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# Founding and Re-Founding

## A Problem in Rousseau's Political Thought and Action

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# Abstract (300 Words)

**Founding and Re-founding: A Problem in Rousseau's Political Thought and Action**
By Mark J. Hill, Brasenose College
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The foundation of political societies is a central theme in Rousseau's work. This is no surprise coming from a man who was born into a people who had their own celebrated founder and foundations, and immersed himself in the writings of classical republicans and the quasi-mythical histories of ancient city-states where the heroic lawgiver played an important and legitimate role in political foundations. However, Rousseau's propositional political writings (those written for Geneva, Corsica, and Poland) have been accused of being unsystematic and running the spectrum from conservative and prudent to radical and utopian. It is this seeming incongruence which is the subject of this thesis. In particular, it is argued that this confusion is born out the failure to recognize a systematic distinction between "founding" and "re-founding" political societies in both the history of political thought, and Rousseau's own work (a distinction in Rousseau which has rarely been noted, let alone treated to a study of its own). By recognizing this distinction one can identify two Rousseaus; the conservative and prudent thinker who is wary of making changes to established political systems and constitutional foundations (the re-founder), and the radical democrat fighting for equality, and claiming that no state is legitimate without popular sovereignty (the founder). In demonstrating this distinction, this thesis examines the ancient concept of the lawgiver, the growth and expansion of the idea leading up to the eighteenth century, Rousseau's own philosophic writings on the topic, and the differing political proposals he wrote for Geneva, Corsica, and Poland. The thesis argues that although there is a clear separation between these two types of political proposals, they remain systematically Rousseauvian.

# Abstract (1500 words)

**Founding and Re-founding: A Problem in Rousseau's Political Thought and Action**

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The foundation of political societies is a central theme in Rousseau's work. This is no surprise coming from a man who was born into a people who had their own celebrated founder and foundations, and immersed himself in the writings of classical republicans and the quasi-mythical histories of ancient city-states where the heroic lawgiver played an important and legitimate role in political foundations. However, Rousseau's propositional political writings (those written for Geneva, Corsica, and Poland) have been accused of being unsystematic and running the spectrum from conservative and prudent to radical and utopian. It is this seeming incongruence which is the subject of this thesis.

Instead of looking at individual texts (i.e., the *Contrat social*) or influences (i.e., Geneva), this thesis argues that there is a systematic distinction between "founding" and "re-founding" peoples in Rousseau's various works – including, but not limited to, the *Discours sur les Sciences et les Arts*, the *Discours sur l'origine et les fondements de l'inégalité parmi les hommes*, the *Discours sur la vertu du héros*, the *Contrat social, Émile*, the *Lettres écrites de la montagne*, the *Projet de constitution pour la Corse*, and the *Considérations sur le gouvernement de Pologne*. This distinction is clearly drawn out in the *Contrat social*, where Rousseau argues that a people who have already been given a constitution and have had their habits and mœurs settled by an original lawgiver cannot be "founded" or given a new political way of life (that is to say, cannot be given the political system developed in the *Contrat social*), but the topic has rarely been noted, let alone treated to a study of its own.

The distinction being examined is born out of Rousseau's familiarity with both

classical and contemporary sources, and thus to make this argument the thesis is divided into six chapters which examine these different sources and examples of lawgiving and how they emerge and are used in Rousseau's own writings. The first chapter examines the ancient tales of lawgivers and the philosophical writings which Rousseau was familiar with and influenced by – specifically, those recorded in Plutarch's *Lives* and Plato's *Republic* and *Laws*. There, the genre of lawgiving itself is established, and the distinction between founders (such as Moses, Numa, and Lycurgus), the less successful heroes (such as Cyrus, Romulus, and Theseus), and re-founders (in particular Solon), is first made.

The second chapter offers a broad examination of political thought from the decline and fall of the Roman Empire, to humanist attempts to address governing, to the emergence of the legislator as a topic worthy of discussion during the Enlightenment – a discussion which Rousseau himself was a part of. In doing this it touches on the role of the legislator in politics through the ship-of-state metaphor in the works of Cicero, Seneca, Augustine, Aquinas, Erasmus, More, and Machiavelli. Particular themes emerge, such as the importance of customs and traditions for those who would wish to influence politics or change political systems. The chapter then looks at attempts to move beyond these problems in the writings of French theorists published in the lead up to, and during the Enlightenment. It highlights how a number of historical and emerging ideas, from Plato to Newton's scientism, resulted in new ways of thinking about governing, including the return of the legislator as a legitimate idea (seen in concepts ranging from the enlightened despot to renewed republicanism), all of which not only legitimized the idea of a contemporary founder, but argued for the necessity of one.

The third chapter draws out the theoretical distinction between founding and re-founding as Rousseau himself developed and described it. This is done by first looking at his most famous discussion and description of the character as found in the *Contrat social,* while his other texts are then used to highlight and expand on the particulars

which are less fully developed in the political treatise. The chapter then turns to the idea of the "corporate metaphor" – a recurring theme in Rousseau scholarship that can be used to highlight a number of important aspects of Rousseau's understanding of peoples, and allow one to come to understand more clearly how giving laws is directly related to the historical circumstances and particularities of a people. In doing this he develops a more robust understanding of not only who can give laws, but when and to whom they can be given. This is followed by a brief examination of Rousseau himself within the genre of the lawgiver – both historically, through biographical information, and literarily, as the imagined tutor in *Émile*.

Chapter four turns to the propositional aspect of Rousseau's political writings, beginning with a historical examination of Geneva. This allows for a contextualized reading of Rousseau's own writings and proposals for the city, arguing that the *Contrat social*, although historically influenced by Geneva, was not a propositional piece of political work attempting to support radical and democratic agitation in the city (that is, it did not offer a set of proposals to be embraced by the city), but instead, his *Lettres écrites de la montagne* offer his prudent advice calling for a re-founding. This argument is made by examining contemporary political debates in Geneva and locating Rousseau's own proposals within them, and noting that they are distinct from both the political agitators and conservative aristocrats.

Chapters five and six take the now developed distinction between founding and re-founding and apply it to Corsica and Poland, the two nations for which Rousseau attempted to write propositional political works. Chapter five begins with an examination of the historical circumstances of the island and contemporary reports of its people and troubles. This allows for one to come to understand how eighteenth century Europeans saw the Corsican people as unique in Europe, and in particular, similar to the people highlighted as ideal in the *Contrat social* and *Discours sur l'origine et les fondements de l'inégalité parmi les hommes*. In doing this, one can then

recognize how and why the propositions Rousseau makes for the island are akin to those in the *Contrat social* – that is proposals for the founding of a people.

Chapter six is an examination of Rousseau's work on Poland, and an attempt to explain why it is radically different from the proposals made for Corsica and found in the *Contrat social*. The chapter begins by demonstrating that in the eighteenth century Poland was already a well-established state. Thus arguments akin to those found in the *Lettres écrites de la montagne* were necessary – that is, arguments offering a re-founding based on established customs and traditions as well as an already existing political system and constitution. In demonstrating this, the chapter first looks at the political history and intellectual culture of Poland and then compares the *Considérations* and Rousseau's other works. The chapter moves on to highlight why the people of Poland were, in Rousseauvian terms, inappropriate for being given new laws; it examines the idea of Polish freedom being discussed in the text and how it differs from the ideals Rousseau described in the *Contrat social*; it looks at the emphasis he placed on education in his proposals, rather than political reforms; and finally, it touches on the contextually similar (in the case of the *Lettres écrites de la montagne*) and dissimilar (in the case of the *Contrat social*) arguments in Rousseau's political system as a whole. In doing this one finds that Rousseau argues that Poland's only hope is to embrace its ancient constitution and the aspects of the Polish people which have shown themselves to be positive influences on political stability. The people cannot be reshaped into something new, and accepting and expanding on this already-developed constitution is the only possible way of maintaining the Polish people.

Again, it is in recognizing this distinction that one can identify two Rousseaus: the conservative and prudent thinker who is wary of making drastic changes to political systems and constitutional foundations (the re-founder), and the radical arguing for equality and claiming that no state is legitimate without popular sovereignty (the founder). In this way the contradictory interpretations of Rousseau's works begin to

make sense, and ultimately, this is where this thesis offers something new to the literature. It draws attention to the fact that, in Rousseau scholarship, both approaches to understanding Rousseau (the radical and the conservative) have been correct at times.

## Acknowledgements

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# List of Abbreviations

## Abbreviations of Rousseau's Works

All references to Rousseau's works are to the Pléiade edition of his *Oeuvres complètes* (Rousseau, J.J., *Oeuvres complètes*, B. Gagnebin and M. Raymond (ed.) [5 vols., Paris, 1959-1995]). References specify title, volume and page number(s). For example: Rousseau, *Pologne, OC* iii, p. 956.

| | |
|---|---|
| d'Alembert | J.-J. Rousseau, Citoyen de Genève, à M. d'Alembert sur les spectacles |
| Beaumont | Lettre à M. de Beaumont |
| Confessions | Les Confessions |
| Contrat social | Du Contrat social ou Principes du droit politique |
| Corse | Projet de constitution pour la Corse |
| Économie politique | Discours sur l'économie politique |
| Émile | Émile, ou De l'éducation |
| Favre | Émile, ou De l'éducation (Manuscrit de Favre) |
| First Discourse | Discours sur les sciences et les arts |
| Geneva | Histoire du gouvernement de Genève |
| Geneva Manuscript | Du Contrat social ou Essai sur la forme de la République (Manuscrit de Genève) |
| Guerre | L'état de guerre |
| Heroes | Discours sur la vertu du héros |
| Juge | Rousseau juge de Jean-Jacques |
| Julie | Julie ou la Nouvelle Héloïse |
| Langues | Essai sur l'origine des langues |
| Lettres | Lettres écrites de la montagne |
| Narcisse | Narcisse ou l'Amant de lui-même |
| Observations | Réponse au Roi de Pologne, Duc de Lorraine, ou Observations de J. J. Rousseau sur la Réponse qui a été faite à son Discours |
| Pologne | Considérations sur le gouvernement de Pologne |
| Rêveries | Les Rêveries du promeneur solitaire |
| Second Discourse | Discours sur l'origine et les fondements de l'inégalité parmi les hommes |

References to Rousseau's correspondences are to R.A. Leigh's *Correspondance complète de Rousseau* (52 vols., Oxford, 1965-1998). References specify letter number and the volume it can be found in. For example: CC 6671, vol. xxxvii.

## General Abbreviations

| | |
|---|---|
| Bibliotheca historica | Diodorus Siculus, *The Library of History*, C.H. Oldfather (ed.) (12 vols., Cambridge, Massachusetts, 1935) |
| City of God | Augustine, *City of God*, H. Bettenson (ed.) (London, 2003) |
| Condemnation | Tempier, Étienne, "Condemnation of 219 Propositions", in *Medieval Political Philosophy: A Sourcebook*, R. Lerner and M. Mahdi (ed.) (Ithaca, 1972) |
| Defensor Pacis | Marsilius of Padua, *Marsilius of Padua: The Defender of the Peace*, Annabel Brett (ed.) (Cambridge: 2005) |
| Discourses | Machiavelli, Niccolo, *Discourses on Livy*, H.C. Mansfield and N. Tarcov (ed.) (Chicago, 1998) |
| Divinatione | Cicero, *De Senectute, De Amicitia, De Divinatione*, W.A. Falconer (ed.) (Cambridge, Massachusets, 1923). |
| Ecclesiastical Power | Giles of Rome, "On Ecclesiastical Power", in *Medieval Political Philosophy: A Sourcebook*, R. Lerner and M. Mahdi (ed.) (Ithaca, 1972) |
| Essais | M. de Montaigne, *Les essais de Michel seigneur de Montaigne* (Paris, 1652). |
| Florentine Histories | Machiavelli, N., *Florentine Histories*, L.F. Banfield and H. Mansfield (eds.) (Princeton, 1990) |
| Histories | Herodotus, *Herodotus*, A.D. Godley (ed.) (4 vols., Cambridge, Massachusetts, 1920) |
| History of Rome | Livy, *Livy*, B.O. Foster (ed.) (14 vols., Cambridge, Massacusetts, 1919) |
| Institutes | Calvin, J., *The Institutes of the Christian Religion,* Henry Beveridge (ed.) (Edinburgh, 1845). |
| Laws | Plato, *The Laws*, T.L. Pangle (ed.) (Chicago, 1988) |
| Lives | Plutarch, *Plutarch's Lives,* B. Perrin (ed.) (11 vols., Cambridge, Massachusetts and London, 1914-1926) |
| Officiis | Cicero, *On Duties*, M.T. Griffin and E.M. Atkins (Cambridge, 1991) |
| On Mercy | Seneca, *Moral and Political Essays*, J.M. Cooper and J.F. Procopé (Cambridge, 1995) |
| Prince | Machiavelli, *The Prince*, H.C. Mansfield (ed.), (Chicago: 1998) |

| | |
|---|---|
| De regno | Aquinas, T. "De regimine principum", in *Aquinas: Political Writings*, R.W. Dyson (ed.) (Cambrdige, 2002) |
| Republic | Plato, *The Republic*, D. Lee (ed.) (London, 1955) |
| De re publica | Cicero, *Cicero: On the Commonwealth and On the Laws*, J.E.G. Zetzel (ed.) (Cambridge, 1999). |
| Roman History | Cassius Dio, *Roman History*, E. Cary (ed.) (9 vols., Cambridge, Massachusets, 1925). |
| Scripta | Aquinas, "Scripta super libros sententiarum", in *Aquinas: Political Writings*, R.W. Dyson (ed.) (Cambrdige, 2002) |
| Six livres | Bodin, Jean, *Les six livres de la République*, G. Mairet (ed.) (Paris, 1993) |
| Utopia | More, Thomas, *More: Utopia*, R.M. Adams and G.M. Logan (ed.), (Cambridge, 2002) |

## Introduction

In 1763 Rousseau wrote to M. de Beaumont: "J'ai écrit sur divers sujets, mais toujours dans les mêmes principes: toujours la même morale, la même croyance, les mêmes maximes, et, si l'on veut, les mêmes opinions."[1] Despite this, interpretations of his works have been radically divergent, with him being labeled a "liberal," "totalitarian," "ancient," "modern," "Christian," "deist," "individualist," "communitarian," "existentialist," "Romantic," and "Enlightenment *philosophe*."[2] He has been identified as a "lachrymose madman" and an "impious revolutionary"; an "anti-revolutionary" and as someone who would "ingratiate himself" with conservatives; and both a "prophet of untrammelled reason" and "untamed irrationality."[3] This failure to agree on what it is Rousseau actually was has led to works claiming either there is no consistency in Rousseau at all, or one needs an interpretive key with which a reader is able to unlock the "true" or "authentic" Rousseau. As Margaret Canovan wrote: "The problem which has exercised generations of Rousseau-scholars is to find consistency within Rousseau's bewildering conflicts of thought and action, to discover the key to his thinking that will make the chaos intelligible." She concludes that this failure to find a system makes it "natural to go further, and to conclude that it does not exist."[4] To some extent, this thesis, like nearly all works on Rousseau, attempts to overcome this problem. The goal, however, is not to offer an interpretive key, but to find consistency in the works themselves through careful reading and an emphasis on historical relevance. In doing this, it is argued that what to many appears to be inconsistency, is in reality

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[1]     Rousseau, *Beaumont,* OC iv, p. 928.
[2]     S. Bourgault, 'The Many Faces of Jean-Jacques Rousseau', *Eighteenth-Century Studies* 42.2 (2009), p. 320.
[3]     E. Cassirer, *The Question of Jean-Jacques Rousseau* (Bloomington, 1963), p. 1; G.H. McNeil, 'The Anti-Revolutionary Rousseau', *The American Historical Review* 58.4 (1953), p. 808; W. Kendall, 'Introduction: How to read Rousseau's "Government of Poland"', in J.-J. Rousseau, *The Government of Poland* (Indianapolis, 1985), p. xiv; xvi.
[4]     M. Canovan, 'The Limits of Seriousness: Rousseau and the Interpretation of Political Theory', *European History Quarterly* 2.1 (1972), p. 2.

Rousseau's own distinction between situations which allow for idealistic solutions, and those which call for pragmatic responses. That is to say, although this thesis does not claim to have discovered the entirety of Rousseau's system, it does argue that one can recognize a systematic distinction in Rousseau between "founding" polities, as seen in the *Contrat social* and his work for Corsica, and "re-founding" them, as seen in the *Lettres écrites de la montagne* and his work for Poland.

To understand where this argument sits in relation to Rousseau scholarship as a whole, one must begin by reviewing the state of the literature. In doing this, one may identify three rough approaches to reading Rousseau: those which offer grand interpretations that recognize something historically unique and important about Rousseau's political theory and its impact; those which interpret his work by recognizing something unique about Rousseau himself, offering interpretations that rely on biography and psychology to understand his meaning; and those interpretations which focus on conceptual or historical keys which can be used to unlock or further understand his meaning. All of these approaches do, however, share one common thread: they all accept that coming to understand Rousseau's meaning is problematic. During an 1878 festival in Geneva marking the one hundredth anniversary of Rousseau's death, Henri F. Amiel stated that Rousseau's "talent is the only thing about him which is not open to discussion... But the character, the philosophy, the influence of Rousseau are still a matter of dispute." Therefore it was the task of the Rousseau scholar to "[set] aside the eleven thousand pages of our author, and the fifty or sixty volumes on, for, or against him; letting all the old quarrels sleep... [And] to pass a rapid judgement upon his thought and his work."[5] In 1912, this time marking the bicentenary of Rousseau's birth, Gustav Lanson went further by addressing "L'unité de la pensée de Jean-

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[5]   H.F. Amiel, *Jean Jacques Rousseau* (New York, 1922), pp. 10–12.

Jacques Rousseau"[6] – a task which has been picked up by most writers since. In fact, the only thing most Rousseau scholars seem to be in agreement over is the existence of a coherent system somewhere within his writings. The methods of discovering it, however, remain elusive and radically divergent.

Finding unity was the task embraced by one of the most influential interpreters of Rousseau's work of the twentieth century: C. E. Vaughan, and *The Political Writings of Jean Jacques Rousseau* (1915), argued that the solution to Rousseau's apparent contradictions was overcome when one broke his writings into distinct categories or eras: "He began as the pupil of Locke. In the crucial years of his growth he was the whole-hearted disciple of Plato. And towards the close [...] he passed, and was indeed the first great thinker to pass, beneath the spell of Montesquieu."[7] Undoubtedly all three of these thinkers were hugely important to Rousseau, but Vaughan relies on their differences to identify distinct arguments in Rousseau's work, rather than identify Rousseau's own distinct argument which may owe inspiration to these thinkers:

> [In Rousseau] two strands of thought, the abstract and the concrete, lie side by side in his mind [...] each held with intense conviction, but each held in entire independence of the other. At one moment he is more abstract than Locke or Plato; at the next he is as ready to yield to circumstances as Montesquieu or Burke. At one moment he holds that all men are equal and, in respect of capacity for freedom, that all men are alike. At the next he assures us that there is no such thing as equality between one group of men and another; and that the differences are due not to their own doing, but to the tyranny of soil and climate and of the conditions, economic or political, which spring partly from these physical causes, partly from the inherited traditions of the past. He follows the one line of thought no less ardently than the other.[8]

This thesis has sympathies with what Vaughan was doing, and the distinction between the pragmatic and the idealistic Rousseau will be developed more fully in its later chapters. However, rather than developing an interpretation that identifies a systematic and consistent Rousseau,

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[6]    G. Lanson, 'L'unité de la pensée de Jean-Jacques Rousseau', *Annales de la société Jean-Jacques Rousseau* 8 (1912), pp. 1–32.

[7]    C.E. Vaughan, 'Rousseau as Political Philosopher', in J.-J. Rousseau, *The Political Writings of Jean Jacques Rousseau*, 1, 2 vols (Cambridge, 1915), p. 2. The individualistic Rousseau is found in the *Second Discourse* and initial chapters of the *Contrat social*; the Platonic Rousseau followed (and can be seen in *Émile*); the follower of Montesquieu is found in parts of the *Contrat social*, but most fully in *Pologne*.

[8]    Ibid., p. 77.

Vaughan does the opposite and argues that there are multiple, and incompatible, Rousseau's.

Another similar grand interpretation was offered by Charles W. Hendel, whose *Jean Jacques Rousseau: Moralist* (1934; republished in 1965) set out to understand the consistency in Rousseau's thought explicitly: he embraced Amiel's call and claims to "study the man himself and his own intention, without being distracted by the interpretations and prejudices which have accumulated."[9] In this way argued he was able to "push through" the contradictions, and found a Rousseau who, in everything he did, moved politics away from a world of political subjugation and into a world of self-imposed moral obligation.[10] That is, he was a moralist before a politician, and the utility of politics was in the service of allowing for a moral society. To make this argument Hendel turned to biography to find "the authentic Rousseau" and "determine what the ideas of Rousseau really were."[11] However, he limited himself to 25 years of Rousseau's life and works (1740-1765), avoiding the "Early Rousseau" and the "Apologetic Rousseau."[12] In doing this he not only ignores the works for Poland and Geneva, but perpetuates Vaughan's position that some aspects of Rousseau may be incommensurable.[13]

A text which, in many ways, works in tandem with Hendel is Alfred Cobban's *Rousseau and the Modern State* (1934). Cobban argued that there were two grand interpretations of Rousseau available: as the "disciple of Locke and the *philosophes*, and the *Contrat social* as the last and greatest of the works of the individualist school of politics" and as the source of "the German ideals of the following century."[14] These two perspectives, according to Cobban, can be

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[9]   C.W. Hendel, *Jean-Jacques Rousseau: Moralist* (Indianapolis, 1962), p. xiv.
[10]  Ibid., p. v.
[11]  Ibid., pp. xiii–xiv.
[12]  The discussion of an "early" and "later" Rousseau continues to this day. For one example, see: D.R. Cameron, 'The Hero in Rousseau's Political Thought', *Journal of the History of Ideas* 45.3 (1984), pp. 397–419.
[13]  Hendel avoids these other writings by arguing that the *Contrat social* was a propositional piece of philosophy which Rousseau thought "ought to be followed out" and that "[a]ll the solutions Rousseau had ever entertained" were to be found in it (C.W. Hendel, *Jean-Jacques Rousseau: Moralist* [Indianapolis, 1962], p. 320; 330).
[14]  A. Cobban, *Rousseau and the Modern State* (Hamden, CT, 1964), p. 7.

combined if one "study his works as a whole, and disengage what fundamental unity one can."[15] The outcome of this study is a Rousseau who was primarily concerned with individual liberty, and that the divergence focused on by other authors – that is, between the state and individual – is a concern situated in the twentieth, rather than the eighteenth, century. Instead, for Rousseau the state is a means of which a better individual is the end. The core problem Rousseau wrestles with is how to "safeguard the liberty of the individual, while at the same time giving the state the moral authority and actual power which it needs if it is to function effectively for the benefit of the individuals composing it."[16] From this, Cobban argues, Rousseau's relationship to the concept of nationalism can be understood: "[F]or the appearance of the nation state no political inventor can be given credit or blame... But the fact that he is perhaps its first theorist is undeniable."[17] Cobban's method of getting to this conclusion, however, is problematic. He wrote: "My intention is not to relate [Rousseau] to individual thinkers who proceeded or followed him; or to trace generally his origins or influences... [To link] a theorist too closely with his predecessors [is] to obscure his real originality."[18] In this way, he argues, it is possible to not only understand Rousseau, but come to "understand the fundamental political ideas of our world."[19] How one is to know whether any of these ideas are or were, in fact, Rousseau's is not made clear.

Leo Strauss also saw Rousseau as a turning point in the history of political thought. In his two works dedicated to the thinker, "On the Intention of Rousseau" (1947) and his chapter "The Crisis of Modern Nature Right" in *Natural Right and History* (1953), he identifies him as the thinker who both recognized and initiated a crisis in modern political philosophy by attacking

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[15] A. Cobban, *Rousseau and the Modern State* (Hamden, CT, 1964), p. 19. Although this may also mean one must accept that there is some fundamental disunity.

[16] Ibid., p. 9.

[17] Ibid., p. 100. On this interpretation of Rousseau's relationship to nationalism, see also: S.T. Engel, 'Rousseau and Imagined Communities', *The Review of Politics* 67.03 (2005), pp. 515–37.

[18] A. Cobban, *Rousseau and the Modern State* (Hamden, CT, 1964), p. 15.

[19] Ibid., p. 17.

ideas of progress, enlightenment, the sciences and arts, and perhaps most importantly, natural right.[20] The "modern venture was a radical error," for Rousseau, which one could see when it was contrasted with the *polis* of the classical world and nature.[21] This, Strauss argues, is the grand theme in Rousseau's works and what is unique about them in the history of political thought fully.[22] Robert Derathé's *Rousseau et La Science Politique de Son Temps* (1950) also identifies Rousseau's work as a turning point in the history of political thought and natural law: "[L]a doctrine politique de Rousseau est issue d'une réflexion sur les théories soutenues par les penseurs qui se rattachent à ce qu'on a appelé L'*école du droit de la nature et des gens*."[23] By arguing that the state needed to be something more than an institution which fulfilled some criteria set out by a theory of natural law, he was questioning the legitimacy of governments. Rather than happiness or comfort afforded by a material wealth, freedom of the individual as a member of a collective sovereignty needed to be addressed, as it was freedom of this sort which was of value, according to Derathé's Rousseau.

As noted, grand interpretations are not the only form Rousseau scholarship has taken. In fact, in the closing years of the 1950s more personal examinations began to emerge. Bertrand de Jouvenel's "Rousseau the Pessimistic Evolutionist" (1961) demonstrates this break clearly. Jouvenel wrote a number of works on Rousseau, but they were works directed towards informing our contemporary understanding of politics.[24] "Rousseau the Pessimistic Evolutionist," however, engages more directly with Rousseau's thought, and does so by disregarding the value of

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[20]   For more on Strauss' relationship to Rousseau, see: V. Gourevitch, 'On Strauss on Rousseau', in E. Grace and C. Kelly (eds.), *The Challenge of Rousseau* (Cambridge, 2012), pp. 147–66.

[21]   L. Strauss, *Natural Right and History* (Chicago, 1953), p. 252.

[22]   Although Strauss went further, arguing that part of his (and our) task is to "understand their author better than he understood himself" (V. Gourevitch, 'On Strauss on Rousseau', in E. Grace and C. Kelly [eds.], *The Challenge of Rousseau* [Cambridge, 2012], p. 148).

[23]   R. Derathé, *Jean-Jacques Rousseau et la science politique de son temps* (Paris, 1988), p. 1. Italics in the original.

[24]   B. de Jouvenel, *On Power, its Nature and the History of its Growth* (New York, 1949); B. de Jouvenel, *Sovereignty: An Inquiry into the Political Good* (Chicago, 1963).

Rousseau's ideas and instead returns to "consistency" as its own subject.[25] He finds this consistency, and the reason to abandon any propositional aspects of Rousseau's thought, in Rousseau's belief that men are naturally good, but progress has corrupted humanity. This attitude, Jouvenel writes, "is fundamentally pessimistic: the course of social history cannot be reversed or indeed stopped, except in isolated cases."[26] This position highlights a new question which had emerged amongst historians of political thought: if his ideas were of little use, what can we make of Rousseau? Many commentators turned inwards and focused on the man himself.

Written prior to Jouvenel's work is Jean Starobinski's doctoral thesis *Jean-Jacques Rousseau: la transparence et l'obstacle* (1957, first published 1958, re-issued with additional essays in 1971). Starobinski's attempted to come to understand Rousseau's philosophy by studying Rousseau the person. He highlights two themes which bind all of Rousseau's works together: a desire for transparency and a fear of obstacle or obstruction. The bulk of Starobinski's argument can be found in the sixth chapter, "Les Malentendus," where he argues that being misunderstood was a recurring theme in Rousseau's life which manifested itself in his writings, and made expressing himself hugely important in his works.[27] Thus, not only is it through recognizing Rousseau's unique biography that one can come to understand him better, but it is this unique biography which manifested itself in makings his writings difficult to understand. A similar psychological work, although a more explicitly political, is found in in Lester G. Crocker's *Rousseau's Social Contract: An Interpretive Essay* (1968). Crocker argues that his

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[25]    B. de Jouvenel, 'Rousseau the Pessimistic Evolutionist', *Yale French Studies* 28 (1961), p. 96.

[26]    Ibid., p. 93. This pessimism is brought into the realm of reality in Jouvenel's "On the Nature of Political Science" (1961), in which Rousseau's writings on corruption are redrafted as a warning for the contemporary world, and a call to study political behaviour if one wants to change the world (B. de Jouvenel, 'On the Nature of Political Science', *The American Political Science Review* 55.4 (1961), p. 773; 779.

[27]    See also: J.P. Dobel, 'The Role of Language in Rousseau's Political Thought', *Polity* 18.4 [1986], p. 657; A. Abizadeh, 'Banishing the Particular: Rousseau on Rhetoric, Patrie, and the Passions', *Political Theory* 29.4 (2001), pp. 556–82; M. Canovan, 'The Limits of Seriousness: Rousseau and the Interpretation of Political Theory', *European History Quarterly* 2.1 (1972), pp. i–24; C. Kelly, '"To Persuade without Convincing": The Language of Rousseau's Legislator', *American Journal of Political Science* 31.2 (1987), pp. 321–35.

analysis offers its reader insights into "the meaning and the inherent tendencies of [Rousseau's] vision of the good society" and does so by "reconstruct[ing] to some degree the type of mind that conceived [Rousseau's works]."[28] Context here, however, is not historical. Instead Crocker looked at the outcomes and analogues of Rousseau's works. Unsurprisingly, this leads to a problematic conclusion: Rousseau's "character and thought" present a "classic example" of the " authoritarian personality and the totalitarian society."[29] This turn to the psychological is also seen in another, and much better, work by Judith Shklar.

Shklar, in *Men and Citizens: A Study of Rousseau's Social Theory* (1969), explicitly embraced the psychological and dismissed much of the political. The secondary literature which was noted as being worthy is important because of its psychological insight; Bertrand de Jouvenal for his "psychological nuance" and Jean Starobinski for his "general knowledge of psychology."[30] On Rousseau, she argues that there was very little propositional usefulness to be found, and that he was instead a psychologist himself, in the same vein as Plato and Freud[31] and any political insights he did have were those of a social critic rather than a "designer of plans for political reform."[32] For example, she argues that Rousseau was a critic of property, yet he also understood that man could not do away with it. Thus, the best society could hope for is to understand its nature and distribute property in a more equitable way. That is, "at best, Rousseau thought one could lessen the degrees of inequality that prevail."[33] Rousseau did this, she argues, by developing "utopias" through which his reader was able to witness better societies, and thus question their own. Ultimately, however, even this was of little use; the "enormity of his

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28   L.G. Crocker, *Rousseau's Social Contract: An Interpretive Essay* (Cleveland, 1968), pp. viii–ix.
29   Ibid., p. 163.
30   J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge, 1985), p. 230.
31   This is what he meant, she argues, when he called himself a historian of the human heart (Rousseau, *Juge*, OC i, p. 728).
32   J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge, 1985), p. vii.
33   Ibid., pp. xi–xii.

condemnations was such that it was impossible to introduce any suggestion of possible political improvement or to find grounds for any turn for the better in the world in which he lived, and it was not Rousseau's purpose to do so."[34] Shklar's analysis has much to offer (especially her examination of the body-politic metaphor). However, she fails to adequately engage with what is considered to be Rousseau's actual propositional works, particularly his *Lettres écrites de la montagne*, and the historical context in her interpretation is lacking.[35]

While the psychological interpretations complicated the relationship between Rousseau scholarship and history, some works responded by abandoning history entirely, as Roger D. Masters did with *The Political Philosophy of Rousseau* (1968). Masters text begins by claiming that it corrects a recurring problem in Rousseau scholarship: it examines the entirety of Rousseau's *writings* carefully. Other works, he claims, distracted themselves from the text by turning to historical details, many of which were ultimately irrelevant to understanding Rousseau's philosophy.[36] Instead, his approach abandons many of the common themes addressed in Rousseau scholarship and instead offers an exegetical reading. However, although he claims there to be a drought of works which address the entirety of Rousseau's ouvre, he limits himself to "three principle" bodies of work: *Émile*, the first two discourses, and Rousseau's "political philosophy proper," the *Contrat social*.[37] The limitation of this approach becomes even more clear when Masters writes that "Rousseau's science of the legislator shows conclusively that he did not content himself with the formulation of abstract principles of political right... Rousseau's principles of legitimacy [...] can never be fully realized in practice; they can only be applied to political reality if the particular circumstances of each society are fully taken into account."[38] This

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[34]    Ibid., p. xiii.
[35]    For her own take on historical importance, see: Ibid., p. 218.
[36]    R.D. Masters, *The Political Philosophy of Rousseau* (Princeton, 1976), pp. vii–x.
[37]    Ibid., p. xv.
[38]    Ibid., p. 410.

conclusion is not without merit, but Rousseau does explicitly address how "particular circumstances" interact with his "abstract principles of political right" in his works for Geneva, Corsica, and Poland – works which he chooses to not substantively address.[39]

A similar approach is found in John C. Hall's *Rousseau* (1973). Hall was critical of works which attempted to understand Rousseau through his psychological reaction to the world, be it conscious or unconscious. He conceded that they "may have some use for some purposes of the literary critic; but it is of no use to the philosopher, who looks to Rousseau for arguments that may be true or false."[40] However, for someone claiming to explicitly examine the political arguments on their own merit he limits himself to three texts: the *Second Discourse*, *Économie politique*, and the *Contrat social*. Although his study does correct the errors of some less rigorous interpretations – in particular, he notes that those who read totalitarianism in Rousseau base their readings on misunderstandings of key terms "such as *state*, *sovereign*, *general will*, *legislation*"[41] – his conclusions are ultimately no more helpful, arguing that "Rousseau does not himself draw the conclusion that all existing social institutions and conventions should be scrapped, but the reader can easily draw it for himself."[42] This is clearly not the case if one has read Rousseau's *Lettres* and *Pologne*. By limiting his sources, Hall, just as Masters, fails to to examine Rousseau's work thoroughly.

In the late 1960s and early 1970s the debate over the psychological importance of Rousseau and his personal history began to fade, and a new theme in Rousseau scholarship became more predominant (and remains today).[43] One now finds works which are united by

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[39]    Masters himself admits this weakness in his work (Ibid., p. 411).
[40]    J.C. Hall, *Rousseau: An Introduction to his Political Philosophy* (London, 1973), p. 7.
[41]    Ibid., p. 53.
[42]    Ibid., p. 41.
[43]    Masters himself identified it as one of the two types of works on Rousseau being written in the late 1960s (along with those which offered introductions to the life and thought of Rousseau) (R.D. Masters, *The Political Philosophy of Rousseau* [Princeton, 1976], pp. vii–x). Hendel also highlighted its usefulness (C.W. Hendel, *Jean-Jacques Rousseau: Moralist* [Indianapolis, 1962], p. viii). Earlier examples include A.C. Keller, 'Plutarch and Rousseau's First Discours', *PMLA* 54.1 (1939), pp. 212–22; P.F. O'Mara, 'Jean-Jacques and Geneva The

arguing that to understand Rousseau one must come to understand some key concept, idea, theory, or historical issue which unlocks or enlightens his thought.[44] This is in many ways an improvement, although as is always the case some works are much better than others. Nonetheless, this approach provides for deeper studies into particular aspects of Rousseau, leading to much more detailed investigations, and it has emerged as the predominant form of interpretation in Rousseau scholarship. This is important to this thesis for two reasons. First, these focused studies, rather than grand interpretations, form the intellectual background for this thesis.[45] Second, these studies have have brought with them ever new methodological approaches and understandings. No longer does one "push through" contradictions, as Hendel once argued one must. However, before moving on to a methodological discussion explicitly, it is necessary to quickly note one more area in which Rousseau scholarship has been lacking, and thus, highlight one way in which this thesis is offering something new.

This thesis examines those works of Rousseau's which may be considered propositional; those writings which had something specific to say for Geneva, Corsica, and Poland. However, for the most part, these texts have largely been seen as problematic when considered alongside the *Contrat social*. This has led to them often being ignored or only briefly addressed. Since 1915

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petty bourgeois milieu of Rousseau's thought', *Historian* 20.2 (1958), pp. 127–52; F.G. Healey, 'Rousseau, Voltaire and Corsica: Some notes on an interesting enigma', *Studies on Voltaire and the eighteenth century* 10 (1959), pp. 413–9.

[44] To offer a few examples: Stoicism in K.F. Roche, *Rousseau: Stoic and Romantic* (London, 1974).; "nonindividualism" in S. Ellenburg, *Rousseau's Political Philosophy: An Interpretation from Within* (Ithaca, NY, 1976).; language in J.P. Dobel, 'The Role of Language in Rousseau's Political Thought', *Polity* 18.4 (1986), pp. 638–58.; disorder in M. Viroli, *Jean-Jacques Rousseau and the 'Well-ordered Society'*, trans. D. Hanson (Cambridge, 1988).; natural goodness in A.M. Melzer, *The Natural Goodness of Man: On the System of Rousseau's Thought* (Chicago, 1990).; the conception of the "ordinary" in T.B. Strong, *Jean-Jacques Rousseau: The Politics of the Ordinary* (Thousand Oaks, Calif, 1994).; Geneva in H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007).; the influence of Stoicism and Augustinianism in C. Brooke, 'Rousseau's Political Philosophy: Stoic and Augustinian Origins', in P. Riley (ed.), *The Cambridge companion to Rousseau* (Cambridge, 2001), pp. 94–123.; religion in M.S. Cladis, *Public Vision, Private Lives: Rousseau, Religion, and 21st-Century Democracy* (New York, 2006).; and gratitude in P. Coleman, *Anger, Gratitude, and the Enlightenment Writer* (Oxford, 2010).

[45] This thesis will address additional literature in corresponding chapters. For more on secondary literature regarding Rousseau and the ancients see: pp. 19-22; the legislator see: pp. 88-92; Geneva see: pp. 131-136; for Corsica see: pp. 197-198; for Poland see: pp. 226-229.

this has been the case, with Vaughan noting that the *Projet de Constitution pour la Corse* had yet

to be included in any of Rousseaus' collected works, and argued that when studied, "the political

work of Rousseau [becomes] an unbroken movement from one position almost to its opposite."[46]

This may have led others to ignore the works as being somewhat un-Rousseauvian. Hendel was

explicit that they were not a part of his interpretation, and Hall claimed he was not investigating

them because, as writings, "they are not those on which [Rousseau's] reputation as a philosopher

rests."[47] At other times the importance was noted, but the investigation still ignored:

> To trace out fully the manner in which Rousseau conceived of his political thought as a guide to
> sound political action, it would be necessary to study in detail the relationship between the *Social
> Contract* and the works in which Rousseau applied his teaching to concrete circumstances.
> Although the most obvious of these works are Rousseau's constitutional proposals for Corsica and
> Poland (in which he acts as legislator or advisor to the legislator), it would be equally necessary to
> consider his two major studies of Geneva... [But] such a task is far beyond the limits of this work.[48]

Another problem which has emerged is that when works attempt to offer a detailed investigation

into Rousseau's works on Corsica and Poland, they treat them as one project.[49] In doing this,

these works often make claims so broad, and lacking in nuance, that not much use can be made

of them. To offer one example:

> The occasions when Rousseau did apparently emerge from his dream-like realm of theory and try
> to apply his ideas seriously to practical politics are not encouraging. [H]is projected constitutions
> for Corsica and Poland demonstrate [...] that his whole approach to the problem, in both cases, is
> Utopian in the worst sense: that is to say, he has his eyes fixed on an ideal, a mixture of Sparta and
> Republican Rome.[50]

These studies, thus, fail to address the particularities of each nation, let alone each text, in their

attempts to develop a singular description of Rousseau's politics. This is, of course, not always

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[46]  C.E. Vaughan, 'Rousseau as Political Philosopher', in J.-J. Rousseau, *The Political Writings of Jean Jacques Rousseau*, 1, 2 vols (Cambridge, 1915), p. vii; 80.

[47]  C.W. Hendel, *Jean-Jacques Rousseau: Moralist* (Indianapolis, 1962), pp. xiv–xv; J.C. Hall, *Rousseau: An Introduction to his Political Philosophy* (London, 1973), p. 8.

[48]  R.D. Masters, *The Political Philosophy of Rousseau* (Princeton, 1976), p. 411.

[49]  R.P. Hanley, 'Enlightened Nation Building: The "Science of the Legislator" in Adam Smith and Rousseau', *American Journal of Political Science* 52.2 (2008), pp. 219–34; E. Putterman, 'Realism and Reform in Rousseau's Constitutional Projects for Poland and Corsica', *Political Studies* 49.3 (2001), pp. 481–94.

[50]  M. Canovan, 'The Limits of Seriousness: Rousseau and the Interpretation of Political Theory', *European History Quarterly* 2.1 (1972), p. 22. For a much better example of treating both topics see: J.-P. Massias, 'Les projets de Constitution selon Jean-Jacques Rousseau', in M. Lafourcade (ed.), *Les origines du constitutionnalisme et la Constitution de Bayonne du 7 juillet 1808* (Donostia, 2009), pp. 113–46.

the case. There are works which investigate Geneva, Corsica, and Poland in detail, and they will be addressed later in this thesis in more detail. Unfortunately, however, these are the exceptions rather than the rule.

One of the primary problems identifiable in works addressing Rousseau is methodological. Although with the emergence of the Cambridge School readings have improved and historically contextual readings have become more common, Robert Wokler argued that the focus largely remained politically situated. Historical reality is such that the interests of someone like Rousseau went beyond politics, and therefore non-political readings, influences, and writings must not be ignored. Instead, one must be aware of "the various languages [...] from anthropology, psychology and the philosophy of music and language, for instance, just to name certain themes of particular interest" to him.[51] This thesis accepts this position, and adds to it a concern for particular peoples' histories. This is not an entirely new position to hold; Vaughan argued in 1915 that "[Rousseau] concerns himself with action no less than with theory; that he is at least as much a practical reformer as a political philosopher... [His] arguments, so far from being abstract, have the closest reference to conditions of time, place and historical antecedent."[52] That is, the histories of the specific peoples and places Rousseau was writing for must be studied and understood as Rousseau himself would have come to know them if one hopes to understand the potential political solutions available.

Of course, in saying this, one must be careful to not claim too much. This thesis does not offer the "authentic Rousseau."[53] The goal, instead, is to historically situate a reading of Rousseau's works such that one can overcome at least one of the inconsistencies in his writings:

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[51]  R. Wokler, *Rousseau, the Age of Enlightenment, and Their Legacies*, ed. B. Garsten (Princeton, NJ, 2012), p. 128.
[52]  C.E. Vaughan, 'Rousseau as Political Philosopher', in J.-J. Rousseau, *The Political Writings of Jean Jacques Rousseau*, 1, 2 vols (Cambridge, 1915), p. 18.
[53]  C.W. Hendel, *Jean-Jacques Rousseau: Moralist* (Indianapolis, 1962), pp. xiii–xiv.

that between his propositional and his philosophical political writings. Concern has been taken to ensure methodological legitimacy while doing this, avoiding what Skinner calls errors of "mythology."[54] A particular concern for this thesis is the "mythology of doctrines" – taking "some scattered or quite incidental remarks by a classic theorist into his 'doctrine' on one of the mandatory themes."[55] On this concern, it should be noted that what is being addressed in this thesis is not a "doctrine" (such as "equality, progress, Machiavellism, the social contract, the great chain of being, the separation of powers, and so on")[56] but a recurring problem addressed by thinkers in various ways throughout history. In fact, much of this thesis and its methodology is structured around making this clear by, first, offering a description of the distinction between founding and re-founding in the history of political thought, and second, demonstrating that Rousseau himself was aware if this distinction. This thesis does not claim that the distinction between the two categories described in this thesis' title ("founding" and "re-founding") are entirely of Rousseau's creation, nor does it claim that Rousseau himself would construct the division in these particular terms. Instead, the distinction can be understood as an analytical framework, and not an "interpretive key" which offers the secret to unlocking Rousseau's "true" meaning. Again, the aim of the first two chapters is to demonstrate that such a problem (between founding and re-founding) was addressed in the writings of those thinkers Rousseau was familiar with. This, however, leads to a second concern: "Besides this crude possibility of crediting a writer with a meaning he could not have intended to convey, since that meaning was not available to him, there is also the (perhaps more insidious) danger of too readily 'reading in' a doctrine."[57] The third chapter aims largely to overcome this potential mistake. While the chapter on peoples

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[54]   Q. Skinner, 'Meaning and Understanding in the History of Ideas', *History and Theory* 8.1 (1969), p. 7.
[55]   Ibid., p. 7. This is one part of Skinner's "mythology of doctrine." The second part is the criticism of those thinkers who failed to recognize "mandatory themes."
[56]   Ibid., p. 10.
[57]   Ibid., p. 9.

in the *Contrat social,* and Rousseau's reference to Corsica in the same text, arguably make it explicit that Rousseau was aware of such a distinction, a thorough discussion is offered on the ideas, role, and limited capabilities of the legislator. The three chapters which follow demonstrate how Rousseau's own propositional writings fit into both this historical distinction, and his own philosophical system, by examining his proposals in light of the particular histories of Geneva, Corsica, and Poland.

More broadly a few methodological rules have been followed throughout: the thesis accepts Rousseau's own claim that he is a consistent thinker;[58] it does not ignore or abandon any of his texts; it recognizes that historical antecedents exist, and ideas do not emerge from nothing, and thus attempts to locate Rousseau's ideas within a larger historical discussion which Rousseau was aware of;[59] it recognizes that intellectual history is not only political, and that history as a broader subject must be turned to; it does not search for the political practicality of Rousseau's thought; it does attempt to understand the intention of Rousseau's work when possible, but it does not attempt to identify Rousseau's impact on the world.[60] Overall, the goal is not to say whether Rousseau was an ancient or a modern, or a Genevan or a cosmopolitan. Instead, that he was a political theorist who wrote in response to the problems which he was presented with. As this individual he drew ideas and influence from various sources which ideally can be recognized. Recreating this intellectual world which he had access to is difficult, but difficulty should not stop an endeavor.

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[58]   Rousseau, *Beaumont,* OC iv, p. 928. Thus, this thesis does not accept Skinner's criticism of the "mythology of coherence" is applicable in this case (Ibid., p. 16).
[59]   Preference is given to writers we know Rousseau was familiar with, and thus, avoid Skinner's "mythology of parochialism" (Ibid., pp. 22–26).
[60]   Thus avoiding the "mythology of prolepsis" (Ibid., pp. 22–23).

## Chapter I: Lawgiving and the Ancients

David Wisner wrote that Rousseau was the "writer who best explored the logical potential" of the legislator having made it central to his own political system.[1] This, however, should not lead one to ignore the rich and long tradition of the character as it stretched to the ancients. In fact, the idea of the great and heroic founder of political societies can be traced from Moses to Robespierre and Plato to Lenin; it is something which has both influenced actions and philosophies, and something pragmatic, idealistic, and realistic all at the same time. Importantly, this heritage was not unknown to Rousseau, and although the Enlightenment is recognized as an era of radical new ideas, he looked to the ancients for political inspiration: "Qu'ont de commun les Français, les Anglais, les Russes, avec les Romains et les Grecs? Rien presque que la figure." He continued:

> Je regarde les nations modernes: j'y vois force faiseurs de lois et pas un législateur. Chez les anciens, j'en vois trois principaux qui méritent une attention particulière: Moyse, Lycurgue et Numa. Tous trois ont mis leurs principaux soins à des objets qui paraîtraient à nos docteurs dignes de risée. Tous trois ont eu des succès qu'on jugerait impossibles s'ils étaient moins attestés.[2]

One must therefore come to know this history if one wants to understand Rousseau's thoughts on the topic.

This relationship has not gone unnoticed. Hendel wrote: "The great law-givers, Lycurgus and Numa, told in the Lives of Plutarch, were among the boyhood admirations of Rousseau; and Moses of the Old Testament could scarcely have been absent from the fancies of the youth of Geneva."[3] Shklar touched on this relationship as well, noting that laws are an expression of a people's virtue rather than a cause: "to structure the will that creates rules, to give a people its life in the first place, requires a single hand and a single voice." She continued: "The Great Legislator

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[1]   D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 4.
[2]   Rousseau, *Pologne*, OC iii, p. 956.
[3]   C.W. Hendel, *Jean-Jacques Rousseau: Moralist* (Indianapolis, 1962), p. 320.

must not only invent [laws], but create the moral climate that is needed for their acceptance... That was the way of those ancient political paragons, Moses, Lycurgus, Numa, and Solon. Of such men, alas, modern history knows nothing."[4] What is more, Rousseau's debt to these ideas in his own writings has been recognized by scholars. Byron Wells argued that Rousseau's legislator in the *Contrat social* is based on Plutarch's Lycrugus.[5] Jimack has shown that Plutarch is the ancient writer that Rousseau took greatest inspiration from.[6] Keller, similarly, wrote that Rousseau's writings as an adult were "a natural result of his earlier background," and argues that one is able to recognize more in Rousseau's works if they are familiar with this inspiration.[7] And finally, Rousseau himself wrote that Putarch's heroes had inspired in him "cet esprit libre et republicain, ce caractere indomptable et fier, et impatient de joug et de servitude."[8]

Plutarch is not, however, the only ancient Rousseau is argued to be indebted to. Others draw attention to Plato as a key inspiration: Vaughan saw him as Rousseau's strongest influence; M. J. Silverthorne has argued that by closely examining Rousseau's marginal notes in his copy of Plato's works one can discover a clear relationship between their thought;[9] David Lay Williams' *Rousseau's Platonic Enlightenment* (2007) argues that Rousseau was, before anything else, a Platonist;[10] and finally, Brent E. Cusher's recent PhD thesis, *Rousseau and Plato on the Legislator and the Limits of Law* demonstrates that the relationship continues to engage researchers.[11] Thus, while Rousseau's relationship with these ancients is accepted, as with most

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4     J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge, 1985), pp. 155–156.

5     B. Wells, 'Rousseau's Legislators and the Exemplar of Sparta', in R. Grant and P. Stewart (eds.), *Rousseau and the Ancients / Rousseau et les Anciens*, Pensée libre 8 (Montreal, 2001).

6     P.D. Jimack, *La genese et la redaction de l'Émile de J.-J. Rousseau*, SVEC, 13 (Geneva, 1960), pp. 350–353.

7     Specifically, he offers a study in which he finds direct links between Plutarch and the *First Discourse* on the topics of patriotism, virtue, luxury and inequality, the arts and sciences, and education (A.C. Keller, 'Plutarch and Rousseau's First Discours', *PMLA* 54.1 [1939], pp. 213–214).

8     Rousseau, *Confessions*, OC i, p. 9.

9     M.J. Silverthorne, 'Rousseau's Plato', *Studies on Voltaire and the Eighteenth Century* CXVI (1973), pp. 235–49.

10    D. Williams, *Rousseau's Platonic Enlightenment* (University Park, PA, 2010), p. 88.

11    B.E. Cusher, 'Rousseau and Plato on the Legislator and the Limits of Law', Library and Archives Canada = Bibliothèque et Archives Canada (2010). For more on Rousseau and the ancients see: R. Grant and P. Stewart (eds.), *Rousseau and the Ancients / Rousseau et les Anciens*, Pensée libre 8 (Montreal, 2001).

issues surrounding Rousseau, it is not entirely settled.

The aim of this chapter is not to demonstrate which school of thought Rousseau is most indebted to, however. Instead, the goal is to come to know the ideas which he could be indebted to. When examining the legislator as a Rousseauvian concept, one must, in Skinner's terms, come to understand what Rousseau "at least could have thought," and to do this one must develop a historical sketch of the concept as it would have been familiar to Rousseau.[12] Such a task is necessary if one's aim is is to understand Rousseau's own proposals in regard to Geneva, Corsica, and Poland. For example, if Rousseau proposes that Geneva should embrace public gatherings as a method of instilling virtue, or that Corsica should embrace a life austerity so as to fight off corruption, or that Poland should embrace equestrian competitions to create a sense of competition, one may want to find analogues for these proposals in the works he drew inspiration from. In this way we may come to understand his intentions with greater clarity. Again, the goal of this chapter is not to demonstrate that Rousseau is a students of Plato or Plutarch. Nor is this thesis looking to find an interpretive key to unlock Rousseau's thought. Influences and inspirations are the subject of this chapter, and the anecdotes and ideas furnished by Plutarch and Plato aid the reader of Rousseau elsewhere. The actual goal of the chapter, then, is twofold: first, to locate the distinction between founding and re-founding in these ancient sources, thus demonstrating that it was a political problem and was recognizable in the writings Rousseau was familiar with. Second, to draw links between this distinction, these sources, and Rousseau. These links, the relationship between the ancients and Rousseau's use of them, and their importance to this thesis becomes clearer when one recognizes their utility during the Enlightenment.

During the eighteenth century, Ancient Greek and Roman sources were an important

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[12]    Q. Skinner, 'Meaning and Understanding in the History of Ideas', in J. Tully (ed.), *Meaning and Context: Quentin Skinner and His Critics* (Princeton, N.J, 1988), p. 49.

intellectual resource.[13] Ancient republicanism, in particular, offered its own unique, and in Rousseau's view, superiour, conception of government which saw the administration of the state as being something which aimed towards "justice and the good of all."[14] As Benjamin Constant argued as early as 1819, Rousseau, inspired by nothing but a pure love of liberty, had transposed this idea of politics, these ideas of social power, and these concepts of collective sovereignty two thousand years forward.[15] Thus, Rousseau placed himself in a long republican tradition of which both Plato and Plutarch were parts. In fact, the political context of Plutarch's own works is relevant here: although he was well-traveled throughout the Mediterranean, and was a Roman citizen, Plutarch wrote his works from his hometown of Chaeronea. He consciously chose to "look at his contemporary world through the eyes of a small Greek *polis*."[16] In many ways, this is true also of Rousseau and Geneva. In both cases the city took precedence over the empire in the realm of the political. The *polis* should be independent from Rome as far as possible for Plutarch; Geneva's independence, too, was threatened by her neighbours. The lives Plutarch reported were those of people who had worked to ensure the survival of their particular cities.[17] These lives, then, were just as relevant to Rousseau's interests. What is more, in using these ideas and concepts in contemporary debates, Rousseau's goal was an "archeo-teleological quest to reconstruct a mythical Golden Age" based "on models of antiquity, both institutional and individual."[18] And ancient republicanism, as embraced by Rousseau, aimed to "supplant the false doctrines of the modern writers like Grotius."[19] In the stories of Plutarch and the arguments of

[13] R.A. Leigh, 'Jean-Jacques Rousseau and the Myth of Antiquity', in R.R. Bolgar (ed.), *Classical Influences on Western Thought A.D. 1650-1870* (Cambridge, 1979), p. 157.

[14] C.W. Hendel, *Jean-Jacques Rousseau: Moralist* (Indianapolis, 1962), p. 323.

[15] B. Constant, *Oeuvres politiques de Benjamin Constant* (Paris, 1874), p. 271.

[16] E. Koulakiotis, 'Greek Lawgivers in Plutarch: A comparison Between the Biographical Lycurgus and the Rhetorical Alexander', in A. Nikolaidis (ed.), *The Unity of Plutarch's Work: 'Moralia' Themes in the 'Lives', Features of the 'Lives' in the 'Moralia'* (Berlin, 2008), p. 404.

[17] P.A. Stadter, 'Plutarch and Rome', in M. Beck (ed.), *A Companion to Plutarch* (Oxford, 2014), p. 21.

[18] B. Wells, 'Rousseau's Legislators and the Exemplar of Sparta', in R. Grant and P. Stewart (eds.), *Rousseau and the Ancients / Rousseau et les Anciens*, Pensée libre 8 (Montreal, 2001), p. 211.

[19] C.W. Hendel, *Jean-Jacques Rousseau: Moralist* (Indianapolis, 1962), p. 324.

Plato Rousseau witnessed a different way of governing, one which unlocked a people's general will, rather than legitimizing a government's right to will. That is, the intellectual ammunition which Rousseau would come to fire at his enemies was based on a political worldview developed while reading the ancients, and therefore anyone interested in understanding Rousseau's thoughts on legislation must begin with what he found so powerful about these histories:

> Le même esprit guida tous les anciens Législateurs dans leurs institutions. Tous cherchèrent des liens qui attachassent les Citoyens à la patrie et les uns aux autres, et ils les trouvèrent dans des usages particuliers, dans des cérémonies religieuses qui par leur nature étaient toujours exclusives et nationales (voyez la fin du *Contrat social*), dans des jeux qui tenaient beaucoup les citoyens rassemblés, dans des exercices qui augmentaient avec leur vigueur et leurs forces leur fierté et l'estime d'eux-mêmes, dans des spectacles qui, leur rappelant l'histoire de leurs ancêtres, leurs malheurs, leurs vertus, leurs victoires, intéressaient leurs cœurs, les enflammaient d'une vive émulation, et les attachaient fortement à cette patrie dont on ne cessait de les occuper.[20]

To develop a sketch of these legislators, this chapter begins with an examination of particular characters – Moses, Lycurgus, Cyrus, Romulus, Numa, Theseus, and Solon – and the recurring themes and motifs which make up the genre.[21] In doing this, this chapter is divided into three parts: First, it looks at the common traits in the personal histories of these characters: their mysterious or turbulent births and heritages; their inert noble characteristics; the common theme of travel; and their education or close acquaintance with philosophers and great statesman. Second, their political actions are examined, and the tactics used to bring about their goals. Specifically: art, religion, ceremony, trade, training, trickery, the establishment of class structures, and exit strategies. Finally, the similarities and differences between the tales are drawn out, and the characters are categorized into three classes – heroes, founders, and re-founders – a distinction which will allow us to highlight themes Rousseau embraced in his own political thought.

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[20]  Rousseau, *Pologne*, OC iii, p. 958.
[21]  Sources used in this section are those which we know Rousseau was familiar with. In particular: the bible, Diodorus Siculus and Herodotus. For more on the lawgiver as a genre see: A. Szegedy-Maszak, 'Legends of the Greek lawgivers', *Greek, Roman and Byzantine Studies* 19 (1978), pp. 199–209; G.B. Lavery, 'Training, Trade and Trickery: Three Lawgivers in Plutarch', *The Classical World* 67.6 (1974), pp. 369–81.

## The Making of a Lawgiver

Plutarch's *Lives* provided Rousseau with both a historical source from which he could come to know the biographies and tales of ancient lawgivers and statesmen, as well as a starting point from which he could come to judge and develop his own ideas. This type of exercise was, in fact, encouraged by Plutarch. Attached to each set of coupled lives, when they have escaped antiquity, is a comparison and judgment. However, these comparisons were not only intended as political lessons. Instead, they have much in common with Stoic act of contemplation or askêsis. Plutarch himself noted this: "I began the writing of my 'Lives' for the sake of others, but I find that I am continuing the work and delighting in it now for my own sake also, using history as a mirror and endeavouring in a manner to fashion and adorn my life in conformity with the virtues therein depicted."[22] In this way they offer their reader something in addition to a simple history; in this way "we can enjoy with earlier generations the delight of observing through Plutarch's eyes the nobility of Pericles or the fickleness of Alcibiades, the viciousness of Sulla or the tragedy of Antony. And thus we can use Plutarch's Lives in creating our own understanding of the ancient world, and of human character."[23] Or, as Rousseau wrote:

> Plutarque excelle par ces mêmes détails dans lesquels nous n'osons plus entrer. Il a une grâce inimitable à peindre les grands hommes dans les petites choses; et il est si heureux dans le choix de ses traits, que souvent un mot, un sourire, un geste lui suffit pour caractériser son héros. Avec un mot plaisant Annibal rassure son armée effrayée, et la fait marcher en riant à la bataille qui lui livra l'Italie; Agésilas, à cheval sur un bâton, me fait aimer le vainqueur du grand roi; César, traversant un pauvre village et causant avec ses amis, décèle, sans y penser, le fourbe qui disait ne vouloir qu'être l'égal de Pompée; Alexandre avale une médecine et ne dit pas un seul mot: c'est le plus beau moment de sa vie; Aristide écrit son propre nom sur une coquille, et justifie ainsi son surnom; Philopœmen, le manteau bas, coupe du bois dans la cuisine de son hôte. Voilà le véritable art de peindre.[24]

Plutarch was more than a "mirror of antiquity and human nature," but a "secondary authority."[25] The lessons provided were historical, but also timeless – as appropriate to ancient Athens, as they

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[22]   Plutarch, *Lives*, Aemilius i [ed. Perrin, vi, p. 261])
[23]   P.A. Stadter, *Plutarch and the Historical Tradition* (London, 2002), p. 3.
[24]   Rousseau, *Émile*, OC iv, pp. 313.
[25]   D.A. Russell, 'On Reading Plutarch's Lives', *Greece and Rome* 13.02 (1966), p. 139.

were to citizens of the Roman Empire, Rousseau, and Rousseau's student Émile.[26] That is, the examples Plutarch provided are both historical and philosophical; they can tell us how great men acted, as well as how we ourselves may want to act. Thus, the first task in coming to understand Rousseau's own understanding of what a legislator was and could be, is to develop a sketch of Plutarch's.

Plutarch's biographies are of people who are "born with certain tendencies [...] which education may develop, diminish, or conceal, but not fundamentally change or eradicate."[27] Thus, innate qualities of character from birth are important in his representations of lawgivers and legislators. Common themes include being of noble stock, whether known or not, such as with Theseus and Solon, and having escaped infanticide, such as Cyrus, Romulus, and Moses.[28] Their extraordinary histories are matched by extraordinary early lives: Theseus passed a number of divine tests which were left for him by his father, travelled the country side executing murderers and brigands, captured the bull of Marathon, and released Athens from the Minotaur. Cyrus, due to his naturally regal characteristics, was declared king of the playground by his fellow playmates despite his seemingly low station, and it was this regal quality that ultimately belied his true identity.[29] Romulus is said to have had a natural superiority of strength as well as character. As a youth he had "political sagacity, while in his intercourse with their neighbours in matters

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[26] While it may have been one of Plutarch's intentions to show the Romans that Greeces greatness was in the political sphere, they are also lessons on "humanity and magnanimity, the essentials [...] of civilized life" (Ibid., p. 141).

[27] Ibid., p. 144.

[28] Theseus was the illegitimate child of the god Aegeus and grandson of Pittheus, wise founder of Troezen. Solon gave up the life of a noble to become a merchant. Romulus, and his brother Remus, were born to the virgin daughter of Numitor, heir to a kingdom which had been usurped by Amulius. When Amulius heard of the birth he ordered them to be exposed. Like Cyrus, the two boys survived – taken in by a she-wolf and nursed until they were found and raised by Amulius' swineherd. Cyrus, grandson of the king of Medes, Astyages, was ordered to be executed after his grandfather had a dream which foretold that Cyrus would overthrow him (although his servant was unable to kill the child, and instead had him raised by a cowherd – and like Romulus there are also myths of him being suckled by a dog). Moses was born at a time when all male Hebrew newborns were thrown into the Nile. However, the infant Moses was rescued by Pharaoh's daughter, and raised as her adopted son.

[29] Herodotus, *Histories*, i. 114-115; i. 118 (ed. Godley, i, pp. 147-151).

pertaining to herding and hunting, he gave them the impression that he was born to command rather than to obey."[30] Moses' natural virtues led him to turn on the very people who had raised him, giving up his adopted royal position, and fleeing Egypt.[31] Similarly, Lycurgus gave up his royal position in order to save the life of the very person who would ultimately take it: his sister's unborn child.[32] Finally:

> By natural temperament [Numa] was inclined to the practice of every virtue, and he had subdued himself still more by discipline, endurance of hardships, and the study of wisdom. He had thus put away from himself not only the infamous passions of the soul, but also that violence and rapacity which are in such high repute among Barbarians, believing that true bravery consisted in the subjugation of one's passions by reason. On this account he banished from his house all luxury and extravagance, and while citizen and stranger alike found in him a faultless judge and counsellor, he devoted his hours of privacy and leisure, not to enjoyments and money-making, but to the service of the gods, and the rational contemplation of their nature and power. In consequence he had a great name and fame.[33]

These future lawgivers were also strangers to the people they would come to legislate for – either by being literally foreigners, having been raised as such, or through self-imposed periods of exile in which they learned the ways of foreign peoples. For example, Lycurgus visited Crete where "he studied the various forms of government and made the acquaintance of their most distinguished men. Of some things he heartily approved, and adopted some of their laws, that he might carry them home with him and put them in use; for some things he had only contempt." He then visited Asia Minor where he contrasted the "simple and severe" Cretans with the "extravagant and luxurious, [and] just as a physician compares with healthy bodies those which are unsound and sickly; he could then study the difference in their modes of life and forms of government." It was also claimed that he visited Egypt, where he studied their warrior caste, as well as Libya, Iberia, and India (where he may have met and studied with the gymnosophists).[34] Similarly, Theseus travelled Greece by foot rather than the safer naval voyage so as to emulate

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[30]  Plutarch, *Lives*, Romulus vi (ed. Perrin, i, p. 105).
[31]  Num. xvi. 41-50.
[32]  Plutarch, *Lives*, Lycurgus iii (ed. Perrin, i, pp. 211-213).
[33]  Plutarch, *Lives*, Numa iii (ed. Perrin, i, pp. 315-317).
[34]  Plutarch, *Lives*, Lycurgus iv (ed. Perrin, i, pp. 213-217).

the heroic and virtuous deeds of Hercules and Solon chose to become a merchant so as to interact with, and gain experiences from, different cultures. Cyrus moved from Medes to Persia as a young man, receiving an education from both cultures, and Moses, beyond having to flee Egypt, spent years in the wilderness. What is more, they also came into contact with great philosophers and statesmen on their journeys: Theseus studied with Konnidas; Lycurgus and Solon both studied with the philosopher and poet Thales; it was reported that Numa's teacher was Pythagoras; and Jethro advised and offered basic ideas on governing to Moses.[35] However, for all the similarities between their heritages, the most important aspect of their stories are their actions as lawgivers.

## Founding and Giving Laws

As discussed above, Plutarch saw people as having innate qualities which dictated to some degree what they were capable of. The other contributing factor was circumstance.[36] In this case, to give laws, a would-be lawgiver needs a people ready to receive them, and in most cases this was brought about by a state of political crisis.[37] For example: Lycurgus lived in a time when "lawlessness and confusion prevailed."[38] Some kings were hated for attempting to use force to maintain order, while others would give into the people's demands, either to preserve themselves or out of weakness of character. In either case, chaos reigned in the streets. Lycurgus' own father was murdered while interrupting a brawl. As Rousseau put it: "Lycurgue entreprit d'instituer un peuple déjà dégradé par la servitude et par les vices qui en sont l'effet."[39] Attica was in a similar state when Theseus arrived: Athens was a number of villages which were "scattered about and

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[35] Plutarch, *Lives*, Theseus ii-iv; Lycurgus iv; Solon iv-vi (ed. Perrin, i, pp. 5-11; 213-217; 413-419). Livy, *History of Rome*, i. 18.1-3 (ed. Foster, i, pp. 63-65). Exod. iii. 13; ii. 16-21; xviii. 17-27.

[36] As Russell wrote "the interaction between natural qualities and circumstances is at the heart of all biography, and it is natural that Plutarch should have thought about it" (D.A. Russell, 'On Reading Plutarch's Lives', *Greece and Rome* 13.02 [1966], p. 145).

[37] The relationship between lawgiving and crisis is remarked on by Rousseau in the *Contrat social* (OC iii, p. 385).

[38] Plutarch, *Lives*, Lycurgus ii (ed. Perrin, i, p. 209).

[39] Rousseau, *Pologne*, OC iii, p. 957.

were not easily called together for the common interests of all, nay, they sometimes actually quarrelled and fought with each other."[40] He inadvertently worsened this state by igniting a war between himself and his competitors, and even after the tribes were brought together, conflict remained: "The Hill-men favoured an extreme democracy; the Plain-men an extreme oligarchy; the Shore-men formed a third party, which preferred an intermediate and mixed form of government, was opposed to the other two, and prevented either from gaining the ascendancy."[41] This was still the state of Athenian politics when Solon arrived. And Cyrus, King of the Persians, found his title meant little; the Persians were not a unified people, but instead a number of tribes held together through common rule by the Medes. Rome differed slightly in this regard, as its existence came directly from having been founded by Romulus and Remus. It was a refuge for fugitives and other unsavoury characters which quickly grew in size and power. However, although it had a political and military structure under Romulus, there was little done to overcome its disparate makeup, and as Rome continued to grow it became increasingly divided.[42] This is the city Numa was confronted with: no borders, no unified people, and no laws.[43] However, it was exactly these circumstances which allowed lawgiving to take place, and why Rousseau wrote: "Romulus n'eût fait qu'assembler des brigands qu'un revers pouvait disperser, son ouvrage imparfait n'eut pu résister au temps. Ce fut Numa qui le rendit solide et durable en unissant ces brigands en un corps indissoluble, en les transformant en Citoyens."[44] Before detailing the giving of laws, though, it must be noted that would-be-lawgivers shared one more quality: legitimization through popular support.

