

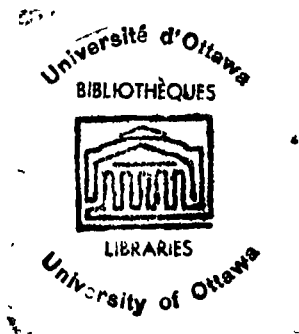
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**INEVITABLENESS OF TOTALITARIANISM  
IN A SOCIETY FOUNDED ON A PHILOSOPHY OF INDIVIDUALISM,  
AS SEEN IN HOBBS AND ROUSSEAU**

**By**

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## INTRODUCTION

### THE PAUSE AND THE STUBBORN MYTH

To know whether totalitarian rule — Communist or otherwise — has logical foundations in the principles of individualism or whether the one is inimical to the other is today an issue of no small import. To know this in its full, philosophical perspective is to gain insight into a tremendous drama of the modern epoch and to gain the vantage ground for manœuvering well in the warfare for freedom. It is to see, moreover, the reason for by-passing a bog of useless debate on shallow matters, e.g., that the alternatives are only individualism and totalitarianism. But the question emphatically is not one of either individualism or totalitarianism. The battle simply is not being fought on this ground. If the modern picture is viewed in one way, "... we are presented with the crucial dilemma which confronts the modern world — the choice between totalitarianism, by whatever name described, and representative democracy<sup>1</sup>." And there are those who reject what are often prevalently considered the only alternatives; this way may speak thus:

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<sup>1</sup> Alfred Graham, Catholicism and the World Today, New York, David McKay Company, Inc., 1952, p. 49.

Totalitarianism is to be ruled out since it extinguishes personality; its ends bear no relation to the worth and inexhaustible aspirations of man considered as a person. The claims of Western secularist democracy, however, are hardly less questionable. The so-called 'open society' of liberalism is almost as great a myth as the classless society of the Marxists... it can neither protect man from a state of chronic insecurity, which is the by-product of individualism, nor safeguard him from ruthless exploitation by the totalitarians<sup>2</sup>.

The concern of this study is not so much to determine expressly what all the alternatives are and entail as to answer the question whether totalitarian rule has a basis in individualism or whether the two are contradictories, and with this, to note that individualism in practice gives rise to totalitarian repercussions.

Ralph Tyler Flewelling, in his Survival of Western Culture, observed well the reason for a re-examination of the basic issues:

The western world now finds herself at a pause, in a confluence of conflicting tides that raises questions in the best minds regarding the future, and also respecting much that we have considered necessary to the progress of society<sup>3</sup>.

Set within this pause, the following study is a pondering upon questions that especially merit fresh

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<sup>2</sup> Ibidem.

<sup>3</sup> Ralph Tyler, Flewelling, The Survival of Western Culture, an Inquiry into the Problem of its Decline and Resurgence, New York, Harper and Brothers, 1943, p. 3. Italics are ours.

reflection against the stale, stubborn myth, or myths<sup>4</sup>, of individualism. The fight for human freedom and felicity has always been important, but conciliating freedom with social order is the perennial problem. Never has the issue been more critical, or understanding of the problem and solution been more urgently needed — and this, especially because of the mounting progress of science and technology.

The issue is not an ivory-tower one, but a real one concerning the very work-a-day world. A schizophrenic character prevails today in western society: such that to some the issue seems to be man versus the State. Men are living under a regime in which there appears, on the one hand, the surge of "individual rights" and, on the other, the closing in of the political Leviathan. There is, on the one side, the belief that the private group or individual must be unhampered and free, yet, on the other, the practical clamor or need for government to interfere, curb, and constrain freedom. Men must be at liberty yet in conformity. Accompanying the well-nigh frantic cry for freedom in the capitalist societies is the appeal or outright demand that government intervene in time of labour-management disputes, or of pension-relief need, farm surplus or drought. Hence comes

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<sup>4</sup> The philosophy of individualism may be viewed as a myth, or as a concoction of myths.

the modern trend to the welfare State with corresponding individual limitations for the welfare of all — with increasingly higher taxes and deductions in pay. So much so is this development a fact that the man of the Liberal temper today is more of an equalitarian, yet always somehow for the sake of individual liberty. Even the Communist can be heard saying he is labouring for the goal of liberty, a goal to be attained at least when the restraints of the State shall have withered away.

The solution to the question as to whether individualism in practice leads to totalitarianism ought to be abundantly clear, or clearer than it is; yet, in the minds of many, it seems only too often shy of this clarity. This study is an attempt to expose thoroughly the practical relation between the philosophy of individualism and totalitarianism and to throw a more vivid light on the whole question by entering upon it in a somewhat new way, different from a merely philosophical approach. The question is primarily a philosophical one. Nevertheless, it can be considered in a historical context, though still au fond as philosophical. The approach is then a philosophical-historical one. An effective way to accomplish this envisaged end is to witness, at first hand, how individualists par excellence draw in their own words and in their own logic — by an ineluctable consistency — the totalitarian conclusion. Most fruitful

for an essay of this sort are the seventeenth century Englishman, Thomas Hobbes (1588-1679) and the eighteenth century Frenchman, Jean-Jacques Rousseau (1712-1778) in whom both views, viz., premises and conclusion, are emphatically affirmed, developed, zealously sponsored and spread. An approach of this sort has hardly been explored to any considerable extent, yet it has merit in its corroborations of philosophical truth by historical fact -- in this case the facts of certain expressed consistencies that stand out in the positions of Hobbes and Rousseau. In this regard, there has been no explicit study as such of Hobbes and Rousseau, i.e. concerning this specific way of approaching the relation between individualism and totalitarianism, although there has been much material that has been written outside and around this special approach. There is no abundance of any formal treatment of this sort. The need, however, should be met, particularly since the hour is at hand for any and all honourable methods to be manoeuvred into the grand battle that is looming.

It could be mentioned here, incidentally, that further research with this technique might also be pursued, perhaps, to good advantage with other men, e.g. Spinoza who is at once an individualist and a totalitarian, or likewise with Locke who in this respect is in a similar though more difficult philosophical-historical position because of his

skill at making intellectual somersaults.

There are studies of individualism, on the one hand, and of totalitarianism, on the other, but as for the consequence of totalitarianism as arising from individualist grounds, there is still work to be pursued, particularly in line of clinching historically and emphasizing the argument against individualism and the Liberal optimism which still flits about posing as the bulwark protecting men from tyranny. There are studies which deal with the individualism of either Hobbes or Rousseau but which ignore, or fail to stress, these relevant relations to the respective totalitarian systems of these men, as though Hobbes and Rousseau are altogether too much inconsistent, or as though there is no connection worth considering, or only an accidental tie, between the individualist and totalitarian notions. An interesting instance of the latter aberration, as will be noted later, is found in F.O. Green Jean-Jacques Rousseau, a Critical Study of His Life and writings, in which the author sees no tie at all. Much literature has appeared attacking in no uncertain terms the tyrannical philosophy of Hobbes' Leviathan and Rousseau's Social Contract. But why? Why, as if individualism were purely a blameless non-accomplice? The reaction against tyranny, no doubt, is quite in order. But something is too often woefully lacking in the interpretations. This, again,

is seen typically in C.E. Vaughan's analysis of Hobbes<sup>5</sup>, as will be brought out. Much literature has appeared lauding the philosophy of individualism, the doctrine of individual rights, pure positive law, freedom under the law, democratic representation, and the like, as these are found in Hobbes or Rousseau. But again something is wanting. The need is for an express study of the relation of these allegedly incompatible extremes, with the view toward learning whether or not totalitarianism is inevitable in this context, and if so, how and to what extent no other answer is possible.

At least so far as Hobbes and Rousseau are concerned, the question is: is there an inevitability of totalitarianism in a society founded on their philosophies of individualism? It is the aim of this essay to prove emphatically that there is. There is definitely, however, a wider and universal lesson to be learned from the answer to this particular question, a lesson that has direct bearing on the contemporary scene and the future of human freedom and felicity. The extension of knowledge in this area is to be made by showing that Hobbes and Rousseau were compelled to plant

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<sup>5</sup> This is to be seen in Vaughan's Studies... Cf. too, e.g. Willoughby who, after making his criticisms, manages to speak favourably of Hobbes: "... Hobbes developed a substantially correct theory of law and Sovereignty..." Westel W. Willoughby, The Fundamental Concepts of Public Law, New York, The Macmillan Co., 1924, p. 126. Italics are ours.

the very tree of totalitarianism in the garden of individualism, if any hope could be entertained of gathering the fruits of social harmony. The point merits and needs emphasis. It is this emphasis, moreover, which is in line of a contribution. This is true since the problem of individualism is so fraught with, and tangled in, subtle, elusive associations with things of both the Christian tradition and of plain common sense. The virus of the philosophy of individualism needs to be caught for what it is, isolated and indefatigably stamped out by all available arguments worthy of truth.

It is obviously not the point of this thesis to go extensively into the applications of this lesson for the contemporary world except, incidentally, to make a passing suggestion here and there. It could be noted here, however, that "freedom under law", a slogan prevalent in the democratic countries, is something that makes sense only in a society inspired by the philosophia perennis with its conciliation of individual rights and the rights of the State. Where law is a pure imperative sanctioned by force — as it is, e.g. in England, France, the United States and Canada — a Bill of Rights creating individual rights is eventually necessary<sup>6</sup>. But then freedom is at the mercy of the whim of

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<sup>6</sup> If the natural moral law is not recognized as the base of rights, then rights are not natural but only positive civil rights. They are as precarious as the law is purely imperative. In this context the law itself radically is not

a majority, or ruling group. Thus are found in the United States, on the one hand, a plethora of laws aiming endlessly at the preservation of individual rights, witness of the legitimate fears of those who refuse to believe in the impossibility of an American totalitarianism (though such men are often unaware of the true reason); and on the other hand, there is the amazing number of laws restricting individual rights in a country allegedly founded on individualism.

There is in the modern world a considerable prevalence of individual rights upheld as mere claims, i.e. as something more amoral than as moored in obligation with regard to final purpose and perfection of one's being and nature. Or these are only "legal rights". But where law is mere legality and legality is primary, individual rights are actually baseless or even if they are under a Bill of Rights

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natural but only artificial, a dictate not of reason but of will. It is arbitrary and effective only as it is enforceable. But all rights depending on such a law are as changeable and insecure as the law itself. The modern failure to recognize man's rights as intrinsically based upon and flowing from, his rational nature finds him unduly scrambling, in a last resort, to extrinsic substitutes, like Bills of Rights as positive evidence that he is to enjoy certain privileges and protection or that he has the power, or right, to do, hold or exact something from another. But these rights then are just as much arbitrary creations of will or whim as the law is itself arbitrary. If law is whim (i.e. if it is not an ordinance of reason or intrinsically of man's rational nature), then rights come or go as do whims, for rights rest on the law. They ride up and down the way the law rides.

they are, indeed, in a thoroughly precarious position. It is then that they are at the mercy of pliable bodies, public opinion, powerful lobbies, a parliament or congress. Or the preservation of rights is made hopefully to depend purely on the mere mechanics of vote-counting or of an essential competition in the separation of powers or organs of government. In the Christian tradition, rights and duties are correlative. A right is naturally counterbalanced by a corresponding duty always in a teleological context of transcendental obligation. But in modern thought a right appears not so much as something tied to obligation and duty as a well-nigh self-evident, individual claim. Whether the discussion is in labour relations, business, education, or the UN<sup>7</sup>, the question of rights is most likely to pop up first. Examining something of the origin of this modern "phenomenon" is not irrelevant to this study. The question is: does man's hope against the totalitarian threat lie in the philosophy of individualism or even in a guaranteed primacy of individual rights for one and all?

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<sup>7</sup> Cf. e.g. United Nations, Secretariat, Department of Public Information, These Rights and Freedoms, first edition, Lake Success, United Nations, Department of Public Information, 1950, ad passim.

In a widely used text book, Political Science, Raymond Gettell, the positivist, wrote: "the sovereign state, however, always possesses the legal power and the legal machinery through which it may, if it chooses, destroy or limit all civil rights<sup>8</sup>." He adds that "...against that power itself, however, there is no defense." It is true that even the democratic powers of the West, e.g. the U.S.A. and England, are potentially totalitarian at least insofar as they proceed on the grounds of individualism. Gettell says that defence of these rights against government interference comes "by the constitution, or public law, of the state<sup>9</sup>." He observes that "... the good sense of the legislature or the pressure of public opinion behind it alone protects the civil rights of individuals against governmental encroachment<sup>10</sup>." But is this protection possible by way of individualism? It is the hope or the report of Gettell that "the real guaranty of individual liberty is a public opinion that is tolerant and liberal, and a government that represents this attitude in practice<sup>11</sup>." But is this guaranty possible by individualism

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<sup>8</sup> Raymond G. Gettell, Political Science, revised edition, Boston, Ginn and Co., 1949, p. 160-161. Cf. p. 158-159 and passim.

<sup>9</sup> Ibidem.

<sup>10</sup> Ibidem.

<sup>11</sup> Ibidem.

— no matter how good are the mere mechanics of democratic rule?

A confusion accompanies those who mistake the general myth of individualism as a base for human relations. This is detectable in the following lines of William Ebenstein who, in Man and the State, discusses Hobbes:

Since the purpose of political society is the preservation and protection of man's life, Hobbes recognizes the inalienable right of the individual to resist when his life is at stake, because "man by nature chooses the lesser evil, which is danger of death in resisting, rather than the greater, which is certain and present death in not resisting." For a long time, this Hobbesian caveat seemed unimportant, because the sanctity of human life was universally accepted. But when millions of people were put to death in gas chambers and concentration camps by the state, the Hobbesian stress on the integrity of human life acquired new meaning<sup>12</sup>.

Evidently from this analysis Hobbes is decidedly more an individualist than a totalitarian. But is it clear in the mind of Ebenstein how totalitarian rule is a fruition of Hobbes' individualism which honours, as Ebenstein implies, "the sanctity of human life" and puts "stress on the integrity of human life"? Or is it clear in the mind of Ebenstein how this individualism could possibly be a protection for persons against Hitlerian gas chambers and concentration

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<sup>12</sup> William Ebenstein (editor), Man and the State, Modern Political Ideas, New York, Rinehart and Co., Inc., 1947, p. 178. Italics are ours.

camps? The question in this regard is whether human worth finds its sponsor in the capital of the Christian tradition or in modern individualism. "Liberalism," Christopher Dawson points out, "lives on the spiritual capital that it has inherited from Christian civilization...<sup>13</sup>" Considerable stock, however, is still placed in the myths of individualism.

The overall procedure of this study, as the table of contents suggests, entails first of all a presentation and explanation of the problem, along with a statement of the chief data and the dilemma involved in the problem. This embraces some definitions and background concerning alternative positions involved historically in the problem. These matters form immediately the business of the first chapter which follows this introduction.

In the second chapter the discussion then turns, not impertinently, to a rather brief exposition of the traditional Christian solution to the social problem. It has been this solution which has sustained the brunt of the attack in the revolution of the modern age. Understanding something of this mediaeval solution, expressed best by St. Thomas Aquinas, is invaluable if for no other reason than for the fact that seeing the Christian stand helps toward grasping

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<sup>13</sup> Christopher Dawson, Religion and the Modern State, London, Sheed and Ward, 1938, p. 64-65.

something of the modern view insofar as it is, in part, against the Christian view that individualism inveighs.

Of cardinal importance is the following chapter "the Conundrum of the Unsocial Societal Man" which brings out why, historically, the social contract theory became fundamental in modern thought after the sixteenth century and how, philosophically, the modern world confirmed the revolutionary break from the tradition by denying the natural socialitas of man. In this context is defined the modern philosophy of individualism — and then, briefly, its connection with libertarian and equalitarian conceptions.

The remaining part forms the heart of this study and explores in particular the ramifications of this revolt in the attempts of Hobbes and Rousseau to get a system of social order out of the stuff of the philosophy of individualism.

