseau uses "natural" in this sense to describe both civil states and the relationships between individuals which he regards as illegitimate. The ground of his criticism is that illegitimate political associations embody principles which are characteristic of the state of nature. As a mere logical construction "the state of nature" and its complements were useful against his opponents to draw a sharp contrast between man in his political condition and what he must be like shorn of his political inheritances.

It is, however, for Rousseau a wholly different
question to maintain one's right to live according to the standards of the state of nature in the civil state. The conception of independent ends is in contradiction with the ends of civil society and must be forbidden, therefore, in the state.

Nonetheless the fact that the critical usage of "natural" is derived from the logical construction of man in the natural state ensures that they will coincide at some points and will differ according to their application. This can be seen in tabular form, where "natural" functions, on the one hand, as a reply to Hobbes and, on the other, as a criterion to judge those who are unfit for the civil state.

"Natural man", then, is:

1. Independent i.e. he is not (or does not hold himself) responsible for others or to others;
2. Subject (or regards himself as subject) only to the laws of nature, otherwise he does as he wishes and acts according as his interests direct him;
3. Justified (or believes himself justified) in the use of force to get what he cannot get otherwise. In the state of nature, however, force is confined to individuals. The state of war presupposes the civil state.

It can be seen that the unbracketed statements could
be used against Hobbes' argument that any condition of
man is preferable to the original state of nature.
Equally those which are bracketed can perform the critical
function of rating and classifying political relation­
ships, states and theories of states, and aid negatively
in formulating superior ones.

Rousseau rejects the practice of such principles in
the civil society. So far from being independent man
must learn to become a part of the whole, to consider
himself responsible to all and for all. He must learn
to subject himself to the laws of the state which, in
theory at least, are general and constrain him, therefore,
no more than natural/ Because each is himself an author
of the law he must will rationally and disinterestedly,
making the good of all his aim. The use of force must
be prohibited to individuals, who use it arbitrarily and
capriciously, and punishment must be standardized and
objectified in laws. The use of force must be confined
to the state.

For the purposes of the contract of the state,
however, the argument from the state of nature and from
"the natural man in the civil state" make an insignificant
contribution to the positive doctrine. The more
theoretical argument from "the state of nature" soon
becomes irrelevant. As we say in Chapter 2 "natural man
in the state of nature" the logical construction, had no real choice whatsoever ("le genre humain périrait s'il ne changeait sa manière d'être.") and was poorly equipped to do so if he did being "un animal stupide et borné". For a different reason "The natural man in the civil state" must be also denied. The purely independent aims of the individual are inconsistent with the social ends of the contract; the behaviour of the natural man is incompatible with the civil state.

Nonetheless, and this is, understandably, the source of confusion, man cannot be expected to surrender either: (1) his concern for his own self-preservation, (2) his inherent right to freedom. These are "natural" to man in another sense. To introduce this I distinguished still a third use of "natural" by which Rousseau means characteristics which are essential to man as man, to his humanity. It is this third sense which becomes the main "consideration" involved in the contract. The bargain, as Rousseau argues in the earlier chapters, cannot be made "at any price". This must mean that individual liberty and interest are catered to in some form. And if the "common interest" is held to be characteristic of the civil state and individual interest of the natural state, then it is in this third form that "natural" becomes a factor in the contract. This, in turn, means that self-interest is an essential
quality of human nature and must be given some play.

The crucial question is - in what way? We can begin with the first conception of the general will, namely, as willing common means to achieve private ends. In the formula of the contract this conception is presented full-blown. It is claimed that man, while uniting with others, may obey himself alone "et reste aussi libre qu'auparavant". (II,6). If we take this literally it can refer only to what I have called "natural man in civil society". Rousseau seems to claim, in other words, than man can become a citizen and yet retain all the "rights" and advantages of the state of nature. This, plainly, is both impossible and untrue. The claim, Bosanquet remarks, suits "neither the view he starts from, nor the view he arrives at".

He next attempts to maintain, as we saw in Chapter 3, that the common interest comprises what is common to the individual's interests. It is suggesting that willing generally is the most convenient means of satisfying private ends, although not all private ends. Here morality is not in question. It is simply and solely a matter of advantageous bargaining somewhat similar to Hume's notion of a convention. The individual is bound to observe the

4. Bosanquet, B., The Philosophical Theory of the State, p.34.
contract only so long as it works, so long as the arrange-
ment is satisfactory.

Midway through Book II this conception is replaced by
the second conception of the general will, all willing the
social end for its own sake. Why? Rousseau gives
several answers. The General Will although willing the
good does not know it, the public can be mistaken in its
judgment and the individuals reject the good knowing it to
be good. Morality makes its appearance at this stage
of the argument in the form of the common good. It is
morally wrong to will the satisfaction of selfish ends.

Although the different reasons mentioned above all
receive due attention, the Legislator's special office is
to "denaturalize" the individual. The individual becomes
a citizen and moral by willing social ends, namely, the
common good for its own sake. Thus politics and morality
are fused in the one end. In this Platonic part of the
argument the General Will stands for the common good and
thus appears to the individual as the ideal end of his
moral and political activity.