Lycurgus gained support while living in self-imposed exile. The Spartans, familiar with

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[40]   Plutarch, *Lives,* Theseus xxiv (ed. Perrin, i, p. 51).
[41]   Plutarch, *Lives*, Solon xiii (ed. Perrin, i, p. 435).
[42]   Plutarch, *Lives*, Romulus vii-ix; xiii; ix-xx (ed. Perrin, i, pp. 105-117; 123-127; 147-157).
[43]   Livy, *History of Rome*, i. 16 (ed. Foster, i, pp. 57-59). Plutarch, *Lives,* Numa v; ii (ed. Perrin, i, pp. 321-325; 309-313).
[44]   Rousseau, *Pologne*, OC iii, p. 957.

his virtuous eight month reign as king, "missed Lycurgus sorely, and sent for him many times. They felt that their kings were such in name and station merely, but in everything else were nothing better than their subjects, while in him there was a nature fitted to lead, and a power to make men follow him."[45] Similarly, Solon won over Athens with a one-off political act – a successful military expedition to the Salamis.[46] Numa's legitimacy came from being the only potential king that the differing tribes of Rome could agree upon, with no one able to suggest another, even from their own tribe, who was his equal.[47] And Cyrus was accepted due to, "first, his birth, because of which he seemed to be something more than mortal; and next, his victories in his wars: for no nation that Cyrus undertook to attack could escape from him."[48]

In addition to being chosen, however, one of the most important tasks facing a lawgiver was making the people themselves recognize that they were united as a people. How this was accomplished was never straightforward: Theseus used games to encourage the Athenian people to come together, train, and honour their gods – that is, to redirect a population's free time towards moral and political ends.[49] Lycurgus made use of the poetry of Homer and Thales to temper spirits; "exhortations to obedience and harmony... [T]heir measured rhythms were permeated with ordered tranquillity, so that those who listened to them were insensibly softened in their dispositions, insomuch that they renounced the mutual hatreds which were so rife at that time, and dwelt together in a common pursuit of what was high and noble."[50] Solon "put philosophic maxims into verse, and interwove many political teachings in his poems, not simply to record and transmit them, but because they contained justifications of his acts, and sometimes

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[45]  Plutarch, *Lives*, Lycurgus v (ed. Perrin, i, p. 217).
[46]  Plutarch, *Lives*, Solon vii-xi (ed. Perrin, i, pp. 419-431).
[47]  Livy, *History of Rome*, i. 18 (ed. Foster, i, p. 65).
[48]  Herodotus, *Histories*, i. 204 (ed. Godley, i, p. 257).
[49]  Plutarch, *Lives*, Theseus xxv (ed. Perrin, i, p. 57).
[50]  Plutarch, *Lives*, Lycurgus iv (ed. Perrin, i, p. 215).

exhortations, admonitions, and rebukes for the Athenians."[51] Others turned to religion and ceremony to inspire unity. Lycurgus reported that he had received the constitution of Sparta from the Oracle of Delphi, making their laws divine rather than man-made.[52] Numa made similar claims: "by heralding to them vague terrors from the god, strange apparitions of divine beings and threatening voices, he would subdue and humble [the Roman's] minds by means of superstitious fears." In fact, Numa made sacrifices, processions, and religious dances an all-encompassing aspect of Roman life "to soften the city, as iron is softened in the fire, and change its harsh and warlike temper into one of greater gentleness and justice."[53] As Rousseau commented:

> [Les Romains est devenu citoyens] moins par des lois, dont leur rustique pauvreté n'avait guère encore besoin, que par des institutions douces qui les attachaient les uns aux autres et tous à leur sol en rendant enfin leur ville sacrée par ces rites frivoles et superstitieux en apparence, dont si peu de gens sentent la force et l'effet.[54]

Rousseau reported that Lycurgus also embraced these techniques (combining games, ceremony, and religion with everyday life):

> Il lui imposa un joug de fer, tel qu'aucun autre peuple n'en porta jamais un semblable; mais il l'attacha, l'identifia pour ainsi dire à ce joug, en l'occupant toujours. Il lui montra sans cesse la patrie dans ses lois, dans ses jeux, dans sa maison, dans ses amours, dans ses festins. Il ne lui laissa pas un instant de relâche pour être à lui seul; et de cette continuelle contrainte, anoblie par son objet, naquit en lui cet ardent amour de la patrie qui fut toujours la plus forte ou plutôt l'unique passion des Spartiates, et qui en fit des êtres au-dessus de l'humanité.[55]

Like religion (and often connected), a recurring tool of legislation was education, the task which Plutarch, in fact, saw as the lawgiver's prime care.[56] This was also the basis of Lycurgus' Sparta; he believed the "the most important and binding principles which conduce to the prosperity and virtue of a city were implanted in the habits and training of its citizens, they would

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[51] Plutarch, *Lives*, Solon iii (ed. Perrin, i, p. 411). Plutarch later writes that Solon used this same poetic skill to overcome a law prohibiting calls to arms against the Salamis – an elaborate plan that ended him being made king (Plutarch, *Lives*, Solon viii [ed. Perrin, i, p. 421]).
[52] Plutarch, *Lives*, Lycurgus v (ed. Perrin, i, p. 217).
[53] Plutarch, *Lives*, Numa viii (ed. Perrin, i, p. 331).
[54] Rousseau, *Pologne*, OC iii pp. 957-958.
[55] Ibid., p. 957.
[56] Plutarch, *Lives*, Comparison of Numa with Lycurgus iv (ed. Perrin, i, p. 397).

remain unchanged and secure, having a stronger bond than compulsion in the fixed purposes imparted to the young by education, which performs the office of a law-giver for every one of them."[57] Melissa Lane has argued that, to this end, he refused to have the laws written, forcing the population to internalize, rather than memorize, them.[58] Instead, he linked laws, legislation, and law-making entirely to education, and to encourage social cohesion he arranged it so that "[c]horal dances and feasts and festivals and hunting and bodily exercise and social converse occupied their whole time, when they were not on a military expedition."[59] The population were to abandon all things which Lycurgus felt would have a negative effect on unity. Arts were limited to those which were practical (furniture making, for example) while literacy was largely ignored; "there would be no rhetoric teachers, fortune tellers, harlot-mongers, gold or silversmiths, engravers or jewellers. The professor and the prostitute now shared a common distinction: not wanted in Sparta."[60] Banning luxuries meant a life of simplicity, equality, and practicality was encouraged, and stopping trade stunted travel, cosmopolitanism, and exposure to foreign cultures which could harm Sparta's own. It was this strict and insular regime which the Spartans became famous for.

Moses also abandoned luxuries, and specifically banned those professions which were superfluous to survival, or which God had not given them a particular skill in.[61] Trading with non-Jews was also forbidden, so as to prevent their own culture form being polluted. A similar move was made by Numa, believing that the Romans should be focused on Rome and self-sufficiency, and thus he turned their thoughts of profit through conquest into plans for

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[57]    Plutarch, *Lives*, Lycurgus xiii (ed. Perrin, i, p. 241).
[58]    M. Lane, 'Platonising the Spartan Politeia in Plutarch's Life of Lycurgus.', in 'Platonising the Spartan Politeia in Plutarch's Life of Lycurgus.', *History of Political Ideas* (, Institute of Historical Research, London, 2012).
[59]    Plutarch, *Lives*, Lycurgus xxiv (ed. Perrin, i, p. 281).
[60]    G.B. Lavery, 'Training, Trade and Trickery: Three Lawgivers in Plutarch', *The Classical World* 67.6 (1974), p. 375.
[61]    Exod. xxxiv. 11-13; xxxv. 30-35.

agricultural growth. As Plutarch wrote: "[T]here is no other occasion which produces so keen and quick a relish for peace as that of a farmer's life."[62] Unlike Lycurgus, Numa, and Moses however (who together make up Rousseau's three ideal lawgivers in *Pologne*), Theseus encouraged trade and Solon followed, reforming education so as to put an emphasis on trade. This was out of necessity, however: "Solon, adapting his laws to the situation, rather than the situation to his laws, and observing that the land could give but a mere subsistence to those who tilled it, and was incapable of supporting an unoccupied and leisured multitude, gave dignity to all the trades."[63]

Another recurring technique of uniting a people was, perhaps surprisingly, the re-ordering of them into classes. For example, Theseus "was the first to separate the people into noblemen and husbandmen and handicraftsmen.. [H]e established a balance of privilege, the noblemen being thought to excel in dignity, the husbandmen in usefulness, and the handicraftsmen in numbers."[64] Similarily, Solon established four classes, of which the poorest only had rights to attend public ceremonies and sit as jurymen. However, "laws were obscurely and ambiguously worded on purpose to enhance the power of the popular courts."[65] The nobles could legislate, while the jurymen could judge. Numa, seeing the two tribes of Rome refusing to be united, divided them into even smaller groups, "aware that hard substances which will not readily mingle may be crushed and pulverized, and then more easily mix and mingle with each other."[66] And Moses, in addition to offering a set of basic divine tenets by which the Jews were to live, divided tasks and roles amongst the different houses.[67]

Importantly, what unites all these differing methods of lawgiving is an acceptance of

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[62]  Plutarch, *Lives,* Numa xvi (ed. Perrin, i, p. 363). Agriculture is a recurring theme in foundational politics.
[63]  Plutarch, *Lives*, Solon xxii (ed. Perrin, i, p. 465). Although, it should be noted, he forbade the export of all produce other than oil, as they were too valuable to the city (Plutarch, *Lives*, Solon xxiv [ed. Perrin, i, p. 471]).
[64]  Plutarch, *Lives*, Theseus xxv (ed. Perrin, i, p. 55).
[65]  Plutarch, *Lives*, Solon xviii (ed. Perrin, i, p. 453).
[66]  Plutarch, *Lives*, Numa xvii (ed. Perrin, i, p. 365-367).
[67]  Lev. x. 11; xiii-xiv. Num. xviii. 21-22.

trickery. That is, the ends of laws are often distinct, and at times hidden by, what is explicit about the laws themselves. For example, Lycurgus' opposition to trade was imposed by replacing gold and silver with iron as a currency hoping to discourage trade by making it physically difficult. The upshot being: "many sorts of iniquity went into exile from Lacedaemon. For who would steal, or receive as a bribe, or rob, or plunder that which could neither be concealed, nor possessed with satisfaction, nay, nor even cut to pieces with any profit?"[68] The point being, Lycurgus did not simply ban those things which he saw as negative. Instead, the nature of the people themselves had to be used to achieve the desired ends. And Lycurgus was not alone in this: it was argued that Solon used trickery to gain support for his position; that Romulus tricked Remus at the very founding of Rome by misreporting an omen; that in his travels through the wilderness, Moses used trickery to accomplish a number of goals – from spying, to lying, to knowingly tricking neighbours into battle so as to win lands.[69] And the necessity of these deceptions was recognized by ancient commentators: Plutarch wrote that it is certainly possible that "Lycurgus and Numa and their like [...] pretended to get a sanction from the god, which sanction was the salvation of the very ones against whom it was contrived."[70] Diodorus was also sceptical of claims to spiritual authority, writing that "among the Jews Moyses referred his laws to the god who is invoked as Iao" but he wondered whether religion was used by lawgivers "because they held that the common crowd would be more likely to obey the laws if their gaze were directed towards the majesty and power of those to whom their laws were ascribed."[71] And Livy wrote that, recognizing the utility of religion, Numa worked to "imbue [the Romans] with the fear of Heaven. As he could not instil this into their hearts without inventing some marvellous

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[68]   Plutarch, *Lives*, Lycurgus ix (ed. Perrin, i, p. 231).
[69]   Plutarch, *Lives*, Solon xiv [ed. Perrin, i, pp. 437-441]; Romulus ix [ed. Perrin, i, pp. 113-117]. Exod. xvii. 4-7.
        Deut. ii. 26-30; vii. 1-6. Numb. xx. 1-8; 5-9.
[70]   Plutarch, *Lives*, Numa iv (ed. Perrin, i, p. 321).
[71]   Diodorus, *Bibliotheca historica*, i. 94 (ed. Oldfather, i, p. 321).

story, he pretended."[72] Plutarch adds to the mystery of Numa's religiosity. He tells how Numa gave his collected wisdom and the laws of Rome to the priests, and having "inculcated in their hearts the scope and meaning of them all," and ordered the books "be buried with his body, convinced that such mysteries ought not to be entrusted to the care of lifeless documents," thus hoping to ensure their contents were never made public. However, four hundred years later the books were recovered and read by a praetor, who declared to the Senate that their contents should be made known to the people, and they instead were taken to the Comitium and burned.[73] Importantly, this mysterious event points to another problem facing lawgivers: exit strategies.

Having established a legal system, a lawgiver has one final task: ensure its lasting stability. By nature of being the authors of these laws they are also above them and must be able to exclude themselves from this position, while also preventing anyone else from taking it. It is a one time, extra-constitutional, office. There are a number of ways in which this was achieved. Lycurgus used one last trick: he told the Spartans he was going to Delphi to enquire into the goodness of his laws, and ordered them not to modify anything until his return – which he never did, ensuring the laws could never be modified.[74] Moses also excused himself (and those who would claim to be like him) from the promised land after he was given a divine order never to enter it, thus ensuring the laws he had given to the Hebrews remained untouched.[75] The importance of this final task and the cementing of laws for posterity is highlighted by Rousseau when he names Moses as one of history's great lawgivers:

> [Moïse] forma et exécuta l'étonnante entreprise d'instituer en corps de nation un essaim de malheureux fugitifs, sans arts, sans armes, sans talents, sans vertus, sans courage, et qui n'ayant pas en propre un seul pouce de terrain faisaient une troupe étrangère sur la face de la terre. Moïse osa faire de cette troupe errante et servile un corps politique, un peuple libre, et tandis qu'elle errait dans les déserts sans avoir une pierre pour y reposer sa tête, il lui donnait cette institution durable,

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[72]   Livy, *History of Rome*, i. 19.1-5 (ed. Forster, i, pp. 67-69).
[73]   Plutarch, *Lives*, Numa xxii (ed. Perrin, i, p. 381).
[74]   G.B. Lavery, 'Training, Trade and Trickery: Three Lawgivers in Plutarch', *The Classical World* 67.6 (1974), p. 378.
[75]   Deut. i. 24-25.

à l'épreuve du temps, de la fortune et des conquérants, que cinq mille ans n'ont pu détruire ni même altérer, et qui subsiste encore aujourd'hui dans toute sa force, lors même que le corps de la nation ne subsiste plus.[76]

Not all rulers were able to let go, however.

Theseus continued to act as king after founding Athens, and with disastrous results. During his reign he developed a penchant for kidnapping women, which led to wars with the Amazonians and Sparta, while his primary role within the Athenian political system caused jealousy, intrigue, civil war, and finally his own exile. And this was not the only failed attempt to give Athens lasting laws: having established his own position, Solon instructed that his laws be left untouched for one hundred years and left the city. Unfortunately, factions quickly emerged in his absence and he was forced to return in an attempt to pacify the city (before leaving he had said that "tyranny was a lovely place, but there was no way down from it").[77] When he was unable to bring about peace he became disgruntled and turned to chastising the Athenians in poems.[78] Cyrus' lawgiving was similar to that of Theseus', and likewise, his lust for power ultimately ruined him. After twenty-nine years of ruling he lost his life in battle. One sees this again with Romulus, who held on to power as tightly as he could, denying the Roman patriarchs a say in governing, thus frustrating the nobles. In the end he mysteriously disappeared, replaced by a new wave of civil disorder.

## Types of Ancient Lawgivers

Having examined some of the recurring themes found in the histories of ancient lawgivers, a comparison can now take place. In particular, it is worth noting the areas of commonality amongst those who failed and those who succeeded in creating lasting political orders. In the cases of Cyrus, Romulus, and Theseus, the cause of failure seems clear; they were little more

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[76]   Rousseau, *Pologne*, OC iii, p. 956.
[77]   Plutarch, *Lives*, Solon xiv (ed. Perrin, 439).
[78]   Plutarch, *Lives*, Solon xxx (ed. Perrin, 493).

than men willing laws through force, rather than founders uniting laws with the people they were creating. They succeeded in the primary task of bringing together or freeing a people, but were unable to move beyond this stage to create lasting laws, customs, and mœurs. With their deaths, the peoples they had founded were once again left in the wilderness. They were perhaps heroes, but not true founders.

On the other hand, Numa, Moses, and Lycurgus – again, Rousseau's three ideal lawgivers – were men who had successfully created peoples by providing individuals with a political existence and social conscience. They worked with people who, up until that moment (or in the case of Lycurgus, at that moment),[79] were not part of a political body. They instituted the regimes which brought them together and gave them a lasting social and political existence. They were founders and lawgivers.

Finally, there was Solon. He was unique in that he worked with an already established people. Although they had an initial founding, it was poor, and with Theseus' departure the Athenians came undone. However, this initial, albeit poor, founding meant Solon had to work with an already existing Athenian character (Theseus' culture of trade and commerce). Solon therefore took a pragmatic approach to the laws he developed, using persuasion when he could, and turning to force when necessary. He attempted to fit his laws in to the already existing state of things, rather than manufacture new laws to create new customs; he attempted to take what was already in the Athenians and turn it into something better.[80] This meant, however, that he knew his laws were not ideal. When questioned as to whether he had given the Athenians the best laws, he answered: "The best that they would receive."[81] His concerns point to the problem of reforming a political body. It already has its own character and one must be aware of these

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[79] Lycurgus offers an exceptional case, according to Rousseau, in which violence caused a people to be reborn anew (Rousseau, *Contrat social*, OC iii, p. 385).

[80] Plutarch, *Lives*, Solon xv; xxii (ed. Perrin, i, pp. 443; 465-467).

[81] Plutarch, *Lives*, Solon xv (ed. Perrin, i, p. 443).

existing realities regardless of how good or bad they may be. It is because of this that Solon was not a founder, but a re-founder.

Importantly this distinction between founder and re-founder is recognizable in other texts from the era. Plato, for example, clearly distinguishes between the lawgiver for a new people, and the lawgiver for an already established people. One finds the former in the *Republic* and Socrates' description of the philosopher king:

> [T]he philosopher whose dealings are with the divine order himself acquires the characteristics of order and divinity so far as a man may... [Therefore] the philosopher is compelled to try to introduce the standards which he has seen there, and weave them not into himself only, but into the habits of men both in their private and public lives.[82]

That is to say, the qualities of philosophy which allow one to understand the natural order of things – to see ideals – are also the qualities which allow one to know what the natural order of things for a people should be. From this he argues that the constitution of a state and the individual souls of a population are reflections of each other (again, "the habits of men both in their public and private lives"). Thus, a poorly constituted state will result in a poorly constituted populace; and likewise, a poorly educated populace can only make for a poor state.[83] The upshot of this being, a people who already have a political foundation are corrupted. It is for this reason that Socrates warns his interlocutors that his ideal city may not be possible, and it is "sheer folly" to try and educate a people whose beliefs are contrary to the lessons being given: "To produce a different type of character, educated for excellence on standards different from those held by public opinion, is not, never has been, and never will be possible."[84]

There are two points that should to be reiterated here: First, lawgivers must be philosophers for the same reason they are so often foreigners and outsiders. They are exceptional

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[82]    Plato, *Republic,* 500c-d (ed. Lee, p. 297). It is worth comparing this quote to Rousseau's on the legislator's need to make "gods talk" (*Contrat social*, OC iii, p. 384).
[83]    Plato, *Republic,* 434d-e; 435e; 541b-592b (ed. Lee, pp. 206-208; 209-210; 356-420).
[84]    Ibid., 473a-b; 492e-493a (ed. Lee, pp. 262; 287-288). Plato does continue, writing "short of a miracle."

people because they are capable of seeing the world from outside of the constraints of the political community; they are the miracle "whose dealings are with the divine order," not the customary or popular.[85] The metaphor which Plato uses to make this point becomes a trope returned to throughout history: the pilot of a ship. Plato argues that the prudent management of a state is like that of sailing a ship; the person best suited to the job is the one who should hold it. Unfortunately, this is often not the case. Instead the strongest, or most popular, or loudest, or richest, is able to take the helm, while the true navigator, whose attention is turned towards the stars, is ignored and dismissed as a "star-gazer" just as the philosopher is in politics.[86]

The second point to note is the interaction between human nature (the soul) and political societies (the constitution). This explains why giving laws to an established people is dangerous: one would be facing a human nature which has already been moulded, and attempts to remould it are akin to squaring the circle.

The *Republic*, however, is a description of an ideal society. To address the problems faced by those who would give laws to an established people, Socrates found a solution which has made the book infamous: he proposes the banishment of "all citizens over the age of ten; having thus removed the children from the influence of their parents' present way of life, they would bring them up on their own methods and rules... This is the best and quickest way to establish our society and constitution."[87] In the *Laws*, however, Plato offers a different sort of political project. It too touches on many of the specific themes of lawgiving examined (such as correct education; trickery; the role of music; religion), but unlike the *Republic*, it does not attempt to start fresh. Instead, it is the description of the establishment of a Cretan colony, and thus accepts the uncontrollable situation of an already established people with their own histories and customs.

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[85]    Ibid., 484b; 500d (ed. Lee, pp. 276; 297).
[86]    Ibid., 488a-489d. Plato was not the first to use this metaphor. Alcaeus and Aeschylus both used it before him.
[87]    Ibid., 540e-541a (ed. Lee, pp. 354-355).

The distinction between the *Republic* and the *Laws* is made clear in the Athenian Stranger's comparison between the legislator and the physician. He claims that both work in a world in which they, unlike artists, face unpredictable chances (*tuchē*). That is to say, the uncontrollable realities which the legislator encounters prevents the possibility of creating a *polis* in the same way an artists produces a painting from a blank canvas. Instead, the world is such that one must respond to the situations which present themselves (such as history, customs, natural disasters, war, poverty, disease, and climate).[88] The art of legislation in the *Laws* is the art of overcoming these realities; not creating something out of nothing. This is what the Stranger means when he argues: "[N]o human being ever legislates anything, but […] chances and accidents of every sort, occurring in all kinds of ways, legislate everything for us… [A]lmost all human affairs are matters of chance."[89] It is, however, a supreme quality of humanity which allows one to overcome these uncontrollables. Chance literally means opportunity in Ancient Greek.[90] The art of legislating is thus "cooperating with the opportune moment;" it allows one to understand the process of an event, and take the right action exactly when necessary. Just as a sailor knows how to manage in the "midst of a gale," and a doctor knows how and when to apply a cure, the legislator is a pilot and physician, caring for their city's well-being.[91] The approach to lawgiving found in the *Laws*, therefore, is akin to the actions of Solon. One does not witness that moment in which a people are truly made into something new. Instead, the city being founded already has its heritage, even though it does not yet exist. It has an established Cretan population and it is the lawgiver's task to recognize this (in the constituent aspects of the Cretan people) and re-found a city as best he can.[92] Or to use the physicians metaphor, the city has a pre-existing

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[88] Plato, *Laws*, 704d; 681b; 677a; 709a-b (ed. Pangle, pp. 89-90; 63-64; 59; 94).
[89] Ibid., 709a-b (ed. Pangle, p. 94).
[90] *Tuchē* is the ancient Greek word for both chance and opportunity. The founding of the colony in *The Laws* is itself an example of *tuchē*.
[91] Ibid., 709c (ed. Pangle, p. 94).
[92] Ibid., (ed. Pangle, p. 89). Leo Strauss highlights the ways the Athenian Stranger deals with already established

condition, and if it is to survive the condition must be taken into consideration.

These are preliminary observances on founders and re-founders available to those who wish to look for them, and as they would have been available to Rousseau. The next step, having drawn out this description and examined some methods of lawgiving, is to examine the ways in which these ideas continued to be expressed – in particular, amongst those writers who would come to have an influence on Rousseau.

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customs when ordering the new city (L. Strauss, *The Argument and the Action of Plato's Laws* [Chicago, 1998]).

## Chapter II: Lawgiving from the Fall of the Roman Empire to the Eighteenth Century

The goal of this chapter is twofold: offer a historical sketch of the political concerns around legislating before Rousseau, and highlight the emergence of ideas and themes which Rousseau addressed and are examined more closely in coming chapters. That is, first, it aims to offer a sketch of the history of the legislator as explored by thinkers Rousseau was familiar with, and second, it offers a more broad, albeit brief, history the themes this thesis is examining in the history of political thought. In doing this it both highlights many of the political ideas which the Enlightenment was a response to, and continues to trace the distinction between founding and re-founding, thus following and supporting the analytical framework being drawn out in this thesis. To this end, the chapter is not to be seen as a large-scale analysis of the legislator in the history of political thought, but is a collection of investigations which inform the overall argument being made by this thesis.

The chapter is divided into two parts. The first is an examination of the use of the ship-of-state metaphor by political thinkers from the Roman Republic to the Renaissance. This metaphor is particularly useful because of its prolific use in political thought – it has already been seen in the previous chapter with Plato – and it offers an efficient method of exploring thoughts on the legislator. That is, because the thrust of the metaphor is to demonstrate the qualities necessary in a particular person to be the head of a state, or pilot of a ship, the subtle differences in the ways it is deployed allows for differences to be easily recognized. And although the depth with which the metaphor is used differs with each thinker, this itself is of interest. The specific authors examined were chosen due to their canonical contribution and chronological convenience. While Rousseau's relationship with each thinker varies, we do know that he was familiar with all of

them.[1] However, as already noted, the goal of this chapter is not simply to draw out Rousseau's influences, but to demonstrate that the problems Rousseau addressed, and the framework that this thesis develops, existed as a problem throughout the history of political thought. The specific thinkers examined are: Cicero and Seneca, in whom one can recognize the shift of the legislator's importance conceptually, if not politically; Augustine, and his dismissal of the importance of both the character and the political sphere in which it acted; Aquinas, and the re-emergence of a secular sphere of politics; Erasmus, and the recognition of a world in which the ideal pilot is in fact not at the helm; More, who follows Erasmus' lamentations, and reflects more deeply on the problem and its potential solutions; and finally Machiavelli, who returns to classical ideas of republicanism and allows for the re-emergence the legislator.

The second part of this chapter examines Enlightenment political thought. It begins by turning to Fénelon, a thinker who, like Machiavelli, returned to the classical world for inspiration to overcome the problems highlighted by the humanists examined in the first section of this chapter. These ideas were of particular importance, as we will see later in this thesis, to Rousseau. The chapter then examines the thoughts and treatment of the legislator explicitly in the works of Rousseau's contemporaries. It highlights how ideas, from Plato to Newton's scientism, allowed for new ways of thinking about governing, and the return of the legislator as a legitimate political concept.

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[1]    M. Richebourg, 'La Bibliothèque de Jean-Jacques Rousseau', *Annales de la société Jean-Jacques Rousseau* 21 (1932), pp. 181–250.

## Legislators and The Ship-of-State

### Cicero

> Peace and tranquility are like a ship or a minor illness: you can be undisciplined when there is no danger. But when the sea gets rough or the disease gets worse, the sailor or the sick man calls for one person's help.[2]

The world of the legislator following the fall of the Roman republic was turbulent. The Greek lawgiver had one task: develop a society in which *arête* – excellence – could come to the fore. It was with the success or failure of this that legitimacy was established. However, with the rise of Rome, and the emergence of powerful individuals able to challenge the established political order, these ideas began to take on new meaning. In fact, politics itself, more than political philosophy, came to play an important role, as apparent in Marcus Tullius Cicero's (106-43 BCE) writings from the first century BCE.

Cicero, a politician himself during the waning years of the Roman Republic, criticized the politicking of his contemporaries, and, like Plato, turns to the ship of state metaphor to make his point. In *De officiis* (44 BCE) he wrote: "Electioneering and the struggle for positions of honour is an altogether wretched practice... [T]hose who compete between themselves over who should administer the republic act as if sailors were to fight over which of them should be principal helmsman."[3] Instead, politics was the maintaining and protecting of the already established ways of the Roman Republic. In *De legibus* (54-51 BCE), Cicero's response to Plato's *Laws*, he described the legislator as a pragmatic actor, arguing that the "very effectiveness of [a city's] foundation as a support for a stable and long-lasting commonwealth depends on its ability to

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2    Cicero, *De re publica*, i. 63 (ed. Zetzel, pp. 27-28). Although *De re publica* was lost until being discovered in the Vatican library in 1819, it was "a canonical text in antiquity and was widely known until the fifth century CE," thus part of the intellectual world of its own time, and demonstrative of the issues thinkers were dealing with. What is more, quotations and arguments taken from it abound, not least of all in Lactantius' *Divine Institutes* and Augustine's *City of God* – texts we know Rousseau was familiar with. For more on its intellectual influence see: J.E.G. Zetzel, 'Introduction', in M.T. Cicero, *Cicero: On the Commonwealth and On the Laws* (Cambridge, 1999), p. xiv; xx.

3    Cicero, *Officiis*, i. 87 (ed. Griffin and Atkings, p. 34).

avoid violent and radical change... As a legislator, he must, for the good of the city, keep at bay arguments that he suspects may succeed in upsetting the city."[4] That is, while Rome was engaged in internal strife, Cicero argued for the preservation of its existing laws, and argued that only the laws that could be changed without risking any harm to the society should be manipulated.[5]

The pragmatic argument is also developed in Cicero's text on the best constitution: *De re publica* (54-51 BCE). The work is Cicero's answer to Plato's *Republic*, and in it he uses the character of Scipio to develop the traditional division of constitutional systems seen in Plato and Aristotle before him: democracy, aristocracy, and monarchy, along with their corrupted pairs.[6] Scipio uses this division (with the aid of Stoic natural law) to demonstrate that the best, and only legitimate, political system is Rome's mixed constitution. He concedes that a benevolent monarch would certainly be an ideal political regime, but claims that "the alteration of the monarchic form is the first and the most certain: when a king begins to be unjust, the form is immediately destroyed, and that same person is a tyrant, the worst form, but closest to the best."[7] This same process of corruption, he argues, is true for the other two systems. Thus, he abandons ideal, or philosophically rational, systems and turns to the most practicable: Rome and its mixed constitution; "I will state my own opinion and belief and judgment that no commonwealth, in either its organization or its structure or its conduct and training, can be compared to the one our fathers received from their ancestors and have passed on to us."[8] Importantly, while this limits the realm of possibility for legislators in Rome, it does not mean there was no room for great men – Cicero accepted that a ship needs one captain; but this captain exists to ensure the safety of the

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[4]    J.W. Atkins, *Cicero on Politics and the Limits of Reason: The Republic and Laws* (Cambridge, 2013), pp. 186–187.

[5]    For example, in *De divinatione* (46-44 BCE) he argued that Rome's religion, and in particular auspices, are beyond philosophical criticism because of the benefit they provided the masses (Cicero, *Divinatione* [ed. Falconer, p. 451]).

[6]    Cicero, *De re publica*, i. 42 (ed. Zetzel, pp. 18-19); *Statesman* (291c-d); Aristotle's *Politics* (1289a).

[7]    Cicero, *De re publica*, i. 65 (ed. Zetzel, p. 29).

[8]    Ibid., i. 70 (ed. Zetzel, p. 31).

ship.

Although Rome's republican laws were established, they were not certain – Cicero argued that the "Roman state stands upon the morals and men of old" and the state, therefore, needs to have this foundation constantly strengthened and reinforced.[9] The duty of a political actor, he argued, was "to be a very great and very learned man, so as to be wise and just and temperate and eloquent, in order to be able to express fluently and easily his inner thoughts to rule the people."[10] Thus, although Rome was threatened by men like Julius Caesar and Marc Antony, it also needed to be protected by such men at times. And like the Greeks before him, Cicero believed that the person who held a position of power held it because their own excellence would be reflected outwardly and become a public good. Through correct actions and the continuation of Roman institutions and customs it was possible to transmit the values of Rome's founders to the population and maintain the Republic. In making this argument Cicero once again used the ship-of-state metaphor: "As a helmsman aims at a good voyage, a doctor at saving his patient, a general at victory, so this guide of the commonwealth aims at the blessedness of the life of his citizens, that they should be solid in their resources, rich in property, well endowed with glory, honorable in virtue."[11] The role of these men was not to rule, but to create the conditions in which the Romans themselves could rule:

> Cicero compares the situation in which the *res publica* had recently found itself under the rule of Caesar to the condition of an enslaved person, he is referring to the condition defined by Roman law as one in which a person is subject to the *ius*, or jurisdiction, of another person, and therefore in their power... According to this view, the free people of Rome had lost their ability or power to live under their own jurisdiction during Caesar's period of domination and had suffered an illegitimate form of subjection to the will of one of its citizens.[12]

Cicero's political philosophy, then, is not a piece of propositional work, nor an argument for

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[9]   Ibid., v. 1 (ed. Zetzel, p. 87).
[10]   Ibid., v. 2b (ed. Zetzel, p. 88).
[11]   Ibid., v. 8a (ed. Zetzel, pp. 89-90). If Scipio's arguments were not enough to convince his audience, the text concludes with the "Dream of Scipio," a story akin to Plato's "Myth of Er," giving cosmological support for the arguments that proceed it.
[12]   P. Stacey, *Roman Monarchy and the Renaissance Prince* (Cambridge, 2007), p. 25.

reform. It is a call for the continuous re-foundation of what made Rome a republic. Although he accepts the need of great men at times – the office of dictator – this should not be read as an argument for the political superiority of this actor. Instead, it was a concession. With the decline of the Republic, and the emergence of Caesarian politics, Cicero saw that traditional politics and oration were no longer relevant in achieving the prudent maintenance of the state. His writings, then, are a description of what was, and what was being lost, but what could perhaps be recovered. This is perhaps most clearly seen in him turning to Gaius Octavius, hoping to turn the young man into a buffer against Marc Antony's dictatorial politics. That is, he continued to hope that a virtuous dictator who respected Rome's historic institutions could maintain the republic. He was neither the first, nor the last, philosopher to offer lessons to political leaders in the attempt to instil what they believed to be correct thinking, nor was he the first, nor last, to have it to backfire. When Octavius and Antony reconciled, and the Second Triumvirate was established, Cicero was executed. Perhaps even more tragicly, the outcome of his pragmatic politics is highlighted by Tom Stevenson: "What lurks behind this apparent concession [that is, of a truly virtuous dictator] is the possibility of a true *vir sapiens* whose wisdom and virtue really do single him out as *princeps*. Cicero duly gives room to some arguments which later become central to Seneca's monarchical theory."[13]

## Seneca

> If you don't know what harbour you sail for, no wind is favourable.[14]

Within a hundred years the republican lamentations of Cicero had been quietened, and the Roman Empire – and its emperors – had emerged. This is made clear in Lucius Annaeus Seneca's (4 BCE-65 CE) treatise for a young Nero in *De clementia* (55-56):

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[13]  P. Stacey, *Roman Monarchy and the Renaissance Prince* (Cambridge, 2007), p. 28.
[14]  "Letter 71: Seneca to Lucilius Junior" in B. Inwood, *Seneca: Selected Philosophical Letters* (Oxford, 2007), p. 25.

> [C]ast one's eyes on the huge crowd here – quarrelsome, factious, uncontrolled, as likely to run riot for its own as for another's downfall, if it breaks the yoke now on it... [S]ay to oneself: 'Have I, of all mortals, found favour with the gods and been chosen to act on earth in their stead? I am the judge with power of life and death over nations, I have the fate and condition of everyone in my hands. All dispensations of fortune to mortals are made through pronouncements on my lips. My verdict is what gives people and cities cause to rejoice.[15]

Seneca's political theory was questioned almost as soon as he had finished giving it. Two centuries after his death Cassius Dio wrote: "his conduct was seen to be diametrically opposed to the teachings of his philosophy. For while denouncing tyranny, he was making himself the teacher of a tyrant."[16] To this day his contribution to the history of political thought remains uncertain. Cooper and Procopé argue that "Seneca is not writing as a 'political theorist' nor as an advocate of any political programme. He has nothing to say about divisions of power, virtually nothing about sources of authority or forms of government, and very little on social regulation. He has no conclusions to draw from institutional reform. He is simply not interested in institutions."[17] However, although she notes that "it is often said that Seneca showed no interest in political theory," Griffin disagreed: "Only if political thought and, indeed, political theory are not conceived in too narrow a sense, can Seneca's contribution be understood." Instead, *De clementia* as "theoretical exposition" through "political eulogy" has mush to say.[18] As Stacey put it: it is "the only surviving example of a systematic attempt to theorise the Roman monarchy" and, in fact, it is exactly Seneca's avoidance of political theory, as Plato and Cicero before him engaged with it, that is of interest in this context.[19]

Before this point the word *rex* had been a treasonous term. It was avoided by both Caesar and Augustus, who instead embraced *princeps*. While Seneca acknowledges that to speak in this

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[15] Seneca, *On Mercy*: i. 1.1-2 (ed. Cooper and Procopé, p. 128).
[16] Cassius Dio, *Roman History*, lxi. 10.1 (ed. Cary, p. 57).
[17] J.F. Procopé and J.M. Cooper, 'Introduction', in L.A. Seneca, *Seneca: Moral and Political Essays* (Cambridge, 1995), p. xxv.
[18] M.T. Griffin, 'Seneca and Pliny', in C.J. Rowe and M. Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought* (Cambridge, 2000), p. 532; 534.
[19] P. Stacey, *Roman Monarchy and the Renaissance Prince* (Cambridge, 2007), pp. 4–5.

way is prudent, he does not do so himself. Instead he writes of "princes and kings and whatever other titles there may be for guardians of the public order."[20] Unsurprisingly then, the text does not engage with philosophical conceptions of the legislator, let alone the legitimacy of the emperor's position. There was too little intellectual room to do so. Attached to this new imperial position were two political maxims: "the Prince is not bound by the law" and "the emperor has sole power to make laws."[21] There was no legal framework with which the Senate, or anyone else, could hope to remonstrate the king. Thus, Seneca had no business dictating who should or should not pilot the ship of state. He could, however, discuss where such a pilot should hope to harbour, and to achieve this Seneca turned to instruction, and the mirror for princes genre.

*De clementia* begins by explaining to Nero that it exists to "serve in a way the purpose of a mirror, and thus reveal you to yourself."[22] The mirror's surface is of a Stoic tint, however, and by developing an image of the monarch which reflects "a principle of universal law and justice upon the person of the prince," positive law can be dispensed with theoretically (as it had already been done in practice).[23] Specifically, the Stoic virtue of mercy is used in an attempt to temper the monarch's actions. What is more, Seneca argues that through the correct actualization of this morality – by becoming the *vir sapiens* – legitimization is no longer a concern: "No one could conceive of anything more becoming to a ruler than mercy, whatever the manner of his accession to power and whatever the legal basis."[24] This then – Stoic morality – was what informed the pilot of the ship-of-state, and Seneca's political goal in writing *De clementia* seems to have been to to aid the already chosen pilot decide upon their destination. As Griffin wrote: "Seneca did not write about the relative merits of different constitutions and showed little confidence in what

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20    Seneca, *On Mercy*, i. 4.3 (ed. Cooper and Procopé, p. 133).
21    D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), pp. 14–15; 18; 19; 21.
22    Seneca, *On Mercy*, i. 1.1 (ed. Cooper and Procopé, p. 128).
23    P. Stacey, *Roman Monarchy and the Renaissance Prince* (Cambridge, 2007), p. 31.
24    Seneca*, On Mercy*, i. 19.1 (ed. Cooper and Procopé, p. 150).

could be achieved by legislation."[25] However, this in itself is of importance to those wanting to understand the limits imposed on *conceptualizing* the role of the legislator, if not the legislator itself – a pattern which continued with the emergence of Christianity.

### Augustine

> Rome had collected for her protection far too many gods, summoning them, as it were, at a given signal by the immense volume of smoke of the sacrifices. By establishing for them a supply of temples, altars, sacrifices and priests she was bound to offend the true supreme God, to whom alone those honours are rightly due. She had greater happiness when she lived with a smaller number. But it seemed that she needed a larger supply when she grew greater, as a larger ship needs a larger crew. I suppose she felt no confidence that those few gods, under whom she had enjoyed a better life (though storing up for herself a worse future), would suffice to support her increasing grandeur.[26]

Augustine's use of the ship-of-state metaphor breaks with those who wrote before. No longer is the ship inhabited by people, but gods. This shift, located in the religious and political context of the time, has relevance to his political theory as a whole.

With the rise of Christianity the maxims of the *rex* were strengthened by divine legitimacy. Conceptually, kings were no longer legislators or lawgivers, nor did they rely on *arête* to legitimize their positions. They were instead men whose ancestry legitimized their position by divine dictate, and while the idea of an autocratic monarch was not new – many of the characters examined in the previous chapter were just such people – the impact Christianity had was. As Christians began to hold positions of political importance, the relationship between exercising political power and maintaining one's Christian faith began to show itself as complicated. Whereas before, the good of the city was the same as the ends of civic religions, with Christianity the religious well-being of citizens beyond the *polis* began to enter the political realm as a concern (particularly following Constantine's conversion in 312). What is more, as congregations grew, their leaders began to hold greater political and moral power. Laws which

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[25]   M.T. Griffin, 'Seneca and Pliny', in C.J. Rowe and M. Schofield (eds.), *The Cambridge History of Greek and Roman Political Thought* (Cambridge, 2000), p. 532.

[26]   Augustine, *City of God*, iii. 12 (ed. Bettenson).

had previously favoured Roman paganism were abandoned, and ultimately other religions were banned. These changes came to a head when Rome was sacked in 410. Many saw the event as a divine message concerning the weakening of the Empire as it embraced Christianity.[27] Not all were of this opinion, however.

Augustine of Hippo's (354-430) *The City of God* (413-422) was a response to those who argued Christianity's relationship with politics had weakened Rome. The form the argument took, however, was entirely new. Rather than disagree with the conclusions, Augustine attacked the conception of the political and temporal, and drew attention to the importance of the spiritual. He and his followers argued that politics itself was a side-effect of the fall, and thus, it and all the things that made it necessary, were deplorable – including the civil Roman virtues embraced by the likes of Cicero.[28] Instead, he argued that the life of Christ provided the most perfectly defined source for virtues; piety and Christian courage should be celebrated and imitated, rather than the Roman civic heroes of the past. This was not to say there was no reflection on the realm of politics. The division between the two cities is not as simple as secular and spiritual, but instead everyone is split between the two cities, and even the godly inhabit the City of Man. Everyone is sinful since the fall, and thus everyone must be restrained: "Let everyone be subject to the governing authorities, for there is no authority except that which God has established. The authorities that exist have been established by God. Consequently, whoever rebels against the authority is rebelling against what God has instituted, and those who do so will bring judgment on themselves."[29] Who these authorities should be, or what the best regime is, were not Augustine's concern.[30] However, this does not mean that the political dominates the Church.

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[27]   E.M. Atkins and R.J. Dodaro, 'Introduction', in Augustine, *Augustine: Political Writings* (Cambridge, 2001), p. xii.

[28]   Augustine engages with Cicero and the arguments found in *De re publica* directly – first in II. 21, and more fully in book XIX.

[29]   Rom. xiii. 1-2.

[30]   This is not entirely true: "In an early passage Augustine remarks perfunctorily that if a people are committed to

Augustine argued that rulers themselves would be judged by God, and not only for their personal actions, but "were accountable to God for the well-being of those in their care."[31] How far rulers should go in ensuring the "well-being of those in their care" is debated. He did not support forced conversions of Pagans or Jews, but he did believe heretical Christians must be "brought to sincere and orthodox conviction."[32] Ultimately he argued that Christian rulers will find true happiness "if they put their power at the service of God's majesty, to extend his worship far and wide" and "if they do not fail to offer to their true God, as a sacrifice for their sins, the oblation of humility, compassion, and prayer."[33] Thus, it was only by citizens accepting the higher authority of their Christian political masters, and these political masters accepting the higher authority of the Christian God, that citizens of the City of Man could hope to escape to the true city, the City of God. In this way, the realm of politics became subservient to the aims of the Church, and thus the scope of action in this realm was limited: "all man's use of temporal things is related to the enjoyment of earthly peace in the earthly city; whereas in the Heavenly City it is related to the enjoyment of eternal peace."[34] This is because:

> [T]he earthly city, whose life is not based on faith, aims at an earthly peace, and it limits the harmonious agreement of citizens concerning the giving and obeying of orders to the establishment of a kind of compromise between human wills about the things relevant to mortal life. In contrast, the Heavenly City – or rather that part of it which is on pilgrimage in this condition of mortality, and which lives on the basis of faith – must needs make use of this peace also, until this mortal state, for which this kind of peace is essential, passes away.[35]

That which was most important to mankind was to live a life in accordance with divine, rather than civil or man-made, law. The legislator was not a creative position, but a formal one: "As for

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the common good they ought to be allowed to choose their own rulers. He does not give the matter further consideration" (P. Weithman, 'Augustine's Political Philosophy', in E. Stump and N. Kretzmann [eds.], *The Cambridge Companion to Augustine* [Cambridge, 2001], p. 237). There is room for a "better" or "worse" City of Man, but these are not areas of investigation for him.

[31] E.M. Atkins and R.J. Dodaro, 'Introduction', in Augustine, *Augustine: Political Writings* (Cambridge, 2001), p. xviii.

[32] P. Weithman, 'Augustine's Political Philosophy', in E. Stump and N. Kretzmann (eds.), *The Cambridge Companion to Augustine* (Cambridge, 2001), p. 246.

[33] Augustine, *City of God*, v. 24 (ed. Bettenson).

[34] Ibid., xix. 14 (ed. Bettenson).

[35] Ibid., xix. 17 (ed. Bettenson).

this mortal life, which ends after a few days' course, what does it matter under whose rule a man lives, being so soon to die, provided that the rulers do not force him to impious and wicked acts?"[36] And following that position, political philosophy became a subset of political theology.[37]

This approach became the blueprint for the Christian account of political philosophy during the middle-ages. Other approaches to political thought became "superfluous" as "divine Law provide[d] us with everything needed to conduct our lives and to promote our welfare both in this world and in the next."[38] With the fall of the Roman Empire, the Catholic Church, and therefore the Pope, claimed authority across Europe, a position which reached its peak during the Investiture Controversy (1075-1122). The argument became one where man was not only sinful, but "the only thing which can redeem human government from being wholly sinful is the complete submission of earthly princes to the spiritual power: that is, to the guidance and censure of the Church, ruled over by the Supreme Pontiff in Rome."[39] Arguments supporting the supremacy of the pope in both spiritual and temporal realms were taken up by the likes of Giles of Rome (1243-1316) and John of Paris (1255-1306).[40] The role of the legislator was dismissed, and the Pope as *the* political actor was the intellectual argument *de jure* amongst the strictly theological minded.

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[36] Ibid., v. 17 (ed. Bettenson).

[37] "[T]his earthly city has had some philosophers belonging to it whose theories are rejected by the teaching inspired by God" (Ibid., xix. 17 [ed. Bettenson]).

[38] R. Lerner and M. Mahdi, *Medieval Political Philosophy: A Sourcebook* (Ithaca, 1972), p. 9. See also: A.S. Brett, 'Political Philosophy', in A.S. McGrade (ed.), *The Cambridge Companion to Medieval Philosophy* (Cambridge, 2003), p. 276.

[39] R.W. Dyson, 'Introduction', in T. Aquinas, *Aquinas: Political Writings* (Cambridge, 2002), pp. xxiv–xxv.

[40] Giles of Rome made this position very clear in *On Ecclesiastical Power* (1301): "[E]arthly power, because it rules over temporal matters, is rightly and properly subject to the spiritual power, so that from this we may be able to infer that the spiritual power rules not only over the temporal power but also over temporal matters, inasmuch as the ecclesiastical authority is shown to have dominion over both temporal matters and their rulers" (Giles of Rome, *Ecclesiastical Power*, ii. 6 [ed. Lerner and Mahdi, p. 392]).

**Aquinas**

> Now in all cases where things are directed towards some end but it is possible to proceed in more than one way, it is necessary for there to be some guiding principle, so that the due end may be properly achieved. For example, a ship is driven in different directions according to the force of different winds, and it will not reach its final destination except by the industry of the steersman who guides it into port. Now man has a certain end towards which the whole of his life and activity is directed; for as a creature who acts by intelligence, it is clearly his nature to work towards some end. But men can proceed towards that end in different ways, as the very diversity of human efforts and activities shows. Man therefore needs something to guide him towards his end.[41]

Although the political position of the Pope was largely unchallenged within the orthodox thought of the Church, the relationship between the Church, the ancients, and temporal sovereigns was far from settled, and the clash between differing traditions and customs was never fully resolved. Thomas Aquinas (1225-1274), while in line with Papal interests, highlights how these problems had not been overcome, and ultimately, how the political realm came to be re-conceptualized.

Aquinas' break with the Christian heritage which preceded him can be located in the 'recovery' of Aristotle, and the interest the philosopher was shown by academics at the University of Paris. The ideas of Aristotle from the Church's perspective were tainted. He was a pagan who had been 'rediscovered' only through the translations and commentaries of the Arab scholars Avicenna (980-1037) and Averroes (c. 1126-1198). Aquinas, however, wanted to reconcile Aristotle with the teachings of the Church – to unite revelation with Aristotle's philosophical truths.[42] That is to say, Aquinas was not attacking the Augustinian position, and there is never an explicit disagreement between the two thinkers. In fact, on the surface there does not seem to be much of a chasm in Aquinas' position and the Church's: "[T]o govern is to guide what is governed in a suitable fashion to its proper end. Thus a ship is said to be governed when it is steered on its right course to port by the industry of the sailors." He continues:

> [I]f man were not directed towards some good external to himself, the foregoing forms of care would suffice. But there is a certain extraneous good which awaits man after he has lived this mortal life: namely, the final blessedness to which he looks forward in the enjoyment of God after

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41  Aquinas, *De regno*, i. i (ed. Dyson, p. 5).
42  R.W. Dyson, 'Introduction', in T. Aquinas, *Aquinas: Political Writings* (Cambridge, 2002), p. xxiv.

death... The Christian man [...] has need of another, spiritual, care by which he is guided towards the harbour of eternal salvation. And this is the kind of care shown to the faithful by the ministers of the Church of Christ.[43]

He concludes: "Again, under the old law, priests were subject to kings. But under the new law there is a higher priesthood, by which men are conducted towards heavenly goods; and so, under the law of Christ, kings must be subject to priests."[44] Aquinas, therefore, accepted the position of the papacy as it had emerged post-Augustine with a caveat: "secular power is subject to spiritual power insofar as this is ordered by God: that is, in those things which pertain to the salvation of the soul." However, "in those things which pertain to the civil good, the secular power should be obeyed before the spiritual."[45] The important point here is "the jurisdiction of kings is separate from that of popes; that popes should not ordinarily interfere in temporal affairs; but that they may judge and punish kings 'by reason of sin.'"[46]

By returning to classical areas of inspection, Aquinas accepted the legitimacy, lessons, and authority (*auctoritas*) of ancient texts and scholars, and in returning to the political works of Aristotle, Aquinas also rehabilitated the temporal world as an area of importance, and even betterment. However, the political was not a realm of total creativity. Aquinas was explicit that Kings rarely make the political regimes they are a part of, and instead "carry on the activity of ruling in a kingdom or city which has been founded already."[47] What is worse, the outcome of this monarchical tradition is usually negative: "Not only do they make no attempt to repair the evil that they have done, but by the authority of their actions they make shameless sinning into a custom which they then transmit to their posterity."[48] However, while customs can be problematic, they are not entirely insurmountable. At the very least, for Aquinas, it is possible to

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[43] Aquinas, *De regno*, i. xv (ed. Dyson, pp. 39-40).
[44] Ibid., i. xv (ed. Dyson, p. 42).
[45] Aquinas, *Scripta* II, Dist. 44, quaest. 3, articulus 4 (ed. Dyson, p. 278). Aquinas does add another caveat: "Unless perhaps the spiritual and secular powers are conjoined, as in the pope."
[46] R.W. Dyson, 'Introduction', in T. Aquinas, *Aquinas: Political Writings* (Cambridge, 2002), p. xxxviii.
[47] Aquinas, *De regno*, i. xiv (ed. Dyson, p. 37).
[48] Ibid., i. xii (ed. Dyson, p. 35).

improve the City of Man, so long as care is taken to not damage the City of Heaven in the process: "provided that the former [is] directed towards the latter and the latter [is] not neglected in favour of the former. The interests of this world and the next can coexist."[49] Aquinas does offer a theory on how the former can be directed towards the latter: "the end of human association is a virtuous life" and "through virtuous living to attain to the enjoyment of the Divine."[50] Later he writes: "The king, therefore, being instructed in the Divine law, must strive with special care to ensure that the community subject to him lives well; and this task may be divided into three parts. First, he must establish the good life in the community subject to him; second, he must preserve it once it is established; third, having preserved it, he must strive to improve it."[51] Thus, the City of Man can, and should, be made better. Although the first goal of a king is to provide a city in which virtue can rein so that man may receive divine rewards in the afterlife, there is also a secondary goal that is concerned with the material world itself.[52] However, Aquinas' importance to political theory is not located in any propositional arguments for a better political world, although the second book of *De regno* offers many of these. Instead, it is his implicit acceptance of an authority in addition to scripture that is worth noting. As Goodman has argued:

> Once that position is accepted it becomes possible to consider theories of government, law and associations of persons other than those deriving from or serving God. Thomas, by absorbing and assimilating Aristotelian ideas to extant Christian theology, effected a rebirth and revitalisation of ideas of governance which had lain virtually dormant since classical times.[53]

Thus, although arguing in favour of the Church's supremacy, and accepting that the spiritual was more important than the temporal, Aquinas also recognized the secular realm as separate sphere of action, and thus an area in which its own conceptual and theoretical reflection could take

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[49]   R.W. Dyson, 'Introduction', in T. Aquinas, *Aquinas: Political Writings* (Cambridge, 2002), p. xxv.
[50]   Aquinas, *De regno*, i. xv (ed. Dyson, pp. 40-41).
[51]   Ibid., i. xvi (ed. Dyson, p. 43).
[52]   Ibid., i. xvi (ed. Dyson, pp. 43-44).
[53]   E. Goodman, *The Origins of the Western Legal Tradition: From Thales to the Tudors* (Leichhardt, NSW, 1995), p. 213.

place.[54]

These Aristotelian intellectual investigations meant that, by the late Middle Ages, direct challenges to the supremacy of the Catholic Church in political realms began to emerge. Not only in Aquinas' works, but also in those of Marsilius of Padua (1275-1342) and William of Ockham (1288-1347). Marsilius, in fact, argued that the temporal realm was not the Pope's jurisdiction, but instead, "only the legislator or someone else by its authority can give a dispensation from human laws" and "by the authority of the legislator only he who exercises the office of prince has coercive jurisdiction, in both goods and person, over every individual mortal person of whatever condition they may be, and over every collective body of laypersons or clergy."[55] These ideas also found political expression in France's Philip IV (1285-1314) who believed his position not only made him independent from the Church, but actually gave him authority over the clergy in France – a move which led to the papacy being relocated to Avignon.

The Church was not ignorant of these potential attacks, and as early as 1277 the *Condemnation of 219 Propositions* by Bishop of Paris Étienne Tempier made it clear that the Church would not tolerate intellectuals taking heretical (that is, Aristotelian) positions at the University of Paris; the first two errors enumerated by Tempier were "there is no more excellent state than to study philosophy" and that "the only wise men in the world are the philosophers."[56] Thus, these arguments themselves did not become dominant, but remained, as Lerner and Mahdi have argued, "heterogeneous approaches to the study of political things."[57] Christianity remained a necessary part of the political, and these were not secular arguments as understood today. Nonetheless, by returning to the ancients the Renaissance was made possible.

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[54]   J.K. Schulman, *The Rise of the Medieval World, 500-1300: A Biographical Dictionary* (Westport, Connecticut, 2002), pp. 412–413.

[55]   Marsilius of Padua, *Defensor Pacis*, iii. 2. 8; 15 (ed. Brett, pp. 547; 549).

[56]   Tempier, *Condemnation*, I. 1; I. 2 (ed. Lerner and Mahdi, p. 338).

[57]   R. Lerner and M. Mahdi, *Medieval Political Philosophy: A Sourcebook* (Ithaca, 1972), p. 11.

**Erasmus**

> On board ship, we do not give the helm to the one who has the noblest ancestry of the company, the greatest wealth, or the best looks, but to him who is most skilled in steering, most alert, and most reliable. Similarly, a kingdom is best entrusted to someone who is better endowed than the rest with the qualities of a king: namely wisdom, a sense of justice, personal restraint, foresight, and a concern for public well-being. Family trees, gold, and jewels are no more relevant to governing a state than they are pertinent to a sea-captain in steering his ship.[58]

In the two centuries following Aquinas, secular powers continued to increase, and by the sixteenth century great autocrats had emerged. Francis I, Charles V, and Henry VIII had all secured large swaths of Europe, and looked to expand their respective empires, and although political action was disentangled from the religious powers of the Church, Renaissance thinkers nonetheless faced other customs as a barrier to reform. This problem was faced by Desiderius Erasmus (c. 1466-1536).

Erasmus was a keen political thinker who was in the service of less astute rulers.[59] This meant, on the one hand, he would chastise those who chased power, while at the same time he wrote panegyrics in honour of them. While some have seen this as a difficulty which the reader of humanist texts needs to confront, in the political context facing writers like Erasmus, it is simply the reality of the political situation.[60] As Quentin Skinner has argued, humanists "tended to see themselves essentially as political advisers – as writers of political handbooks and purveyors of sage counsels to kings, princes and magistrates."[61] This was a position which required particular political tact; as Erasmus wrote, customs dictated that "kings and fools are born, not made."[62] In reference to a work he wrote for Prince Charles I of Spain, soon-to-be Holy Roman Emperor Charles V (1500-1558), he argued that he was only following the pattern set by

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[58]  Erasmus, *Erasmus: The Education of a Christian Prince with the Panegyric for Archduke Philip of Austria* (Cambridge, 1997), p. 5.

[59]  Erasmus wrote for, and dedicated works to, Emperor Charles V, England's Henry VIII, Ferdinand of Spain, Veree's Prince Adolph, Prince Philip of Austria, amongst others.

[60]  R.F. Hardin, 'The Literary Conventions of Erasmus' Education of a Christian Prince: Advice and Aphorism', *Renaissance Quarterly* 35.2 (1982), p. 152.

[61]  Q. Skinner, *The Foundations of Modern Political Thought, Vol. 1: The Renaissance* (Cambridge, 1978), p. 216.

[62]  Erasmus, *Erasmus: The Education of a Christian Prince with the Panegyric for Archduke Philip of Austria* (Cambridge, 1997), p. 45.

Callisthenes, Lysias, Isocrates, St. Paul, Pliny, and Augustine, and that:

> [T]hose who believe panegyrics are nothing but flattery seem to be unaware of the purpose and aim of the extremely far-sighted men who invented this kind of composition, which consists in presenting princes with a pattern of goodness, in such a way as to reform bad rulers, improve the good, educate the boorish, reprove the erring, arouse the indolent, and cause even the hopelessly vicious to feel some inward stirring of shame... Do you really believe that one could present kings, born in purple and brought up as they are, with the repellent teachings of Stoicism and the barking of the Cynics? Just to make them laugh, I suppose: or even to increase their irritation![63]

The text being defended in the above quote is Erasmus' *Education of a Christian Prince* (1516). A 'mirror for princes,' the text has been compared with Seneca's *De clementia*. Erasmus was, in fact, more than willing to embrace Seneca's work for Nero when drafting his won work: "The *Institutio* systematically ransacks the Roman theory of monarchy for its description of the ruler... Erasmus openly refers his reader to the arguments of *De clementia*."[64] What is more:

> From the beginning, the *Institutio* embodies the rhetorical idea which had been central to the function of the *speculum* since Seneca: Charles is taken already to be the *bonus princeps* which the *Institutio* aims to produce. Erasmus knows that 'his highness had no need of any man's advice, least of all mine'; but he nevertheless lays out the image of the *optimus princeps* 'in your name' so that 'through you' and 'from you', other rulers 'might take their example'.[65]

However, Erasmus set himself apart from the ancients who produced similar texts, dismissing them as sophists instructing tyrants, and pagans instructing pagans. Instead, he wrote: "I am a theologian addressing a renowned and upright prince, Christians both of us."[66] Thus, he accepts the tradition of Catholicism, and recognizes an upshot to it: just as stoicism provided Seneca with a set of universal laws, the word of God could temper the monarchy, and the tutor's duty, therefore, is to encourage Christian virtue above all else: "the various qualities necessary for the good prince are wisdom and integrity, continence and clemency, devotion (*pietas*) to his people, self-restraint, interest in truth and freedom, freedom from the vices of cruelty and pride, and the

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[63] Letter to Jean Desmarez, 1504, letter 180 (D. Erasmus, *The Correspondence of Erasmus: Letters 142-297 (1501-1514)* [Toronto, 1975], p. 81).
[64] P. Stacey, *Roman Monarchy and the Renaissance Prince* (Cambridge, 2007), p. 202.
[65] Ibid., p. 200.
[66] Erasmus, *Erasmus: The Education of a Christian Prince with the Panegyric for Archduke Philip of Austria* (Cambridge, 1997), p. 4.

careful avoidance of flatterers."[67] Elsewhere he writes: "Whenever you think of yourself as a prince, always remember the fact that you are a *Christian* prince! You should be different from even the noble pagan princes as a Christian is from a pagan. Do not think, indeed, that the life of a professing Christian is carefree and elegant, unless, of course, you think nothing of the oath which you, along with everyone else, swore at your baptism."[68] He argues that if a prince only take their religious beliefs and duties seriously they will be worthy of their title – although they rarely do.[69]

The importance of the tutor's task in this is returned to using the ship-of-state metaphor, when it is asked why a pilot is chosen because of their skill, yet the pilots of states are not; "most naturally the power should be entrusted to him who excels all in the requisite kingly qualities of wisdom, justice, moderation, foresight, and zeal for the public welfare." It is because of this that the education of young royals must be a chief concern: "Where there is no power to select the prince, the man who is to educate the future prince must be selected with comparable care."[70] That is to say, because tradition dictates who will lead a people, the educator of the prince is as important to society as the legislator – and as with Seneca, the legitimacy of a king comes not from their office, but their actions: "Seneca was right in what he said, the difference between a tyrant and a king is in their actions, not in their title."[71] Ultimately, traditions and customs were a concern for Erasmus, and with regard to both monarchy and Christianity, Erasmus was not entirely convinced of their utility. Nonetheless, he had to work within the existing constraints. As

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[67]  L.K. Born, 'The Political Theories of Erasmus', in D. Erasmus, *The Education of a Christian Prince* (New York, 1968), pp. 229–230; Erasmus, *Erasmus: The Education of a Christian Prince with the Panegyric for Archduke Philip of Austria* (Cambridge, 1997), p. 149.

[68]  Erasmus, *Erasmus: The Education of a Christian Prince with the Panegyric for Archduke Philip of Austria* (Cambridge, 1997), p. 17.

[69]  Erasmus offers another discussion on religion in The Praise of Folly (1511), in which he also recognizes its power, and laments at its abuse (D. Erasmus, *The Praise of Folly* [Newton, MA, 2008], p. 29). Erasmus' satirical tone should not be taken as impious, however.

[70]  Erasmus, *Erasmus: The Education of a Christian Prince with the Panegyric for Archduke Philip of Austria* (Cambridge, 1997), p. 6.

[71]  Ibid., p. 25.

Born argues: "He really faced two directions: by all his training and humanistic learning, his heart was of the Middle Ages; but his mind was of the modern world. By drawing upon his vast resources, Erasmus brought to bear on the critical problems of his day many a timely truth that foreshadowed theories and principles that were to be formulated and elaborated at a later date"[72]

Erasmus' inability to break with tradition fully manifested itself in his explicit political thought as well. When it comes to propositional teachings for Charles, he devotes most of his attention to "Enacting and Emending Laws," where he urges that Charles pass few laws, and recognize those already in existence as sacred. He goes further to argue that harsh laws are necessary when a pressing issue needs to be resolved, and that "young men should not be allowed to argue [at all] on the justice of the laws, and the older men but sparingly."[73] Whimsy and invention should not be qualities of law-giving, just as they should be avoided by doctors.[74] Ultimately, Erasmus was a conservative, arguing for few changes. There was no room for the classical legislator discussed by Plutarch or Plato, and custom was a problem which required that one work within the system. Again using the ship-of-state metaphor, he wrote: "The people are unruly by nature, and magistrates are easily corrupted by avarice or ambition. The blameless character of the prince remains, as it were, the sheet-anchor for the ship of state. If he, too, is overcome by depraved desires and foolish ideas, what last hope is there fore that ship?"[75] Who should pilot is not Erasmus' concern, as kings are a given. Instead, he hopes that by defining the ideal pilot, and by being the pilot's educator, the ship will be in better hands.[76] However, there is more than one manipulate the system, and Thomas More offers a second Renaissance example.

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[72] L.K. Born, 'The Political Theories of Erasmus', in D. Erasmus, *The Education of a Christian Prince* (New York, 1968), p. 3.

[73] Erasmus, *Erasmus: The Education of a Christian Prince with the Panegyric for Archduke Philip of Austria* (Cambridge, 1997), p. 224.

[74] Ibid., p. 229.

[75] Ibid., p. 23.

[76] For a discussion of this ideal, see: L.K. Born, 'The Political Theories of Erasmus', in D. Erasmus, *The Education of a Christian Prince* (New York, 1968), pp. 13–14.

## More

> If you cannot pluck up bad ideas by the root, or cure longstanding evils to your heart's content, you must not therefore abandon the commonwealth. Don't give up the ship in a storm because you cannot hold back the winds.[77]

The Renaissance court was one of self-interest, of "faction, of courtly affluence and conspicuous consumption, of greed among courtly advisers and the vested interests of tax farmers and monopolists, and of the problems of appointing magistrates and distributing princely favours."[78] It was also a problem explicitly identified by, friend of Erasmus and fellow humanist, Thomas More (c. 1478-1535). As a lawyer and successful politician, More was familiar with the workings of the Renaissance court, and it was not simply the courtiers who he feared – More also criticized contemporary monarchs in his *Epigrammata*:[79] "You will scarcely find one among the many kings for whom one kingdom is enough, if you find even one. You will scarcely find one among the many kings who rules one kingdom well, if you find even one."[80] More feared that political courts functioned in such a way as to be at odds with the public good, and risked degenerating into tyrannies. However, like Erasmus, More often addressed his works to these very political actors (the above quote comes from a collection in honour of Henry VIII). So again, like Erasmus, one can may see More as a thinker lamenting the power held by monarchs, but aware of the reality that they alone held it. Thus, while clearly sceptical of political institutions and actors, he did not refrain from attempting to redress what he saw as problems. However, unlike Erasmus, he was also sceptical of the power of panegyrics. In a latter to Erasmus congratulating him on the *Education of a Christian Prince* he wrote: "You have done well in writing on the instruction of a Christian prince. How I wish Christian princes would follow good instructions.

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[77] T. More, *More: Utopia*, eds. G.M. Logan and R.M. Adams (Cambridge, 2002), p. 35.

[78] R.W. Scribner, 'The Social Thought of Erasmus', *Journal of Religious History* 6.1 (2007), p. 17.

[79] Written between 1509 and 1519, More's Epigammata were first published in 1518.

[80] Quoted in R.F. Hardin, 'The Literary Conventions of Erasmus' Education of a Christian Prince: Advice and Aphorism', *Renaissance Quarterly* 35.2 (1982), pp. 151–152.

Everything is upset by their mad follies."[81]

More addresses the problematic relationship between legislators and tradition explicitly in *Utopia* (published in 1516, the same year as Erasmus' educational treatise). The text has been read in various ways, perhaps most often in the vein its name has come to be understood – that is, utopian and an attempt "to picture the best state that reason can hope to establish in the absence of revelation" or "to portray a perfectly virtuous commonwealth." Others readings have been more sceptical, seeing it as an example of futility, or at least, purposefully problematic and a challenge to his readers "to consider seriously whether Utopia may not represent the best state of a commonwealth."[82] In the context of this thesis, however, the propositional aspects of the work are of less interest than the debate between two of the book's characters: Hythloday Raphael and Thomas More himself. Hythloday is a sailor, but one who travelled not for the reasons "of Palinurus, but more that of Ulysses, or rather of Plato."[83] That is to say, he does not travel because it is his job, but does so as a philosopher – to come to know the world. More, on the other hand, is "a good but ineffective man, obedient to his king, loving to his family, generous to his friends, and concerned about the fate of the state." That is, he is "the public self More."[84] In some ways he also resembles the character Hythloday dresses down: In Book I, More begins by praising Henry VIII as the "most invincible King of England... [A] prince adorned with royal accomplishments beyond any other."[85] It is in Hythloday, rather than More, that one may recognize the spokesman of the would-be reform-minded Renaissance counselor, and in this way,

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[81] Quoted in: L.K. Born, 'The Political Theories of Erasmus', in D. Erasmus, *The Education of a Christian Prince* (New York, 1968), p. 27.

[82] Q. Skinner, 'Sir Thomas More's Utopia and the language of Renaissance humanism', in A. Pagden (ed.), *The Languages of Political Theory in Early-Modern Europe* (Cambridge, 1990), pp. 123–124.

[83] T. More, *More: Utopia*, eds. G.M. Logan and R.M. Adams (Cambridge, 2002), p. 10. The physical description of Hythloday supports this description: "a man of quite advanced years, with a sunburned face, a long beard, and a cloak hanging loosely from his shoulders" (Ibid., p. 9).

[84] A.D. Weiner, 'Taking More Seriously: Humanism, Cultural Criticism, and the Possibility of a Past', in T. Hoenselaars and A.F. Kinney (eds.), *Challenging Humanism: Essays in Honor of Dominic Baker-Smith* (Newark, 2005), p. 66; 56.

[85] T. More, *More: Utopia*, eds. G.M. Logan and R.M. Adams (Cambridge, 2002), p. 8.

the book which is often read for its description of a perfect political society, is also a historical lamentation on the futility of proposing political change. In fact, Shklar compares More to Rousseau in this way: neither, she argues, were "visionary reformers," but instead they wanted to show their audiences the "awful distance between the possible and the probable by showing in great detail how men *could* live."[86] Adams and Logan agree that *Utopia* was not a plan, but instead argue that More "understands that the problem of counsel cannot be solved by sending a few wise men to court, because, in the existing structure of society, most of the people they would encounter there – including especially the rulers – are motivated by blinkered self-interest."[87] This complaint is seen most clearly when Hythloday is urged by his interlocutors to put his worldly knowledge to the service of governing and become counsel to a court. The bulk of this discussion is found over ten pages – although aspects of it are touched on throughout the first book – in which Hythloday presents two broad arguments: First, that princes have little concern for peace and are instead interested in wealth, expansion, and war, and second, a prince's ministers are just as unlikely to accept good advice, recognizing that their position is threatened by anyone more clever than themselves. Instead, they will take recourse in tradition, arguing: "'The way we're doing it was good enough for our ancestors, and I only wish we were as wise as they were.' [...] implying, of course, that it would be a very dangerous matter if anyone were found to be wiser on any point than his ancestors."[88]

Custom was not only an issue of political manoeuvring. When describing Utopos, the founder of the island of Utopia, More offers a "composite of Lycurgus, Plato, Romulus and Numa."[89] However, a character capable of achieving similar ends in Europe was dismissed –

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[86]  J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge, 1985), pp. 1–2.
[87]  R.M. Adams and G.M. Logan, 'Introduction', in T. More, *More: Utopia* (Cambridge, 2002), p. xix.
[88]  Ibid., pp. 14; 28-29.
[89]  D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 26.

customs were too powerful: "if you allow young folk to be abominably brought up and their characters corrupted, little by little, from childhood; and if then you punish them as grown-ups for committing the crimes to which their training has consistently inclined them, what is is that, I ask, but first making them thieves and then punishing them for it?"[90] Individuals, like states, must have a good initial foundation, and in response, More argues that one should not give up on reform, but instead embrace a more pragmatic approach:

> Don't give up the ship in a storm because you cannot hold back the winds. You must not deliver strange and out-of-the-way speeches to people with whom they will carry no weight because they are firmly persuaded the other way. Instead, by an indirect approach, you must strive and struggle as best you can to handle everything tactfully – and thus what you cannot turn to good, you may at least make as little bad as possible. For it is impossible to make everything good unless all men are good, and that I don't expect to see for quite a few years.