The result is, as the thesis title indicates, "the inevitableness of totalitarianism in a society founded on a philosophy of individualism..." But in order to obviate a misunderstanding, it should be emphasized that the term "inevitableness" here does not mean that abstractively individualism leads to totalitarianism. Individualism does not necessarily lead to totalitarianism, but, in practice, social harmony in an individualist society cannot be preserved otherwise than by force of totalitarian rule.

It will be observed that in this study the Molesworth collection of Hobbes' works is used along with two other editions of single works, the Leviathan and the De Cive<sup>14</sup>. A minor question may be raised as to why Molesworth's convenient collection of Hobbes' works was not used exclusively. This collection, on the whole, is indispensable. But with it were used the Merley edition of the Leviathan and the Lamprecht edition of De Cive. This was done for both the convenience of acquisition and the frequent, superior excellence of text. These two editions eliminate many needless italicizations and capitalizations, while punctuation in Lamprecht's edition is improved and brought up to date. Thus, unless otherwise noted, the Leviathan text is that of Merley and the De Cive text is that of Lamprecht. All the other works of Hobbes in this study are from the collection of Molesworth.

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<sup>14</sup> This work is known also as Philosophical Rudiments Concerning Government and Society — and also as Philosophical Elements of a True Citizen.

## CHAPTER I

### THE PROBLEM, THE DATA AND THE DILEMMA

The aim of this chapter is to explain and make clear the fundamental problem. The problem is simply one of social harmony, but one that presents many complicated aspects. Basically, it is a matter of reconciling social order with individual freedom. Under discussion is particularly the freedom of the individual from the constraints of social institutions.

Elementary data of the problem are the observable facts: those about the individual man, on the one hand, and the social facts, on the other. In regard to the individual, there is the basic and natural urge for happiness which is deep-rooted in the being of every man, coupled with his awareness that he possesses powers of operation for the fulfilment of this urge, i.e. initiative and choice among the means of procuring self-satisfactions that may not be perfect happiness, but are partial happiness here and now.

In regard to the social facts, it is observable that men do not live alone. Men need others and live in a society limitative of liberty. For at least all practical purposes, men are really in need of the services of other men. They cannot get along alone individually. Man is not sufficient

unto himself. Nor is this exigency a theoretical thing. The interdependence of one upon another is real and obvious. That men live in need of men is at the foundation of the other fact that men really live in a society necessarily restrictive of individual freedom. They come into existence and progress not alone but by means of and through the conscious, restrictive co-operation of others — a co-operation which is neither mere abstraction nor simple gregariousness. That men live with men as fellow men is then the actuality.

This universal social fact, however, may be societal (i.e. organized and operating with deliberation) or merely communal. Both operate as a whole. They are institutions themselves and operate by means of subsidiary institutions, the latter (i.e. the merely communal) spontaneously through customs and the feeling of common interests; the former (i.e. the societal) deliberately by means of authority and law. Wherever there are men, there are institutions. An institution is something that is founded in order to define and regulate the relations of men with one another. It confines social actions and gives them form or set pattern. When men are organized and operating with deliberation toward an explicitly recognized end, and by way of explicitly defined means of attaining that end, along with a written or unwritten constitution, then there is a societal institution, a society. But when men are unorganized and found

spontaneously together in a purely psychological way, with a sense of neighbourliness and a feeling of common interests more or less well-defined, there is then a communal institution, the community.

Social life unites men by way of some common object. In a community the object is a fact antecedent to and independent of man's mind and will but establishing, as Maritain says<sup>1</sup>, "a common unconscious psyche, common feelings and psychological structures, and common mores". Thus a "community is more of a work of nature and more nearly related to the biological" like an ethnic, regional, or linguistic group, "a product of instinct and heredity in given circumstances and historical framework..." Thus tribe and clan are communities that prepare the way for political society. A society gives rise to community feelings, but "never can a community develop into a society, though it can be the natural soil from which some societal organization springs up through reason". In a community social relations arise from given historical conditions. In a community the only norm of individual conduct is custom, a certain way of thinking and behaving, e.g. rules of etiquette, or wearing a certain type of costume or haircut. Sanctions maintain

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<sup>1</sup> Jacques Maritain, Man and the State, Chicago, The University of Chicago Press, 1951, p. 2-4.

conformity and vary, in severity or favour, with the importance of the custom.

But in a society the norm of individual conduct is both conventions and laws with the latter's sanctions defined with as full deliberation as the law itself. A society is not so much a work of nature as a work of reason. If man is social by nature, he is made for society in his rational nature. The common object of social living in a society is not a fact prior to mind and will, but rather "a task to be done or an end to be aimed at"<sup>2</sup>, depending upon mind and will and preceded by decision or consent of the individual members. In this way a society is seen to be a rational organized union of members deliberately seeking the common good co-operatively. This would include a study club, a labour union as well as a State or family. Societies are clearly specified by their ends. As the purpose of a society varies, so varies the nature of the society and also the activities of that society. As a hunting club has a different end from a business firm or a State, so differ the form of these societies and the type of social activities required of the members. The operations of the society are then geared to the common end, while authority is the power directing and

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<sup>2</sup> Ibidem.

compelling the social action of the members toward the common good. The only social organ whereby the community operates is intercourse through speech, whereas society may possess a very large number of such organs, particularly, authority and law.

While both aspects of social life (societal and communal) will inevitably check the individual's inner drive to happiness in the fullness of his personal initiative and effort, society must do this necessarily for the sake of its own survival. This is not necessary for a mere community.

Hence arises the problem: the desire, the urge for happiness remains always; institutions are accepted when they provide individual happiness, but there is conflict when they thwart individual initiative and activity. In this conflict, who is to give way: the individual or society? This is the universal problem.

A priori, only three general solutions may be proposed to this problem. First, society is rejected altogether or, at least, made dependent on the will of the individual. This is individualism, allowing of many degrees from nihilism and anarchism, which would destroy society utterly, through Cynicism and Epicurianism which commend voluntary withdrawal from society (passive obedience or non-violent disobedience) to liberalism and the negative watchman-State.

Second, the individual is absorbed into society or, at least, made wholly subservient to society. This is institutionalism, allowing of many degrees and many forms such as authoritarianism and totalitarianism.

Third, society and its institutions are accepted, but for the sake of the happiness of the individual, i.e. society is ordered in such a way as to restrict individual initiative and activity only in particular things for the sake of more happiness in the totality of human life, a happiness that redounds to the good of the individual members.

But, of the three, which general solution is the right one? At this stage it is hardly possible to say adequately, since the data are insufficient. Needed is knowledge of the nature of individual initiative and activity, and of the nature of man himself. But this brings into play a central dilemma. Is man a social being by his very nature, i.e. is he made by nature to live in a societal way? There are only two possible alternatives in a complete dichotomy. Either man is by nature made to live in a societal way, or he is not... (Absolute individualism declares emphatically that he is not.) If, however, man is not naturally social, and yet actually lives in a society, it must be because he is forced to or because he wants to. If he is forced, it is some species of slavery. (Positivism holds that force is at the origin of the State.) If he wants to, it must be by

consent, or, i.e. by contract. A universal contract of do ut des presupposes a universal state of universal liberty and equality, i.e. a state of nature.

There is a sharp division pro and con in the arguments concerning this key dilemma. In the Aristotelian-Thomistic tradition prevails the position that man is social by his nature. In the beginning of his Politics Aristotle affirms: "Man is by nature a political animal" and explains:

The proof that the state is a creation of nature and prior to the individual is that the individual, when isolated, is not self-sufficing; and therefore he is like a part in relation to the whole. But he who is unable to live in society, or who has no need because he is sufficient for himself, must be either a beast or a god: he is no part of a state. A social instinct is implanted in all men by nature...<sup>3</sup>

Aristotle says similarly that if there be one who by nature and not by mere accident is without a State, such a one "is either a bad man or above humanity; he is like the

'tribeless, lawless, hearthless one',

whom Homer denounces — the natural outcast is forthwith a lover of war..." Implicated typically and indispensably in the argument of Aristotle is the essential element of man, his rationality, in contrast to the non-rationality of brute animals. Brutes make mere sounds indicative of pleasure or

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<sup>3</sup> Aristotle, Politics, in Basic Works of Aristotle, ed. and with an introduction by Richard McKeon, New York, Random House, 1941, p. 1129-1130.

pain. Man has the gift of speech to express his rational conceptions socialwise.

Now, that man is more of a political animal than bees or any other gregarious animals is evident. Nature, as we often say, makes nothing in vain, and man is the only animal whom she has endowed with the gift of speech.

For Aristotle the gift of speech which man alone enjoys has a rational and distinctly social significance.

And whereas mere voice is but an indication of pleasure or pain, and is therefore found in other animals (for their nature attains to the perception of pleasure and pain and the intimation of them to one another, and no further), the power of speech is intended to set forth the expedient and inexpedient, and therefore likewise the just and the unjust. And it is a characteristic of man that he alone has any sense of good and evil, of just and unjust, and the like, and the association of living beings who have this sense makes a family and a state.

Cicero appears likewise to have been in the same general tradition. In the Republic<sup>4</sup> he writes that "man is not a solitary or unsocial creature". "Man", says Cicero, is "born with such a nature that not even under conditions of great prosperity of every sort [is he willing to be isolated from his fellow men]..." Cicero sees society and the social spirit as rooted in the very nature of man:

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<sup>4</sup> Marcus Tullius Cicero, De Re Publica, De Legibus, with an English translation by Clinton Walker Keyes..., New York, G.P. Putnam's Sons, 1928 (The Loeb Classical Library), p. 65.

But a people is not any collection of human beings brought together in any sort of way, but an assemblage of people in large numbers associated in an agreement with respect to justice and a partnership for the common good. The first cause of such an association is not so much the weakness of the individual as a certain social spirit which nature has implanted in man<sup>5</sup>.

There is the same basic stand in Sts. Augustine of Hippo and Thomas Aquinas. St. Augustine in answer to certain pagan notions interrelates this stand with the Christian God as the fountain of justice in society<sup>6</sup>: "where, therefore, there is no true justice there can be no right" and where there is no true justice there can be no assemblage of men associated by a common acknowledgement of right..." Moreover, "if there is no right where there is no justice, then most certainly it follows that there is no republic where is no justice." Though the Christian doctor sees man as a social being by nature, he sees God as directly the author of that human, social nature and the ultimate fount of just, social relations and order.

St. Thomas Aquinas solidifies the tradition and gives it stature with full and finished arguments. In De

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<sup>5</sup> Ibidem. Italics are ours.

<sup>6</sup> St. Augustine, The City of God, translated and edited by Marcus Dodds, 2 vols., New York, Hafner Publishing Co., 1948, Vol. 2, p. 331.

Regimine Principum<sup>7</sup> he writes that in considering all that is necessary for human life "it becomes evident that man is naturally a social and political animal, destined more than all other animals to live communally." Other animals, he reasons, have their food provided for them by nature and a natural coat of hair and means of defence like horns or speed in flight and the like.

Man, however, is not so provided. But since he has instead the power to reason, he must furnish such things for himself. Even so, one man alone could not procure for himself all that is necessary, because no one man's resources are sufficient for leading a full human life. For this reason it is naturally necessary for man that he live in the companionship of his fellow men<sup>8</sup>.

Man is then a social animal because of the many needs which he cannot satisfy out of his own resources. Man exists this way by his nature. As a result, St. Thomas argues in his Commentary on the Nicomachean Ethics<sup>9</sup>, "man is set aside by

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<sup>7</sup> St. Thomas Aquinas, Opusculum XVI, De Regimine principum ad Regem Cypri, Lib. I, Cap. I, in Opera Omnia, secundum impressionem Petri Fiaccadori Parmae 1852-1873, photolithographice reimpressa cum nova introductione generali, anglie scripta a Vernon J. Bourke, New York, Musurgia Publishers, 1948-1950, 25 vols. Vol. XVI, p. 225. "Naturale autem est homini ut sit animal sociale et politicum, in multitudine vivens, magis etiam quam omnia alia animalia: quod quidem naturalis necessitas declarat."

<sup>8</sup> Ibidem.

<sup>9</sup> St. Thomas Aquinas, Commentaria in X Libros Ethicorum ad Nicomachum, in Opera Omnia, Parma, Bourke, Vol. XXI, Lib. I, Lectio I, p. 2.

nature to form part of a community which makes it possible for him to live a full and complete life."

The assistance of such a communal life is necessary for man because "it is necessary to furnish him with these things without which it would not be possible to maintain life itself." Thus in the home a man gets life and food and education from his parents, while all the individuals in the family aid one another in their necessities. But social life also enables man to achieve a richer life, not merely to exist, but to live fully and well, as in the State. This "the political group of which man forms a part, aids him... in acquiring material comforts, such as are produced by the many and varied industries of a state."

The opposite position is found in ancient times before it reappeared in the modern era. For the Epicureans self-interest was primary while communal venture was quite conventional without objective standards. Epicurus said:

There never was an absolute justice but only an agreement made in reciprocal intercourse in whatever localities now and again, from time to time, providing against the infliction or suffering of harm<sup>10</sup>.

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<sup>10</sup> Epicurus, Sovran Maxims, included in Diogenes Laertius, Lives of Eminent Philosophers, with an English tr. by R.D. Hicks, 2 vols., New York, G.P. Putnam's Sons, 1925 (The Loeb Classical Library), Vol. II, Sovran Maxims, Nos. 31-33, p. 673-675.

Natural justice is a contract, insists Epicurus, "a symbol or expression of expediency" to prevent mutual harm. Those who do not enter into a social compact are in an amoral state:

These animals which are incapable of making covenants with one another, to the end that they may neither inflict nor suffer harm, are without either justice or injustice. And those tribes which either could not or would not form mutual covenants to the same end are in like case.

In the modern age, Hobbes, above all others, affirmed sharply this contractualist conception of society. In his work, The Citizen, he wrote<sup>11</sup>:

The greatest part of those men who have written aught concerning commonwealths, either suppose, or require us, or beg of us to believe, that man is a creature born fit for society.

Expressly against this view he wrote:

Man is made fit for society not by nature, but by education. Furthermore, although man were born in such a condition as to desire it, it follows not, that he therefore were born fit to enter into it; for it is one thing to desire, another to be in capacity fit for what we desire.

A spirit of dominating self-interest bereft of mutual goodwill is the fundamental theme of this outlook:

But though the benefits of this life may be much farthered by mutual help, since yet those may be better attained to by dominion than by the

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<sup>11</sup> Hobbes, De Cive or The Citizen, ed. with an introduction by Sterling P. Lamprecht, New York, Appleton Century Crofts, Inc., 1949, p. 21-24. This work has also been known as Philosophical Rudiments Concerning Government and Society.

society of others: I hope no body will doubt but that men would much more greedily be carried by nature, if all fear were removed, to obtain dominion, than to gain society. We must therefore resolve, that the original of all great and lasting societies consisted not in the mutual good will men had towards each other, but in the mutual fear they had of each other.

These arguments pro and con in the history of the problem bring into clear relief the division between those who affirm and those who deny that man is a social being by nature.

With the flourish of this denial comes the temptation to distort the relation between man and political life. In his book, Human Nature in Politics<sup>12</sup>, Graham Wallas complained of a "tendency to separate the study of politics from that of human nature," and "for the moment... nearly all students of politics analyse institutions and avoid the analysis of man." No doubt the study of the philosophy of man will deepen knowledge and possibly, "open an unworked mine of political invention", as he says, but it must be a study of man as he is, i.e. neither a mere animal, nor a mere mind, but a rational animal.

The problem is one of social harmony or reconciliation between freedom and social order. Men, in a man's

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<sup>12</sup> Graham Wallas, Human Nature in Politics, with a foreword by A.L. Rowse, fourth edition, London, Constable and Co., Ltd., 1948, p. 14, 15, 19.

quest for his own happiness, he encounters society and its authority and law, is he or society to yield? Of the three possible groups of solutions which is the right one? The data thus far presented need further to be explored or completed. Needed is knowledge of the nature of man himself and of his individual initiative and activity. If man is social by nature, then he must be rational. If he is not rational, then he is not naturally social.