There is a second view of the General Will in the
Platonic part which is more interesting. According to
de Jouvenel and Vosters the General Will is conceived as
sentiment in certain places in the *Contrat social*. One
place where this occurs is in the sections dealing with
the Legislator. The sense in which Rousseau is said to be a rationalist must take account of this.

The individual is not encouraged to "consulter sa raison avant d'écouter ses penchants" (I,3). At the state's inception the individual is still "natural", still moved and motivated by impulses. It is as a citizen that he learns to heed the dictates of reason. "Ainsi donc le législateur ne pouvant employer ni la force ni le raisonnement..."(II,7) substitutes emotive influences through religion and patriotism. In the youth of the state the emphasis is put on replacing selfish, and therefore, wrong desires by stronger desires and emotions which are directed to the public good. It is not to put emphasis on the development of one's reasoning powers, nor on encouraging the use of reason. In different respects we have in this particular solution reflections of Hume's views on the capability of reason to influence the passions and of Plato's opinions on moral education. Rousseau then, envisages, as Vosters and de Jouvenel insist, the General Will as essentially a sentiment or a feeling for the common good.

I suggest, in passing, that Rousseau went further and at this particular stage of the argument replaced sentiment and will by habit. To make this point clear I must suggest, first, that there is a strict correlation
between willing generally and obeying the laws, and if we obey the laws by the force of habit, then at this point the notion of the sovereign legislative will loses all its vitality. Neither the making of the law nor the obeying of it correspond to an exercise of the will.

Nor is there a fully developed notion of morality. It is true that objectively the general will comprises a higher end than the satisfaction of private ends through common means. As a goal the general will is disinterested to a large extent. But from a moral point of view there is not a personal desire for the common good and although the common good is to be willed for its own sake, there is no way of distinguishing the moralist from the chauvinist.

The trouble that one may have with this part of the argument is to discover its relevance and consistency with other parts. I suggest that it is here that Rousseau's thinking shows the influence of classical political thinking and moral valuations. The emphasis, morally, is on the objectively good. If the action done is good then this is what matters not that it has been willed and so given subjective grounds in our own volition. To obey the laws habitually is to further the common good and to further the common good is to be morally good.

(In making the comparison to classicism I have in mind
the producers in the Republic, and the subjects in the Statesman and the Laws).

Moreover the Platonic paternalism raises further difficulties in the argument. If the general will is "all it ought to be" what need is there of the disinterested rationalist acting for the benefit of the people? Politically, it should be made clear that perhaps the greatest doubt created by the device of the Legislator is: when is the general will of the people ready for sovereignty? For the implication of the Legislator is that in the state's beginning the general will is neither trustworthy nor responsible.

Nonetheless Rousseau shows that he is aware of a problem peculiar to democracy and in a diluted form many modern democratic thinkers might endorse the policy he suggests.

The general problem that Rousseau is considering has to do with a newly constituted people. What he suggests is that a disinterested and experienced legislator provides the initial constitution. He presupposes that the system of laws will be good both in itself and suited to the people and their circumstances. Rousseau then argues that the next step is for the people to learn to obey these good laws before rashly beginning to legislate new ones. That is, that a people should become responsible
before exerting its freedom.

This form of the doctrine is in keeping with my claim that Rousseau was the first among the early democratic thinkers to appreciate the difficulties involved in responsible popular sovereignty.

It is plain that Rousseau, while concerned with making men moral and responsible to the public good, presents a conception of the general will which is opposed to the conception of willing generally as a method of achieving private ends through common means. We will the common good for its own sake and in opposition to our natural desires and interests. Willing generally is the property of the citizen; willing particularly is that of the "natural man in the civil state". The two are incompatible. Man must learn to be a citizen and this entails preferring the common good to his private good. But to what end?

Rousseau then makes what appears to be a crucial shift in position.

"Mieux l'Etat est constitué, plus les affaires publiques l'emportent sur les privées dans l'esprit des citoyens. Il y a même beaucoup moins d'affaires privées, parce que la somme du bonheur commun fournissant une portion plus considérable à celui de chaque individu, il lui en reste moins à chercher dans les soins particuliers." (III,15).

Notice, particularly, two ideas. (1) The idea of the state as the mother of us all, the idea that political
life nears perfection when more and more matters become political matters and less and less is left to chance and the arbitrariness and inconstancy of mere individuals.

(2) The idea of the questionable compromise, namely, that in willing the common good for its own sake we discover that we get a better return and a more efficient way of reaching private ends. This, of course, is neither willing common means exclusively to satisfy private ends or willing the common good for its intrinsic worth. It is this idea, I think, that Bosanquet has in mind when he writes of what he calls a "prima facie" contradiction: "if all private individuals were enlightened, but selfishly interested, there could be no public good will". 6.

The third conception is the general will as willing rationally; the general will, it is argued, is a rational will and to will rationally is to will universally. The rational will is disinterested and unselfish and takes as its object the interests of all. To will generally is not merely to use the public instrument as a means of achieving selfish aims nor to render mechanical and blind

allegiance to the public good. It is rather an attempt to will the good of the whole and to try to appreciate how one should will if one willed universally, taking the interests of all the citizens into account. It is according to Rousseau’s dramatic conception, to picture yourself not merely as a voter but as a sovereign.