Hythloday responds, firstly, by dismissing the idea of an indirect approach: "Whether it's the business of philosophers to tell lies, I don't know, but it certainly isn't mine."[91] He then describes the risk posed to those who would attempt reform:

> You wouldn't stand a chance of changing anything for the better by that "indirect approach." This is why Plato in a very fine comparison declares that wise men are right in keeping away from public business. They see the people swarming through the streets and getting soaked with rain; they cannot persuade them to go indoors and get out of the wet. If they go out themselves, they know they will do no good, but only get drenched with the others. So they stay indoors and are content to keep themselves dry, since they cannot remedy the folly of others.[92]

Adams and Logan note that "More portrays Hythloday and himself as taking opposite positions, with Hythloday opposing involvement and More favouring it. Both positions are powerfully argued, and they are never bridged: in the closing pages of Book I, the disputants drop the topic and go on to another."[93] However, there may be more room for interpretation. In fact, with the ship-of-state metaphor More had already shown himself to be taking a pessimistic position, and although he does not concede Hythloday's argument as a character in the book, as the author he does give him the last word – in fact, the last four paragraphs. As a humanist, well-read in

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[90]    T. More, *More: Utopia*, eds. G.M. Logan and R.M. Adams (Cambridge, 2002), p. 20.
[91]    Ibid., p. 35.
[92]    Ibid., pp. 36–37.
[93]    R.M. Adams and G.M. Logan, 'Introduction', in T. More, *More: Utopia* (Cambridge, 2002), p. xx.

classical rhetoric, and aware of the power of a *peroration*, this cannot be ignored. Instead, Hythloday's lamentations are a lesson for More-the-author's readers, and Hythloday's criticisms are More's criticisms, offered through an "indirect approach."[94] Both accepted that there are factors which are beyond the control of the pilot, just as there are factors which the counselor cannot ultimately overcome. More accepted that one must not attempt to institute a Utopia, and explicitly argued that instead, if one wanted to make the world a better place, they must accept the state of things as they are. And while Hythloday argued that the customs of the state were too powerful to reform, More argued that if one take an "indirect" approach they may be able to make the world "as little bad as possible." That is, by embracing the very tricks that Hythloday laments.

In this context, More's flattery of contemporary monarchs makes perfect sense and, in fact, he was explicit about this issue in a letter to Guillaume Budé in 1520. In the letter he asks Budé not to publish his "remarks upon peace and war, upon morality, marriage, the clergy, the people etc., perhaps what I have written has not always been so cautious and guarded."[95]  As Adams and Logan put it: "That 'More' closely resembles the author is clear. Yet it is equally clear that this cautious, practical lawyer and family man is More without his passion and vision – a More who could not have written *Utopia*, nor ever have chosen martyrdom."[96] Having said that, More's life also may demonstrate that in the debate between the two characters, Hythloday was correct.

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[94]   There is more to read here: Hythloday's reference is to Socrates in Book VI of *The Republic*, where the description is largely as Hythloday recounts it. However, Hythloday fails to recount the entire passage: Socrates continues, and states: "but how much greater it might be in a suitable society, where they could develop more fully, to their own salvation and that of the community" (Plato, *The Republic*, 496b-497a [ed. Lee, p. 292]).

[95]   Quoted in: D. Grace, 'Thomas More's Epigrammata: political theory in a poetic idiom', *Parergon* 3.1 (1985), p. 119.

[96]   R.M. Adams and G.M. Logan, 'Introduction', in T. More, *More: Utopia* (Cambridge, 2002), p. xx.

**Machiavelli**

> What makes [the prince] despised is being considered changeable, frivolous, effeminate, cowardly, and irresolute. From these qualities, a prince must guard himself as if from a reef, and he must strive to make everyone recognize in his actions greatness, spirit, dignity, and strength.[97]

While autocratic rulers wrestled power away from the Church to reinforce and strengthen their own claims over large geographical territories across Europe, Italy had maintained a tradition of cities holding political power. City-states such as Venice, Genoa, Pisa, and Florence were distinct from other urban communes – they maintained power over their own foreign policy, were centres of international trade, and lived under republican governance. These particular political arrangements allowed for, and required, distinct intellectual inquiries into questions of politics; the nature of self-rule and the desire to maintain it meant these city-states found themselves in, what S. R. Epstein referred to as, a state of "permanent revolution."[98] That is, the very nature of being able to manipulate their own political regimes meant for the sake of stability it was necessary to come to understand and structure these regimes successfully. Understanding one's regime, of course, includes knowing one's tradition:

> Political and cultural continuity with the real and imaginary past was upheld by the continued importance of the bishop as the main focus of political authority and by institutions like the public *forum* inherited from Antiquity. The communes' aristocratic leaders called themselves *consules* in a self-conscious appeal to, and continuity with, the cities' Roman heritage.[99]

International trade also meant a proliferation in intellectual works enquiring into politics which led to new ways of doing things. This includes not only the transmission of classic texts from the Arab world, but the emergence of solutions to practical political concerns, such as property rights, arbitration and dispute settlement for trade, naval and military training, and the securing of commercial and economic rights in general. Over time, and with constant mercantile interaction,

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[97] Machiavelli, *Prince*, XIX (ed. Bondanella, p. 63). This particular reference to *The Prince* is to Peter Bondanella's 2008 translation for Oxford University Press, as the nautical nature of Machiavelli comes out clearer than in Mansfield's translation.

[98] S.R. Epstein, 'The Rise and Fall of Italian City-States', in M.H. Hansen (ed.), *A Comparative Study of Thirty City-State Cultures* (Copenhagen, 2000), p. 277.

[99] Ibid., p. 280.

the Italian city-states began to share and embrace each other's improvements, and instituted new communal associations.[100] Although these city-states remained firmly within the Christian community, their political self-confidence and ability to find their own solutions to problems allowed for both reflection on the past, and critical judgment when looking towards the future. Thus, and most importantly for this thesis, as room for intellectual speculation grew, correction became a possibility, and while Erasmus and More saw customs and traditions as being something difficult to overcome, Niccolò Machiavelli (1469-1527), the Florentine citizen and one-time political actor, broke with their pessimism and legitimized the classical idea of the lawgiver as a primary political actor capable of resolving political problems.[101]

In imagining good political societies, Machiavelli returned to the ancient lawgivers, and explicitly named Moses, Lycurgus, and Solon in the *Discourses on Livy* (1531), and Moses, Cyrus, Romulus, and Theseus in *The Prince* (1532).[102] With these ancient ideals he developed a way of overcoming the problem of contemporary politics that Erasmus and More described. That is, if hereditary monarchs and established courts were political dead-ends for reform, the answer was to do away with them. Instead, Machiavelli argued that it is possible for a single person to "contrive to have authority alone" and lead peoples – even those who were naturally unaccustomed to accepting new political rulers.[103] Ancient lawgivers, unlike modern kings, were

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[100]   Ibid., pp. 283–284.

[101]   Machiavelli, *Discourses* i. ix. ii (ed. Mansfield and Tarcov, p. 29). Florence, by 1434, had lost its republican government to the Medici family, who ruled as monarchs until 1494. From 1494 until 1498 the city was largely ruled by Dominican preacher Girolamo Savonarola (1452-1498) as a quasi-theocratic Christian commonwealth, before he was executed for heresy. Between 1498 and 1512 the second Republic flourished, and Machiavelli held political office (as second chancery and secretary of war). In 1512 the Medici, with Spanish troops, returned to Florence. In the aftermath Machiavelli first lost his position in the city's government, and was later arrested and tortured for conspiracy against the Medici (which he denied, and was ultimately released). He retired to his estate outside of the city soon after, but continued to write.

[102]   The two texts (*The Prince* and *Discourses*) are in many ways quite different. While the *Discourses* shows a particular preference for republican forms of government (and thus focuses on institutions), *The Prince* allows for the successful management of the *polis* by an individual. The particular sets of ideal lawgivers arguably reflect this distinction with the former being those who instituted long-lasting and robust states, and the latter being heroes who, although coming to power themselves, failed to meaningfully establish new regimes which outlasted themselves (with the exception of Moses, who was both a heroic founder and successful lawgiver).

[103]   Machiavelli, *Discourses* i. ix. ii (ed. Mansfield and Tarcov, p. 29); *Prince* ii; vi (ed. Mansfield, pp. 6-7; 21-25).

men of great abilities, unique histories, and natural talent – legislators with *virtù* capable of overcoming the problems before them. This *virtù*, in the most simple of interpretations, is an amoral quality of character which allows for the accomplishment of great actions. That is, it is an ability to judge what the correct action to take in particular moments is.[104] Its amorality is important – while morality traditionally found its source in one's societal norms, Machiavelli argued that the wise do not "reprove anyone for any extraordinary action that he uses to order a kingdom or constitute a republic. It is very suitable that when the deed accuses him, the effect excuses him; and the effect is good."[105] Since the founding moments of a state are primary to future success and longevity there should be no hesitation in taking any actions that are necessary.

Machiavelli went further than simply pointing to a potential political actor, however. The other half of the equation in political ruling is the people, and ensuring that they are politically indoctrinated correctly was of the upmost importance. No action, Machiavelli argued, should be taken by a potential legislator if there was a risk of further reforms being needed in the future. One must act decisively, and correctly, from the beginning – which was made possible by *virtù*. The importance of this point is made clear with the *Discourses*' tripartite typology of the foundations of states: there is the happy state which was "by one alone and at a stroke" made perfect in its laws; there is the less happy state which had laws "by chance and at many different times"; and there is the "still more unhappy [state …] which is the farthest from order, and that [...] is altogether off the right road that might lead it to the perfect and true end."[106] The reason for this is familiar: foundational laws result in populations which will either flourish or flounder.[107] Great cities were only able to achieve greatness through a *virtù* "possessed by the citizen body as

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[104]   Not entirely unlike the idea of *tuchē* in Plato's *Laws*.
[105]   Machiavelli, *Discourses* i. ix. ii (ed. Mansfield and Tarcov, p. 29).
[106]   Ibid., i. ii. i (ed. Mansfield and Tarcov, p. 10).
[107]   Rousseau makes a similar argument (Rousseau, *Contrat social*, OC iii, p. 364).

a whole," a good which was directly the product of the laws instituted by the lawgiver.[108] It is the importance of these initial foundational moments which allowed Machiavelli to excuse deeds which others may consider evil in *The Prince*.[109]

Unlike Rousseau, Machiavelli does not go into explicit detail as to what a correct people ready for legislation looks like. Instead, he argues that one should draft laws which assume men are, by their nature, competitive, and "use the malignity of their spirit whenever they have a free opportunity for it."[110] Just as *virtù* allows for seemingly-evil actions if the ends are good, laws which accept, and perhaps even encourage, man's natural inclination towards strife and civil conflict can maintain harmony if cast correctly. Machiavelli uses Rome as an example:

> [T]o me it appears that those who damn the tumults between the nobles and the plebs blame those things that were the first cause of keeping Rome free... They do not consider that in every republic are two diverse humors, that of the people and that of the great, and that all laws that are made in favour of freedom arise from their disunion... [No one can] in any mode, with reason, call a republic disordered where there are so many examples of virtue; for good examples arise from good education, good education from good laws, and good laws from those tumults that many inconsiderably damn.[111]

*Virtù* could fade however. With time even good republics could lose touch with foundational principles. For those cities which were founded correctly, however, a renewal was possible. By returning to the ancient virtues a city was established with, one could overcome a people's natural distaste towards new political rulers and overcome the problem of custom in the Renaissance.[112] Importantly, this argument had a pragmatic aspect to it as well – chapter twenty-five of the *Discourses* makes this clear with its title: "He Who Wishes to Reform an Antiquated Sate in a Free City May Retain at Least the Shadow of Its Ancient Modes." By twisting the problem of custom, Machiavelli saw tradition as a tool which could in fact overcome itself – the *appearance*

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[108]   Q. Skinner, *The Foundations of Modern Political Thought, Vol. 1: The Renaissance* (Cambridge, 1978), p. 54.
[109]   Machiavelli, *Prince* vii (ed. Mansfield, pp. 25-33).
[110]   Machiavelli, *Discourses* i. iii. i (ed. Mansfield and Tarcov, p. 15).
[111]   Ibid., i. iv. i (ed. Mansfield and Tarcov, p. 16). This recognition of the utility of class distinction is a position Rousseau will also come to hold.
[112]   Ibid., iii. i. i; vi (ed. Mansfield and Tarcov, p. 209; 212).

of a renewal had more meaning to men than reality, and ironically, he argued that this point should be observed by "all those who wish to suppress an ancient way of life."[113]

Ultimately for Machiavelli, if one wish to pilot the ship-of-state they must contrive to make it *appear* that they naturally should be the pilot. Having succeeded in this is enough to demonstrate that one has the *virtù* to bear the position – as was the case with the ancients, legitimacy was established first and foremost by the deeds or the ruler. Thus, for Machiavelli it was possible to overcome history and custom through intelligent political action.[114] As Bertrand Russell put it, political disorder "found expression in Machiavelli's *Prince*. In the absence of any guiding principle, politics becomes a naked struggle for power."[115] After Machiavelli, the source of a political system's legitimacy became an open question with a variety of potential answers, many of which found their fullest articulation during the Enlightenment.

## The Enlightenment

### Fénelon

In preparation for an examination which looks more broadly at thought during the Enlightenment, one writer above others offers insights into the inter-connection between the use of customs, recourse to the ancients, and subterfuge; demonstrates the problems which faced political reforms and reformers; draws out a distinction between mercantilism and "Christian agrarianism";[116] and was a direct influence on Rousseau's own thought: François de Salignac de

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[113]   Ibid., iii. xxv. i (ed. Mansfield and Tarcov, p. 61).
[114]   A contemporary and friend of Machiavelli recognized the break between founding and re-founding, and disagreed. The Florentine Francesco Guicciardini (1483-1540) drew attention to the futility of founding a people who had already been touched by corruption: "it is illegitimate to hope or even desire to do the legislator's work; we must recognize ourselves for what we are, beings so far corrupted that only marginal adjustments of our moral character can be performed... [I]t would be the legislator who stirred the whole *materia* of the city together, in the manner of the man making *pasta*, and imposed form on it anew... But this means that [now] the *materia* on which he operates is already inherently unstable; he is exposed to the unpredictabilities of fortune" (J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* [Princeton, NJ, 2003], p. 137).
[115]   B. Russell, *History of Western Philosophy* (London, 2004), p. 6.
[116]   R.L. Colie and L. Rothkrug, 'Opposition to Louis XIV. The Political and Social Origins of the French Enlightenment.', *History and Theory* 6.2 (1967), p. 270.

la Mothe-Fénelon (1651–1715).[117]

Fénelon made his name as a Catholic priest, a critic of Malebranche's Cartesian Augustinianism, and as a proselytizer converting Huguenots in northern France. For these services he was named royal tutor to the grandson of Louis XIV, the Duke of Bourgogne – although he did not remain in the court's favour. By the beginning of eighteenth century his works had been placed on the *Index*, he had been banished by Louis XIV to his Cambrai diocese, had lost his royal tutorage, and was ultimately condemned by Rome. Importantly, this rise and fall are directly related to his writings on lawgiving.

While tutoring the young Duke, Fénelon wrote *Les aventures de Télémaque*, the story of Ulysses' son Telemachus, and his education by Mentor (secretly Minerva). The work had a singular intention:

> [A] fabulous narration in the form of an heroic poem like those of Homer and of Virgil, into which I have put the main instructions which are suitable for a young prince whose birth destines him to rule... In these adventures I have put all the truths necessary to government, and all the faults that one can find in sovereign power.[118]

The work touches on three themes already examined: the ancient myths of lawgivers, works on educating princes, and attempted political acts of would-be reformers.

Fénelon describes true legislators as those who do not govern for the sake of self-interest, but because they recognize a good political order as being above themselves.[119] The topic is discussed a number of times as the two characters travel throughout the Mediterranean, but it is made explicit in Book X, where Mentor re-orders the state of Salente. The goal of the reforms were ambitious: "Mentor semblable à un habile Jardinier qui retranche dans les arbres fruitiers le bois inutile, tâchait ainsi de retrancher le faste inutile qui corrompait les mœurs: il ramenait toute

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[117]  Rousseau referred to him as "vertueux Fénelon" and identified him as having had a "projet de réchauffer les cœurs de vos compatriotes par l'image des antiques vertus de leurs pères" (CC 6671, vol. xxxvii).

[118]  Fénelon in a letter to Father Letellier (1710), quoted in P. Riley, 'Introduction', in F. de Fénelon, *Fénelon: Telemachus* (Cambridge, 1994), p. xviii. The work was never intended to be published (although an unauthorised edition was released in 1699).

[119]  Ibid., p. xxi.

chose à une noble & frugale simplicité."[120] He did this, first, by enacting a census and auditing the labour and produce of the land to discover what was necessary for self-sufficiency. He then studied the the people – in particular, their commerce, where they travelled, what they sold, and what they brought back. These two tasks made up one of the key lessons offered by Fénelon – know your people – "le point essentiel du gouvernement est de bien discerner les différents caractères d'esprits, pour les choisir & les appliquer selon leurs talents."[121] Mentor continues:

> Il faut étudier les hommes pour les connaître; & pour les connaître, il en faut voir & traiter avec eux. Les Rois doivent converser avec leurs sujets, les faire parler, les consulter, les éprouver par de petits emplois dont ils leur fassent rendre compte, pour voir s'ils sont capables de plus hautes fonctions… Comment peut-on espérer de bien gouverner les hommes, si on ne les connaît pas [la nature de l'homme]? & comment les connaîtra-t-on si on ne vit pas avec eux? Ce n'est pas vivre avec eux que de les voir en public, où l'on ne dit de part & d'autre que des choses indifférentes & préparées avec art: il est question de les voir en particulier, de tirer du fond de leur cœur toutes les ressources secrètes qui y sont, de les tâter de tous côtés, de les soulager pour découvrir leurs maximes. Mais, pour bien juger des hommes, il faut commencer par savoir ce qu'ils doivent être; il faut savoir ce que c'est que le vrai & solide mérite, pour discerner ceux qui en ont, d'avec ceux qui n'en ont pas.[122]

In addition, Mentor argues that one must know what is naturally good for a people, and make that the end of governing:

> On ne cesse de parler de vertu & de mérite, sans savoir ce que c'est précisément que le mérite & la vertu. Ce ne sont que de beaux noms, que des termes vagues, pour la plupart des hommes, qui se font honneur d'en parler à toute heure. Il faut avoir des principes certains de justice, de raison, & de vertu, pour connaître ceux qui sont raisonnables & vertueux. Il faut savoir les maximes d'un bon & sage gouvernement pour connaître les hommes qui les ont, & ceux qui s'en éloignent par une fausse subtilité... Il faut savoir précisément quel est le but de la vie humaine, & quelle fin on doit se proposer en gouvernant les hommes: ce but unique & essentiel est de ne vouloir jamais l'autorité & la grandeur pour soi; car cette recherche ambitieuse n'irait qu'à satisfaire un orgueil tyrannique: mais on doit se sacrifier dans les peines infinies du gouvernement pour rendre les hommes bons & heureux; autrement on marche à tâtons & au hasard pendant toute la vie: on va comme un navire en pleine mer, qui n'a point de Pilote, qui ne consulte point les astres, & à qui toutes les côtes voisines sont inconnues, il ne peut faire que naufrage.[123]

His census accomplished this first part of this task, preparing for the institution of reforms.

Mentor began with laws on commerce, banning those foreign goods which could

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[120] F. de Fénelon, *Les avantures de Telemaque fils d'Ulysse*, i (Paris, 1717), p. 255. References are to the 1717 edition which, based on the unauthorized 1699 edition, was posthumously prepared using corrections from Fénelon's own copy.
[121] Ibid., p. 499.
[122] Ibid., pp. 499–501.
[123] Ibid., p. 501.

encourage "le luxe & la mollesse."[124] Artisans who would be put out of work were to find employment in approved commercial fields or agriculture – although not all types of agriculture, as even diet was to be regulated to encourage a simple way of life. Husbandry and farming were to be made respected professions to create a country "peuplé de familles vigoureuses, & adonnées à l'agriculture."[125] By having close, productive, and large families, he argued, one could create happiness in home and state. To achieve all of this he travelled throughout the country encouraging improved and renewed cultivation of land, and invited foreigners to the island who were willing to settle on farms. Ranks and classes were instituted which would be distinguished by regulated clothing. One would be given rank by birth, but to redress envy amongst classes and encourage civic deeds, Mentor suggested that it would be appropriate to allow some class mobility by promoting the families of those who had done a great service to the state. The arts were also reformed – music was censored so as not to corrupt the youth, and was only to be played in temples and during festivals to honour the gods and heroes. Grand buildings were limited to temples, and paintings and sculptures were only to be used to create memorials to great men and events. Similarly, spectacles that honoured and encouraged exercise, such as wrestling and races, were to be instituted, and the military was to be renewed and strengthened.

Of course, none of these proposals are striking when read alongside the tales of ancient lawgivers. In fact, Mentor's re-founding of Salente seems almost stereotypical. Austerity, strength, independence, simplicity, frugality, reform of commerce, and instilling of civic pride are recurring themes found amongst legislators – including those developed by Rousseau for Corsica and Poland. The character of Mentor itself is part of the genre: a foreign lawgiver with knowledge of the world who is invited to give a people laws and leaves once his work is done.

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[124]  Ibid., p. 253.
[125]  Ibid., p. 260.

One also sees the influence of the Renaissance: on the one hand, the book was a mirror-for-princes, and addresses some of the issues first raised by Erasmus. However, it also shares similarities with More's *Utopia*. For example, Hythloday's repeated lamentations against flatterers, and his frustration with kings is returned to when Mentor addresses King Idomeneus in Salente; although Mentor, unlike Hythloday, is willing to at least attempt to propose changes:

> C'est avec douleur que je me vois contraint de vous dire des choses dures; mais puis-je vous trahir en vous cachant la vérité? Mettez-vous en ma place, si vous avez été trompé jusqu'ici, c'est que vous avez bien voulu l'être. C'est que vous avez craint des conseillers trop sincères. Avez-vous cherché les gens les plus désintéressés, & les plus propres à vous contredire? […] Quand vous avez trouvé des flatteurs, les avez-vous écartés? […] Voyons si vous aurez maintenant le courage de vous laisser humilier par la vérité qui vous condamne.[126]

Importantly, this is more than an imagined situation for Fénelon – in 1694 he wrote a remarkably similar letter to Louis XIV. It begins with a request for patience from the king in what he was about to read, warning him:

> Si elle vous parle fortement, n'en soyez pas étonné, c'est que la vérité est libre et forte. Vous n'êtes guère accoutumé à l'entendre. Les gens accoutumés à être flattés prennent aisément pour chagrin, pour âpreté et pour excès, ce qui n'est que la vérité toute pure. C'est la trahir, que de ne vous la montrer pas dans toute son étendue.[127]

He then moves on to correct the monarch:

> Depuis environ trente ans, vos principaux ministres ont ébranlé et renversé toutes les anciennes maximes de l'État, pour faire monter jusqu'au comble votre autorité qui était devenue la leur parce qu'elle était dans leurs mains. On n'a plus parlé de l'État ni des règles; on n'a parlé que du Roi et de son bon plaisir. On a poussé vos revenus et vos dépenses à l'infini. On vous a élevé jusqu'au ciel, pour avoir effacé, disait-on, la grandeur de tous vos prédécesseurs ensemble, c'est-à-dire pour avoir appauvri la France entière, afin d'introduire à la cour un luxe monstrueux et incurable.[128]

This, of course, did not result in the ends he had hoped for; although Fénelon avoided being exiled (for three more years), Louis XIV did not accept the critique. However, the direct approach was not the only method of reform attempted by Fénelon.

In educating the future king, and instilling his own political thoughts and ideals, Fénelon was himself a political actor; unlike *The Education of a Christian Prince* or *Utopia*, there was an

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[126]   Ibid., p. 237.
[127]   F. Fénelon, 'Fénelon to Louis XIV' (1694), p. 10.
[128]   Ibid., pp. 10–11.

actual plan to reform France with *Télémaque*, and he did not attempt to achieve these ends solely through his tutoring, but, as Alfred Adler has claimed, he also wanted to influence the young man through "the use of literary devices the purpose of which was to produce moral effect in complete accordance with his moral intention."[129] Just as ancient lawgivers are reported to have used music or ceremony to modify public sentiment, Fénelon as a tutor attempted to use his art to influence his tutee (a teaching Rousseau would come to embrace). However, it was this method of political action that also ended his career. After Louis XIV read the unauthorized edition of the work, the king lost his patience; as Voltaire later wrote: "on ne peut guère parler à un tyran qu'en paraboles, encore ce détour même est-il dangereux."[130]

However, even after he was banished from Versailles, Fénelon maintained hope that his early work would bring about a new era of politics in France, and he even went as far as drafting a set of reforms for, who was by this time, the Dauphin.[131] Interestingly, this document offers insights into Fénelon as the prudent re-founder. In contrast to the ideals proposed for the kingdom of Salente, when it came to France, Fénelon did not hope to create a perfect, or even "good," state; instead, like Solon and More, he argued for the less bad. He had to work with the materials available – a people he, unlike Louis XIV, knew well. Instead of an end to the absolutist regime, he aimed towards a pragmatic merging of republicanism and the monarchy. However, with the death of the Duc de Bourgogne before he claimed the throne, Fénelon's hopes came to an end. The self-assured belief in one's own abilities to change society, however, did not.

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[129]  A. Adler, 'Fénelon's "Télémaque": Intention and Effect', *Studies in Philology* 55.4 (1958), p. 591.
[130]  Voltaire, *Questions sur l'encyclopédie*, vi (Geneva, 1771), 'Fable', p. 1.
[131]  F. de Fénelon, *Oeuvres de Fénelon*, iii (Paris, 1835), pp. 446–452.

**The Legislator in French Enlightenment Thought**

The idea of a "philosopher king," and its history stretching back to Plato, had almost entirely disappeared by the end of the Renaissance, and this is reflected in the secondary literature: the concept is not mentioned in the post-Renaissance sections of *The Cambridge History of Political Thought: 1450-1700*. Derek Beales argues that it was only with Hobbes and Leibniz that the concept began to return, albeit as an entirely different conceptual beast.[132] This is perhaps partially due to the seemingly incongruent nature of the term to thinkers in a world of already existing absolute monarchs:  "In the metaphor of absolutism, the ruler is presented as the protector of his subjects, as the 'captain in the ship' (of state), but he servers also as a model in the art of politeness and gallantry."[133] That is, the excesses of courtly life were tied to the absolute monarch, not philosophy. What is more, the conceptual source of the philosopher-king – Plato – had also made it unappealing: "What distinguished Plato's philosopher more than anything else was his supposed ability to see behind the evidence of the senses and the superficial realities of life and politics to a deeper reality of ideal 'forms'. This was an example of the metaphysical, quasi-theological thinking that Hobbes regarded as 'vain philosophy.'"[134] The philosopher-kings that emerged during the Enlightenment were much less concerned with these vanities, and instead turned to politics from a pragmatic and scientific perspective.

Following Louis XIV's reign there was a desire to see France reform, and those who wanted such things faced a fundamental problem in reconciling absolutism after the death of the Sun King with legitimate governing:

> Theorists and publicists of all stripes sought [...] new means of legitimating the lawmaking
> process, thereby, and often unwittingly, challenging a basic element of royal sovereignty as it had

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[132]  D. Beales, 'Philosophical Kingship and Enlightened Despotism', in M. Goldie and R. Wokler (eds.), *The Cambridge History of Eighteenth-Century Political Thought* (Cambridge, 2006), pp. 497–499.

[133]  T. Tikanoja, *Transgressing Boundaries: Worldly Conversation, Politeness and Sociability in Ancien Régime France, 1660-1789* (Helsinki, 2013), p. 93.

[134]  D. Beales, *Enlightenment and Reform in Eighteenth-Century Europe* (London, 2005), p. 498.

developed since the end of the sixteenth century… Public opinion had been galvanised to such an extent as a result of the intransigence of both the king and the courts that many of the *Lumieres* felt inclined or impelled to propose conceptual alternatives to royal absolutism and *parlementaire* constitutionalism alike.[135]

However, historical circumstance meant that many of the reforms imagined remained related to seventeenth century theories of absolutism. The conceptual framework available in the eighteenth century thinkers, as is true of any time, made it difficult to imagine anything else.[136] Keohane argues that this led to Rousseau's work being "steeped in absolutist arguments and images."[137] Even those who turned to the realm of imagination, like Louis-Sébastien Mercier (1740-1814) and his utopian work *L'An 2440* (1770), saw the individual as the key to change:

> Le croiriez-vous? La révolution s'est opérée sans efforts, et par l'héroïsme d'un grand homme. Un roi philosophe, digne du trône puisqu'il le dédaignait, plus jaloux du bonheur des hommes que de ce fantôme de pouvoir, redoutant sa postérité et se redoutant lui-même.[138]

And the more pragmatic turned to monarchs across Europe as potential conduits of reform, dedicating works and plans to those who would come to be called "enlightened despots."[139] Thus, the solution turned – or returned – to was *l'héroïsme d'un grand homme.* The legislator emerged once again as a conceptual tool, born from "a tradition of inquiry and debate encompassing Greek philosophy, Roman law, medieval theology, Renaissance political theory and various forms of Protestant theologising" while also being a "direct response to the declining fortunes of the Bourbon monarchy" and embracing recent intellectual movements, in particular, the

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[135] D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 3.

[136] Perhaps the most important contribution to this framework is Jacques-Bénigne Bossuet's (1627-1704) *Politique tirée des propres paroles de l'Écriture sainte* (written between 1679 and 1704, published posthumously in 1709). The text was written, like Fénelon's *Télémaque*, for the Dauphin, but takes an absolutist position, arguing that: "De l'autorité: que la royale et l'héréditaire est la plus propre au gouvernement," "L'autorité royale est sacrée," and "L'autorité royale est absolue" (J.B. Bossuet, *Politique tirée des propres paroles de l'écriture sainte à Mgr le dauphin* [Paris, 1709], ii. i; iii. i; iv. i).

[137] N.O. Keohane, *Philosophy and the State in France: The Renaissance to the Enlightenment* (Princeton, 1980), pp. 442–443.

[138] L.S. Mercier, *L'An Deux Mille Quatre Cent Quarante: Rêve S'Il En Fût Jamais* (London, 1772), p. 69.

[139] D. Beales, 'Philosophical Kingship and Enlightened Despotism', in M. Goldie and R. Wokler (eds.), *The Cambridge History of Eighteenth-Century Political Thought* (Cambridge, 2006), p. 503.

pragmatism of the scientific revolution and English political theory.[140]

This confluence of ideas made the eighteenth century legislator quite different from the Platonic philosopher-king of the past. In fact, Derek Beales has argued that what appears to be a misattribution in the *Encyclopédie* article on the philosopher – the line "life will be good when philosophers are kings" is attributed to Marcus Aurelius – is an attempt to divorce the philosopher-king from the metaphysical: "As Voltaire said, Plato 'was almost made a father of the Church on account of his trinitarian ideas, which no one has ever understood.' Marcus Aurelius, on the other hand, had been hostile to Christianity and professed a Stoic scepticism about metaphysical reasoning."[141] Beales continues to argue that it was not simply religion that irked the *philosophes*, but any deductive system of philosophy – like those of Plato, Descartes, and Aquinas. Instead, knowledge needed to be scientific, and could "only be gained by induction, by observation and experiment, and on this basis is necessarily incomplete."[142] The upshot is that this legitimized the idea of an all-powerful lawgiver for some – so long as it imposed civil laws which were in accordance with this ever growing experimental and empirical knowledge. If there were universal natural laws from which human or civil laws can be extracted, as Grotius, Pufendorf, and Hobbes had argued in the seventeenth century, then the executor of those laws was of less importance than their successful application in accordance with a true political science. When taken into account with Locke's work on contractual political theory, it was then possible to, intellectually, break with France's absolutist hereditary monarchy and the divine right of kings. Popular sovereignty or support could legitimize dissent and true knowledge (science) allowed for a new legislator.[143] The acceptance of the legislator as a legitimate political concept

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[140]   D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 4.

[141]   D. Beales, 'Philosophical Kingship and Enlightened Despotism', in M. Goldie and R. Wokler (eds.), *The Cambridge History of Eighteenth-Century Political Thought* (Cambridge, 2006), p. 499.

[142]   Ibid., pp. 499–500.

[143]   D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French*

can be recognized in its inclusion in the *Encyclopédie*.

The article, although written circa 1759, was published in 1765 by Jean-François de Saint-Lambert (1716-1803), a military man and poet remembered more for his caddish ways than his intellectual output.[144] His thought was neither particularly important nor ground-breaking; Wisner describes the article as "a rather bland mixture of legalistic idiom and historical *topos* with a dash of Montesquieu added in for spice."[145] Nonetheless, both its inclusion and its blandness demonstrate a level of familiarity and acceptance with the topic. And it was not just Saint-Lambert who wrote on legislators – Montesquieu discussed the character, including its qualities and limits, in *De l'esprit des lois* (1748), and in many ways initiated the re-emergence of the topic during the Enlightenment (Vaughan wrote that Montesquieu's influence on Rousseau is seen "nowhere more clearly than in the [*Contat social*'s] chapters which define the task and the methods of the Lawgiver").[146] This was followed by Étienne-Gabriel Morelly's *Code de la nature* in 1755, which was critical of the character historically, and in 1758 Claude Adrien Helvétius' response to Montesquieu in *De l'esprit*, in which the character is treated more favourably. Discussions dealing with the existence of such characters in the contemporary world were initiated by Friedrich Melchior Grimm when he first used the concept of the "enlightened despot" in the 15 March, 1758, edition of his *Correspondance littéraire* (whose audience was, in fact, made up of nobles and monarchs). With this began, what Beales has described as, "a private or

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*Enlightenment.* (Oxford, 1997), p. 14; 27–28. Brockliss develops a historical sketch of the relationship between science and the court highlighting a movement away from Aristotelian natural philosophy towards a mechanical philosophy which gave "the court culture of self-control" a "scientific underpinning" in harmony with "the ethic of civility" (L. Brockliss, 'Civility and Science: From Self-control to Control of Nature, 1500-1650', *Sartoniana* 10 [1997], p. 59).

144  Saint-Lambert and Rousseau were friends, and at one point competed for the same woman (L. Damrosch, *Jean-Jacques Rousseau: Restless Genius* [Boston, 2005], p. 267; 271).

145  D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 46.

146  C.E. Vaughan, 'Rousseau as Political Philosopher', in J.-J. Rousseau, *The Political Writings of Jean Jacques Rousseau*, 1, 2 vols (Cambridge, 1915), p. 37.

very restricted dialogue between *philosophes* and rulers."[147] What is more, this dialogue added political credence to the *législateurs du goût* – in particular Voltaire, Diderot, and d'Alembert, all three of which had entered into direct conversations with Europe's Enlightened monarchs. These largely private relationships would occasionally flare up in the public sphere, with texts such as Voltaire's two-part *Histoire de l'Empire de Russie sous Pierre le Grand (*1759 and 1763), which defended the modernization project being continued by Catherine the Great. More importantly, though, these relationships were important to the thinkers' understanding of themselves as the correctors and educators of the public – with the emergence of the enlightened despot, they were able to legitimately turn their gaze towards existing sovereigns. Having said that, these relationships cannot be overstated – there were very few that fully and truly embraced the idea of the enlightened despot, and general benevolence towards the idea declined during the 1760s and early 1770s.[148] For example, while Holbach was still penning works aimed at enlightening Catherine the Great in 1773, he abandoned hope for such a project in 1774 after having been rebuffed by both her and Frederick the Great, and following Louis XV's dismissal of the *Parlement* in 1771, Denis Diderot came out publically against the concept in Guillaume Thomas François Raynal's (1713-1796) *L'Histoire philosophique et politique des établissements et du commerce des Européens dans les deux Indes* (1774).[149] It was in the middle of this key period (from roughly 1748 to 1774) that Rousseau published his most explicit contribution to the discussion – the *Contrat social* (1762). However, before examining his writings on the topic, a closer examination into the context in which it emerged is necessary.

[147]  D. Beales, *Enlightenment and Reform in Eighteenth-Century Europe* (London, 2005), p. 50.
[148]  P. Gay, 'The Enlightenment in the History of Political Theory', *Political Science Quarterly* 69.3 (1954), p. 385. Those who did embrace the idea include Mirabeau (1749-1791) and Giuseppe Gorani (1740-1819) (specifically his 1770 *Il vero dispotismo*). Beales calls Gorani a "second-rank thinker" who "makes an elaborate case for what amounts to Enlightened despotism as normally understood, quite explicitly glorifying the despotic element" (D. Beales, *Enlightenment and Reform in Eighteenth-Century Europe* [London, 2005], p. 51). Another version of the idea can be found amongst the Physiocrats, whose defense of enlightened despotism was based on universal legalistic principles (see Le Mercier's 1767 *L'ordre naturel et essentiel des sociétés politiques*).
[149]  Ibid., p. 51.

Saint-Lambert's *Encyclopédie* article begins with a legalistic definition – the *législateur* is described as one who can give and repeal laws. However, he goes on to argue that these laws have two ends – "la sécurité de l'état & le bonheur des citoyens" – and that it was with the people's original consent (*consentir*) that the position of *législateur* came into existence. The person capable of achieving these goals is, in Saint-Lambert's thought, someone of extreme benevolence; an enlightened despot.[150] This is also true for Montesquieu: "l'esprit de modération doit être celui du *législateur*; le bien politique, comme le bien moral, se trouve toujours entre deux limites."[151] In regard to the latter, however, the legislator, by being moderate, is a republican concept – not despotic.[152] Montesquieu accepts that the legislator decides what form of government is best for a particular people, based on geographical and historical realities, but nonetheless sees moderation as a key part in doing this. To complicate things, Montesquieu's argument for moderation is also found in his argument for a balance of political powers, like that seen in England's parliament. This limited, and moderate, role for the legislator was dismissed by his contemporaries.

Helvétius disagreed with Montesquieu: "vos combinaisons de pouvoirs ne font que séparer & compliquer les intérêts individuels au lieu de les unir."[153] Instead, the legislator is a creative force which manipulates the pain and pleasure of a population so as to mould society into an enlightened whole.[154] Although a democrat at heart, Helvétius argued that an all-powerful legislator was necessary to draft a new constitution, immune to previous customs and beliefs, and guided by the light of philosophy. Voltaire also questioned Montesquieu's English

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[150]  Saint-Lambert, 'Législateur', Paris *Encyclopédie, ou Dictionnaire raisonné des sciences, des arts et des métiers* ix (1751), p. 357-359.
[151]  Montesquieu, *De l'Esprit des loix*, i (Geneva, 1748), bk. xxxix. i. (p. 387).
[152]  R.A. Leigh, 'Jean-Jacques Rousseau and the Myth of Antiquity', in R.R. Bolgar (ed.), *Classical Influences on Western Thought A.D. 1650-1870* (Cambridge, 1979), p. 160.
[153]  Helvétius, *Correspondance générale d'Helvétius*, v (Toronto, 2005), pp. 84–88.
[154]  D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), pp. 45–46.

parliamentarianism, dismissing the possibility of it being successfully transplanted, and instead embraced the enlightened despot.[155] It was in order to achieve this that he, and a number of other thinkers, moved to influence one of Europe's friendlier absolute monarchs (for which a number of them received patronage). In fact, with Voltaire and the *philosophes* one finds a philosophic self-confidence (or what Peter Gay described as a "recovery of nerve")[156] to create a new order themselves; the necessity of a mysterious great individual disappears, as does the reluctance towards advising princes – any prince can be turned into an enlightened despot if given the correct education. Thus, there was a move to use intellect to gain positions of power so as to influence those in ever higher positions, and this move to manipulate European political powers through intellectual culture was the final dismissal of customs as a barrier to change.

Customs did remain an issue for others, however. As Saint-Lambert wrote: "Partout les hommes sont susceptibles des mêmes passions, mais ils peuvent les recevoir par différentes causes & en différentes manières."[157] As Fénelon noted, it was a case of knowing one's people intimately so as to both know the causes and therefore the solutions. And as Montesquieu argued, laws should be born from human reason (that is, discovered with reason in the *lois de la nature*), but this reason must be applied to particular peoples (as *lois positives*). The particularities of a people require a prudent legislator who can direct natural law appropriately:

> Elles doivent être relatives au *physique* du Pays; au Climat glacé, brûlant ou tempéré; à la qualité du Terrain, à sa situation, à sa grandeur, au genre de vie des peuples, laboureurs, chasseurs ou pasteurs; elles doivent se rapporter au degré de Liberté que la Constitution peut souffrir; à la

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[155] D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 47. Weather Montesquieu himself believed English parliamentarism could be transplanted is unlikely. England, like any nation, was a product of its own "culture, religion, climate, agriculture, and myriad other idiosyncratic variables" (D.L. Williams, 'Political Ontology and Institutional Design in Montesquieu and Rousseau', *American Journal of Political Science* 54.2 [2010], p. 525).

[156] Gay wrote that "[t]he men of the Enlightenment united on a vastly ambitious program, a program of secularism, humanity, cosmopolitanism, and freedom, above all, freedom in its many forms – freedom from arbitrary power, freedom of speech, freedom of trade, freedom to realise one's talents, freedom aesthetic response, freedom, in a word, of moral man to make his own way in the world" (P. Gay, *The Enlightenment: An Interpretation, The Rise of Modern Paganism* [New York, 1966], p. 3).

[157] Saint-Lambert, 'Législateur', Paris *Encyclopédie, ou Dictionnaire raisonné des sciences, des arts et des métiers* ix (1751), p. 357.

Religion des habitants, à leurs inclinations, à leurs richesses, à leur nombre, à leur commerce, à leurs mœurs, à leurs manières. Enfin elles ont des rapports entre elles, elles en ont avec leur origine, avec l'objet du Législateur, avec l'ordre des choses sur lesquelles elles sont établies; c'est dans toutes ces vues qu'il faut les considérer.[158]

Interestingly, he warned would-be legislators that if natural law dictates customs to be challenged, it should not be done with laws, as this has an air of tyranny to it. Instead, changes should to be implemented through customs themselves – although he did write, as Rousseau would, that the origin of customs is often laws.[159]

Voltaire, however, had a much stricter theory of natural law, made clear in his *Dictionnaire philosophique*, arguing that there is "une loi naturelle indépendante de toutes les conventions humaines" which, born out of a universal sentiment, should be followed by all men.[160] He added to this position in the entry for "Autorité" in the *Questions sur l'Encyclopédie*:

Misérables humains, soit en robe verte, soit en turban, soit en robe noire, ou en surplis, soit en manteau & en rabat; ne cherchez jamais à employer l'autorité là où il ne s'agit que de raison, ou consentez à être bafoués dans tous les siècles comme les plus impertinents de tous les hommes, & à subir la haine publique comme les plus injustes.[161]

Voltaire saw it as the legislator's duty to do away with customary powers, replacing them with a perfect political science. As noted above, he believed one could come to understand human nature the same way Newton studied natural science and the physical universe. If this was indeed the case, laws could "lead to a purely rational and unified *science de l'homme*, which in turn would be translated into a set of general positive laws applied for social reform."[162] For Voltaire, the legislator was a cultural authority who "was expected to correct political and moral vice, to restore human conduct to its natural moral standard. His laws must echo natural law, which he must interpret armed with the new critical tools of the scientific revolution."[163]

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[158] Montesquieu, *De l'Esprit des loix*, i (Geneva, 1748), bk. i. xxx. (p. 10).
[159] Ibid., bk. xix. xiv; xxvii. (pp. 492–494; 508–522).
[160] Voltaire, *Dictionnaire philosophique, portatif* (London, 1764), 'Des loix', p. 252.
[161] Voltaire, *Questions sur l'encyclopédie*, vi (Geneva, 1771), 'Autorité', p. 380.
[162] D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 34.
[163] Ibid., p. 39; 37.

One proposed method of accomplishing this was with a reformed education system; a secularized pedagogy which aimed to instil "a universally applicable rationality and virtue" in the populace, and therefore, was capable of creating good citizens:[164]

> L'éducation des enfans sera pour le *législateur* un moyen efficace pour attacher les peuples à la patrie, pour leur inspirer l'esprit de communauté, l'humanité, la bienveillance, les vertus publiques, les vertus privées, l'amour de l'honnête, les passions utiles à l'état, enfin pour leur donner, pour leur conserver la sorte de caractere, de génie qui convient à la nation.[165]

Education needed to be secularized as it must be in the hands of the legislator, not the Church. As Montesquieu wrote: "Les loix de l'éducation sont les premières que nous recevons; & comme elles nous préparent à être citoyens, chaque famille particulière doit être gouvernée sur le plan de la grande famille qui les comprend toutes."[166] Helvétius' radical egalitarianism went further, arguing that intellectual differences amongst men were born out of their upbringing. He saw education as the ultimate tool in legislation, something which could be used to create an enlightened and equal populace. Education was also seen as a method of preparation; just as Lycurgus sent Thales to Sparta to prepare the population for legislation, the good taste being disseminated by the Republic of Letters was a type of preparation for Europe. Voltaire and d'Alembert, in particular, saw themselves as cultural legislators and "set the tone by calling for the *philosophes*, those erstwhile advisers to the crowned heads of Europe and Asia, to start by dictating the laws of taste," thus hoping to "inaugurate a new world order in which temporal and spiritual authority would be the domain of the republic of letters… Their avowed mission was the dissemination of the gospel of human progress and perfectibility through the dual arms of education and legislation."[167] This was a break from the historical sources of morality and

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[164]  J.J. Popiel, 'Education', Oxford *Encyclopedia of the Enlightenment* (2005).
[165]  Saint-Lambert, 'Législateur', Paris *Encyclopédie, ou Dictionnaire raisonné des sciences, des arts et des métiers* ix (1751), p. 360.
[166]  Montesquieu, *De l'Esprit des loix*, i (Geneva, 1748), bk. iv. i. (p. 46).
[167]  D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 42; 43.

education – customs and religion – and the emergence of new, rational, ones.[168] The upshot of this being, however, many of the *philosophes* were unwilling to embrace the tactics of ancient legislators. The works of Lycurgus and Numa were more akin to charlatanry than forming the basis of political foundations. That is, although useful (and perhaps prudent) at the time, to embrace similar religious tricks would be illegitimate, as Voltaire made clear.[169] However, divorcing religion from politics entirely was not a universally held position. Montesquieu, starting with his "Dissertation sur la politique des Romains dans la religion" (1716), took the Erastian position and argued that religion was too important to the state to be left in the hands of the Church:

> Ce ne fut ni la crainte ni la piété qui établit la religion chez les Romains, mais la nécessité où sont toutes les sociétés d'en avoir une. Les premiers rois ne furent pas moins attentifs à régler le culte et les cérémonies qu'à donner des lois et bâtir des murailles. Je trouve cette différence entre les *législateur*s romains et ceux des autres peuples, que les premiers firent la religion pour l'état, et les autres, l'état pour la religion. Romulus, Tatius et Numa asservirent les dieux à la politique.[170]

And Saint-Lambert wrote:

> Si le *législateur* fait de la religion un ressort principal de l'état, il donne nécessairement trop de crédit aux prêtres, qui prendront bientôt de l'ambition. Dans les pays où le *législateur* a pour ainsi dire amalgamé la religion avec le gouvernement, on a vu les prêtres devenus importants, favoriser le despotisme pour augmenter leur propre autorité, & cette autorité une fois établie, menacer le despotisme & lui disputer la servitude des peuples. Enfin la religion serait un ressort dont le *législateur* ne pourrait jamais prévoir tous les effets, et dont rien ne peut l'assurer qu'il serait toujours le maître.[171]

Nonetheless, both groups recognized that religion had a power to access and influence a population's passions, and, depending on their perspective, this could be used to strengthen the state or was something which needed to be overcome. That is to say, some recognized it as a truth which could not be manipulated, while others saw it as a "trick" which should not be.[172]

There were other ways of engaging a population's passions, however, and one recurring

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[168]    J.J. Popiel, 'Education', Oxford *Encyclopedia of the Enlightenment* (2005).
[169]    Voltaire, *Questions sur l'encyclopédie*, vi (Geneva, 1771), 'Charlatan', p. 311.
[170]    Montesquieu, *Oeuvres complètes de Montesquieu* (Paris, 1838), p. 554.
[171]    Saint-Lambert, 'Législateur', Paris *Encyclopédie, ou Dictionnaire raisonné des sciences, des arts et des métiers* ix (1751), p. 359.
[172]    Rousseau accepted that it could be both true and useful.

method was patriotic love:

> L'amour de la patrie est le seul objet de passion qui unisse les rivaux; il éteint les divisions; chaque citoyen ne voit dans un citoyen qu'un membre utile à l'état; tous marchent ensemble et contents vers le bien commun; l'amour de la patrie donne le plus noble de tous les courages: on se sacrifie à ce qu'on aime.[173]

However, methods of enraging one's love of the *patrie* differed. Montesquieu argued that when one matched laws with the spirit of the people, the people would come to love the state as they loved themselves, and Saint-Lambert argued that public ceremony and games could be used to this end.[174] Voltaire also recognized that ceremony (and class distinctions) could be used by the legislator, although, like with religion, saw these as methods of corrupted political societies: "Plus un peuple est libre, moins il a de cérémonies; moins de titres fastueux; moins de démonstrations d'anéantissement devant son supérieur."[175] And just as ceremony and games were addressed by both ancient legislators and the *philosophes*, the manipulation of public commerce was also touched on as a potential tool to be embraced or abandoned. Saint-Lambert looked towards it hopefully, noting that with the internationalisation of the economy, "chaque nation a intérêt aujourd'hui qu'une autre nation conserve ses richesses, son industrie, ses banques, son luxe & son agriculture."[176] This approach was embraced by the *doux commerce* theorists, epitomized in Mandeville, but was also seen in Montesquieu, who argued that in addition to matching laws with people, one can temper society through a politeness born from commerce. That is to say, the more commercial interactions men had with each other, the more vain and polite they become, and in this way people could be made "gentle by commerce."[177] On the other hand, the Abbé Mably, Helvétius, Morelly, and Rousseau, all questioned commerce and mercantilism. This group

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[173] Saint-Lambert, 'Législateur', Paris *Encyclopédie, ou Dictionnaire raisonné des sciences, des arts et des métiers* ix (1751), p. 358.

[174] Montesquieu, *De l'Esprit des loix*, i (Geneva, 1748), bk. v. i. (p. 64); Saint-Lambert, 'Législateur', Paris *Encyclopédie, ou Dictionnaire raisonné des sciences, des arts et des métiers* ix (1751), p. 361.

[175] Voltaire, *Questions sur l'encyclopédie*, vi (Geneva, 1771), 'Cérémonies, Titres, Prééminence, etc', p. 259.

[176] Saint-Lambert, 'Législateur', Paris *Encyclopédie, ou Dictionnaire raisonné des sciences, des arts et des métiers* ix (1751), p. 362.

[177] H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 56.

of thinkers, picking up on some of the themes raised by Fénelon, looked at the world around them as sick and inherently corrupt. Mably believed that inequality was born out of property, which itself was a result of man's fall. To correct this he argued for asceticism and attacked entrepreneurs and bankers. Helvétius, although a tax farmer by trade, did not believe in a natural right to property, and accepted that with democracy the majority were likely to redistribute the wealth of the rich. He also envisioned a re-division of land where every family would be given a parcel of their own. Morelly went further, arguing that man's suffering could be traced directly to past lawgivers' assumption that human nature was bad, rather than good, and went on to attack all forms of private property, proposing instead a form of agrarian communism as the solution to inequality. Thus, he argued that enlightenment progress was not a way to correct the problems of modernity, but instead a return to "l'empire de la nature."[178]

It seems possible, then, to recognize at least three approaches to legislating more broadly: Voltaire and Helvétius' envisioned a universal and largely rational legislator. Education and reason, transmitted both through a European cultural milieu and a reformed education system, could achieve their ends. Montesquieu, on the other hand, developed a Lockean constitutional parliamentarianism which demanded one take note of the particularities of a given people. Although not propositional (he did not see Westminster as a blueprint), this was an aspect of his intellectual investigations of the time. Finally, we may witness another approach in Rousseau's republicanism. By the middle of the eighteenth century, as Franco Venturi argued, "republican ideas seemed to have lost their hold on a political level. They no longer offered an alternative to the ideas and practice of an absolutism which was then beginning to take on the characteristics of the nascent Enlightenment."[179] However, and discussed in detail in the next chapter, inspired by a

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[178]   Ibid., pp. 150–151.
[179]   F. Venturi, *Utopia and Reform in the Enlightenment* (Cambridge, 1970), p. 70.

combination of the tales of ancient lawgivers and cities, the protestant theology he was immersed in as a child, Machiavelli's humanism, and Fénelon's criticisms of commerce and luxury, Rousseau broke this mold. He dismisses the potentiality of universal progress embraced by the *philosophes*, as well as Montesquieu's legislative moderation – although he does recognize something in Montesquieu's cultural relativism. He also turns to the powerful, and politically independent, character – the legislator – to found his republican polities. How he envisions this unique concept to function in his political system is the subject of the rest of this thesis.

# Chapter III: Rousseau's *Législateur*

Unsurprisingly for a thinker who made the legislator an essential concept in his political thought, studies of the character are abundant. This is perhaps largely due to its ambiguity – as Wisner described it: "a legalistic abstraction, an incarnation of Reason and of Nature, a semi-divine first cause and a purely human efficient cause."[1] Similarily, Christopher Kelly wrote:

> It seems odd to appeal to such an authoritative figure in a theory based on the consent of equal individuals. Accordingly, Rousseau's use of the legislator has struck commentators as a puzzle that needs to be explained, and some have considered the legislator as one of Rousseau's least-successful portraits.[2]

Thus, while most readers acknowledge the importance of the character, there has been little agreement on much else. Many argue that Rousseau turned to it to overcome insufficient aspects of his political thought, questioning whether "the principles grounding and animating Rousseau's republic [have] been sacrificed at the altar of expediency?"[3] Others have been even less reflective, arguing that "we have a *deux ex machina* wheeled out onto the stage in order there to work the unfortunately essential miracle."[4] These interpretations, however, ignore the long and important heritage of the character. As Feinberg has argued, Rousseau's use of the legislator is consciously part of this longer tradition, used as both "a principle of historical explanation and as a principle of legitimacy."[5] When recognized in this context the importance of the previous two

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[1]   D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 54.

[2]   C. Kelly, '"To Persuade without Convincing": The Language of Rousseau's Legislator', *American Journal of Political Science* 31.2 (1987), p. 322.

[3]   S. Johnston, *Encountering Tragedy: Rousseau and the Project of Democratic Order* (Ithaca, 1999), p. 66. See also: J. Rawls, *Lectures on the History of Political Philosophy* (Cambridge, MA, 2009), p. 241; Z. Trachtenberg, 'Rousseau's Platonic Rejection of Politics', in R. Grant and P. Stewart (eds.), *Rousseau and the Ancients / Rousseau et les Anciens*, Pensée libre 8 (Montreal, 2001), p. 183; G. Beck, *Fichte and Kant on Freedom, Rights, and Law* (Lanham, 2008), p. 165.

[4]   A. Flew, *Equality in Liberty and Justice* (Piscataway, NJ, 2001), p. 66.

[5]   B.S. Feinberg, 'Creativity and the Political Community', *Political Research Quarterly* 23.3 (1970), p. 473. Not everyone has ignored the heritage. Rosenberg places Rousseau directly within it, although the conclusions are largely at odds with this chapter, arguing that Rousseau saw himself as having been chosen by God. See: A. Rosenberg, 'Rousseau the Legislator', *Études sur le Contrat social / Studies on the Social Contract* Pensée libre 2 (1989).

chapters, and the goal of the current, becomes clear. Rousseau did not turn to the legislator to overcome insufficiencies in his own work, but to attack those he found in others. The "illegitimate" legislator provided a legitimacy that natural law could not. While the likes of Grotius turned to already established states and tried to rationally legitimize their existence, Rousseau looked to historical moments of governing and imagined ways of instituting legitimate states from the beginning. As he explicitly wrote at the beginning of the *Contrat social*: "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 résoudre cette question."[6] Legitimacy, for Rousseau, is man made and enshrined through political action, not through *ex post facto* philosophical reflection. The actions of one person – the legislator – can unite a people so that it can come to agree to accept its own chains. Legitimacy, again, was not achieved by retroactively attaching philosophical arguments to historical institutions, which more often than not benefit the few over the many; legitimacy came from a social contract brokered by a third party.

The legislator was not only a conceptual tool, however. The tales of historical lawgivers provided Rousseau with examples of how third-parties had, and could, successfully establish states, and provided Rousseau with the intellectual framework on which he could develop his own theory. As Byron Wells has argued, Rousseau looked to the ancient lawgiver because they knew how to "make citizens of [a people], how to transform private self-interest into passional energy for the 'public thing,' how to impose rule, discipline, and order to guarantee freedom, how to reshape human nature."[7] These were the lessons available to the reader of Plutarch, and if one

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[6]    Rousseau, *Contrat social*, OC iii, p. 351.
[7]    B. Wells, 'Rousseau's Legislators and the Exemplar of Sparta', in R. Grant and P. Stewart (eds.), *Rousseau and the Ancients / Rousseau et les Anciens*, Pensée libre 8 (Montreal, 2001), p. 212. Wells argued that Rousseau looked to Lycurgus as a character who could "denature" men. This, however, ignores Rousseau's own argument that Lycurgus came to power over "un peuple deja degrade." (Rousseau, *Pologne*, OC iii, p. 957).

wants to come to understand what Rousseau imagined was possible when describing the legislator, one must keep these ancient ideals in mind.[8] Of course, one must also look beyond Plutarch to come to understand the depth of Rousseau's influences. In fact, the number of thinkers he engaged with is impressive. Marguerite Richebourg's 1932 "La Bibliothèque de Jean-Jacques Rousseau" contains a list of works owned, mentioned, or referenced by Rousseau which is a who's-who of intellectual history and numbers 664 individuals.[9] It is not surprising, then, that one also finds the ideas examined in the previous chapter in Rousseau's own writings.[10] However, it should be noted that while there is a conceptual link, Rousseau was not rehashing already existing ideas, but instead developed his own system. This can perhaps be made clear by once again turning to the ship-of-state metaphor.

Just as it is a certainty that Rousseau was aware of the thinkers and characters mentioned in the previous two chapters, so too must it be true of the ship-of-state metaphor. However, Rousseau stands apart from those who came before, and avoids the metaphor.[11] This is

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[8] Rousseau often turned to the reports of ancient lawgivers to strengthen his own arguments. An exhaustive list of examples would be unwieldy, but a few notes demonstrate the relationship to the lawgiver as examined in the first chapter: Rousseau embraced the tradition of entrusting the establishment and maintenance of laws to a foreigner who ultimately abdicates the throne (*Contrat social*, OC iii, p. 385). To gain the types of knowledge necessary to do this, Rousseau returns to the idea of philosophical travel as seen in Plato, Thales, and Pythagoras – travel which overcame national prejudices, allowing one to know men as they are everywhere (*Second Discourse*, OC iii, p. 213). Rousseau also agreed with Plato that one cannot give laws to any people – the legislator must work with the correct material (*Contrat social*, OC iii, p. 386). Examples of this are offered in Lycurgus' educational system, which dismissed cultivation of the mind and focused on duties and morality, an education that almost made laws unnecessary by giving people a common will (*First Discourse*, OC iii. pp. 24-25), as well as Moses religious teachings (*Contrat social*, OC iii, p. 460-461). On the other hand, Rousseau criticized Cyrus' failure to protect his people from luxury (*First Discourse*, OC iii, p. 20) are to overcome such problems, Rousseau pointed to Numa, who, through the proliferation of partial associations, was able to encourage and maintain equality through balanced disorder (*Contrat social*, OC iii, p. 371-372).

[9] M. Richebourg, 'La Bibliothèque de Jean-Jacques Rousseau', *Annales de la société Jean-Jacques Rousseau* 21 (1932), pp. 181–250.

[10] Again, to touch on only a few in preparation for the arguments to come: many of the essentially republican arguments found in Rousseau can be traced back to Cicero and Machiavelli; his critique of courtly monarchy is similar to that raised by Erasmus and More (*Contrat social*, OC iii, p. 413); his conceptions of *amour-propre* and *amour-de-soi* have been traced to both Augustinianism and Stoic *Oikeiosis* (C. Brooke, 'Rousseau's Political Philosophy: Stoic and Augustinian Origins', in P. Riley (ed.), *The Cambridge companion to Rousseau* [Cambridge, 2001], pp. 94–123); his propositional thoughts on political reform are indebted Fénelon; and his scepticism of reform shares as much with Machiavelli as Plato (*Second Discourse*, OC iii, p. 180).

[11] Rousseau does use aspects of the metaphor – describing political upheaval as potential storms, for example – but never develops the full analogy.

interesting, as one may initially suspect that it is a metaphor particularly well-suited for the author who "best explored the logical potential" of the legislator.[12] It is, after all, a metaphor which places emphasis on the skill of an individual in protecting and guiding a multitude. What is more, Rousseau embraced metaphors more generally in his work. The legislator itself is described as the head of the body-politic, as an architect, a doctor, a mechanic – even a god.[13] Nonetheless, Rousseau never describes the legislator as the pilot of a ship. There are perhaps two reasons for this. First, Rousseau may have purposefully avoided the metaphor because it had become conceptually tied to absolute monarchs in French writing during the seventeenth and eighteenth centuries.[14] Second, the lack of reference may say something about the inappropriateness of the metaphor structurally. That is, as a metaphor for the necessity of a skilled captain or politician to protect a crew or population, it succeeds. When attempting to use it with a character who is mysterious and fleeting, and a people who are united but disparate, completely lacking in the skills necessary to sail, yet are expected to take the helm themselves, it becomes less straight forward.[15] Thus, using the metaphor may, at best, be inappropriate, and at worst, trivialize the complexity of the character and system. In fact, the metaphors Rousseau does use are descriptive, rather than systematic – they say something about the character, but they do not say what it is that character should do. That is, the legislator may be like an architect, but that

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12    D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 4.

13    Rousseau, *Contrat social*, OC iii, pp. 381-384.

14    T. Tikanoja, *Transgressing Boundaries: Worldly Conversation, Politeness and Sociability in Ancien Régime France, 1660-1789* (Helsinki, 2013), p. 93 ff. 35.

15    The metaphor has three constituent parts: the ship as state, the crew as people, and the pilot as political master. To force the metaphor one can begin by taking Rousseau's description of the ideal *législateur* and develop an image of the ship's pilot. Such a captain would have no relation to the crew, but know them intimately. They would have already assembled before the captain emerges, but share no traditions, have had no previous captain, nor function as a team. The captain would then transform this disparate crew's nature from individuals into a united body. The crew would be strong, yet docile; willing to take orders and capable of carrying them out. The ship itself would not be at risk of pirates, but would nonetheless be capable of repelling foes. It would be burdened by neither treasure, nor lack the necessary rations. It's aim, beyond existing, remains unclear; its harbor is a mystery. To put it simply, the metaphor fails if one tries to make it Rousseauvian.

does not tell us what his building should look like. To come to understand this one must locate the character more fully within his system.

This chapter uses Rousseau's writings – specifically the *Discours sur l'origine et les fondements de l'inégalité parmi les homes*, the *Contrat social*, the *Discours sur la vertu du héros*, and *Émile* – to locate this character within his philosophical system, while using pertinent references to previous thinkers and tales to inform the developed description. This is done by looking at his most famous discussion on the legislator, as found in the *Contrat social*. Other texts are then used to highlight and expand on many of the particulars which are less fully developed in his political treatise. The chapter then turns to the idea of the "corporate metaphor" – a recurring theme in Rousseau's work which demonstrates the ways in which giving laws is directly related to the historical circumstances and particularities of peoples. In doing this a more robust understanding is developed in regard to both who can be given laws, and by whom. This is followed by a brief examination of Rousseau himself within the genre of the lawgiver – both through biography and as a literary character (the tutor in *Émile*). Finally, the chapter concludes by demonstrating that Rousseau himself was both aware of, and clear about, the distinction between founding and re-founding populations.

## The *Législateur* in the *Contrat social*

Chapter seven in the second book of the *Contract Social* is titled "Du Législateur," and it is here that Rousseau describes the character who takes a prime position in the political treatise. Unfortunately, for such a key concept, it says very little (covering less than four out of 120 pages), and even less decisively. The chapter begins with a description of the *législateur*:

> Pour découvrir les meilleures règles de société qui conviennent aux nations, il faudrait une intelligence supérieure qui vît 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; dont le bonheur fût indépendant de nous, et qui pourtant voulût bien s'occuper du nôtre; enfin, qui, dans le progrès des temps se ménageant une gloire éloignée, pût travailler dans un siècle et jouir dans un autre. Il faudrait des

> dieux pour donner des lois aux hommes.… Celui-ci est le mécanicien qui invente la machine, celui-là n'est que l'ouvrier qui la monte et la fait marcher.[16]

What should first be noticed is the similarities shared between this concept and the ancient hero-founders examined in chapter one of this thesis. As Bonnie Honig wrote: "When Rousseau introduces the foreign-founder to the *Contrat social*, he reiterates the classic script familiar to readers of founding myths from Greece to Rome to the Hebrew Bible."[17] Rousseau develops a *législateur* who is an outsider, and thus independent from the people legislated for. The character is able to recognize what is essential in a people's particular nature, but shares none of that nature. This political position is extra-ordinary; the *législateur* is neither part of the government, nor sovereign, nor is it a constitutional office. The ends which are proposed must not be directed towards bettering the legislator's own life, but do allow for future glory. Thus, the legislator is judged on the success of the legislation, and a lawgiver who is concerned with the present – with the glory of *being* the lawgiver – is a threat to the people the laws are given to. And like the ancient exemplars, Rousseau's *législateur* is tasked with changing the very nature of the people he is legislating for – "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."[18] That is, the individuals that the *législateur* works with, upon being founded, no longer exist as they had; he creates a people out of individuals by taking them out of their nascent pre-constitutional state and giving them an entirely new, and social, nature.[19] This is, in fact, the true end of the *Contrat social* – as Hilail Gildin has argued, these are the "principles of Political Right" – the subtitle Rousseau gave to the treatise: "By the principles of political right Rousseau means what we today might call the principles of constitutional law, although in doing so we should remember such principles are not

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[16] Rousseau, *Contrat social*, OC iii, p. 381.
[17] B. Honig, *Democracy and the Foreigner* (Princeton, 2001), p. 18.
[18] Ibid., p. 381.
[19] Pre-constitutional in the sense of being without a constitution, but more importantly, by not constituting a people.

necessarily embodied in written laws. Not even all constitutions are written."[20]

Giving a people these principles (or constitution) is not a simple task; even Rousseau highlights two seemingly paradoxical aspects of the *législateur*'s job: first he is a human, but has a nature completely different from, and advanced beyond, the people he is to legislate for. This is made more complicated when one realizes that he must therefore, somehow, transmit this superior knowledge to a people who do not have the faculties – the nature – to understand it. The second problem facing a *législateur* is that in attempting to achieve these political ends, there is no recourse to legitimate political authority. These issues led Rousseau to a trick used by the ancients – "l'intervention du ciel et d'honorer les dieux de leur propre sagesse."[21] Thus, the challenges facing such a person are immense. However, in explaining what it is that makes this unique person capable, Rousseau only refers to "La grande ame du Législateur."[22] To understand what this great soul is one must look elsewhere in Rousseau's works.

In his short treatise on the virtue of heroes, written eleven years before the *Contrat social* was published,[23] Rousseau attacks the standards of the time, dismissing the virtues most commonly associated heroism, such as the "vulgar" prejudices such as valour in war (or courage), or the cardinal virtues of prudence, justice, and moderation. Instead, according to Rousseau, the true heroic quality is fortitude – a quality of soul ("une âme forte") which makes ruling over ourselves, and thus other men possible.[24] Fortitude is special because it allows mastery over our passions – while some virtues can be found in men naturally, it is only through fortitude that one can acquire others. That is to say, while the naturally generous man is generous, he has not chosen to be so – it is only through fortitude that one chooses to do good in spite of

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[20]  H. Gildin, *Rousseau's Social Contract: The Design of the Argument* (Chicago, 1983), pp. 2–3.
[21]  Ibid., p. 383.
[22]  Ibid., p. 384.
[23]  Although only three years before it is claimed he began thinking about the text.
[24]  Rousseau, *Heroes*, OC ii, p. 1273.

oneself, and therefore, demonstrates true freedom. As he states at the beginning of the discourse the hero is a natural man, who through a mixture of fortune and fortitude is able to become something more than his contemporaries.[25] And as Philip Stewart has pointed out, this conception of heroism is a constant throughout Rousseau's works – in reference to the characters in *Julie* he wrote: "Virtue itself is not a gift of nature: it requires will, it is a kind of heroism that overcomes obstacles."[26]

One can see how fortitude is a legislative quality more clearly when its resemblance to Machiavelli's *virtù* is noted – a connection Rousseau himself makes in the *Contrat social*.[27] Fortitude, like *virtù*, allows the hero to act decisively when necessary to overcome *fortuna*. More importantly, these actions cannot be represented as "just" or "unjust." Like Hobbes, Rousseau argued that justice only came to be with the generation of law.[28] Thus, only the outcomes of actions are of concern to the *législateur* as it is only when these are successful – with the creation of laws – that conceptions of justice emerge. This is the irony of heroism for Rousseau (and the point of infamy in Machiavelli): "Mais dirons-nous que la justice soit cette base, tandis que c'est sur l'injustice même que la plupart des grands hommes ont fondé le monument de leur gloire?"[29] Legislation is a pragmatic art:

> [O]n ne les rend heureux qu'en les contraignant à l'être, & il faut leur faire éprouver le bonheur pour le leur faire aimer: voilà l'occupation et les talents du Héros; c'est souvent la force à la main qu'il se met en état de recevoir les bénédictions des hommes qu'il contraint d'abord à porter le joug des lois pour les soumettre enfin à l'autorité de la raison.[30]

It is this ability to force people to be happy before they know what true happiness is which leads

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25  Rousseau, *Heroes*, OC ii, p. 1262. Neither the hero, nor the legislator, are divine as others have argued (A. Rosenberg, 'Rousseau the Legislator', *Études sur le Contrat social / Studies on the Social Contract* Pensée libre 2 [1989]).