Immediately relevant, therefore, is another question within the dilemma. Is man an irrational being bound (like all other beings of the universe) within the determinism of his nature? Man is either an irrational being or he is not. If he is, then the problem becomes merely one of superior force. In the contest between the individual and society who is the stronger? If the individual is the superior, anarchy reigns, the law of the jungle or, possibly, a non-societal community, provided that all men are made virtuous by the suppression of that which makes man evil, viz., property, as Karl Marx maintained. If the stronger is society, the result is at least a potential totalitarianism. Here is the heart of the discussion with Hobbes and Spinoza. For them, man is not rational in a spiritual sense of the word. Reason is merely the ability to perceive certain relations or convictions, between objects and man's well-being. For Spinoza, it is the perception of the

nullification of force by force. They are sensists and reason is only a superior form of sensation. Therefore, for both, man cannot help himself doing this or that when his well-being is at stake unless he perceives that there is no use: he is faced with a superior force. Hence, society must be stronger than the individual or any group of individuals. Otherwise it will be incapable of operation; it will itself be destroyed, and the life of man will revert to the law of the jungle which is the natural law of Hobbes and Spinoza.

Hobbes recognizes the necessity for social order but still clings to individualism and a primacy of natural rights. Once this necessity is recognized upon having taken the stand that man was not made by nature to be social, then, so far as planning to insure order is concerned, what conclusion follows? Answering this question is the theme of this study.

By natural law, as Hobbes sees it<sup>13</sup>, "every man is enemy to every man" "and the life of man, solitary, poor, nasty, brutish, and short", a war "of every man, against every man". This is clearly not the natural moral law of the Christian tradition, as it is neither law nor reason in

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<sup>13</sup> Hobbes, Leviathan or the Matter, Form and Power of a Commonwealth, Ecclesiastical and Civil, with an Introduction by Henry Morley, second edition, London, George Routledge and Sons, 1886, p. 64. Cf. De Cive, p. 27-29.

a spiritual sense. This condition is as amoral as that of the jungle: "Every man has right to everything; and consequently, no action can be unjust<sup>14</sup>." Basic in this physical "law of nature" is self-preservation. But man "rationally" perceives that, for his well-being, he must have peace and (for Spinoza) the aid of others. "Every man," said Hobbes<sup>15</sup>, "by necessity of nature, is supposed to endeavor all he can to obtain that which is necessary for his conservation." So he "rationally" accepts the State and is thankful for whatever the State leaves to his own individual initiative, i.e. whatever freedom or rights the State decrees he might have. In this life of the law of the jungle, Hobbes said the law of nature is as follows:

Everyone is governed by his own reason; and there is nothing he can make use of that may not be a help unto him in preserving his life against his enemies; it followeth, that in such a condition, every man has a right to everything; even to one another's body<sup>16</sup>.

Along this line Spinoza like Hobbes affirmed that right is an amoral power, and the natural right of every individual "extends as far as its power".

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<sup>14</sup> Leviathan, p. 72.

<sup>15</sup> Ibidem, p. 75.

<sup>16</sup> Ibidem, p. 66.

And accordingly, whatever any man does after the laws of his nature, he does by the highest natural right, and he has as much right over nature as he has power<sup>17</sup>.

In such a condition, Hobbes notes<sup>18</sup>, "there can be no security to any man..." unless, seeing the connection between security and civil society, he accepts the State as a superior power and a tool useful for self-preservation.

If man is thus an irrational being, society must be stronger than he if there is to be social order. Society must check the individual's drive for happiness or give way to the individual and the natural law of the jungle. Even if man is irrational, he still needs social harmony (although, as an individual he will refuse his collaboration if his personal satisfaction is at stake), but this social harmony can only be realized by the complete domination of the individual by society, i.e. by the combined will and force of all against each individual in any actual circumstance. A universal consent and a general contract are necessary in the establishment of social harmony; but they are not binding on

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<sup>17</sup> Benedict de Spinoza, A Theologico-Political Treatise in The Chief Works of Benedict de Spinoza, tr. from the Latin, with an introduction by R. C. Marsh, with a bibliographical note by Francesco Cordasco, New York, Dover Publications, Inc., 1951, Vol. I, p. 210, 276. Also Spinoza, A Political Treatise, in Chief Works, Vol. I, p. 292.

<sup>18</sup> Leviathan, p. 66.

the individual in any particular situation. They must be enforced. Society must, therefore, be provided with an adequate force. What, then, remains of individual initiative? Nothing, but that which is allowed him by society.

For Rousseau, there is a different slant on the problem. In answer to the question: is man an irrational being? Rousseau says no. For him the rationality of man is a fact, and the law of the jungle is not the law of nature. It is only because man has been corrupted by property (and the consequent greed) that the State has become necessary — "the necessary nuisance"<sup>19</sup>, as D. Joad says. Rousseau<sup>20</sup> agrees with Locke that "there can be no injury, where there is no property" and affirms<sup>21</sup> "property is the true foundation of civil society":

The first man who, having enclosed a piece of ground, bethought himself of saying This is mine, and found people simple enough to believe him, was the real founder of civil society<sup>22</sup>.

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<sup>19</sup> D. Joad, Guide to the Philosophy of Morals and Politics, New York, Random House, 1937, p. 12.

<sup>20</sup> Rousseau, A Discourse on the Origin of Inequality among Men, in The Social Contract and Discourses, tr. with Introduction by G.D.H. Cole, London, J.M. Dent and Sons, Ltd., 1913, p. 213. All further references to Origin of Inequality are to this Cole edition, unless otherwise noted.

<sup>21</sup> Rousseau, A Discourse on Political Economy, in The Social Contract and Discourses, tr. with Introduction by G.D.H. Cole, London, J.M. Dent and Sons, Ltd., 1913, p. 271. All further references to Political Economy are to this Cole edition, unless otherwise noted.

<sup>22</sup> Origin of Inequality, p. 207.

Rousseau says<sup>23</sup>: "man is naturally good" and complains<sup>24</sup> "so many writers have hastily concluded that man is naturally cruel, and requires civil institutions to make him more mild". No doubt he had in mind Hobbes who saw man as naturally depraved, a wolf to his fellow men. Rousseau explains:

Nothing is more gentle than man in his primitive state, as he is placed by nature at an equal distance from the stupidity of brutes, and the fatal ingenuity of civilized man.

Rousseau believes in a spiritual reason in man, but he does not trust it. For him, feelings — the passions — are more reliable, more trustworthy. "It is reason", he says<sup>25</sup>, "that engenders self-respect, and reflection that confirms it; it is reason which turns man's mind back upon itself..." But he notes<sup>26</sup>: "I venture to declare that a state of reflection is a state contrary to nature, and that a thinking man is a depraved animal." and, no doubt, is indebted to understanding but "it is by the activity of the passions that our reason is improved<sup>27</sup>". It is in this way

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<sup>23</sup> Ibidem, p. 239.

<sup>24</sup> Ibidem, p. 213.

<sup>25</sup> Ibidem, p. 199.

<sup>26</sup> Ibidem, p. 181.

<sup>27</sup> Ibidem, p. 186.

that good human relations are more apt to prosper:

It is then certain that compassion is a natural feeling, which, by moderating the violence of love of self in each individual, contributes to the preservation of the whole species. It is this compassion that hurries us without reflection to the relief of those who are in distress: it is this which in a state of nature supplies the place of laws, morals and virtues, with the advantage that none are tempted to disobey its gentle voice... it is rather in this natural feeling than in any subtle arguments that we must look for the cause of that repugnance, which every man would experience in doing evil...<sup>28</sup>

So long as a man follows this natural feeling, or compassion, he does nothing that is undue or wrong. "What is generosity, clemency or humanity but compassion applied to the weak, to the guilty, or to mankind in general?" "Even benevolence and friendship" are the effects of compassion. "Such is the pure emotion of nature, prior to all kinds of reflection! Such is the force of natural compassion..." But as a man "does not resist the internal impulse of compassion, he will never hurt any other man..."<sup>29</sup>

For Rousseau, however, it is human reason that brought man to conclude the social contract to live in a society. As man has become corrupted by property, his

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<sup>28</sup> Ibidem, p. 199-200, 198.

<sup>29</sup> Ibidem, p. 172. Rousseau says, moreover, that "if I am bound to do no injury to my fellow creatures, this is less because they are rational than because they are sentient beings..."

position became precarious and insecure. The State became a necessary thing. And without realizing it men have produced something well-nigh magical. There was the social contract, a man-made thing, and with this, presto! the society became a State with a legislator and administrators; the individual as such disappeared and in his place there was something new, a citizen, and all that was confined by, and absorbed in, the general will. Instead of the natural individual, there was now the citizen, no longer an individual in any sense, but purely as an organic part of the State. The transition is "away from living in continual and unavoidable conflicts"<sup>30</sup>, "from a mode of living unsettled and precarious" to one that is more secure, or "from possessing the power of injuring others to security for themselves". It is a passage from power, "strength, which others might, by the employment of theirs, overcome, to a right which social union renders invincible".

It is human reason that brings man to conclude the social compact and to take to life in a society. Man is either a rational being in a spiritual sense, or he is not.

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<sup>30</sup> Rousseau, The Social Contract, an eighteenth-century translation completely revised, ed. with an introduction by Charles Frankel, New York, Hafner Publishing Co., 1947, p. 30. All further references to this work are to the Frankel edition, unless otherwise noted.

Hobbes says he is not and Rousseau says he is. But if man is a rational being, then one of two alternatives follows: either he has an end that transcends this life, and everything temporal (including society — which is evidently temporal) must be subordinated to his extra-temporal finality. Society, in this case, cannot be totalitarian, and this is the scholastic position; or such a transcendental end is not to be considered; for man may realize his happiness on earth. This may be because an extra-temporal end of man is denied or because it is believed that man is made to be happy on earth and the eternal finality is irrelevant to the discussion. In this group is found Locke, Rousseau and ~~all~~ their doctrinal descendants, the Christian Liberals and socialists. Atheistic and agnostic Liberals and socialists of today, of course, reject all other worldly finality.

However, if man is rational, the problem is not thereby solved. The given data are still insufficient. The nature of society has to be further determined in its efficient cause or origin. What is it that restricts the initiative of the individual? It is law, which might be called the proximate institution, the work-tool of society. "Law is a rule and measure of acts, whereby man is induced to act or is restrained from acting<sup>31</sup>." It determines which acts

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<sup>31</sup> St. Thomas Aquinas, Summa Theologica, I-II, q. 90, a. 1, in Opera Omnia, Parma, Bourke, Vol. II, p. 330.

are admissible or prescribed and which are prohibited. The operation of the law necessarily restricts the freedom of the individual within the social framework. In the face of the individual drive for happiness and the ability to achieve partial happiness (satisfaction) through his own effort, is there any justification for the control exerted on that particular occasion by law? Yes, provided that authority, the intermediate institution is justified. Authority is the legitimate power to direct and compel the members of a society to act in a common accord for the attainment of the common good. But, in turn, this intermediate institution, authority, is justified if the ultimate institution itself, namely, society, is justified as to its origin and form. Law then follows upon authority which in turn follows upon society. But is nature at the base of this tour?

In fine, is society natural, i.e. an integral part of that desire and urge for happiness which is in the individual (as a means, of course) or is it artificial, i.e. man-made, a product of human reason, adapting indifferent means to an end? It is evident, of course, that every concrete society (e.g. Canada, the U.S.A., Israel or Indonesia) is artificial, just as are the Prudential Life Co. and General Motors. The discussion is about society itself, which again, is not something substantial (i.e. constitutive of the substance of man) but something accidental of which a singular man might choose to deprive himself, as he can deprive

himself of sight. As in the latter case would he (if he removed himself from society) deprive himself of something which his nature requires for happiness? Locke and Rousseau did not think so. For them, society emerged from man's reason and will as an artificial means of correcting the evil which insidiously crept (not in man's nature as Hobbes held) but among men.

If it is assumed that society is natural, there is the further question: is it so necessary, that the individual must be subjected to it in all things; such that, in effect, it absorbs the individual, as Plato and Aristotle thought, at least as far as the masses were concerned, or must it serve the individual and, in its restrictions of human initiative, be itself limited to the necessity of social harmony (both static and dynamic harmony)? The latter is the stand of St. Thomas. The end of society is the common good; therefore, anything which is not required by this end is unjustified and does violence to the individual or rather to the person.

If, on the other hand, it is assumed that society is artificial, there is the further question: though not required by human nature, is it in conformity with nature like a business partnership (Locke and Rousseau) or does it do violence to human nature and is it established by force for the protection and the furtherance of the interests of a

certain class (individualists, cynics and Epicureans of ancient Greece and Karl Marx)?

In summation, man either is or is not naturally a social being. Both Hobbes and Rousseau deny man is such a being. But the answer to this question depends on knowledge of the nature of man himself and his actions. Man is either an irrational being or he is not. Hobbes denies and Rousseau affirms that man is, in the spiritual sense, a rational being. If man is not thus a rational being, the problem is merely one of superior force. If the individual is stronger than society, there is anarchy. If society is the stronger, there is at least potential totalitarianism. If man is thus a rational being, one of two things follows: either he has an end transcending this life to which end society is subordinated and so cannot be totalitarian or this extra-temporal end is not to be considered. If man is thus rational, the problem remains. The individual's desire for happiness is justifiably curbed by law and authority — provided society is justified as to its origin and form. But is society natural, an integral part of man's drive for happiness — such that his nature requires society for his happiness?

The philosophy of individualism (denying that man is naturally social) is at the hub of the whole issue. This is particularly the case when the individualistic philosophers recognize the need for social order and attempt to formulate

the principles necessary for this order. The real problem consists in reconciling this attitude of individualism with the universal fact of man living in society and determining the principle upon which social harmony will rest. This can only be a voluntaristic principle. For the nature of man as essentially a social and rational being has been ruled out. Both Hobbes and Rousseau as well as Spinoza and Locke recognize the necessity for social order. This need is at the heart of the problem of reconciling the individual drive to happiness with the happiness of all. Once this need is admitted along with the assumption that society is totally and exclusively man-made, what solution remains?

If, as individualism maintains, man is not naturally social, is totalitarianism inevitable to this individualism? To prove this in the affirmative is the objective of this study. It is true, of course, that modern individualism as such rejects a doctrinal totalitarianism. But it only substitutes a practical one by establishing subjectivism and relativism in the law based on self-interest and force. Aside from the attitude of extreme individualism which is absolute in its opposition to institutions, there is, e.g. the attitude of liberal individualism which is only relative in its opposition to institutions, i.e. whenever institutions thwart the free play of self-interest. Aside from its extreme forms, individualism has not protested against all

institutions but only against structural ones<sup>32</sup>: Church, government by Divine right or the absolute right of a party which crystallised the absolute right of the race (Nazism), the nation (Fascism) or the proletarian class (Communism). Thus modern individualism does not, as such, vouch for doctrinal totalitarianism. Yet it upholds the grounds for a practical one. To explain how and why this is so, is our objective. Individualistic philosophy is potentially totalitarian in that it rejects any and all absolute, objective norms of social behaviour. The norms are only positive laws which may, and do, change according to the whims of a king or dictator or according to the changing self-interests of some group or of a majority of the people. However made, these laws, are arbitrary and relative. They must, then, rest on force if they are to be obeyed. For this reason, no social relationship can escape determination by whatever authority possesses power.

The logic of the argument is evidenced in the thinking of Hobbes and Rousseau. However much either Hobbes or Rousseau may have contradicted himself in other things, each was consistent at least on this point. For them the

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<sup>32</sup> This less extreme individualism accepts, e.g. the institution of law which might be called a modal institution since it involves the way, or mode, in which a structural institution operates.

principle of order is the safeguard of individual rights, but because rights are determined by the will (not reason) of a king (Hobbes) or a majority (Locke) or a mythical General will (Rousseau), these rights can only be maintained by coercion or force and the individualistic order will inevitably degenerate into a totalitarian order. The argument is to prove that individualism as held by Hobbes and Rousseau clamors for totalitarian rectification.