Another view is that every citizen is a legislating member of the Kingdom of Ends. According to this interpretation the citizen’s duty is to will rationally, to vote in such a way as would meet the approval of a universe of perfectly rational beings. He must give no thought to his own nor to the actual interests of his fellow citizens. "Reasons of state" and individual interest both give way to the moral will. This, it is held, is the true Rousseau and the genuine formulation of the general will in the Contrat social.

This interpretation invites criticism at at least two fundamental points. First, it is an important part of the doctrine that all the people and nothing but all the people can declare the general will. What this interpretation presupposes is therefore a city of moralists. Only Bosanquet has troubled to point out the political difficulties and improbabilities this conception involves. Second, it fails to give an adequate
and reasonable account of two seemingly incompatible principles which are fundamental to the argument and to the notion of the general will. On the one hand, it is characteristic of the citizen to will the common good. On the other, that no individual can, in the nature of things, "denaturalize" himself to the extent of not caring about himself, his interests and freedom. It is the second of these that requires further comment.

I believe that Rousseau may have conceived man as being at once potentially moral and self-interested and that the state must be conceived so as to satisfy both characteristics, since both are fundamental to man's nature. I differ here with the rationalists who, to my mind, misconceive the disinterestedness of the general will. The passage quoted from the Manuscrit in reference to Burgein's interpretation expresses my contention. There Rousseau deliberately took the part of the independent man of the state of nature, against Diderot's cosmopolitan, to ask - why should I obey any law if it is against my interests? This basic attitude, though not the consistent theory it implies, seems to me to be present also in the Contrat social.

If this interpretation is denied a place certain passages of the Contrat social remain, to me at least, a
mystery. Why should Rousseau when arguing about voting maintain that the smaller the state the greater the freedom? We have seen that numbers are irrelevant to moral freedom. I suggest that Rousseau means that the individual has a better opportunity of seeing his own will expressed if the number of citizens is small.

Why should Rousseau argue that of two evils a multitude of small associations is preferable to one large one (II,3)? If he had been a consistent rationalist he should have not argued that the more general the association, the more general its will. Instead he must mean that the individual has greater individual freedom and more influence to get his own will expressed in a smaller association than in a large one. In the ideal voting situation "pour avoir bien l'énoncé de la volonté générale, qu'il n'y ait pas de société partielle dans l'État, et que chaque citoyen n'opine que d'après lui:..." (II,3) also states, even more strongly, that the individual

7. As he did argue in the Economie Politique, Vol. I, p.242. I think it is significant that this article was written not only at Diderot's request but in agreement with him on this question. That is, that the most general will is the most just. This, I will try to show is not true of the Contrat social.
consider himself in voting.

Professor Lewis maintains such an interpretation as I am suggesting and defends it very ably.

"The chapter on the Legislator, chap. 7, Book 2, Contrat social, is very instructive in this connection. Notwithstanding his 'great soul' and 'superhuman intelligence' the Legislator cannot be trusted with official position. 'His private aims would inevitably mar the sanctity of his work'. Human beings, apparently, could not resist the temptation, in formulating laws, of taking thought of the possibility of applying these laws subsequently for their private benefit, as soon as the circumstances permitted it. Rousseau seems to have had little real faith in the possibility of genuine disinterestedness".

He mentions also Rousseau's comment that democratic government (i.e. a government where the people themselves execute the laws) is fit only for gods. Rousseau opposes such a form of government because he believes there would be too great a temptation for the individuals to apply the laws in their own favour.

There is, concludes Lewis, a manifest contradiction in the General Will which permits it at once to encompass morality and interest; since the one requires disinterestedness, the other not. However, the quoted passage with which we began this chapter implies that

Rousseau is acutely conscious of "what right prescribes and interest enjoins". The formulation of this purpose suggests the possibility of an interpretation which is neither that of the "rational-moralists" nor pure Utilitarian.

I shall endeavour to present such an interpretation although I shall not confine myself merely to the question of morality and interest. Much of the groundwork has been laid for this statement in this and previous chapters although I wish to acknowledge particularly the interpretations of De rathe, de Jouvenel, Cobban and especially Strauss. As before, I am interested in presenting what follows from an examination of the Contrat social.

I want to begin the interpretation with a discussion and analysis of the following propositions:

"On veut toujours son bien, mais on ne le voit pas toujours:..." (II,3).

"On aime toujours ce qui est beau ou ce qu'on trouve tel; mais c'est sur ce jugement qu'on se trompe: c'est donc ce jugement qu'il s'agit de regler". (IV,7).

"De lui-même, le peuple veut toujours le bien, mais de lui-même il ne le voit pas toujours". (I,6).
All three statements are vague and ambiguous. Let us begin with: "On veut toujours son bien, mais on ne le voit pas toujours:" (II,3). This statement could be interpreted to favour a self-interest or a moral theory. Does Rousseau mean to accent our good or goodness itself, as the reference to mistaken judgment might suggest? If it is the first is this merely a psychological generalization or does he mean to emphasize that a whole people is "self-interested", just as the individual is, but sometimes mistaken or ignorant of their interests? I have concluded in an earlier chapter that in terms of the context the last is what is meant.