26  P. Stewart, 'Introduction', in J.-J. Rousseau, *Julie, or the New Heloise* (Hanover, New Hampsire, 1997), pp. ix–x.

27  Rousseau, *Contrat social*, OC iii, p. 384.

28  T. Hobbes, *Hobbes: Leviathan* (Cambridge, 1996) i. xiii. p. 90; Rousseau, *Geneva Manuscript*, OC iii, p. 328.

29  Rousseau, *Heroes,* OC ii, p. 1270.

30  Ibid., pp. 1263-1264.

Rousseau to argue: "L'Héroïsme est donc, de toutes les qualités de l'âme, celle dont il importe le plus aux peuples que ceux qui les gouvernent soient revêtus."[31] It is this, amongst other things, which legitimizes a *législateur* speaking for the gods – it is another trick available to the lawgiver; a method of encouraging the acceptance of social and moral rules.[32]

The necessity of this forceful method is further understood when Rousseau's writings on public morality are addressed in the "Geneva Manuscript" of the *Contrat social*.[33] It is there, spoken by the imagined voice of a would-be citizen, that two problems facing the *législateur* are highlighted. First, man naturally loves himself above others. That is to say, self-love is such that, if a man is given the choice between making himself miserable, or everyone else, he will choose everyone else. Inconveniencing others in exercising one's own natural liberty is not enough in itself to encourage one to refrain, let alone give up their natural freedom. Thus the "greater good" on its own is not an argument. This leads to the second problem: even if a citizen were to accept that it is best that all men live according to a set of shared moral rules, what is there to assure him that he is not the only one who observes these laws in turn? The problem is that man is not only naturally inclined to act selfishly, but that in many cases it is rational to do so. It is here that we, perhaps, find the genesis of Rousseau's scepticism of reason in relation to politics, and why he believed it was necessary to have a forceful *législateur.*

There are at least four identifiable parts to Rousseau's critique of reason: First, reason has historically been politically divisive. Enlightenment requires knowledge, and knowledge requires leisure – one man's leisure requires another man to do twice his share of work and the loss of universal self-sufficiency.[34] Second, reason can overcome naturally good and social passions,

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[31]   Ibid., p. 1264.
[32]   In contrast to Warburton's *Divine Legation of Moses* (1737), Rousseau argued politics and religion are not aimed towards a common end, but instead religion strengthens political foundations.
[33]   Rousseau, *Geneva Manuscript,* OC iii, pp. 284-285.
[34]   Rousseau, *First Discourse,* OC iii, pp. 19-20.

such as pity. For example, it is reason that allows someone, upon hearing another person being attacked outside of their window, to say to themself: "there but for the grace of God go I," and ignore the plight of this fellow human.[35] Third, and following Montaigne, Rousseau argued that although reason is treated as a universal it is no such thing: "Quand un homme ne peut croire ce qu'il trouve absurde, ce n'est pas sa faute, c'est celle de sa raison," and he continues in a footnote: "la raison humaine n'a pas de mesure commune bien déterminée, & qu'il est injuste à tout homme de donner la sienne pour règle à celle des autres."[36] This leads to the fourth problem: if reason is not universal, it can lead to conflict. As he wrote in his reply to the former King of Poland Stanisław Leszczyński's observations on the *Second Discourse*, whenever reason is an issue of contention between men, they are returned to their natural equality and the freedoms given to all men by the right of nature.[37] This makes it incredibly difficult for wisdom and reason to lead to consensus over issues – especially those of great importance.

In many ways this was an epistemological problem for Rousseau: "Les sages qui veulent parler au vulgaire leur langage au lieu du sien n'en sauraient être entendus."[38] It is a recurring topic in Rousseau's work: those who would gain from arguments for the rationality and utility of moral laws (i.e., Grotius' natural law – or what Rousseau calls "*la loi de raison*") need to have already achieved a level of rationality which would allow them to understand the proofs, and if they already have this level of rationality, surely it would have led them to the same conclusions on their own.[39] If they are capable of this level of rationality, and have already failed to embrace

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[35]   Rousseau, *Second Discourse*, OC iii, p. 156.
[36]   Rousseau, *d'Alembert*, OC v, p. 11. Rousseau's scepticism is indebted to Montaigne (Rousseau, *Heroes*, OC ii, p. 1271), who argued that the main problem facing the emergence of rational governance was the interaction between custom and reason, and arguing that any attempt to modify an established population's laws is an attack their conception of themselves (M. de Montaigne, *Les essais de Michel seigneur de Montaigne* [Paris, 1652], p. 66). This is why, he argued, many ancient lawgivers went to extremes to enshrine their laws. He did, however, recognize one method of influencing politics, and like Machiavelli, it was amoral. In "De l'utile et de l'honneste" he accepted that honour and expediency are not always compatible (Ibid., p. 584).
[37]   Rousseau, *Observations*, OC iii, p. 35.
[38]   Rousseau, *Contrat social*, OC iii, p. 383.
[39]   This is why the legislator must be an outsider.

these conclusions, it is likely that their reason has already been corrupted by their own (natural) selfishness. That is to say, someone can tell a people that they will be happier once living in accordance with a set of universal moral rules, but reason tells that same people that this is unlikely to happen, or worse, that they will be even happier if everyone but them obeys these rules. This is what led Rousseau to write: "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, qui puisse entraîner sans violence et persuader sans convaincre."[40] He must instead find a non-rational method of idea transmission, or as it is described in the *Contrat social*, force men to be free.[41] To return to the imaginary interlocutor in the Geneva manuscript: "Il ne s'agit pas de m'apprendre ce que c'est que justice; il s'agit de me montrer quel intérêt j'ai d'être juste."[42]

When reflecting on this problem one may be reminded of Glaucon's questioning of Socrates at the beginning of Book II of the *Republic*: "Socrates, is it your desire to seem to have persuaded us or really to persuade us that it is without exception better to be just than unjust?"[43] It is this, persuasion rather than convincing ("persuader sans convaincre"), that is the key to the *législateur*'s task. It is not an issue of simply getting people to consent to the proposed moral laws and political system – it is a matter of giving them the strength to consent and to achieve the same self-mastery and freedom that the *législateur* demonstrates. Just as Socrates failed in rationally persuading his interlocutors in Book I of *The Republic*, and was therefore forced to show them why justice is better than injustice by creating an imagined city, Rousseau argues that

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40    Rousseau, *Contrat social*, OC iii, p. 383.
41    Rousseau, *Contrat social*, OC iii, p. 364.
42    Rousseau, *Geneva Manuscript*, OC iii, p. 286.
43    Plato, *Republic,* 357a-b (ed. Lee, p. 102). The translation here is not always the same – one can find both "persuade" and "convince" in English. The original Greek is πείθω, which can mean "make to believe," "convince," "persuade," and "prevail." Rousseau, however, used a Latin translation – specifically, Marsilio Ficino's 1550 edition (we know this because his copy – with marginal notes – is held at the British Library). In this translation we find *persuadere*, which in the eighteenth century would more likely have been translated into French as *persuader*, rather than *convaincre* (which, one finds translated into Latin as *convincere* in an 1833 *Lexique Français-Latin*). Thus, it is consistent with Rousseau's own formulation of "persuader sans convaincre."

the *législateur* needs to demonstrate the truth of his position without recourse to reason; as Kelly puts it: "While the art of the 'true political theorist' may be philosophic, that of the legislator must also be, in Rousseau's terms, 'imitative.'" Truths must be wrapped in sensible and agreeable forms which can be easily grasped and accepted – "A blind multitude must be made to sense the things it cannot see, and these things must be made agreeable to win consent."[44] Again, as Rousseau wrote in *Émile*:

> Je sais que toutes ces vertus par imitation sont des vertus de singe, et que nulle bonne action n'est moralement bonne que quand on la fait comme telle, et non parce que d'autres la font. Mais, dans un âge où le cœur ne sent rien encore, il faut bien faire imiter aux enfants les actes dont on veut leur donner l'habitude, en attendant qu'ils les puissent faire par discernement et par amour du bien. L'homme est imitateur.[45]

In this light – especially when the word imitative has been used – it is useful to reflect on what Rousseau wrote about the theatre.

For Rousseau, creating raw sentiment in the imagination differs from using theatre to display moral acts with the hope of transmitting those good morals to an audience. The interpretation required by the spectator requires reason to make a judgment in regard to the imitation being watched – it needs to be interpreted and rationalized. If one recognizes vice on stage, and cheers for the virtuous protagonist, one can recognize morality – and may even congratulate themselves for it. However, there is no stipulation that recognition engenders practice – while one gains nothing from the deceitful ways of a character on stage, and thus has no vested interest, this is not true if one lives as such a character. What is more, these immoral acts could even offer lessons.[46] Although the theatre may have at one point been seen by Rousseau as a useful institution – he himself was both a successful playwright and regular attendee of the theatre – he came to argue that:

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[44] C. Kelly, '"To Persuade without Convincing": The Language of Rousseau's Legislator', *American Journal of Political Science* 31.2 (1987), p. 324.
[45] Rousseau, *Émile*, OC iv, pp. 339-240.
[46] See Rousseau's discussion on the fable "The Crow in the Fox" in *Émile* (OC iv, pp. 353-355).

> [L]e Théâtre, qui peut rien pour corriger les mœurs, beaucoup pour les altérer. En favorisant tous nos penchants, il donne un nouvel ascendant à ceux qui nous dominent; les continuelles émotions qu'on y ressent nous énervent, nous affaiblissent, nous rendent plus incapables de résister à nos passions; et le stérile intérêt qu'on prend à la vertu ne sert qu'a contenter notre amour propre, sans nous contraindre à la pratiquer.[47]

That is, examples of moral behaviour are unlikely to overcome one's own passions in the real world. Instead, Rousseau felt raw sentiment should, and could, be used; one must bypass reason or interpretation in the mind of the recipient.

This was a radical break with the political thought of the time. As Wisner has stated, "the language of lawmaking in the *ancien régime*" was different: "The Bourbon king commands (*ordonner*) and the law courts verify (*verifier*), Rousseau's legislator persuades (*persuader*), in order ultimately to restore political liberty through the revival of an ancient libertarian rhetorical tradition."[48] To understand how this could be accomplished one needs to turn to Rousseau's *Essai sur l'origine des langues*, where Rousseau tells his reader: "On ne commença pas par raisonner, mais par sentir."[49] Reason lacks power when it comes to moving the *cœur* and inflaming the passions, so if one does not want to enter a state where the equality of wisdom allows for the absolute dismissal of any argument – or worse, insincere acceptance – one must turn to a form of communication which relies on forming raw sentimentality within ones interlocutor through persuasion.[50] That is, the use of non-rational techniques and tools to induce behaviour in a people. Rousseau offers a number of descriptions of this being done, such as the experiential lessons offered to his pupil Émile*,* his description of melodic Italian music, and his theory of Southern languages.[51] In the *Contrat social*, however, the tool used for polity formation is religion.[52] It is in

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[47]    Rousseau, *d'Alembert*, OC v, pp. 52-53. Rousseau's thought on the theatre may not have changed – instead, Paris and Geneva were very different political landscapes.

[48]    D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 54.

[49]    Rousseau, *Langues*, OC v, p. 380.

[50]    Ibid., p. 377.

[51]    In each of these examples Rousseau also offers a negative, reason based, counter example: using reason to educate children, French music, and northern languages.

[52]    Rousseau, *Geneva Manuscript*, OC iii, p. 284; *Contrat social,* OC iii, pp. 383-384.

this way that moral weight can be added to the emerging legal and social rules which reason cannot afford. In this way non-rational encouragement of virtue can result in a people able to achieve political harmony amongst themselves. However, the task of the *législateur* is only one half of understanding Rousseau's theory of political foundations – the other half is the people themselves.

## The *Législateur*'s Place in Rousseau's Corporate Metaphor

Earlier this thesis used the ship-of-state metaphor to trace conceptions of political authority throughout history. It has also been noted that this well known trope was not Rousseau's metaphor of choice. Instead, to understand the relationship between the *législateur* and a given people in Rousseau's system one should start by examining his metaphor of the body-politic instead. This distinction is worth noting, as Martin notes one structural distinction: "one who sees the political unit as a 'body politic' may have a different procedure than he who regards it as 'the ship of state'; if the nation is a body and the monarch its head, then it follows if one cuts off the head the body will die; on a ship of state, however, mutiny against an incompetent captain is not only possible but necessary."[53] Metaphors can tell us much more than an initial reading may imagine, and in Rousseau's writings, one need not look far to be furnished with examples of his chosen metaphor:

> [C]oncevons le genre humain comme une personne morale ayant avec un sentiment d'existence qui lui donne l'individualité et la constitue une, un mobile universel qui fasse agir chaque partie pour une fin générale et relative au tout. Concevons que ce sentiment commun soit celui de l'humanité, et que la loi naturelle soit le principe actif de toute la machine. 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.[54]

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[53]   J. Martin, 'Metaphor amongst tropes', *Religious Studies* 17.01 (1981), p. 63.
[54]   Rousseau, *Geneva Manuscript*, OC iii, pp. 283-284; for more see: *First Discourse*, OC iii, p. 10; *Contract social*, OC iii, pp. 368; 372-373; 378; 424. Rousseau was not the only political theorist to develop this metaphor – Shklar referred to it as "the oldest and the most tradition-ridden of all Rousseau's metaphors" (J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* [Cambridge, 1985], p. 169).

Shklar wrote that this was Rousseau's most consistent metaphor: "Sometimes he mentioned it quite casually simply to refer to civil society. Occasionally, however, he went into full anatomical detail and then he had very specific purposes in mind."[55] Even when the body-politic is corrupted, the metaphor is of use, as one can see when Rousseau discusses the state of Poland.[56] The example above highlights Shklar's second case – the very nature of these metaphors unites a multiplicity into a singularity; political societies and individuals; aspects of his philosophical system and his literary characters. For example, Shklar notes:

> Rousseau spoke of 'the people' as if it were Émile. That, indeed, was only one of his personifications. The sovereign, the public happiness, the general will and the body politic are all personifying metaphors... Together they form the main subject of Rousseau's political thought.[57]

Just as Plato made the soul into a city so as to examine justice, Rousseau made the multiplicity a unity. By examining these more elaborate metaphors one can see the workings of the *législateur* and the people from a different perspective and move beyond the short description offered in the *Contrat social*.

Geoffrey Gershenson has examined this rhetorical technique, as found in the *Discours sur l'origine et les fondements de l'inégalité parmi les hommes*, and drawn out the "metaphorical comparison of the history of the species to an individual life."[58] In the study he identifies a narrative life-pattern which, when taken beyond the *Discourse*, is strikingly similar to the narratives in some of Rousseau's other texts (specifically the *Contrat social* and *Émile*).[59] In fact, the original draft of *Émile* offers an interesting starting point by dividing and titling the ages of Émile's life into the ages of nature, reason, force, and wisdom.[60] Although in the final draft

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[55]  J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge, 1985), p. 197.
[56]  Rousseau, *Pologne*, OC iii, pp. 953-954.
[57]  J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge, 1985), p. 165.
[58]  G. Gershenson, 'The Rise and Fall of Species-Life Rousseau's Critique of Liberalism', *European Journal of Political Theory* 5.3 (2006), p. 281.
[59]  Gershenson does not draw comparisons between these texts himself, instead writing@ "a close reading of the later texts must be left for elsewhere" (Ibid., p. 283).
[60]  Rousseau, *Favre*, OC iv, 60.

Rousseau had given up on these titles, and went on to divide the first part (the age of nature) into two books, one can take these two systems of division (one five parted and one titled) and recognize a life-pattern much like the one Gershenson later picked up on.

The first age is birth (or nature), and is located in the *Second Discourse*'s dedicatory, preface, and exordium. In these sections Rousseau introduces his text by raising the issue of one's birth-place and describing what he is offering his reader as a true history of the species in comparison to the philosophical failures which came before him – those who failed to turn their gaze far enough back to witness the real birth of society.[61] The same theme is raised at the beginning of *Émile*, and again in the *Contrat social* with its famous introductory words ("L'homme est né libre") and initial discussion on "Premières Sociétés" (which is literally initiated when the first child is born).[62]

The second stage is infancy or childhood[63] (and a continuation of nature) – a stage of humanity which Rousseau himself has been credited for inventing, a time in which "all young people have a right to a period of education and carefree happiness."[64] Before this point childhood was Dionysian: children were corrupt, self-serving, and in need of moral correction and training. However, with Rousseau one recognizes the emergence of the Apollonian image: innocent, untainted, and in need of protection – naturally good and without original sin.[65] This is also a stage in Rousseau's conjectural history found in Part I of the *Second Discourse*: "les Siècles s'écoulaient dans toute la grossièreté des premiers âges, l'espèce était déjà vieille, et l'homme restait toujours enfant."[66] Child-like innocence is seen in naiveté: "il ne soit effrayé par

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61    Rousseau, *Second Discourse*, OC iii, pp. 114; 132-133.
62    Rousseau, *Émile*, OC iv, p. 245; Rousseau, *Contrat social*, OC iii, pp. 351; 352; 360-362.
63    Gershenson and Duschinsky have labeled this era as "childhood," but as this thesis will show, infancy is a more accurate description.
64    R. Duschinsky, 'Augustine, Rousseau, and the Idea of Childhood', *The Heythrop Journal* 54.1 (2013), p. 77.
65    C. Jenks, *Thought as a System* (London, 1996), p. 79.
66    Rousseau, *Second Discourse*, OC iii, p. 160.

tous les nouveaux spectacles qui s'offrent à lui." Rousseau tells us that man at this stage is so completely void of prudence, reason, and experience, that he would sell his bed in the morning only to weep at its loss at night.[67] Even speech is beyond the capabilities of the savage man-child, who, while still being a metaphorical individual as the species-life, is only a mute schizophrenic at this point.[68] As Gildin – who also recognized a recurring structure between a number of Rousseau's texts – pointed out, this is the section discussing the natural freedoms which must be overcome before one can enter a political society.[69] It is the "primitive" stage of man – when "the human race attains its moral peak, or at any rate its peak as regards to goodness."[70]

The third stage is youth (and reason). As Rousseau writes in *Émile*: "C'est ici le second terme de la vie, et celui auquel proprement finit l'enfance; car les mots *infans* et *puer* ne sont pas synonymes. Le premier est compris dans l'autre, et signifie qui *ne peut parler.*"[71] With this stage, *logos* – both speech and reason – emerges, and with it the era of revolutions and man's eventual corruption;[72] it is the separation from (mother) nature and the beginning of the non-natural education of the species-life. Gildin argues that this stage "is a peak not of goodness but of happiness."[73] The "Geneva Manuscript" of the *Contrat social* highlights the importance of this stage:

> La jeunesse n'est pas l'enfance. Il est pour les nations comme pour les hommes un temps de

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[67]  Ibid., pp. 136; 144.
[68]  G. Gershenson, 'The Rise and Fall of Species-Life Rousseau's Critique of Liberalism', *European Journal of Political Theory* 5.3 (2006), p. 288; Rousseau, *Second Discourse*, OC iii, pp. 143-148.
[69]  H. Gildin, *Rousseau's Social Contract: The Design of the Argument* (Chicago, 1983), p. 9.
[70]  Ibid., p. 11. This is also the era of natural man which Voltaire mocked Rousseau for speaking so highly of, sarcastically writing that he was taken by the desire to walk on all fours after having read the *Second Discourse* (CC 317, vol. iii). Of course, beasts are not the only things which walk on four legs, and one may find a response to Voltaire in *Émile*: "On se plaint de l'état de l'enfance! [O]n ne voit pas que la race humaine eût péri, si l'homme n'eût commencé par être enfant" (OC iv, pp. 246-247). That is, it is not an ideal stage that Rousseau was describing, but a necessary one: "l'éducation commence avec la vie, en naissant l'enfant est déjà disciple, non du gouverneur, mais de la nature" (Ibid., p. 279). This is an important point for Rousseau: "Je le répète, l'éducation de l'homme commence à sa naissance; avant de parler, avant que d'entendre, il s'instruit déjà. L'expérience prévient les leçons" (Ibid., p. 281).
[71]  Rousseau, *Émile*, OC iv, p. 299; italics in the original.
[72]  Rousseau, *Second Discourse*, OC iii, pp. 167; 171.
[73]  H. Gildin, *Rousseau's Social Contract: The Design of the Argument* (Chicago, 1983), p. 11.

jeunesse, ou, si l'on veut, de maturité, qu'il faut attendre avant de les soumettre à des lois. Mais la maturité d'un peuple n'est pas toujours facile à connaître; et si on la prévient, l'ouvrage est manqué.[74]

This is also the moment of divergence between the failed species-life in the *Second Discourse* (that is, the history of Europe as Rousseau saw it) and the ideal histories of the species offered in *Émile* and the *Contrat social*.[75] The potentiality of failure stems from the weakness of both children and peoples at this stage – both need some form of rearing, and it is this rearer who decides their fate. In the latter case, bad laws imposed from the particular will of a lawgiver can reinforce this weakness, ensuring an artificial state of childhood and a lasting reliance on laws. However, Rousseau is clear that things do not have to turn out this way:

> Ces considérations sont importantes, & servent a résoudre toutes les contradictions du système social. Il y a deux sortes de dépendances: celle des choses, qui est de la nature; celle des hommes, qui est de la société. La dépendance des choses, n'ayant aucune moralité, ne nuit point à la liberté, et n'engendre point de vices: la dépendance des hommes étant désordonnée les engendre tous, & c'est par elle que le maître & l'esclave se dépravent mutuellement. S'il y a quelque moyen de remédier à ce mal dans la société, c'est de substituer la loi à l'homme, & d'armer les volontés générales d'une force réelle, supérieure à l'action de toute volonté particulière. Si les lois des nations pouvaient avoir, comme celles de la nature, une inflexibilité que jamais aucune force humaine ne put vaincre, la dépendance des hommes redeviendrait alors celle des choses; on réunirait dans la république tous les avantages de l'état naturel à ceux de l'état civil; on joindrait à la liberté qui maintient l'homme exempt de vices, la moralité qui l'élève a la vertu.[76]

As he wrote elsewhere: "C'est à cet âge aussi que commence, dans l'habile maître, la véritable fonction de l'observateur & du philosophe, qui sait l'art de sonder les cœurs en travaillant à les former."[77] The *Contrat social* has the *législateur*, Julie has Wolmar, and *Émile* has Rousseau the tutor – heroes capable of protecting their pupils from corruption. However, the *Second Discourse* is missing this ideal, and man's nature is corrupted because of it: "Like Émile at adolescence the people needs instruction and examples. Interest brings men together, but to become all that they might be as a people requires more."[78] Unfortunately, the people of the *Second Discourse* receive

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[74] Rousseau, *Contrat social*, OC iii, p. 1466.
[75] This was the stage Corsica was at, and Poland had moved beyond.
[76] Rousseau, *Émile*, OC iv, p. 311.
[77] Ibid., p. 511.
[78] J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge, 1985), p. 170.

not a father-figure but a deadbeat dad. Again, the "first lawgivers turn out to be not the virtuous father-figures of Rousseau's later texts, but, more problematically, the selfish rich."[79] It is from this one tragedy – the triumph of particular wills – that Rousseau deduces the rest of man's corruption in the *Second Discourse*.

Importantly, the timing of this intervention is imperative. Rousseau makes it clear a number of times in his writings that the people who the legislator can give laws to "must in principle be in a primitive state where the memory of individual freedom is still strong, where basic human virtues have not yet been supplanted by subservience."[80] Rousseau makes this point in a warning to would-be father-figures:

> Si vous faites qu'en passant dans un nouvel âge les jeunes gens ne prennent point en mépris celui qui l'a précédé; qu'en contractant de nouvelles habitudes ils n'abandonnent point les anciennes et qu'ils aiment toujours à faire ce qui est bien, sans égard au temps où ils ont commencé, alors seulement vous aurez sauvé votre ouvrage, et vous serez sûrs d'eux jusqu'à la fin de leurs jours; car la révolution la plus à craindre est celle de l'âge sur lequel vous veillez maintenant.[81]

It is not until this point that a guided education can begin. The evils of childhood are easily remediable in comparison to those made after this point. Just as Solon made lawgiving difficult for Theseus with his initial founding, the corrupted father-figures in the *Second Discourse* gave constitutions to eighteenth century Europe.

This leads to the fourth stage of the species-life: society and maturity (or the age of force). This is the section of the *Second Discourse* and *Émile* in which Rousseau discusses the rights of kings, natural freedom, social contracts, and civil religion – topics which could not be discussed, or even understood fully by the metaphorical individual, before this moment. This age brings about the complete abandonment of the mother (nature) and prepares for the absence of

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[79]  G. Gershenson, 'The Rise and Fall of Species-Life Rousseau's Critique of Liberalism', *European Journal of Political Theory* 5.3 (2006), p. 298.

[80]  D.A. Wisner, *The Cult of the Legislator in France 1750-1830: A Study in the Political Theology of the French Enlightenment.* (Oxford, 1997), p. 54.

[81]  Rousseau, *Émile*, OC iv, p. 800. Note the similarity of the language (i.e. *révolution*) to the *Second Discourse*.

the father-figure who, having prepared a person or people, exits.[82] Of course, in the real world the father does not leave, and in drawing comparisons to the family as the basis for political societies, Rousseau, like Locke, accepts that fathers remain superior. However, once children have achieved maturity the father remains superior to the family, not because of some natural superiority, but instead due to the children accepting the father-figure's position.[83] This is the point of legitimization – it is here that the actions of the father or legislator are retroactively approved (and thus completed). Again, Rousseau makes this point clear while using the corporate metaphor in the *Contrat social*: "La famille est donc, si l'on veut, le premier modèle des sociétés politiques: le chef est l'image du père, le peuple est l'image des enfants; et tous, étant nés égaux et libres, n'aliènent leur liberté que pour leur utilité."[84] However, in the *Second Discourse*, the failure of the mature species-life was guaranteed as one sees in the final stage: old age.

Gershenson argues that the *Second Discourse* diverges at this age – while other texts "depict courageous resistance to the onset of invertible decay, the concluding pages of the *Second Discourse* imply something closer to the opposite. Corruption accelerates, and the species does nothing to stop it."[85] Gershenson also states that the "*Second Discourse* does not explicitly liken the present age to an old age, but one can infer the metaphor."[86] This seems forced, however – especially when one recognizes that Rousseau did not think of his own time as *l'âge d'or*, but diseased. Again, this divergence is caused by the lack of an ideal father-figure, something which had made corruption and sickness inevitable. Just as Machiavelli argued that some cities have such a poor foundation they can never be made good, so to was the case in the *Second Discourse*.

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[82]   G. Gershenson, 'The Rise and Fall of Species-Life Rousseau's Critique of Liberalism', *European Journal of Political Theory* 5.3 (2006), p. 293.
[83]   H. Gildin, *Rousseau's Social Contract: The Design of the Argument* (Chicago, 1983), p. 17.
[84]   Rousseau, *Contrat social*, OC iii, p. 352.
[85]   G. Gershenson, 'The Rise and Fall of Species-Life Rousseau's Critique of Liberalism', *European Journal of Political Theory* 5.3 (2006), pp. 294–295.
[86]   Ibid., pp. 283–284.

However, in Rousseau's ideal examples – the *Contrat social* and *Émile* – this is the age of wisdom, a time when the body politic begins to reflect the father-figure – when imitation is complete.

Although interesting in itself, this chronological narrative also allows one to understand the relationship between the people and the *législateur* more precisely within Rousseau's system. That is to say, there is more to Rousseau's use of the body-politic metaphor than a stylistic choice; recognizing the connection between individuals and societies is necessary to understand his political thought and the role of the *législateur*: "Il faut étudier la société par les hommes, et les hommes par la société: ceux qui voudront traiter séparément la politique et la morale n'entendront jamais rien à aucune des deux."[87] In addition to groups of individuals having a metaphorical unity, Rousseau believed that these collective multitudes would also have a sentiment of common existence and a universal motivation which could allow for a corporate body that was metaphysically, in addition to metaphorically, united. Let us turn to this topic.

## The *Législateur* and the *Peuple*

If one can see the role of the *législateur* in Rousseau's metaphorical argument, it is in the metaphysical argument that one can see the goal, as well as an answer to one of the prime problems posed by Rousseau's *législateur*: how does one encourage individuals to act morally when they cannot recognize that it is in their interest to do so. As has already been demonstrated, according to Rousseau: "[t]he principles of political right are only binding in character if one can rely on widespread compliance with them by one's fellow citizens."[88] To address this issue one must once again look at its causes, and while it has been addressed from the perspective of reason

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[87]  Rousseau, *Émile*, OC iv, p. 524.
[88]  H. Gildin, *Rousseau's Social Contract: The Design of the Argument* (Chicago, 1983), p. 5.

above, with the narrative of progress it is possible to go one step further in recognizing why reason fails to unite society.

While individuals in nature, during the era of "birth" and "infancy," need to worry only about themselves, in society this self-interest becomes counterproductive. As Rousseau wrote:

> Tant que sa sensibilité reste bornée à son individu il n'y a rien de moral dans ses actions: ce n'est que quand elle commence à s'étendre hors de lui qu'il prend d'abord les sentiments et ensuite les notions du bien et du mal qui le constituent véritablement homme et partie intégrante de son espèce.[89]

This is the problem of *amour-propre*. In nature self-love (*amour-de-soi*) is satisfied by fulfilling one's natural needs and simply maintaining one's existence – it is a good thing in itself with no moral component (again, justice does not exist before laws). *Amour-propre*, however, is that which *amour-de-soi* mutates into when man enters society. Instead of requiring the simple needs of nature to be satisfied, *amour-propre* worries itself with comparisons between people. While *amour-de-soi* is not bothered by another human's goods or actions so long as they have their own goods and are able to survive, *amour-propre* begins to question why someone else should have more of something, or not show deference. Thus, while one is concerned with individual and inward-facing needs, the other faces outward and adds social needs and desires. It places oneself above all others in an order of preference, and sees insult when others show the same preference for themselves.

Again, natural laws are only awakened in man after he exits the state of nature. Yet without a proper education to encourage the realization of these laws, passions continue to control individuals. This results, in the best case scenario, with man ignoring natural law's existence and continuing to chase personal desires, or in a worst case scenario, with one using these new found faculties for personal gain (i.e. the selfish rich in the *Second Discourse*). This is why Rousseau saw little hope for the truly good political system emerging from a people on their

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[89]    Rousseau, *Émile*, OC iv, p. 501.

own. Instead, notions of natural law must be implemented from the outside before reason takes

hold, and in the *Contrat social* Rousseau argues that one method of adding this moral compulsion

is through religion.[90] This method, however, is not a universal. It was just one tool which could

be used to achieve the true goal: to cause one to think about others in society in the same way one

thinks of oneself in nature; to impose a metaphysical shift that can overcome *amour-propre*.

*Amour-propre*, as a natural but uncivil sentiment, must be replaced with a socially moral

one. This is Rousseau's – and the *législateur*'s – goal: "C'est alors seulement que, la voix du

devoir succédant à l'impulsion physique et le droit à l'appétit, l'homme, qui jusque-là n'avait

regardé que lui-même, se voit forcé d'agir sur d'autres principes, et de consulter sa raison avant

d'écouter, ses penchants."[91] The aim is to have the social duty one has to the body-politic override

the natural duty one has to their own body, while at the same time the body-politics's duty must

be made general and therefore, look after every individual equally (thus satisfying the natural

needs they forgo). A social individual's self-love can then be satisfied by making social justice

not a concept but an instinct in man, allowing moral civility to become a new natural instinct that

overcomes particular interest. This is the metaphysical shift in man. As Rousseau wrote: "Nous

entrons enfin dans l'ordre moral: nous venons de faire un second pas d'homme."[92]

This is the only way, according to Rousseau, that the problems of rational choice can be

overcome:

> Le précepte même d'agir avec autrui comme nous voulons qu'on agisse avec nous n'a de vrai
> fondement que la conscience et le sentiment; car où est la raison précise d'agir, étant moi, comme
> si j'étais un autre, surtout quand je suis moralement sûr de ne jamais me trouver dans le même cas
> il et qui me répondra qu'en suivant bien fidèlement cette maxime, j'obtiendrai qu'on la suive de
> même avec moi? Le méchant tire avantage de la probité du juste et de sa propre injustice; il est
> bien aise que tout le monde soit juste, excepté lui. Cet accord-là, quoi qu'on en dise, n'est pas fort
> avantageux aux gens de bien. Mais quand la force d'une âme expansive m'identifie avec mon
> semblable, et que je me sens pour ainsi dire en lui, c'est pour ne pas souffrir que je ne veux pas
> qu'il souffre; je m'intéresse à lui pour l'amour de moi, et la raison du précepte est dans la nature

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[90]  Rousseau, *Geneva Manuscript*, OC iii, pp. 285-286.
[91]  Rousseau, *Contrat social*, OC iii, p. 364.
[92]  Rousseau, *Émile*, OC iv, p. 522.

elle-même qui m'inspire le désir de mon bien-être en quelque lieu que je me sente exister. D'où je conclus qu'il n'est pas vrai que les préceptes de la loi naturelle soient fondés sur la raison seule, ils ont une base plus solide et plus sûre. L'amour des hommes dérivé de l'amour de soi est le principe de la justice humaine.[93]

It is in this way that one makes a singular whole out of the multiplicity, and thus creates a shared general will – a singular and universal will of the body-politic which people could, if *willing* (or if persuaded by the *législateur*), place over their particular wills.[94] Without accomplishing this citizens find themselves conflicted and in conflict – they are part of a society which they (should) have an interest in, but they retain particular desires which are at odds with the greater good. Therefore man must have his natural instincts – those which become harmful once they have left nature – killed; only in this way can this mixed morality be corrected. Again, in this way the *Contrat social* can metaphysically in addition to metaphorically create a social individual with a common identity as part of a collective body.[95] This metaphysical unity relieves the problems of a divided individual by recalibrating what an individual is; there would no longer be a citizen and an individual, "but an undivided self […] being tormented by neither *amour-propre* nor oppression, [he] finds that his duty is also his inclination."[96] As Rousseau explains:

> Étendons l'amour-propre sur les autres êtres, nous le transformerons en vertu, et il n'y a point de cœur d'homme dans lequel cette vertu n'ait sa racine. Moins l'objet de nos soins tient immédiatement à nous-mêmes, moins l'illusion de l'intérêt particulier est à craindre, plus on généralise cet intérêt, plus il devient équitable; et l'amour du genre humain n'est autre chose en nous que l'amour de la justice.[97]

And this individual and public sentiment would be a recreation of natural man's sentiment:

> 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 absolue pour lui en donner une relative, et transporter le moi ans l'unité commune; en sorte que chaque particulier ne se croie plus un, mais partie de l'unité, et ne soit plus sensible que dans le tout.[98]

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[93]  Rousseau, *Émile*, OC iv, p. 523.
[94]  Rousseau, *Contrat social*, OC iii, p. 381.
[95]  Rousseau, *Contrat social*, OC iii, p. 427.
[96]  J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge, 1985), p. 182.
[97]  Rousseau, *Émile*, OC iv, p. 547.
[98]  Ibid., p. 249.

In this way, man's reliance on others in society can be used to make society both stronger and legitimate; an intra-species appreciation could be instilled through awareness of a shared weaknesses which could encourage people to become attached to one another.

This psychic unity, however, needs to be instilled by an outside force: "a people must be given a character by the Legislator. It must be moulded for strength and survival."[99] A people need to be encouraged to take on the correct particular political nature for their own natural condition – someone needs to "make men what they ought to be."[100] Again, Rousseau's proposed method of doing this is to use sentiment to encourage morality; one must create personal realizations within the population that particular actions are good and necessary for their own sake – this is also the method embraced by the likes of Numa, Lycurgus, and Moses – legislators who communicated and convinced the multitude *sans* force and reasoning. And again, the actual tool used in the *Contrat social* is religion: "Que répondre de solide [...] si l'on ne veut amener la religion à l'aide de la morale, et faire intervenir immédiatement la volonté de Dieu pour lier la société des hommes?"[101] Religion is clearly a method which can be, and has been, used in polity formation. However, the particulars involved in achieving these ends – the tactics and methods Rousseau imagined were available to manipulate *amour-propre* correctly – are only tacitly addressed in the *Contrat social*. One needs to turn to *Émile* to find a more thorough description.

## The *Législateur* as Rousseau

Having examined Rousseau's description of the legislator and its role in his political works, the actual actions and techniques utilized need to be examined. One is able to decipher that the end goal of legislating for a social group is to, without making recourse to rational arguments, create

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[99] J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge, 1985), p. 174.

[100] P. Riley, 'Rousseau's General Will', in P. Riley (ed.), *Cambridge Companion to Rousseau* (Cambridge, 2001), p. 126.

[101] Rousseau, *Geneva Manuscript*, OC iii, p. 285; Rousseau, *Contrat social*, OC iii, p. 383-384.

political harmony through the instilment of a mutual identification as a people, and to encourage them to continue to act virtuously in regard to each other at all times. This is where one of the main problems facing the legislator can be found: how does one achieve these ends without making rational arguments? Although civil religion is mentioned in the *Contrat social*, Rousseau is noticeably mute when it comes to detailing how this is achieved; he says very little as to what this infamous philosophical character actually does. However, one of the key sources available on this topic is in fact not one of his politic writings at all. Instead, one needs to look to Rousseau himself – that is, the character Rousseau that is drawn out in his nominal treatise on education, *Émile*. However, to make this argument one need first explain why *Émile* can be viewed as a companion piece to the *Contrat social*, by highlighting how a number of the arguments which are less-than-ideally rationally argued in the *Contrat social* are re-explored through a different genre, and showing that *Émile* is a fable more akin to the tales or morality offered by Plutarch than an actual treatise on education. A brief examination of Rousseau himself is then offered, highlighting why one may draw this connection between him and the *législateur*. This section concludes with a comparison between Rousseau, as the character in Émile, and the *législateur*, as described in the *Contrat social*, highlighting areas which may be used to come to understand the *législateur*'s task more fully.

## On *Émile* and its Relationship to the *Contrat social*

*Émile* is a fable disguised as a philosophical treatise on education. Rousseau himself claims it is the history of peoples who are thriving; a history which he complained did not exist.[102] This history is necessary, he explains, because: "L'histoire en général est défectueuse, en ce qu'elle ne tient registre que de faits sensibles & marqués, qu'on peut fixer par des noms, des lieux, des dates; mais les causes lentes & progressives de ces faits, lesquelles ne peuvent s'assigner de

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[102]    Rousseau, *Émile*, OC iv, p. 526.

même, restent toujours inconnues." *Émile*, therefore, offers the facts of man, nature, and of the natural life process. It is an imitative history offering moral truth whereas others "n'expose que l'homme public qui s'est arrangé pour être vu: elle ne le suit point dans sa maison, dans son cabinet, dans sa famille, au milieu de ses amis; elle ne le peint que quand il représente: c'est bien plus son habit que sa personne qu'elle peint."[103] While a standard history fails to demonstrate the great soul of the *législateur*, and instead only the public acts and facts of legislation, *Émile* is a history which depicts the "true" nature of the subject by focusing on the details of nature and humanity rather than battles and political intrigue.

However, in making this claim, one is also stating that *Émile* is a lie of sorts (it is, after all, subtitled "ou de l'éducation"). This, however, is a perfectly acceptable position to hold – firstly, because Rousseau himself invites a questioning of the work. In a 1764 letter to Philibert Cramer he wrote: "Vous dites très bien qu'il est impossible de faire un Émile. Mais je ne puis croire que vous preniez le Livre qui porte ce nom pour un vrai traitté d'Education. C'est un ouvrage assez philosophique Sur ce principe avancé par l'Auteur dans d'autres ecrits que l'homme est naturellement bon."[104] Secondly, Rousseau, in his *Reveries*, admits to creating lies and fables in order to demonstrate truths.[105] It was a technique he took from his literary hero Plutarch: "il est si heureux dans le choix de ses traits, que souvent un mot, un sourire, un geste lui suffit pour caractériser son héros." He likens this skill and task to painting a portrait, and in fact calls it the true art of painting – subtle details, which although not historically factual, demonstrate truth and humanity, such as Hannibal telling jokes before battle, Alexander swallowing medicine without

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[103]    Ibid., p. 530.
[104]    CC 3564, vol. xxi. He explains that his goal was to dismiss the argument that men are naturally evil, and to do this it was necessary to write a history of the human heart and identify the origin of vices. He argues that if one wants to "boucher" vices they must first begin by finding them, a claim reminiscent of Rousseau's warning to would-be-legislators in the *Contrat social* that they must, like an architect, know the ground they plan to build upon (Rousseau, *Contrat social*, OC iii, p. 385).
[105]    Rousseau, *Rêveries*, OC i, p. 1033.

complaint, and Philopoemen chopping wood in the kitchen of his host.[106] This is also the method Rousseau admitted to using in *Julie*, arguing that it is irrelevant whether his epistolary novel is fiction. The novels truths are found with one's heart; it is with the *coeur* that one reads *Julie*, not the mind.[107] It is in this way that the "true" facts of humanity were to be glimpsed, and, as Rousseau demands of his student, in this way one is able to guide another person, not through rational argument, but by guiding the heart.[108] The upshot of this method, with *Émile* in particular, is that one should not expect Rousseau to produce 'reasonings' for his reader, just as Émile's tutor would not do for his student (they are, after all, the same thing). There is no explicit moral or formulaic system stated for us at the end of *Émile*; instead, he argues: "Ce qui me rend plus affirmatif, et, je crois, plus excusable de l'être, c'est qu'au lieu de me livrer à l'esprit de système, je donne le moins qu'il est possible au raisonnement et ne me fie qu'à l'observation."[109] Just as he gives Émile a copy of Fénelon's *Telemachus* to educate his student – as Fénelon did for his own – Rousseau gives us a tale of a great man reminiscent of Plutarch's ancient heroes. It is in witnessing these characters that one is able to come to understand the legislator and the art of legislating in more detail.

In some ways this argument is made most apparent when one looks at Émile's political education in book five. This section appears strikingly familiar to any reader of the *Contrat social*[110] – it is, in fact, almost identical in content and structure with the exception of two key aspects: he left out the sections on the legislator and civil religion.[111] On page 413 one can see

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[106] Rousseau*, Émile*, OC iv, p. 531.

[107] Rousseau, *Julie*, OC ii, p. 11. This is not a new way of reading Rousseau. In 1896 John Lord wrote: "Rousseau was a disguised seducer, a poisoner of the moral sentiments, a foe to what is most sacred; and he was the more dangerous from his irresistible eloquence. His sophistries in regard to political and social rights may be met by reason, but not his attacks on the heart, with his imaginary sorrows and joys, his painting of raptures which can never be found" (A.S.T. John Lord, *Beacon Lights of History* (New York, 1896), pp. 57–58).

[108] Rousseau, *Émile*, OC iv, p. 532.

[109] Ibid., p. 550.

[110] Rousseau himself admits that much of this section was taken from the *Contrat social* (Ibid., p. 842).

[111] This omission is recognized by Bloom (J.-J. Rousseau, *Emile: or, On education* [New York, 1979], p. 494) and Gildin as well (H. Gildin, *Rousseau's Social Contract: The Design of the Argument* [Chicago, 1983], p. 2).

Rousseau skip from the discussion entitled "De La Loi" in the *Contrat social* (Book II, chapter six) to a discussion on the appropriate size of cities (the subject of chapter nine).[112] That is, he skips chapter seven ("Du Législateur") and eight ("Du Peuple" – a discussion on who the appropriate people to be given laws are). However, appearances can be deceiving and it could be argued that these important sections, rather than being absent, are given more attention than any of the others in *Émile*; they are embodied in the characters of Rousseau and Émile. That is, the rational argument for a *législateur* is substituted with a personification of this specific aspect of his political philosophy.

To understand why this would be done, it first must be remembered how baffling the *législateur* was (and is) as a concept. Although an essential aspect of Rousseau's argument in the *Contrat social*, it is given barely four pages – it is a character who is described as having no relation to his peoples' nature, yet is able to know it thoroughly; someone who uses neither force nor reason to create moral actions in others; a character who, without violence, is able encourage right actions; someone who is able to persuade without convincing.[113] While these arguments and claims are certainly not un-Rousseauvian in nature, they differ from many of the other propositions in the *Contrat social*, a book which at times goes to extremes to logically (even mathematically) demonstrate proofs.[114] One conclusion which can be drawn from this seeming incongruence (that is, between the arguments for the *législateur* and other concepts) is that Rousseau was at a loss when it came to rationally demonstrating the need for, and legitimacy of, the *législateur* – something which should seem even more striking coming from a man who conflated popular government and legitimate to mean the same thing.[115] However, it should also

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[112]  The paragraph on laws is directly followed by a discussion on populations and size (Rousseau, *Émile*, OC iv, p. 843).

[113]  Rousseau, *Contrat social*, OC iii, p. 381; 383-384.

[114]  Ibid., p. 396-398.

[115]  Rousseau, *Économie politique*, OC iii, pp. 247; 261.

be noted that even if the *législateur* could be addressed rationally with ease, Rousseau would still remain sceptical of doing so; as has been shown, "Rousseau denies that a rational calculation can inspire a whole people to comply with justice."[116] Instead, if he did have a propositional philosophy about the frailty of logic and reason in the face of legislation and the transmission of morality, a treatise using this very system of philosophical reasoning (which would require a critique of exactly this philosophical reasoning) was unlikely to be an ideal (or at the very least, the only) format to disseminate it. In fact, the epigraph of the *Contrat social* itself can be read as a critique of the possibility of the political project being proposed.

On the title page of the book containing his presumed political ideals one finds a quote from Virgil's *Aeneid*: "*Fœderis æquas Dicamus leges.*" The quote itself comes from Latinus addressing Aeneas and his Trojan army after having defeated them. He tells the Trojans: "Let us declare the fair laws of the compact" and offers them, rather than continued war and aggression, a portion of his land to call their own and the opportunity to enter into a political union. This statement may at first seem entirely fitting as an epigraph for Rousseau's own treatise on "fair laws" and the social "compact." However, in *Aeneid*, the Trojans reject the offer. A reasoned argument has little chance of overcoming passions, and perhaps Rousseau expected a similar response from his own audience – an expectation which seems to ring true; as Shklar pointed out: "Rousseau realized with some bitterness, few readers were able to understand the *Contrat social*. Its elusiveness has become notorious."[117]

Rousseau-the-tutor, then, is perhaps a character which, born out of "untruthful talk," represents "moral truths." *Émile* is a metaphor and parable offering lessons to those who would want to encourage morality in society. The task of Rousseau-the-tutor and the *législateur* are

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[116]  C. Kelly, '"To Persuade without Convincing": The Language of Rousseau's Legislator', *American Journal of Political Science* 31.2 (1987), p. 321.
[117]  J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge, 1985), p. 165.

similar in this way – that is, perhaps Rousseau himself is attempting to "persuade" his audience without "convincing" them. He may have taken recourse to engaging with his reader with sentiments to create a sense of the "true," a truth which can only be discovered if one is able or willing to "feel" them – like Rousseau argued Plutarch was able to do with his characters. That is, he may have been using some other form of idea-transmission, one that valued force over clarity.[118] However, this level of abstraction must be taken one step further: Rousseau-the-tutor, like Raphael in Thomas More's *Utopia*, is on one hand a legislator without a people, and on the other hand, a representation of the author and written with particular ends in mind.

More used his text to bemoan the problems facing contemporary political advisors as well as to veil support for particular political programs (for example, religious toleration). Rousseau, who sees no hope of, or perhaps has no interest in, finding a people to legislate for, and is sceptical of reforms, is instead offering strictly theoretical arguments. He uses the tutor as an abstract example of legislating both in the actions found in the book, as well as in the ends he had hoped to bring about in the reader. That is to say, what is of interest to us is found not only in what these characters know (of Utopia, in the case of Raphael, and how to educate, in the case of Rousseau-the-tutor), but also in the authors' desired ends (to influence contemporary politics in the case of More, and to encourage an understanding of morality through a novel method of idea transmission in the case of Rousseau-the-author). Therefore, the character teaching Émile also acts as, and perhaps embodies, Rousseau-the-author's own understanding of the task he has as a teacher for the reader of his book. Thus, the distinction between Rousseau-the-tutor and Rousseau-the-author begins to blur.

Again, in *Émile* Rousseau often points to the power of experience (imagined or real) as a method of forming his student. That is, persuasion rather than education as a non-rational

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[118]   Rousseau, *Langues*, OC v, p. 392.

technique to induce behaviour in a people which is deemed appropriate (by a tutor or *législateur*).

For example, when it comes to teaching a child about the dangers every human faces in daily life,

Rousseau wrote:

> Surtout n'allez pas lui dire tout cela froidement comme son catéchisme; qu'il voie, qu'il sente les calamités humaines: ébranlez, effrayez son imagination des périls dont tout homme est sans cesse environné; qu'il voie autour de lui tous ces abîmes, & qu'à vous les entendre décrire, il se presse contre vous de peur d'y tomber.[119]

The point being, if Rousseau thought it was possible to use imagination to create emotions

through identification (with pity for example), and this method was ideal for his imagined

student, would it not also be available to Rousseau-the-author.

## The Tutor, the *Législateur*, and Rousseau

To begin explaining why one may be tempted to see Rousseau as an example of an ideal

*législateur*, it is worth recalling what was written in the tales of ancient lawgivers: men, often of

noble families, who led extraordinary lives as children and young men, often growing up without

their parents and leaving home at a young age. Well traveled and educated in and by foreign

cultures, these would-be heroes are often invited, solely based upon reputation, to give laws to

foreign cities in periods of distress. They would use their great soul and a number of recurring

techniques (education, ceremonies, religion, games, art) to create the correct institutions for the

people they were presented with. As Rousseau wrote about Lycurgus:

> Lycurgue entreprit d'instituer un peuple déjà dégradé par la servitude et par les vices qui en sont l'effet. Il lui imposa un joug de fer, tel qu'aucun autre peuple n'en porta jamais un semblable; mais il l'attacha, l'identifia pour ainsi dire à ce joug, en l'occupant toujours. Il lui montra sans cesse la patrie dans ses lois, dans ses jeux, dans sa maison, dans ses amours, dans ses festins. Il ne lui laissa pas un instant de relâche pour être à lui seul; et de cette continuelle contrainte, anoblie par son objet, naquit en lui cet ardent amour de la patrie qui fut toujours la plus forte ou plutôt l'unique passion des Spartiates, et qui en fit des êtres au-dessus de l'humanité.[120]

Similarly, the *législateur* in the *Contrat social* is an outsider, independent yet able to recognize

the nature of a people who he is not a part of, and disconnected from the success or failure of the

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[119]   Rousseau, *Émile*, OC iv, p. 508.
[120]   Rousseau, *Pologne*, OC iii, p. 957.

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laws he proposes.[121] And then, Rousseau himself: born in 1712 into Geneva's upper-class, Rousseau spent only a short time amongst the city's elite; it seems that the loss of his mother only two days after his birth, and the combination of the financial ineptitude and possible politicization of his father, resulted in a change of fortunes.[122] At the age of five, like Socrates in *The Republic*, Rousseau descended from the fashionable hills of Geneva to live amongst the politically agitated artisans of the Saint Gervais district. His education at this point was formed by the works of Plutarch, Grotius, and Ovid, and the spiritual guidance offered by the reformed church. Like the ancient lawgivers, Rousseau was abandoned at a young age (ten), after which he was sent to live with a pastor outside Geneva. When he turned thirteen he was made an engraver's apprentice, which lasted three years before the abuse from his master became too much and he fled Geneva. He spent the next ten years travelling and taking on whatever work he could find (being employed as a servant, secretary, music instructor, tutor, and ambassadorial aid). By the time he was thirty he had lived in Piedmont, Chambéry, Montpellier, Lyon, Paris, and Venice – travelling for the most part, like Theseus, on foot. His austere life and writings won him a reputation worthy of the ancients: "So much so that certain court circles recommended that he should be deported as a bad example. Detractors called him Diogenes; admirers, Socrates."[123] When he fled arrest in Paris in 1762 his reputation was only further enhanced – French authorities postponed the production of a tragedy telling the tale of Socrates "because they feared that Paris audiences would pounce on the opportunity to demonstrate their sympathy for Rousseau."[124] What is more, Rousseau was invited, on three occasions, to intervene and aid in the development of constitutions. It is not difficult to draw similarities between Rousseau and the

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[121] Rousseau, *Contrat social*, OC iii, p. 382.
[122] H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 31.
[123] R.A. Leigh, 'Jean-Jacques Rousseau and the Myth of Antiquity', in R.R. Bolgar (ed.), *Classical Influences on Western Thought A.D. 1650-1870* (Cambridge, 1979), p. 167.
[124] Ibid., p. 167.

hero-founders he read about as a child, and it would hardly be surprising for the man who wrote three autobiographical works and spent his entire life reading Plutarch's *Lives* to also recognize these similarities in himself. It is not shocking, then, that Rousseau's prime personification of the *législateur* would perhaps be seen in himself as the tutor in *Émile*.

To develop this connection between the *législateur* and Rousseau-the-tutor further, one can look at Christopher Kelly's description of the *législateur*'s task, and note the similarities. Kelly breaks the legislator's task into three parts: "First, he must understand the principles of political right. Second, he must discover or invent institutions which embody these principles in a manner that suits the conditions of a particular society. Finally, he must gain the consent of his people to follow these institutions."[125] The principles of political right, which, again, is the subtitle of the *Contrat social*, are akin to an understanding of natural law; they are the legitimate and natural orders for a particular social group to be organized under. The outcome of these principles is the recreation of nature through the metaphysical transformation of individuals outlined in the *Contrat social*: "[L]a simplicité de la nature jointe aux besoins de la société."[126] Again, it is the ability to transform a group of individuals, and their particular egos, in such a way as to have them recognize, in the collective body-politic, their goals and desires, and in this way recast *amour-propre* into a social good. The problem highlighted by Rousseau (and Kelly), however, is the rareness of someone having insights into these principles. Thus, point one is simply stating that this person must be capable of knowing what needs to be known. As Rousseau described it in the *Contrat social*: "Pour découvrir les meilleures règles de société qui conviennent aux nations, il faudrait une intelligence supérieure qui vît toutes les passions des hommes, et qui n'en éprouvât aucune; qui n'eût aucun rapport avec notre nature, et qui la connût à

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[125]   C. Kelly, '"To Persuade without Convincing": The Language of Rousseau's Legislator', *American Journal of Political Science* 31.2 (1987), p. 322.

[126]   Rousseau, *Contrat social*, OC iii, p. 391.

fond."[127]

Who are the rare people able to recognize these principles and see their enactment as their task? In the ancient world these great individuals are the heroic founders. In the *Second Discourse* it is the Socrates ("Quoiqu'il puisse appartenir à Socrate, et aux esprits de sa trempe, d'acquérir de la vertu par raison, il y a longtemps que le genre humain ne serait plus, si sa conservation n'eût dépendu que des raisonnements de ceux qui le composent.")[128] and in *Émile* it is Rousseau-the-tutor: A character who, once again, has the archetypical mysterious heritage with no relation to Émile, but is instead dropped in as an outsider with the task of raising the child. He is literally the figure of the father, the outsider who initiates the social contract turning individuals into a people, or a child into a man, and who has no relation to Émile's nature, yet knows it thoroughly. Rousseau makes this explicit: "[C]'est moi qui suis le vrai père d'Émile, c'est moi qui l'ai fait homme."[129] And why does he do this? "Il n'y a que le plaisir de faire un heureux qui puisse payer ce qu'il en coûte pour mettre un homme en état de le devenir."[130] Or, as Rousseau puts it in the *Contrat social:* "qui, dans le progrès des temps se ménageant une gloire éloignée, pût travailler dans un siècle et jouir dans un autre."[131]

Although not founding a political regime in *Émile*, Rousseau-the-tutor is arranging his student's life in a similar manner; political right can be understood as natural right in this case, and Rousseau-the-tutor needs to understand the nature of Émile so as to raise him in such a way as to merge these natural principles with his unique constitution; "Quel est ce but? [C]'est celui même de la nature."[132] That is to say, in *Émile* one is not witnessing the education of the citizen of the *Contrat social* (as has been argued by Shklar) but instead, the citizens of the *Contrat social*

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[127]    Ibid., p. 381.
[128]    Rousseau, *Second Discourse*, OC iii, pp. 156-157.
[129]    Rousseau, *Émile*, OC iv, p. 765.
[130]    Ibid., p. 765.
[131]    Rousseau, *Contrat social*, OC iii, p. 381.
[132]    Rousseau, *Émile*, OC iv, p. 247.

are meant to become Émile through their metaphysical transformation from natural individuals into the natural body-politic. His good nature would be the same as that of the correctly constituted body-politic. This, then, is the end of the knowledge one needs to be the legislator, and the first point in Kelly's description.

This leads to the second clause: the discovery or invention of methods which can be used to impose these political rights. As Kelly points out, the legislator of the *Contrat social* already "understands the principles of political right and the institutions which embody these principles, but his people, 'a blind multitude,' lack knowledge of either."[133] As seen elsewhere in Rousseau's works, reason is useless in this situation, and the same is true in *Émile*: "De toutes les facultés de l'homme, la raison, qui n'est, pour ainsi dire, qu'un composé de toutes les autres, est celle qui se développe le plus difficilement et le plus tard; et c'est de celle-là qu'on veut se servir pour développer les premières!"[134] He argues that one should never reason with their pupil in the attempt to instil virtues, instead, "[l]a première éducation doit donc être purement négative. Elle consiste, non point à enseigner la vertu ni la vérité, mais à garantir le cœur du vice et l'esprit de l'erreur."[135] The goal, then, is not to give reasonable laws or arguments which a people or child can come to understand as being good in themselves – again, it is "un des contresens des éducations communes, que, parlant d'abord aux enfants de leurs devoirs, jamais de leurs droits, on commence par leur dire le contraire de ce qu'il faut, ce qu'ils ne sauraient entendre, et ce qui ne peut les intéresser."[136] It is this negative education which Rousseau focuses on – experiences are constructed and tricks embraced to mould the child (or people) into the desired end. This is the real art of the *législateur*, and these were the many tools and tricks examined in the first chapter of this thesis. The imposition of classes, politicizing of commerce, the use of art,

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[133]    C. Kelly, 'Rousseau's Case for and against Heroes', *Polity* 30.2 (1997), p. 322.
[134]    Rousseau, *Émile*, OC iv, p. 317.
[135]    Ibid., p. 323.
[136]    Ibid., p. 329.

ceremony, and games; these are all methods of transforming the public from a simple collective into a society living according to a united political right. Examples of the actualization of these methods are lacking in the *Contrat social*, but a number of examples are to be found in *Émile* and the artificial creation of "experiences" for his tutee; examples reminiscent of the actions of the ancient lawgiver: "L'art du maître est de ne laisser jamais appesantir ses observations sur des minuties qui ne tiennent à rien, mais de le rapprocher sans cesse des grandes relations qu'il doit connaître un jour pour bien juger du bon et du mauvais ordre de la société civile."[137] Every lesson has an end that is planned: teachings on independence and suffering; overcoming the "caprices" of a "petit tyran" and lessons on respecting others; on vanity and pride, and the use of shame to overcome them; punishment, sociability, and contracts; on censorship and self-sufficiency; property and contracts; the value of money; the positive and negative aspects of art and the role of public opinion[138] – the goal of every one of these lessons is clear: "C'est par ces moyens et d'autres semblables que, durant le peu de temps que je fus avec lui, je vins à bout de lui faire faire tout ce que je voulais sans lui rien prescrire, sans lui rien défendre, sans sermons, sans exhortations, sans l'ennuyer de leçons inutiles."[139]

The ends of these lessons are not "true" in any logical or rational sense – they are quite often developed around sophisticated lies involving planted characters and an ending which had been known from the beginning. What is more, it is possible that the same method could be used to create almost any type of individual. This is where method and the legislator's virtue come together – to create the correct type of person requires the tutor or legislator to "understand the principles of political right." The method alone is not enough – one must have "[l]a grande ame du Législateur" before they can "discover or invent institutions which embody these

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[137] Ibid., pp. 462-463.
[138] Rousseau, *Émile*, OC iv, pp. 366-367; 536-539; 333-334; 455-456; 331-332; 464; 456-457.
[139] Ibid., pp. 368-369.

principles."[140] Or to put it another way, the first goal of the legislator is not to develop a legal framework for a people to obey – the goal is to create a people capable of obeying it, and the only way to finish this task is to "commencez par vous faire aimer, afin que chacun cherche à vous complaire."[141] It is only by doing this that one can succeed in satisfying Kelly's third clause: "Finally, he must gain the consent of his people to follow these institutions."

As a people are unable to judge for themselves while being educated whether an education is good, legitimation cannot be given at the start. However, preparations can be made to encourage acceptance, and thus, legitimation at some future date. As Rousseau wrote: "Notre élève n'avait d'abord que des sensations, maintenant il a des idées: il ne faisait que sentir, maintenant il juge."[142] It is through this manipulation, by creating these lessons, that legitimation through acceptance is possible. This is made transparent in *Émile,* when near the end of the work Rousseau asks his student:

> Alors je lui dis: Eh bien! mon ami, vous vous souvenez du principal objet de nos voyages; vous avez vu, vous avez observé: quel est enfin le résultat de vos observations? À quoi vous fixez-vous? Ou je me suis trompé dans ma méthode, ou il doit me répondre à peu près ainsi: 'À quoi je me fixe? à rester tel que vous m'avez fait être, et à n'ajouter volontairement aucune autre chaîne à celle dont me chargent la nature et les lois.'[143]

In coming to understand this post-facto legitimization one must turn again to the *Contrat social* and its infamous opening: "L'homme est né libre, et partout il est dans les fers." It must be remembered that the goal of the *Contrat social* was not to remove these chains, but instead discover "[q]u'est-ce qui peut le rendre légitime? Je croîs pouvoir résoudre cette question."[144] In *Émile* one sees this legitimization – the student happily accepts the chains which he had been given. Of course, in some cases this is impossible.

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[140] Rousseau, *Contrat social*, OC iii, p. 384; C. Kelly, '"To Persuade without Convincing": The Language of Rousseau's Legislator', *American Journal of Political Science* 31.2 (1987), p. 322.
[141] Rousseau, *Émile*, OC iv, p. 325.
[142] Ibid., p. 481.
[143] Ibid., p. 855.
[144] Rousseau, *Contrat social*, OC iii, p. 351.

## Founding and Re-Founding in Rousseau's Philosophical Thought

The first chapter of this thesis identified a few "true" heroic founders (Moses, Lycurgus, Numa, and Socrates in Plato's *Republic*) and contrasted them with the less heroic re-founders (Solon, and Kleinias and Megillus in Plato's *Laws*). Importantly, this distinction is also made by Rousseau – and perhaps nowhere more clearly than in the chapter directly following "Du Législateur": "Du Peuple." There he distinguishes between the people who should (or can) be legislated for, and those who cannot. At the core of this problem is his understanding of "peuples." Rousseau wrote: "Les Peuples ainsi que les 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 dangereuse et vaine de vouloir les réformer."[145] The point being, those people who already have mœurs and laws are not capable of being a *législateur'*s raw material, and lawgivers must be aware of this:

> 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 loix en elles-mêmes, mais il examine auparavant si le peuple auquel il les destine est propre à les supporter.[146]

Again, amongst his three ideal lawgivers there is no mention of reformers. This is because the reforming of laws is a very different task. In fact, when working for a people who already have a constitution and national character, Rousseau explains, even the rare man who is capable of legislation should be prepared to fail. Customs and prejudices are inherently linked to the laws of a people; the constitution of a state *is* the morals imbued in a people when founded:

> [Le constitution], la plus importante [loi] de toutes; qui ne se grave ni sur le marbre ni sur l'airain, mais dans les cœurs des citoyens; qui fait la véritable constitution de l'État; 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. Je parle des mœurs, 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 parait se borner à des règlements particuliers qui ne sont que le cintre de la voûte, dont les mœurs, plus lentes à naître, forment enfin l'inébranlable

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[145]   Ibid., p. 385.
[146]   Ibid., pp. 384-385.

Clef.[147]

A similar point is made in the *Économie politique*, where he writes: "l'autorité la plus absolue est celle qui pénètre jusqu'à l'intérieur de l'homme, et ne s'exerce pas moins sur la volonté que sur les actions. Il est certain que les peuples sont à la longue ce que le gouvernement les fait être."[148] It is the legislator's prime task to unite morality with the will of a people through the laws he proposes. In taking this step, however, the original natural *potential* for sociability in man is lost. This is Rousseau's point when he wrote:

> Celui qui ose entreprendre d'instituer 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, en partie d'un plus grand tout dont cet individu reçoive en quelque sorte sa vie et son être; d'altérer la constitution de l'homme pour la renforcer; de substituer une existence partielle et morale à l'existence physique et indépendante que nous avons reçue de la nature. Il faut, en un mot, qu'il ôte à l'homme ses forces propres pour lui en donner qui lui soient étrangères et dont il ne puisse faire usage sans le secours d'autrui. Plus ces forces naturelles sont mortes et anéanties, plus les acquises sont grandes et durables, plus aussi l'institution est solide et parfaite.[149]

It is here that the danger of re-founding becomes clear: "Les opinions d'un peuple naissent de sa constitution; quoique la loi ne réglé pas les mœurs, c'est la législation qui les fait naître; quand la législation s'affaiblit les mœurs dégénèrent."[150] This includes customs, as Rousseau makes clear in his preface to *Narcisse*. There he argues that customs are the source of morality in a people, and once they are modified or done away with there is no longer any moral constraint against a people's passions, only laws – and while laws may be a deterrent they can hardly be seen as a motivational force for morality. To do away with and replace the laws, customs, and mœurs of a people is to destroy that which makes a multitude of individuals a singular people, and since the natural independence all humans are born with is gone post-founding, the move is also an attack on the very thing what makes one a social person. Thus, the would-be *législateur* who does try to

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[147]  Ibid., p. 394. Rousseau does not only mean a state's constitution. That would be just one aspect of the law he is discussing. Rousseau also makes this point in his *Confessions* (OC i, p. 404) and the preface to *Narcisse* (OC ii, p. 969).

[148]  Rousseau, *Économie politique*, OC ii, p. 251.

[149]  Rousseau, *Contrat social*, OC iii, pp. 381-382.

[150]  Ibid., p. 459.

give new laws succeeds only in dominating a people under an alien will.[151]

To draw this out further, let us turn briefly to Melissa Lane's recent work on ancient laws and the distinction she finds between Plutarch's *Lycurgus*, *The Republic*, and *The Laws*, and the distinction between written and unwritten laws. She argues that in *Lycurgus*, Plutarch places an emphasis on the unwritten, while Plato's *Republic* fails to mention written laws, and *The Laws* places an emphasis on the written.[152] She argues that this distinction can be understood in the active reflection needed for an unwritten law – that is, it is necessary to reflect and internalize its meaning and argument. To be a lawful citizen is almost to be a philosopher and a lawgiver oneself, requiring reflection on the situation one is in and an understanding of the relation they find themselves in with regard to laws before acting. On the other hand, memorization of what is written is passive, requiring little self-reflection and thus little moral compulsion. While Lane argues that this distinction, and the lack of written laws in Plutarch's *Lycurgus*, was a Platonic move, one can also see a pragmatic necessity for this from a Rousseauvian perspective. Sparta was a city ready to be founded – the people were of the right metaphorical age to be given laws. In *The Republic* a similar situation is manufactured by founding a city populated by children – that is, people literally and metaphorically the correct age. However, in the case of *The Laws*, the Stranger was working with an established people. Although they were in the process of receiving new laws, it was to a colony of adults with their own unique heritage. They were the incorrect age, and thus a true founding was impossible. They were to be given a mnemonic tool – written laws – rather than a set of laws that would be part of them. That is to say, they had already internalized one set of rules, and the cognitive dissonance facing them were they to be given a new set, would, as Rousseau has argued, only lead to failure.

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[151] What is more, if one could simply rewrite a constitution, the original social pact would have no substance (Ibid., p. 360).

[152] M. Lane, 'Platonising the Spartan Politeia in Plutarch's Life of Lycurgus.', in 'Platonising the Spartan Politeia in Plutarch's Life of Lycurgus.', *History of Political Ideas* (, Institute of Historical Research, London, 2012).

Again, the would-be citizen in Rousseau's *Geneva Manuscript* is without the intellectual qualities to truly see what is good for himself, thus the *législateur* must find some other method of encouraging sociability, those who have already been given laws and customs do not have the inner strength to overcome themselves. This problem is highlighted by Rousseau:

> Aristote avait raison, mais il prenait l'effet pour la cause. Tout homme né 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; ils aiment leur servitude comme les compagnons d'Ulysse aimaient leur abrutissement.[153]

This, then, raises the question: what is to be done with a people who need to be reformed? On the one hand, Rousseau argues that to give them a new set of laws, a new social life, is to enslave them. Yet, on the other hand, they may already be enslaved by their former ways, and unwilling to change. The answer, then, in some ways is nothing. The re-founder's task is to *re-form* the political system. Instead of giving a people a constitution, this distinct character must work with the already formed materials they have been given. The task is not to found laws for this people, but witness what it is about that people that is essential and good, and use these qualities to re-found them. In these circumstance prudence is the key virtue. It is the quality found in the great re-founder Solon, and why, when asked whether he "had composed the best possible laws for the Athenians," he responded by saying he had given them the "best that they would endure."[154] As Rousseau wrote, it is the virtue of the politician, not the hero.

These are Rousseau's philosophic and written descriptions of the art of legislating. The goal of this thesis, however, is to recognize how these ideas can be compared with his propositional works. That is to say, to examine how Rousseau himself acted when given the chance to actualize his political thought and demonstrate that this interpretation of his system is

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[153]   Rousseau, *Contrat social*, OC iii, p. 353. Rousseau is referring to Ulysses' crew, transformed into harmless beasts by Circe in *The Odyssey*. See also: Plutarch and W.W. Goodwin, *Plutarch's Morals* [London, 1874], pp. 218–233.
[154]   This was Solon's approach highlighted in chapter one – when asked whether he had given the best laws he responded: "The best they would receive."

consistent with those actions. To do this one must begin by examining Geneva.