As for employment of the term "totalitarianism", it certainly is not the same as dictatorship, which in itself is as innocent or indifferent as a knife or revolver, and so may (by a kind of attribution) or may not be totalitarian. By no means is totalitarianism a mere form of government, like monarchy, aristocracy or democracy, but it is rather a way of life. Nor is it a synonym for authoritarianism, because totalitarianism need not be authoritarian. The political life of ancient Athens in the fifth century B.C. was totalitarian but not authoritarian, as authority rested practically in the people in meetings of the popular assembly.

On the other hand, authoritarianism need not be totalitarian. The benevolent despotism of St. Louis IX of France was authoritarian but by no means totalitarian. Practically, however, totalitarianism is a way of life, a social philosophy, which orders total subjection of the individual or citizen (not to authority but) to society as a State,

even though the law-making power might be the people itself. In its attempt to solve the problem of social order, totalitarianism rejects absolute, objective norms of social conduct or deifies the political will, positive human law. Insofar as it makes law only a dictate of will, it is anti-reason or anti-intellectual. It can hardly fail to be arbitrary and hence rests on force. A system which in principle is founded on reason and extra-temporal finality cannot be totalitarian. A system founded upon will, and consequently upon force, is arbitrary and at least potentially totalitarian; it operates as though no social relationship can be legitimately outside the omni-competent reach of the political arm. Ross J. S. Hoffman described it thus:

All that goes on in the life of society, all economic and cultural activity, all intellectual expression, all associational enterprise, is brought under the rule of the State; not, of course, to be undertaken or managed and directed by the State, but made subject to whatever regulation the State may choose to impose. No right exists save as grants of permission; no sanctions of freedom rooted in a natural law anterior to and beyond the reach of State authority have any recognition whatever<sup>33</sup>.

Today such a solution to the perennial problem of freedom and order rests, not simply on a mere form of government, but on a secular way of life in which man acts by his own will.

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<sup>33</sup> Ross J.S. Hoffman, The Will to Freedom, London, Sheed and Ward, 1935, p. 120.

## CHAPTER II

### THE MEDIAEVAL SOLUTION ASSAILED

The first (the individualist) solution to the problem of social order either rejects society altogether or, at least, makes it dependent on the will of the individual. The second (the totalitarian solution) absorbs the individual in society or, at least, makes him wholly subservient to society. The third accepts society and its institutions but for the sake of the happiness of the individual, i.e. orders society so as to restrict individual operations only in particular things for more happiness in the fullness of human life. By the end of the mediaeval period the third solution, or what may, in a way, be called the traditional or mediaeval solution, was being assailed by ascendant modern philosophies. Since the balance of this study is a concentration on what amounts to individualist and totalitarian opposition to this third solution, what this mediaeval solution was, in its best expression, merits some special attention.

Characteristic of the position of St. Thomas Aquinas, its best exponent, is the rationality of man's nature along with the dominating importance of purpose, or final cause. As man is rational, he has intellect and will. He can conceive ends intellectually and seek orderly arrangement of

means to ends. So, too, can man see his final purpose in life and thus order his acts as means to this summum bonum, the highest being, the first truth, God. Man acts thus by his nature and the law of his nature, for his principle of operation fundamentally is his nature. And the natural law by which he acts is a participation in him of the Eternal Law. What his nature requires, this law requires.

In contrast to Hobbes and Spinoza, Thomism denies that man is made to live in isolation and to enter into relationships with other men only when "the other" can be a means to his own happiness. In contrast to Locke and Rousseau, it denies that man is made to live in a mere communal way without organization. Nor could it agree with positivists like Willoughby who would speak of the ends of the State and not "the end" of the State. It holds that man is made to live in some organized institution, called a political society whose end is the Common Good. This society may be called the "State" as being the organized collectivity of which government is a part and an organ of operation. The institution of the State is based on the prior institution of the community, i.e. on the psychological unity of the organized collectivity. Thus in Scholastic thought the establishment of a State by force or conquest is generally wrong. The community itself is made up of families, which are not merely biological in their finality, but social, i.e. psychological

and moral entities. The family is an institution (a structural thing) required by human nature and not merely the product of evolution. Its end (as distinct from the end of marriage) is the common good, the sum-total of material and spiritual conditions in which the individual member can — if he personally responds — develop his potentialities.

But underlying this is the argument that man by his essence as a rational animal is a social creature made for society, whether familial, civil or otherwise. There are three reasons in this argument: the aptitude, the tendency and the necessity that man has for social communion. If society is a rational, organized union of members deliberately seeking the common good in cooperative action, what aptitude, or natural equipment, does man possess for such social living? He has a rational fitness in his faculties of hearing and speech. Long ago, Aristotle pointed to man as the only animal endowed by nature with the gift of speech. Unlike brute animals who have only the power of voice (indicative merely of pleasure or pain), man by his super-vocal power of speech has something essentially higher; he sets forth the just and unjust. It is characteristic of man that 'he alone has any sense of good and evil' and the like<sup>1</sup>:

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<sup>1</sup> Aristotle, Politics, McKeon, p. 1129.

"The association of living beings who have this sense makes a family and a state". St. Thomas<sup>2</sup> notes that "one man alone could not discover everything for himself" and must join in a team-like effort "in order that each may help one another and different men be reasonably engaged in different jobs, one in medicine, another in this, another in that". But the reason for this is the relevant thing here, as St. Thomas adds:

This is quite clear from the fact that it is peculiar to man to use language, whereby he can adequately disclose his thoughts to another. Other animals may give expression among themselves to their common emotions, a dog by barking and other animals by various other means. Man, however, is more communicative, even more so than the gregarious animals, such as cranes, ants, and bees. In view of this fact, Solomon (in Eccl. 4, 9) says: "It is better that there be two than one; for they enjoy mutual gain in their companionship"<sup>3</sup>.

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<sup>2</sup> St. Thomas, *De Regimine Principum*, l. I, Parma, Bourke, Vol. XVI, p. 225. "Non est autem possibile quod unus homo ad omnia hujusmodi per suam rationem pertingat. Est igitur necessarium homini quod in multitudine vivat, ut unus ab alio adjuvetur, et diversi diversis inveniendis per rationem occuparentur, unus in medicina, alius in hoc, alius in alio."

<sup>3</sup> *Ibidem*. "Hoc etiam evidentissime declaratur per hoc quod est proprium hominis locutione uti, per quam unus homo aliis suum conceptum totaliter potest exprimere. Alia quidem animalia exprimunt mutuo passiones suas in comuni, ut canis in latratu iram, et alia animalia passiones suas diversis modis. Magis igitur homo est communicativus alteri quam quodcumque aliud animal quod gregale videtur, ut grus, formica et apis. Hoc ergo considerans Salomon in Ecclesiastico 4, 9, ait: 'Melius est esse duos quam unum: habent enim emolumentum mutuae societatis.'"

Besides man's aptitude for society is his actual proclivity for it. This natural tendency is evident from the fact that men normally harbour an abhorrence for solitude. What is more obvious than that men spontaneously seek the company of others? They aim to share their joys. In sadness they welcome sympathy and commiseration. Along this line, moreover, man has actually a natural necessity for living in society:

First, in regard to the necessities without which life cannot be lived, he is helped along by the domestic group. He depends on his parents for his birth, nourishment, and upbringing. Every member of the family helps each other. Secondly, in regard to the conveniences without which life cannot be lived well, he is aided by the civil society, not only for material advantage, insofar as the State provides public services beyond the means of one household, but also for moral benefit, insofar as public authority can restrain young originals where mere paternal correction fails<sup>4</sup>.

Not only as an infant does the human person have an absolute need for the assistance of others but also as an adult. The important matter of intellectual and moral and also aesthetic development requires a regular communication of person and ideas among men. Clearly, this essential exchange could not flourish except in society, or in a well organized union.

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<sup>4</sup> St. Thomas, Commentaria in X Libros Ethicorum, I, I, Parma, Bourke, Vol. XXI, p. 2.

Again, when St. Thomas compares brute animals with men, he argues from nature and an essential difference. Nature does not provide food or other natural means for men as she does for brute animals:

Man's natural needs declare this dependence. Nature provides food for other animals, hairy covering, instruments of defense, teeth, feelers and claws, or at least speed of flight. With man, however, it is an altogether different case. Instead, he is endowed with reason whereby he himself is able to fashion all these aids<sup>5</sup>.

The rational division of labour is important in St. Thomas' argument and is based on human nature and man as he is. It is impossible for the powers and resources of any one man to provide for the things that are necessary for himself. The fullness of life essential for himself is quite beyond his single individual capacities. Thus it is necessary according to his nature, that he dwell in the companionship of his fellow men<sup>6</sup>. St. Thomas observes:

Moreover, in other animals there is an innate ingenuity in regard to what is useful or harmful; the sheep instinctively detects that the wolf is a menace. Other animals are likewise able to sense the value of certain medicinal herbs and other things necessary for their life. But man's natural knowledge about these things needful for his life is only a general knowledge, for he has to work through reasoning from universal principles to learn of his vital needs in this or that particular instance<sup>7</sup>.

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<sup>5</sup> St. Thomas, De Regimine Principum, I, I, parva, Bourke, Vol. XVI, p. 225.

<sup>6</sup> Ibidem.

<sup>7</sup> Ibidem.

Thus one solitary man cannot find out and learn everything for himself. In his quest for the good things of life, and so for happiness, a man lives in constant exigency for other men and their services. Social life, therefore, is necessary from man's very nature.

It should be noted that this argument does not prove that every individual man must live in society. It proves only that, in general, society is essential to man. Nor does it hold that a solitary life like that of a recluse or hermit, is intrinsically evil. Unnatural and against nature, of course, is a life of solitude assumed out of hatred for men. This obviously is against the natural law. But not every sort of solitary living is to be eschewed, especially if it is for a higher good, or for supernatural motive. But, in general, this is not the normal way of life for men. Aristotle's insight here is revealed at the beginning of the Politics when he says that such a life apart from society is that of either "a bad man or above humanity", i.e. either below or above the human norm.

Not only is man naturally social for these reasons but conjugal society issuing forth into that of the family is the most natural, though not the most perfect, of the societies for which man by nature is fitted. That conjugal society in particular is natural had been clearly brought out by Aristotle in his Nicomachean Ethics:

Between man and wife friendship seems to exist by nature; for man is naturally inclined to form couples — even more than to form cities, inasmuch as the household is earlier and more necessary than the city, and reproduction is more common to man with the animals. With the other animals the union extends only to this point, but human beings live together not only for the sake of reproduction but also for the various purposes of life; for from the start the functions are divided, and those of man and woman are different; so they help each other by throwing their peculiar gifts into the common stock<sup>8</sup>.

He adds that this friendship may be based also on virtue insofar as the parties are good, while the fruit of this union is a natural bond:

For each has its own virtue and they will delight in the fact. And children seem to be a bond of union ... for children are a good common to both and what is common holds them together<sup>9</sup>.

In the Summa Theologica St. Thomas expands on this theme of marital society as a natural institution:

A thing is said to be natural to which nature inclines, even when free will is the medium bringing it to fruition. Thus acts of virtue and the virtues themselves are called natural.<sup>10</sup>

Thus he argues that matrimony is natural, because natural reason inclines thereto in two ways as follows:

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<sup>8</sup> Aristotle, Nicomachean Ethics, McKeon, p. 1073.

<sup>9</sup> Ibidem.

<sup>10</sup> St. Thomas, Summa Theologica, III, Suppl., q. 41, a. 1, in Opera Omnia, Parma, Bourke, Vol. IV, p. 512.

First, in regard to the principal end of matrimony, viz., the good of the offspring. Nature intends not only the begetting of offspring, but also its development and advancement up to the perfect state of man as man, which is the state of virtue. Therefore, according to the philosopher (Ethics, Bk. 8, C. 11-12), we derive three things from our parents, viz., existence, nourishment, and education. But a child cannot be reared and instructed unless it belong securely to definite parents, and this would not be the case unless there were some bond between the man and a definite woman, and it is this that makes matrimony. Secondly, in regard to the secondary end of matrimony, which is the mutual service that married persons offer to each other in domestic affairs<sup>11</sup>.

Thus here, too, nature is the inculcator of this society of man and woman:

Just as natural reason dictates that men should dwell together, because one man is not self-sufficient in all things related to life, for which reason man is said to tend naturally toward political society, so also among those works needful for human life some befit man, other women<sup>12</sup>.

Understanding conjugal society is essential to understanding the traditional position in regard to civil society. Modern philosophers in opposition to this position affirm that the matter, or the material cause of the state, is not the family so much as the individual. St. Thomas saw nature directing the individual to the family and the family to the state. The consideration of the family as leading to the state is either ignored or denied in modern thought, or at

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<sup>11</sup> Ibidem.

<sup>12</sup> Ibidem.

any rate is not stressed, nor does it bear the emphasis which is found in the traditional stand. Thus eventually the individual man is left alone facing only the State as merely an artificial thing. Plato<sup>13</sup> in his philosophy of the formation of the Republic had hardly put emphasis on the function of the family. For him the filling of economic wants was primary. Against this, Aristotle, though recognizing economic exigencies, sees the State as a natural outgrowth of the family itself:

He who thus considers things in their first growth and origin, whether a state or anything else, will obtain the clearest view of them. In the first place, there must be a union of those who cannot exist without each other; namely, of male and female, that the race may continue...<sup>14</sup>

He argues that "the first thing to arise is the family ... the association established by nature for the supply of men's everyday wants<sup>15</sup>". But when several families are united and the association seeks "something more than the supply of daily needs", the village is formed, a society composed of family members, children and grandchildren and so forth.

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<sup>13</sup> Plato, The Republic, tr. by Benjamin Jowett, with the Jowett Notes and marginalia ... with an introduction by Scott Buchanan, Cleveland, Fine Editions Press, 1946, Book II, p. 66-67.

<sup>14</sup> Aristotle, Politics, McKeeon, p. 1127-1129.

<sup>15</sup> Ibidem.

When several villages are united in a single complete community, large enough to be nearly or quite self-sufficing, the state comes into existence, originating in the bare needs of life, and continuing in existence for the sake of a good life. And therefore, if the earlier forms of society are natural, so is the state...<sup>16</sup>

He adds that "the final cause and end of a thing is the best, and to be self-sufficing is the end and the best", and hence "the state is a creation of nature" and "man is by nature a political animal"<sup>17</sup>.

When St. Thomas says "man is born to belong to a State", he is in basic accord with Aristotle, though for the mediaeval saint the highest end is a supernatural union not merely in a body politic but also in the mystical body of Christ<sup>18</sup>.

The basic argument all along is the natural aptitude, urge and need to live in civil society. Man, the only animal with the gift of speech, can rationally communicate and join with others to cooperate and accomplish the fullness of the good life that all men desire. Satisfaction of human needs and aptitudes is only imperfectly achieved in family life. A fuller realization of human potentialities is

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<sup>16</sup> Ibidem.

<sup>17</sup> Ibidem.

<sup>18</sup> Actually for Aristotle as for Plato there is a totalitarian absorption of the individual in the human city — the body politic.

possible only in a higher society. Otherwise man's temporal happiness suffers, to say nothing of a higher happiness. Reason acting on this condition urges men to form States as a natural and necessary supplement to the insufficiency of the family. The normal family is unable to procure for its own all the things needed for development, whether intellectual, moral, aesthetic or physical. Nor can it alone secure or defend itself against force.

Since the family lacks time and adequate means for its flourish, families get together and help one another and the community is born, producing better conditions for the happiness of the individuals. But this communal cooperation in itself is insufficient. A community can be the natural grounds from which a societal organization comes about by way of reason. The community itself is not organized and as such cannot develop into civil society. This communal cooperation presupposes a thorough goodness and altruism in all men or — in other words — it presupposes that the problem does not exist of reconciling the urge and drive to happiness through individual initiative with the happiness of all. But, as noted earlier, the problem does exist, as indeed Hobbes, Locke and Rousseau saw. Moreover, even if all members of the community were self-renounced, altruistic and always rational, the communal cooperation would be sporadic and disproportionate. Too many people, for example, might want

to make hats or shoes for others and too few grow crops. Or too many may devote themselves to teaching the 3 R's to children and too few to teaching mathematics or philosophy. As the community expands, e.g. from village to city, or from clan to tribe, organization takes hold. A rational analysis of cooperation, i.e. an operation with others toward a common goal ("com-munal operation") reveals that it consists essentially in a division of labour. While a rational division of labour can be achieved through a simple discussion and understanding in a small community when only a very few people are involved, it becomes an impossibility in a large community unless organization is introduced.