Consider the second: "On aime toujours ce qui est beau ou ce qu'on trouve tel; mais c'est sur ce jugement qu'on se trompe: c'est donc ce jugement qu'il s'agit de regler". (IV,7). The qualification "ou ce qu'on trouve tel;" makes this statement philosophically innocuous for "what men find good" justifies any value judgment. Judas found money good. The interest-value of this passage lies solely in its implications as to how one should set about getting men to love what is good and not merely what they fancy as good.

The third passage is strategically the most important
passage of all.

"De lui-même, le peuple veut toujours le bien, mais de lui-même il ne le voit pas toujours". (II,6).

In content it is only slightly different from the first, which occurs three chapters earlier. In significance it is one of the most important passages in the *Contrat social*. The first passage says only that all the people in willing will express their own good or their own interests. The second says that if the people are granted their sovereign right their will will always be good. This too is not unambiguous for this could mean the people will the morally good. This, in turn, could mean not merely what is good for all as opposed to what favours particular interests but what is good for anyone, universally and absolutely good from a moral point of view.

As has been argued before in the chapter comparing Rousseau to Kant, I favour the former interpretation, namely, "the good" is what is in accordance with the interest of all. The state is the citizens considered collectively (I,6). The question that the citizen-legislator ought to put himself is, is it "avantageux à l'Etat"? (IV,1 and III,15). Perhaps, as I suggested in that chapter, my view of the *Contrat social* is indicated by saying that Rousseau is concerned exclusively with the
Rousseau's typical view is expressed in the attitude of Cato described in the anecdote in Chapter 3 of Book IV.

"César, plaidant pour Catilina, tâchait d'établir le dogme de la mortalité de l'âme: Caton et Ciceron, pour le refuter ne s'amusèrent point à philosopher; ils se contentèrent de montrer que César parlait en mauvais citoyen, et avançait une doctrine pernicieuse à l'Etat". (IV,3).

This would have to be modified somewhat for there is a cynicism implicit in the statement which although borne out in certain passages, namely, Chapters 4 and 5 of Book II, is absent elsewhere. But by and large Cato expresses the General Will where, in this case, Caesar as philosopher does not. What does this mean?

It means, I maintain, that what is useful is what the citizen proclaims to be useful and that what is right and good is what the citizen proclaims to be right and good. By "the citizen" I mean Rousseau's definition, one who wills the common good.

We can take as our example of the philosopher, the Legislator, the personification of disinterested reason, "une intelligence supérieure qui vit toutes les passions des hommes, et qui n'en éprouvât aucune; qui n'eût aucun rapport avec notre nature, et qui la connût à fond;" (II,7).

It could be maintained, for purposes of argument, that the relation of the Legislator and the citizenry is the symbolic of the whole attitude to reason of the philosopher,
universal reason and Locke and Diderot's notions of the law of nature and natural rights.

The Legislator's decisions, "right" though they be in the light of disinterested reason, must be submitted for approval and sanction to the legitimately assembled people. Ultimately this must mean that rights are derived from will and not, as Locke and Diderot supposed, from reason alone. Nor is it merely, as Beaulavon supposes, that the general will guarantees rights; the general will is the basis of all rights.

Obviously this general statement needs to be supported. Although Rousseau is far from clear on the subject of natural rights and the law of nature, I believe we can go some way towards justifying the above claim. First, however, we need a general summary of Locke's and Diderot's conception of the law of nature in order to suggest that Rousseau had them in mind.

Locke held, in the first place, that God is the legislator of the law of nature. Second, unlike positive law, the law of nature applies universally. Third, knowledge of the natural law is potentially
available to all through the "natural light" of reason. Fourth, that since all men are equally children of God and, therefore, equally endowed with reason then, according to Locke, all men ought to respect the natural rights of others. Fifth, natural rights are knowable also by reason. Sixth, Diderot, as can be seen by examining his articles on natural law in the Encyclopédie, regarded natural rights and morality as one and Locke seems in the same position. Finally, at least for our needs, according to Locke the function of government is to preserve and guarantee these rights.

With this summary in mind we can turn now to Rousseau's statement on the subject, which needs to be