## Chapter IV: Founding and Re-Founding Geneva

Eighteenth-century Geneva was recognized by contemporaries as a modern day exemplar of ancient republicanism; an intellectual hub of the Protestant world and the Athens of its time. Its modest population produced a disproportionate number of scientists, scholars, jurists, doctors and theologians – and they were found not strictly amongst the intellectual and political classes; Rousseau boasted: "Un horloger de Genève est un homme à présenter par tout; un horloger de Paris n'est bon qu'à parler de montres."[1] Like Rome, however, Geneva was also an independent city-state and a republic which suffered from deep political fragmentation leading to one section of the population seeing itself as heroic plebeians needing to fight for their political rights. It is not surprising, then, to read that Geneva, and the founding of the Genevan Republic, was a topic of great importance to Rousseau. Having said that, Geneva and the intellectual influence the city had on Rousseau, is a debated topic in Rousseau scholarship. Some have argued, based largely on his heterodox religious views, that he had abandoned the teachings of his childhood when he abandoned the city itself.[2] Some see the city as little more than a biographical factoid.[3] While others see Geneva as essential to understanding his political thought.[4] It is necessary, therefore, to explore some of these competing perspectives briefly.

Gaspard Vallette's *Rousseau Genevois* (1911) was amongst the last studies which treated Geneva as a serious influence on Rousseau's thought before the topic disappeared as an area of

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[1]   CC 743, vol. v.

[2]   See: B.R. Barber, 'How Swiss Is Rousseau?', *Political Theory* 13.4 (1985), pp. 475–95.

[3]   Hendel gives one of the chapters in his work the title "The Philosopher of Geneva," but, as has already been touched on, explicitly ignores both Rousseau's own life and experiences with the city. And as Rosenblatt highlighted, "the *Dictionnaire des philosophes* refers to Rousseau as a '*French* writer, born in Geneva'" (H. Rosenblatt, *Rousseau and Geneva* [Cambridge, 2007], p. 3).

[4]   F. Brunetiere wrote in 1898 that "pour bien entendre le *Contrat social*, il faut se souvenir que Rousseau est un plébéien, un protestant et enfin un Genevois. En concevant son système politique, il s'est inspiré de la Constitution genevoise, et même, en se la représentant d'une manière idéale, il se l'est représentée plus tyrannique encore qu'elle n'était." (Quoted in G. Vallette, *Jean Jacques Rousseau Genevois* [Geneva, 1911], p. xii).

scholarship. The treatise begins by stating: "Parmi les grands écrivains français, la première originalité de Rousseau, et la plus essentielle, c'est de n'être pas Français, mais Genevois."[5] At one point he argues that: "Le *Contrat social* esquisse un système politique idéal de l'état, base sur la constitution genevoise élargie et développée dans le sens des revendications théoriques de la bourgeoisie."[6] However, although he acknowledged the role of Geneva in Rousseau's thought, he remained a "French" writer, albeit one who had been imbued with a Genevan flair: "Si Rousseau resta toujours foncièrement genevois, il n'est pas rien que Genevois. Il faut faire la part de la Savoie dans la formation de l'homme et la part de Paris dans la formation de l'écrivain."[7] Rosenblatt argues that it was Spink's 1934 doctoral dissertation which initiated Rousseau and Geneva's intellectual divorce by claiming that Rousseau had very little understanding of Geneva's history and political constitution before writing of the *Contrat social*.[8] Spink accepted that Rousseau's morality may have been born in Geneva, but the *Contrat social* was his own and incompatible. It should be noted, however, that Spink spoke of the *Contrat social*'s relationship with Geneva, and notes that Rousseau did discuss Geneva in the *Lettres* and *Geneva*.[9] Others who followed, such as Hendel and Hall, went further however, and explicitly chose to avoid Rousseau's relationship with Geneva.[10] Hendel viewed the *Contrat social* as both independent of the city, and containing the complete form of Rousseau's political thought.[11] Robert Derathé accepted this thesis when arguing:

> On a pu sans doute signaler quelques rapprochements entre la constitution de Genève et le *Contrat social*, mais soutenir que l'une a servi de modèle à l'autre est une vue simpliste que se sont empressés d'adopter les adversaires de Rousseau avec l'intention manifeste de diminuer par là la portée de son œuvre politique. Car si Rousseau n'a écrit que d'après Genève et pour Genève, n'est-

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[5]   Ibid., p. i.
[6]   Ibid., p. 184.
[7]   Ibid., p. 38.
[8]   H. Rosenblatt, *Rousseau and Geneva* [Cambridge, 2007], p. 4.
[9]   J.S. Spink, *Jean-Jacques Rousseau et Genève* (Paris, 1934), p. 87.
[10]  C.W. Hendel, *Jean-Jacques Rousseau: Moralist* (Indianapolis, 1962), pp. xiv–xv; J.C. Hall, *Rousseau: An Introduction to his Political Philosophy* (London, 1973), p. 8.
[11]  C.W. Hendel, *Jean-Jacques Rousseau: Moralist* (Indianapolis, 1962), p. 320; 330.

il pas évident que le *Contrat social* n'a pas eu dans l'esprit de l'auteur, la portée universelle que ses admirateurs veulent lui donner?[12]

Rosenblatt has highlighted the ways in which even Rousseau's biographers failed to recognize the importance of the city, many of whom argued that the Geneva which Rousseau wrote about was little more than an imagined place, having "had the unfortunate consequence of appearing to minimize the need for serious and scholarly treatment of the Genevan connection."[13] As has already been shown, this was Cranston and Kirk's approach.[14] And those scholars who did address the connection – such as Michel Launay (1971), R. Fralin (1978), and Hilail Gildin (1983) – only gave it a tertiary glance, or worse, saw this history as having had a negative influence, hindering Rousseau from being able to fully develop and express his own thought.[15] In fact, *The Cambridge Companion to Rousseau* contains only four indexed references to the city – three fewer than Sparta.

That being said, there were those who did recognize the importance, such as Peter Gay in his 1954 introduction to Ernst Cassirer's *The Question of Jean Jacques Rousseau*, which argues that there is an important relationship between the struggles within Geneva and Rousseau's own writings – although he tells his reader to look at Vallette and Spink for more detail.[16] O'Mara's 1958 piece on "The petty bourgeois milieu of Rousseau's thought" offers a useful investigation into the economic, class, and political situation in Rousseau's own neighbourhood of Saint Gervais in the early eighteenth century. Masters also highlighted the importance of examining Rousseau's work on Geneva (as well as Corsica and Poland) and compare it with ideal political

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[12]    R. Derathé, *Jean-Jacques Rousseau et la science politique de son temps* (Paris, 1988), p. 9.

[13]    H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 6.

[14]    M. Cranston, *Jean-Jacques: The Early Life and Work of Jean-Jacques Rousseau, 1712-1754* (New York, 1983), p. 16; L. Kirk, 'Genevan Republicanism', in D. Wootton (ed.), *Republicanism, liberty, and commercial society, 1649-1776* (Stanford, 1994), p. 288.

[15]    H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), pp. 6–7.

[16]    P. Gay, 'Introduction', in E. Cassirer, *The Question of Jean-Jacques Rousseau* (Bloomington, 1963), p. 29. Cassirer himself does not mention the city. As Bruce Mazlish recently wrote, Cassirer's intellectual history was conceived philosophically, rather than historically (B. Mazlish, 'Ernst Cassirer's Enlightenment: An Exchange with Robert Wokler', *Studies in Eighteenth-Century Culture* 29 [2000], p. 349).

thought – although he does not do so himself.[17] Franco Venturi's *Utopia and Reform in the Enlightenment* (1971), although not dedicated to the topic, notes its importance, and places the city within Rousseau's propositional thought as a whole:

> It is useful to read the *Contrat social* with Geneva in mind. Of course one would not do so to achieve an identification between Rousseau's political vision and the reality of the city of Calvin, but rather to see how a closer rapport between ideals and fact, between hopes and reality, was being established. Naturally, it is even more interesting to read the *Lettres écrites de la montagne* and observe how Jean-Jacques tried to interpret and solve the struggle within the Genevan republic.[18]

In more recent decades there has been a push to fully understand the historical context from which Rousseau's thoughts were born, seen in works such as Helena Rosenblatt's 1997 *Rousseau and Geneva* which aims to "illuminate the historical meaning of Rousseau's political works […] using Geneva as an interpretive key."[19] These also include Benjamin Barber's 1985 "How Swiss was Rousseau?"[20]; Pamela Mason's two 1993 examinations of Geneva's Calvinist and republican influence on Rousseau; Richard Whatmore's 2006 article questioning the influence of the *Représentants* on Rousseau's *Lettres*; Gabriella Silvestrini's 2007 article which offers a historical study "à la lumière du contexte genevois, afin de souligner non seulement les traits indiscutablement 'genevois' du républicanisme de Rousseau, mais également pour marquer, contre un contextualisme réducteur, les points où la pensée de Rousseau échappe à son contexte genevois"[21]; and Robin Douglass' 2011 "Rousseau's Debt to Burlamaqui: The Ideal of Nature and the Nature of Things" which, building on Rosenblatt, examines the influence Genevan natural law theorist Jean-Jacques Burlamaqui held over Rousseau.[22] Thus, there has been a recent move towards understanding Rousseau's relationship to Geneva as "a framework for understanding his

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[17]    R.D. Masters, *The Political Philosophy of Rousseau* (Princeton, 1976), pp. 410–411.
[18]    F. Venturi, *Utopia and Reform in the Enlightenment* (Cambridge, 1970), p. 83.
[19]    H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 2.
[20]    Although Barber argued that Rousseau was more "Swiss" than Genevan.
[21]    G. Silvestrini, 'Le républicanisme de Rousseau mis en contexte: le cas de Genève', *Les Études philosophiques* 4.83 (2008), p. 520.
[22]    R. Douglass, 'Rousseau's Debt to Burlamaqui: The Ideal of Nature and the Nature of Things', *Journal of the History of Ideas* 72.2 (2011), pp. 209–30.

meaning."[23] However, the conclusions of these studies have not always been compatible. Amongst those who have turned to Geneva as an "interpretive key," there are at least two identifiable approaches: those that believe Rousseau developed a democratic republican system with goals akin to, and in support of, Geneva's democratic agitators, the *Représentants*, and those who argue that his writings were less partisan, and even perhaps oppositional in some ways to the *Représentants*. Importantly, this diverging interpretation is not at all new – Venturi pointed to the issue in 1971, and O'Mara asked this very question in 1954: "Was Rousseau's influence really exerted on behalf of democratic egalitarianism as the later Revolution would believe, or was it essentially conservative and subtly in favor of an authoritarian Old Regime?"[24]

In some sense, this chapter aims to answer this very question.[25] To begin, however, it must be noted that Rousseau *was* both influenced by, and involved with, Geneva. Along with Plutarch, it is noted as being one of his prime political influences and his "model republic."[26] The city and its history deeply impacted his own political thought. However, it did not exist outside of his political system. The problem of founding and re-founding – of historical realities and ideal systems – existed for it, just as it will for Corsica and Poland. To demonstrate this, this chapter is broken into two sections: an examination of the history of Geneva, and an investigation of Rousseau's political writings for Geneva. The history briefly explores the rise of Geneva, while highlighting the historical situations and conditions which made it particularly interesting for the political theorist and citizen. This includes the roles of the city's lawgivers and founders, Bishop

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[23]  H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 7.
[24]  P.F. O'Mara, 'Jean-Jacques and Geneva The petty bourgeois milieu of Rousseau's thought', *Historian* 20.2 (1958), p. 149.
[25]  This section owes much to the works by, and debate between, Rosenblatt and Whatmore. Although the historical work by Rosenblatt is used heavily in the discussion, the conclusions which this thesis comes to are not the same. Instead, the position taken by Whatmore is accepted as being correct. However, this thesis places his work into the larger analytical framework being developed in this thesis. That is to say, it moves beyond the confines of the influence of Geneva. In doing this, it highlights the areas in which Rousseau broke with Geneva's ruling classes *and* the *Représentants*.
[26]  D. Miller et al., *The Blackwell Encyclopaedia of Political Thought* (Oxford, 1991), p. 168.

Fabri and John Calvin; the city's break with strict Calvinism, and the rise of natural law and *doux commerce;* the political tensions between the city's labouring classes and aristocratic political leaders; and Rousseau's own historical relationship with the city. The chapter then turns to Rousseau's own engagement with these issues on a political level, and examines his proposed solutions. In doing this, it divides Rousseau's thoughts on the city into three categories: Liberty, Virtue, and Equality. In each subsection the debate between the *Représentants* and ruling classes is examined, and Rousseau's particular and unique response is offered. It concludes by arguing that Rousseau suggest to the Genevans that if they wanted to avoid civil war and being swallowed by more powerful neighbours, a political re-founding was necessary. This re-founding, however, is distinct from both the status-quo *and* the political agitations of the *Représentants*.

## Geneva, History, and Rousseau
### Geneva (121 BCE-1509 CE)

Historical records for Geneva begin in 121 BCE when the Romans began using the region as Northern Gaulish military post and in 58 BCE it became Caesar's base of operations for the Helvetii conquests. This initiated rapid growth with the settlement becoming a *vicus* in the first century BCE, a *civitas* by the third century CE, and receiving its first bishop, Isaac, in the fourth. With the fall of Rome the city became a sought after possession, exchanged between competing sovereigns until 1162, when the bishop of Geneva was made "bishop-prince." This remained the case until, in 1290, the House of Savoy successfully forced the Bishop, William of Conflans, to legally recognize his position within Geneva, with the aid of the people of Geneva themselves. With a level of prosperity owed to trade brought to the city by its four annual trade fairs (events important enough for the Medici to open a branch of their bank there) the Genevan population

had begun to look towards the Italian city-states as inspiration.[27] An emancipation project led the Genevans to recognize the House of Savoy as a protector in exchange for increased and legitimate political influence through the establishment of popular syndics.

These four syndics were directly elected by the adult male population during an annual general assembly and had power over communal affairs which did not encroach on ecclesiastical territory. This time of quasi-independence would later be reflected upon fondly; François d'Ivernois wrote in the eighteenth century that: "Under the prelate's jurisdiction, the Genevese already possessed many attributes of sovereignty; they elected their chiefs, enacted laws, granted subsidies, contracted alliances and levied troops." However, this was not seen as the genesis of Genevan independence – d'Ivernois continues by arguing that it was only with "the prelate's retreat [that] the rights of the city were further increased by those which were exercised by him as a temporal prince, and the sovereignty of Geneva became complete and independent."[28] This is of particular importance because, although Calvin is often named as Geneva's lawgiver, it was in fact Bishop Adhémar Fabri who made this possible.

Fabri ruled the city for only three years (1385-1388), and seems to have only visited it once, but he left a lasting mark on the Genevan political landscape; one which made possible Calvin's Reformation republic and played an important role in the civil strife of which Rousseau was to become a part.[29] Specifically, in 1387 Fabri presented the *Libertés, franchises, immunités, us et coutumes de la ville de Genève*, a document which assured in perpetuity a level of popular sovereignty and communal governing, and which came to be seen as Geneva's *magna carta*

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[27]   A.E. McGrath, *A Life of John Calvin: A Study in the Shaping of Western Culture* (Hoboken, 1993), p. 86.
[28]   S.F. d'Ivernois, *An Historical and Political View of the Vonstitution and Revolutions of Geneva: In the Eighteenth Century*, trans. J. Farell (London, 1784), p. 3.
[29]   Fabri shares a number of similarities with the lawgiver seen in chapter one: An outsider of mysterious heritage enters a city in a state of civil strife and orders its laws, touching on the common themes of trade, the use of religion, divides citizens into political classes. He attempted to ensure the laws remained supreme and left the city when done.

(including by Rousseau).[30] The document itself is seventy-nine articles and can be divided into three sections: public justice and the judicial system;[31] economic and trade issues;[32] and the powers which are divided between the community and the church. Articles 78 and 79 together guaranteed that these rights never be repelled and that all officers of the city swear to them.

However, over the following century the House of Savoy continued to make political claims, and in response, the people of Geneva continued to organize themselves.[33] In addition to elected syndics, the *petit conseil* was established in 1437, at this time made up of twelve to twenty-five members (of which the four syndics were included). This body acted as assessors during the syndics administration, and eventually managed tasks which were either not important enough for a general assembly or needed to be dealt with in haste.[34] A second council was established in 1457, made up of "fifty or sixty" elected members, and quickly began work checking the Savoy's power by seeking protectors in their Swiss neighbours.[35] The duke responded by invading Geneva, suspending the council, and executing instigators. The Genevans found themselves split between the *Eiguenot* confederate party and the Duke-supporting *Mammelukes* until 1526 when a pro-independence council voted to break from Savoy and form a treaty with Fribourg and Bern. In 1530 Geneva's Swiss allies sent an army to protect the city and

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[30] R. Whatmore, 'Rousseau and the Représentants: The Politics of the Lettres Ecrites De La Montagne', *Modern Intellectual History* 3.03 (2006), p. 410.

[31] The rules and procedures in civil and criminal justice, measures for the city's security, guarantees against torture, the right of property, the statement that syndics will be elected by, and made up of, "[l]es citoyens, bourgeois et jurés," and the guarantee that syndics have full authority and power over organizing the defences of the city.

[32] Establishing the legal rules and regulations attached to certain professions, and the right to citizen consent to taxation.

[33] In 1394 the House of Geneva's line ended and in 1401 the House of Savoy to purchased the title. In 1416 the emperor made Savoy an independent duchy.

[34] S.F. d'Ivernois, *An Historical and Political View of the Vonstitution and Revolutions of Geneva: In the Eighteenth Century*, trans. J. Farell (London, 1784), p. 7; A.E. McGrath, *A Life of John Calvin: A Study in the Shaping of Western Culture* (Hoboken, 1993), p. 87.

[35] Aligning with the Swiss was a decision forced upon the Genevans. Following a short lived economic alliance with Fribourg, the Duke had his son-in-law, Louis XI, banned French merchants from attending Genevan fairs, and rescheduled the Lyon fairs to coincide. The move paved the way for a treaty of *combourgeoisie* in 1519 with Fribourg (A.E. McGrath, *A Life of John Calvin: A Study in the Shaping of Western Culture* [Hoboken, 1993], p. 87).

forced the Duke to renounce any claim to Geneva, less Fribourg and Bern take his territory in Vaud.

1526 also marked the beginning of the establishment of the Genevan political system as it would, more or less, remain until the end of the eighteenth century. In addition to the small council of twenty-four members, and the council of sixty, the elected grand council of two-hundred was established to replace the general council which, with the growth in population, had become unwieldly. The general council was not disbanded, however its links to legislation were cut and it became a method of electing the smaller councils. By the sixteenth century, however, d'Ivernois tells us that: "the general council suffered itself to be deprived of the election of the councellors, and it was decreed that the *petty* and *grand councils* should be elected one by the other […] *that each may declare whom he will leave in office, and whom he will divest thereof*." D'Ivernois continues: "In effect, they began expelling only those who had committed some grievous fault, and ended in never excluding anyone." The result was a body with perpetual and ultimate authority.[36] In addition, the city established three classes of citizen: the *citoyens,* who were born in the city to *citoyen* parents; the *bourgeois,* foreigners who had obtained the right to vote for, and be elected to, the council of sixty and two-hundred (but were unable to join the *Petit conseil*); and the *habitants*, foreigners without legal right to vote, hold office, or carry weapons. The children of the *habitants* who were born in Geneva (known as *natifs*, although not forming a legal class of their own) were also left without political rights.[37]

During this period Geneva remained a part of the Roman Church – the importance being political independence did not follow the Reformation. In fact, it was political rather than spiritual considerations which played a major role in the Genevan Reformation.[38] Specifically, in

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[36]  S.F. d'Ivernois, *An Historical and Political View of the Vonstitution and Revolutions of Geneva: In the Eighteenth Century*, trans. J. Farell (London, 1784), p. 8.
[37]  M. Piguet, 'Natifs', Berne (2007).
[38]  A.E. McGrath, *A Life of John Calvin: A Study in the Shaping of Western Culture* (Hoboken, 1993), pp. 80–83;

1531 Zwinglian Bern and Catholic Fribourg called on Geneva to take part in the Reformation of Zurich (and the Second War of Kappel), but on opposing sides. Tension continued to mount over the subsequent years – in 1532 Lutheran pamphlets began to be distributed in Geneva by German merchants, and in 1533 Guillaume Farel (1489-1565) arrived, leading to the establishment of reformed services. In May 1533 religious riots broke out and the Bishop was forced to flee, leading to demands from Fribourg that the Genevan council either stop Lutheran preaching in the city, or end their treaty, and encouragement from Bern that they embrace the Reformation (and to this end they sent Pierre Viret [1511-1571] to aid Farel in his mission). In response, and fearing domestic repercussions, inaction was the council's response. Although public debates were organized, these resulted in street fights and riots; Catholics and Protestants in the 1530s replaced the *Mammelukes* and *Eiguenots* of the 1520s, and by spring of the following year Fribourg ended its treaty with Geneva, and with this, the last connection Geneva had to the Roman Church was cut. Farel and his companions were able to push towards Protestantism more swiftly and in 1535 the Catholic mass was banned (for which the entire city was excommunicated and much of the remaining Catholic clergy and supporters fled to Annecy).

The final push came when the House of Savoy once again attempted to play a role in Genevan politics – this time as a defender of the faith. In response Geneva called for the aid of Bern who saw the situation as an opportunity to seize Savoy land. In the aftermath Geneva found herself financially ruined, needing to repay Bern for her aid, make much needed repairs to the city's infrastructure, and hire an army of its own. Once again political circumstances encouraged religious change as ecclesiastical property was seized to generate funds, and fines were imposed on those (mostly Catholic) citizens who fled between 1534 and 1536. In addition, by officially embracing the Reformation, evangelical sources of finance began to flow into the city. For these

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reasons the *Petit conseil* turned to the general council and asked whether Geneva should abandon Catholicism on 21 May 1536. The result was affirmative and Geneva officially announced itself as reformed, as well as an independent republic. However, things were not that simple – as McGrath has noted, voting to create a church is far from establishing one.[39]

## John Calvin (1509–1564)

Following the reformation the city had "lost most of the wealthiest and best-educated people in town… [T]hose who supplied it with religious services [… and] almost all of its educators and administrators of charity."[40] Thus, to aid in his mission Farel invited Calvin to the city to help fill Geneva's ecclesiastical hole.[41] His initial position was that of "reader," tasked with educating the populace in Reformation thought and the meaning of a protestant republic, but by the end of his first year in Geneva he had been promoted to preacher and pastor.

Although during the initial stages of the Reformation the goal was simply to establish a "church community" – that is a spiritually united polity that shared morals through a religious education[42] – by 1537 Farel felt he had made strong enough connections within the government (all four syndics at the time were personal friends) that he presented the *Articles concernant l'organisation de l'église et du culte à Genève*. Written by Calvin with Farel and the French ex-Augustinian Elie Corauld, the *Articles* are made up of four points: the first calls for frequent public celebrations of the Holy Supper (ideally every Sunday, but at least monthly) and the

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[39] Ibid., pp. 94–95.

[40] R.M. Kingdon, 'The Calvinist Reformation in Geneva', in R.P. Hsia (ed.), *Cambridge History of Christianity* (Cambridge, 2007), pp. 90–91.

[41] Born in Noyon, France, on 10 July 1509, John Calvin's mother died after giving birth. He is reported to have been a precocious child, the censor of morals amongst his peers, and a dedicated student of the Church – characteristics which won him the favour of a family who sponsored his studies in Paris, which he began during a time of intense religious tension. From 1528 he studied law at the University of Orléans before moving to Bourges in 1530. During this time that Calvin became interested in humanist studies of the bible. These interests ultimately invited attacks from within France, and Calvin fled to Basle in 1534 where he wrote *L'Institution de la religion Chrestienne*.

[42] A.E. McGrath, *A Life of John Calvin: A Study in the Shaping of Western Culture* (Hoboken, 1993), p. 97.

necessity of excommunication "par laquelle soient corrigés ceux qui ne se veulent ranger amiablement et en toute obéissance à la sainte parole de Dieu." Importantly, and distinct from other Swiss polities at the time, the right to excommunicate was to be held by the church, rather than the council. The second article called for public acts of devotion through the singing of psalms "afin que les cœurs de tous soient émus et incités à former pareilles oraisons et rendre pareilles louanges et grâces à Dieu d'une même affection."[43] The third highlighted the necessity of a public education so as to offer young Genevans the tools to understand their own beliefs. The fourth was a set of rules and regulations for marriage (to correct those of the Roman Church). These *Articles* were accepted with few changes (the celebration of the Lord's Supper was cut to four times yearly). This gave the reformers the confidence to continue with the *Instruction et confession de la foy* (1536).[44] This document was to be Geneva's catechism and confession of faith, but its strictness led many in the community to refuse it. However, following the *Articles*, ministers were able to excommunicate those who refused. Outrage followed and the civil authorities, ceding to public pressure, banished the two reformers on 23 April, 1538.

Calvin relocated to Strasbourg where he returned to studying, teaching, and bettering his own skills as a reformer – a period which allowed for his self-confidence to flourish, and he came to believe that he was chosen by God in his task.[45] Importantly, while away a number of the proposals he originally drafted for Geneva were accepted, although overall the Reformation came to a halt.[46] With this, public unity faded, religious confidence dissipated, and religious riots broke out once more. Issues came to a head when Cardinal Jacopo Sadolet (1477-1547), Bishop of

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[43]  'Articles de 1537', in J. Calvin, *Calvin, homme d'Eglise* (Geneva, 1971).
[44]  Authorship of the *Confession de la foy* is contested. Many attribute it to Calvin, but there are some who credit Farel (W.D. Greef, *The writings of John Calvin: An Introductory Guide* [Louisville, 2008], p. 109).
[45]  A. Ganoczy, 'Calvin's Life', in D.K. McKim (ed.), *The Cambridge Companion to John Calvin* (Cambridge, 2004), pp. 14–15.
[46]  Including the public singing of psalms, compulsory instruction in the catechism, and restriction of commune to the faithful (A.E. McGrath, *A Life of John Calvin: A Study in the Shaping of Western Culture* (Hoboken, 1993), p. 101; A. Ganoczy, 'Calvin's Life', in D.K. McKim (ed.), *The Cambridge Companion to John Calvin* [Cambridge, 2004], p. 15).

Carpentras, wrote a letter to Geneva urging the city to return to Catholicism. Unable to come to a meaningful conclusion themselves, the Genevans forwarded the letter to Calvin, asking for his response – which he wrote with such persuasion that the council came to be convinced that, although the imposition of public morality was not entirely pleasing, it was a necessity to maintain political unity and independence. Calvin was invited back to continue his work.

Much has been written about Calvin's return and the political terror that he brought back with him,[47] but recent scholarship argues that the contrary is more likely; upon his return "Calvin's attitude may be described as sober and without illusions, but also without rancor or revenge. He made it clear to the council that he wanted only to serve the common good, but to do that it was necessary to achieve unity about a clearly formulated church order."[48] It was only through piecemeal changes towards the consolidation of religious power that political changes began to take place. In fact, Calvin remained an *habitant* for a number of years after his return, and therefore officially outside the political structure of Geneva (it was not until 1559 that he was invited to join the rank of *bourgeois*). It was only through his position as a member of the "Company of Pastors" (and its *de facto* leader) that he was able to interact with the councils.

That being said, in1543 he was tasked, due to his legal background, with revising the city's edicts (while working on this codification, it is reported, he had a copy of the *Corpus Juris Civilis* in one hand, and scripture in the other).[49] These laws defined the offices of the secular

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[47] A.E. McGrath, *A Life of John Calvin: A Study in the Shaping of Western Culture* (Hoboken, 1993), pp. 105–106; 109.

[48] A. Ganoczy, 'Calvin's Life', in D.K. McKim (ed.), *The Cambridge Companion to John Calvin* (Cambridge, 2004), p. 15; L. Kirk, 'Genevan Republicanism', in D. Wootton (ed.), *Republicanism, liberty, and commercial society, 1649-1776* (Stanford, 1994), p. 272.

[49] H. Höpfl, *The Christian Polity of John Calvin* (Cambridge, 1985), p. 6. Calvin's secular work is not entirely out of character. As a young man he studied the thought of Guillaume Budé (1467-1540), a man who Erasmus called "the marvel of France" (C. Partee, *Calvin and Classical Philosophy 1977* [Leiden, 1977], pp. 9–10). Budé's humanism "attempted to return to the pure foundations of Roman law unsullied by glosses, and inclined to see it as a crystallization, so to say, of the mores, institutions and wisdom of the ancients" (H. Höpfl, *The Christian Polity of John Calvin* [Cambridge, 1985], p. 6). This influenced Calvin's own work – he saw philosophy as a "matter of teaching men how to live by exercising the arts of persuasion" – a topic which relates directly to his first published work, a commentary of Seneca's *De Clementia* (Ibid., p. 9).

government and became a type of civic constitution, and importantly, continued to enshrine the power of the smaller councils.[50] In addition, an edict in 1568 stated that before a council could debate a government act it must have been first debated by its superior council – meaning the general council could not act without the other two councils having done the same first, thus giving them veto over any potential issue the general council may have wished to raise. Finally, revisions made in 1568 and 1570 gave judicial authority over criminal matters and the right to raise taxes to the smaller councils. These edicts had the effect of both maintaining peace until the late eighteenth century while also planting the seeds of the instability which would bring about the end of Geneva's constitution.[51]

In addition to his civil work, Calvin wrote the *Ecclesiastical Ordinances* (1541) – a document which outlined the shape and powers of the Church of Geneva. Like the 1543 edicts, it has been described as a constitution – although for the reformed church. The ordinances outline the four church offices of pastors, doctors, elders and deacons, and instituted the Consistory, an ecclesiastical court made up of elders and pastors which could, if necessary, report cases of extreme deviance to the council.[52] Importantly, by making the church a quasi-judicial branch of the Genevan political structure it became difficult to separate the ecclesiastical from the civil – even oaths of citizenship were a part of the confession of faith, and Calvin had written in the *Institutes* that civil government was a divine institution and thus religious belief was linked to

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[50] R.M. Kingdon, 'The Calvinist Reformation in Geneva', in R.P. Hsia (ed.), *Cambridge History of Christianity* (Cambridge, 2007), p. 93. The four syndics, who were voted in by the general council, would come from a list of eight potential candidates chosen by the smaller councils. The syndics would reconfirm or reject members of the council of twenty-five (and those replaced would be chosen from a list submitted by the council of two hundred). The same process was followed for the council of two hundred (R. Whatmore, 'Rousseau and the Représentants: The Politics of the Lettres Ecrites De La Montagne', *Modern Intellectual History* 3.03 [2006], p. 395).

[51] S.F. d'Ivernois, *An Historical and Political View of the Vonstitution and Revolutions of Geneva: In the Eighteenth Century*, trans. J. Farell (London, 1784), p. 15.

[52] R.M. Kingdon, 'The Calvinist Reformation in Geneva', in R.P. Hsia (ed.), *Cambridge History of Christianity* (Cambridge, 2007), pp. 92–93.

law.[53] The upshot of this being public education became a necessity; if one could be executed for expressing thoughts which were in opposition to the state-church's dogma – as Michael Servetus was in 1553 – disseminating this dogma to the population was vital. To this end, Calvin developed a rigorous education system – one which became both prized and a future point of contention.[54]

In the end the church was more than an institution of salvation – it was part of the government, and thus also played a role in political socialization and creating a united Genevan identity. To this end Calvin established daily (or more) sermons, weekly catechism classes, bible study groups, and theological debates. In 1559 it was made a legal requirement to be a member of the Calvinist church and education was made compulsory from the age of six. The church became the government's public voice, giving the state religious legitimacy, and the church political legitimacy. Religious and civil identities became inherently linked – it was through sermons and prayers, discipline and sanctification, and collective memories of persecution, that one became a strong citizen and a people.[55] The Genevan identity had become not that of a group of individuals, but as members of a common body.

**Calvin as Lawgiver**

Before touching on post-Calvin Geneva, it is important to address the makeup of the Genevan "people" in a Rousseauvian sense. That is to say, it must be explained why Calvin is a founder and not a re-founder. The answer comes from Rousseau himself: the Swiss were unique, and Geneva was neither unified nor homogenous – but the collective memory of struggle was strong. There was an influx of those fleeing religious prosecution in France mixing with a city whose

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[53]   Calvin, *Institutes*, iv. xx. i (ed. Beveridge, pp. 651-652).
[54]   A. Ganoczy, 'Calvin's Life', in D.K. McKim (ed.), *The Cambridge Companion to John Calvin* (Cambridge, 2004), p. 17. In addition to teaching Genevans themselves, these new academies attracted students from across Europe (Ibid., p. 19; G.W. Naphy, 'Calvin's Geneva', in K.D. McKim (ed.), *The Cambridge Companion to John Calvin* [Cambridge, 2004], p. 35).
[55]   Calvin, *Institutes*, iv. i. iii (ed. Beveridge, pp 282-283).

memories of struggle for independence were still fresh. Fear remained that independence could be snatched away at any point (and this was one of the reasons Calvin was viewed with such suspicion). The city had a history of sectarianism: there was a split between supporters of the Duke, the Bishop, and those in favour of independence; there had been the attempted *coup d'etat* in 1540; there were threats of invasion from the House of Savoy, former allies such as the Bernese, and the French; there was a push by some to align themselves within the Swiss confederacy; and the *natifs* and newcomers formed their own outsider class who were opposed by a group who called themselves the Children of Geneva. All of this had taken a toll and, importantly, made the Genevans special in the same way civil war had made Sparta unique.[56] Divided and with no common heritage – not even Christianity – it was not a case of re-founding Geneva. That is not to say they were a blank-slate – as Rousseau wrote: "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, ni superstitions bien enracinées."[57] Calvin still developed institutions which suited a particular people and place, and was aware that what he had done was appropriate only for Geneva – just as what Lycurgus had done was appropriate for Sparta, Numa for Rome, and Moses for the Jews.[58] In a 1552 letter Calvin was asked to resolve an issue raised in a reformed church in London – part of the congregation disagreed with a teaching because Calvin himself had disagreed with it. His response was not to "make an idol of me, and Jerusalem of Geneva."[59] Calvin did not aim to create a protestant identity, but a Genevan one.

There are a number of ways in which Calvin may remind one of the genre of the

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[56]  Rousseau, *Contrat social*, OC iii, p. 385.
[57]  Ibid., p. 390.
[58]  G.W. Naphy, 'Calvin's Geneva', in K.D. McKim (ed.), *The Cambridge Companion to John Calvin* (Cambridge, 2004), p. 35.
[59]  Quoted in A. Pettegree, 'The Spread of Calvin's Thought', in D.K. McKim (ed.), *The Cambridge Companion to John Calvin* (Cambridge, 2004), p. 207.

lawgiver: Calvin himself was a foreigner and a Picardian, a people famed for being "intelligent, logical, sensibly diligent, morally serious, and devoted to freedom and order – as well as overly sensitive, self-confident, and irritable."[60] He was well-travelled, highly educated (having studied with a number of great thinkers), invited by the Genevans to give laws, and like many lawgivers before him, initially reluctant.[61] He was half lawyer, half theologian, as well as a student of rhetoric (like Solon and Lycurgus, he was aware of the power of emotion). He had a touch of the divine about him, believing himself to be ordained by God in his position – something which "calls to mind the fundamental experience of the Old Testament prophets and their extraordinary commission for the renewal of the people according to the word and will of Yahweh"[62] – and like other Lawgivers, he faced initial opposition from those he attempted to legislate for. Once firmly in power, luxuries were banned, theatres closed, and public gatherings and ceremonies which encouraged reformed teachings were established. He often turned to deception in his works; misquoting or taking biblical passages and lessons out of context to make a point.[63] Even at the end of his life Calvin followed the path of the lawgiver; before dying he met with the community of pastors and made them swear that they would not change anything he had done. His laws were to be maintained for all time. Although he remained in Geneva until his death, he had no funeral service and his place of burial remains unknown. In the end Calvin went beyond instituting a reformed church – he worked towards structuring the entire city's traditions, morals, and laws – and in doing this, he founded a new city.

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[60] A. Ganoczy, 'Calvin's Life', in D.K. McKim (ed.), *The Cambridge Companion to John Calvin* (Cambridge, 2004), p. 3.

[61] He, like Numa and Lycurgus, initially refused the position, and was only convinced by a divine argument (Farel argued that by not accepting, Calvin would be cursed by God) (Ibid., p. 10; A.E. McGrath, *A Life of John Calvin: A Study in the Shaping of Western Culture* [Hoboken, 1993], pp. 95–96).

[62] A. Ganoczy, 'Calvin's Life', in D.K. McKim (ed.), *The Cambridge Companion to John Calvin* (Cambridge, 2004), p. 14.

[63] A.E. McGrath, *A Life of John Calvin: A Study in the Shaping of Western Culture* (Hoboken, 1993), pp. 96–97.

**Post-Calvin and Civil Struggle (1564–1712)**

Calvin's Geneva was remarkably stable. The seventeenth century was a period political calm and d'Ivernois wrote that Calvinism was to thank as it was "favourable to power, obedience in religious matters naturally disposed the people to obedience to their magistrates."[64] With time, however, religiosity began to soften. There was a movement away from the protestant obsession with original sin and predestination as interests shifted towards a "greater concern for ethics," as seen in the works of Jean La Placette (1639-1718) and Jacques Abbadie (1658-1727).[65] The latter developed a belief in the goodness of man and the pitiable state of society, claiming that to discover this goodness it was necessary to retrace man's history and find him before sin.[66] These ideas were picked up by Benedict Picetet (1655-1724) and used to temper predestination, arguing that man is free to act morally, and therefore, it is his duty to try to be so. Jean-Alphonse Turrettini (1671-1737) and Jacob Vernet (1698-1789) took these ideas further, arguing that Christianity and reason conformed. Vernet wrote that morality was engraved in man's heart, giving him a second compulsion on top of reason. All of these ideas may be familiar to the reader of Rousseau, while also allowing one to make sense of d'Alembert's description of the city in the *Encyclopédie*:

> [P]lusieurs pasteurs de Genève n'ont d'autre religion qu'un socinianisme parfait, rejetant tout ce qu'on appelle mystères, et s'imaginant que le premier principe d'une religion véritable, est de ne rien proposer à croire qui heurte la raison: aussi quand on les presse sur la nécessité de la révélation, ce dogme si essentiel du Christianisme, plusieurs y substituent le terme d'utilité, qui leur parait plus doux: en cela s'ils ne sont pas orthodoxes, ils sont au - moins conséquents à leurs principes… [L]a religion y est presque réduite à l'adoration d'un seul Dieu, du moins chez presque tout ce qui n'est pas peuple: le respect pour J. C. et pour les Écritures, sont peut-être la seule chose qui distingue d'un pur déisme le christianisme de Genève. Les ecclésiastiques font encore mieux à Genève que d'être tolérants; ils se renferment uniquement dans leurs fonctions, en donnant les premiers aux citoyens l'exemple de la soumission aux lois.[67]

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[64] S.F. d'Ivernois, *An Historical and Political View of the Vonstitution and Revolutions of Geneva: In the Eighteenth Century*, trans. J. Farell (London, 1784), p. 19.

[65] H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 12. Abbadie was an influence on Rousseau, and Masson claims a model for the Savoyard Vicar (P.-M. Masson, *La religion de J.J. Rousseau: La formation religieuse de Rousseau* [Paris, 1916], p. 108).

[66] H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), pp. 13–14.

[67] J. le R. d' Alembert, 'Genève', Chicago *Encyclopédie, ou Dictionnaire raisonné des sciences, des arts et des*

Emphasis in Geneva shifted towards ideas of "being" Christian; what Cranston describes as "austere, virtuous, candid, industrious, simple, clean and plain."[68] Rosenblatt has argued that these "approaches to religion were widely accepted, and became those propagated by the establishment" and that "this anthropologically optimistic, 'reasonable,' and moralistic brand of Calvinism was integral to the culture of eighteenth-century Geneva, and constituted a *language* in which all Genevans were brought up."[69] However, as religion softened, political conflict returned.

At the beginning of the eighteenth century only 1,500 men out of 18,500 enjoyed full political rights. And those who were neither *citoyens* nor *bourgeois* (i.e., *natifs* and *habitants*) faced other injustices beyond being excluded from the political process – Geneva's moral laws were less than universal in their application, being directed to "artisans and other people of low condition", "middling people", or "people of quality" (that is, luxuries were readily available to the upper classes, but restrictions were imposed on others).[70] Class also prevented people from taking up particular professions, and the lower classes were required to deposit money with the hospital when they had children in case they "should produce children who might be a charge on public charity."[71] In addition, d'Ivernois pointed to the influx of foreigners as one of the "regenerating causes of the love of liberty" – having escaped from religious prosecution in their previous homes they turned their "spirit of disqualification" towards new political interests.[72]

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*métiers* vii (1757). According to Grimm, d'Alembert's article caused "beaucoup de bruit," and although it may have been possible to make these claims, they were not appreciated (D. Diderot and F.M. von Grimm, *Correspondance littéraire, philosophique et critique de Grimm et de Diderot, depuis 1753 jusqu'en 1790*, ii [Paris, 1829], p. 197).

[68] M. Cranston, *Jean-Jacques: The Early Life and Work of Jean-Jacques Rousseau, 1712-1754* (New York, 1983), p. 27.

[69] H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 15; 17.

[70] Ibid., pp. 18; 25–26.

[71] L. Kirk, 'Genevan Republicanism', in D. Wootton (ed.), *Republicanism, liberty, and commercial society, 1649-1776* (Stanford, 1994), p. 273.

[72] S.F. d'Ivernois, *An Historical and Political View of the Vonstitution and Revolutions of Geneva: In the Eighteenth Century*, trans. J. Farell (London, 1784), pp. 22–23.

Even those who had access to the General Council began to question its legitimacy. It did little beyond confirming pre-approved syndics chosen by the *petit conseil*, which had become a quasi-oligarchical institution with the same families being "elected" time and again.[73] This was also true of the larger councils – by 1734, the council of two hundred represented only 94 families.[74] What is more, as there was no birth requirement for the company of pastors or general council many *citoyens* and, ironically, *natifs* viewed the city as being increasingly foreign-run (by the early eighteenth-century around one thousand of the general council's members were *bourgeois*, while there were only three to four hundred *citoyens*).[75]

Interestingly, this political turmoil was not a class struggle, but a push for egalitarian principles which would allow the less well-off to imitate the upper echelon. At the time it was not unusual for craftsmen and shopkeepers to be involved in capital investment, accumulate libraries, or buy small landed estates – all "in avid imitation of the cultural pattern of the patrician upper bourgeoisie."[76] Damrosch reports that the "artisan class was particularly proud of its intellectual abilities" and mentions reports from William Coxe (1747-1828) and John Moore (1729-1802), with the former claiming that "[e]ven the lower class of people are exceedingly well informed, and there is perhaps no city in Europe where learning is more universally diffused," and the latter commenting that "Genevan workmen were fond of reading the works of Locke and Montesquieu."[77] This combination of a declining importance or Calvinism, the growth of class imitation, and the dissemination of knowledge, resulted in what O'Mara has called the great paradox of the golden age of Geneva: "spiritual malaise in the midst of increasing material

[73] L. Mottu-Weber, 'Genève (canton)', Berne *Dictionnaire historique de la Suisse* (2011).
[74] H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 18.
[75] P.A. Mason, 'The Genevan republican background to Rousseaus Social Contract', *History of Political Thought* 14.4 (1993), p. 554.
[76] P.F. O'Mara, 'Jean-Jacques and Geneva The petty bourgeois milieu of Rousseau's thought', *Historian* 20.2 (1958), p. 131.
[77] L. Damrosch, *Jean-Jacques Rousseau: Restless Genius* (Boston, 2005), p. 14.

security, social discord in the midst of social advancement."[78] This set the stage for what would come to be a century of revolt.

One of the key areas of protestation was the lack of political power found in the General Council. From the perspective of the *bourgeois*, they were entitled to a number of powers which were enshrined in Fabri's *Franchises.* In particular, they argued that the document guaranteed the free election of syndics and the right to consent to taxation.[79] They felt that the small councils needed to have their powers restrained and sovereignty returned to the people (as embodied in the grand council). In 1707 an attack was led by Pierre Fatio (1662-1707), a lawyer who was himself a member of the council of two-hundred. He helped draft a set of demands in support of the *bourgeois* which called for a limit on family members in the smaller councils, a revision of the legal code, and for voting in the General Council to be counted by secret ballot.[80] The syndic Jean-Robert Chouet (1639-1720) argued that the general council was indeed sovereign, but the citizens of Geneva "had ceded the 'exercise' of their sovereignty to the restrictive councils" arguing that "the people knew it could not safely use the sovereign power."[81] Fatio responded by arguing that "'chimerical and metaphysical' sovereignty, for 'a sovereign who never performs an act of sovereignty is an imaginary being'" and that, rather than giving the power to make laws to the small councils, the general council had "ceded the '*administration* of public and particular affairs.' This, he claimed, was 'a revocable deposit.'"[82] The agitators asked the magistrates to prove – with historical records – that they had the right to sovereign power and that the people

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[78]   P.F. O'Mara, 'Jean-Jacques and Geneva The petty bourgeois milieu of Rousseau's thought', *Historian* 20.2 (1958), p. 132.

[79]   Ibid., p. 137. The magistrates argued that the General Council had given the right to taxation in the 1570 edict (H. Rosenblatt, *Rousseau and Geneva* [Cambridge, 2007], p. 110).

[80]   L. Kirk, 'Genevan Republicanism', in D. Wootton (ed.), *Republicanism, liberty, and commercial society, 1649-1776* (Stanford, 1994), p. 275.

[81]   P.A. Mason, 'The Genevan republican background to Rousseaus Social Contract', *History of Political Thought* 14.4 (1993), p. 556. Chouet went further, claiming frequent assemblies would create unnecessary division and distract from commerce (H. Rosenblatt, *Rousseau and Geneva* [Cambridge, 2007], p. 102).

[82]   P.A. Mason, 'The Genevan republican background to Rousseaus Social Contract', *History of Political Thought* 14.4 (1993), p. 556; H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 104.

had "confided its exercise to the small councils." Unable to easily resolve the issue, the magistrates called upon Bern and Zurich – a move which resulted in riots, violence, and the defeat and execution of the worst of the agitators (including Fatio). This was followed in 1712 with the suspension of the yearly general council meetings, and a move to have the church preach lessons of submission and obedience to the laws of the state.[83]

Debate returned in 1718 when the two *Lettres Anonymes* were published (assumed now to have been penned by Pastor Antoine Leger [1652-1719]).[84] The first letter argued, using natural law (the magistrates philosophical language of choice), that denying the right of refusal of taxation was an act of tyranny. The author also proposed the transformation of the general council into the deliberative and executive body of Geneva and for the independence of the church in its public role as teacher, decrying the encroachment of the small councils in this area. The second letter demanded that all issues of taxation and defence be deliberated in the general council. Although the level of conflict did not reach the same pitch as 1707 (Kirk argues that "pragmatic money-making" held the day),[85] it formed a plan of action which would become the template for future agitators.

In the 1720s the small councils began planning for an upgraded defence system. When these plans were criticized for being too small and too expensive by aristocrat and military engineer Jacques-Barthélemy Micheli du Crest (1690-1766) the councils asked him to put his thoughts in writing. In 1728 he had fifty copies of his critique published, for which the small council banished him from Geneva for sharing military secrets.[86] Again, it was argued that

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83    L. Kirk, 'Genevan Republicanism', in D. Wootton (ed.), *Republicanism, liberty, and commercial society, 1649-1776* (Stanford, 1994), pp. 276; 279.
84    P.A. Mason, 'The Genevan republican background to Rousseaus Social Contract', *History of Political Thought* 14.4 (1993), p. 558.
85    L. Kirk, 'Genevan Republicanism', in D. Wootton (ed.), *Republicanism, liberty, and commercial society, 1649-1776* (Stanford, 1994), p. 281.
86    Ibid., p. 281.

taxation and matters of defence were being addressed without the consent of the general council, while a new issue was added: the legality of the council of two hundred banishing Micheli.[87] Although banished and never to return, Micheli continued to agitate from afar and earned an important following (some of whom, such as Toussaint Pierre Lenieps [1661-1741], would become close friends of Rousseau). His writings sparked a new wave of intellectual debate and a period of dramatic agitation – Rosenblatt has shown that a proliferation of "political pamphlets, journals, letters, and other texts testify the fact the heated debates were taking place on a wide range of issues and many Genevans were ill at ease with the direction in which their city was evolving."[88] Jean Barbeyrac (1674-1744) stepped in, using traditional critiques of democracy to dismiss the General Council as a group of ignorant trouble makers who were easily manipulated. He went on to argue that Geneva had a mixed political system: democracy tempered by aristocracy. Not everyone was convinced by Barbeyrac, however, and Micheli and his ilk turned away from natural law theory and began to study "without respite all the ancient Greek and Latin authors and even the Bible, in order to disentangle from them the real principles of civil government" – in particular Cicero, Plutarch, Livy, and, although not an ancient, Machiavelli.[89] It is from this new intellectual movement that, in 1734, the *Représentants* emerged.

A representation was a formal list of grievances submitted to the magistrates which highlighted areas of contention which the *Représentants* wanted to be officially addressed.[90] In response to this remonstration the magistrates, emphasizing lessons from natural law and social contract theory, made note of the threat posed by the general council (or any group) attempting to

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[87]    Micheli himself was not a democrat, but saw the council as an important check (R. Whatmore, 'Rousseau and the Representants: The Politics of the Lettres Ecrites De La Montagne', *Modern Intellectual History* 3.03 [2006], p. 397).
[88]    H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 8.
[89]    Ibid., p. 130; 142.
[90]    Authorship of the representation has been given to Michel Leger, son of Antoine, author of the anonymous letters.

change Geneva's agreed upon social contract. Responses were formed by Jean-Jacques Burlamaqui (1694-1748), Pierre Mussard (1702-1789), and Jacob de Chapeaurouge (1669-1744), who denied that the *bourgeois* were pushing for a restoration of historical rights, but instead that their claims were an invention and, again, an attempt to overturn the constitutional edicts of 1568. In response, exiled Micheli put his research in classical republicans to use and attacked the magistrates claim that the edicts of 1568 were the basis of Geneva's social contract and constitution, arguing that surely a constitution existed before this date – just as Geneva had. He went on to argue that liberty cannot exist without sovereignty, that it was the General Council's right to appoint ministers, and finally, he embraced Machiavelli and argued that republics need to take periodic steps back to their original formation – in this case, to a time before the edicts.[91]

Things escalated further and the *bourgeois* became suspicious of the magistrates' control of the city's mercenaries, while the magistrates were unsure of the citizen militias – there was fear on both sides of civil war breaking out, with a number of close calls in the 1730s (including one such occasion, 21 August 1737, in which Rousseau was visiting Geneva, allowing him to witness his *patria's* instability first-hand when eleven people, including the captain of the mercenaries, were killed).[92] The fear of the seemingly inevitable outbreak of conflict led to France, Bern, and Zurich being invited to act as mediators, the result of which was the *Règlement de l'Illustre Médiation Pour La Pacification Des Troubles de La République de Genève* (1738).

The document was initially seen as acceptable by both sides (although Micheli continued his campaign, claiming the *Mediation* had overthrown Geneva's constitution). From the General Council's perspective it confirmed much of what it had demanded: that the general council was sovereign and that it had the right to agree to or reject proposed laws (in whole or part); the

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[91]    H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), pp. 133–135; 142–144; 146.
[92]    Rousseau, *Confessions*, OC i, p. 216.

proposed four syndics; prices for wine; tax rates; subsidies; treaties with foreign governments; declarations of war and peace; and changes to the city's fortifications. Articles three, seven, and ten guaranteed the rights of the citizens and bourgeois to make *representations*, and limited the number of members of the same family in the small council. On the other hand, the very first article perpetually enshrined the legitimacy of the five-part government (i.e., the syndics, the smaller councils, and the General Council), making the General Council only one part of the governing order rather than the smaller councils derivatives. What is more, article six limited what could be taken to the general council to that which had already been seen, and passed, by the smaller councils – this became known as the *droit negatif* – and the General Council was limited to having these votes only when it was called by the smaller councils. Finally, elections to smaller councils were to "continuera de se faire comme par le passé, & suivant les Edits."[93] Nonetheless, a majority of the bourgeois accepted the mediation and Geneva remained in relative peace until the 1750s when, once again, problems surfaced. Importantly though, this next round of debates included Jean-Jacques Rousseau.

**Geneva and Rousseau (1712-1778)**

Jean-Jacques Rousseau was born in 1712 to an aristocrat mother (Suzanne Bernard [1673-1712]) and artisan father (Isaac Rousseau [1672-1747]) – both of whom were citizens. Rousseau was literally born into the upper echelon of society – the hills climbing away from Lake Geneva where the wealthy and powerful made their homes. However, following the death of his mother, and the apparent financial ineptitude of his father, Rousseau's fortunes changed. At the age of five his family was forced to descend and live amongst the artisans of the St Gervais district.

Rousseau reports that his own education began by reading ancient classics with his

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[93]    *Reglement de l'illustre mediation pour la pacification des troubles de la republique de Geneve* (Geneva, 1738).

father.[94] The impact of the ancients cannot be glossed over – while much has been made in recent scholarship of Rousseau's connection to Geneva, less has been said of his, and Geneva's, connection to the ancients. Jacques-Henri Bernardin de Saint-Pierre (1737-1814) wrote of that time:

> [I]l n'y avait pas à Genève un citoyen bien élevé qui ne sût son Plutarque par cœur. Rousseau m'a dit qu'il a été un temps où il connaissait mieux les rues d'Athènes que celle de Genève. Les jeunes gens ne parlaient dans leurs conversations que de législation, des moyens d'établir ou de réformer la société.[95]

Rousseau himself wrote that he was introduced to the ancient lawgivers as a child through Plutarch, and "[a] Six Ans Plutarque me tomba Sous La main, à huit je Le Savais par Cœur" and "A douze ans, j'étais un Romain."[96] He wrote in his *Confessions*:

> Sans cesse occupé de Rome et d'Athènes, vivant pour ainsi dire avec leurs grands hommes, né moi-même Citoyen d'une République, et fils d'un père dont l'amour de la patrie était la plus forte passion, je m'en enflammais à son exemple, je me croyais Grec ou Romain; je devenais le personnage dont je lisais la vie: le récit des traits de constance et d'intrépidité qui m'avaient frappé me rendait les yeux étincelants et la voix forte. Un jour que je racontais à table l'aventure de Scevola, on fut effrayé de me voir avancer et tenir la main sur un réchaud pour représenter son action.[97]

Although Rousseau's formal education was less than robust, he emphasized the strength of his republican schooling in a letter to Tronchin: "J'y ai reçu cette éducation publique, non pas une institution formelle, mais par des traditions et des maximes qui, se transmettant d'âge en age, donnaient de bonne heure à la jeunesse les lumières qui lui conviennent, et les sentiments qu'elle doit avoir."[98] Even the event which resulted in his father fleeing Geneva – the striking of an aristocrat who Isaac had felt disrespected by – was seen by Rousseau through a republican lens, arguing that his father would rather leave the city, remaining abroad for the rest of his life, than

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[94]  L. Damrosch, *Jean-Jacques Rousseau: Restless Genius* (Boston, 2005), p. 16.
[95]  J.-H.-B. de Saint-Pierre, *Œuvres comlètes de Jacques-Henri-Bernardin de Saint-Pierre, mises en ordre et précédées de la vie de l'auteur*, ii (Brussels, 1820), p. 31. Note the distinction between "moyens d'établir *ou* de reformer."
[96]  CC 1633, vol. v.
[97]  Rousseau, *Confessions*, OC i, p. 9.
[98]  CC 743, vol. v.

forgo his liberty and honour.[99] It was not simply a literary imagination which spawned this worldview, however.

There has been disagreement as to how much the young Rousseau was aware of Geneva's political tensions. Being born after the 1708 settlement and leaving before the 1730s led Cranston to argue that "Rousseau grew up at a period of political peace […] and in his recollections of his childhood, he speaks of nothing but patriotic harmony prevailing in Geneva."[100] Similarly, Linda Kirk argued that Rousseau "had run away from Geneva without learning anything more of its politics than the idealized republican myth fed to him by his father."[101] This may be an overstatement, however; if Rousseau's father did indeed have "idealized republican" feelings towards his *patria*, it is unlikely he would have been ignorant of the political tensions lying just beneath the surface. In fact, Rosenblatt has argued that Isaac's move Saint Gervais, rather than being strictly a financial necessity, was also politically motivated. Isaac had been absent from Geneva during the 1705 to 1711 conflict – a period during which Isaac's father, David Rousseau, acted as spokesman for the movement, a position which cost him official office. It was this absence which may have pushed Isaac to Saint Gervais – "the driving force behind the political opposition at this time."[102] The *quartier* in 1717 (the year Rousseau relocated) was the centre of political tension and discussion leading to the publishing of the 1718 *Lettres anonymes*. Rousseau himself claimed that "men talked of nothing in their conversations but legislation, the means of establishing or reforming societies,"[103] a claim not difficult to believe, as the homes surrounding Rousseau's own were occupied by a who's-who of Genevan political agitation:

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[99]    Rousseau, *Confessions,* OC i, p. 12.
[100]   M. Cranston, *Jean-Jacques: The Early Life and Work of Jean-Jacques Rousseau, 1712-1754* (New York, 1983), p. 16.
[101]   L. Kirk, 'Genevan Republicanism', in D. Wootton (ed.), *Republicanism, liberty, and commercial society, 1649-1776* (Stanford, 1994), p. 288.
[102]   H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), pp. 31–32; 10.
[103]   P.A. Mason, 'The Genevan republican background to Rousseaus Social Contract', *History of Political Thought* 14.4 (1993), p. 561.

> Abraham Cassin, Jean Pernessin, Guillaume Dufour, Isaac Soret, Antoine Mussard, and Paul Argand, all of them important spokesmen or participants in the political movements of 1718 and 1734… Claude Thommegueux, active in the popular tumults of 1707 and brother of the Franqois Thommegueux who was exiled for his violent activities in that same year… Sebastien and Fransois Mestral, nephews of Suzanne Mestral, one of the fiery revolutionary spirits among the women of the quarter, imprisoned in 1707.[104]

And the Rousseaus were physically in the heart of Genevan politics: Francois Terroux, the owner and cohabiter of the apartment the Rousseau's made home, was "one of the two principal leaders of the Saint Gervais quarter during the years leading up to and including 1718. Government records take note of Terroux as 'having distinguished himself for his errors and violence in 1707 and 1716.'"[105] Also cohabiting with them were Daniel (thought to have been Isaac's closest friend) and Jean Badollet, relatives of some of the more prominent agitators of the time, including Francois Badollet, a "die-hard and violent revolutionary" who had also been a housemate of Rousseau's grandfather David, as well as a close friend of Pierre Fatio. O'Mara wrote: "we may fairly conclude that the house in which Rousseau spent five formative years of his life was one of the principal foyers of democratic ideas and agitation in the republican but oligarchical Geneva of that day – a hotbed of secret preparations and propaganda for the agitation of 1718."[106]

Importantly, children were not oblivious to the politics of the time, as seen in a report from 1707:

> On one notable occasion during the political disturbances of 1707 when their menfolk had appeared cowed by the formal appearance of the magistrate Trembley with his aides to impose order, the women and children resorted to hoots and cries to send the government leaders back on their heels: "The children pursued them as far as the wheat scales, shouting 'Mamelukes' … The children came as far as the bottom of the Citadel, shouting the same phrase, but there they were beaten off with rods.' The popular flavor of the plebeian quarter where Rousseau passed his childhood is unmistakable.[107]

How thoroughly young Jean-Jacques was able to follow these political issues himself is not certain, but the idea that Rousseau's time in Geneva was one of "political peace" seems unlikely.

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[104] P.F. O'Mara, 'Jean-Jacques and Geneva The petty bourgeois milieu of Rousseau's thought', *Historian* 20.2 (1958), p. 135.
[105] Ibid., p. 140.
[106] Ibid., pp. 139–141.
[107] Ibid., p. 136.

What is certain, however, is that within the midst of this bubbling dissent Rousseau developed a deep love for his *patria*.

Rousseau's Genevan education took a different turn in 1722 when he was taken out of Saint Gervais and sent to Bossey, a few kilometers outside of Geneva. There the politics of the watchmaker's quarter was replaced by the Calvinist education of pastor Jean-Jacques Lambercier (1676-1738) – teachings which encouraged political support for the Genevan government, arguing that the city was blessed to be governed by laws, rather than the will of a ruler, and that it was only through obeying these laws that liberty existed: "Only he is truly free who is a slave to wisdom."[108] The church also offered Rousseau something else: a sense of membership to something larger than himself. Rousseau remained in Bossey for three years, after which he was sent back to Geneva to become an engraver's apprentice – although this too was short-lived. After suffering regular beatings from his master he fled Geneva two years later (only months away from obtaining full citizenship – something which Rousseau regretted later in his life).

Geneva's influence on Rousseau after having left the city is debated. O'Mara has suggested that one "may pass over the long middle period of Rousseau's life, spent for the most part outside of Geneva, while his thought took definite form in a distinctive set of popular books."[109] There are, however, some clear exceptions. For example, Rousseau had relatives who remained politically active (in particular, his father's first cousin was a member of the group who presented the first *representations* in 1734-38), and, as already noted, on 21 August 1737 Rousseau visited Geneva and witnessed the intensity of the Genevan troubles first-hand. Cranston reports that Rousseau was "more shocked than thrilled by […] events, and what shocked him most was seeing Jacques Barrillot and his son Jacques-François (1709-1750)

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[108]  Lambercier quoted in H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), pp. 34–35.
[109]  P.F. O'Mara, 'Jean-Jacques and Geneva The petty bourgeois milieu of Rousseau's thought', *Historian* 20.2 (1958), p. 142.

coming out of the same house armed to fight on opposite sides in the civil war."[110] Rousseau admits that this event left a lasting remark on him in his *Confessions*.[111]

It was not only while in Geneva that the city could influence Rousseau. In Paris – a city which had become a hotbed of Genevan resistance[112] – he made a number of connections with conspirators (many who became friends), including Toussaint Pierre Lenieps (1697-1774), Francois Mussard (1691-1755), and Jean-Vincent Capperonnier de Gauffecourt (1692-1766).[113] In addition, Isaac-Ami Marcet de Mezieres (1695-1763), who was still living in Geneva at the time, began corresponding with Rousseau.[114] This was also when Rousseau wrote the *First Discourse*, and although his questioning of the ideas of the Enlightenment can be seen as a response to Paris, a city he had come to despise (while also being one of its *cause celebre*), the arguments were also influenced by his fellow Genevans – in particular those who had embraced "Calvinist moral theology and the language of classical republicanism" in the face of the Genevan magistrates who were supporting and supported by ideas akin to "enlightenment progress."[115]

The influence of Geneva becomes more explicit as the 1750s continued. This is clear in Rousseau's epistle dedicatory to Geneva in the *Second Discourse* and his new habit of signing himself off as "citoyen de Genève."[116] Rosenblatt has argued that these writings demonstrate "how very well informed Rousseau was of the political situation and of some rather subtle points of contention in Geneva even before his return to the city in 1754."[117] Thus, Rousseau's absence

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[110] M. Cranston, *Jean-Jacques: The Early Life and Work of Jean-Jacques Rousseau, 1712-1754* [New York, 1983], p. 124–126.

[111] Rousseau, *Confessions*, OC i, p. 216.

[112] In 1734 Isaac Thellusson, the Genevan minister in Paris, descried it as a "center of conspiracy" (H. Rosenblatt, *Rousseau and Geneva* [Cambridge, 2007], p. 50).

[113] Ibid., p. 48.

[114] Mezieres, in addition to being a key agitator, was a good friend of Rousseau's father (Ibid., p. 181).

[115] Ibid., p. 66.

[116] Although technically Rousseau was not a citizen.

[117] H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 163.

from Geneva did not prevent him from reflecting on the city, nor becoming a key player in its political turmoil. When he did return to Geneva (with the goal of legally gaining citizenship) he did not ingratiate himself with those in power. D'Ivernois wrote this about Rousseau's political affiliations:

> During a residence of some months at Geneva, he preferred the society of private citizens to that of men of power, whose pomp and principles he held in detestation. His attachment to the people, the value he set on the title of citizen of Geneva, the esteem of his countrymen, his connection with the quondam *Deluc*, his fondness for political equality, and his contempt for the rich, which he sometimes carried too far, drew on him the hatred of the partisans of aristocracy, who have been without doubt the real authors of all his misfortunes.[118]

The Deluc mentioned is Jacques-Francois Deluc, a man who saw Rousseau as a potential aid to the *bourgeois* cause.[119] In addition, Rousseau befriended a number of men who would become his defenders, including Jacob Vernes (1728-1791), future leader of the *Représentants*, Paul-Claude Moultou (1731-1797), and Antoine-Jacques Roustan (1734-1808). It was in this charged atmosphere that Rousseau began contemplating the *Contrat social*.[120]

Rousseau's time in Geneva was brief. He left in late 1754, but by this time Geneva's political agitators had fully embraced him as one of their own – a relationship which appeared to be confirmed in 1762 when the *Contrat social* and *Émile* were banned and a warrant was issued for Rousseau's arrest. As Whatmore has argued: "The assertion in these works on their publication in 1762 that the sovereignty of all the members of a state was the fundamental principle of political right, and needed to be continuously reaffirmed in order to maintain liberty, frightened the ruling magistrates at Geneva."[121] To counter Rousseau's arguments the magistrates called on Procureur General Jean-Robert Tronchin (1710-1793) to write a justification of their

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[118]  S.F. d'Ivernois, *An Historical and Political View of the Vonstitution and Revolutions of Geneva: In the Eighteenth Century*, trans. J. Farell (London, 1784), pp. 160–161.

[119]  In a 1762 letter Rousseau wrote that Deluc was "c'est le plus honnête et le plus ennuyeux des hommes" (CC 2245, vol. xiii).

[120]  H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), pp. 183–185.

[121]  R. Whatmore, 'Rousseau and the Representants: The Politics of the Lettres Ecrites De La Montagne', *Modern Intellectual History* 3.03 (2006), pp. 37–38.

attack on Rousseau, the outcome of which was the *Lettres écrites de la campagne* (1765), which argued that Rousseau's crime was of a religious, rather than political, nature. As d'Ivernois would write, however, this position was seen dismissed by most: "the men who burnt in Geneva the writings of Rousseau, publicly tolerated within the walls of the same city, the impression and sale of Voltaire's works, in which the Christian religion is attacked at its very root; whilst Rousseau was for lopping off some branches only, to give more vigour to the trunk."[122] Rousseau responded with his *Lettres écrites de la montagne* and, for the first time, entered into a direct and public conversation with Geneva. In the end, however, it was in vein:

> En passant à Genève je n'allai voir personne, mais je fus prêt à me trouver mal sur les ponts. Jamais je n'ai vu les murs de cette heureuse ville, jamais je n'y suis entré, sans sentir une certaine défaillance de cœur qui venait d'un excès d'attendrissement. En même temps que la noble image de la liberté m'élevait l'âme, celles de l'égalité, de l'union, de la douceur des mœurs me touchaient jusqu'aux larmes, et m'inspiraient un vif regret d'avoir perdu tous ces biens. Dans quelle erreur j'étais, mais qu'elle était naturelle! Je croyais voir tout cela dans ma patrie, parce que je le portais dans mon cœur.[123]

Rousseau's heart had been formed in Geneva – its constitution was his. He carried liberty, equality, and "la douceur des mœurs" within him because they were also a part of Geneva. And although in a letter he wrote to Malesherbes he makes it clear that by 1762 he had little hope of returning to Geneva, he did not abandon his *patria*:

> Si j'eusse vécu dans Genève, je n'aurais pu ni publier l'épître dédicatoire du Discours sur l'inégalité, ni parler même contre l'établissement de la Comédie, du ton que je l'ai fait. Je serais beaucoup plus inutile à mes compatriotes, vivant au milieu d'eux, que je ne puis l'être, dans l'occasion, de ma retraite.[124]

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[122]  S.F. d'Ivernois, *An Historical and Political View of the Vonstitution and Revolutions of Geneva: In the Eighteenth Century*, trans. J. Farell [London, 1784], p. 163.
[123]  Rousseau, *Confessions*, OC i, p. 144.
[124]  CC 1654, vol. x.

## Geneva and Rousseau's Political Thought

The problem in understanding Rousseau's own position is visible in the ambiguity of his response to Théodore Tronchin's (1709-1781) criticism of his 1762 works: "J'ai donc pris votre constitution, que je trouvais belle, pour modèle des institutions politiques, et vous proposant en exemple à l'Europe, loin de chercher à vous détruire j'exposais les moyens de vous conserver."[125] The confusion arises when one attempts to place this quote in either camp – he may be expressing support for the magistrates, and *their* position within Geneva's constitutional history, or subtly attacking them by stating his own writings are in support of a true constitution – the *Représentants*' position. Or, it could be an entirely different argument, but if so, what? Fabri's franchises? Calvin's institutes? Did it include the seventeenth century edicts? The imagined democratic constitution which emerged from a historical contractual moment? The mediations? Ultimately, however, the magistrates took him to be a supporter of the *Représentants*, believing he called for "the involvement of sovereign citizens more directly in the making of law, and in demanding that general councils become a more assertive check on the executive arm of government."[126] However, the secondary literature has remained just as unsure about Rousseau's position. J. Spink wrote of the procureur's conclusion: "Nous avons vu que cela n'est pas vrai, que cela n'est pas possible."[127] Helena Rosenblatt agreed with the magistrates, however, arguing that the *Contrat social* was both in agreement with bourgeois thought and in support of their cause. That is, she argues that the *Contrat social* makes the point that the sovereign – that is, the people – has absolute power and is capable of, and permitted to, modify and revoke any laws it chooses, making it legitimate for the people of Geneva to revoke the sixteenth century edicts.

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[125] Rousseau, *Lettres*, OC iii, p. 810.
[126] R. Whatmore, 'Rousseau and the Representants: The Politics of the Lettres Ecrites De La Montagne', *Modern Intellectual History* 3.03 (2006), p. 388.
[127] J.S. Spink, *Jean-Jacques Rousseau et Genève* (Paris, 1934), p. 90.

This is in opposition to the magistrates, who believed that any manipulation of the constitution would be its dissolution, and that the people had, at some past moment, agreed to submit in exchange for the benefits provided by the constitution. Whatmore, on the other hand, has argued that in Rousseau's later writings – specifically the *Lettres écrites de la montagne* – one finds a more conservative attitude to the expansion of powers and the general council. Although he agrees that "Tronchin and his fellow magistrates were threatening to overturn the established division of power between citizens and the executive, by challenging the sovereignty of the General Council," he also argues that the *Représentants*' move to radically reform the Genevan state, even if democratic, was just as destabilizing.[128] To come to understand what exactly Rousseau's positon was amongst these competing approaches, the Genevan debate needs to be reconstructed, and Rousseau's particular position examined.