Furthermore, the determination of the methods of cooperation cannot always be made in an absolutely rational way. Sound reasons may support one as well as another. The issue becomes a matter of opinion, as e.g. on which side of the street automobile traffic should proceed. In the individual, when a sound practical reasoning leads not to one but to two possible conclusions (i.e. opinions), it is the will that breaks the stalemate. Thus, in a community, there must be a will-act to select one sound method of communal operation over another. In other words, the community sets up an authority and society is born. It is in this sense that the State is natural —: reason requires it. It is not the product of instinct like the gregariousness of certain

irrational animals, bees, ants, storks, as St. Thomas notes. But it is a human (i.e. rational) realization. For rationality is as much of the essence of man as instinct is of the animal. Man then is naturally social because he is naturally rational. His reason tells him that he cannot develop all his potentialities unless he be a member of a society. To serve him society comes into being.

As organized society is set up, it has the common good as its end and the diversified social activity as the means to the end. In any society, and particularly in the State, authority is essential because it is the over-all power effectively relating the means and the end. Where there are many minds and possible opinions aiming at the good, some agreement or decision is indispensable as to the concrete steps that are to be taken as means leading to the common social goal. It is in this decision that the problem of the diversity of social functions is resolved and the division of labour made determining which of the various functions members will do. But authority is more than this. It is not only the power so to direct members of a society to act cooperatively toward the proper social end but it is also power to compel them in this direction. Otherwise the end will not be gained. The functions and ways of cooperation must be fulfilled. Undue self-interest and waywardness must be checked, or society and its members suffer. Thus

against anarchism, Aquinas argues that no society can function without authority. St. Thomas observes that "if by nature men are to live together in society, then there must exist some means whereby the multitude is ruled<sup>19</sup>" and becomes a society governed toward a goal. The reason is quite clear: "wherever there are many individuals living together each seeking what suits his interests, the group as such would disintegrate if there were not therein some power devoted to the care of the common good<sup>20</sup>." He explains nicely:

The body of a man or of any animal would disintegrate if there were no overall ruling force working in the body for the common good of all the members. With this in mind, Solomon (Prov. 11, 14) says, "where there is no governor, the people shall fall apart," and with good reason, for what is private and what is common do not pull the same way. People split up by their private interests and join together by their common interests. Diverse effects are due to diverse causes. There must be then a ruling cause which, in acting above the quest for private goods,<sup>21</sup> moves for action toward the common good of the many.

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<sup>19</sup> St. Thomas, *De Regimine Principum*, I, I, Parma, Bourke, Vol. XVI, p. 225. "Si ergo naturale est homini quod in societate multorum vivat, necesse est in hominibus esse per quod multitudo regatur."

<sup>20</sup> *Ibidem*, p. 225-226. "Multis enim existentibus hominibus, si unoquoque id quod est sibi congruum, providente, multitudo in diversa dispergeretur, nisi etiam esset aliquis de eo quod ad bonum multitudinis pertinet, curam habens..."

<sup>21</sup> *Ibidem*, p. 226. "... sicut et corpus hominis et cujuslibet animalis deflueret, nisi esset aliqua vis regitiva communis in corpore quae ad bonum commune omnium membrorum intenderet. ... Non enim idem est quod proprium et quod commune: secundum propria quidem differunt, secundum autem commune uniantur. Diversorum autem diversae sunt causae. Oportet igitur, praeter id quod movet ad proprium bonum uniuscujusque, esse aliquid quod movet ad bonum commune multorum."

As a society is set up, authority is needed, to order means to the social end. But this need demands law without which such order is not possible. However, if society is rooted in man's nature, so is authority as well as law. Political authority in this context comes immediately and directly from God to men, because man's very nature and being come immediately from the Creator. Hobbes, Locke and Rousseau maintained that this authority comes immediately from men. St. Robert Bellarmine wrote in De Laicis<sup>22</sup> that "political power derives from the natural law, since it does not depend upon the consent of men." It rests ultimately on something objective over and above human will, "for, willing or unwilling, men must be ruled over by some one, unless they wish the human race to perish, which is against a primary instinct of nature<sup>23</sup>." Individual forms of government, aside from authority itself, do not derive specifically from nature or the natural law: "it depends on the consent of the people to decide whether kings, or consuls, or other magistrates are to be established in authority over them<sup>24</sup>" and if there is good reason, "the people can change a kingdom into an

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<sup>22</sup> Robert Bellarmine, De Laicis, or the Treatise on Civil Government, tr. by Kathleen J. Murphy, New York, Fordham University Press, 1929, p. 24-25, 27.

<sup>23</sup> Ibidem.

<sup>24</sup> Ibidem.

aristocracy, or an aristocracy into a democracy, and vice versa...<sup>25</sup> The important point, however, is that authority follows not from man's will but from his nature as Bellarmine notes:

Political power considered in general, not descending in particular to Monarchy, Aristocracy, or Democracy, comes directly from God alone; for this follows of necessity from the nature of man, since that nature comes from Him who made it; besides, this power derives from the natural law...<sup>26</sup>

Francis Suarez was likewise in general agreement with Bellarmine that authority comes directly from God to the people who then transfer or pass it on to the ruler by governmental contract. This contract, unlike the social contract of Hobbes, Locke and Rousseau, only determines the form of government and who the ruler shall be. No one person or persons naturally have authority or political power over others and, as Suarez wrote in Tractatus de Legibus<sup>27</sup>: "If this power does not specifically reside in any definite individual, it must necessarily exist in the community as a whole ... by the sole force of the natural law..."

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<sup>25</sup> Ibidem.

<sup>26</sup> Ibidem.

<sup>27</sup> Francisco Suarez, Tractatus De Legibus et Legislatore Deo, Liber III, Cap. II, especially No. 4, in Opera Omnia, new edition by A. Andre and C. Berton, Paris, Vives, 1856-1878, 28 Vols., Vol. V, p. 180-181.

Society and authority are required by man's rational nature and so by the law of his nature, the natural law. Authority actualizes the function of law which is to direct men to their last end. "Law denotes a kind of plan directing acts towards an end<sup>28</sup>." As man's nature is his principle of action, this nature, or law, directs and steers him to his end, to the good befitting him as a rational being. Every act of reason and will in man is based on that which is according to nature because "every act of reasoning is based on principles that are known naturally<sup>29</sup>", and "every act of appetite in respect of the means is derived from the natural appetite of the last end<sup>30</sup>." Thus "the first direction of our acts to their end must be by way of the natural law<sup>31</sup>." With this, St. Thomas observes that "the last end of human life is happiness or beatitude<sup>32</sup>" and hence "the over-all concern of law must be principally the relationship to happiness ... therefore, the Philosopher speaks of both happiness and the body politic...<sup>33</sup>"

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<sup>28</sup> St. Thomas, *Summa Theologica*, I-II, q. 93, a. 3, Parma, Bourke, Vol. II, p. 340. "Lex importat rationem quamdam directivam actuum ad finem."

<sup>29</sup> *Ibidem*, q. 91, a. 2, ad 2, p. 333-334.

<sup>30</sup> *Ibidem*.

<sup>31</sup> *Ibidem*. "... Prima directio actuum nostrorum ad finem fiat per legem naturalem."

<sup>32</sup> *Ibidem*, q. 90, a. 2, p. 331.

<sup>33</sup> *Ibidem*. "... Necessesse est quod lex proprie respiciat ordinem ad felicitatem communem. Unde et philosophus... mentionem facit de felicitate et comunione politica."

Thus for St. Thomas any particular society set up must be in accord with man's nature and reason. So, too, any act of authority or positive human law<sup>34</sup> deriving from authority must be fundamentally in harmony with reason and conducive to man's end. "All laws, insofar as they partake of right reason, are derived from the eternal law<sup>35</sup>", the eternal reason. Prevalent in positivist thought is the notion that law is basically an imperative, or will, coupled with enforceability. What has become important for many moderns is not so much that a law be something just or "something pertaining to reason" but that it be enforceable. In the Scholastic tradition the question of whether law is enforceable or not is irrelevant or secondary. In his famous "Tract on Law" St. Thomas is emphatic in defining law as radically a rational ordination, "an ordinance of reason for the common good, promulgated by him who has care of the community<sup>36</sup>." He notes too that it is rather a dictate of reason than an imperative<sup>37</sup>: "It belongs to the law to command

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<sup>34</sup> Ibidem, q. 95, a. 1, p. 347.

<sup>35</sup> Ibidem, q. 93, a. 3, p. 340.

<sup>36</sup> Ibidem, q. 90, a. 4, p. 332. "... Quaedam rationis ordinatio ad bonum commune, et ab eo qui curam communitatis habet, promulgata."

<sup>37</sup> Ibidem, q. 90, a. 1, p. 330. "... ad legem pertinet praecipere et prohibere. Sed imperare est rationis... Ergo lex est aliquid rationis."

and to forbid. However, it belongs to reason to command ... Law, therefore, is something that pertains to reason." "The first rule of reason," he insists<sup>38</sup>, "is the law of nature", and every human law has just so much of the nature of law, as it is derived from the law of nature. If in any point it veers away from this natural law, "it is no longer a law but a perversion of law"<sup>39</sup>. Against this stand was raised the voluntaristic objection that "Whatsoever pleaseth the sovereign has force of law". To this, St. Thomas replies:

But in order that the volition of what is commanded may have the nature of law, it needs to be in accord with some rule of reason. And in this way is to be understood the saying that the will of the sovereign has the force of law. Otherwise the sovereign's will would smack of lawlessness rather than of law<sup>40</sup>.

Authority sins against reason in making unjust laws contrary to human good<sup>41</sup>:

Either in regard to the end, as when an authority imposes on his subjects oppressive laws, conducive, not to the common good, but rather to his own cupidity or vainglory; — or in regard to the author, as when a man makes a law that goes beyond the power committed to him; — or in regard to the

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<sup>38</sup> Ibidem, q. 95, a. 2, p. 348.

<sup>39</sup> Ibidem. "si vero in aliquo a lege naturali discordet, jam non erit lex, sed legis corruptio."

<sup>40</sup> Ibidem, q. 90, a. 1, ad 3, p. 331.

<sup>41</sup> Ibidem, q. 96, a. 4, p. 352.

form, as when burdens are imposed unequally on society although with a view to the common good. Such are acts of violence rather than laws; for, as Augustine says in De Lib. Arb. (I,5) a law that is not just, seems to be no law at all.

The common good here is not to be understood as the good of the group as distinct from the members nor as the sum of their private goods, but rather as, at one and the same time, the good of the whole group and of every individual person within it. The common good is a good of the whole and redounds to the advantage of each and every member.

What conclusion from this Scholastic stand can be made in regard to the state-individual relationship? It should be evident that both extreme individualism and extreme institutionalism are out. There can be no absolute independence of the individual from institutions, nor can there be absolute domination of institutions over the individual. Scholastic philosophy, therefore, is opposed to the Marxist eschatological dream of a stateless "Good Society" which would be nothing more than the unorganized pre-societal State or community of Locke and Rousseau. It is also no less opposed to Nazism and Fascism of Hegelian inspiration which absorbs the individual in the State.

The individual needs the State for his happiness. He needs those services which only an organized cooperation can provide. And he would have needed them even if there had not been any original sin. He is now, however, in need

of protection from the perversity of others. In this regard, Hobbes was quite right in pointing out the peril of man's penchant for evil, though he lost sight of man's stronger tendency for the good. Furthermore, the need for cooperation is universal, i.e. it is in each and every member of the collectivity. Society is to serve the members. But members serve the common good that redounds to them. And an individual's "right" to enjoy the fruits of communal operation is founded upon his own contributing (according to his abilities, of course) — not proportionately however — to the common endeavour. That is why the State must establish norms of social behaviour — norms that determine the mode and amount of collaboration expected of each of its members. It is for this reason that "Laissez faire" and "Free enterprise" may never be absolute but only relative. Thus, also the doctrine of extreme, emotional "social welfarists", viz., that every individual can claim "as a right" a certain economic standard of living, is a theory hardly in harmony with Scholastic thought. It is not the end of the State to make all its members happy, but to promote peace and public prosperity, and this is to produce conditions in which the members can achieve a degree and quality of happiness consonant with the degree and quality of the economic, intellectual and moral development of the community itself. In these conditions, the initiative of the individual might be curtailed at a

given time and place, and a certain concrete satisfaction might be refused him. This limitation, however, is more than offset by the sum-total of satisfactions which he enjoys while contributing to the communal operation. And of these satisfactions he would be deprived by his failing to contribute.

Scholastic philosophy, therefore, is institutionalist insofar as it respects institutions (family, community, State and all its subsidiary institutions) and also as it recognizes the power of all institutions to set norms and perform activities for the Common Good, even if these put limits upon individual initiative. It is individualist insofar as it denies any institution the power to act beyond its end: the common good for the family, the community and the State, the particular end for which any subsidiary institution is established. The gist of totalitarianism is the attempt to act over and beyond the proper, institutional purpose of the State. This is at the expense of the individual. The power of the civil institution to curb and constrain the individual is real. It is required by human nature itself. Thus it is rational at bottom, never arbitrary. It does not rest on force but on reason, and, therefore, it is not totalitarian, though it is, at times, authoritarian, i.e. when it chooses between two sound opinions.

The crucial point here is that no institutional system which, in principle or teleologically, is built on

an objective foundation of reason can be totalitarian. No system which is founded on will (and, consequently, force) can escape being arbitrary and, at least, potentially totalitarian.

The State or its ruling head, therefore, cannot justly be arbitrary. It may not be arbitrary and thus prospectively totalitarian. For it is subject in every one of its actions to a higher law, the eternal law, which is known naturally in the natural moral law. This natural law intrinsic to the rational creature's nature tells him that he is to do what is good and avoid what is evil and that as a person and rational being he is to seek his last end by good human acts as the means to his final goal. Otherwise he cannot attain the happiness that he craves, viz., the completion of his being. A man in every one of his actions seeks the good, real or apparent, and thus is always in quest of either the Prime Good or created good which is somehow a reflection or participation of God, the Prime Good. The necessity that a man has for having to gain his final goal is the essence of obligation which he has first, therefore, to God. His human acts have this relation of necessity to an end he must attain for his perfection, though, physically, if not morally, he is free to flout this obligatory necessity. But if he has such an obligation, or duty, then certainly he has a right to fulfill this duty. If he has inalienable rights by

his nature to use things that reasonably lead him to this end, other men have correlative duties to respect his rights. The virtue of justice regulates this correlation and balance whereby one man gives to another what is due another. Rights and duties are rooted in the law of man's nature in relation to his end and are understood only in a context of man as naturally a rational and social being.

With this, moreover, let it be known that an arithmetic equalitarianism (making each man quantitatively one, rather as a number than as a person), as prevails in modern thought, was wholly alien to the Christian philosophy — unless by equalitarianism is meant that each, as a person of the species, is essentially equal to the others. This personal equalitarianism is in accord with Aquinas.

But that there was a natural law radiating from a principle transcending earthly power and binding without exception on all, whether pope, people or political powers, was the firm conviction of the mediaeval mind, as Otto Gierke says: "Neither statute nor act of government, neither resolution of the people nor custom could break the bounds that thus were set<sup>42</sup>." For men of the Middle Ages this law

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<sup>42</sup> Otto Gierke, Political Theories of the Middle Age, tr. with an Introduction by Frederick William Maitland, Cambridge, Cambridge University Press, 1927, p. 75.

was primarily objective, and distinct from human will, as Walter Lippmann notes:

It was not something decided upon by certain men and then proclaimed by them. It was not someone's fancy, someone's prejudice, someone's wish or rationalization, a psychological experience and no more. It is there objectively, not subjectively. It can be discovered. It has to be obeyed<sup>43</sup>.