9. Our knowledge of the natural law, presumably is an instance of all knowledge i.e. according to Locke's "reason is here taken to mean the discursive faculty of the mind, which advances from things known to things unknown and argues from one thing to another in a definite and fixed order of propositions. It is this reason by means of which mankind arrives at the knowledge of natural law. The foundations, however, on which rests the whole of that knowledge which reason builds up ... are the objects of sense-experience; for the senses primarily supply the entire as well as the chief subject-matter of discourse ..." Essays on the Law of Nature, Essay 5, p.149.
"Ce qui est bien et conforme à l'ordre est tel par la nature des choses et indépendamment des conventions humaines. Toute justice vient de Dieu, lui seul en est la source; mais si nous savions la recevoir de si haut, nous n'aurions besoin ni de gouvernement, ni de lois. Sans doute il est une justice universelle émanée de la raison seule; mais cette justice, pour être admise entre nous, doit être réciproque. À considérer humainement les choses, faute de sanction naturelle, les lois de la justice sont vaines parmi les hommes; elles ne font que le bien du méchant et le mal du juste, quand celui-ci les observe avec tout le monde sans que personne les observe avec lui. Il faut donc des conventions et des lois pour unir les droits aux devoirs et ramener la justice à son objet. Dans l'état de nature, où tout est commun, je ne dois rien à ceux à qui je n'ai rien promis; je ne reconnais pour être à autrui que ce qui m'est inutile. Il n'en est pas ainsi dans l'état civil, où tous les droits sont fixes par la loi. Mais qu'est-ce donc enfin qu'une loi? Tant qu'on se contentera de n'attacher à ce mot que des idées métaphysiques, on continuera de raisonner sans s'entendre; et quand on aura dit ce que c'est qu'une loi de la nature, on n'en saura pas mieux ce que c'est qu'une loi de l'État... quand tout le peuple est statut sur tout le peuple, il ne considère que lui-même; et s'il se forme alors un rapport, c'est de l'objet entier sans un point de vue à l'objet entier sans un autre point de vue... Alors la matière sur laquelle on statue est générale comme la volonté qui statue. C'est cet acte que j'appelle une loi". (II,6).

10. This is the thesis of Locke and Diderot. We have already quoted Diderot on the subject. Locke writes: "The state of nature has a law of nature to govern it, which obliges every one; and reason which is that law (my emphasis), teaches all mankind who will but consult it..." Second Treatise, Chapter 2, Section 6, v.; also Essays, p.111-113.
Either it means that civil laws are imitations of natural law (universality is preserved, etc.) with the added advantage of being effective. Or, it means that natural law, rights and justice, the ideas of Locke and Diderot, are paid lip-service but in the end discarded. Neither is, perhaps, impeccable but I shall try to expound the latter.

Rousseau "acknowledges" God as the source of natural justice (and justice is universal "émanée de la raison seule") but it is difficult on his own account to attach any meaning to "natural" justice. Certainly he could not accept Locke's formulation of it, namely, Obligations "between a Swiss and an Indian, in the words of America, are binding to them, though they are perfectly in a state of nature in reference to one another. For truth and keeping of faith belong to men as men, and not as members society". I understand this to mean, at least, that our obligations are wider than our obligations to obey the civil laws. That justice, against Hobbes, is more than obedience to what the sovereign lays down. But Locke's statement would be less ambiguous if it were "not as members of a particular society" or, alternatively, "members of civil society".

Admittedly Rousseau also could be more explicit. But it seems that the following statement indicates his rejection of a conception of natural justice.

"On voit encore que les parties contractantes seraient entre elles sans la seule loi de nature et sans aucun garant de leurs engagements réciproques, ce qui repousse de toutes manières à l'état civil: ...") (III, 16).

The main point is that rights no longer have their ground in reason alone but gain their whole and sole meaning in a particular political society. Without political society "rights" are not only useless but meaningless. Rights derive from the convention of human will and are independent, or are at least not directly dependent, on God's will. They are derived from the general will of the community.

It is not merely that covenants without the sword are but words. Rather it is that all rights are civil rights. They are formed as rights by the will of the whole community and take their origin not in reason but convention. In holding this view of Rousseau's attitude to natural right I gain some support from Groethuysen.

"Les droits de l'homme dans l'état social ne sont pas des droits qui restent pour ainsi dire en dehors de la société et que la société lui conserverait comme malgré elle. Ce ne sont pas des barrières érigées en faveur de l'individu pour
arrêter le pouvoir social. Le droit perd son caractère néglatif ... Droit et obligation sociales ne sont pas des termes qui accroissent ou décroissent en proportion inverse, de sont des valeurs étroitement unies,..." 12.

This difference, between Locke and Diderot on the one hand and Rousseau on the other, regarding natural rights is considerable and marks a new conception, so it seems, of what constitutes rights.

Perhaps by applying Rousseau's conclusions regarding rights we can contrive an example to show what is meant by saying that rights come from will. Del Vecchio writes that Rousseau does not deny natural rights in the state but that by calling them civil rights they are supported by the state.

But according to Rousseau what are mere possessions in the state of nature become property by being surrendered to the state. This, he argues, gives rights added force against foreigners and individuals within the state and, in addition, gives possession legal title in the individual's property. But the significant point here is, surely, that by surrendering his possessions, on becoming a party to the contract, to the community the individual grants thereby the right of ownership.

13. del Vecchio, G. The Philosophy of Law, p.92.
to the state of the individual's possessions. This means, Rousseau goes on to claim, that the individual ultimately derives his right to property from the will of the state. And this in turn signifies that the right of the state is superior and prior to the individual's "natural right" of ownership.

The conception that "tous les droits sont fixés par la loi" involves much more therefore than a mere verbal difference. The validity of rights is dependent on their origin in the General Will.

It is interesting in the respect to note Condorcet's remarks on the same question. While using the language of Rousseau he propounds the theory of Locke.

"The common interest of any society, far from demanding that they should restrain such activity, the right to property in Locke's broad sense of the term on the contrary, forbids any interference with it; and as far as this aspect of public order is concerned, the guaranteeing to each man his natural rights is at once the whole of social utility, the sole duty of the social power, the only right that the general will can legitimately exercise over the individual". 15.