To do this, it is worth first noting that there are two positions which highlight the difficulty in coming to understand Rousseau's argument. First, the dialogue taking place on both sides uses a shared intellectual language, with many terms being used without distinguishing differing conceptual meanings. This is a point recently made by Gabriella Silvestrini:

> Si le XVIIIe siècle est pour Genève le siècle des conflits politiques, on peut néanmoins constater la persistance d'un langage presque unanimement partagé, un langage qui pourrait être défini comme la rhétorique spécifiquement républicaine de Genève, fixant pour ainsi dire les bornes et les impératifs de tout discours public sur les institutions politiques et religieuses de la ville.[129]

In particular, she offers three conceptual areas in which the political debate in Geneva was confused by both parties claiming to be protecting the historical constitution and the city: "liberté, vertu et égalité."[130]

The second difficulty comes from a tendency in Rousseau scholarship to see similarities

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[128]   R. Whatmore, 'Rousseau and the Representants: The Politics of the Lettres Ecrites De La Montagne', *Modern Intellectual History* 3.03 (2006), pp. 391–392.

[129]   G. Silvestrini, 'Le républicanisme de Rousseau mis en contexte: le cas de Genève', *Les Études philosophiques* 4.83 (2008), p. 520.

[130]   Ibid., p. 523.

between two streams of thought as connections between the two groups politically; that is to say, the thoughts and proposals seen in the *Représentants*, in many cases, are intellectually akin to Rousseau's own writings. In fact, many of the ideas he is credited with developing in the history of political thought can also be found in Geneva's own intellectual debates. This has led people to place Rousseau in the camp with which his ideas are shared – as Rosenblatt wrote, "[that] helping the Genevan bourgeoisie regain their right was Rousseau's purpose in the *Social Contract* was evident, at the time, both to the Genevan bourgeoisie and to the patrician government."[131] This is an overstatement, however – instead, what is perhaps more likely is that the bourgeois and magistrates would have agreed *with Rosenblatt* that this was Rousseau's purpose. Although many Genevans at the time did see the *Contrat social* as a "panegyric on his country's constitution," it is not certain that this was *Rousseau's* intention to see the proposals in these writings enacted in Geneva.[132]

To come to understand Rousseau's intentions this chapter will follow Silvestrini's division between "liberté, vertu et égalité" as the three contested conceptual areas of debate.[133] Instead, by examining the magistrates', the *Représentants*', and Rousseau's writings on these concepts allows one to recognize the unique position Rousseau inhabited in this debate – a call for the pragmatic political re-foundation of Geneva's historical constitution, but one which also embraced and accepted the mediations as a part of the city's political framework. It is in this way that one can understand Rousseau's writings on Geneva, and recognize how exactly he hoped to "preserve" their constitution: "Cette constitution, toute bonne qu'elle est, n'est pas sans défaut."[134]

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[131]  H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 269.
[132]  S.F. d'Ivernois, *An Historical and Political View of the Vonstitution and Revolutions of Geneva: In the Eighteenth Century*, trans. J. Farell (London, 1784), p. 161.
[133]  That is, Silvestrini's framework is used, but not her arguments themselves.
[134]  Rousseau, *Lettres*, OC iii, p. 810.

**Civil Liberty**

When coming to understand liberty from a Genevan perspective one must recognize that, as Silvestrini has pointed out, "le premier trait républicain de Genève réside dans la double liberté, spirituelle et temporelle."[135] For this reason both conceptions of liberty must be separately addressed. To begin: the problem of liberty can be linked directly to the institutional division between government and sovereignty, and the thought of Jean Bodin (1530-1596):

> Dans ce but, ils appliquent aux institutions de leur ville la distinction d'abord utilisée par Bodin, et ensuite reprise par Pufendorf, entre forme de l'État et forme du gouvernement, amorçant de cette manière une première distinction, encore extrêmement floue, entre le concept de souveraineté et celui de gouvernement.[136]

That is to say, Bodin attributed absolute political power to sovereignty, but allowed for these absolute sovereigns (be them individuals or multitudes) to initiate institutions which exercised their power.[137] Thus, rights of jurisdiction are not attributes of sovereignty, but instead exercised at the pleasure of the sovereign:

> Car il y a bien différence de l'état et du gouvernement: qui est une règle de police qui n'a point été touchée de personne; car l'état peut être en Monarchie, et néanmoins il sera gouverné populairement si le Prince fait part des états, Magistrats, offices, et loyers également à tous sans avoir égard à la noblesse, ni aux richesses, ni à la vertu... laquelle variété de gouverner a mis en erreur ceux qui ont mêlé les Républiques, sans prendre garde que l'état d'une République est différent du gouvernement et administration [de celle-ci], mais nous toucherons ce point ici en son lieu.[138]

According to Whatmore there was "near-universal agreement" with Bodin in this distinction, and "Geneva had always been a popular state governed aristocratically... [The] fundamental problem was that the precise division of governmental powers established during this period of the Reformation remained contested."[139] In particular, the idea that civil liberty was directly equated with sovereignty and the right to self-legislation by the bourgeois was problematic.

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[135]  G. Silvestrini, 'Le républicanisme de Rousseau mis en contexte: le cas de Genève', *Les Études philosophiques* 4.83 (2008), p. 521.

[136]  Ibid., p. 525.

[137]  Bodin, *Six livres*, i. i; viii; x (ed. Mairet, pp. 57-64; 103-110; 151-178).

[138]  Ibid., ii. ii (ed. Mairet, pp. 201-203).

[139]  R. Whatmore, 'Rousseau and the Representants: The Politics of the Lettres Ecrites De La Montagne', *Modern Intellectual History* 3.03 (2006), pp. 392–393.

This argument was being expressed by at least 1707 when it was claimed that liberty for a Genevan included "the right to revoke, change or amend old laws,"[140] and the idea was returned to throughout the eighteenth century – first in the anonymous letters of 1718, at which point political participation was also added to the concept of liberty, and again in 1734:

> [T]he Representations reminded the magistrates that 'the People of Geneva is free and sovereign.' Being 'born free,' the people would soon be reduced to 'slavery' if it did not have the right to assemble periodically, and to approve taxes. The General Council retained the 'right to legislate' and to 'create its magistrates'; moreover, it had reserved for itself the 'knowledge of all important matters and of all difficult cases.' It was further clarified that 'the right to legislate' meant 'the right to make appropriate changes' to existing laws as well as making new ones. Importantly, the movement was an attempt, in the eyes of the bourgeois, to restore legitimate rights rather than introduce new ones.[141]

Freedom, legislation, and sovereignty were therefore closely connected in the minds of the bourgeois – and, according to Pamela Mason, in Rousseau's thought.

Mason has argued that these conceptual aspects of liberty were also embraced by Rousseau, highlighting three areas of clear conceptual overlap between Leger in 1718 and Rousseau in 1762: they both highlight the right to legislate as the mark of sovereignty, and both place this in the people as whole; they both argue that it is an ability of the sovereign to delegate powers to a government, but these powers are only legitimized and maintained at the will of the sovereign; and they both accept the need for periodic assemblies of the sovereign (as a general council) which cannot be abolished or prorogued.[142] The idea that these sovereign rights had been abandoned or handed over to the smaller councils was dismissed by the *Représentants*: "we were born free and sovereign, by some fatality our condition [has] fallen lower than [...] Peoples who were born subjects" and Leger claimed "a people which is free and which renounces its liberty, renounces its well-being, and forges its own chains."[143] Importantly, these claims appear quite

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[140] H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 105.
[141] Ibid., p. 132.
[142] P.A. Mason, 'The Genevan republican background to Rousseaus Social Contract', *History of Political Thought* 14.4 (1993), pp. 570–571.
[143] Quoted in Ibid., p. 569.

similar to Rousseau's: "L'homme est né libre, et partout il est dans les fers"; "il faut qu'il y en ait de fixes et de périodiques que rien ne puisse abolir ni proroger"; "les taxes [sommes] dangereuses, s'ils ne sont établis avec l'exprès consentement du peuple";[144] "la puissance législative appartient au peuple, et ne peut appartenir qu'à lui";

> Qu'est-ce donc que le gouvernement? Un corps intermédiaire établi entre les sujets et le souverain pour leur mutuelle correspondance, chargé de l'exécution des lois et du maintien de la liberté tant civile que politique. Les membres de ce corps s'appellent magistrats… 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 faits dépositaires, et qu'il peut limiter, modifier et reprendre quand il lui plaît. L'aliénation d'un tel droit, étant incompatible avec la nature du corps social, est contraire au but de l'association.

And finally: "La loi d'hier n'oblige pas aujourd'hui."[145] Rousseau also argued that when sovereignty is usurped from the body-politic and placed in the hands of the few, the social pact is dissolved, and force replaces obligation in political matters – and more importantly, natural freedom (and the power each member gave to the sovereign) is returned.[146] A position which would have been seen as threatening to the Genevan magistrates.

These similarities cover a fairly substantial part of his political philosophy, and thus Rousseau seems to easily fit into the traditional Genevan rhetoric of freedom. However, how far can one conflate liberty with legislation as the *Représentants* did? In Book II, Chapter XI, Rousseau writes:

> Si l'on recherche en quoi consiste précisément le plus grand bien de tous, qui doit être la fin de tout système de législation, on trouvera qu'il se réduit à deux objets principaux, la liberté et l'égalité: la liberté, parce que toute dépendance particulière est autant de force ôtée au corps de l'État.[147]

What is more: "il faut bien distinguer la liberté naturelle, qui n'a pour bornes que les forces de l'individu, de la liberté civile, qui est limitée par la volonté générale."[148] This particular definition of liberty is *not* the same as the *Représentants*. Instead, it appears that Rousseau is identifying

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144 Importantly, Rousseau adds "ou de ses représentants."
145 Rousseau, *Contrat social*, OC iii, p. 351; 426; *Économie politique*, OC iii, pp. 277-278; *Contrat social*, OC iii, pp. 432; 396; 424.
146 Rousseau, *Contrat social*, OC iii, pp. 422-423; 360.
147 Ibid., p. 391.
148 Ibid., pp. 364-365.

liberty as not being "found in the exercise of legislative authority, but the submission to 'a lawfully constituted government.'"[149] That is to say, a conception more akin to the magistrates. What is more, if legislation was also liberty, one could not describe one as the object of the other as Rousseau did. Instead, civil liberty is not legislation but the ability to live morally in accordance with reason as dictated by the general will. An individual's natural liberty is the right to everything desired and obtainable within a person's own power, whereas civil freedom is the tempering of this natural freedom in a social situation. Although some extreme rights are lost, they are replaced by new ones: the right to peace and property, and equal *access* to sovereignty and legislation.[150] It is civil liberty which, Rousseau argues, allows for moral liberty – "car l'impulsion du seul appétit est esclavage, et l'obéissance à la loi qu'on s'est prescrite est liberté."[151] So, although there is a link between sovereignty, liberty, and legislation, it is not the same as the one being made by the bourgeois. For the bourgeois, sovereignty is the liberty to legislate; for Rousseau, sovereignty gives one the right to legislate, the end of which is civil liberty – that is, the ability to live in accordance with civil laws and general will. However, this alone does not overcome the claim that, as sovereign of Geneva, the General Council did have the liberty to reform the state – something which Rosenblatt has argued Rousseau *did* agree with the *Représentants* on.

The source of this debate was the magistrates themselves. They agreed that the people were in fact sovereign, but they had forgone their right to legislation in the sixteenth-century edicts, and instead transferred these rights to the smaller councils. The magistrates argued that

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[149]  H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 135. This is a type of liberty which Rousseau did argue existed, although he describes it as akin to the religious and moral freedom discussed by Leger ("To act virtuously, Leger explained, 'one must act freely'; therefore, while one seeks only one's particular utility, one cannot be virtuous" [Ibid., p. 120]).
[150]  Rousseau, *Contrat social*, OC iii, pp. 364-365.
[151]  Ibid., p. 365.

this "*improved* Geneva's heretofore 'unstable' and 'disorderly' form of government."[152] Yet, Rousseau (like Bodin) also wrote that the sovereign cannot impose on itself a law which it cannot break.[153] In this way, it seems clear that Rousseau did link sovereignty and legislation (if not liberty) and, therefore, supported the bourgeois cause. As Rosenblatt argues, Rousseau "defined government as a type of administration, changeable at any time by the popular sovereign."[154] Importantly, this is a position which even the Genevans themselves did not hold – they accepted the sanctity of their constitution, whatever it may be. In this light, Rousseau appears to be a sovereign absolutist supporting the right (and perhaps the cause) of radical reformation of the Genevan political system. However, this perspective ignores other aspects of Rousseau's political theory – in particular the fact that Rousseau did not believe one could simply revoke a constitution as it is more than a simple legal framework. Returning to the metaphor of the body-politic, one cannot deny a state's ability to reform its constitution and political infrastructure, just as one cannot deny a person's ability to cut off a limb – or more aptly, commit suicide – but that does not mean in either case they should, and from Rousseau's perspective this is what one would be doing in dismantling a constitution. Or, to return to liberty and legislation, the section "Du peuple" in the *Contrat social* offers an interesting note for the people of Geneva: "Peuples libres, souvenez-vous de cette maxime: 'On peut acquérir la liberté, mais en ne la recouvre jamais.'"[155] It is in fact in response to the *Représentants* which one can imagine Rousseau wrote "j'aurais désiré que pour arrêter les projets intéressés et mal conçus, et les innovations dangereuses qui perdirent enfin les Athéniens, chacun n'eût pas le pouvoir de proposer de nouvelles lois à sa fantaisie; que ce droit appartînt aux seuls magistrats."[156] Again: "La liberté, n'étant pas un fruit de tous les

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[152]   H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 124.
[153]   Rousseau, *Contrat social*, OC iii, p. 362.
[154]   H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 250; 254.
[155]   Rousseau, *Contrat social*, OC iii, p. 385.
[156]   Rousseau, *First Discourse*, OC iii, p. 114.

climats, n'est pas à la portée de tous les peuples."[157] People will continue to live in political societies, and liberty will always be an ideal, but it is neither a right nor even a possibility at times. And, of course, when the possibility has slipped away it does not mean one should not meditate on it, but when one does do so it should not be assumed that these meditations are proposals which could be enacted in reality – just as Plato warned his interlocutors in *The Republic*.

It should be remembered that Rousseau argued that ancient laws deserve the highest regard as the the most lasting, and thus most succesful, regulations (and there were few laws which had been as lasting and succesful as the edicts of the sixteenth century) – something which the *Représentants* were failing to recognize. What is more, Rousseau argued that silence from the sovereign is tacit consent – so for the generations during which there was no debate, the sovereign was continually acknowledging the legitimacy of the edicts.[158] Finally, although Rousseau did argue that assemblies should be fixed and periodic, he also wrote that at all other times they must be convoked by the magistrates or be declared illegitimate – legitimate laws cannot be born out of actions in conflict with a state's own constitution.[159] Taken in total, it seems difficult to clearly identify Rousseau as a *bourgeois* agitator. Instead, it seems that his goal was to safeguard what civil liberty remained in Geneva, and the method of achieving this can be found in his *Lettres écrites de la montagne*.

In the eighth letter Rousseau takes a position which is in clear opposition with the magistrates: "La liberté consiste moins à faire sa volonté qu'à n'être pas soumis à celle d'autrui." However, he continues by scolding the agitators: "elle consiste encore à ne pas soumettre la volonté d'autrui à la nôtre."[160] Instead, the truth for everyone is:

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[157]    Rousseau, *Contrat social*, OC iii, p. 414.
[158]    Rousseau, *Contrat social*, OC iii, p. 369.
[159]    Ibid., p. 426.
[160]    Rousseau, *Lettres*, OC iii, pp. 841-842.

> Depuis que la constitution clé votre État a pris une forme fixe et stable, vos fonctions de législateur sont finies. La sûreté de l'édifice veut qu'on trouve à présent autant d'obstacles pour y toucher qu'il fallait d'abord de facilités pour le construire. Le *droit négatif* des Conseils pris en ce sens est l'appui de la république.[161]

As seen earlier in this chapter, the *droit negatif* was an institutional protocol born out of the *mediations;* a veto the smaller councils held over anything the general council would want to legislate. Rousseau embraced the *mediations* – he wrote in his *Lettres*: "loin d'imputer aux médiateurs d'avoir voulu vous réduire en servitude, je prouverais aisément au contraire qu'ils ont rendu votre situation meilleure à plusieurs égards qu'elle n'était avant les troubles qui vous forcèrent d'accepter leurs bons offices."[162] He saw them as a fortification rather than reformation, having set out rules which prevented parties from manipulating the constitution. He did see some room for improvement however – specifically, he argued that the *droit negatif* needed to be taken further and be used to protect the constitution from the magistrates themselves: "L'ouvrage est consommé, il ne s'agit plus que de le rendre inaltérable. Or l'ouvrage du législateur ne s'altère et ne se détruit jamais que d'une manière; c'est quand les dépositaires de cet ouvrage abusent de leur dépôt."[163] He continues by stating this problem can be corrected by making the bodies of government checks on each other – "balancent dans un parfait équilibre."[164] What is more, by expanding the *droit negatif* to the General Council (by using of the "Right of Remonstrance" as a method of preventing constitutional reform) Rousseau also offered a method of maintaining the link between sovereignty and legislation without radically transforming the government and constitution. Thus, it seems he was being sincere when he wrote, in reference to the *Contrat social*:

> J'ai donc pris votre constitution, que je trouvais belle, pour modèle des institutions politiques, et vous proposant en exemple à l'Europe, loin de chercher à vous détruire j'exposais les moyens de vous conserver. [...] C'était par mon attachement pour elle que j'aurais voulu que rien ne pût

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[161] Ibid., p. 843; italics mine.
[162] Ibid., p. 836.
[163] Ibid., p. 843.
[164] Ibid., p. 843.

l'altérer. Voilà tout mon crime.[165]

Rousseau's conception of civil liberty was not that of the *Représentants*; it was not found in the right to create one's own laws, but the right to live under one's own laws – in particular, in the face of those who would attempt to manipulate them. Geneva had already been founded and Rousseau's goal was to maintain this foundation. However, this is not the only contested conception of liberty – one must also address religious liberty.

## Religious Liberty

Liberty had another connotation in Geneva: "spirituelle." The importance of spiritual freedom to Calvin's Geneva should not be surprising. However, the relationship between freedom and the city's own particular brand of Christianity is perhaps less obvious. Calvin had directly linked religion with government aiming to create a Christian commonwealth; it was a tool of unity – the *Articles* are almost entirely devoted to creating a single body out of a disunited whole. The Holy Supper, which was initially one of the causes of his exile, was necessary because it "ordonnée et instituée pour conjoindre les membres de notre Seigneur Jésus-Christ avec leur chef, et entre eux-mêmes en un corps et un esprit."[166] Those who would not be part of this unified body were to be excommunicated from the community – it was to be all or nothing. What is more, just as citizens were to submit to the magistrates, the magistrates were to submit to God: "it has pleased [God]to appoint kings over kingdoms, and senates or burgomasters over free states, whatever be the form which he has appointed in the places in which we live, our duty is to obey and submit," however, "all have confessed that no polity can be successfully established unless piety be its first care, and that those laws are absurd which disregard the rights of God, and consult only for men."[167] Thus, the Church formed the community's communal voice; the state worked to ensure the Church had

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[165]   Ibid., p. 810.
[166]   'Articles de 1537', in J. Calvin, *Calvin, homme d'Eglise* (Geneva, 1971), sec. iv.
[167]   Calvin, *Institutes*, iv. xx. viii-ix (ed. Beveridge, pp. 657-658).

spiritual authority, and the church legitimized the state by giving it a "purpose larger than its own."[168] It was a mixture of republican and divine history which made Geneva special – it was through the grace of God that the individuals who made up the reformed church became a people in Geneva, and these religious and republican identities came together to create a common Genevan identity. This was the church described in Calvin's *Institutes of the Christian Religion* – a practical and a metaphysical institution in which all the members formed a single body of believers – a "particular set of institutions and an abstract unity."[169]

Locating spiritual freedom in this unity, therefore, is somewhat difficult, and like with civil liberty, contested. Although leading up to the eighteenth century religious fervour decreased, the *Représentants* saw a powerful and independent Consistory as an ally, and not simply in a pragmatic and irreligious way. There was a heavily egalitarian and participatory aspect of Calvinism which, on the one hand had aims akin to bourgeois political ideals, and on the other hand, was a powerful source of those goals. This is clear in Micheli's argument that: "the civil and ecclesiastical branches of government were meant to wield a 'balanced' power" and Genevan Calvinism "demanded man's participation in *civil life* as well as in his own salvation."[170] M. Leger made this clear in his reflections on the *Mediations*, writing that he feared that abdicating aspects of the General Council's "liberty" and its right to political power was equivalent to avoiding responsibility in an area which God demanded man act.[171] Politics and religion were intertwined for the Calvinist, and abandoning the right to this area of action was a slight on God. In this sense, spiritual liberty was closely connected to political action for the bourgeois.

Nonetheless, in times of political turmoil the magistrates turned to the pulpit to preach a

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[168] P.A. Mason, 'The Communion of Citizens: Calvinist Themes in Rousseau's Theory of the State', *Polity* 26.1 (1993), pp. 28–29.
[169] Ibid., p. 30.
[170] H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 144; 141.
[171] Ibid., p. 151.

religion of submission, "speaking only of the respect and obedience owed to the magistrate."[172] In this way, the magistrates attempted to link spiritual liberty with morality rather than sovereignty or political participation. In Jean-Alphonse Turrettini's sermon "On the Law of Liberty" (1734) it was argued that "it is only the submission to wise laws, it is only the obedience to a well-regulated government, that allows us to enjoy a really reasonable, really advantageous liberty."[173] This argument came straight from Turrettini's theological system in which "reason, not the Holy Spirit; man, not God, certifies the truth of the claims of revelation."[174] Although he believed firmly in the reformed church, he worked to develop a natural theology, rather than dogmatic one; one based on rational proofs – "a system of natural theology that he considered a form of knowledge about God independent from Scripture that any true seeker would find compelling."[175] That is, he "virtually eliminated the role of the Holy Spirit and reduced the faith to a set of basic beliefs that one needs to know for salvation."[176] Turrettini's political and theological perspective was shared by others in Geneva. After his death his work was continued by his disciple Jacob Vernet and, professor of ecclesiastical history, Ami Lullin (1748-1816). The common end of the theology proposed by these ministers, it is argued, was "to placate, depoliticize, and humble the bourgeoisie."[177] In a clear break from the *Représentants'* position, religion and the church were not areas of politics, and spiritual freedom was divorced from both the public sphere and scripture.

Here too Rousseau had a distinct perspective. He agreed with the *Représentants* on one count – that is, he felt that this political de-politicization from the pulpit was unhelpful. Yet he

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[172] Ibid., p. 136.
[173] Quoted in Ibid., p. 136.
[174] M. Klauber, 'Jean-Alphonse Turrettini (1671–1737) on Natural Theology: The Triumph of Reason Over Revelation at the Academy of Geneva', *Scottish Journal of Theology* 47.03 (1994), p. 304.
[175] Ibid., p. 313.
[176] Ibid., p. 323.
[177] H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 138.

opposed moves to embrace a dogmatic and powerful Consistory. In his opinion it was too much like the imposition of the dogmas of the Catholic Church. In fact, after *Émile* and the *Contrat social* were banned in Geneva, he lashed out against the bourgeois: "Et ces imbecilles Bourgeois qui regardent tout cela du haut de leur gloire comme si cela ne les interessoit point, et au lieu de réclamer hautement contre la violation des loix S'amusent à vouloir me faire dire mon cathechisme."[178] Again, from the *Lettres* and directed to Geneva specifically: "Ceux donc qui ont voulu faire du christianisme une religion nationale et l'introduire comme partie constitutive dans le système de la législation, ont fait par là deux fautes, nuisibles, l'une à la religion, et l'autre à l'État."[179] However, the attacks against Rousseau in 1762 came from the Genevan magistrates and not the bourgeois; and these were not nominally political attacks but claims against his irreligiosity. To understand this more fully his theory of civil religion, and the place "spirituelle" liberty fits into it, needs to be examined.

In the *Contrat social* Rousseau describes three types of religion, the first of which was "sans temples, sans autels, sans rites, bornée au culte purement intérieur du Dieu suprême et aux devoirs éternels de la morale, est la pure et simple religion de l'Évangile, le vrai théisme, et ce qu'on peut appeler le droit divin naturel."[180] This is an apolitical religion – rather than uniting citizens with state through spirituality, it dismisses the temporal and imposes a new, and primary, master over a people; as Rousseau says: "Je ne connais rien de plus contraire à l'esprit social."[181] The second sort of religion is the true civil religion of the ancients: "inscrite dans un seul pays, lui donne ses dieux, ses patrons propres et tutélaires. Elle a ses dogmes, ses rites, son culte extérieur prescrit par des lois: hors la seule nation qui la suit, tout est pour elle infidèle, étranger,

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178  CC 2512, vol. xv.
179  Rousseau, *Lettres*, OC iii, pp. 703-704.
180  Rousseau, *Contrat social*, OC iii, p. 464.
181  Ibid., p. 465.

barbare."[182] However, what is very good for the political body, is bad for the souls of its inhabitants and the world as whole – it encourages the worst type of conflict: holy war. The third is the "plus bizarre, qui, donnant aux hommes deux législations, deux chefs, deux patries, les soumet à des devoirs contradictoires, et les empêche de pouvoir être à la fois dévots et citoyens." It is the religion of Catholicism, and Rousseau argues, so manifestly bad not worth considering. There is only one religion which resembled Geneva's in Rousseau's division – "cette religion sainte, sublime, véritable, les hommes, enfants du même Dieu, se reconnaissaient tous pour frères, et la société qui les unit ne se dissout pas même à la mort."[183] However, like the Genevan political system, this type of religion wandered with time and its downfall was an essential part of it.

Rousseau does offer advice on how best to maintain such a religion: tolerance. He argues that the sovereign has no right, nor competence, to offer "true" dogmas of religion in this case. The eternal fate of one's citizens is not the business of the temporal leader – instead it is only that they be good citizens. To this end, Rousseau argues for a "profession de foi purement civile." Not a set of dogmas, but sentiments of sociability – simple, few, precise, without commentary, and most importantly, tolerant.[184] The historical source of this idea was Calvinism itself. Rousseau feared the dogma of Calvin's church had created a less free Geneva than that under Catholicism – a Catholicism, he argued, which was never a real source of political repression.[185] To correct this Rousseau offers two options for Christians in the *Lettres*, the first being:

> [D]'établir une religion purement civile, dans laquelle renfermant les dogmes fondamentaux de toute bonne religion, tous les dogmes vraiment utiles à la société, soit universelle soit particulière, il omette tous les autres qui peuvent importer à la foi, mais nullement au bien terrestre, unique objet de la législation.[186]

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[182]   Ibid., p. 464.
[183]   Ibid., p. 465.
[184]   Ibid., pp. 468-469.
[185]   Rousseau, *History*, OC v, p. 526.
[186]   Rousseau, *Lettres*, OC iii, p. 705.

The second option:

> [Il] est de laisser le christianisme tel qu'il est dans son véritable esprit, libre, dégagé de tout lien de chair, sans autre obligation que celle de la conscience, sans autre gêne dans les dogmes que les mœurs et les lois. La religion chrétienne est, par la pureté de sa morale, toujours bonne et saine dans l'État, pourvu qu'on n'en fasse pas une partie de sa constitution, pourvu qu'elle y soit admise uniquement comme religion, sentiment, opinion, croyance; mais comme loi politique, le christianisme dogmatique est un mauvais établissement.[187]

The former is an impossibility in Geneva – it would require the city as a whole to renounce and re-establish a new belief system. The latter, however, is achievable as it does not require any reforming of religious beliefs. Instead, Rousseau argues for a cut between civil power and spiritual belief – a clear separation of church and state which does away with the likes of the Consistory, religious tribunals, and political sermons. One's beliefs would continue to function as before, but their weight in the public realm would dissipate. Just as Rousseau argued for a re-founding of the political regime in Geneva, so too did he argue for a religious re-founding which would allow for the maintenance of the current beliefs in Geneva, while insulating them from the political.

Of course, this was an unthinkable position for many of the *Représentants*. They were orthodox Calvinists, believers in the confessional state: "[T]he relationship between the church and the state was the cornerstone of the ideology of the Deluc circle, for whom the threat to liberty came from the magistrates and not the Consistory."[188] In fact, so offensive was this position that it resulted in a split between Rousseau and Deluc, and the abandoning of Rousseau's *Lettres*. However, Rousseau was not trying to weaken the church, but save it from the magistrates. He was trying to stop the political manipulation of religion which had come to play a large, and negative, role in Geneva. It was a re-foundation, or a re-Reformation – a return to the Gospel and each person's relationship with it – true spiritual liberty.

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[187] Ibid., pp. 705-706.
[188] R. Whatmore, 'Rousseau and the Representants: The Politics of the Lettres Ecrites De La Montagne', *Modern Intellectual History* 3.03 (2006), p. 404.

**Virtue as a Concept**

The second intellectually contested area highlighted by Silvestrini is *vertu*: "la vertu en tant que discipline chrétienne est considérée comme étant fondamentale pour le maintien de l'indépendance politique."[189] Rousseau's own definition of public virtue is available in the Geneva manuscript of the *Contrat social*: "Tout ce qu'on voit concourir à ce plus grand bien, mais que les lois n'ont point spécifié, constitue les actes de civilité, de bienfaisance, et l'habitude qui nous dispose à pratiquer ces actes mêmes à notre préjudice est ce qu'on nomme force ou vertu."[190] That is to say, being virtuous is the ability to actualize one's moral freedom – the ability to do something which one knows has an external good as its aim, rather than, and often in contrast with, one's own personal good or particular will. Again, as he described it in his *Discours sur la vertu du héros*: "C'est au-dedans de nous-mêmes que sont nos plus redoutables ennemis; & quiconque aura su les combattre & les vaincre aura plus fait pour la gloire, au jugement des Sages, que s'il eût conquis l'Univers."[191] A similar understanding is found amongst *Représentant* thinkers. Isaac-Ami Marcet wrote in 1734 that a virtuous man can be seen "in harmony with all that is just, even at the expense of his individual interest; such [is] a Republican, & such is, in effect, the Genevan, good & wise Citizen." However, he also questioned the existence of such virtue in Geneva: "We would be happy, Magnifiques Seigneurs, if in a State as small as this one, all who are concerned with it agree as to its greatest good; we want to believe that each Individual strives toward this end, but often individual opinions & passions turn this intention to naught."[192]

According to Rousseau, the social contract itself is what makes public virtue possible; it

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[189] G. Silvestrini, 'Le républicanisme de Rousseau mis en contexte: le cas de Genève', *Les Études philosophiques* 4.83 (2008), p. 522.

[190] Rousseau, *Contrat social*, OC iii, p. 328-329.

[191] Rousseau, *Heroes*, OC ii, p. 1273.

[192] Quoted in P.A. Mason, 'The Genevan republican background to Rousseaus Social Contract', *History of Political Thought* 14.4 (1993), p. 566.

requires "l'aliénation totale de chaque associé avec tous ses droits à toute la communauté: car, premièrement, chacun se donnant tout entier, la condition est égale pour tous" – a condition which "produit un corps moral et collectif, composé d'autant de membres que l'assemblée a de voix, lequel reçoit de ce même acte son unité, son moi commun, sa vie et sa volonté."[193] The end is the same in, and for, *Émile*; instead of there being a multitude of citizens in which "le *moi* relatif se met en jeu sans cesse, et que jamais le jeune homme n'observe les autres sans revenir sur lui-même et se comparer avec eux," the goal is to "[é]tendons l'amour-propre sur les autres êtres, nous le transformerons en vertu, et il n'y a point de cœur d'homme dans lequel cette vertu n'ait sa racine."[194] Through the social contract each individual becomes equal as subject and sovereign and by being both, citizens find that their personal inclinations as sovereign (although not necessarily as individuals) begin to conflate. That is, as everyone realizes the successful end of the state is in all of their interest as equal shareholders, a general will emerges. What is more, they are free by both choosing their own laws, and choosing to obey these general laws rather than their own personal inclinations. Thus, the contract achieves a metaphysical reorganization of the individual, making this type of virtue possible – "substituant dans sa conduite la justice à l'instinct, et donnant à ses actions la moralité qui leur manquait auparavant."[195]

This was not an entirely novel idea – in fact, in many ways it is reminiscent of Calvin and the Genevan church, where it was understood that "[n]o member has its function for itself, or applies it for its own private use, but transfers it to its fellow-members; nor does it derive any other advantage from it than that which it receives in common with the whole body."[196] And just as Rousseau saw man entering society as a step away from natural goodness, these Calvinist ideas were born out of the contemplation of the fall, and the recognition that one is nothing as an

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[193]   Rousseau, *Contrat social*, OC iii, p. 360-361.
[194]   Rousseau, *Émile*, OC iv, p. 534; 547.
[195]   Rousseau, *Contrat social*, OC iii, p. 364.
[196]   Calvin, *Institutes*, iii. vii. v (ed. Beveridge, p. 11).

individual having left Eden. Instead, it is only in joining the church that one can one hope to escape damnation.[197] It is in recognizing one's own weaknesses (as a sinner or a potential member of society) that one can then see that becoming a member of something larger than oneself allows them to overcome individual fallibility. As Calvin put it: "The rule which permits us not to go astray in the study of righteousness, requires two things-viz. that man, abandoning his own will, devote himself entirely to the service of God; whence it follows, that we must seek not our own things, but the things of God."[198]

Again, the key to being virtuous is to will oneself not to follow one's own instinctual or particular will, while recognizing that this secondary will is *also* one's will. This is where the intellectual debate between the magistrates and bourgeois emerges. Although superficially similar, one can find a distinction in Turrettini's "Law of Liberty." Mason wrote that he argued "individual believers, while they shared *in* the possession of the Law of the Gospel as members of the church, also subjected themselves *to* the Law of the Gospel in order to achieve personal spiritual freedom and so not fall back into spiritual bondage."[199] However, she fails to see that he goes further to argue: "As long as we submit ourselves to this Law, we are not the less free for it: On the contrary, it is that Law itself which renders us free, because it liberates us from the tyranny of our Passions."[200] This subtle distinction is essential to understanding the debate in Geneva. It is easy to see where the language and concepts of Rousseau, the *Représentants*, and the magistrates blend together. Sacrifice for the greater good, and acceptance of this good as one's own, is a part of all their arguments. However, for Turrettini and the magistrates it is simply necessary to follow the will of others to be virtuous and free. For the others, however, it is

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[197]  Or, in the case of Calvinists, at least be sure that they cannot be sure that they are damned.
[198]  Ibid., iii. vii (ed. Beveridge, p. 6).
[199]  P.A. Mason, 'The Communion of Citizens: Calvinist Themes in Rousseau's Theory of the State', *Polity* 26.1 (1993), p. 46.
[200]  Quoted in Ibid., p. 46.

through action – willing – that one becomes a part of the body-politic and gains access to the general will, and through communion that one becomes one with the body of Christ, and according to Calvin, has access to God's will. Rather than offering a philosophy of achieving virtue, the magistrates were using this, once again, as a method of de-politicization. Rousseau argued that establishing a community is not enough. Active participation in assemblies – which cannot be prorogued – is necessary as well.[201] Again, one must *will* their portion of the general will, just as through communion one becomes one with the body of Christ. Both in politics and religion one cannot simply submit, but instead, one must come together and choose. Obeying laws is inherently different to choosing to make and obey virtuous laws. In this way freedom, as discussed above, and virtue are inherently linked as both are related to being able to choose to act morally, in accordance with the general will, and potentially in contrast to the particular will.[202]

This is a point which the *Représentants* would have recognized. Again, regular access to the General Council was an aspect of their own concept of freedom – it was tied to the right to elect their own government, establish their own laws, and be dependent on no one. It was the perceived loss of this sovereign power that was the source of Geneva's domestic problems. It seems, therefore, fairly certain that Rousseau agreed with the *Représentants* in this case – regular assemblies were necessary for Geneva. This however, and returning to the overall argument of this thesis, was not a new proposal, and therefore, not a modification of the constitution (although *Représentant* proposals to link sovereignty with governing were). Instead, the real problem for both Geneva and in the *Contrat social* was how one maintains this virtue – this obedience to the general will – in citizens when not assembled – how to "make virtue reign."[203]

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[201] Rousseau, *Contrat social*, OC iii, p. 426.
[202] Rousseau, *Contrat social*, OC iii, p. 365.
[203] Rousseau, *Geneva Manuscript*, OC iii, p. 252.

**Virtue in Practice**

The socialization of virtuous action in Geneva was initially accomplished through the Church and public education. During Rousseau's own time in Geneva there were "weekly children's church services and catechisms, four lay catechists, and twenty-five dizaine-schools for the socialization of their children into the church."[204] Attendance was mandatory, and inspectors would patrol the streets during services. Pastors would maintain records of student attendance and make yearly home-visits to ensure partents were also playing a role. Pastors would also write reports on each other which would be submitted to the Consistory. This was the Consistory that the *Représentants* were supporters of – a body whose concern was the virtue and education of the citizenry under attack from the magistracy.

The Reformation had introduced obligatory public education for the first time in Europe. Calvin's goal was, on the one hand, to break away from the medieval pedagogical system supported by the Catholic church, and on the other, to create good Christians *and* citizens. This project was maintained following Calvin – Jean-Jacques Burlamaqui (1694-1748) (Barbeyrac's successor and member of the council of twenty-five) wrote that laws alone were not capable of making good citizens, but the formation of their "hearts and minds" was also necessary.[205] However, by the eighteenth century the accepted method of forming "hearts and minds" had weakened, and a gap developed between the public education which was available to the wealthy and the poor – a problem which became, according to Rosenblatt, "a sub-theme in the political disputes."[206] There seem to have been two causes of this: the ideological and the pragmatic.

Rosenblatt has argued that "a rather peculiar ideological situation occurred in Geneva during the eighteenth century: 'enlightenment progress' became the ally of the oligarchical

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[204]   P.A. Mason, 'The Communion of Citizens: Calvinist Themes in Rousseau's Theory of the State', *Polity* 26.1 (1993), pp. 43–44.
[205]   Quoted in H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 203.
[206]   Ibid., p. 205.

reaction while the opposition armed itself with both Calvinist moral theology and the language of classical republicanism."[207] *Doux commerce* was the theory embraced by the magistrates, believing that with increased commerce there was a softening of society – that is, economic interdependence had a moralizing effect which made people sweet, mild, soft, gentle, and peaceful. These were the ideas of Mandeville, Jean-François Melon, Montesquieu, Voltaire, Hume, and in particular Burlamaqui (who argued that natural law and sociability included a "natural inclination" to establish a "commerce of goods and services").[208] On the other hand, this was a theory which Rousseau and a number of bourgeois Genevans opposed, arguing that, rather than benefitting society, these ideas perpetuated a moral decline.[209] Instead the bourgeois saw education as the real source of virtue in the citizenry. It was in ancient republics that these Genevans recognized "the love of work, firmness in misfortune, sobriety, disinterestedness, the contempt for riches, the respect for laws, an unbelievable zeal for procuring the public good were common virtues" whereas in Geneva, "softness," "luxury," and "licentiousness" were the lessons of the day.[210]

This decline, in the eyes of the *Représentants*, was compounded by the magistrates control over the church – the source of public education in Geneva – and "[a]s a consequence […] the Genevan Academy was secularized and parochialized so that by 1725 it had turned into a mainly local institution specialized in the education of Geneva's political and economic elite."[211] Overtime attendance to college dropped and those who did go would often only attend for one or two years, gaining basic reading and writing skills before being put to work. This was a beneficial system for the magistrates – the degraded state of the educational system meant the

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[207]  Ibid., p. 66.
[208]  Ibid., pp. 96–97.
[209]  See Deluc's 1747 letter criticizing Mandeville.
[210]  Quoted in H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 208. Like Rousseau, they argued that as science and arts became more important and pervasive, morality and virtue suffered.
[211]  Ibid., p. 205.

magistrates, who were also the providers of this system, could attack the population for being intellectually unequipped to self-govern. What is more, in 1752 they cut the first class of college from public curriculum – the class in which basic reading skills were taught to those unable to afford private tutoring. Although the bourgeoisie reacted fiercely and it was soon restored, it was clear that the patriarchs' interests were not lined up with those of the bourgeois.[212]

This issue was raised again in 1738 when a theatre was temporarily established in the city. Although many magistrates were in favour of it, their reasonings do not seem to be entirely cultural. Jean Louis Dupan (1698-1775) addressed the council of two-hundred by arguing:

> [T]hese kinds of distractions are completely incompatible with the sadness of angry passions and the seriousness of politics. The *pains et circenses* of the Greeks and Romans were the most certain way, according to their legislators, of *turning the people away from the criticism of government*.[213]

This was the degeneration of Genevan culture as Rousseau saw it, and it is in this light that one can understand Rousseau's *Lettre d'Alembert*. As Silvestrini wrote:

> Voltaire par contre, et d'Alembert aussi en partie, en s'appuyant sur l'idée de la république démocratique et vertueuse, voulaient s'en servir pour réaliser une universalisation égale et contraire à celle de Rousseau, à savoir, soumettre la république même aux valeurs de la société commerçante – la tolérance, les Lumières, le théâtre – effaçant ainsi de ce point de vue toute différence entre république et monarchie. Rien de surprenant, donc, dans l'acharnement avec lequel Rousseau et Voltaire se sont affrontés dans la querelle du théâtre, qui était pour tous deux de la plus haute importance théorique et pratique dans leur conception du modèle genevois: signifiant perte des mœurs, de l'identité nationale et de la liberté pour le premier, le théâtre représentait pour le second la possibilité de troquer une république-couvent pour une république polie et éclairée.[214]

It is not surprising, then, that the *Représentants* assumed Rousseau to be on their side – he attacked the theatre and commerce while arguing that "L'éducation publique sous des règles prescrites par le gouvernement, et sous des magistrats établis par le souverain, est donc une des

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[212] Ibid., p. 206; 210. Rousseau is surprisingly quiet on "public education" in the *Contrat social* although it is discussed in other texts (in particular, *Économie politique*). One possible explanation is that its role is taken on by the church (Rousseau, *Contrat social*, OC iii, pp. 464-465).

[213] Ibid., p. 221. Although attributed to the *procureur-général* Jean Dupan (1665-1721) in Rosenblatt, the elder Dupan died almost two decades before the theatre debate emerged in Geneva. Thus, it more likely to have been his son, who was also politically active and a member of the Petit Conseil.

[214] G. Silvestrini, 'Le républicanisme de Rousseau mis en contexte: le cas de Genève', *Les Études philosophiques* 4.83 (2008), pp. 540–541.

maximes fondamentales du gouvernement populaire ou légitime."[215] However, Rousseau's solution was to halt change, rather than embrace reform. Again, just because Rousseau's enemy is also the *Représentants'* enemy, one should not assume Rousseau and the *Représentants* shared ends.

While the *Représentants* continued to see the Calvinist church and the Consistory as a legitimate enforcer of public virtue, Rousseau took a religious position more akin to the natural law theorists and patriarchs at the time (in particular, Grotius, Pufendorf, Barbeyrac, Burlamaqui, Tillotson).[216] His proposals attempted to break with the dogmatic quarrels and strict imposition of scripturally based moral rules. However, while many of the magistrates embraced natural law, reason, and *doux commerce* as sources of virtue themselves, Rousseau also refused to accept *these* sources of virtue. Instead, he developed a third way of tempering politics and instilling civic virtue by looking towards London and the works of Joseph Addison and Richard Steele in the *Spectator*; that is, he proposed a coffeehouse culture for the Genevan public as seen in the already established *cercles*.[217]

Rousseau identifies a link between the *cercles* and English coffeehouses in his *Lettre d'Alembert*, where he classifies both as examples of practices in well-constituted states which reflect and preserve the state itself.[218] Coffeehouses in England were more than cafés are today – they were spheres of social interaction and political reflection. After the English Civil War they were treated as "new and dangerous forms of association," but by the end of the seventeenth century they were "potential sites of rational discussion."[219] The coffeehouse patron saw himself

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[215]  Rousseau, *Économie politique*, OC iii, pp. 260-261.
[216]  H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), p. 94.
[217]  Rousseau himself enjoyed *The Spectator* ("Le Spectateur surtout me plut beaucoup et me fit du bien" [*Confessions*, OC i, p. 109]) and the periodical played a role in Émile's education (OC iv, p. 825).
[218]  Rousseau, *d'Alembert*, OC v, p. 90.
[219]  L.E. Klein, *Shaftesbury and the Culture of Politeness: Moral Discourse and Cultural Politics in Early Eighteenth-Century England* (Cambridge, 1994), p. 12.

as taking part in meaningful and relevant conversation; one sees Addison – in the persona of Mr. Spectator, the fictional protagonist of *The Spectator* – announce in issue ten that:

> It was said of Socrates, that he brought Philosophy down from Heaven, to inhabit among Men; and I shall be ambitious to have it said of me, that I have brought Philosophy out of Closets and Libraries, Schools and Colleges, to dwell in Clubs and Assemblies, at Tea-tables, and in Coffee houses.[220]

The emergence of this contemplative public realm was important, according to Habermas: "Forces endeavouring to influence the decisions of state authority appealed to the critical public in order to legitimate demands before this new forum."[221] They were also similar to the *salons* Rousseau became familiar with in Paris, except that coffeehouses "made access to the relevant circles less formal and easier… [They] embraced the wider strata of the middle class, including craftsmen and shopkeepers."[222]

*Cercles* were associations of twelve to fifteen members who rented meeting places at which they would gamble, chat, read, drink, and smoke. Rousseau argued that from these "simple and innocent" amusements one can develop a people who suit republican mœurs:[223] "ces honnêtes & innocentes institutions rassemblent tout ce qui peut contribuer à former dans les mêmes hommes des amis, des citoyens, des soldats, & par conséquent tout ce qui convient le mieux à un peuple libre."[224] It is hardly surprising, then, that Rousseau was attracted to these institutions – they were already existing fields of social interaction which functioned outside of the church and political assemblies and which could be used to effectively encourage good sense and judgement – sources of public virtue.[225]

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[220]  J. Addison and G. Smith, *The Spectator*, i (London, 1711), pp. 31–32.

[221]  J. Habermas, *The Structural Transformation of the Public Sphere: An Inquiry Into a Category of Bourgeois Society* (Cambridge, MA, 1991), p. 57.

[222]  Ibid., p. 33.

[223]  Rousseau, *d'Alembert*, OC v, pp. 90-101. Just as with coffeehouses, women were prevented from taking part. Rousseau argued that the two sexes would be distracted by each other.

[224]  Ibid., p. 96.

[225]  One of Rousseau's most pressing fears with the establishment of a theatre in Geneva was that it would come to replace *cercles*, and thus replace republican activities with Parisian softness.

The response Rousseau received from the Genevans after he proposed the use of *cercles* reflects his intellectual break from both the magistrates and bourgeois; his fellow countrymen were "shocked" at this endorsement.[226] On the side of the government, Tronchin wrote: "Cette patrie, mon bon ami, n'est pas ce que vous imaginez." Instead, he argued the *cercles* caused only degeneration, distraction, loss of time, and poor education. He continues: "Ne nous y trompons pas, ce qui convenait aux Republiques Grecques, ne convient plus à la notre."[227] From the church he received letters from Jean Perdriau and Jacob Vernet, with the former telling him not to believe everything he wrote about the *cercles*, as they were a source of great abuses, and the latter writing: "bien des gens doutent que l'institution des cercles soit politiquement utile; & nous croyons certainement que ceux des jeunes gens (que l'on supprime aussi tant que l'on peut) sont moralement tres mauvais."[228]

It is important to note, however, that public gatherings and interactions of this kind were essential in Rousseau's thought (just as it was to the ancients and Calvin).[229] It is worth turning to a report Rousseau gave of a public gathering he witnessed as a child in Saint Gervais:

> Je me souviens d'avoir été frappe dans mon enfance d'un spectacle assez simple, & dont pourtant l'impression m'est toujours restée, malgré le temps & la diversité des objets. Le Régiment de St. Gervais avait fait l'exercice, &, selon la coutume, on avoit loupe par compagnies; la plupart de ceux qui les composaient se rassemblèrent après le soupe dans la place de St. Gervais, & se mirent à danser tous ensemble, officiers & soldats, autour de la fontaine, sur le bassin de laquelle étaient montes les Tambours, les Fifres, & ceux qui portaient les flambeaux. Une danse de gens égayes par un long repas semblerait n'offrir rien de fort intéressant à voir; cependant, l'accord de cinq ou six cents hommes en uniforme, se tenant tous par la main, & formant. une longue bande qui serpentait en cadence & sans confusion, avec mille tours & retours, mille espèces d'évolutions figurées, le choix des airs qui les animaient, le bruit des tambours, l'éclat des flambeaux, un certain appareil militaire au sein du plaisir, tout cela formait une sensation très-vive qu'on ne pouvait supporter de sang-froid. Il était tard, les femmes étaient couchées toutes se relevèrent. Bientôt les fenêtres furent pleines de spectatrices qui donnaient un nouveau zèle aux acteurs; elles ne purent tenir long-temps à leurs fenêtres, elles descendirent; les maîtresses venaient voir leurs maris, les servantes apportaient du vin, les enfants même éveilles par le bruit accoururent demi-vêtus entre les pères & les mères. La danse fut suspendue; ce ne furent qu'embrassements, ris, santés, caresses. Il résulta de tout cela un attendrissement général que je ne saurais peindre, mais que, dans l'allégresse universelle, on éprouve assez naturellement au milieu de tout ce qui nous est cher. Mon père, en

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226 P. Coleman, *Anger, Gratitude, and the Enlightenment Writer* (Oxford, 2010), p. 136.
227 CC 734, vol. v.
228 CC 742, vol. v.
229 'Articles de 1537', in J. Calvin, *Calvin, homme d'Eglise* (Geneva, 1971), sec. xi.

> m'embrassant, fut saisi d'un tressaillement que je crois sentir & partager encore. Jean-Jaques, me disait - il, aime ton pays. Vois-tu ces bons Genevois; ils sont tous amis, ils sont tous frères; la joie & la concorde règne au milieu d'eux. Tu es Genevois: tu verras un jour d'autres peuples; mais, quand tu voyagerais autant que ton père, tu ne trouveras jamais leur pareil.[230]

Here are examples of exercises which instil and bring about republican virtue reminiscent of the tales given of ancient lawgivers. Interestingly, and in contrast to the response Rousseau received to his *cercles* proposal (which comes from the same document), attempts were made to bring back the practice Rousseau described, and on 5 June 1761, a public feast was held.[231] What is important however, is that Rousseau's take on public virtue differed from both the magistrates and the *Représentants* (while the bourgeois embraced Calvinism and a Calvinist informed public education, the magistrates looked towards the Enlightenment, natural law, and *doux commerce*). Rousseau also attempted to remain true to Geneva itself. He did not propose new laws or create new forums to instill these virtues; instead, and importantly, he looked to institutions and traditions which were already a part of Geneva: the *cercles* and public ceremonies were both available and, he argued, capable of instilling civic virtue through informed discourse and love of the *patria*.

**Equality**

The third area of conceptual debate in Geneva is equality. Silvestrini wrote: "Depuis l'époque de Calvin jusqu'à la fin du XVIIIe siècle, les Genevois n'ont cessé de répéter que le caractère spécifique de leur république était l'égalité régnant parmi tous les citoyens, c'est-à-dire l'absence de toute aristocratie héréditaire."[232] This issue was also highlighted by O'Mara, arguing that political agitation aimed towards "the removal of numerous statutes implying their social inferiority… It was not so much that the realities of class distinctions were being eliminated. It

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[230] Rousseau, *d'Alembert*, OC v, 123-124.
[231] Reports of the event demonstrate both the influence Rousseau had, and perhaps the power of his proposals. See David Chauvet's report (CC 1428, vol. ix) and Jean Louis Mollet's letter (CC 1429, vol. ix).
[232] G. Silvestrini, 'Le républicanisme de Rousseau mis en contexte: le cas de Genève', *Les Études philosophiques* 4.83 (2008), p. 523.

was rather that the symbols and honors characteristic of class differentiation were being attacked.[233] This was not class struggle, but class jealousy. The have-nots did not begrudge the higher-classes for what they had, but instead demanded access to the same. What is perhaps most surprising, however, is that it is not the position Rousseau took.

On the one hand, one can read Rousseau's arguments for popular government and sovereignty in the *Contrat social* as statements of support for the bourgeois and the drive for political equality. It is not hard to imagine him attacking the magistrates and their reliance on the edicts of 1568 when he writes:

> [L]a volonté particulière tend, par sa nature, aux préférences, et la volonté générale à l'égalité... Le souverain peut bien dire: 'Je veux actuellement ce que veut un tel homme, ou du moins ce qu'il dit vouloir, 'Mais il ne peut pas dire; 'Ce que cet homme voudra demain, je le voudrai encore'; puisqu'il est absurde que la volonté se donne des chaînes pour l'avenir, et puisqu'il ne dépend d'aucune volonté de consentir à rien de contraire au bien de l'être qui veut. Si donc le peuple promet simplement d'obéir, il se dissout par cet acte, il perd sa qualité de peuple. À l'instant qu'il y a un maître, il n'y a plus de souverain; et dès lors le Corps politique est détruit.[234]

One may see it as a position similar to that of Lenieps, and the idea of a constitution which went back to a primitive republican equality and a democracy which had been illegitimately destroyed by the oligarchy.[235] To correct this, a method of redistributing powers was needed – and to accomplish this Lenieps argued for the radical transformation of Geneva's political system by merging sovereignty with popular government, thus reuniting equality and true sovereignty.

However, this is not the way Rousseau understood the relationship between equality and government. Instead, he saw Lenieps' argument as a direct attack on Geneva's constitution and the separation of sovereignty and government. Instead, one may see Rousseau siding with Burlamaqui who believed in a "*shared* or *divided* sovereignty, which formed the basis for a

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[233] P.F. O'Mara, 'Jean-Jacques and Geneva The petty bourgeois milieu of Rousseau's thought', *Historian* 20.2 (1958), pp. 144–145.

[234] Rousseau, *Contrat social*, OC iii, p. 368-369. It is worth noting that Rousseau followed this paragraph with a statement just as damning for the *Représentants*: "En pareil cas, du silence universel on doit présumer le consentement du peuple."

[235] H. Rosenblatt, *Rousseau and Geneva* (Cambridge, 2007), pp. 75–76.

theory of balance of power."[236] When Rousseau addressed the problem of inequality it was not because he saw the Genevan political system as insufficient due to its denial of equal access to government. In fact, Rousseau felt that sovereignty and government were not necessarily the same thing in a popular government, and in giving executive power to one particular group, a people did not necessarily relinquish sovereignty. Like Machiavelli, Rousseau recognized that "in every republic are two diverse humors, that of the people and that of the great, and that all laws that are made in favor of freedom arise from their disunion."[237] Of course, to ensure the Genevan government continued to govern with the greatest good as its end, Rousseau turned to the *droit negatif*, allowing the rest of the city to express displeasure without having a grasp on legislative power themselves.

This again points to Whatmore's thesis that, according to Rousseau, the greatest threat to Geneva came not from the magistrates, but the *Représentants*. Were they to succeed it would simply be a case of replacing the power of one group (magisterial) with another (popular), while all the while they injected instability and civil strife. This threat is made explicit in the *Contrat social* where Rousseau argues that factions are one of the most dangerous threats to a republic. However, Rousseau's proposed solution to this problem is clearly not the same as the bourgeois. Instead, he criticizes the emergence of powerful factions concerned with only their own particular will.[238] The solution, he argues, is to do as Solon, Numa, Servius did – encourage a greater multiplicity of factions.[239] Of these three, Servius would have had the most to teach the Genevans (and importantly, he is the only non-founder listed). When founded, Rome was divided into three tribes: the Sabines, Albans, and foreigners. This division soon became a political problem: while the Albans and Sabines remained relatively equal in size, the number of

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[236] Ibid., p. 100.
[237] Machiavelli, Discourses i. iv. i (ed. Mansfield and Tarcov, p. 16).
[238] Rousseau, *Contrat social*, OC iii, pp. 371-372.
[239] Ibid., p. 372.

foreigners continued to grow – the result being two-thirds of the political power being held by much less than two-thirds of the total population – an issue Geneva and her *natifs* were experiencing. To overcome this problem Servius redistributed the population into four tribes of equal size based on geographic location within the city, rather than familial or racial relations.[240] In doing this power was redistributed more equally, although it was not held equally. Rousseau was not pointing to a political system where power is shared equally amongst everyone, but in which power is equally distributed in such a way that groups cannot have *so much more power* than any other. For Geneva the lesson is clear: by allowing all parts of government to check each other, and allowing everyone in Geneva access to at least one level of government, equality was created and the constitution maintained. This was the power of the *droit negatif*, which checked the powers of the magistrates as much as the *Représentants*: "Ce n'est point à dire que les ordres des chefs ne puissent passer pour des volontés générales, tant que le souverain, libre de s'y opposer, ne le fait pas."[241] While the magistrates could act on behalf of the population as a whole – that is, they could have an unequal share of this political power – the sovereign, as a whole, must have an opportunity to express its opposition when needed. However, Rousseau was aware that the *droit negatif* did not create the feeling of equality – something which was just as important. Again, access to political power was only one aspect of the class issues at the time, and for the average Genevan there was also a concern as to "les degrés de puissance et de richesse."[242] This is a more subtle issue, but just as important in Rousseau's works. To come to understand its importance, one can look at the symbolism of the *épée* in Geneva.

Before the mid-sixteenth century the ceremonial sword was a symbol of honour and class for the bearer, but following the revolt of 1536 the blade was appropriated by the citizens of the

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[240] See also: Ibid., pp. 444-453.
[241] Ibid., p. 369.
[242] Ibid., pp. 391-392.

city as a whole – from artisan to patrician – and worn when attending important functions (the most important of which was the General Council). Although access to it was granted to all, O'Mara explains that:

> [T]he blade remained peculiarly associated with the wealthy merchant oligarchy, and its use by the lower citizens on non-symbolical occasions was still regarded at the opening of the eighteenth century with some ill grace by the higher patrician rank. Perhaps for this very reason, the *épée* acquired important symbolical value for the most insecure and lowly of the town's inhabitants.[243]

Rousseau was very much aware of this subtle symbolic value. He described the feeling of importance it gave him in his *Confessions*, but also reflected on the social difficulty attached to the wearer – even when simply buying bread: "Un beau monsieur l'épée au côté aller chez un boulanger acheter un morceau de pain, cela se pouvait-il?"[244] It is clear that the symbolic value was something he was proud of, but also a burden (importantly though, the pride clearly made the burden bearable). It was a symbol of inequality in many ways, yet because of this, the bearer had particular responsibilities. Following this logic, Rousseau developed a political trick in which *amour-propre* could be harnessed and used for the public good. If vanity and the desire for recognition in Geneva could be fulfilled through political approval of public actions, inequality would serve a function, and perhaps become bearable like an *épée*. That is, election to the smaller councils could be, on the one hand, a reward for long-standing service, and on the other hand, a place where those who have demonstrated professionalism in public service could be entrusted with power. Although a number of families had become, in everything but name, Genevan aristocrats, it is the "but in name" that maintained their legitimacy. It was not the existence of distinct categories of citizen, or classes of people which was a problem for Rousseau – it was when laws gave, or took away, specific rights from particular peoples that illegitimacy would

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[243] P.F. O'Mara, 'Jean-Jacques and Geneva The petty bourgeois milieu of Rousseau's thought', *Historian* 20.2 (1958), p. 146.

[244] Rousseau, *Confessions*, OC i, p. 269**.** With regard to Rousseau's right to the symbol, O'Mara makes the point that: "The *épée* was one of those symbols of rank to be clutched at by precisely those persons whose position in society was most dubious and insecure" (P.F. O'Mara, 'Jean-Jacques and Geneva The petty bourgeois milieu of Rousseau's thought', *Historian* 20.2 [1958], p. 147).

show itself. Rousseau made this clear in the *Contrat social* in a quote which could have been a warning to both the magistrates and the *Représentants*:

> Ainsi, de même qu'une volonté particulière ne peut réprésenter la volonté générale, la volonté générale à son tour change de nature, ayant un objet particulier, et ne peut, comme générale. Prononcer ni sur un homme ni sur un fait. Quand le peuple d'Athènes, par exemple, nommait ou cassait ses chefs, décernait des honneurs à l'un, imposait des peins à l'autre, et par des multitudes de décrets particuliers, exerçait indistinctement tous les actes du Gouvernement, le peuple alors n'agissait plus comme souverain, mais comme magistrate.[245]

Therefore, the actions of the *Représentants* concerning the magistrates were in some ways contradictory: "On doit concevoir par là que ce qui généralise la volonté est moins le nombre des voix que l'intérêt commun qui les unit."[246] They could not claim to represent sovereignty and the general will while, at the same time, lead attacks against particular families and groups. He goes on to argue that the law can bestow privileges, powers, or classes, but not to particular people.[247] That is to say, an institutional setup that embraced classes which were given particular powers was entirely legitimate – and is something Rousseau would himself suggest in his proposals for Corsica and Poland.

In the end, it is clear that the conceptual debate taking place around the problem of equality was less of a problem for Rousseau. While the *Représentants*, and in particular Lenieps, argued for the merging of sovereignty and government as a way of creating political equality, Rousseau looked towards limiting both parties with the *droit negatif.* Ensuring equality was not the business of the Genevan government – especially when inequality could have its own political advantages.

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[245]  Rousseau, *Contrat social*, OC iii, p. 374.
[246]  Ibid., p. 374.
[247]  Ibid., p. 379.

**Re-founding Geneva**

It is worth returning to the infamous quote from the beginning of the *Contrat social*: "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 résoudre cette question."[248] Rousseau's goal was to "rendre légitime" man's "fers"; not to free him. Once one has felt the weight of society, one cannot escape it, and Rousseau's end was to offer a legitimate social order. This is important because Geneva was not a community of solitary individuals; it was an old city in which its members felt an intense sense of belonging. It was a society that had already affirmed itself and thus had already chosen its chains.[249] Thus, the *Contrat social* was for a very different kind of people – in short, a people almost the exact opposite of eighteenth century Genevans.[250] However, the constitution of Geneva was good and worth saving.[251] In fact, both the smaller councils and the *Représentants* agreed on the goodness of the original founding of Geneva, and it was this agreement which made a solution so difficult. The foundations of Geneva were strong, but "virtue" had ceased to "reign" – decay had set in. Rousseau did not blame the magistrates entirely for this; these problems are born out of any political society's constitution. Therefore, the goal was to correct the morals of Geneva and postpone any further decay by preventing radical actions by either party. As Silvestrini argued: "Rousseau estimait que sa ville natale était à un moment critique de son histoire, où il fallait la préserver de la décadence par un double mouvement de conservation: conservation des mœurs et conservation de la participation politique des citoyens."[252]

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[248] Rousseau, *Contrat social*, OC iii, p. 351.

[249] Calvin, *Institutes*, iv. i. iii (ed. Beveridge, pp 282-283).

[250] Rousseau, *Contrat social*, OC iii, pp. 390-391.

[251] Whatmore argues "Geneva's historic constitution was valuable because it provided an example of a workable distinction between sovereignty and government" (R. Whatmore, 'Rousseau and the Representants: The Politics of the Lettres Ecrites De La Montagne', *Modern Intellectual History* 3.03 [2006], p. 391).

[252] G. Silvestrini, 'Le républicanisme de Rousseau mis en contexte: le cas de Genève', *Les Études philosophiques* 4.83 (2008), p. 540.

Although Rousseau shared many of the criticisms of the government held by the *Représentants*, he sought an entirely different solution – a re-founding. For this reason the *Contrat social* is of less relevance than his *Lettres*. It is there that he developed his response to the *Représentants* and the magistrates; it is there that he puts forward claims for an expansion of the *droit negatif* and proposes a separation of the reformed church from the state – a theological re-founding of Geneva; it is there that he makes it clear that equality is not simply equal access to the reins of power. When examined in this way, one can come to understand both the *Contrat social* and *Lettres* in a more complete historical context which gives a more robust understanding of two distinct perspectives in Rousseau's political thought: a historically situated pragmatic response in the *Lettres*, as seen in his description of Geneva's constitutional history and the solutions he felt it allowed for, and a theoretically developed ideal system, based on historical Geneva and developed in the *Contrat social*. This division can be taken further, and used as an interpretive tool for Rousseau's *Constitutional Project for Corsica* and the *Considerations on the Government of Poland*.

## Chapter V: Founding Corsica

Corsica is a topic in Rousseau scholarship which has received little scholarly attention. Rousseau's Corsican project, in 1959, had only one modern work dedicated to it, and by 1989 this one work was still being referred to as "one of the few extended studies."[1] This in itself should not be that surprising – in truth there has been very little research devoted to the history of Corsica itself. In Dorothy Carrington's 1973 work "The Corsican Constitution of Pasquale Paoli (1755-1769)," one discovers that the "[s]tudy of the Corsican archives has been so neglected that the recent discovery of the original constitutional document came as a surprise," and the constitution itself was not published in French until 1996.[2] Returning to Rousseau, the *Cambridge Companion* contains only two references to the island in the index, and Leo Damrosch's recent biography – which stretches over 500 pages – makes three (one of which is to Boswell). As mentioned elsewhere, when the topic is addressed it is often treated in tandem (or as a document which can be argued to be equivalent with) with *Pologne*.[3] To distinguish between the two is important – not least of all because as places and peoples they would have had as radically divergent meanings to readers in the eighteenth century as they do to readers today. In addition, Thadd E. Hall's two historical works for *SVEC* on the subject demonstrate a particular and intense public interest with Corsica during the eighteenth century.[4] Finally, a 2008 special issue of *Études Corse* is hopefully demonstrative of a change in the amount and types of

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[1]   E. Dedeck-Héry's *J.-J. Rousseau et le Projet de constitution pour la Corse* (F.G. Healey, 'Rousseau, Voltaire and Corsica: Some notes on an interesting enigma', *Studies on Voltaire and the eighteenth century* 10 [1959], p. 414).

[2]   D. Carrington, 'The Corsican Constitution of Pasquale Paoli (1755-1769)', *The English Historical Review* 88.348 (1973), p. 482.

[3]   See: R.P. Hanley, 'Enlightened Nation Building: The "Science of the Legislator" in Adam Smith and Rousseau', *American Journal of Political Science* 52.2 (2008), pp. 219–34; E. Putterman, 'Realism and Reform in Rousseau's Constitutional Projects for Poland and Corsica', *Political Studies* 49.3 (2001), pp. 481–94.

[4]   T.E. Hall, 'The development of Enlightenment interest in eighteenth-century Corsica', *Studies on Voltaire and the eighteenth century* 64 (1968), pp. 165–85; T.E. Hall, 'Jean-Jacques Rousseau: the Corsican connection', *Studies on Voltaire and the eighteenth century* 267 (1989), pp. 199–215.

literature available to the Rousseau scholar.[5] Nonetheless, Rousseau's writings on Corsica are understudied. This fact is even more surprising when we note the importance Rousseau placed on the island.

> Rousseau first discusses Corsica in the *Contrat social*, where he claims:
>
> Il est encore en Europe un pays capable de législation; c'est l'île de Corse. La valeur et la constance avec laquelle ce brave peuple a su recouvrer et défendre sa liberté mériteraient bien que quelque homme sage lui apprît à la conserver. J'ai quelque pressentiment qu'un jour cette petite île étonnera l'Europe.[6]

Although one may be tempted to recognize a remarkable foresight into the coming political sea-change in Europe and the role the small island would play in this transformation, this is an obvious intellectual anachronism. Instead, when looking at Rousseau's 1765 *Constitution pour la Corse*, a short and unpublished (during his life) treatise, one is able to contextualize the famous note and recognize that Rousseau was not concerned with the Corsican people as potential leaders, but instead, how the Corsicans themselves were ready to be led: "il [le peuple corse] me paraît le plus heureusement disposé par la nature pour recevoir une bonne administration;" "Le peuple corse est dans l'heureux état qui rend une bonne institution possible… Plein de vigueur et de santé il peut se donner un gouvernement qui le maintienne vigoureux et sain."[7] When read in conjunction with what Rousseau wrote about peoples who were ready to receive a legislator's laws, the reason for his interest in Corsica becomes clear: "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

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[5]    The issue of *Études Corse* covers works from an October 2007 conference in Bastia. Although the title (*Rousseau, la Corse et la Pologne*) references both Corsica and Poland, the studies are largely devoted to the former, with works looking at the intellectual milieu of the island, the influence Rousseau had on the island, and Rousseau's proposals specifically. The most interesting for this study is Paule-Monique Vernes' "Le législateur piégé: la Corse, la Pologne et leurs fêtes," which looks at the problems Corsica posed the author of the *Contrat social*, and attempts to understand the differences between Corsica and Poland through their relative sizes.
[6]    Rousseau, *Contrat social*, OC iii, p. 391.
[7]    Rousseau, *Corse*, OC iii, pp. 901; 902.

auparavant si le peuple auquel il les destine est propre à les supporter."[8] Rousseau continues:

> 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, ni superstitions bien enracinées; celui qui ne craint pas d'être accablé par une invasion subite; qui, sans entrer dans les querelles de ses voisins, peut résister seul à chacun d'eux, ou s'aider de l'un pour repousser l'autre; celui dont chaque membre 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; celui qui peut se passer des autres peuples, et dont tout autre peuple peut se passer; celui qui n'est ni riche ni pauvre, et peut se suffire à lui-même; 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 établir que 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. Toutes ces conditions, il est vrai, se trouvent difficilement rassemblées.[9]

This was, as Rousseau makes clear, the condition of Corsica and the topic which the footnote alluded to. The island and its people were part of an exclusive club – members of which included the Ancient Romans, Spartans, and Jews – rare peoples without a political history of their own, and thus capable of receiving a constitution and the proposals found in the *Contrat social*.

To make this argument this chapter will first touch on the history of the island, highlighting what made it unique in Europe – in particular, its centuries of servitude to Genoa, the emergence of Pasquale Paoli (1725-1807), and the acceptance of the island by Enlightened Europe. This is followed by an examination of Rousseau's own relationship with Corsica, asking what the actual task he was asked to complete was, and an examination of his contemporaries' responses. Finally, a comparison between *Corse* and Rousseau's other texts is made – in particular, the similarity between Rousseau's descriptions of an appropriate people (including a similarity to the ancient Swiss peoples) for legislation and the reports of the "savage" Corsicans.