It was the attack of individualism upon the reality (its intelligibility or fittingness, or value) of this heritage that has spelled the totalitarian peril. "The totalitarian tendency has always been present and logically implied in the modern revolutionary movement<sup>44</sup>." As Michael Polanyi writes in his Logic of Liberty, "the totalitarian form of the

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<sup>43</sup> Walter Lippmann, Essays in the Public Philosophy, New York, a Mentor Book, by arrangement with Little, Brown and Co., 1956, p. 133. In his analysis of the liberal democracies, Lippmann wrote that "the public philosophy is in a large measure intellectually discredited among contemporary men" (p. 136-137) in the Western world. "Modern men, to whom the argument is addressed, have a low capacity to believe in the invisible, the intangible, and the imponderable." "The modern trouble is in a low capacity to believe in precepts which restrict and restrain private interests and desire. Conviction of the need of these restraints is difficult to restore once it has been radically impaired" (p. 137). "There is no public criterion of the true and the false, of the right and the wrong, beyond that which the preponderant mass of voters, consumers, readers, and listeners happen at the moment to be supposed to want." (p. 39) Despite the "growing incapacity of the large majority of the democratic peoples to believe in intangible realities" (p. 49), "modern men will first need to be convinced that the traditions of civility were not abandoned because they became antiquated. This is one of the roots of their unbelief and there is no denying its depth" (p. 80) Italics are ours.

<sup>44</sup> Ibidem, p. 67.

State arises logically from the denial of reality to this realm of transcendent ideas<sup>45</sup>". He explains:

The general foundations of coherence and freedom in society may be regarded as secure to the extent to which men uphold their belief in the reality of truth, justice, charity and tolerance, and accept dedication to the service of these realities.

And society may be expected to fall apart into servitude "when men deny, explain away, or simply disregard these realities and transcendent obligations," "... then the State becomes, of necessity, inheritor to all ultimate devotion of men<sup>46</sup>". If there is no truth, real or absolute, then the political will shall decide what is to be called the truth.

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<sup>45</sup> Michael Polanyi, The Logic of Liberty Reflections and Rejoinders, Chicago, The University of Chicago Press, 1951, p. 47.

<sup>46</sup> Ibidem.

## CHAPTER III

### THE CONUNDRUM OF THE UNSOCIAL SOCIETAL MAN

This chapter concerns individualism in general. The next four chapters concern individualism in particular, first, Hobbes in two chapters, then Rousseau in two. Man may be said to be societal because he is always actually in a society, and historically, or as far as we know, has always been in society. He may be said to be unsocial, in line of individualism, insofar as he is not naturally a social being. This is the conundrum: naturally unsocial man always factually in society — or why, if man is not social by nature, is he perennially in society? If, in other words, man is not made for society, how is society or his presence in it explained? As the modern philosophy of individualism faces the problem of social order, it wrestles with the question: how can anyone disagree with the tradition that man is naturally social and still want social order? The answer centers around the social contract theory which became fundamental in modern thought after the sixteenth century. Why did this theory assume such importance at this time? For, after all, the notion of contract had been accepted in the middle ages. Actually what was new in the seventeenth century was the social contract, the first chief exponent of which was

Hobbes, and, perhaps, its best known, Rousseau. Why it arose and what it entailed are here of primary concern.

Individualism is either an attitude or a kind of philosophy. It is as a social philosophy that it rejects the Scholastic thesis that man is by nature social. But, like all departures from a universally accepted, traditional philosophy, individualism appeared in time as an attitude, sporadic at first, then spreading with increasing momentum until its effects on social order called forth a systematic rationalisation — a philosophy — which entered into conflict with the traditional Scholastic doctrine of the natural socialitas of man.

As an attitude, individualism per se is not actually an open revolt, although it generates a spirit of opposition to things social insofar as they check the free play of self-interest. It is a preference of the individual for himself over the established social order. It is an opposition to social institutions and a protest against them whenever they claim to regulate and curb individual initiative. For in general an institution is a thing founded to define and regulate the relations of men with one another. Though individualism has not opposed all institutions in modern times, it did revolt against certain structural ones, like the Church, government by Divine Right, or Mercantilism, i.e. insofar as they restrict the individual and are enforced by means of

various kinds of sanctions beyond individual controls. The modal institutions, like law which are not themselves structures or systems of relationships, only impart certain modes to the operation of the structural institution and, if useful, are accepted by the followers of individualism. Hobbes, Locke, and Rousseau logically posit the pre-existence of a state of nature, but they accept society, authority, and law as necessary -- not of an essential, but of an existential necessity.

Historically, individualism as an attitude was not an open, grave political issue until it became at some given time a general, actual protest against the restrictions of institutions. Individualism, however, nurtures at all times at least a spirit of hostility. Ancient individualists, unlike the moderns, registered their protest against the restrictions of institutions by simply removing themselves from active social circulation. Modern individualism in its preference for the individual is not only the usual protest against institutions and their restrictions upon individuals, but it is also a protest that builds up, spreads and nourishes itself on the prospect that only some real and practical revolt will assure the achievement of its goal. A rationalization to justify its position comes to the fore. This is modern individualism as a philosophy, an instrument designed to sponsor and promote the spirit of actual protest

against factual conditions. The key clarion cry in the philosophy of modern individualism was to be individual rights. Its motive was self-interest; its principle, egocentrism; its method, a utilitarian sort of practical reason.

The general conditions of life in the late middle ages were particularly ripe for real opposition owing especially to the mediaeval over-emphasis on social life, or the hypersocialization of human activity. In matters of government, the condition stemmed from the feudal system itself, although this was actually more a social than a political system. The hypersocialization in religion did not grow out of political disputes so much as from the difficulty of training the barbarians in the Christian ethics of self-renouncement, of contempt for worldly goods for the sake of eternal beatitude. The mediaeval population, moreover, was not divided into the economic classes of rich, poor and middle class. Rather was it spread among many social strata determined by birth, and it was scarcely possible for an individual man to raise himself to a higher level through his own initiative. He could be raised up (e.g. be knighted) by a superior. He could withdraw altogether from the social order: by entering a religious order, or by taking to the road as, e.g. an itinerant peddler or by simply living of expedients. In both cases he was a social outcaste, though not necessarily held in contempt. In any social order there

are only three ways in which a man may conceivably rise above the level of his birth: force, if he can master a sufficient number of partisans to support him; science or the arts, if he can avail himself of an opportunity for self-development in those lines; or industry and the rewards of industry, i.e. property. None of these means was available in the Middle Ages: not force, except among the superior strata of feudal lords; not science or the arts, because education was the privilege of a very few, mostly clergy; nor property, not only because money was in scarce supply but because, outside of feudal lands, property had no standing, and this was due mostly to the teaching of the Church. Thus social institutions all co-operated in "keeping a man in his place". By the beginning of the fourteenth century, certain philosophers attempted to break down this over-institutionalized way of life: Marsiglio of Padua, who was more especially an instance of individualism expressed in strains of secularism, and William of Ockham, an example of a spiritual individualism.

The Defensor Pacis of Marsiglio spear-headed the movement of revolt against the authoritarian institutions of Church and Emperor. It did not take sides but made all authority dependent on the will of the people. To do so, it secularized politics and the political problem at a time when these were universally approached with reference to God. Hence it had little influence in its time. It virtually

reduced the Church to a mere organ of the political body in which authority was held only by a concession or mandate of the popular will affirmed in a general council. It stressed positive human law as practically independent from natural law and eternal law:

The legislator, or the primary and proper efficient cause of the law, is the people or the whole body of citizens, or the weightier part of it, commanding and deciding by its own choice or will in a general assembly of the citizens<sup>1</sup>.

For Ockam, who follows the voluntarism of Scotus, law is exclusively will without reason or foundation in the real order. The Ockamist School by its nominalism cuts off the individual man and his intellect from the order of existing things and leaves his will alone and independent in the forefront. With this is established a disposition to favour the individual as against society. As spokesman for the Franciscan "Spirituals" and exponent, like Marsiglio, of a conciliar theory, Ockam upheld an anti-clerical individualism for spiritual reasons. On Scriptural and ecclesiastical grounds he opposed the power of the papal hierarchy.

The attitude of individualism gradually becomes real protest as conditions favour it and it exploits them. The traditional Christian stress upon the importance of the

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<sup>1</sup> Marsilius of Padua, The Defensor Pacis, by C. G. Previté-Orton, Cambridge, at the University Press, 1928, I, xii, 3, p. 49.

individual person was apparently a distinctive factor in the modern modification of individualism. By no means a cause of individualism, the Christian doctrine here was a ready occasion wide open for distortion. This teaching of the value of the person, though not a cause, was, while abused, a kind of mangled meat for the machine of individualism. The abuse favoured enactment of an attitude of individualism into a factual force when opportunity came, especially in and after the economic revolutions of the fourteenth century with the communes seeking freedom, and widespread trading or exchange of money and goods, the rise of crime, the appearance of the entrepreneur, particularly in ship-building and maritime ventures. Seldom if ever before were opportunities so rife for individual initiative.

The reaction against mediaeval hypersocialization had set in against the feudal system, its social and political structure, against the organized Church and its philosophy, and reached its first great success in the Protestant Revolt a few centuries later when, so it is alleged, democracy was born and the spirit of "individual rights" came into its own. This individualism in the modern world certainly differentiates itself from ancient individualism. Quite in contrast is it to Greek Athenian Democracy where not only was the idea of "individual rights" unknown but where society was built rather upon a conception of duties as fundamental. Moreover,

modern individualists are also at variance with the ancient Greeks like the Cynics and Epicureans, in that these ancients in their protest against social institutions settled for "withdrawal" from society and public interests but scarcely for a concrete revolt. Hobbes, Locke, and Rousseau did not even advocate such a withdrawal. Epicurus of old declared:

when tolerable security against our fellow-men is attained, then, on a basis of power sufficient to afford support and of material prosperity, arises in most genuine form the security of a quiet private life withdrawn from the multitude<sup>2</sup>.

The rise of the social contract in the seventeenth century can be seen historically and in an internal logic all its own. During the Middle Ages the Church was a kind of social dam, a potent force curbing the spread of political absolutism. That emperors and kings had obligations to God and people was drummed into their minds by the Church. But when in the sixteenth century the Church had suffered a loss of considerable social influence, political absolutism thrived.

The popular reaction to this was a concerted rebirth of contractual concepts of government. It was a reaction both Catholic and non-Catholic, depending on who, and whose religion was the oppressed. It held that authority comes to the ruler indirectly, by contract, and resides primarily in

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<sup>2</sup> Epicurus, Jovran Maxims, No. 14, op. cit., p. 669.

the people who have right of resistance if a ruler breaks the contract. In this clash between people and political ruler, the stalemated question of consent to law or what in fact was the law gave way to the wider issue of authority—: If there is no agreement on the law, who then has the authority to make and enforce the law? To solve the question of authority was to solve the question of law and consent thereto. A considerable number of works promoting the idea of "governmental contract" had appeared before with more or less success against kings. But at this time, after the Revolt, many writings like the famous Vindiciae Contra Tyrannos and those of Bellarmine and Suarez were put out to meet the needs of the hour. The result was the creation of a whole climate of contractualism which only needed to be secularized or naturalized to give rise to the "social" contract. It was the distinction of Bellarmine and Suarez to have treated the problem, neither theologically as did the Vindiciae, nor in a secularistic way, but philosophically, upholding governmental contract without in any way resorting to social contract.

There was at the same time, of course, a reaction of certain rulers against this popular movement. In the wake of the Protestant Revolt, Europe was overrun with powerful princes, freed from Imperial authority by the religious wars and from the Church by recognition of the new principle of

"cujus regio ejus religio" — confirmed at Augsburg in 1555 and Westphalia in 1648. Once liberated from the over-all unity of Christendom, the spreading rash of kings and political princes practising the new principle of political absolutism in their respective localities, or States, met strong opposition in areas of contrary persuasions. The reaction of these rulers was to contain and crush the anti-royalist movement. In Germany, absolutism became so solidly established that rulers had but a minor problem with religious dissidents. But in England and France the problem was often acute. Since opposition to their power came from religious groups, a tool to which the troubled rulers eventually resorted in this situation was the theory of the Divine Right of Kings. This theory held that authority comes directly from God to the actual ruler to whom exclusive obedience is due and against whom active resistance is forbidden to the subjects. The theory in general had served emperors and kings in their struggle against the Papacy, but now, in the sixteenth century and after, it was no longer directed against the Church but against the popular movements that arose in religious opposition to the religion established by rulers in their States. In England, the theory was also used by the Stuarts in their struggle against Parliament.

The Vindiciae Contra Tyrannos, an influential work of theological tone, generally attributed to the Huguenot

Duplessis-Mornay, was published in 1579 in opposition to the repressive effect that royal power had upon subjects. Here the king is bound by a double contract<sup>3</sup>; with God, on the one hand, and with his subjects, on the other. If the king fails in his covenant with God, his subjects have reason for refusing to obey him, lest their obedience to him be an affront to God. "The people ask the king, whether he will govern justly and according to the laws. He promises he will ... serve God religiously" and "govern uprightly"<sup>4</sup>. Whereupon the people agree that so long as he rules the people justly, they will obey faithfully. "The king therefore promises simply and absolutely," but the people agree and contract only "upon condition" that the king be just, otherwise the contract between him and the people is null and void — "the people rest, according to equity and reason, quit from their promise"<sup>5</sup>. As for the laws, the king does not make them so much as that he is quite subject to them and "receives the laws from the people as well as the crown..."<sup>6</sup> His "chieftest

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<sup>3</sup> A Defense of Liberty against Tyrants, a translation of the Vindiciae Contra Tyrannos by Junius Brutus with an historical introduction by Harold J. Laski, London, E. Bell and Sons, Ltd., 1921, p. 71.

<sup>4</sup> Vindiciae Contra Tyrannos, Laski, p. 175, 118.

<sup>5</sup> Ibidem.

<sup>6</sup> Ibidem, p. 149.

glory" is "to keep and maintain them"<sup>7</sup>. For "kings have been ever established by the people..."<sup>8</sup> When the people give up their individual "privilege of nature" to let a political prince command them, they do not consent except "for some special and great profit that they expected from it", their own interests, "for every man loves and cherishes his own." The religious character of the Vindiciae stamps it as more mediaeval than modern but, once secularized and despiritualized, its doctrines could suggest much that would fit well in modern thought.

Outstanding among the Divine-Right kings, on the other side, was James I of England whose motto was: "a Deo rex, a rege lex" — "the king is from God, the law from the king". The only true interpretation of the law, he says, is that which accords "with my common sense and reason, and true Logicke..."<sup>9</sup> "Kings sit in the Throne of God ... thence all Judgment is derived"<sup>10</sup>. "Kings are justly called Gods"<sup>11</sup> and

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<sup>7</sup> Ibidem.

<sup>8</sup> Ibidem, p. 139-140.

<sup>9</sup> King James I, "A Speech in the Starre-Chamber", June 20, 1616, in The Political Works of James I, reprinted from the edition of 1616, with an introduction by Charles Howard McIlwain, Cambridge, Harvard University Press, 1918 (Harvard Political Classics, Vol. I), p. 332.

<sup>10</sup> Ibidem, p. 326, 327.

<sup>11</sup> Ibidem, "Speech of 1609", March 21, p. 307-308.

are accountable to no one. Like God "they have power to exalt low things, and abase high things, and make of their subjects like men at the Chesse." Similarly, Sir Robert Filmer wrote: "the king ought to exercise power as the vicar or minister of God"<sup>12</sup>. Kings are exempt from the laws: "Now albeit kings who make the laws be, as King James teacheth us, above the laws, yet will they rule their subjects by the law..."<sup>13</sup> Filmer asserts that "there were kings long before there were any laws" and that this is "a proof unanswerable for the superiority of princes above laws..."<sup>14</sup>

Throughout this ruler-people conflict, there was a deadlock not only upon the laws but also upon the authority to make and enforce laws. When this issue of authoritative social power went unsettled, there arose the still wider question —: what is the origin of society itself? To solve this question was to solve that of authority as well as that of law. It was at this crucial point that the climate of (governmental) contractualism was ripe and ready for

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<sup>12</sup> Sir Robert Filmer, Patriarcha or the Natural Power of Kings, in John Locke, Two Treatises of Government, with a Supplement, Patriarcha by Robert Filmer, ed. with an Introduction by Thomas I. Cook, New York, Hafner Publishing Co., 1947, Chapter III, p. 293.