Condorcet obviously understands the general will as

14. My point is this. To say that Rousseau "preserved natural rights" is to misrepresent the position since this implies that the individual then has a "natural right" of property against the state. Whereas Rousseau means that all rights are ultimately civil rights.
15. Condorcet, Sketch for an Historical Picture ..., etc. p.131. (My emphasis.)
having exactly the same function as the government has for Locke, the sustainer of natural rights of property. Whereas, as I have tried to show, Rousseau's theory of property seems suited by nature to a refutation of natural rights.

Rousseau, and this may be the important point, shifts the point of emphasis from the universe of rational beings to the state of virtuous and intelligent citizens. He undermines thereby the historical function of natural law and rights by means of which was measured not only tyrannical government but government of any kind. What is put in its place? Mainly, I think, the notion that "le peuple veut toujours le bien, mais de lui-même il ne le voit pas toujours". (II,6). What does this mean for Rousseau? There are, I believe, three distinct possibilities.

One, that whatever the people in fact will is always without question and unconditionally good. This is the statement of absolute confidence in the unqualified principle of the majority. Rousseau is not consistent in his attitude to the majority principle. We have seen in Chapter 3, for example, that he will accept it in a qualified form. When the majority vote represents the wishes of the majority of individuals and not the vested interests of partial associations (II,3). This is not a
rejection of the majority principle, only a refinement.

Nonetheless, allowing Rousseau's inconsistency on this point, we are not justified in taking the majority principle as the main contribution of the *Contrat social*. If the majority principle were true it would be political accident and not political art. Rousseau sees that the justification of popular sovereignty must be stronger.

"Il est plus impossible encore qu'on ait un garant de cet accord, entre "la volonté de tous" et "la volonté générale", quand même il devrait toujours exister; ce ne serait pas un effet de l'art, mais du hasard". (II,1).

Second, he could mean that the people and only the people ought to have the right of sovereignty. It is remarkable, I think, that so fundamental a principle as this constitutes for his argument receives so little explanation. The right of popular sovereignty I have suggested is for Rousseau a logical extension of the individual's right of liberty and if I am right in this Rousseau appears consistent. But it is odd that one has to piece this together and that so basic a matter receives so little discussion. Rousseau may have felt, of course, that popular sovereignty was a right and that was all there was to it. This, however, seems rather weak. At any rate it is not what is meant by saying that "le peuple veut toujours le bien". There is no necessary relationship
between having the right to do something and being able to do it.

Third, the people, as distinct from other possible sovereign bodies, wills the objectively good and therefore in right ought to be sovereign. This is what the statement ought to have meant and what Rousseau ought to have shown.

If this is what he did mean his conclusion is both implausible and unproved. For Rousseau's conclusion, on this view, is that we can derive the morally and unconditionally good from a referendum. If willing the good, in this moral sense, is the purpose of sovereignty, it is clearly a question of showing why the people are or would be superior in this function.

The argument that is most consistently adhered to in the Contrat social follows from "all the people willing the good of all". This argument represents an attempt to satisfy at least two principles. That is, that the people ought to be the recognized sovereign and that if they will generally their will will be good. The principle that a people has a right to be sovereign of their own affairs. And the principle that the results of their deliberation will be good.

Now if the second means what we have seen some commentators think it means, namely, that we legislate,
for a universe of rational beings and thus arrive at the morally good (in the strict sense) then I cannot see that the General Will is a political will, that it satisfies utility or, finally, that there is any essential difference between Rousseau's conception of a political law and Locke's conception of a natural law. But I think that we must endeavour to reveal an explanation of the argument which allows for utility, so that the General Will does cater to an interest, even though it is the common interest. If this is so it means that Rousseau, from a moral point of view, argues that men become virtuous by preferring the state's interests to their own. This too can be criticized.

We can grant, for purposes of argument, that it is better to prefer the good of a particular group, the state composed of all the citizens, to our own good. This, however, would not be morally good unless the common good was itself good, which has not been shown. Moreover, there is an ambiguity involved in saying that the common good of all the citizens prescribes what is morally good for the citizen. For if it is morally good to will the good of others in preference to our own, its moral worth, one imagines, comes from its being the good of others and not because they are our fellow citizens.
If to be a good citizen precludes willing the good of foreigners then the state would seem to stand in the way of morality. Political life, as Rousseau envisages it, may be possibly a moral education. But it is not, nor is it likely to be, a graduation. (I am assuming throughout, I hope correctly, that Rousseau in the *Contrat social* is making the stronger claim, namely, that morality begins with the state, not simply with society i.e. the fact of human beings associating with one another.)

Having reached this stage of the thesis, having attempted that is to examine other interpretations of the General Will and the *Contrat social*, we can try to state what appears to be Rousseau's chief aim in the *Contrat social* and from this the conception of the General Will which Rousseau himself regarded as most important.

The chief aim of the *Contrat social*, we could say, is to provide the elements of an education in citizenship. The *Contrat social* begins, I agree, as a theory of the state. Rousseau uses the first five chapters to argue against those who would deny the people their sovereign right. But what follows? Weil's article in *Critique* contains a quotation from Tom Paine dated 1790 which provides an apt reply to this question.