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[8]    Rousseau, *Contrat social*, OC iii, pp. 384-385.
[9]    Ibid., pp. 390-391.

## History of Corsica

Corsica's history is largely one of war and servitude. From at least 566 BCE Corsica had been occupied by, or faced recurring raids from, the Ionians, Etruscans, Carthaginians, Romans, Vandals, Byzantines, Ostrogoths, Lombards, Saracens, Franks, Pisans, Moors, and the Genoese; the last of which turned the island into an agricultural base in 1299 and a political dependency in 1347. It remained under the Italian city-state's control (albeit with occasional claims from others) until the eighteenth century, a period of occupation which was profitable for Genoa, but brutal for Corsica.[10] Reports from the fifteenth century describe Genoese control as corrupt, and James Boswell (1740-1795) claimed that the Genoese had been "eager to enjoy their power, and thought they could not fully enjoy it, but by exercising the most severe dominion."[11] L. H. Caird, in his 1899 *The History of Corsica*, wrote: "The governors were systematic oppressors of the people, and did not hesitate at any crime to rid themselves of real or suspected enemies."[12] It was an era of hardship, but stability with Genoa methodically oppressing the island and purposefully preventing the condition of the island from improving.[13] Attempts to establish a manufacturing industry were put down, and the Genoese held a monopoly on the most profitable ventures. Boswell reports: "their system was not to render the Corsicans happier and better, but keep them in ignorance, and under the most abject submission, to prevent their endeavoring to get free; while Genoa drained the island of all she could possibly get."[14] It was this state of things which

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[10]  Genoese debt made maintenance of the unruly island impossible by 1453 and control was transferred to the Bank of Saint George, under which the island's population "found themselves subject to a power which only governed them to live upon the fruits of their industry" and all opponents to bank rule were treated as rebels and put to death (L.H. Caird, *The History of Corsica* [London, 1899], p. 48). The bank struggled to maintain peace, however, and by the middle of the sixteenth century it could no longer bear the costs. When sovereignty was returned to Genoa in 1566 the Genoese had a newfound righteous conviction which fed resentment towards the Corsicans, allowing for the island's unobstructed plundering.

[11]  J. Boswell, *An account of Corsica: the journal of a tour to that island; and memoirs of Pascal Paoli* (London, 1768), p. 71.

[12]  L.H. Caird, *The History of Corsica* (London, 1899), p. 34. Caird's work is itself heavily influenced by Boswell's.

[13]  Ibid., p. 74.

[14]  J. Boswell, *An account of Corsica: the journal of a tour to that island; and memoirs of Pascal Paoli* (London, 1768), p. 74.

led to the island revoting in 1729.[15]

This revolt brought Corsica into European consciousness – before this point the island was essentially a mystery, being "nearly as unknown to Europe as California or Japan."[16] However, in April 1730 the *Mercure de France* began reporting on Corsican events, and although this first revolt was pacified in 1733, interest amplified again when, on 12 March 1736, Baron Theodore von Neuhoff – a "bizarre figure" who arrived "wearing a scarlet silk caftan, Moresque breeches, yellow half-boots, and a Spanish hat topped by a peacock feather" – landed in Corsica and had himself declared king.[17] This strange relationship was born out of utility; the Baron had arrived with enough cargo and gold to restock the rebels' arms and his presence reinvigorated the rebellion against Genoa. However, his "reign" was short; after eight months, and having noticed that the "people began to cool their affections towards him, and did not act with the same resolution as before[, he] wisely determined to leave them for a little, and try his fortune again upon the continent."[18] While in Holland he was able to secure some loans, which he sent to Corsica, but he never returned to the island himself – with war against the Genoese in full swing he had a price placed on his head which encouraged him to abdicate. He ended up in London where he spent some time in a debtors' prison, became an acquaintance of Horace Walpole (who helped secure his release and wrote his epitaph), and passed away in 1756.

It is reported that the short-lived Corsican monarch had no long term impact on the island itself.[19] However, with the re-emergence of the Corsican independence movement (and eventually their *de facto* leader Paoli) the revolt entered its next stage and news of Corsica truly

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[15]   The revolt was a response to Genoa raising agricultural taxes after two failed harvests.
[16]   D. Carrington, 'The Corsican Constitution of Pasquale Paoli (1755-1769)', *The English Historical Review* 88.348 (1973), p. 485.
[17]   T.E. Hall, 'The development of Enlightenment interest in eighteenth-century Corsica', *Studies on Voltaire and the eighteenth century* 64 (1968), p. 167; 168–169.
[18]   Ibid., p. 104.
[19]   T.E. Hall, 'The development of Enlightenment interest in eighteenth-century Corsica', *Studies on Voltaire and the eighteenth century* 64 (1968), p. 167. Although the current Corsican flag, the Moor's Head, was first officially used by Neuhoff – albeit with the eyes covered. It was Paoli who lifted the band.

became "a la mode... [A]lmost month by month the continent was kept up to date."[20] Hall has argued that this "curiosity about Corsican affairs was natural for eighteenth-century educated Europeans. They were intrigued by unknowns, and Corsica was unknown" – an "unusual people" akin to the Turks, Siamese, Persians, Chinese, Africans, and American Indians. The Corsicans, with their uncivilized customs (especially vendettas), were "gens non policés."[21] In response to this appetite for Corsican news other sources soon emerged, including reports from returning Genoese, French, Hapsburg, British, and Sardinian soldiers. The details reported crossed the spectrum from the mundane (the size of the island) to the extraordinary (Corsicans needing only stones to fight), highlighting both Europe's ignorance of the island and its people, as well as a keen desire to correct this. Some recurring themes emerged, however, such as the primitive state on the island. Hall offers a few examples:

> Noel Jourda, comte de Vaux [reported:] 'Everything [in Corsica] must be created'… Corsica's first intendant under French administration, Daniel-Marc-Antoine Chardon, said that Corsica was 'in the cradle, and its infancy [would] surely be very long.' Corsica was, in the 1760s, considered a child with great potential. But it had yet to be formed, and the product of this formative process might be good because the Corsicans were not encumbered by so many burdens from the past.[22]

In Jacques Nicolas Bellin's 1769 *Description géographique et historique de l'isle de Corse* it is reported: "Il n'y a ni titres, ni archives, ni monuments dans ce pays-là, marques au coins de l'antiquité."[23] However, it was more than the state of the island's infrastructure that was seen as underdeveloped; the people themselves were reported as: "treacherous and terrible"; "gens de mauvais fois"; "gens sans foir"; "extremely vindictive"; "fierce, treacherous, and jealous"; and devout believers of everything they were told by monks.[24] Bellin again offers this description:

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[20]   Ibid., p. 167.
[21]   Ibid., p. 167; 168.
[22]   T.E. Hall, 'Jean-Jacques Rousseau: the Corsican connection', *Studies on Voltaire and the eighteenth century* 267 (1989), p. 208.
[23]   J.-N. Bellin, Fleurieu, and S. de G. de Lyon, *Description géographique et historique de l'isle de Corse pour joindre aux cartes et plans de cette isle* (Paris, 1769), p. 69.
[24]   T.E. Hall, 'The development of Enlightenment interest in eighteenth-century Corsica', *Studies on Voltaire and the eighteenth century* 64 (1968), p. 170.

> Le Corse en général est fourbe, cherchant toujours à ruser & à tromper; c'est ce qui le rend défiant: & si l'on veut obtenir quelque chose de lui, il ne faut pas lui marquer trop d'empressement. Opiniâtre comme il est, il n'abandonne jamais un dessein qu'il a formé: les difficultés, loin de le rebuter, ne servent qu'à le rendre plus constant dans la poursuite. Il est extrêmement prévenu en sa faveur, & croit valoir & mériter beaucoup. Naturellement éloquent, il s'imagine devoir séduire par ses discours ceux avec qui il traite. Pénétrant, il devine souvent les desseins de ceux qui lui parlent. On ne peut être trop en garde sur les faits qu'il raconte, les changeant & les fabriquant même lorsqu'il les croit nécessaires à ses desseins. Il offre, promet tout, & ne tient rien; manquant à sa parole sans le moindre scrupule. Il est rempli de superstitions, cependant charitable & hospitalier pour les Moines & les étrangers; faisant scrupule de manger du beurre un jour maigre; tuant de sang-froid son plus proche parent qui l'aura contredit: il volera cinq sols à celui dont il aura refusé un louis offert par reconnaissance. Le Corse veut être écouté; il aime presque mieux être condamné après avoir été entendu, que de gagner son procès sans être oui. Il est rampant, souple & bas avec celui dont il a besoin; insolent & fier avec ceux qui le recherchent, & qui ne peuvent se passer de lui; avare, inconstant & paresseux. Sa passion favorite est la vengeance, rien ne lui coute alors pour y réussir; elle le rend laborieux, patient & libéral.[25]

And:

> On ne saurait nier que tous les Corses ne soient fiers, arrogants, présomptueux, & extrêmement vindicatifs; ils sont très disposés à la révolte. Leur esprit est naturellement léger & inconstant. La paresse est un de leurs vices dominants: ils sont si fainéants, qu'ils ne se donnent aucun mouvement, soit pour la culture des terres, soit pour les sciences, les arts libéraux & mécaniques, soit enfin pour le négoce.[26]

Hall argues that it was exactly these characteristics which initially prevented Enlightenment thinkers (in contrast to the general public) from becoming interested in the island – the Corsicans were too violent, too superstitious, too savage, and simply not enlightened enough. In fact, for the *philosophes*, it was not until the founding of the Democratic Republic of Corsica in 1755, care of their very own lawgiver Pasquale Paoli, that the island became of any importance.[27]

Paoli, in many ways, is reminiscent of the ancient lawgivers. Although born in Corsica, Paoli was, at the age of fourteen, brought to Naples by his father Giacinto Paoli (1681-1763), a Corsican nationalist, noble, and general who fled the island after the failed rebellion of 1729. While in Naples, Pasquale studied at the Royal Academy under the philosopher and political economist Antonio Genovesi (1712-1769), and – like Jean-Jacques – became fond of both

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[25]  J.-N. Bellin, Fleurieu, and S. de G. de Lyon, *Description géographique et historique de l'isle de Corse pour joindre aux cartes et plans de cette isle* (Paris, 1769), pp. 47–48.

[26]  Ibid., p. 49.

[27]  Before this Corsica is only rarely mentioned in the writings of Enlightenment thinkers (T.E. Hall, 'The development of Enlightenment interest in eighteenth-century Corsica', *Studies on Voltaire and the eighteenth century* 64 [1968], pp. 171–173).

Plutarch and *The Spectator*.[28] He was cultivated into a young enlightened gentleman, and took up many of the *philosophes*' causes (such as ecclesiastical reform).[29] Following his education he joined the Corsican regiment of the Neapolitan army, but in 1755 he quit and returned to Corsica where he was appointed general of the nation and brought an end to the internal strife which had been persistent amongst the Corsicans for centuries, gaining the consent of the island to rule, while also successfully pushing the Genoese out of their strongholds. With his position legitimized, he worked towards instituting a republican form of government while striving to maintain consent.[30] In a 1777 history it was reported that Paoli had been an excellent leader, able to win the support of all those who were necessary for a given end by taking the time to learn their characters, tastes, inclinations, and, in particular, their weaknesses.[31] A number of years later the English traveller Robert Benson wrote of Paoli's aims: "so admirably were checks interposed to a corrupt exertion of political influence, that a member of the legislative assembly of the island could only serve his own private interests by consulting the general good of the nation."[32]

With the emergence of Paoli the manner in which the island was reported shifted. In 1766 the *London Chronicle* wrote:

> The Island of Corsica is now become an important object in Europe; General De Paoli having acted with so much wisdom and spirit, that the brave Corsicans are actually in possession of the whole Island, except for five fortified towns on the sea-coast, which are still under the dominion of the Genoese. The command which Corsica can have of the navigation in the Mediterranean must render those Islanders very considerable now that they have thrown off a foreign yoke, and are at last formed into a nation, having for so many years been so divided into opposite parties, that they were looked upon by foreign powers as so many tribes of Savages.[33]

In April 1767, *Gentleman's Monthly* published a complete manifesto by Corsica's Great

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28 T.E. Hall, 'The development of Enlightenment interest in eighteenth-century Corsica', *Studies on Voltaire and the eighteenth century* 64 (1968), p. 138.
29 Ibid., p. 173.
30 Ibid., p. 141.
31 R. Griffiths and G.E. Griffiths (eds.), *The Monthly Review, Or, Literary Journal* (London, 1777), p. 224.
32 R. Benson, *Sketches of Corsica: or, A journal written during a visit to that island, in 1823.* (London, 1825), p. 99. It is worth noting that inspired by *De l'esprit de lois*, Paoli gave Corisca laws which he felt suited them (D. Carrington, 'The Corsican Constitution of Pasquale Paoli (1755-1769)', *The English Historical Review* 88.348 [1973], p. 483).
33 *London Chronicle*, 7 January, 1766.

Chancellor Giuseppe Maria Massesi (1716-1791) which made it known to both the people of

Genoa, and "all the world," that the island was initiating a new and overdue project:

> From the long experience of thirty seven years, [Genoa] ought to be persuaded and convinced, that she has not force sufficient to subject us again to her dominion; and that we are more than ever firm and resolved, to maintain, whatever it may cost, the rights of our ancient liberty, which we have recovered with the effusion of so much blood.[34]

It was at this point that the *philosophes* took an interest.

When Enlightened thinkers across Europe recognized that one of their own was in power,

Corsica became "the focal point for European *pèlerins de la liberté*" and Paoli a "hero of the

Enlightenment."[35] Interest was "strongly influenced by an apparent similarity between lawgivers

of ancient times and Pasquale Paoli" – he was reported as a modern day Lycurgus or Numa,

"leading his barbarous people into the full light of the civilized world."[36] The famously cynical

salonnière Marquise Du Deffand (1697-1780) saw Paoli as the lawgiver who possessed

goodness, truth, reason, and justice, comparing him to Horace Walpole; Voltaire complemented

him in his *Précis du siècle de Louis XV*; and Grimm wrote that "all honourable Europeans are

interested in the fate of these brave people."[37] Across Europe he was celebrated:

> [O]n the domestic level journals like the *Journal encyclopédique* carried Paoli's name to every quarter of the country, correspondents like Frédéric-Melchior Grimm made it familiar and famous around the courts of Sweden, Poland and Russia. In Italy Parini and Alfieri [...] were among the most illustrious of the generation of writers and poets who regarded Paoli as the Enlightened hero... Enlightened despots themselves swelled the chorus of praise; Joseph of Austria [...] frequently spoke of the General with admiration; so did Frederick the Great, whose admiration did not stop at words, but who sent Paoli a sword of honour with the words, 'Patria, libertas' inscribed on the blade.[38]

It was during this time (1765) that Boswell spent five weeks in Corsica (with the aid of a letter of

introduction from, and the great approval of, Rousseau) and reported his experiences in the

hugely successful *Account of Corsica* (which he dedicated to Paoli, writing that "Your virtues,

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[34] *Gentleman's Monthly*, April 1767.
[35] K. Nabulsi, *Traditions of War: Occupation, Resistance and the Law* (Oxford, 2005), pp. 204–205.
[36] T.E. Hall, 'The development of Enlightenment interest in eighteenth-century Corsica', *Studies on Voltaire and the eighteenth century* 64 (1968), p. 173; 175.
[37] Quoted in Ibid., p. 177.
[38] P.A. Thrasher, *Pasquale Paoli: An Enlightened Hero, 1725-1807* (London, 1970), pp. 97–98.

Sir, are universally acclaimed").[39] Hall offers a report of Boswell's "An Account of Pasquale de Paoli" which he argues is "pure panegyric."[40] Boswell saw Paoli as an ideal exalted character uniquely suited for philosophical and political speculation – and that was his prime concern in all matters. His life was dedicated to giving his people a strong constitution that would outlast himself.

Thus, for all of their struggles, Corsica finally gained the interest of the continent's *philosophes*. What is important, however, is that Enlightenment thinkers did not develop any fundamental interest or concern for Corsica's fate until there were practical reasons for supposing that the Corsican character could be altered along the lines proposed by the *philosophes* themselves. However, not all were of this opinion.

## Rousseau and Corsica

While the *philosophes* were interested in the man who would bring the Corsicans out of their savagery and into the Enlightenment, Rousseau was interested in the savages, and methods of maintaining their innocence. As Franco Venturi argued, Rousseau's political concern was an "aversion to civilisation brought by conquest."[41] Thus, there is no mention of the continentally educated and lauded Paoli in his famous footnote in the *Contrat social* – instead, he writes of a "brave people."[42] In fact, the affinities between Rousseau's own conjectural history – in particular,

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[39]   J. Boswell, *An account of Corsica: the journal of a tour to that island; and memoirs of Pascal Paoli* (London, 1768), p. 264; vi–vii.

[40]   T.E. Hall, 'The development of Enlightenment interest in eighteenth-century Corsica', *Studies on Voltaire and the eighteenth century* 64 (1968), p. 176.

[41]   K. Nabulsi, *Traditions of War: Occupation, Resistance and the Law* (Oxford, 2005), p. 185. The relationship between war and Rousseau's propositional political theory is under-explored. Much of what Rousseau calls to be proscribed is not only to do away with vice, but prevent the emergence of things which other peoples would be jealous of, and become violent to gain themselves. As Venturi wrote: "virtue was changing at that time, under the influence of economic life. It was no longer a time for ancient republican moderation, but for a new morality, born of an overriding desire for new profits... It was this very mixture of of ancient and new morality, of traditional and modern customs which was producing ever deeper and more violent reactions in an increasing number of people" (F. Venturi, *Utopia and Reform in the Enlightenment* [Cambridge, 1970], p. 82). See also I. Hont, *Jealousy of Trade: International Competition and the Nation-state in Historical Perspective* (Cambridge, MA, 2005).

[42]   Rousseau, *Contrat social*, OC iii, p. 391.

the state of mankind Rousseau refers to as the happiest and most durable epoch in his *Second Discourse* – and the character of the Corsicans is remarkable:

> Sitôt que les hommes eurent commencé à s'apprécier mutuellement et que l'idée de la considération fut formée dans leur esprit, chacun prétendit y avoir droit, et il ne fut plus possible d'en manquer impunément pour personne. De là sortirent les premiers devoirs de la civilité, même parmi les sauvages, et delà tout tort volontaire devint un outrage.[43]

In a similar passage from *Corse*, Rousseau addresses this same outrage while addressing what it was that made the Corsicans odious. He identifies an indomitable and ferocious temper, and an inclination to theft and murder – vice which found their source in idleness and impunity (the endless family feuds and vendettas being caused by the former, and their very existence proof of the latter).[44] One finds a similar development of this odious character in the *Second Discourse*: "C'est ainsi que chacun punissant le mépris qu'on lui avait témoigné d'une manière proportionnée au cas qu'il faisait de lui-même, les vengeances devinrent terribles, et les hommes sanguinaires et cruels."[45] Nonetheless, Rousseau maintained that:

> [C]ette période du développement des facultés humaines, tenant un juste milieu entre l'indolence de l'état primitif et la pétulante activité de notre amour-propre, dut être l'époque la plus heureuse et la plus durable. Plus on y réfléchit, plus on trouve que cet état était le moins sujet aux révolutions, le meilleur à l'homme, et qu'il n'en a dû sortir que par quelque funeste hasard qui pour l'utilité commune eût dû ne jamais arriver… L'exemple des sauvages qu'on a presque tous trouvés à ce point semble confirmer que le genre humain était fait pour y rester toujours, que cet état est la véritable jeunesse du monde, et que tous les progrès ultérieurs ont été en apparence autant de pas vers la perfection de l'individu, et en effet vers la décrépitude de l'espèce.[46]

It is important to recall what it was which took mankind out of this happy state – the two revolutions of agriculture and metallurgy: "La métallurgie et l'agriculture furent les deux arts dont l'invention produisit cette grande révolution. Pour le poète, c'est l'or et l'argent, mais pour la philosophie ce sont le fer et le blé qui ont civilisé les hommes et perdu le genre humain."[47]

In Corsica attempts to establish a manufacturing industry were explicitly put down, while

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[43]   Rousseau, *Second Discourse*, OC iii, p. 170.
[44]   Rousseau, *Corse*, OC iii, p. 917.
[45]   Rousseau, *Second Discourse,* OC iii, p. 170.
[46]   Ibid., p. 171.
[47]   Ibid., pp. 171-172.

the Genoese themselves maintained – and mismanaged – a monopoly over agricultural ventures.[48] Importantly, even if the Corsicans could be accused of having some form of agricultural history, Rousseau wrote that: "les autres peuples semblent même être restés barbares tant qu'ils ont pratiqué l'un de ces arts sans l'autre."[49] The extraordinary upshot of this for Rousseau, however, is that "[l]es Génois eux-mêmes ont préparé votre institution et par un soin digne de la Providence, en croyant affermir la Tyrannie ils ont fondé la liberté."[50] Liberty was ensured for the Corsicans not through the paternal actions of Genoa, but instead by ensuring that they remained in a state of infancy – and thus capable of being given laws. Its history of oppression is exactly what preserved Corsica, and their "savage" qualities were exactly what made them an ideal people to be given a political system. Genoa had prevented the emergence of a modern commercial system, and therefore, protected the Corsicans from "les vices des autres nations."[51]

There seems to have been little to dissuade Rousseau from recognizing in the Corsicans the ideally suited people for his project. Fortuitously, it was Rousseau of all the *philosophes* who was contacted by Corsica:

> Notre isle, comme vous le dite tres bien, monsieur, est capable de recevoir une bonne legislation; mais il lui faut un legislateur: il lui faut un homme dans vos principes, un homme dont le bonheur soit indépendant de nous; un homme qui, connoissant a fond la nature humaine, et qui dans les progrés des temps se menageant une gloire eloignée, voulut travailler dans un sieclec, et jouir dans l'autre. Daignerez-vous en traçant le plan du sisteme politique cooperer a la felicité de toute une nation?[52]

Written by Mattéo Buttafoco, a Corsican patriot and military officer, this description – and invitation – was sent to Rousseau in 1764 on behalf of the Corsican people. Of course, Buttafoco had read Rousseau, and would have written this description with Rousseau's ideals in mind (in

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48  Rousseau, *Corse*, OC iii, pp. 917-918.
49  Rousseau, *Second Discourse*, OC iii, pp. 171-172.
50  Rousseau, *Corse*, OC iii, p. 908.
51  Ibid., p. 902.
52  CC 3475, vol. xxi.

fact, had it not been written to Rousseau, one may mistake Buttafoco for plagiarizing). However, the accuracy of his description is of less importance than the fact that it is the description Rousseau was given, and thus the description he had in mind when developing his own proposals for Corsica.[53]

In addition to Buttafoco's letters, in the months following Rousseau also received reports on the island from his own acquaintances. In October 1764, George Keith, the 10th Earl of Marischal (1662-1778), writing of his own experience, claimed that the Corsicans were the only people still capable of receiving a legislation that would be maintainable.[54] And in November 1764 a report was sent by Jacques François Deluc (1698-1780):

> Puisqu'il est vrai que les Corses vous souhaitenet pour leur Legislateur, je dois vous dire ce que je tiens fortuitement d'un Natif de Geneve, soldat d'un regiment Alleman au service des Genois dans l'Isle de Corse, qui fut pris prisonnier de guerre dans une rencontre par les habitans guerriers de cette Isle, avec lesquels ce soldat a vêcu environ six mois, & qui est de retour depuis quatre ou cinq. Quoi que ce Genevois leur avoua rondement sa Religion, les Corses ne le soliciterent jamais de changer, parce qu'ils ne sont point cagots: Il se loue d'eux & dit qu'ils sont en general de braves & d'honnêtes gens, qu'ils aiment leur vaillant Chef Paoli, qu'il les dirige avec douceur & de prudence, & il ajoute que leur païs abonde en tout ce qui peut être utile & agreable pour la vie.[55]

These reports allowed Rousseau to envision a Corsican character made up of equity, humanity, and good faith, and he agreed to take on the request.[56] In fact, his approval of the *people* was made clear in his response to George Keith in December 1764 when he wrote: "En songeant à ce que les hommes pourroient être je tâcherai d'oublier ce qu'ils sont. Les Corses sont comme vous le dites fort bien, plus près de cet état desirable qu'aucun autre peuple."[57] Rousseau had recognized something special about the Corsicans.

The request having come from Corsica itself, and being aimed at an outsider, would have also struck Rousseau as being both idealistically republican and fitting within the genre of

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[53] Buttafoco seems to have known exactly what to say to both flatter and pique Rousseau's interest (CC 3475, vol. xxi), and Rousseau was not blind to this. He started his response with "Il est superflu, Monsieur, de chercher à exciter mon zèle pour l'entreprise que vous me proposez" (CC 3523, vol. xxi).
[54] CC 3598, vol. xxi.
[55] CC 3629, vol. xxii.
[56] Rousseau, *Corsica,* OC iii, p. 914.
[57] CC 3713, vol. xxii.

ancient lawgiver – a similarity noticed by others as well. Grimm wrote:

> This is not a case for fine phrases; it is a case of showing the genius of Solon and Lycurgus in a unique situation. To civilize a people such as the Corsicans, full of spirit and bravery, and of other fine qualities, is without doubt to attempt the finest enterprise of the century. It is certain that all of Europe will approve this project.[58]

In fact, the news of a philosopher being requested to aid and civilize the savages of Corsica only helped to ignite interest from Enlightened society.[59] Rousseau, however, remained nonchalant and pragmatic about the entire situation. He requested more information on Corsica and its history to be sent to him, and initially thought of visiting the island himself so as to come to know it and its people first hand (although this idea was abandoned due to health concerns and, for a short while, out of fear for encountering French troops).[60]

However, it must be noted that Corsica already had a constitution – the one provided by Paoli in 1755 – one which is remarkable in its encompassment of Enlightenment thought and democratic values. It announced itself as "légitimement maître de lui-même," and is remarkable for the fact that "Nowhere but in Corsica did the people, as a whole, have equal rights of representation and participation in public affairs, except in the Swiss cantons still administered by a system of 'pure', direct democracy."[61] This raises, then, an important question: Why would Rousseau be contacted nine years later?

There are at least three possibilities: First, there were elements within Corsica which were

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[58] Quoted in T.E. Hall, 'The development of Enlightenment interest in eighteenth-century Corsica', *Studies on Voltaire and the eighteenth century* 64 (1968), p. 182. For more positive responses see: CC 3607, vol. xxi; CC 3635, vol. ii.

[59] Ibid., p. 177. Some were less flattering when it came to Rousseau's involvement. Voltaire felt Rousseau's ideas would be disastrous for the island and Alexandre Deleyre asked him whether he could act as a Lycurgus or Solon without also taking recourse to their deception and cruelty, a move from "general" to "particular" which would bring about all types of problems (CC 3666, vol. xxii). What is more, rumours were spread that Helvétius and Diderot were also asked, and that Voltaire had faked the letters to Rousseau. Rousseau was soon made uneasy, and even reported a suspicious visit from a "Chevalier de Malte" who claimed to have been sent by Paoli but only interrogated Rousseau on his connection with Corsica (CC 4008, vol. xxiii; CC 3973, vol. xxiii; CC 4328, vol. xxv). It is possible, though not confirmed, that this was the mischief of Voltaire.

[60] CC 3523, vol. xxi; CC 3741, vol. xxii; CC 3972, vol. xxiii.

[61] D. Carrington, 'The Corsican Constitution of Pasquale Paoli (1755-1769)', *The English Historical Review* 88.348 (1973), p. 496.

unhappy with Paoli and his constitution. It has been shown that from 1755, as Paoli moved to consolidate power, opposition grew: "His egalitarian system left vital ambitions unfulfilled, among the notables, greedy for political prestige, and among the ruined nobles who had hoped, by the rebellion, to recover their privileges, and had received so little satisfaction from Paoli."[62] What is more, there remains uncertainty as to whether Paoli was aware of Buttafoco's move to contact Rousseau. There is no evidence of any direct communication, although Buttafoco himself claimed he was in contact with Paoli regarding their correspondences.[63]

However, it is reported that these rivalries were resolved in 1763, a year before the letter from Buttafoco was sent.[64] What is more, Rousseau himself appears to be confident of his relationship with Paoli − later in life he claimed to have exchanged letters with him, and he did write the letter of introduction for Boswell in May 1765.[65] And finally, Boswell's book seems to insinuate that Paoli was aware of Buttafoco and supportive of Rousseau's work: he wrote that Paoli "expressed a high admiration of M. Rousseau, whom Signor Buttafoco had invited to Corsica, to aid in forming its laws."[66]

The second possibility, offered in Leo Damrosch's recent biography of Rousseau, is that Buttafoco and Paoli "probably had no intention anyway of adopting anything drawn up by Rousseau, meaning only to borrow his prestige."[67] However, by this time Corsica had already cemented its prestige amongst the continent's intellectual classes, and Paoli had already established control over the island and given it a constitution. Thus, the necessity of borrowing

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[62] Ibid., p. 501.
[63] CC 3542, vol. xxi.
[64] D. Carrington, 'The Corsican Constitution of Pasquale Paoli (1755-1769)', *The English Historical Review* 88.348 (1973), pp. 494–495.
[65] The claim is made in the *Confessions* (OC i, pp. 648-649) and in letters to Henri François d'Ivernois (CC 4328, vol. xxv) and Boswell (CC 4451, vol. xxv).
[66] J. Boswell, *An account of Corsica: the journal of a tour to that island; and memoirs of Pascal Paoli* (London, 1768), p. 294. Unfortunately, the structure of the sentence makes it unclear as to whether Boswell or Paoli are describing Rousseau's invitation.
[67] L. Damrosch, *Jean-Jacques Rousseau: Restless Genius* (Boston, 2005), p. 387.

his "prestige" is questionable, and although possible, difficult to confirm.

This leads us to a third possibility: Rousseau was never asked to be a "true" lawgiver, but instead simply aid in the formation of the political institutions of Corsica. This is the opinion of Hall, who argues that Rousseau was only invited to give "une institution politique," and not a body of laws – that Rousseau's true task was to fit institutions to the laws which Paoli had already established.[68] Rousseau himself was confused by this point. In the post-script to his first reply to Buttafoco he wrote:

> En relisant votre lettre je vois, Monsieur, qu'à la premiére lecture j'ai pris le change Sur votre objet. J'ai cru que vous demandiez un corps complet de législation, et je vois que vous demandez seulement une institution politique, ce qui me fait juger que vous avez déja un corps de loix civiles, autre que le droit écrit, Sur lequel il s'agit de calquer une forme de gouvernement qui S'y rapporte. La tâche est moins grande, Sans être petite, et il n'est pas Sûr qu'il en résulte un tout aussi parfait; on n'en peut juger que Sur le recueil complet de vos loix.[69]

However, the letters from Buttafoco, Rousseau's own reports in his letters and the *Confessions*, and to some extent, Boswell in the quote above, all seem to conflict with this. Reading Buttafoco's response to Rousseau's query shows that, from Rousseau's perspective at least, the task was rather open ended:

> Un corp complet de legislation seroit pour nous, Monsieur, le plus grand des bienfaits… Nous avons, il est vray, un corp de loix civiles, c'est le statut de Corse. Mais je crois qu'il seroit beaucoup mieux de le refondre, et de l'adapter au sisteme politique, que de former celui cy sur le statut.[70]

It is therefore difficult to actually know what the outcome of the project was meant to be.[71] Rousseau himself highlights the ambiguity of his task in the very first paragraph of the work:

> On demande un Plan de Gouvernement bon pour la Corse. C'est demander plus que l'on ne croit. Il y a des peuples qui de quelque manière qu'on s'y prenne ne sauraient être bien gouvernés parce que chez eux la loi manque de prise et qu'un gouvernement sans loi ne peut être un bon gouvernement.

Yet, he follows this immediately with a more hopeful note: "Tout au contraire, il [le peuple corse]

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[68]    T.E. Hall, 'The development of Enlightenment interest in eighteenth-century Corsica', *Studies on Voltaire and the eighteenth century* 64 (1968), p. 179.

[69]    CC 3523, vol. xxi.

[70]    CC 3542, vol. xxi.

[71]    T.E. Hall, 'Jean-Jacques Rousseau: the Corsican connection', *Studies on Voltaire and the eighteenth century* 267 (1989), pp. 208–209.

me paraît le plus heureusement disposé par la nature pour recevoir une bonne administration."

And then again despair: "Mais ce n'est pas assez encore. Toutes choses ont leurs abus souvent nécessaires et ceux des établissements politiques sont si voisins de leur institution que ce n'est presque pas la peine de la faire pour la voir si vite dégénérer."[72] The task, then, is not the same as that found in the *Lettres,* or as will be made clear, with *Pologne* – in those cases "Les plus sages […] observant des rapports de convenance forment le gouvernement pour la nation." Instead, with Corsica:

> Il y a pourtant beaucoup mieux à faire, c'est de former la nation pour le gouvernement… dans le second, tout change de pas égal et la nation entraînant le gouvernement par sa force, le maintient quand elle se maintient et le fait décliner quand elle décline. L'un convient à l'autre dans tous les temps. Le peuple corse est dans l'heureux état qui rend une bonne institution possible, il peut partir du premier point et prendre des mesures pour ne pas dégénérer. Plein de vigueur et de santé il peut se donner un gouvernement qui le maintienne vigoureux et sain. Cependant cet établissement doit trouver déjà des obstacles. Les Corses n'ont pas pris encore les vices des autres nations mais ils ont déjà pris leurs préjugés; ce sont ces préjugés qu'il faut combattre et détruire pour former un bon établissement.[73]

In the end, however, Rousseau does write his political proposals for Corsica. Regardless of the reason behind the request, one may still examine them and come to understand how Rousseau proposes to form the nation to fit the government – that is, the giving of a good constitution – one that can prevent degeneration, give health and vigour, and overcome prejudices (before they become vices).

### *Corse* and the *Contrat social*: Contextually Similar Arguments and Historical Presidence

This thesis has thus far looked at the conjectural historical affinities and a perceived appropriateness between peoples, drawing out similarities between Corsica and the "correct" type of people identified by Rousseau in the *Contrat social* and elsewhere. However, the imagined political system in the *Contrat social* and that proposed constitution for Corsica also share a

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[72] Rousseau, *Corse*, OC iii, p. 901.
[73] Ibid., pp. 901-902.

number of other similarities, and highlighting these is important to coming to understand Rousseau's own thoughts on legislation. To begin, however, let us once more touch on the idea of a correct people, starting with the idea of the correct state of maturity.

In the *Contrat social* Rousseau argued that: "Il est pour les Nations comme pour les hommes un temps de maturité qu'il faut attendre avant de les soumettre à des lois; mais la maturité d'un peuple n'est pas toujours facile à connaître; et si on la prévient l'ouvrage est manqué."[74] This metaphor is carried over to Corsica:

> Il y a dans tous les États (peuples) un progrès, un développement naturel et nécessaire depuis leur naissance jusqu'à leur destruction. Pour rendre leur durée aussi longue et aussi belle qu'il est possible, il vaut mieux en marquer (reculer) le premier terme avant qu'après ce point de vigueur (et de force). (Il vaut mieux que L'État ait encore à croître en force depuis le moment de l'institution que de n'avoir plus qu'à décliner.) Il ne faut pas vouloir que la Corse soit tout d'un coup ce qu'elle peut être (car elle ne se maintiendrait point dans un état), il vaut mieux qu'elle y parvienne et qu'elle monte que d'y être à l'instant même et ne faire que décliner. Le dépérissement où elle est ferait de son état de vigueur un état très faible, au lieu qu'en la disposant pour y atteindre cet état sera dans la suite un état très bon.[75]

It is also worth remembering that Rousseau had argued that the *Contrat social* was a study of a historical Geneva and her ancient constitution.[76] Therefore, in drawing out these similarities between the *Contrat social* and his proposals for Corsica it is worth noting that Rousseau also draws out a number of favourable comparisons between Switzerland and the island:

> L'île de Corse, dit Diodore, est montagneuse, pleine de bois, et arrosée par de grands fleuves. Ses habitants se nourrissent de lait, de miel et de viande, que le pays leur fournit largement. Ils observent entre eux les règles de la justice et de l'humanité avec plus d'exactitude que les autres barbares; celui qui le premier trouve du miel dans les montagnes et dans les creux des arbres est assuré que personne ne le lui disputera. Ils sont toujours certains de retrouver leurs brebis sur lesquelles chacun met sa marque et qu'ils laissent paître ensuite dans les campagnes sans que personne les garde: le même esprit d'équité paraît les conduire dans toutes les rencontres de la vie… Des montagnes, des bois, des rivières, des pâturages. Ne croirait-on pas lire la description de la Suisse? Aussi retrouvait-on jadis dans les Suisses le même caractère que Diodore donne aux Corses: l'équité, l'humanité, la bonne foi.[77]

In regard to these people, he continues:

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74  Rousseau, *Contrat social*, OC iii, p. 386.
75  Rousseau, *Corse*, OC iii, pp. 1728-1729.
76  Rousseau, *Lettres*, OC iii, p. 809.
77  Rousseau, *Corse*, OC iii, pp. 913-914. For Diodorus Siculus' report see: Diodorus, *Bibliotheca historica*, v. 14 (ed. Oldfather, iii, pp. 133-135). The similarities between it and the *Second Discourse* should be noted.

[C]'est de la nature du sol que naît le caractère primitif des habitants. Un terrain rude, inégal, difficile à cultiver, doit plus fournir à la nourriture des bêtes qu'à celle des hommes, les champs y doivent être rares et les pâturages abondants. De là la multiplication du bétail et la vie pastorale. Les troupeaux des particuliers errant dans les montagnes s'y mêlent, s'y confondent. Le miel n'a d'autre clef que la marque du premier occupant; la propriété ne peut s'établir ni se conserver que sous la foi publique et il faut bien que tout le monde soit juste sans quoi personne n'aurait rien et la nation périrait.[78]

Thus, if the *Contrat social* was written with a historic Genevan people and character in mind, it seems that the Corsicans also had, as Rousseau says, the same fortunate natural qualities (even the vices they had were still remediable with wise legislation).[79]

However, the comparisons with Switzerland are also a warning:

La Suisse en général est un pays pauvre et stérile. Son gouvernement est partout Républicain. Mais dans les cantons plus fertiles que les autres tels que ceux de Berne, de Soleure et de Fribourg le Gouvernement est Aristocratique.[80]

With wealth comes "progress," and over time the Swiss were corrupted by luxury. Even those who found themselves in the sterile regions could not hold out – their natural character (much like the Corsicans) made them ideal mercenaries, and with this profitable work came their downfall: "Le goût de l'argent leur fit sentir qu'ils étaient pauvres; le mépris de leur état a détruit insensiblement les vertus qui en étaient l'ouvrage et les Suisses sont devenus des hommes à cinq sols, comme les Français à quatre."[81] Thus, although the Swiss' mountainous isolation resulted in an independent and robust character, the emergence of commerce ended their simple and uniform tastes, replacing them with the love of luxury which allowed for the corruption of their politics:

[L]'ambition des principaux leur fit changer de maxime; ils sentirent que pour mieux dominer le peuple il fallait lui donner des goûts plus dépendants. De là l'introduction du commerce de l'industrie et du luxe, qui liant les particuliers à l'autorité publique par leurs métiers et par leurs besoins les fait dépendre de ceux qui gouvernent beaucoup plus qu'ils n'en dépendaient dans leur état primitif.[82]

He concludes that the fall of the Swiss city-states should be taken as an important lesson for

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[78]   Rousseau, *Corse*, OC iii, pp. 913-914.
[79]   Ibid., p. 917. The evils of childhood are easily remediable in comparison to those made later in life.
[80]   Ibid., p. 906.
[81]   Ibid., pp. 915-916.
[82]   Ibid., p. 916.

Corsica:

> Votre seule constance a fait ce que l'argent n'aurait pu faire; pour vouloir conserver vos richesses vous auriez perdu votre liberté. Il ne faut point conclure des autres nations à la vôtre. Les maximes tirées de votre propre expérience sont les meilleures sur lesquelles vous puissiez vous gouverner. Il s'agit moins de devenir autres que vous n'êtes, que de savoir vous conserver tels. Les Corses ont beaucoup gagné depuis qu'ils sont libres, ils ont joint la prudence au courage, ils ont appris à obéir à leurs égaux, ils ont acquis des vertus et des mœurs, et ils n'avaient point de lois, s'ils pouvaient d'eux-mêmes rester ainsi, je ne verrais presque rien à faire.[83]

In the end, the Corsicans were lucky enough to still have many of the characteristics of the original Swiss people, and were thus capable of being given laws. However, the Swiss were not the only example Rousseau used as inspiration for his Corsican proposals. He seems to have also turned to the lessons offered by Fénelon.

Much of what Rousseau wrote for Corsica can also be recognized in the actions of Mentor for Salente in Fénelon's *Telemachus*. First, both Rousseau and Mentor shared a similar methodological approach to working with a foreign people: one must first come to know that people intimately. In doing this, they must identify what is naturally good about that people and make the preservation of that natural goodness the end of all proposals.[84] To this end Fénelon developed "what might be called a 'republican' monarchy in which the key notions are simplicity, labor, the virtues of agriculture, the absence of luxury and splendor, and the elevation of peace over war and aggrandizement."[85] Again, similar notions are also found in Rousseau's proposals for Corsica. If Switzerland offered Corsica a negative example, Salente offered the opposite. However, there is more to the relationship between Fénelon and Rousseau than similar methodologies or proposed ends. Instead, the necessity of the proposals is also worth noting. That is to say, the reforms proposed had an end beyond their own goodness: the avoidance of war.

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[83]   Ibid., p. 903.
[84]   Both Mentor and Rousseau began their works by investigating the people they hoped to give laws to. In Mentor's case, through a census and audit of the land, in Rousseau's case, he requested as much information be forwarded by Buttafoco as possible, and contemplated travelling there himself.
[85]   P. Riley, 'Rousseau, Fénelon, and the Quarrel between the Ancients and the Moderns', in P. Riley (ed.), *Cambridge Companion to Rousseau* (Cambridge, 2001), p. 278.

Although Rousseau dismissed Hobbes' conception of the state of nature, which Hobbes himself wrote was in reality a state of war, he did not do so because he did not believe such a state could exist. Instead, Rousseau's critique was simply that this was not the state of nature, but the state which had only come about with human progress. That is, he argued that Hobbes' "ont transporté à l'état de nature des idées qu'ils avaient prises dans la société. Ils parlaient de l'homme sauvage, et ils peignaient l'homme civil."[86] What Hobbes had described was modern man in a particular situation: living in a world without government. Of course, while in most cases this is unusual, Rousseau did see one very important exception: the international realm. This position is made clear in Rousseau's unpublished fragment *L'état de guerre*:

> D'homme à homme, nous vivons dans l'état civil et soumis aux loix; de peuple à peuple, chacun jouit de la liberté naturelle: ce qui rend au fond notre situation pire que si ces distinctions étaient inconnues. Car vivant à la fois dans l'ordre social et dans l'état de nature, nous sommes assujettis aux inconvénients de l'un et de l'autre, sans trouver la sûreté dans aucun des deux... Quant à ce qu'on appelle communément le droit des gens, il est certain que, faute de sanction, ses lois ne sont que des chimères plus faibles encore que la loi de nature.[87]

Thus, to find a world without government, one need only look to the realm of international politics. In fact, if one wanted to find a theory very similar to that of Hobbes' – in fact, much less pessimistic – they need only turn to the mercantilism of Jean-Baptiste Colbert (1619-1683). Colbert, as Louis XIV's Minister of Finances, manoeuvered France in a number ways so that it could come to be the economic superpower of seventeenth century Europe. These policies included everything from the support and proliferation of Frances industrial capabilities, to war when necessary. Economics, for Colbert, were within the realm of *raison d'etat*.[88] What is more, as Istvan Hont has shown, war was as much about domestic policy as foreign:

> Colbert's reforms brought the demands of war and jealousy of trade right back home, with momentous consequences. Jealousy of trade ceased to be a matter only of imperialism, colonization, and sea trade, of taking hold of external resources by practically any means. Colbert

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[86]   Rousseau, *Second Discourse*, OC iii, p. 132.
[87]   Rousseau, *Guerre*, OC iii, p. 610.
[88]   For more on Rousseau's economic beliefs, and specifically mercantilism, see: B. Fridén, *Rousseau's Economic Philosophy: Beyond the Market of Innocents* (New York, 1998).

made economic preparation for war the most important business of the domestic economy as well.[89]

He continues by arguing that the most vocal critic of these policies was none other than Fénelon, attacking Colbert for corrupting the people of France, and ignoring the state's real needs for luxuries. Fénelon's proposed corrections are examined in chapter two of this thesis.[90] What is important here, however, is that Rousseau accepted Fénelon's economic position, and saw the policies applicable for Salente also applicable for Corsica.[91] The banishment of luxuries were necessary if the Corsicans were to escape not only corruption, but war. They should be made to be neither a target, nor develop a domestic economic system – and morality – which would make it possible for them to direct their own gaze outwards at some point in the future. That is, if Corsica wanted to avoid being swallowed up by a superiour power it needed to make itself as bitter a pill as possible.

This leads to Rousseau's first maxim for Corsica, and one also found in the *Contrat social*: the ideal state should function free from foreign influence so as to maintain its original virtues.[92] To accomplish this in Corsica, Rousseau argues that they: "tirer parti de leur peuple et de leur pays toujours autant qu'il sera possible; cultiver et rassembler leurs propres forces, ne

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[89]   I. Hont, *Jealousy of Trade: International Competition and the Nation-state in Historical Perspective* (Cambridge, MA, 2005), p. 24.

[90]   Returning to some of the proposals examined earlier in this thesis, we can identify a number of propositional affinities: Mentor calls for strict commerce laws, the banning of the production and import of goods which encourage "le luxe & la mollesse," and the reemployment of those involved in such activities (F. de Fénelon, *Les avantures de Telemaque fils d'Ulysse*, i [Paris, 1717], p. 253). Specifically, husbandry and agriculture were to be encouraged with the aim of creating a country "peuplé de familles vigoureuses, & adonnées à l'agriculture" (Ibid., p. 260). These large families were to be a source of stability, and tying them to the land would encourage cultivation. Classes were instituted, with the goal of encouraging correct civic action through promotion. Arts were reformed, music was censored, grand buildings were limited to temples, and paintings and sculptures were only to be used to create memorials. Spectacles that honoured and encouraged exercise, such as wrestling and races, were to be instituted, and the military was to be renewed and strengthened.

[91]   Rousseau breaks with Fénelon over the proposals being of value elsewhere. The proposals in *Telemachus* are offered as reforms for the already existing Salente – a representation of France. Fénelon's desire "was to see essentially but not exclusively agricultural monarchy of France fitted comfortably into an international trading community based on peaceful and reciprocal exchange of useful commodities" (H.C. Clark, *Compass of Society: Commerce and Absolutism in Old-Regime France* [Lanham, 2006], p. 59). While Fénelon hoped to use absolute monarchy to achieve these ends, Rousseau saw the problems of tradition and custom as insurmountable. Were this not the case, Rousseau would not have highlighted Corsica's unique position in the *Contrat social*.

[92]   Rousseau, *Contrat social*, OC iii, p. 390-391; *Corse,* OC iii, pp. 914; 927-928.

s'appuyer que sur elles, et ne songer pas plus aux puissances étrangères que s'il en existait aucune."[93] Corsica should be self-sufficient, maintain a population of such a size that it is able to defend itself, and focus on agriculture. Although aware that local conditions dictate whether such a system is possible, Rousseau does argue that this system is ideal in the *Contrat social*: "[Si] occupez-vous de riches plaines et des coteaux fertiles? Dans un bon terrain, manquez-vous d'habitants? Donnez tous vos soins à l'agriculture, qui multiplie les hommes, et chassez les arts."[94]

The upshot of this agriculturally-centered system is that it is naturally suited to democracy – the best form of government, according to Rousseau in the *Contrat social*:[95]

> La forme de Gouvernement que nous avons à choisir est d'un côté la moins coûteuse parce que la Corse est pauvre, et de l'autre la plus favorable à l'agriculture parce que l'agriculture est quant à présent la seule occupation qui puisse conserver au peuple corse l'indépendance qu'il s'est acquise et lui donner la consistance dont il a besoin. L'administration la moins coûteuse est celle qui passe par le moins de degrés et demande le moins de différents ordres, tel est en général l'état républicain et en particulier le démocratique.[96]

Rousseau argues that the burden of the state can be measured by the distance taxes travel to circulate back into society:

> Quand cette circulation est prompte et bien établie, qu'on paye peu ou beaucoup, il n'importe, le peuple est toujours riche, et les finances vont toujours bien... [La] plus la distance du peuple au gouvernement augmente, et plus les tributs deviennent onéreux: ainsi, dans la démocratie, le peuple est le moins chargé.[97]

What is more, the very nature of administration is that:

> Elle devient aussi plus onéreuse à mesure que les degrés se multiplient… [N]on seulement le gouvernement a moins de vigueur et de célérité pour faire observer les lois, empêcher les vexations, corriger les abus, prévenir les entreprises séditieuses qui peuvent se faire dans des lieux éloignés; mais le peuple a moins d'affection pour ses chefs, qu'il ne voit jamais, pour la patrie, qui est à ses yeux comme le monde, et pour ses concitoyens, dont la plupart lui sont étrangers. Les mêmes lois ne peuvent convenir à tant de provinces; diverses qui ont des mœurs différentes, qui

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93  Rousseau, *Corse*, OC iii, p. 904.
94  Rousseau, *Contrat social*, OC iii, p. 392. One of the upshots of this seemingly modest plan is a cleansing of the vices which may have already been picked up by Corsicans. By attaching them to the land and making agriculture their primary goal, leisure, a major cause of vice, is avoided, while an increased bond between man, family, and land is created (Ibid., p. 420).
95  Ibid., p. 406.
96  Rousseau, *Corse*, OC iii, p. 906.
97  Rousseau, *Contrat social*, OC iii, p. 415.

vivent sous des climats opposés, et qui ne peuvent souffrir la même forme de gouvernement.[98]

Corsica, however, was too large for the democratic system described in the *Contrat social*. Again, Rousseau warned in that work that: "l'administration devient plus pénible dans les grandes distances, comme un poids devient plus lourd au bout d'un plus grand levier."[99] However, to overcome this problem, Rousseau proposed a democratic system in which the people (i.e., the sovereign) assembled at different intervals in different places, rather than all at once.[100] This slight divergence between proposals should not be seen as a break from the ideals in the *Contrat social*, but one should instead remember that: "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."[101] In the case of Corsica, the advantages of this form of democracy were threefold: first, by avoiding a capital and the costs and travel it would necessitate, it would keep the number of men necessary to administer the state to a minimum, saving public finances; second, it would allow for the distribution of the population across the country, rather than the grouping of peoples into urban centres; and third, it would allow for the exercise of sovereignty – a key to maintaining legitimacy according to the *Contrat social*: "La souveraineté ne peut être représentée, par la même raison qu'elle peut être aliénée; elle consiste essentiellement dans la volonté générale, et la volonté ne se représente point: elle est la même, ou elle est autre; il n'y a point de milieu."[102] The problem of representation of sovereignty goes beyond legitimacy; it is a direct threat to a people and their potential for proper progression. To claim representation is to, in actuality, hold sovereignty – and even if a people were willing to accept such a condition, Rousseau argues that it is a mistake for would-be-lawgivers to embrace this natural docility in an

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[98]   Ibid., p. 387.
[99]   Ibid., p. 387.
[100]  This was a system first proposed in the Vescovado Report of 1764.
[101]  Ibid., pp. 384-385.
[102]  Ibid., p. 429.

emerging people. Instead, they should encourage political confidence and action (to return to the metaphor of age, one cannot be a student their entire life). What is more, Rousseau warns Corsica that the creation of legislators and legislated, masters and slaves, would be ignoring the fact that a true political body is united, and to separate it is to destroy it: "Tout cela vient de ce qu'on sépare trop deux choses inséparables, savoir le corps qui gouverne et le corps qui est gouverné. Ces deux corps n'en font qu'un par l'institution primitive, ils ne se séparent que par l'abus de l'institution."[103] The government of the legitimate state must have a body which is sovereign, and is able to make its own (general) will known. So although the details of the institutions may differ between works, one can see that the outcomes are in agreement between Rousseau's *Corse* and the *Contrat social*.[104]

A final upshot of Rousseau's democratic proposal for Corsica is linked to a key aspect of his description and conception of democracy in general: that of membership. As discussed in chapters three and four, an important aspect Rousseau's politics is the self-divided individual who is a member of the state by being both sovereign and subject:

> [L]'aliénation totale de chaque associé avec tous ses droits à toute la communauté: car, premièrement, chacun se donnant tout entier, la condition est égale pour tous; et la condition étant égale pour tous, nul n'a intérêt de la rendre onéreuse aux autres... cet acte d'association produit un corps moral et collectif, composé d'autant de membres que l'assemblée a de voix, lequel reçoit de ce même acte son unité, son moi commun, sa vie et sa volonté.[105]

Instead of there being a multitude of citizens in which everyone observes and compares themselves with everyone else, each individual is equal in relation as subject and sovereign. What is more, it is through the voluntary acceptance of this moral and social way of being that freedom is achieved. The people of the *Contrat social* are free by both choosing their own laws and choosing to obey them (that is, following the general will rather than their own personal

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[103]   Rousseau, *Corse*, OC iii, p. 901.
[104]   Rousseau, *Contrat social*, OC iii, p. 380.
[105]   Ibid., pp. 360-361.

inclination). As Rousseau explains:

> 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. C'est alors seulement que, la voix du devoir succédant à l'impulsion physique et le droit à l'appétit, l'homme, qui jusque-là n'avait regardé que lui-même, se voit forcé d'agir sur d'autres principes, et de consulter sa raison amant d'écoute, ses penchants.[106]

However, establishing a system of universal membership is more difficult than simply defining a relationship. At the heart of the problem is the need to "faites régner la vertu." The legislator needs to introduce a method of maintaining virtuous thought and action in the populace while not assembled as sovereign. To do this, Rousseau argues for public education under rules prescribed by the government – another necessary maxim of legitimate government.[107] In the *Contrat social* this task is entrusted to the church – albeit, as a civil religion – which has dogmas beneficial to the state, making "la patrie l'objet de l'adoration des Citoyens," and making service to the state the same as service to the "Dieu tutélaire."[108] Corsica, however, had an established Catholic tradition.[109] Rousseau, therefore, moves to establish a class system which encompasses, reflects, and encourages patriotic action.

The goal of Corsica's class system was both to enshrine a sense of unity and membership in the public sphere and encourage actions which always aimed towards the public good – that is, in line with the general will. It included the further benefit of correcting the historical problem of hereditary classes. To accomplish these goals Rousseau developed three classes which all right-acting male Corsicans could progress through during their lifetime. Of course, class systems inherently rely on some form of inequality but to this, Rousseau responds: "l'inégalité toujours personnelle pouvait être heureusement substituée à l'inégalité de race ou d'habitation qui résulte

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[106]   Ibid., p. 364.
[107]   Rousseau, *Économie politique*, OC iii, p. 252.
[108]   Rousseau, *Contrat social*, OC iii, pp. 464-465.
[109]   Although Rousseau does insinuate it could be weakened – in particular by taking Church properties and imposing taxes (Rousseau, *Corse*, OC iii, pp. 931-932).

du système féodal municipal que nous abolissons."[110] What is more, the benefits of class distinction would out-weigh any divisive feelings that may emerge: the actions they would encourage included the cultivation of land, which would be necessary for self-sufficiency; the building and expansion of families, necessary for the small island to grow in population and defend itself; a method for Corsicans to distinguish themselves by establishing their status and rights through their patriotic duties, the lack of which was something which many of the old Corsican "nobles" disliked about Paoli's regime; and finally, by having a politically competitive class system, Rousseau, ironically, was able to ensure a particular level of equality. That is, by creating classes which citizens could graduate through, access remained equally open to all – again, so long as laws do not particularize who belongs to a class, equality is maintained.[111]

Equality is also maintained through a propitious division of the island into twelve regions of relative equality in terms of natural resources, and by preventing the emergence of large cities (especially a large capital – which Rousseau described as: "un gouffre où la nation presque entière va perdre ses mœurs, ses lois, son courage et sa liberté").[112] What is more, this division would make the island as a whole stronger:

> Au dedans l'Île est assez grande et coupée par des montagnes; ses grandes et nombreuses rivières sont peu navigables; ses parties ne communiquent pas naturellement entre elles; mais la différence de leurs productions les tient dans une dépendance mutuelle par le besoin qu'elles ont les unes des autres. La Province de Cap Corse qui ne produit presque que du vin a besoin de blés et d'huiles que lui fournit la Balagna. Corte sur la hauteur donne de même des grains et manque de tout le reste; Bonifazio au pied des rochers et à l'autre extrémité de l'Île a besoin de tout et ne fournit rien. Le projet d'une égale population demande donc une circulation de denrées, un versement facile d'une juridiction dans une autre et par conséquent un commerce intérieur.[113]

To this end the entire system of commerce would need to be manipulated to prevent inequality amongst people and regions. The finest way of doing this, according to Rousseau, was to limit the amount of commerce taking place and money changing hands:

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[110]    Ibid., p. 919.
[111]    Ibid., pp. 903-904.
[112]    Ibid., p. 911.
[113]    Ibid., p. 922.

Corses, voilà un beau modèle! Ne vous étonnez pas qu'il y eût plus de vertu chez les Romains qu'ailleurs, l'argent y était moins nécessaire. L'État avait de petits revenus et faisait de grandes choses. Son trésor était dans les bras des citoyens. Je pourrais dire que par la situation de la Corse et par la forme de son gouvernement il n'y en aura point au monde de moins dispendieux.[114]

Thus, just as Lycurgus made iron Sparta's official currency to limit commerce and encourage virtue, Rousseau would use similar tricks to drive out inequality: he proposed total state ownership of property (or at least, as much as possible) to both maintain equality and strengthen the government; he attempted to make the movements of people as difficult and inconvenient as possible so as to maintain an equal distribution of population (including the banning of horse-drawn carriages and imposing the penalty of temporary loss of class when one would move between political regions); he also called on the Corsicans to "Établissez alors des lois somptuaires, mais rendez-les toujours plus sévères pour les premiers de l'État, relâchez-les pour les degrés inférieurs; faites qu'il y ait de la vanité à être simple, et qu'un riche ne sache en quoi se faire honneur de son argent."[115] All of these actions have a particular end in sight: to remove opportunities in which one's particular will could encourage negative public actions, while also moving to particularize the general good. By finding a way of making good actions a part of each citizen's way of being, Rousseau was founding "la véritable constitution de l'État"; he is using laws to develop the character of the Corsican, laws which over time are intended to create the true citizen. One is seeing a descriptive example of what Rousseau discusses theoretically in the *Contrat social*:

Les sages qui veulent parler au vulgaire leur langage au lieu du sien n'en sauraient être entendus… 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. 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, qui puisse entraîner sans violence et persuader sans convaincre.[116]

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[114]   Ibid., p. 930.
[115]   Ibid., p. 931; 945; 936.
[116]   Rousseau, *Contrat social*, OC iii, p. 383.

And not only does Rousseau want to create this people, but, once again aligning his work on Corsica with the *Contrat social*, he makes clear the necessity of consent:

> On voit aisément comment le système auquel nous avons donné la préférence conduit à ces avantages mais cela ne suffit pas. Il s'agit de faire adopter au peuple la pratique de ce système, de lui faire aimer l'occupation que nous voulons lui donner, d'y fixer ses plaisirs, ses désirs, ses goûts, d'en faire généralement le bonheur de la vie, et d'y borner les projets de l'ambition.[117]

However, the relationship between forming a people and demanding consent is complicated, if even compatible, and this is perhaps where Rousseau questioned himself most, and may have ultimately feared his own proposals:

> Quoique je sache que la nation corse a des préjugés très contraires à mes principes, mon intention n'est point d'employer l'art de persuader, pour les leur faire adopter. Je veux leur dire, au contraire, mon avis et mes raisons avec une telle simplicité, qu'il n' y ait rien qui puisse les séduire; parce qu'il est très possible que je me trompe, et que je serais bien fâché qu'ils adoptassent mon sentiment à leur préjudice.[118]

It is perhaps for this reason, rather than the invasion of the island by France in 1769, that the project was never sent to the Corsicans. The draft we have is said to have been completed in 1765 – years before the French invasion. Instead, perhaps, Rousseau knew that it was a project that would require "l'art de persuader" – that is, the art of the great legislator – an art which he was unwilling or unable to practice; be it due to health, the lack of opportunity because of Paoli, or the acceptance of Alexandre Deleyre's warning that such a task would require him to take recourse in the deception and cruelty used by Lycurgus and Solon. Rousseau does admit in his *Confessions* that the task was beyond his strength. Nonetheless, for our purposes the work offers an insight into the role of the lawgiver in his system as a whole – in a way which, as will be demonstrated, is very different when compared to Poland.

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[117] Rousseau, *Corse*, OC iii, p. 918. In one of the fragments he gave an ultimatum: "Corses, faites silence, je vais parler au nom de tous. Que ceux qui ne consentiront pas s'éloignent, et que ceux qui consentent lève[nt] la main" (Ibid., p. 942).
[118] Ibid., p. 947.

# Chapter VI: Re-founding Poland

Having examined both Geneva and Corsica in Rousseau's writings, this thesis now turns to his other work of propositional political theory: the *Considérations sur le gouvernement de Pologne et sur sa réformation projetée* (1770-1771). Rousseau's work on Poland is radically different from his proposals for Corsica and the *Contrat social* – a point which those who have studied the work have been forced to come to terms with, and which is essential to the argument being made in this thesis. Specifically, *Pologne* differs in that it does not address the founding of a political society, nor does it offer a constitution. Rousseau makes this clear:

> [L]'on ne doit pas oublier ce que j'ai dit dans le *Contrat social* de l'état de faiblesse et d'anarchie où se trouve une nation tandis qu'elle établit ou réforme sa constitution. Dans ce moment de désordre et d'effervescence elle est hors d'état de faire aucune résistance et le moindre choc est capable de tout renverser. Il importe donc de se ménager à tout prix un intervalle de tranquillité durant lequel on puisse sans risque agir sur soi-même et *rajeunir sa constitution*.[1]

To understand what the risks and possibilities of rejuvenating Poland are, one needs to realize that Poland in the eighteenth century was, like Geneva, already a well-established state. Because of this, *Pologne* is akin to the *Lettres écrites de la montagne* – it offers arguments for a re-founding based on an already established political system and constitution. Before exploring this more fully, however, it is worth noting that just as the secondary research dedicated to *Corse* is minimal, the works dedicated to *Pologne* takes this even further. In fact, in many cases acknowledgment of the work goes only so far as to reference its existence. For example, a recent biography contains only one reference to the work – and even that says little: "[Rousseau] did spend some time trying to compose a plan for a projected new government in Poland, just as he had once done for Corsica, but he soon dropped the project as unworkable."[2] And in the *Cambridge Companion to Rousseau* "Poland" is not even included in the index. Willmoore

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[1]    Rousseau, *Pologne*, OC iii, pp. 1036-1037.
[2]    L. Damrosch, *Jean-Jacques Rousseau: Restless Genius* (Boston, 2005), p. 476.

Kendall, notes that "it is the least written about of Rousseau's political writings" and goes on to argue that this lack of interest has led to discrepancies in Rousseau's political proposals being missed:[3]

> [Rousseau scholars] see no problem, particularly no problem of "continuity," as regards the relation between *The Government of Poland* and […] Rousseau's other ventures in political theory. For [the] handful of critics who have written on the *Poland* […], the book is precisely what we might fairly have expected from the author of *The Social Contract*, given the invitation from a people "struggling to throw off its chains."[4]

Of course, Kendall is correct that the two texts are very different, and thus, as mentioned above, many of the commentaries which attempt to interpret the works in tandem end up failing to recognize what is distinct, and even incompatible, about them. This has led to a number of superficial readings that offer little analysis.[5] And those who have recognized differences have come up with interpretations of this which seem to be premised more on convenience than analysis.[6] For example, Jeffrey Smith's 2003 argument begins by stating "while, as of 1762, Rousseau considered Corsica the only country 'still...capable of legislation' that could produce those virtues [as described in the *Contrat social*], he has evidently become much less pessimistic about modern man's prospects by the time of Poland, his final political treatise."[7] This, however, ignores much of what Rousseau himself wrote – both in the *Contrat social* and *Pologne*. Rousseau did not write with the goal of providing Poland with the virtues he described in the

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3    H.C. Mansfield, 'Preface', in J.-J. Rousseau, *The Government of Poland* (Indianapolis, 1985), p. viii; W. Kendall, 'Introduction: How to read Rousseau's "Government of Poland"', in J.-J. Rousseau, *The Government of Poland* (Indianapolis, 1985), p. xiv.

4    Ibid., p. xiv.

5    In addition to those addressed in the previous chapter, one can add Fridén's 1998 work in which he argues that Rousseau believed that "Poland (like Corsica) possessed one startling resource, its mœurs, undisturbed by developments elsewhere in Europe" (B. Fridén, *Rousseau's Economic Philosophy: Beyond the Market of Innocents* [New York, 1998], p. 71). The problem here is that Rousseau was not attempting to preserve the Corsicans mœurs, but help them emerge correctly. This, however, is not what he proposed for Poland (or Geneva). Although he was explicit that Poland should avoid radical changes, Polish mœurs were not something inherently worth keeping, but simply a reality.

6    Kendall falls into this category. See: W. Kendall, 'Introduction: How to read Rousseau's "Government of Poland"', in J.-J. Rousseau, *The Government of Poland* (Indianapolis, 1985), p. xvi.

7    J.A. Smith, 'Nationalism, Virtue, and the Spirit of Liberty in Rousseau's "Government of Poland"', *The Review of Politics* 65.3 (2003), p. 420.

*Contrat social* – the text is much more conservative than this. As Venturi noted three decades earlier: "It is certainly off to see the *Contrat social* serve as a shield to conservatism in Poland, to those who rejected any reform of the golden Sarmatian liberty."[8] Yet, it is nonetheless in support of this group which Rousseau's *Pologne* ends up positioning itself. Thus, if one wants to find a unity amongst the two texts, they must begin with their disparity. As Nicholas Dent argued, while there are "marked differences of content" between Rousseau's *Pologne* and *Corse* one area of unity he does identify is an emphasis on the people who make up the two nations and the way in which the state must conform to their particular potentiality.[9] Thus, to discover similarities between the texts one must investigate deeper; as Massias has argued: "Même si le texte polonais est moins directement révolutionnaire que le projet corse, il n'en comporte pas moins des dispositions très éclairantes sur la conception très étendue que Rousseau attribue à la puissance constituante. La encore, tous les domaines sont concernés, de l'économie à l'éducation, rien n'est étranger au texte constitutionnel."[10] Much is the same, yet the outcomes are different. The source of this distinction, as has been argued, can be stated this way: some peoples are capable of being founded, others must be re-founded.

To once again demonstrate this division between founding a political system and re-founding one, this chapter is divided into six parts: First, it looks at the history of the eastern European state, examining its already established constitution and government. Second, it examines the intellectual culture both in and related to Poland, and the relationship Rousseau had to the state, asking what his actual task and goals were or could have been. It then moves on to more direct comparisons between *Pologne* and Rousseau's other works. This is divided into four sections: first, an examination of the people of Poland, highlighting why they were, in

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[8] F. Venturi, *Utopia and Reform in the Enlightenment* (Cambridge, 1970), p. 129.
[9] N. Dent, *Rousseau* (London, 2005), p. 175.
[10] J.-P. Massias, 'Les projets de Constitution selon Jean-Jacques Rousseau', in M. Lafourcade (ed.), *Les origines du constitutionnalisme et la Constitution de Bayonne du 7 juillet 1808* (Donostia, 2009), p. 130.

Rousseauvian terms, inappropriate to be given new laws; second, it looks at the idea of Polish freedom being discussed in the text and how it differs from what Rousseau described in the *Contrat social*; third, it turns to education and its importance to re-foundings;[11] and finally it looks at some of the contextually similar (in the case of the *Lettres écrites de la montagne*) and dissimilar (in the case of the *Contrat social*) arguments.

## History of Poland

The first Polish state was founded in 966 when King Mieszko I (962-992) embraced Western Christianity. Mieszko's Piast dynasty ruled until 1138, after which a weakened Poland began to suffer from regular encroachments and invasions – especially by the Teutonic Knights. However, unlike the regular attacks suffered by Corsica (attacks which kept the island in a state of political infancy), many of these foreigners made home in Poland and founded new villages and towns, brining with them craftsman and scholars. Thus from the beginning Poland was being integrated into, rather than segregated from, the rest of Europe.

However, there are two key elements to the emergence and history of Poland which made if unique in Europe: the relationship with the "huge and more primitive dukedom" Lithuania to the North-East and the resilient Polish nobility and gentry who, as the dominant class, prevented the emergence of an absolute monarch.[12] In regard to the former, in 1385 the two nations entered a union of crowns with the Grand Duke of Lithuania, Władysław II Jagiełło, marrying the queen regnant Jadwiga of Poland. Initially both nations maintained political independence while working together to expand and defeat the Teutonic Knights. The union was so successful that by 1490 Jagiełło's dynasty had managed to extract allegiance from most of Central and Eastern

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[11] Whereas education is discussed in Rousseau's works for Poland and Geneva, his proposals for Corsica and the *Contrat social* do not address the topic.

[12] N. Ascherson, *The Struggles for Poland* (New York, 1991), p. 16.

Europe.[13] However, external successes resulted in internal strife, which leads to the second key element. The Polish nobility (which made up about ten per cent of the population) began to worry that their privileged position would become weakened as the state grew and the king's success was cemented. Thus, they offered military support in exchange for the enshrinement of a number of privileges, including the creation of provincial dietines and a national diet, and over time legal immunity, freedom of faith, and a monopoly over land-ownership. These privileges would ultimately be the basis of the Polish constitution, and lead to the emergence of Poland's "noble democracy," and the Polish General Sejm (1493).[14]

The Sejm was initially divided between the king and two chambers: the Diet (lower) and Senate (upper). The Diet was made up of officials elected by the Dietines (or Semjik) with only the authority to discuss the issues they had been authorized to represent by their Dietine – albeit as representatives of the gentry rather than their localities generally or the clergy. It would meet for six-week sessions every two years during which the delegates worked by consensus to achieve the goals that each representative was sent with – there was no legitimacy in deputies arguing for issues they were not in a position to represent (a caveat that would eventually allow them to avoid agreeing to anything they personally felt they did not have the authority to address). Senators were spiritual and temporal representatives, made up of archbishops and bishops, important local officials, governors, castellans, state officials, and ministers. The Senate would meet at the same time as Diets or when convened by the King (who also acted as head of the Senate), in addition to having a core group of twenty-eight Senators who would remain in session continuously.