<sup>13</sup> Ibidem, p. 287.

<sup>14</sup> Ibidem, p. 282, 281.

secularization and the rise of the social contract — as was detectable in Bodin and Althusius who taught that civil society is natural to man only in a derivative way. The origin of society would be removed from man's rational nature to his will — from God, the mediaeval author of man's rational, social nature, to man himself and his individual appetitive power. Contract then would still be very much a part of the picture but it would be less a governmental than a social contract, i.e. a contract into society itself. Society itself then authored exclusively or purely by man himself would originate authority and the laws for social operation. If society is not rooted in man's nature, then neither is authority or human law. If the individual man is the exclusive author of society, then he has authoritative power, or right, to make laws. The answer to the problem was an anthropocentric one. In this rationalization was the key to breaking the back of Divine-Right kingship as well as registering a vote against things smacking of mediaeval hypersocialization. But it would mean that all human problems must be viewed according to, and solved by, purely temporal norms. Individualism was becoming secularized.

The push toward royal absolutism could not be stopped, apparently, except by marshalling against it some form of contractualism. The question of authority which was central in the governmental contract was swallowed up in the broader

issue of the homocentric social contract. The prospect was to break the closed communication line between God and king, and, by relegating God away from the political picture, to remove the ground from under the king's very feet and to shake out the very core of the Divine-Right theory, thereby leaving it powerless or limited before popular will. If the king by his sole autonomous power to make and enforce laws held society, as it were, in the palm of his divine hand, how else — for purposes of rationalization — could this autocratic power be broken except by positing that the subjects are not in society by nature but only by art, viz., by an artificial act of their own will? Or, that, exclusively by agreement in compact, they find themselves entering society, and that they thus create society and consequently the sovereign social power? Would it not then follow, that they, the subjects, and not the king, would henceforth hold society (as also this sovereignty) in the palm of their hands? And would not they (or their will) not the King (or his will) be the prime positive source of the laws? Clearly this homocentric turn would mean that God is no longer at all the author of the social man or the ultimate source of law. The reaction against Divine Right, however, was not so much to deny that God is the author of society and the social man, though it actually had this effect. The only way to break the autocratic God-king relation was apparently to separate Divine-

Right authority from God by separating the source of human society completely from God.

Bellarmino and Suarez in their famous attacks on the injustice of Divine-Right rulers applied the thought of St. Thomas to the new modern situation of rising nation-states. Never denying man's essential sociability, they held that, by governmental, not social contract, unjust rulers, under certain conditions, could be justly deposed by force, because authority, having come immediately from God to the people, resides primarily in the whole people who merely transfer or pass it on by contract to the actual ruler or ruling body.

The movements of voluntarism, nominalism and secularism, from the time of Marsiglio and Occam, through Bodin and Grotius, all converge in the sixteenth and seventeenth centuries with the movement of contractualism. The focal point is the Revolt itself. Among the favourable conditions were the new freedom itself, rising commerce and nationalism, an ever-growing desire for social order, disgust with religious quarrels. The result was well-nigh a rout against the old order: a confirmation of individualism and the concept of social contract. The new ground was being readied for the work of men like Hobbes, Spinoza, Locke, and Rousseau. Jean Bodin, a Politique and guardian of ascendant French nationalism, viewed authority chiefly in terms of an "absolute and perpetual" sovereign power to make laws, such that the

sovereign will is the root of law. This sovereignty for him was to be subject to the law of nature, but already this was nature more in terms of convention, the constitution of a people, their national customs or institutions. Such things in France comprise natural law for Frenchmen since these are ways that develop naturally there. In Mediaeval Political Ideas Ewart Lewis<sup>15</sup> wrote that Bodin sees "the free making and unmaking of law rather than its enforcement as the prime characteristic of government." But even more significant along this line is the fact that with Bodin the trend was being set toward the making rather than the judging of laws. It would become modern to make law, while it was mediaeval to judge law as already something fundamentally and objectively in existence — i.e. something in being, not something to come-to-be. In the Middle Ages men did not so much inquire into the origin of society as that they knew it came with human nature itself whose author is God. Nor did they speak so much of natural law as of that of God and things theological. But, if they did, they saw this law as a participation of eternal law, but still natural as rooted intrinsically in the nature of the being. But in the modern age, concomitant with secularization, there would loom a proportionate rise in

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<sup>15</sup> Ewart Lewis, Mediaeval Political Ideas, 2 vols., New York, Alfred A. Knopf, 1954, Vol. 1, p. 31.

the importance of laws, particularly positive laws, constitutions and parliamentary bodies and also positive declarations or bills of rights to make up artificially for the loss of natural moral law.

Also an indicative servant of the new order was Hugo Grotius who suggested that even if there were no God there would still be a natural law along with all that it entails:

And what we have said would still have great weight, even if we were to grant, what we cannot grant without wickedness, that there is no God, or that he bestows no regard on human affairs<sup>16</sup>.

The suggestion, although mild, is very significant. In this way, society and natural law come more and more to be explained by themselves alone as apart from God. Thus Hobbes would write that what a man does by nature, i.e. in the state of nature, "is injurious to no man...; for injustice against men presupposeth human laws, such as in the state of nature there are none<sup>17</sup>." Similarly Spinoza said that this condition "must by no means be confounded with a state of religion, but must be conceived as without either religion or law, and consequently without sin or wrong<sup>18</sup>."

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<sup>16</sup> Hugo Grotius, On the Rights of War and Peace, an abridged translation by William Whewell, Cambridge, at the University Press, 1853, "Preliminary Remarks", sec. 11, p. xxvi.

<sup>17</sup> De Cive, p. 27.

<sup>18</sup> Spinoza, Theologico-Political Treatise, Elwes, p. 210.

This is individualism. The Protestant Revolt was the protest of individualism, "a fundamental revolution and break with a still vital past", as George Santayana<sup>19</sup> sees it, an attempt to reverse "the first principles of traditional authority." "... Nothing could have been more militant, since a direct appeal was allowed to primal will, in each individual, nation, or government, to decide every issue." And though appeal was made from "one authority to another," from Pope to Prince, or Church to the Bible, or to science or the heart, "only in extremities, or after centuries of dilapidation, did the free spirit perceive that it was denying all authority<sup>20</sup>." In the transition to modern times "the State was no longer derived from the divinely ordained harmony of the universal whole... it was simply explained by itself...<sup>21</sup> with this, it is the opinion of Otto Gierke that "the intellectual force which finally dissolved the mediaeval view of the nature of human groups was the Law of Nature<sup>22</sup>." But it

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<sup>19</sup> George Santayana, Dominations and Powers Reflections on Liberty Society and Government, New York, Charles Scribner's Sons, 1951, p. 316-317.

<sup>20</sup> Ibidem.

<sup>21</sup> Otto Gierke, Natural Law and the Theory of Society, 1500 to 1800, with a Lecture on the Ideas of Natural Law and Humanity, by Ernest Troeltsch, tr. with an introduction by Ernest Barker, 2 vols., Cambridge, at the University Press, 1934, Vol. I, p. 40.

<sup>22</sup> Ibidem, p. 35.

must be stressed that the dissolving force was not so much natural law as the concerted emphasis upon it as wholly apart from a transcendent-immanent eternal law. Nor was it even so much a question of law or even authority so much as society and man secularized, despiritualized, derationalized.

As the new ground was ready, how would approach to the problem of social order be made and the "new natural order" set up? The practical question facing the philosophy of individualism was: how can anyone protest that man is naturally social and still want or hope to get social harmony? The puzzle to be solved was that of naturally unsocial men always actually living in society. But then if man is not naturally social, he must have lived in a non-societal state which, after the sixteenth century, came to be known as the state of nature — a purely logical consequence of the philosophy of individualism. Actually the state of nature as such is relatively unimportant. It is only a "logical" prerequisite to the social contract. The transition from this non-societal state to society is by social contract. Thus individualism gives rise to a social contract, but then social contract demands a state of nature, a condition of absolute freedom and equality.

Social contract logically demands freedom and equality because no contract is concluded unless the contracting parties are free to enter into it. And no contract is

concluded unless the contracting parties are equal at least with reference to the object of the contract and since the object of the social contract will be all or any individual rights, the equality must be absolute. The absolute society-forming contract simply requires this state of absolute individualism, absolute freedom and equality, and this state is the state of nature. A universal contract of do ut des which establishes society as the fruit of individual wills presupposes logically the universal condition of such liberty as well as of equality.

Hobbes wrote in De Cive <sup>23</sup> that "in all free gifts and compacts, there is an acceptance ... no man can compact with him who doth not declare his acceptance." The reason, he added, is that "covenants are made of such things only as fall under our deliberation, for it can be no covenant without the will of the contractor..." And, as Hobbes said in the Leviathan, contracts concern only things that are to come

The matter, or subject of a covenant, is always something that falleth under deliberation; for to covenant is an act of the will ... and is always understood to be something to come<sup>24</sup>.

John Locke points out that "to understand political power aright, and derive it from its original, we must consider

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<sup>23</sup> De Cive, p. 37-38.

<sup>24</sup> Leviathan, p. 69-70.

what state all men are naturally in, and that is a state of perfect freedom..." This freedom is necessary "to order their actions and dispose of their possessions and persons as they think fit ... without asking leave, or depending upon the will of any other man." He noted next the need for equality, though his favour always fell to the libertarian side:

A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another; there being nothing more evident than that creatures of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same facilities, should also be equal one amongst another without subordination or subjection...<sup>25</sup>

The same basic need for equality had been affirmed by Hobbes:

They are equals who can do equal things one against the other; but they who can do the greatest things, (namely, kill) can do equal things. All men therefore among themselves are by nature equal<sup>26</sup>.

Hobbes argued that even a physically weak man has an equality with a strong man in that by craft and cunning the former can overcome the latter<sup>27</sup>. It is true then that "... there

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<sup>25</sup> John Locke, Treatise of Civil Government, in Treatise of Civil Government and a Letter Concerning Toleration, ed. by Charles L. Sherman, New York, Appleton-Century-Crofts, Inc., 1937, p. 5.

<sup>26</sup> De Cive, p. 25.

<sup>27</sup> Leviathan, p. 63. He notes that "the weakest has strength to kill the strongest, either by secret machinations, or by confederacy with others, that are in the same danger with himself."

is no reason why any man trusting to his own strength should conceive himself made by nature above others<sup>28</sup>." Hobbes, moreover, saw this condition of natural equality and liberty as entailing for everyman equally a natural right to everything. Everything is equally at the disposal of everyman and "...there is nothing to which every man had not right by Nature<sup>29</sup>". "Everyman has a right to everything<sup>30</sup>". But both freedom and equality are a necessity as Locke summarized:

Men being ... by nature all free, equal, and independent, no one can be put out of this estate, and subjected to the political order of another, without his own consent, which is done by agreeing with other men to join and unite into a community...<sup>31</sup>

The necessity is no less true for Rousseau. But by the time he comes upon the scene the question which troubles him is this: "Are the two practically compatible?" An actual reconciliation of freedom and equality becomes for him the fundamental problem of social order. He maintains that men are born free and equal. He begins the Social Contract with the words: "Man is born free, and yet we see him everywhere in chains<sup>32</sup>." No doubt freedom for him is of paramount

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<sup>28</sup> De Cive, p. 25. Cf. Leviathan, p. 63 — another argument of Hobbes for equality.

<sup>29</sup> Leviathan, p. 66.

<sup>30</sup> Ibidem, cf. too De Cive, p. 27.

<sup>31</sup> Locke, Civil Government, Sherman, p. 63.

<sup>32</sup> Social Contract, p. 5.

importance, but as for equality he holds that "liberty cannot subsist without it<sup>33</sup>."

Personal decision of, for and by the individual himself living with others is the ground of the new approach. The philosophy of individualism denies that man is naturally social but not that he is societal. Individualism does not necessarily mean that man is made to live in isolation or that he does not need his fellowmen. Hobbes and Spinoza recognized that need and concluded to a state of nature that was universal war. Locke believed in a pre-societal community where there would be collaboration in, at least, the punishment of those who did not respect the right of property. Individualism means that the motivation of individual behaviour is self-interest, and when a man acts (whether alone or in collaboration with others) he acts in his own, individual, self-interest. He alone, moreover, is responsible for his success and liable for his failure. Cooperation enters into the individual's calculation. It must serve his self-interest and it is always a matter for personal decision<sup>34</sup>. In

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<sup>33</sup> Ibidem, p. 116.

<sup>34</sup> Scholastic philosophy accepts this in regard to societies having a particular end (e.g. study club or business firm) but rejects it in regard to community and common-good societies (family, Church, State). And even in the first case the freedom applies only to entering in such societies. After that first decision has been made, one must accept the norm and follow the rules.

mediaeval thought this was true for a private society but never for a common-good union like civil society.

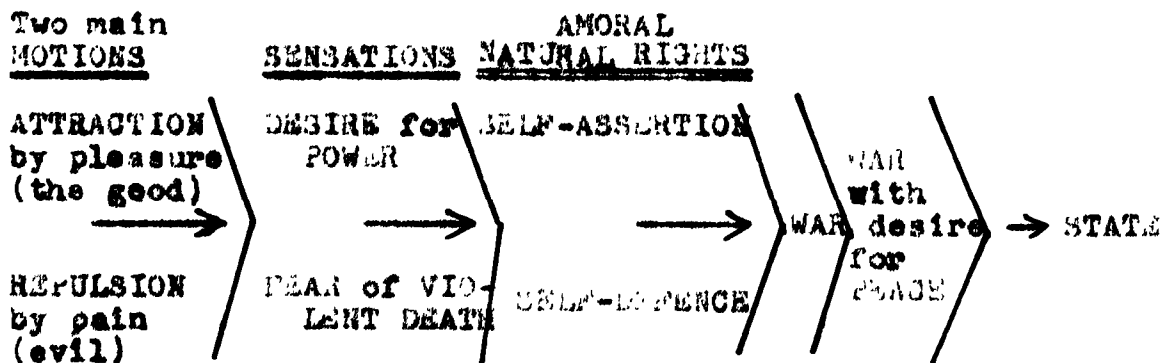
For individualism, then, membership in the political society is only a matter of personal decision. It rests not on the rational consideration of human nature as a whole, but on the will of each individual consequent upon a calculus of the advantages and disadvantages to the individual himself. In such a system there can be no consideration of the Common Good, but only of the individual good, which means that each individual will contribute only as much as he will receive. For this reason, there must be a contract to institute the society or state — a contract which stipulates all the conditions that will be binding on the members. The norms are not determined by practical reason adapting means to the realization of the Common Good, but by the consent of the participating or contracting parties. (Contract pertains to the foundation of the State; consent, to the subsidiary institutions of government and laws.) This consent, as in all partnerships, is required and not only in the determinations of the original norms or laws but also in every subsequent increase or amendments of these laws. This is the meaning of "government by consent". But for individualism it is based on social contract. And this contract makes of society or State a system of purely legal (i.e. voluntary) relationships and not a naturally required entity.

After the contract is concluded, peace and social order still remain a precarious matter. The grand difficulty of reconciling the actual interests of all the members of the State at a given time and with regard to a certain course of collective action has been the general problem which the modern individualist saw clearly.

In particular, Hobbes' approach to the problem was conditioned on his naturalism<sup>35</sup> which identified man with the material universe, or reduced man to subhuman nature. From his psychology of the individual man stems his political system. For him the nature of man and society is deduced or seen from his physics of motions. Motions<sup>36</sup> in a man, he says, are the cause of sensations. The two main motions are attraction and repulsion. The first motion is attraction by pleasure which gives rise to the sensation of desire for power, a desire aimed at getting or keeping pleasure. The

<sup>35</sup> Leviathan, cf. p. 7. p. 11, 15 and passim to p. 52.