"On trouve dans les écrits de Rousseau et de
l'abbé Raynel un vif sentiment pour la liberté qui a droit à notre respect et rehausse les facultés de l'homme; mais une fois qu'ils ont crée cette animation, ils n'en dirigent pas les actes et laissent l'esprit amoureux sans lui indiquer les moyens de posséder l'objet de cet amour". 16.

Paine was, of course, looking to Rousseau for ways of putting the people directly in power. What Rousseau had to say can be expressed as: the people ought to hold the law-making power, would be the superior law-making authority if and only if their sovereign will is the general will. He has surprisingly little to say regarding their right, less still about their capability and concentrates largely on the necessary conditions for the sovereignty of the general will.

The conditions he considers necessary are that the people submit to a civic education or an education in citizenship. This conclusion regarding the chief aim of the Contrat social parallels the final comments on the general will.

It seems a general assumption that Rousseau considered the general will to be a distinct entity, distinct from the willing of actual individuals. So that, in effect, the "volonté générale" is one thing and the majority vote or the "volonté de tous" is

another. Sometimes his language provides grounds for such an interpretation. But it may be argued that all Rousseau meant, and certainly all he ought to have meant, was that these terms are a means of classifying possible expressions or declarations of popular sovereignty. The difference between "la volonté de tous" and "la volonté générale" is that in the former all the people will the satisfaction of private interests, in the latter, the satisfaction of interests of all. But what does this amount to? If you deny, as seems clear, that all willing generally is not sufficient to make their wills one, then it amounts to this. It means I think that "general" is a description of individuals willing. A description which describes merely the object of the willing. For (1) both the "volonté de tous" and the "volonté générale" include all the people (2) the citizen is distinguished from the individual as one whose will is general. This can mean only that the general will describes or classifies individual or individuals willing. This should not lead us to accept Talmon's conclusion.

"The General Will has an objective existence of its own, whether perceived or not".

The general will then is a standard by means of

which we classify types of individual willing in respect to the ideal of what popular sovereignty ought to be. There are some individuals who would use the state solely to satisfy private interests. There could be others who would appreciate sovereignty as the way of expressing the interests of all. If all the associates willed as in the latter case the ideal of the sovereignty of the general will would be achieved. If one associate wills the good of all he is called citizen.

"Chaque individu peut, comme homme, avoir une volonté particulière contraire ou dissemblable à la volonté générale qu'il a comme citoyen: son intérêt particulier peut lui parler tout autrement que l'intérêt commun;..." (I,7).

The general will can be interpreted as being the ideal will of popular sovereignty. It is then a matter of indifference whether we say that Rousseau's object is to educate man for citizenship i.e. to will generally, or whether we say that the people are sovereign when the law expresses the common good or the votes the interests of all. What is meant by creating the sovereignty of the General Will is to create in the individuals, whether as law-makers or as subjects, the desire to fulfil the common good.

In terms of such an interpretation what relevance has Rousseau's *Contrat social* as a work on politics?
Largely, it would seem, it is most applicable to "a young people contemplating popular sovereignty". For "Quand une fois les coutumes sont établies et les préjugés enracinés, c'est une entreprise dangereuse et vaine de vouloir les réformer;..." (II,8).

Gay, however, suggests a useful and interesting distinction "between Rousseau's political theory as a critical instrument and as a constructive device. Used as a critical yardstick, Rousseau's political thought has been invaluable to democratic movements; used as a political blueprint, it has had a pernicious effect on libertarian ideas and institutions". Such a statement is, nonetheless, too general for our purposes.

I think the question that ought to be asked is what does Rousseau contribute to political philosophy through the General Will that has not been suggested by previous philosophers. What, in other words, is the original contribution provided by the General Will?

To answer this I think it is worth-while repeating

18. This quotation illustrates aptly Weil's general comment - "Il n'y a plus de thérapeutique, il n'y a qu'un diagnostic fatal". Op. cit., p.23.
what is not characteristic of Rousseau's General Will. I mean to distinguish Rousseau's conception from those he influenced. The "fortunes" of the conception, to borrow a term from French writers, are far more impressive than Rousseau's own. It was Green, and not Rousseau, who emphasized the idea, against Austin's definition of sovereignty, that an analysis of society reveals the will of the people as the final political authority. Hegel and Bosanquet who developed the notion that laws are, and not ought to be, objective representations of the people's rational will. Kant, finally, who claimed that the will to be free must be perfectly rational in its activity. This record is, of course, a high compliment to Rousseau's insight and ingenuity. But none of these represents Rousseau's central thesis regarding the General Will and if we are to take full measure of it this must be accounted for.

Supposing, the, we compare Rousseau's leading ideas with those of previous philosophers. By elimination we may arrive at what is unique in the conception. The idea that the ruling power ought to govern for the good of the governed and not its own is to be found in the Republic. The General Will is general in its object, that is, laws which are the product of the general will ought to apply equally. This recommendation regarding the generality of
the law was common currency long before Rousseau's General Will. The idea that the executive is merely an agent of the people, especially that the executive is "une commission" (III,1) is hardly distinguishable from Locke's notion of "trusteeship". Even the notion that sovereignty ought to be founded on the will of the people is clearly stated by Hobbes and Locke and is implied, in any case, in any contract theory of the state.