The third official body of Poland was the king, who ruled when the Sejm was not in

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[13]  Ibid., pp. 17–18.
[14]  P. Skwarczyński, 'The Constitution of Poland before the Partition', in W.F. Reddaway (ed.), *The Cambridge History of Poland* (Cambridge, 1950), p. 55; 49.

session (that is, for 98 our 104 weeks). He managed one sixth of Polish land and population, had greater military and economic resources, gave royal favours (tenancies to royal land), chose the sixteen officers of the state, and held a number of other official powers (temporal and spiritual).[15] Nonetheless, these powers were increasingly checked by the gentry, who actively worked to extract more political rights and fight off the emergence of an absolutist ruler (the emergence of which they witnessed to their East and West), instating an era of noble "golden freedom." In 1505 they were able to extort from the king the *Nihil Novi* ("Nothing New") statute, a right which was in many ways similar to Geneva's *droit negatif* by forbidding any new laws or taxes from being introduced without the consent of both chambers of the Sejm.*[16]*

In 1569 the Union of Lublin was agreed to, a treaty which ended the political independence of Poland and Lithuania and paved the way for perhaps the greatest of the nobles' rights: in 1573, when the last of the Jagełłonian dynasty died, the nobles secured the power to elect future monarchs. What is more, as the nobles' powers grew, the king's began to vanish. Poland emerged as a true constitutional state with a social contract – there was a *pacta conventa* between king and "society" (in reality, the gentry) which was signed by both parties, and would be renewed with every new king. New duties could be, and were, added to this contract, which would become law, but lasted only as long as the king who had signed them reigned. This contract also forbade the establishment of a hereditary monarch.[17] After a century of the nobles consolidating internal power, however, external problems began to re-emerge. In particular, uprisings in the Ukraine and invasions from Turkey and Sweden became important issues in the seventeenth century. This external pressure, rather than pushing the nobles to work together, encouraged the most powerful families to buttress  their own positions in any way possible –

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[15]    N. Davies, *God's Playground A History of Poland: Volume 1: The Origins to 1795* (Oxford, 2005), pp. 256–257.
[16]    Ibid., p. 254; N. Ascherson, *The Struggles for Poland* (New York, 1991), p. 19.
[17]    P. Skwarczyński, 'The Constitution of Poland before the Partition', in W.F. Reddaway (ed.), *The Cambridge History of Poland* (Cambridge, 1950), pp. 51–53.

even if it meant turning to foreign powers – and by the late eighteenth century Poland had become a volatile place.[18] However, it maintained its surprisingly well established constitutional government. In fact, the very volatility which emerged was in some ways a point of pride. From the sixteenth century until the partitions in the eighteenth century, a popular Polish catchphrase was *Nierzadem Polska stoi*; that is, "it is by unrule that Poland stands."[19] Thus, "anarchie" was seen as a prime principle of Polish government, while elsewhere in Europe it was seen as a source of chaos and terror. Rousseau himself wrote that anarchy was the cause of Poland's problems in the late eighteenth century and this belief was maintained into the nineteenth century:[20] "To the Prussian and Russian historians who interpreted its downfall as part of their own rise to fame, it exhibited a degenerate form of government which had been rightly supplanted by the progressive and benevolent rule of their own monarchs."[21] The Polish, nonetheless, continued to praise their historic constitution: the Polish novelist Kazimierz Brandys (1916-2000) wrote that for three-hundred years before its partition and the loss of independence, Poland had remained free from upheaval while "Europe was staggered with peasant revolts, an Inquisition, dynastic wars, religious wars, the Hundred Years War, [and] the Thirty Years War."[22] This stability was in some ways both based on, and in spite of, two constitutional practices: the *liberum veto* and the confederacies.

The *liberum veto* was a constitutional rule which grew out of the Sejm's consensus method of operation and the fact that representatives had no legitimate right to legislate on issues on which they had not been given approval. It ultimately allowed any single member of the Sejm to halt all business – that is, it was a political right enjoyed by every member of the Diet which

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[18]     N. Ascherson, *The Struggles for Poland* (New York, 1991), pp. 20–22.

[19]     N. Davies, *God's Playground A History of Poland: Volume 1: The Origins to 1795* (Oxford, 2005), p. 246.

[20]     Rousseau, *Pologne*, OC iii, p. 959. Anarchy was both an accepted description of the Polish political system and devoid of ideological baggage.

[21]     N. Davies, *God's Playground A History of Poland: Volume 1: The Origins to 1795* (Oxford, 2005), p. 246.

[22]     Quoted in N. Ascherson, *The Struggles for Poland* (New York, 1991), p. 1.

allowed for the rejection of the entire slate of legislative work of that session. To understand how disruptive this was one need only look at Sejm success rates: from 1697-1733 eleven out of twenty sessions were ended by veto; from 1733-1763, only one session was successfully concluded.[23] This led to decentralization and a larger role being played by the Dietines. What is more, this political formality was supported by Poland's enemies abroad – Russia in particular adopted the position of "guarantor" of the "noble democracy."[24] Those nobles who looked outside of Poland to strengthen their own position internally were encouraged to use the *liberum veto* at times when foreign powers felt potential reforms could strengthen the state comparatively – in fact, every European power had at least one deputy in their pay who they were able to use to end an unfavourable session. Thus, as Davies has pointed out, the *liberum veto*, a tool originally used to protect Poland from the emergence of an absolutist leader became the tool of foreign absolutists.[25]

The importance of the *liberum veto* to the nobles was made clear when King Stanisław August Poniatowski (1732-1798), who was a reported lover of Catherine the Great and a would-be enlightened despot himself, maneuvered to turn Poland into a 'modern state.' During his reign (1764-1795) he attempted to increase crown power and limit the powers of the wealthy Polish magnates by limiting the *liberum veto*. The result was outright conflict, and the emergence of two "confederations" – the other constitutional practice which resulted in instability. These *ad hoc* organizations were made up of nobles who shared political aims, and agreed to work together to achieve shared goals or in their own self-defence – "a legalized form of civil war."[26] What is more, they were legitimized out of the contract between the gentry and the king: if he failed in

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[23] Ibid., p. 265.

[24] N. Ascherson, *The Struggles for Poland* (New York, 1991), p. 22. This state of affairs was made especially clear in the 1730s when Russia invaded Poland to depose king Stanisław Leszczyński (who was a French and Swedish nominee).

[25] N. Davies, *God's Playground A History of Poland: Volume 1: The Origins to 1795* (Oxford, 2005), p. 266.

[26] Ibid., p. 260.

his obligations, as outlined in the contract he had made with Polish society, it was the nobles' duty to correct this state of affairs – this was referred to as the "omnipotence of the gentry."[27] And the necessity of these occasional confederacies should not be surprising – the inability to institutionally legislate during moments of crisis (due to the *liberum veto*) required some other method of maintaining order.

During Stanisław's rule two confederations emerged: the Confederation of Radom in 1767, a Russian supported group of protestant and orthodox nobles, and the anti-Russian and Catholic Confederation of Bar in 1768. It was during this time of legislative stale-mate, political anarchy, and potential civil-war, that one finds Count Michal Wielhorski (1730-1794), a member of the Confederation of Bar, contact Rousseau and ask for political advice.[28] Unfortunately, unlike with Buttafoco, we do not have the original correspondence between Rousseau and Wielhorski, although one is able to piece together the essential problem and proposal.

The problem, as Wielhorski saw it, was the long-standing Polish fear that their monarchy would, as it had elsewhere in Europe, decline into tyranny – a fear which was at the "very heart of the Polish political tradition."[29] This meant, ironically, that the reforms being proposed by Stanisław, albeit prudent in the face of the *liberum veto* and Polish instability, were also seen as evidence of this move towards absolutism and therefore, necessitated the checks on the monarch's power. Wielhorski thus set Rousseau the goal of protecting Poland from both her encroaching neighbours and herself.[30] What power Wielhorski had to implement any reforms is questionable – it could be the case, as Willmoore Kendall has put it, that he was simply asking

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[27]  P. Skwarczyński, 'The Constitution of Poland before the Partition', in W.F. Reddaway (ed.), *The Cambridge History of Poland* (Cambridge, 1950), p. 60.

[28]  Ultimately this was futile. In 1772 Frederick the Great, Catherine the Great, and Joseph II agreed to intervene in Poland, and by 1795 the Polish state no longer existed.

[29]  J. Lukowski, 'Recasting Utopia: Montesquieu, Rousseau and the Polish Constitution of 3 May 1791', *The Historical Journal* 37.1 (1994), p. 70.

[30]  N. Dent, *Rousseau* (London, 2005), p. 175.

what "kind of constitution Poland should give itself if and when it found itself in control of its own destiny."[31] Thus, the potential for actual implementation in Poland is questionable. Regardless of the possibility of actualizing Rousseau's proposals, however, to understand what the proposals meant one must look at the relationship between Rousseau and Poland.

## Intellectual Culture, Rousseau, and Poland

Before moving on to Rousseau's particular arguments for Poland, it is worth highlighting the place of the nation within the broader intellectual world during, and leading up to, the time of Rousseau's own interest. To start, Poland was not a cultural hotbed. The "Polish Enlightenment" – which roughly coincided with the reign of Stanisław, but more broadly ran from the 1720s, continued through the partitions, and concluded with the November Uprising in 1830[32] – was made up of somewhere between 700-800 direct participants publishing "in the spirit of belonging to the Enlightenment" and upwards of 2000 people if one incudes "those individuals who played a role as a lively literary audience, and thus participated in the intellectual ferment, even if only passively."[33] This is a miniscule number in relation to the population as a whole. The influence of this group is also questionable; in 1790 Stanislaw Staszic exclaimed: "How far behind Poland is! What efforts have been made by other countries… Poland has just entered the fifteenth century while the rest of Europe is almost finished with the eighteenth."[34] This was, of course, an exaggeration – even before the eighteenth century Polish intellectuals were aware of, and engaging with, the problematic aspects of Poland's political system and as early as the sixteenth century there were those who viewed the aristocracy's "golden freedom" as harmful.

One such thinker was Andrzej Frycz Modrzewski (1503-1572) whose writings were read

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[31] W. Kendall, 'Introduction: How to read Rousseau's "Government of Poland"', in J.-J. Rousseau, *The Government of Poland* (Indianapolis, 1985), p. x.
[32] B. Grochulska, 'The Place of the Enlightenment in Polish Social History', *A Republic of Nobles: Studies in Polish History to* (1964), p. 245.
[33] Ibid., p. 249.
[34] Quoted in Ibid., p. 250.

across Europe, and, although hardly known today, was mentioned in the same breath as many of the most influential thinkers of the era.[35] He offered a "synthetic view of the state and society" and "fearlessly condemned the oppression of the peasants, the exclusion of the bourgeoisie, the ignorance of the clergy, the luxury of the nobility." In some ways his writings have a resemblance to Rousseau's: "His ability to combine the best features of the ancient political thought and to adapt them to the realities of sixteenth century Europe brought [Modrzewski] the attention of such writers as Bodin, Althusius, and Grotius."[36] Modrzewski was followed by other Polish intellectuals, including: Mikolaj Rey (1505-1569), who was known for his "acute social conscience"; The Polish Brothers and the spread of Socinianism, which would come to have an important theological impact across Europe; and Grzegorz Pawel z Brzezin (1525-1591), who made a name for himself as a "leveller of the most militant stamp."[37] There were also conservative critics, such as Piotr Skarga (1536-1612) who supported the absolutist divine right of kings and the Counter-Reformation (which, in the noble democracy, made him as much of a critic of the state as those who preached equality).

With time issues were located elsewhere. Stefan Garczynski (1690-1756), expressing concern over Poland's apparent backwardness, attacked the clergy.[38] Stanislaw Staszic (1755-1826) and Hugo Kollataj (1750-1812) both argued that Polish underdevelopment was directly linked to a lack of resource exploitation. The latter argued for a reformed tax system capable of maintaining the state and army, while the former saw industrial development as the solution, noting the potential within Poland for huge economic growth.[39] Thus, by the eighteenth century

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[35]  See Rev. John Beale's letter to Robert Boyle, 13 March 1673: "For doctrine, I should have good helps from Picherell, Grotius, Modrevius, and a hundred more, some assisting in one point, some in another" (R. Boyle, *The Correspondence of Robert Boyle* [London, 2001], pp. 345–346).

[36]  A. Ulam, 'Andreas Fricius Modrevius–A Polish Political Theorist of the Sixteenth Century', *The American Political Science Review* 40.3 (1946), p. 485.

[37]  N. Davies, *God's Playground A History of Poland: Volume 1: The Origins to 1795* (Oxford, 2005), p. 273.

[38]  B. Grochulska, 'The Place of the Enlightenment in Polish Social History', *A Republic of Nobles: Studies in Polish History to* (1964), p. 250.

[39]  Ibid., pp. 250–251.

there was a strong sense of something being wrong with Poland, but the ability to pinpoint the cause, or the path to correcting it, remained unclear. Of course, this was not a universal belief – one of the more subscribed to Polish intellectual movements in the eighteenth century was largely made up of aristocratic opponents of the Enlightenment and reform.

Sarmatianism was the dominant ideology amongst the Confederation of Bar, largely supportive of the rights and ways of the gentry, and arguing that the Polish form of democracy was "exceptional, specific, and superior to all foreign forms of political life."[40] Although recognizing that Poland faced some institutional problems, it sought a particular national solution. The minor inconveniences caused by their political system (as they saw them), and the tyrannies they witnessed amongst their neighbours, made a foreign solution unpalatable. However, in reality, the Polish knew practically little of Western Europe: "When they talked of the *absolutum dominum* which they much feared, they were not thinking of France or Spain. For them, the only real models of judgement were the 'clerical' despotism of Austria, the 'oriental' despotism of Turkey, and the 'barbarian' despotism of Muscovy."[41] The political "realities" which they were aware of made absolutism look, if not entirely less stable than Polish anarchy, certainly less desirable, and similarily to Geneva, the many refugees who had settled in Poland, fleeing prosecution at home, encouraged this. However, the ideology was complicated by references to ideals that were not particularly Polish: democracy and republicanism.

Importantly, the West knew just as little of Poland. Eastern Europe from the sixteenth century was, as a whole, an "intellectual object under construction" (although perhaps not to the same extent as Corsica). Amongst the scholarly classes the state began to be discussed in the

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[40]   H. Hinz, 'The Philosophy of the Polish Enlightenment and Its Opponents: The Origins of the Modern Polish Mind', *Slavic Review* 30.2 (1971), p. 345. Sarmatianism was based in a mythical legend of the Polish gentry. It was said that they were direct descendants of Sarmatians (an ancient Iranian tribe) who had come to Poland and enslaved the local population.
[41]   N. Davies, *God's Playground A History of Poland: Volume 1: The Origins to 1795* (Oxford, 2005), p. 275.

mid-sixteenth century, as Polish thinkers themselves began to be made known. The state was seen during this time in a number of different ways – some saw it as a "haven of political liberty", both in terms of its elected and contractual monarch, and for its religious tolerance (for some), while others saw its liberalness as a weakness and its noble "democracy" as little more than an unruly and oversized oligarchy.[42] Bodin in particular saw the decentralization of Poland as running counter to the prevailing trend in Europe. Thus, it offered something for everyone: "the Republic […] provided an inexhaustible fund of curiosities. Its increasingly ineffective practices gave Absolutists ample material for demonstrating the superiority of their arguments; whilst its libertarian ideals gained the admiration of republicans and constitutionalists."[43] Poland was a playground for the imagined political philosophies coming from the West – it was not the land of barbarians (which Corsica was), but it was also not, as Voltaire would say, "our part of Europe."[44] The difficulty of fitting Poland into a wider political understanding was compounded by the inability to fit its constitution into the accepted tripartite distinction, with many thinkers struggling to simply come up with an accurate title for the Polish king.[45]

It is not surprising, then, that in the eighteenth century Poland remained "an object of bewilderment, if not contempt, to outside observers."[46] Charles de La Condamine (1701-1774) wrote: "Le gouvernement de Pologne, sa constitution, sa manière de faire les élections, de tenir les Diètes, est si absurde qu'elle ne peut subsister."[47] In Montesquieu's *Lettres Persanes* it was reported that Poland "qui use si mal de sa liberté et du droit qu'elle a d'élire ses rois, qu'il semble

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[42]  Although not every sect felt that extreme toleration in Poland was ideal and not every religion was tolerated to the same extent (or at all, at times, as made clear by Jewish pogroms).

[43]  N. Davies, *God's Playground A History of Poland: Volume 1: The Origins to 1795* (Oxford, 2005), p. 272.

[44]  L. Wolff, *Inventing Eastern Europe: The Map of Civilization on the Mind of the Enlightenment* (Stanford, 1994), p. 360.

[45]  N. Davies, *God's Playground A History of Poland: Volume 1: The Origins to 1795* [Oxford, 2005], p. 277.

[46]  J. Lukowski, 'Political Ideas among the Polish Nobility in the Eighteenth Century (To 1788)', *The Slavonic and East European Review* 82.1 (2004), p. 2.

[47]  Quoted in Ibid., p. 2.

qu'elle veuille consoler par là les peuples ses voisins, qui ont perdu l'un et l'autre."[48] He returned

to it in *De l'esprit des lois*, writing, in reference to the *liberum veto*, that "l'indépendance de

chaque particulier est l'objet des loix de Pologne; & ce qui en résulte l'oppression de tous."[49] On

the other side of the ideological divide, Polish enemy Frederick the Great wrote: "The throne is

so blatantly on sale that it seems as if it is purchased in the public market, and the liberality of the

king of Poland clears away all opposition by conferring [offices] upon the great families."[50]

Frederick's ideological supporter, Voltaire, also had much to say about Poland, from the *Histoire*

*de Charles XII* (1731) to *La princesse de Babylone* (1768), he was willing and happy to attack

the aspects of the Polish system which he opposed: inequality, corruption, legalized disorder due

to the confederacies, and the liberum veto.[51] He attacked Sarmatianism and the Confederation of

Bar directly on at least two occasions: the first under the name of J. Bourdillon in the 1767 *Essai*

*historique et critique sur les dissensions des églises Pologne*, and the second, as Le Major

Kaiserling au Service Roi de Prusse, in the 1768 *Discours aux confédérés de Kaminiek*. In both

he attacks the "noble democracy", depicts the Confederates of Bar as a rebellion, decries

religious fanaticism in Poland, calls for the emancipation of the peasants, and compares the

political system negatively to the enlightened monarchs of Prussia and Russia.[52] In the end,

Voltaire went so far as to directly support and encourage military intervention in the country (by

both Catherine and Frederick), arguing that it could be justified as an act in support of religious

toleration.[53]

Not every Enlightenment commentator was as harsh. Mably, who was also invited by

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[48]   Montesquieu, *Lettres persanes* (London, 1735), p. 134.
[49]   Montesquieu, *De l'Esprit des loix*, i (Geneva, 1748), bk. xi. v (p. 243).
[50]   Frederick II, *The Refutation of Machiavelli's Prince: or, Anti-Machiavel* (Athens, Ohio, 1981), p. 127.
[51]   Voltaire, *Histoire de Charles XII*, i (Basle, 1731), pp. 106–109; 34–35; 112–113; *La princesse de Babilone*
       (Geneva, 1768), p. 103.
[52]   H. Hinz, 'The Philosophy of the Polish Enlightenment and Its Opponents: The Origins of the Modern Polish
       Mind', *Slavic Review* 30.2 (1971), p. 345; L. Wolff, *Inventing Eastern Europe: The Map of Civilization on the
       Mind of the Enlightenment* (Stanford, 1994), p. 263.
[53]   E. Andrew, *Patrons of Enlightenment* (Toronto, 2006), p. 117.

Wielhorski to write proposals for the reformation of the Polish constitution, was less hostile to Polish history and traditions, but was nonetheless radical in his proposals. Believing, like Rousseau, that "a constitution must have a definite relation to the traditions, the customs and the temper of the people," he studied Wielhorski's notes and wrote the first draft of his *Du gouvernement et des lois de la Pologne* with the Polish people, state, and history in mind.[54] Although the first partition in 1772 meant that the work's original purpose was lost, Mably remained interested in the plight of the nation and visited from 1776-1777, a trip which allowed him further reflection and led to the publication of his writings on Poland in 1781. This final version is a large tome which offers a fairly radical project. Reforms include a call to embrace republicanism and abandon the "barbarie des Sarmates";[55] ultimately (although not immediately) free the peasants, arguing: "Il serait très facile de faire voir, de la manière la plus évidente, combien la république deviendrait en peu de temps puissante et heureuse, si elle intéressait à son sort les bourgeois, les paysans & ces juifs";[56] embrace constitutional change to secure a stable, albeit limited, hereditary monarch; eliminate the *liberum veto*;[57] and, seemingly contradictory for a man who has been cast as a proto-socialist, calls for Poland to embrace economic reform, pushing for a modernized economic system and a stronger engagement in commerce. He wrote:

> [V]ous êtes accoutumé à m'entendre blâmer le commerce, & souvent d'une manière assez dure. J'aurai l'honneur de vous répondre que le commerce est nécessaire à tous les peuples qui ne sont pas sauvages et qui veulent sortir de leur barbarie. Je le louerai, lorsque sans faste et sans luxe il sert des besoins simples et n'irrite pas nos passions. Le commerce, qui a besoin d'être encouragé pour parvenir jusqu'à un certain terme qui est louable, veut être arrêté dans ses progrès, des que, passant ce terme, il n'est propre qu'à relâcher les liens de la société par la corruption qu'il introduit dans les mœurs.[58]

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[54] E.A. Whitfield, *Gabriel Bonnot de Mably* (London, 1930), p. 12; D. Stone, *Polish Politics and National Reform, 1775-1788* (New York, 1976), p. 272. The first manuscript was read by Rousseau, and some have argued it inspired him to take up the task (J.K. Wright, *A Classical Republican in Eighteenth-century France: The Political Thought of Mably* [Stanford, 1997], p. 163).

[55] G.B. de Mably, *Oeuvres complètes de l'Abbé de Mably: Du gouvernement de Pologne, et des Etats Unis d'Amérique* (Paris, 1797), p. 13.

[56] Ibid., p. 114.

[57] Ibid., p. 174.

[58] Ibid., pp. 155–156.

In the end, the unifying theme amongst commentators on Poland was a call for radical change: "In such an atmosphere, it was a bold spirit indeed who dared to say anything favourable of the Polish constitution. Even apologists […] and the proponents of Reform, from Baudeau to Mably, were given to blackwashing Poland in the hope of provoking change."[59] However, Rousseau took a radically different approach to solving the problems facing Poland.

To understand the divergence this thesis is attempting to draw attention to, one may want to begin with the titles: the *Projet de constitution pour la Corse* is about the foundation of a people – about their constitution. Again, Rousseau highlights the importance of "constitutions" (the most important law) in the *Contrat social* when he explains that constitutional laws are not simply written, but they are a people's morals, customs, and opinions – those things which were given to them during their initial founding and form the immovable keystone of a society.[60] However, when turning to Poland, he gives his work the title: *Considérations sur le gouvernement de Pologne.* That is, he is offering thoughts on a state and people which already have laws and government; which has already been founded. In fact, in an early draft of the work Rousseau gave it the title *Constitution et République,* but later crossed these three words out and replaced them simply with "gouvernement" – clearly this was an important distinction to him.[61]

If it is indeed the case that Rousseau was unwilling to replace or radically manipulate Poland's already established constitution, one may ask why it was a task Rousseau felt worthy of taking on? One can begin to answer this question by addressing why he was contacted. Again, with the Corsicans it is not surprising – he identified the island in the *Contrat social* specifically, and this would have created an interest from the island itself. In the case of Poland, however, it may have been his writings on equality: "Rousseau held an inevitable appeal for *szlachta* [noble]

[59]  N. Davies, *God's Playground A History of Poland: Volume 1: The Origins to 1795* (Oxford, 2005), p. 281.
[60]  Rousseau, *Contrat social*, OC iii, p. 394.
[61]  Rousseau, *Pologne*, OC iii, p. 1733.

ideologues, whose political philosophy was so often reduced to despairing egalitarian moralization."[62] Rousseau and the nobles shared an interest in the ideas and problems surrounding equality – as to did Mably. In fact, this may be the reason Rousseau took on the task. It is known that Rousseau read Mably's work, and perhaps it was seeing his warnings in the *Contrat social* being ignored (with regard to redrafting constitutions) that led to him to offering his own proposals.

In regard to Rousseau's intellectual ability to respond, we know that Rousseau knew little about Poland directly – he himself admits that the majority of what he knew came from a six-month study which included reading a manuscript written by Wielhorski,[63] Mably's work, a piece by Pfefel's describing the laws of Poland, and a discussion on Polish anarchy by Claude-Carolman de Rulhiere (his *Histoire de l'anarchie de Pologne* would not be published until after Rousseau's own work was complete, but they did communicate while Rousseau was writing).[64] Beyond Rousseau's minimal acquaintance with Poland as a subject, it should also be remembered, as mentioned above, that Eastern Europe at this time was an "intellectual object under construction." Larry Wolff has written that it was Rousseau's "perfect innocence and ignorance of the nation and its neighbors that enabled him to theorize imaginatively."[65] He goes on to argue that "the *Considerations* transcends its commission as a critique of Polish government and made its contribution to the Enlightenment as an original work of political theory."[66] While important to keep in mind when considering historical accuracy, this overstates

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[62]   J. Lukowski, 'Recasting Utopia: Montesquieu, Rousseau and the Polish Constitution of 3 May 1791', *The Historical Journal* 37.1 (1994), p. 69.

[63]   Some version of his *Essai sur le rétablissement de l'ancienne forme de gouvernement de Pologne*.

[64]   T. Szkudlarek, 'On Nations And Children: Rousseau, Poland And European Identity', *Studies in Philosophy and Education* 24.1 (2005), pp. 21–22; L. Wolff, *Inventing Eastern Europe: The Map of Civilization on the Mind of the Enlightenment* (Stanford, 1994), p. 272. It should be noted that all these sources were connected to Wielhorski and the Confederates of Bar.

[65]   L. Wolff, *Inventing Eastern Europe: The Map of Civilization on the Mind of the Enlightenment* (Stanford, 1994), p. 236.

[66]   Ibid., p. 238.

the argument on two fronts. First, everything was possible in the *Contrat social* because the "people" being discussed were imagined (albeit, as an ideal people of the correct metaphorical age). In contrast, the Polish people, even if not thoroughly known by Rousseau, were still known in their imagined entirety. Rousseau may not have had a totality of knowledge in regard to Poland, but what he did have still posed problems that he did not face when writing the *Contrat social*. Second, a "perfect innocence" is unlikely. Although Rousseau makes it clear he was not an expert on Poland, and Poland itself was not a common topic in the same ways Corsica was, it was a topic discussed amongst political theorists and Rousseau would have been familiar with it through the works of others – for example, criticisms are found in Jean Bodin's *Six livres de la République* (1576) and Pufendorf's *Introduction to the History of the Principal Kingdoms and States of Europe* (1695) – and supporters of the Polish state included Calvin's successor Theodore Beza, who praised the *Pacta Conventa* in his *De jure magistratuum* (1574), as well as the influential Huguenot philosopher of political contractualism Stephen Junius Brutus, who discussed Poland in the *Vindiciae contra tyrannos* (1579). Thus, Poland was, albeit in a limited manner, a topic of intellectual discussion which Rousseau would have been familiar

Nonetheless, Rousseau's awareness was limited, and in this sense Wolff may be correct when he argues: "Rousseau's recasting of the *Government of Poland* was [...] intellectually removed from its subject, from Poland itself."[67] Although it was directed towards a conception of Poland, it was Rousseau's particular conception. His limited knowledge may have forced him to come up with a "literary solution" which was born out of his own imagination and philosophical system. The point, however, is that it is a systematic and Rousseauvian solution. In this way, Rousseau's writings on Poland allow one to gain a deeper understanding of his system when

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[67]  L. Wolff, *Inventing Eastern Europe: The Map of Civilization on the Mind of the Enlightenment* (Stanford, 1994), p. 237.

considered in their particular context, if not a deeper understanding of Poland. Rousseau's response takes all of Poland's mystery, absurdity, and instability – everything which made everyone else see Poland as awkward, dangerous, and politically problematic – as a starting point from which the rest of his argument is born. He saw his work as offering the necessary and essential response to these conditions – imagined or not.

## An Inappropriate People

While Rousseau saw an affinity between the people of Corsica and the people he imagined suitable for his social contract, he recognized incongruences between the Eastern European nation and the imagined world in the *Contrat social*. Nonetheless, although different raw materials, they remained the materials to be worked with. This is perhaps most clearly demonstrated in Rousseau's, previously quoted, description of a people who are ready to be legislated for.[68] When compared to the Polish people, it is clear that they (like the Genevans) did not fit the description: Poland was both already in a union (both in convention, as a noble class who had come to see themselves as united, and technically, with the Union of Lublin) as well as having felt the yoke of laws (it had a well-established and stable constitution, and the Sejm had been meeting for nearly three hundred years). The Polish people had deep-rooted customs and superstitions, and the rival Confederations of Radom and Bar (who threatened civil-war; i.e., hardly a "docile" people) were themselves split along religious beliefs. In fact, there was very little confessional affinity, with populations which could be labeled Catholic, Judaic, Calvinist, Lutheran, Islamic, Eastern Orthodox, and Uniate (owing to toleration having been a legal statute from 1573 – something else Rousseau did not approve of in the *Contrat social*).[69] Poland's

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[68]  Rousseau, *Contrat social*, OC iii, p. 390-391.
[69]  P. Skwarczyński, 'The Constitution of Poland before the Partition', in W.F. Reddaway (ed.), *The Cambridge History of Poland* (Cambridge, 1950), p. 68; N. Ascherson, *The Struggles for Poland* (New York, 1991), p. 5. This began to change in 1717 when limitations were placed on protestant and orthodox services, as well as attacks launched on Arians, Tatars, Jews, and Muslims. Catholicism was declared the official confession of Poland in 1766 and 1768 (Ibid., p. 18).

population was also too divisive to have a sense of a national identity beyond that found amongst the nobles. Instead, Poland in the eighteenth century was made up of ethnic Poles, Lithuanians, Jews (who made up 10 per cent of the total population), Germans, Ukrainians, Belorussians, Ruthenians, Tartars, and even a substantial Scottish population – ethnic Poles only made up about half of the total population.[70] Finally, there was very little unity amongst the burgers and peasants, let alone any sense of "being" Polish.

Size was also an issue. By the seventeenth century Poland was almost a million square kilometres and contained around six million people, second only to Muscovy in size.[71] Rousseau was clear on the problems facing such a state:

> Comme la nature a donné des termes à la stature d'un homme bien conformé, passé lesquels elle ne fait plus que des géants ou des nains, il y a de même, eu égard à la meilleure constitution d'un État, des bornes à l'étendue qu'il peut avoir, afin qu'il ne soit ni trop grand pour pouvoir être bien gouverné, ni trop petit pour pouvoir se maintenir par lui-même.[72]

While geography was an advantage to places like Geneva and Corsica, the opposite was true in Poland:

> Évitons, s'il se peut, de nous jeter dès les premiers pas dans des projets chimériques. Quelle entreprise, Messieurs, vous occupe en ce moment? Celle de réformer le Gouvernement de Pologne, c'est-à-dire de donner à la constitution d'un grand royaume la consistance et la vigueur de celle d'une petite république. Avant de travailler à l'exécution de ce projet, il faudrait voir d'abord, s'il est possible d'y réussir. Grandeur des Nations! Étendue des États! première et principale source des malheurs du genre humain et surtout des calamités sans nombre qui minent et détruisent les peuples policés.[73]

There was also a legitimate concern that Poland would be invaded, and it had no realistic chance of defending itself (unlike Corsica which had just freed itself). Poland "lies on a natural invasion route for those entering Europe from the East and those attacking Russia from the West. It also

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[70]   B. Grochulska, 'The Place of the Enlightenment in Polish Social History', *A Republic of Nobles: Studies in Polish History to* (1964), p. 248; N. Ascherson, *The Struggles for Poland* (New York, 1991), p. 5; W. Lithgow, *The Totall Discourse, of the Rare Aduentures, and Painefull Peregrinations of Long Nineteene Yeares Trauayle* (London, 1632), p. 422.

[71]   P. Skwarczyński, 'The Constitution of Poland before the Partition', in W.F. Reddaway (ed.), *The Cambridge History of Poland* (Cambridge, 1950), p. 51.

[72]   Rousseau, *Contrat social*, OC iii, p. 386.

[73]   Rousseau, *Pologne*, OC iii, p. 970. Rousseau goes so far as to suggest Poland give up some of its territory and shrink (Rousseau, *Pologne*, OC iii, p. 971).

means Poland has no 'natural frontiers' across that east-west Axis."[74] Rousseau was aware of this

deficiency, stating at the beginning of his work: "La Pologne est un grand État environné d'États

encore plus considérables, qui par leur despotisme et par leur discipline militaire, ont une grande

force offensive. Faible au contraire par son anarchie, elle est, malgré la valeur polonaise, en butte

à tous leurs outrages."[75] Wielhorski argued that this was not a new position for Poland: "Telle fut

long-temps la situation de notre Patrie, que, la voyant fur le bord du précipice, nous craignions

qu'elle n'y fût engloutie par le moindre accident."[76] Poland was in a precarious position – on the

one hand, it had fertile land, and during the fifteenth and sixteenth centuries it had become an

important exporter, but she was also prone to natural disasters, such as droughts, floods, and

crop-killing frosts.[77] Thus, in good times, Poland's neighbours relied on its exports and in bad

times, Poland relied on others – not an ideal situation, according to Rousseau.[78] Finally, there was

an affinity amongst the Poles and the French which Rousseau was not supportive of – their royal

and aristocratic families intermarried, the polite language was French, and the Enlightenment

itself was a source of inspiration for those aware of it.[79] This led Rousseau to warn the Polish to

refrain from embracing French customs less they become another bland European people.[80]

Since the Polish were not the ideal people found in the *Contrat social* Rousseau

developed his political proposals to fit their particular position; at the outset of *Poland* he wrote:

> Si l'on ne connaît à fond la Nation pour laquelle on travaille, l'ouvrage qu'on fera pour elle,
> quelque excellent qu'il puisse être en lui-même, péchera toujours par l'application, et bien plus
> encore lorsqu'il s'agira d'une nation déjà toute instituée, dont les goûts, les mœurs, les préjugés et
> les vices sont trop enracinés pour pouvoir être aisément étouffés par des semences nouvelles.[81]

[74]   N. Ascherson, *The Struggles for Poland* (New York, 1991), p. 3.
[75]   Rousseau, *Pologne*, OC iii, p. 959.
[76]   M. Wielhorski, *Essai sur le rétablissement de l'ancienne forme du gouvernement de Pologne* (London, 1775), p.
       ix; 2–6.
[77]   N. Ascherson, *The Struggles for Poland* (New York, 1991), p. 4; 17.
[78]   Rousseau, *Contrat social*, OC iii, p. 390.
[79]   N. Ascherson, *The Struggles for Poland* (New York, 1991), p. 8.
[80]   Rousseau, *Pologne*, OC iii, p. 962.
[81]   Ibid., p. 953.

And in the *Contrat social* he warned: "Ce qui rend pénible l'ouvrage de la législation est moins ce qu'il faut établir que 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."[82] It was this threat of destruction when presented with an established people which made Rousseau conservative in his proposals (and, again, perhaps led to him making any proposals at all).[83] Although radical in thought, Rousseau was not a revolutionary, and one need no more evidence of this than what he wrote for Poland.

## Polish Freedom

Perhaps the clearest distinction (between Rousseau's proposals for Poland and those in the *Contrat social* and for Corsica) can be seen in the development of freedom as a concept. Rousseau does not attempt to offer Poland the chance to achieve the freedom he developed in the *Contrat social*; he does not discuss moral freedom (the freedom to obey one's own self-imposed moral imperatives) nor civil freedom (the freedom to be part of and obey self-imposed laws). In fact, although Rousseau argues for some access to legislation for the Genevan people (in the form of the General Council's access to the *droit negatif*), he cannot even offer this to Poland: "Je sens la difficulté du projet d'affranchir vos peuples. Ce que je crains n'est pas seulement l'intérêt mal entendu, l'amour-propre et les préjugés des maîtres. Cet obstacle vaincu, je craindrais les vices et la lâcheté des serfs."[84] It was a noble goal (in both senses of the word noble) to free their serfs, but it is not a goal for the immediate future:

> Affranchir les peuples de Pologne est une grande et belle opération, mais hardie, périlleuse, et qu'il ne faut pas tenter inconsidérément. Parmi les précautions à prendre, il en est une indispensable et qui demande du temps. C'est, avant toute chose, de rendre dignes de la liberté et capables de la supporter les serfs qu'on veut affranchir.[85]

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[82]   Rousseau, *Contrat social*, OC iii, p. 391.
[83]   In contrast, perhaps, to him never submitting his proposals to Corsica.
[84]   Rousseau, *Pologne*, OC iii, p. 974.
[85]   Ibid., p. 974.

Rousseau also denied them spiritual freedom. Again, in Geneva he proposed a religious re-founding as a source of a new moral and educational grounding for all citizens. He believed the dogma of the Reformed church had degenerated and what was needed to correct this was a more tolerant religion – a religion which was "saintly, sublime, genuine religion, men, *as children of the same God*, all recognize one another as brothers, and the society that unites them does not dissolve even at death" – a sentimental and pure Christianity.[86] In Poland, however, religious reform was impossible – beyond the diversity, the political fault lines amongst the confederations ran along denominational identities. In fact, the topic of religion is essentially ignored in the document – there are only two mentions of it, and they are both found in the discussion on Numa.

Thus, neither moral, civil, nor spiritual freedom, are proposed. Instead, he offers a freedom akin to that which Moses gave the Jews – the freedom to *continue to be* Polish in spite of the threats facing Poland:

> Je ne vois dans l'état présent des choses qu'un seul moyen de lui donner cette consistance qui lui manque: c'est d'infuser pour ainsi dire dans toute la nation l'âme des confédérés; c'est d'établir tellement la République dans le cœur des Polonais, qu'elle y subsiste malgré tous les efforts de ses oppresseurs. C'est là, ce me semble, l'unique asile où la force ne peut ni l'atteindre ni la détruire… Vous ne sauriez empêcher qu'ils ne vous engloutissent, faites au moins qu'ils ne puissent vous digérer. De quelque façon qu'on s'y prenne, avant qu'on ait donné à la Pologne tout ce qui lui manque pour être en état de résister à ses ennemis, elle en sera cent fois accablée. La vertu de ses Citoyens, leur zèle patriotique, la forme particulière que des institutions nationales peuvent donner à leurs âmes, voilà le seul rempart toujours prêt à la défendre, et qu'aucune armée ne saurait forcer. Si vous faites en sorte qu'un Polonais ne puisse jamais devenir un Russe, je vous réponds que la Russie ne subjuguera pas la Pologne.[87]

This aspect of the work has raised questions in the literature (as well as leading people to claim him to be the "father of modern nationalism").[88] Jeffrey Smith has called it a paradox of liberty – the idea that Poland could become more free as they became closer to losing the state.[89] It also

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[86]    R. Whatmore, 'Rousseau and the Representants: The Politics of the Lettres Ecrites De La Montagne', *Modern Intellectual History* 3.03 (2006), p. 406; Rousseau, *Contrat social*, OC iii, pp. 464-465.

[87]    Rousseau, *Pologne*, OC iii, pp. 959-960.

[88]    P. Hassner, 'Rousseau and the Theory and Practice of International Relations', in C. Orwin and N. Tarcov (eds.), *The Legacy of Rousseau* (Chicago, 1996), p. 209.

[89]    J.A. Smith, 'Nationalism, Virtue, and the Spirit of Liberty in Rousseau's "Government of Poland"', *The Review of Politics* 65.3 (2003), p. 10.

resulted in Smith asking: "If the Poles' extensive liberty were less threatened (or completely secure), would Rousseau hold them to be less 'truly' free (or not free at all)?" Along the same vein of criticism, Marc Platter has pointed out that Rousseau attempted to instil a national identity in spite of "the almost insuperable barriers to making freedom and virtue reign in large states."[90] However, with this thesis this problem resolves itself: it is not an issue of gaining liberty for Poland – this is impossible with Russia and Prussia on her doorstep. It is instead an issue of strengthening the state as much as is possible while also bringing the Polish people together. Freedom, as Smith is trying to imagine it – and not surprisingly, as this is how Rousseau had elsewhere described it – is republican freedom. However, Rousseau instead offers a different type of a freedom, and this is the only type of freedom compatible with the historical founding of the Polish people as described by Wielhorski – a freedom for a people who have never been secure: anarchic freedom. It is the only freedom Poland could have realistically hoped to obtain. Instead of developing a constitution for the Polish people Rousseau offers a means of maintaining the constitution because of (and therefore, in spite of) the threats facing Poland.[91] The Polish people were on the brink of entering the wilderness; if possible, it would be ideal to prevent this from happening, but realistically, attempting to instil in them an idea of what it is to be Polish, an idea that would continue to exist without the state, was the only way Rousseau thought the Poles could be secured.

> Je ne vois dans l'état présent des choses qu'un seul moyen de lui donner cette consistance qui lui manque: c'est d'infuser pour ainsi dire dans toute la nation l'âme des confédérés; c'est d'établir tellement la République dans le cœur des Polonais, qu'elle y subsiste malgré tous les efforts de ses oppresseurs.[92]

The goal was the revitalization of Polish institutions and a national education system.

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[90]   M.F. Platter, 'Rousseau and the Origins of Nationalism', in C. Orwin and N. Tarcov (eds.), *The Legacy of Rousseau* (Chicago, 1996), p. 194.
[91]   Chatper VII in *Pologne* is dedicated to the means of maintaining the constitution.
[92]   Rousseau, *Pologne*, OC iii, p. 959.

## Polish Public Education

Although one is tempted to frame the reforms for Poland around political issues (such as the *liberum veto* and the confederacies), this would ignore one of the most important aspects of both the reforms that would eventually take hold in Poland, as well as Rousseau's own interest: education. Rousseau himself begins his chapter on education in *Pologne* stating: "C'est ici l'article important."[93] And importance was not missed in Poland. By 1773 a reformed and unified nationwide education system had been established in the collapsing state, run by the first ministry of education in Europe (the Commission for National Education). How much influence Rousseau's own proposals had on this is difficult to say – what one does know, however, is that by the time of the French Revolution Rousseau was "enmeshed with the ideological and political debates on the advantages of public versus private education, the idea of the education of the citizen, and the general theme of the renewal of society by means of education."[94]

It is important to note that education was not a topic ignored by other thinkers. The Enlightenment project, to some extent, relied on the belief in that transformative power of education – starting with John Locke:

> Let us then suppose the mind to be, as we say, white paper void of all characters, without any ideas. How comes it to be furnished? Whence comes it by that vast store which the busy and boundless fancy of man has painted on it with an almost endless variety? Whence has it all the materials of reason and knowledge? To this I answer, in one word, from experience.[95]

If enlightenment was possible, man's passions and morals needed to be malleable and the stage at which this malleability takes place is childhood – as Rousseau made clear in *Émile*. In most cases, however, this was a philosophical investigation, rather than an explicitly political task. The movement towards politicizing education is discussed in Natasha Gill's recent work on education in the eighteenth century. She notes that with the emergence of the educational treatise, those

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[93]  Ibid., p. 966.
[94]  J. Bloch, *Rousseauism and Education in Eighteenth-century France* (Geneva, 1995), p. 4.
[95]  J. Locke, *An Essay Concerning Human Understanding* (Oxford, 1979), p. 104.

who hoped to reform education started with "techniques of child-rearing" such as "breastfeeding, physical exercise, habit formation, competition, discipline" and drew connections to philosophical debates on "freedom, equality, individual potential, the structure of moral consciousness, the forms of political life, and the possibility of harmonious social relations."[96] It is not suprising, then, that education emerged as a political topic. In d'Alembert's 1753 *Encyclopédie* article "Collège" one finds criticisms of the current Jesuit curriculum which led to calls for improving the state of education in France, and importantly, a call for the government to take the lead and request proposals for "un excellent plan d'études."[97] There was an awareness that an enlightened education was not simple or easily accomplished task, and it required political will behind it.

One of the problems facing reformers however, was the contradiction between an individualistic education respecting a child's dignity and potentialenlightenment, and the creation of a systematic mass education which produced social virtues.[98] Rousseau's unique method of overcoming this problem was to treat the nation as the individual. Again, and to draw out the body-politic metaphor, Rousseau saw each nation as a unique individual which required its own particular system of education, just as Émile required his own tailored schooling. Importantly, Rousseau's proposals for Poland's education were more than an intellectual exercise – the education of the *polis* was, for Rousseau, essential. In his *Discours sur l'économie politique* he argued that "L'éducation publique sous des règles prescrites par le gouvernement, et sous des magistrats établis par le souverain, est donc une des maximes fondamentales du gouvernement populaire ou légitime."[99] And while this fact was no less true for Poland, education had the

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[96] N. Gill, *Educational Philosophy in the French Enlightenment: From Nature to Second Nature* (Farnham, 2010), p. 1.

[97] From 1756, Jansenists in the *Parlement* of Paris began to attack the Jesuits, who had been responsible for the running of colleges in France. They were finally expelled in 1762.

[98] Ibid., pp. 4-5.

[99] Rousseau, *Contrat social*, OC iii, p. 260-261.

additional importance there as a method of ensuring a lasting Polish people:

> C'est l'éducation qui doit donner aux âmes la forme nationale, et diriger tellement leurs opinions et leurs goûts, qu'elles soient patriotes par inclination, par passion, par nécessité… Tout vrai républicain suça avec le lait de sa mère, l'amour de sa patrie, c'est-à-dire des lois et de la liberté. Cet amour fait toute son existence; il ne voit que la patrie, il ne vit que pour elle; sitôt qu'il est seul, il est nul: sitôt qu'il n'a plus de patrie, il n'est plus; et s'il n'est pas mort, il est pis. L'éducation nationale n'appartient qu'aux hommes libres; il n'y a qu'eux qui aient une existence commune et qui soient vraiment liés par la Loi.[100]

The upshot being education was a political good which, in the face of foreign enemies who could not be defended against by traditional means, encouraged the formation of a patriotic citizenry which would make for an "indigestible" people.[101] That is to say, by instilling a feeling of national unity and pride, Poland would possess that virtue (or *virtù*) which Machiavelli argued made republics so difficult to conquer (so difficult, in fact, that he advised potential conquerers that they either be destroyed, entirely embraced by the new prince by relocating there, or allowed to continue to live under their own laws).[102] However, the method of creating this unity (just like the argument for it) was counter intuitive for the Enlightenment. What is intriguing in regard to Rousseau's proposals to achieve this is the way in which he took an accepted Enlightenment presumption – a belief that men are malleable – and used it to instil in the Polish people their own qualities rather than create a new enlightened people. That is to say, he twisted the argument made by philosophers of education (in particular Morelly) that men could be made into 'enlightened' or 'universal' creatures, and instead, and much more in the vein of the ancient lawgivers, argued that the same tools should be used to create the opposite: a unique and particular man – a Polish character:

> Il faut maintenir, rétablir ces anciens usages, et en introduire de convenables, qui soient propres aux Polonais. Ces usages, fussent-ils indifférents, fussent-ils mauvais même à certains égards, pourvu qu'ils ne le soient pas essentiellement, auront toujours l'avantage d'affectionner les Polonais à leur pays et de leur donner une répugnance naturelle à se mêler avec l'étranger.[103]

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[100] Rousseau, *Pologne*, OC iii, p. 966.
[101] T. Szkudlarek, 'On Nations And Children: Rousseau, Poland And European Identity', *Studies in Philosophy and Education* 24.1 (2005), p. 22.
[102] Machiavelli, *Prince*, v (ed. Mansfield, pp. 20-21).
[103] Rousseau, *Pologne*, OC iii, p. 962.

What is more, the person qualified to educate the Pole was not a professionally trained or enlightened gentleman. In fact, Rousseau warned the Poles not to turn education into a profession. Instead, the ideal educator would simply be a citizen using the opportunity to teach, to demonstrate, their exemplary Polish qualities while progressing through the varying levels of society and government. The teacher was someone and something which all children would be able to become. On this point he states: "J'exhorte les Polonais à faire attention à cette maxime, sur laquelle j'insisterai souvent: je la crois la clef d'un grand ressort dans l'État."[104]

Rousseau also returns to the education developed in *Émile*, arguing that it should be "negative" – as he put it: "Je ne redirai jamais assez que la bonne éducation doit être négative. Empêchez les vices de naître, vous aurez assez fait pour la vertu."[105] By this, he means an education which aims towards preventing mistakes from being instilled in children before all else. However, whereas nature is the arbiter of Émile's education, the nation is to be the arbiter of Poland's children:

> On ne doit point permettre qu'ils jouent séparément à leur fantaisie, mais tous ensemble et en public, de manière qu'il y ait toujours un but commun auquel tous aspirent et qui excite la concurrence et l'émulation. Les parents qui préféreront l'éducation domestique, et feront élever leurs enfants sous leurs yeux, doivent cependant les envoyer à ces exercices. Leur instruction peut être domestique et particulière, mais leurs jeux doivent toujours être publics et communs à tous; car il ne s'agit pas seulement ici de les occuper, de leur former une constitution robuste, de les rendre agiles et découplés; mais de les accoutumer de bonne heure à la règle, à l'égalité, à la fraternité, aux concurrences, à vivre sous les yeux de leurs concitoyens et à désirer l'approbation publique.[106]

Just as the education which was appropriate for Émile was a natural education, the education appropriate for Poland is a national education – as Szkudlarek has put it, natural has a double meaning: "not only does it denote that which is *born into us*, but also that *into which we are born*."[107] The Polish share a unique place in the world, and therefore need to be given a particular

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[104]   Ibid., p. 967.
[105]   Ibid., p. 968.
[106]   Ibid., p. 968.
[107]   T. Szkudlarek, 'On Nations And Children: Rousseau, Poland And European Identity', *Studies in Philosophy and Education* 24.1 (2005), p. 29. Italics in original.

and shared education – or risk becoming European:

> Il n'y a plus aujourd'hui de Français, d'Allemands, d'Espagnols, d'Anglais même, quoi qu'on en dise; il n'y a que des Européens. Tous ont les mêmes goûts, les mêmes passions, les mêmes mœurs, parce qu'aucun n'a reçu de forme nationale par une institution particulière.[108]

In the end, Rousseau was not proposing, as d'Alembert put it, "un excellent plan d'études." That is much too universal. Instead, Rousseau proposed a plan for being Polish – just as he argued for his fellow Genevans to remain Genevan, and the Corsicans to do everything within their power to avoid becoming European.

## Contextually Similar Arguments

Chapter Three of this thesis looked at Rousseau's use of the body-politic metaphor, where it was shown that he "went into full anatomical detail and then he had very specific purposes in mind."[109] Importantly, this metaphor was not only used to depict ideals:

> En lisant l'histoire du gouvernement de Pologne, on a peine à comprendre comment un État si bizarrement constitué a pu subsister si longtemps. Un grand corps formé d'un grand nombre de membres morts, et d'un petit nombre de membres désunis, dont tous les mouvements presque indépendants les uns des autres, loin d'avoir une fin commune, s'entre-détruisent mutuellement, qui s'agite beaucoup pour ne rien faire, qui ne peut faire aucune résistance à quiconque veut l'entamer, qui tombe en dissolution cinq ou six fois chaque siècle, qui tombe en paralysie à chaque effort qu'il veut faire, à chaque besoin auquel il veut pourvoir, et qui malgré tout cela vit et se conserve en vigueur; voilà, ce me semble, un des plus singuliers spectacles qui puissent frapper un être pensant.[110]

This is clearly not the same political ideal being described in the *Contrat social*. Instead, Rousseau warns at the beginning of *Pologne* that "Une bonne institution pour la Pologne ne peut être l'ouvrage que des Polonais ou de quelqu'un qui ait bien étudié sur les lieux la nation polonaise et celles qui l'avoisinent. Un étranger ne peut guère donner que des vues générales, pour éclairer non pour guider l'instituteur."[111] Again, this is hardly the genre of hero-founders examined in the first chapter of this thesis (or the second chapter of *Pologne*). Nor does one see

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[108] Rousseau, *Pologne*, OC iii, p. 960.
[109] J.N. Shklar, *Men and Citizens: A Study of Rousseau's Social Theory* (Cambridge, 1985), p. 197.
[110] Rousseau, *Pologne*, OC iii, pp. 953-954.
[111] Ibid., p. 953. Note the topic being an institution rather than constitution.

similarities to the legislator in the *Contrat social* – a person who shared none of the passions and had no relation to the people being legislated for, who lived outside of the body-politic, and who would leave when their work was done.[112] In fact, while Rousseau's corporate metaphor often begins with a discussion of, or reference to, birth, when discussing Poland, he speaks of re-birth.[113] And just as he claimed to be offering Geneva its own constitution in the *Lettres*, he tells the Poles: "J'expliquerai ci-après le régime d'administration qui sans presque toucher au fond de vos lois, me paraît propre à porter le patriotisme et les vertus qui en sont inséparables au plus haut degré d'intensité qu'ils puissent avoir."[114] The point of all this being, Rousseau's proposals for Poland are distinct from his other political works.[115] This is the problem that has puzzled a number of Rousseau scholars.[116] However, this is not because it is unsystematic, but systematically distinct; it fits into that other category of Rousseau's political writings described in this thesis – a re-founding. Once one is aware of this, it is possible to see that Rousseau's *Considérations sur le gouvernement de Pologne et sur sa réformation projetée* does offer a number of similar arguments to at least one of Rousseau's other works – the *Lettres écrites de la montagne*.

Rousseau offers three "Causes particulières de l'anarchie" in Poland: the *liberum veto*, the confederations, and the use of private armies by citizens.[117] For example, when Rousseau remarked that Poland had lost a body with true legislative power, he was blaming the *liberum*

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[112] Rousseau, *Contrat social*, OC iii, p. 381; B. Honig, *Democracy and the Foreigner* (Princeton, 2001), pp. 21–22; 133.

[113] Rousseau, *Pologne*, OC iii, p. 954.

[114] Ibid., p. 961.

[115] Kendall has drawn out a number of specific arguments in the *Contrat social* which have been dropped, or the opposite position is taken. These areas include: the general will and popular sovereignty; civil religion; the role of a civic education; the importance of natural law; and the problem of a peoples' given political history (i.e., the very fact Rousseau is willing to work with a state which already has a political history is questioned).(W. Kendall, 'Introduction: How to read Rousseau's "Government of Poland"', in J.-J. Rousseau, *The Government of Poland* [Indianapolis, 1985], p. xiv-xv).

[116] Ibid., p. xv.

[117] Rousseau, *Pologne*, OC iii, p. 994.

*veto* and confederates for shutting down the Diet as a house of legislation. He wrote that:

> L'affaiblissement de la législation s'est fait en Pologne d'une manière bien particulière, et peut-être unique. C'est qu'elle a perdu sa force sans avoir été subjuguée par la puissance exécutive. En ce moment encore la puissance législative conserve toute son autorité: elle est dans l'inaction, mais sans rien voir au-dessus d'elle. La Diète est aussi souveraine qu'elle l'était lors de son établissement. Cependant elle est sans force; rien ne la domine, mais rien ne lui obéit.[118]

Although Rousseau remarks that this is a unique situation in Poland, this is not because of the veto itself, but instead because of the lack of domination from one part over others. In Geneva one found a similar law, but used in a very different way. As has been shown, the general council of Geneva constitutionally had sovereignty, but because of the *droit negatif* this sovereignty was little more than nominal. The smaller aristocratic executive councils dominated by holding veto power over anything the grand council would hope to accomplish (or prevent from being accomplished) with its sovereignty, resulting in Geneva, like in Poland, forming rival blocs (the aristocratic members of the smaller councils and the democratic agitators – the *Représentants*) and a civil instability which at times turned into armed conflict. In both cases a constitutional law was the cause of turmoil, yet Rousseau did not argue for abolishment of the vetoes – even though to the reader of the *Contrat social* they were clearly illegitimate and contrary to political right. According to Rousseau: "la souveraineté, n'étant que l'exercice de la volonté générale, ne peut jamais s'aliéner; et que le souverain, qui n'est qu'un être collectif, ne peut être représenté que par lui-même."[119] He continues in the next chapter:

> Par la même raison que la souveraineté est inaliénable, elle est indivisible. Car la volonté est générale, ou elle ne l'est pas; elle est celle du Corps du peuple, ou seulement d'une partie. Dans le premier cas, cette volonté déclarée est un acte de souveraineté, et fait loi. Dans le second, ce n'est qu'une volonté particulière, ou un acte de magistrature; c'est un décret tout au plus.[120]

This section includes the 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

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[118]   Ibid., p. 975.
[119]   Rousseau, *Contrat social*, OC iii, p. 368.
[120]   Ibid., p. 369.

exclusion formelle rompt la généralité."[121] Thus, a sovereign which is limited is not sovereign, and by allowing a particular will to veto the general will one creates something quite different from that which was proposed in the *Contrat social*. Nonetheless, even in the face of this apparent contradiction, in the cases of both Poland and Geneva Rousseau embraced these inconvenient and philosophically illegitimate laws, and instead took a conservative attitude towards constitutional reform.

In Geneva, Rousseau was critical of the magistrates attack on the general council, but he was also critical of *Représentant* attempts to reform government. Rousseau saw no reason to modify and redistribute political power – he felt Geneva's initial constitution was almost ideal in terms of founding a republic. The solution, according to him, was not to replace the *droit negatif*, but to make it work – and to do this, he proposed its expansion to the general council, making it possible to veto any form of constitutional manipulation by any level of government. With respect to Poland he took a similar approach. He makes this clear at the beginning of his proposals: "J'expliquerai ci-après le régime d'administration *qui sans presque toucher au fond de vos lois*, me paraît propre à porter le patriotisme et les vertus qui en sont inséparables au plus haut degré d'intensité qu'ils puissent avoir."[122] Elsewhere he argues: "Le liberum veto n'est pas un droit vicieux en lui-même, mais sitôt qu'il passe sa borne il devient le plus dangereux des abus: il était le garant de la liberté publique; il n'est plus que l'instrument de l'oppression."[123] It was not a case of abandoning the veto so as to create stability, but to, and similarly to Geneva, embrace it and use it as a constitutional safeguard:

> Le liberum veto serait moins déraisonnable s'il tombait uniquement sur les points fondamentaux de la constitution: mais qu'il ait lieu généralement dans toutes les délibérations des Diètes, c'est ce qui ne peut s'admettre en aucune façon. C'est un vice dans la constitution polonaise que la législation et l'administration n'y soient pas assez distinguées, et que la Diète exerçant le pouvoir législatif y

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[121] Ibid., p. 369.
[122] Rousseau, *Pologne*, OC iii, p. 961; italics mine.
[123] Ibid., p. 995.

mêle des parties d'administration, fasse indifféremment des actes de souveraineté et de gouvernement, souvent même des actes mixtes par lesquels ses membres sont magistrats et législateurs tout à la fois. Les changements proposés tendent à mieux distinguer ces deux pouvoirs, et par là même à mieux marquer les bornes du liberum veto.[124]

What is more, and again, similar to what was seen in Geneva, the greatest threat to stability in Poland came not from a particular bloc, but a lack of patriotic unity and respect for the laws. Rousseau's proposals, therefore, looked towards reforming the people and their relationship to their laws, rather than the laws on which they were founded. In Geneva he argued that this could be achieved through a religious re-founding which would disentangle politics from religion, and through the use of the *cercles* as institutions which could promote republican virtues. For Poland, although Rousseau could not make use of religion, he offered something similar: "Par où donc émouvoir les cœurs, et faire aimer la patrie et ses lois? L'oserai-je dire? par des jeux d'enfants, par des institutions oiseuses aux yeux des hommes superficiels, mais qui forment des habitudes chéries et des attachements invincibles." Rousseau wanted to instil patriotic virtue in the hearts and identities of the Poles to overcome any institutional or legal shortcomings – as well as prepare them for the potential and perhaps inevitable end of the state. This is why Rousseau argues that: "Il n'y aura jamais de bonne et solide constitution que celle où la loi régnera sur les cœurs des citoyens."[125] This is not a political project as one would imagine it, but instead, a programme of social engineering – education rather than legislation; re-founding rather than founding.

A method of achieving this reform is highlighted the lessons from ancient lawgivers on ceremony:[126]

> Le même esprit guida tous les anciens Législateurs dans leurs institutions. Tous cherchèrent des liens qui attachassent les Citoyens à la patrie et les uns aux autres, et ils les trouvèrent dans des usages particuliers, dans des cérémonies religieuses qui, par leur nature, étaient toujours exclusives

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[124]  Ibid., p. 995.
[125]  Ibid., p. 955.
[126]  Using the methods and tools of the founder is not contrary to re-founding – it is a question of ends, rather than means.

et nationales (voyez la fin du *Contrat social*), dans des jeux qui tenaient beaucoup les citoyens rassemblés, dans des exercices qui augmentaient avec leur vigueur et leurs forces leur fierté et l'estime d'eux-mêmes, dans des spectacles qui, leur rappelant l'histoire de leurs ancêtres, leurs malheurs, leurs vertus, leurs victoires, intéressaient leurs cœurs, les enflammaient d'une vive émulation, et les attachaient fortement à cette patrie dont on ne cessait de les occuper.[127]

This statement has echoes of a quote already examined – Rousseau's own experiences as a child in Geneva and the celebrations of "Le Régiment de St. Gervais."[128] Rousseau advises the Poles to avoid any public displays which one would be familiar with elsewhere in Europe: "Il faut abolir, même à la Cour, à cause de l'exemple, les amusements ordinaires des cours, le jeu, les théâtres, comédies, opéra; tout ce qui efémine les hommes, tout ce qui les distrait, les isole, leur fait oublier leur patrie et leur devoir."[129] Instead, Rousseau tells them to "re-establish" ancient manners, and introduce new ones which are compatible with the Polish character: "il faut inventer des jeux, des fêtes, des solennités qui soient si propres à cette Cour-là qu'on ne les retrouve dans aucune autre. Il faut qu'on s'amuse en Pologne plus que dans les autres pays, mais non pas de la même manière." He continues: "Rien, s'il se peut, d'exclusif pour les Grands et les riches. Beaucoup de spectacles en plein air, où les rangs soient distingués avec soin, mais où tout le peuple prenne part également, comme chez les anciens."[130] And:

> Ne négligez point une certaine décoration publique; qu'elle soit noble, imposante, et que la magnificence soit dans les hommes plus que dans les choses. On ne saurait croire à quel point le cœur du peuple suit ses yeux et combien la majesté du cérémonial lui en impose. Cela donne à l'autorité un air d'ordre et de règle qui inspire la confiance et qui écarte les idées de caprice et de fantaisie attachées à celles du pouvoir arbitraire.[131]

Even dress is seen as a way of differentiating Poland from her European neighbours:

> Je regarde comme un bonheur qu'ils aient un habillement particulier. Conservez avec soin cet avantage; faites exactement le contraire de ce que fit ce Czar si vanté. Que le Roi ni les Sénateurs, ni aucun homme public ne portent jamais d'autre vêtement que celui de la nation, et que nul Polonais n'ose paraître à la Cour vêtu à la française.[132]

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[127] Rousseau, *Pologne*, OC iii, p. 958.
[128] Rousseau, *d'Alembert*: 123-124.
[129] Rousseau, *Pologne*, OC iii, p. 962.
[130] Ibid., pp. 962-963. It is worth noting that Rousseau proposes a class system for Poland not unlike the one he imagined for Corsica. However, unlike in Corsica, Rousseau is not founding the passions of a people through this system (Ibid., pp. 1020-1029).
[131] Ibid., p. 964.
[132] Ibid., p. 962.

And the education system Rousseau proposed embraces these examples of public extravagance by encouraging public games in which competition is central, and winners are awarded prizes so as to "excite la concurrence et l'émulation."[133] He offered the example of bull fighting in Spain as a public event encouraging vigour which the Polish could look to as an example – although he suggested they do something involving the more natural Polish quality of horsemanship.[134] Again, broad examples can be found elsewhere, but imitation is not the goal.

In addition, just as one can recognize similarities between Rousseau's proposals (not least of all those for Geneva), it is also striking to note how different proposals can be elsewhere. While Corsica is told to embrace simplicity to the point of vanity, in regard to Poland Rousseau writes: "Ne négligez point une certaine décoration publique; qu'elle soit noble, imposante, et que la magnificence soit dans les hommes plus que dans les choses. On ne saurait croire à quel point le cœur du peuple suit ses yeux et combien la majesté du cérémonial lui en impose."[135] Importantly, the aim is similar: like Corsica, Rousseau wants to create a feeling of membership amongst the Polish people – but this membership is not born from a new constitution and an agricultural lifestyle; it is found in the rediscovering of an original Polish character. Unlike Corsica, Poland is "une nation déjà toute instituée, dont les goûts, les mœurs, les préjugés et les vices sont trop enracinés pour pouvoir être aisément étouffés par des semences nouvelles."[136] Rousseau's proposals are not constitutional and are rarely legislative.

To understand the basis of all of Rousseau's political proposals one must return to the first task facing the legislator:

> 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,

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[133]   Ibid., p. 968.
[134]   Ibid., p. 963.
[135]   Ibid., p. 964.
[136]   Ibid., p. 953.

mais il examine auparavant si le peuple auquel il les destine est propre à les supporter.[137]

The architectural foundations of Poland had already been set – and although the structure was in a wretched state, facing both collapse from the inside, and invasion from outside, its foundations were nonetheless strong. It faced depopulation, internal strife, and was under constant threat, but it was also a nation which had a long and impressive history. It is for this reason that Rousseau proposed: "Corrigez, s'il se peut, les abus de votre constitution; mais ne méprisez pas celle qui vous a faits ce que vous êtes."[138] Again, it is not a founding he advises, but a re-founding, and because of this distinction, he warns the Poles:

> J'ai cru parler à un peuple qui sans être exempt de vices avait encore du ressort et des vertus, et cela supposé, mon projet est bon. Mais si déjà la Pologne en est à ce point que tout y soit vénal et corrompu jusqu'à la racine, c'est en vain qu'elle cherche à réformer ses lois et à conserver sa liberté, il faut qu'elle y renonce et qu'elle plie sa tête au joug.[139]

Rousseau remains pragmatic. Nothing is lost in attempting to save Poland (and, in contrast to Mably's proposals, much suffering may be averted). However, he is not overly optimistic. Not every people can be re-founded, and if the Poles are too far gone, there is nothing that can be done for them.

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[137]  Rousseau, *Contrat social*, OC iii, p. 384-385.
[138]  Rousseau, *Pologne*, OC iii, p. 954.
[139]  Ibid., p. 1022.

## Conclusion

The goal of this thesis has been to draw out some initial variances in legislators and peoples in Rousseau's thinking. It has been shown that there is not only a historical basis for this distinction (both in ancient thought, and to a certain degree, amongst Rousseau's contemporaries), but that it plays out in Rousseau's own writings on Geneva, Corsica, and Poland. He recognizes that Geneva had an intially supreme founding – one which became the blueprint for what he developed in the *Contrat social*. However, everything deteriorates, and with time so to did the institutions of Geneva. Its constitution, however, remained in some form. His advice was not to give it new and improved laws, but to turn the people back on themselves – to remind them what it was that made them who they were; what it was that gave them their "true" constitution. A remarkably similar proposal was given to Poland – he warned them not to look to France or England to save themselves, but inwards. He refused to manipulate their laws and constitution, but did all he could to institutionally support them. Much of his proposals, thus, looked towards educating the Polish people even in the face of a clearly illegitimate political system (by Rousseau's own standards). Finally, there was Corsica – that people who through centuries of suffering had not developed their own character, laws, constitution, or serious customs; a people ready to be given the laws the Genevan's had once been lucky enough to receive; the laws outlined in the *Contrat social*. They were, and Rousseau was explicit about this, the only appropriate people left in Europe for which such a project was possible.

These, therefore, are the distinctions in the propositional works authored by Rousseau – but they are not unsystematic. In fact, if one accepts these distinctions, a number of the difficulties in understanding Rousseau's political works begin to become less difficult. One of the advantages of this analysis over others is its resistance to simply examining his political thought

through a particular conceptual lens – is he a radical or a conservative? A Calvinist or deist? Communitarian or individualist? Much analysis of his work attempts to fit him into categories or schools, or worse, uncover his hidden ideas. This is not surprising as Rousseau is a particularly problematic thinker – one can legitimately see the *Contrat social* as essentially a republican treatise, while *Pologne* can be placed on the pantheon of nationalistic texts. This has allowed for a number of radically diverging interpretations of his works as a whole. However, to put it in the most simple of terms, this thesis overcomes these problems by showing Rousseau's political philosophy as essentially pragmatic. He had ideals, but he also knew they were not universally applicable. The *Contrat social* may very well be an ideal goal, but the differences found between it and his propositional works are based on non-ideal particularities, and thus, lead to differing potentialities. It is just as Socrates told his interlocutors in *The Republic*:

> [D]on't insist on my showing that every detail of our description can be realized in practice, but grant that we shall have met your demand that its realization should be possible if we are able to find the conditions under which a state can most closely approximate to it.[1]

For this same reason Rousseau offered varying plans to various peoples who were found in different conditions. Nonetheless, the core of all his proposals remains consistent – he is a systematic pragmatist. As he wrote in *Pologne*:

> Le même esprit guida tous les anciens Législateurs dans leurs institutions. Tous cherchèrent des liens qui attachassent les Citoyens à la patrie et les uns aux autres, et ils les trouvèrent dans des usages particuliers, dans des cérémonies religieuses qui, par leur nature, étaient toujours exclusives et nationales (voyez la fin du *Contrat social*), dans des jeux qui tenaient beaucoup les citoyens rassemblés, dans des exercices qui augmentaient avec leur vigueur et leurs forces leur fierté et l'estime d'eux-mêmes, dans des spectacles qui, leur rappelant l'histoire de leurs ancêtres, leurs malheurs, leurs vertus, leurs victoires, intéressaient leurs cœurs, les enflammaient d'une vive émulation, et les attachaient fortement à cette patrie dont on ne cessait de les occuper.[2]

This is always the goal – the differences are found in potentialities.

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1     Plato, *Republic*, 473a-b (ed. Lee, p. 262).
2     Rousseau, *Pologne*, OC iii, p. 958.

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