(This brings out the superficiality of stating that the General Will is a critical idea. Systems as diverse as those of Hobbes, Locke and Rousseau can all lay claim to the principle of government being founded on the will of the people.)

The process of elimination leaves us with one central idea, namely, that sovereignty, through the general will "doit partir de tous" (II,4). What is original is the policy of making the people as a whole the supreme legislator and ultimate political authority.

In general, the Contrat social is the philosophical

---

20. Although some of the implications of this nomenclature become clearer in Rousseau. Locke holds that there may be occasions when the people are justified in rebellion. Rousseau held that every meeting of the assembled people should be opened with two questions: "S'il plaît au souverain de conserver la présente forme du gouvernement". "S'il plaît au peuple d'en laisser l'administration à ceux qui en sont actuellement chargés". (III,18).
theory of pure or direct democracy. According to Rousseau it would be the only legitimate state. Indirect democracy, i.e. a state in which representatives or delegates are authorized to legislate for the people, is purely and simply the surrender of their sovereign rights. Hobbes and Locke differ only in degree, for representation or delegation of sovereign rights is tantamount to slavery.

"Le peuple anglais pense être libre, il se trompe fort: il ne l'est que durant l'élection des membres du parlement; sitôt qu'ils sont élus, il est esclave, il n'est rien". (III,15).

A legitimate state, according to Rousseau, requires that laws and rights be derived perpetually from the citizens themselves. Democracy is the right and responsibility of every citizen of the state and not merely the members of the government.

Laws must originate in the will of the people as must rights. Since each citizen, according to the doctrine, is both subject and sovereign rights imply duties. The rights of the citizen imply that as sovereign it is his duty to respect and uphold the rights of all others. Individuals themselves, it is held, become free and virtuous in willing obedience to just laws. To be a citizen is man's highest goal and duty. States that do not fulfil the primary function of converting "natural man" into "citizen" are chains that
impede the moral progress of humanity.

To appreciate the full implications of Rousseau's Contrat social we need to imagine a "general will" state. There is a distinction to be made between the idea of a general will and the way in which it could become political reality. Different accessories could be provided to accompany the general will principle. But I think if one is to hold to what Rousseau seems to have thought essential, then the differences must be only slight.

The basic postulate, so it seems to me, of Rousseau's Contrat social and the general will principle might be explained in terms of the following: "Where two or three are gathered together with any degree of common experience and co-operation, there is 'pro tanto' a general will". The idea, in Rousseau, that wherever a state is there is a common purpose. Politics is about the individuals supporting this common purpose and virtue, equality and liberty are derived from this.

The political problem is therefore simple. On the one hand we have the generality of the state; on the other, the particularity of the individual. Each and every individual seeks continually to satisfy the general interest. To prevent the natural apathy which must surely follow, the remaining components of civil society - the church, the government, the judiciary, etc. - either
serve this single purpose directly or are "devices", like religion, designed to keep the individual responsive to the purpose and the General Will.

This postulate would be denied, to an extent sufficient for general criticism, by showing "that wherever two or more, etc.," there is also "pro tanto" a Liberal, a Conservative and a Socialist. That is, that the divergency of interests is just as basic, a part of the political problem as the satisfaction of a single interest. The argument might then reach the proper plane, namely, what do we think the practise of politics ought to be about. Ought we to preserve and encourage a divergency of interests on what we regard as fundamental issues or ought we to attempt to recruit all to the service of one great purpose, however artificially this purpose is attributed to the single individual?

It may not be a question of choosing between two distinct political systems. Perhaps we are entitled to make a distinction between politics and citizenship claiming the former to be wider than the latter. This might be possible were it not for Rousseau's rejection of popular representation. But the grounds of this rejection reveal, nonetheless, that Rousseau's chief concern in the Contrat social, and therefore the meaning of its
principal idea, is the concept of the "citizen sovereign" who becomes a sovereign by becoming a citizen.

This, it seems to me, is the significant meaning that Rousseau himself attached to the idea of the General Will. He did not regard it as a concept for the analysis of political society; in the main the General Will was an ideal for political society. Since the modern world has rejected pure or direct democracy and relegated citizenship to the promotion of street-cleaning campaigns, it may be wondered why the General Will remains significant in political philosophy. The answer is, I believe, that its ghost appears in many forms, few of which Rousseau would have claimed or, perhaps, recognized.
Selected Bibliography

A. Editions of the Social Contract, etc.


B. Books


24. Delbos, V., (see Baldensperger).


   (2nd.)


74. Wallace, W., Lectures and Essays on Natural Theology and Ethics, "Our Natural Rights", Oxford, 1898.


C. Periodicals

1. Adam, A., "Rousseau et Diderot", Revue des Sciences Humaines, Lille, à l'Université de Lille, 1949, pp. 21-34.


30. Munro, D., "Green, Rousseau and the Culture Pattern", Philosophy, 1951, Volume XXVI, pp. 347-357.