<sup>36</sup> For Hobbes all that exists is matter and motions.



second motion is repulsion by pain which gives rise to the sensation of aversion from violent death. For Hobbes violent death is the summum malum. With regard to the first motion, viz., attraction, producing the desire for power, man exercises his power of self-assertion, a "natural right", according to Hobbes, which in view of an identical power in other men brings about disagreement and war. With regard to the second motion, viz., repulsion, producing the fear of violent death, man exercises his power, or natural right, of self-defence, i.e. self-preservation. This individual natural right of self-defence, in view of other men employing self-assertion as an individual natural right entails the condition of war.

Throughout and despite this clash of "natural rights" between the self-assertion of some men and the self-defence of others with regard to the same object is the desire in the heart of every man for peace. It is this desire for peace or this aversion from violent death which is the fundamental reason that men seek the condition of social life in the State. Radical to this view is the assumption that man is naturally brutal and selfish — a thesis very much in line with Calvinistic theology which affirmed man's essential or natural corruption owing to original sin. It was this view of human selfishness which at first sight repelled many, including Locke and Rousseau. In Hobbes, there is hardly any

ground for a happy outlook: "So that in the first place," Hobbes writes, "I put for a general inclination of all mankind, a perpetual and restless desire of power after power, that ceaseth only in death<sup>37</sup>." As each man is dominated by the two fundamental impulses of desire and aversion, he is by nature in conflict with his fellowmen. The spirit of self-interest and security that reigns over this state of nature finds a constant competition for the same goods that all men seek equally and freely to possess<sup>38</sup>. There is 'continual fear and danger of violent death; and the life of man [is] solitary, poor, nasty, brutish, and short.' Every man is "enemy to every man"<sup>39</sup>. In this warfare "of every man against every man" lies the essence of the state of nature.

Hobbes phrases an objection that some man might think it strange "that Nature should thus dissociate, and render men apt to invade and destroy one another." But Hobbes retorts by an argument from experience that men simply do not trust one another and always take measures for self-defence and preservation:

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<sup>37</sup> Leviathan, p. 55.

<sup>38</sup> Ibidem, Cf. p. 66 "... Everyman has a right to everything; even to one another's body" — "the natural right of every man to everything..."

<sup>39</sup> Ibidem, p. 64-65. With these materials at hand for solving the problem Hobbes could scarcely accept the stand which St. Thomas had voiced in the Contra Gentiles (III, c. 117)—: "It is natural for all men to love one another." But for Aquinas love does not obliterate prudence. For Hobbes "prudence" obliterated love.

Let him therefore consider with himself, when taking a journey, he arms himself, and seeks to go well accompanied; when going to sleep, he locks his doors; when even in his house, he locks his chests; and this when he knows there be laws, and public officers, armed, to revenge all injuries shall be done him.

For Locke, on the other hand, man is originally good and happy, the state of nature is more or less a peaceful state in the first analysis. Explicitly against Hobbes, Locke affirms that the state of nature is not anywhere so savage or bereft of fellow-feeling as Hobbes would have it. On the contrary for Locke<sup>40</sup> it is a community "of peace, goodwill, mutual assistance and preservation." And "it is not a state of licence"<sup>41</sup>. Similarly, Rousseau<sup>42</sup> says against Hobbes that "while men remain in their primitive independence, there is no intercourse between them sufficiently settled to constitute either peace or war; and they [men] are not naturally enemies." Yet however much Locke would optimistically laud the happy and pacific nature of men in this estate he, like Rousseau, eventually finds it wanting and inadequate for the good life. Locke, like Rousseau, would affirm, in the current state of things, the need for organized civil society as against merely a community of sheer liberty and equality.

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<sup>40</sup> Locke, Civil Government, Sherman, p. 14.

<sup>41</sup> Ibidem, p. 6.

<sup>42</sup> Social Contract, p. 11.

For Hobbes the problem was simply how to attain social harmony with an atomized individualism of sheer self-interest, or, how to secure order upon acceptance of men as free and equal<sup>43</sup>. For Locke the problem was similar though not exactly the same: how to get order with the same condition of men bent first upon securing private property which is attained by application of one's own labour. Like Hobbes, Locke says it is the law of nature for each to seek his self-interest. With this comes the natural right, or privilege, to punish those who break this right of private property. So important is liberty or right of property that the State is formed to punish aggression. For Hobbes all goods belong indiscriminately to all men; any man may hold those things which he can get and hold<sup>44</sup>. But for Locke rights (always founded on property of some sort) cannot be given up. Only the concomitant privilege of punishing attacks on property may be alienated. This is what is freely done in the social contract. Since private punishing upsets order and property

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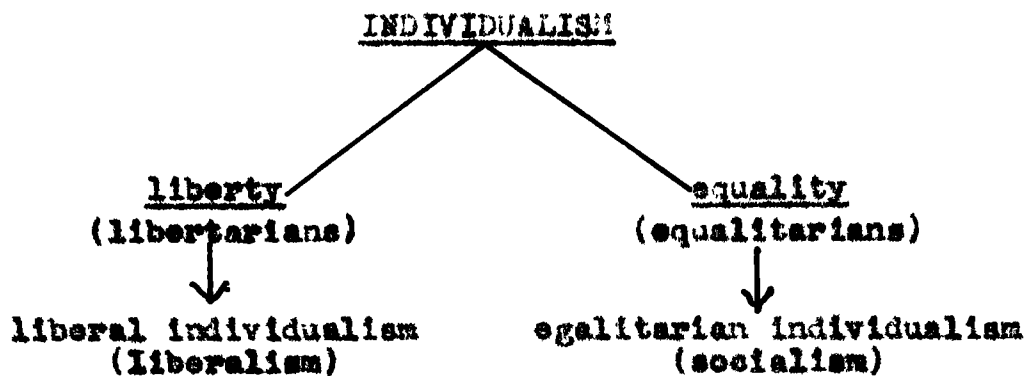
<sup>43</sup> Leviathan, p. 9, observed that "in a way beset with those that contend, on one side for too great liberty, and on the other side for too much authority, 'tis hard to pass between the points of both unwounded."

<sup>44</sup> Leviathan, p. 72 and 65, where he says: "It is consequent also to the same condition, that there be no propriety, no dominion, no 'mine' and 'thine' distinct; but only that to be every man's, that he can get, and for so long, as he can keep it."

rights, a social referee is needed to secure these rights and so the State is set up with the sole end of protecting property. Private right to punish is renounced or conceded by mandate to the State, the "watchman State". In this way, Locke is the father of Liberalism and the libertarian movement.

Rousseau agrees that injury begins with property, which, as noted above, gives rise to civil society as a kind of necessary evil. Men are naturally good, but once the institution of property had spontaneously introduced itself in the communal life bringing with it greed, the mother of conflict, then the community had to be deliberately organized, i.e. a society or State was formed which was inferior to the pure, wholesome state of nature, unspoiled by the "man-made institution" of property, but superior to the spoiled state of nature. The hope of Rousseau is to recapture freedom and equality and reorganize social life upon both. His problem is to secure order by a reconciliation of freedom and equality for all. He aimed, on the one hand, not to sacrifice liberty as did Hobbes, and, on the other, not to sacrifice equality as did Locke.

As the social contract presupposes logically the condition of freedom and equality (the state of nature) a problem comes to the fore: which phase of individualism should flourish first?



Conceptually, liberty and equality are not incompatible. But are they practically compatible? Both libertarians and equalitarians believed that they were because both are individualistic. Important throughout this approach for modern thought was the method employed in the substitution of a "new natural order" (society) for the hyper-institutionalized, mediaeval order which hitherto had both curbed the liberty and disturbed the equality of mankind. According to the "new natural order", liberty and equality existed simultaneously in the state of nature. It can happen again, if only society can be de-institutionalized as much as is consonant with the maintenance of peace, but so as to make it as close as possible to the state of nature. (The law of the jungle is, of course, as detrimental as hypersocialization to any actual condition of liberty and equality.) Libertarians (Adam Smith, Ricardo, J.S. Mills, Jefferson, Ben Franklin, etc.) thought that if liberty were established by reducing government to a purely negative role (the watchman), gradually, through the free play of self-interest, equality would establish itself.

John Stuart Mill in his work Of Liberty wrote<sup>45</sup>: "In the part which merely concerns himself [i.e. the individual man] his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign." Human freedom, Mill believed, must be "absolute and unqualified", but must not harm or halt the freedom of others. But the only freedom, he declares, is "that of pursuing our own good in our own way..." The position of Adam Smith in his Theory of Moral Sentiments and Wealth of Nations was well within the Liberal stronghold. He believed in the permanency of the laws of nature and affirmed<sup>46</sup>: "Everyman is by nature first and principally recommended to his own care." And "everyman is certainly, in every respect, fitter and abler to take care of himself than of any other person." As each man seeks solely his own advantage, "it is his own advantage, indeed, and not that of society, which he has in view"<sup>47</sup>. The concern for others or for society is not the prime

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<sup>45</sup> John Stuart Mill, Of Liberty, Chicago, Great Books Foundation, n.d., p. 9-11.

<sup>46</sup> Adam Smith, Theory of Moral Sentiments..., new ed. with a biographical and critical memoir of the author by Dugald Stewart, London, Henry G. Bohn, 1853, part VI, section II, chapter I, p. 321.

<sup>47</sup> Adam Smith, An Inquiry into the Nature and Causes of the Wealth of Nations, ed. by James E. Rogers, 2 vols., second ed., Oxford, at the Clarendon Press, 1880, Vol. II, Book IV, chapter 2, p. 26.

interest here, for by this spirit of liberal individualism every man "is left perfectly free to pursue his own interest his own way"<sup>48</sup>. Thus he is free "to bring both his industry and capital into competition with those of any other man, or order of men"; so that "all systems either of preference or restraint being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord." And, as Wilhelm von Humboldt<sup>49</sup> affirmed in Sphere and Duties of Government, a bare minimum of State action must reign with the maximum of individual freedom.

What this freedom meant for practical life under the new economic order was noted by Othmar Spann thus:

Thanks to this competition the self-love of every individual promotes the general advantage. Competition forces everyone to pursue his own economic aims with the utmost vigour, to develop all his forces to the maximum, and to produce as cheaply as possible. Everyone keeps watch over his neighbour, with consequent benefits to all sections of society. Consumers

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<sup>48</sup> Ibidem, chapter 9, p. 272.

<sup>49</sup> Humboldt wrote: "Reason cannot desire for man any other condition than that in which each individual, not only enjoys the most absolute freedom of developing himself by his own energies, in his perfect individuality, but in which external nature even is left unfashioned by any human agency, but only receives the impress given to it by each individual, of himself and his own free will, according to the measure of his wants and instincts, and restricted only by the limits of his powers and riches", quoted by Thomas M. Weill, The Rise and Decline of Liberalism, Milwaukee, The Bruce Publishing Co., 1953, p. 65-66.

are supplied with the best goods at the lowest prices; entrepreneurs can devote their energies to their tasks unhindered; and workers can seek employment wherever wages are highest. In this way a condition of social harmony is attained<sup>50</sup>.

Often enough these views<sup>51</sup> were justifications or conceptions meant to serve concrete ends and become practically the living stuff of the work-a-day world, as is noted in Neill's Rise and Decline of Liberalism. There is a plethora of instances in evidence of this point. Thus, e.g. the English economist, Stanley Devons, upheld the Liberal line:

Any act of Parliament which in any way curtails the time during which factories of any kind may be used, or limits in any way the number of work-people which the owner of such property is able to induce to enter into service in any such factory, involves an interference with the property of citizens<sup>52</sup>.

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<sup>50</sup> Othmar Spann, Types of Economic Theory, quoted by R.S. Devans, The Failure of Individualism, a documented essay, Dublin, Browne and Nolan, Limited, The Richview Press, 1948, p. 303-304.

<sup>51</sup> This outlook meant also, as Benjamin Constant observed: "Liberty is everyman's right to be subject to the law alone, the right of not being arrested, tried, put to death, or in any way molested, by the caprice of one or more individuals. It is everyone's right to express his own opinion, to attend to his own art, to come and go, to associate with others. It is, lastly, everyone's right to influence the administration of the State, either by nominating all or some of its officers, or by his advice, demands, and petitions which the authorities are in a greater or less degree obliged to take into account," quoted by Guido De Ruggiero, The History of European Liberalism, tr. by R.S. Collingwood, London, Oxford University Press, 1927, p. 167-168.

<sup>52</sup> Neill, op. cit., cf. chapter 1, p. 169.

Hence he and the Liberals attack the Ten Hours Act and any and every "form of relief or positive State action supported by taxes as an infringement of the citizens' property rights."

The emphasis upon liberty meant also preference for both the appetitive powers of feeling and subjectivity, as strongly appeared in Rousseau's Emile. Rousseau went so far as to say that "no one has a right to depend on another's judgment<sup>53</sup>." And as for the truth of revealed religion, he says: "I only reject all obligation to be convinced of its truth." Martin Luther had declared that "among Christians there shall and can be no authority<sup>54</sup>." On the road to the Deity, Rousseau will progress by himself: "... I shall learn by myself to know and love him, to love his works, to will what he wills...<sup>55</sup>" Rousseau's distrust of reason was uppermost: "... I have left reason and have consulted nature, that is to say, the internal sentiment that directs my belief independently of my reason<sup>56</sup>." And "so I chose another guide and said to myself: Let me follow the Inner Light...<sup>57</sup>"

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<sup>53</sup> Rousseau, Emile, tr. by Barbara Foxley, New York, D.P.utton and Co., 1943, p. 270-271.

<sup>54</sup> Martin Luther, Secular Authority, in Works of Martin Luther, 6 vols., Philadelphia, A.S. Holman Co., and the Castle Press, Vol. III, p. 261.

<sup>55</sup> Emile, Foxley, p. 271.

<sup>56</sup> Rousseau, Letter to Jacob Vermeas, February 17, 1758.

<sup>57</sup> Emile, Foxley, p. 231.

Rousseau conceded that he was engulfed in a scepticism, but this "is in no way painful to me, for it does not extend to matters of practice...<sup>58</sup>" "I serve God" he adds, "in the simplicity of my heart; I only seek to know what affects my conduct." As for dogmas that have no effect upon action or morality, "I give no heed to them." All religions are "all good alike... True worship is of the heart." *Emile*, declares Rousseau, "must choose for himself"<sup>59</sup>. "Let each think as he pleases; I cannot see that it matters to anyone but himself; for my own part it is no concern of mine"<sup>60</sup>. "As for the rules of conduct: "I find them in the depths of my heart...<sup>61</sup>" "I need only consult myself with regard to what I wish to do." For Rousseau conscience is not judgment of intellect but it is feeling: "what I feel to be right is right, what I feel to be wrong is wrong." From this vantage point the new freedom is well summarised in the motto: "Obey yourself."

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<sup>58</sup> Ibidem, p. 272.

<sup>59</sup> Ibidem, p. 223.

<sup>60</sup> Ibidem, p. 344.

<sup>61</sup> Ibidem, p. 249; cf. also p. 253. *Emile* is no doubt one of Rousseau's greatest works, and Rousseau himself insisted that it "was the best as well as the most important of all the works I produced."

In the matter of religious individualism the transition to political and social individualism is a thing easy and ready-made. Well taken, therefore, is the following point:

It is only natural that men who have been taught to rely on their own private judgment in matters of faith, and on their own lonely efforts to attain salvation, should resent dictation and hindrances in their political and economic life. One's standpoint towards religion naturally colours one's standpoint towards every other human activity<sup>62</sup>.

Equalitarians, on the other hand, were confronted with the practical problem and repercussions of libertarian economics: They said: How can a man be free when he is bound, hand and foot, with economic necessity by those who possess wealth? The first reform, then, is about the institution of property. It is true that government was instituted to protect property; but before we do away with it or reduce it to a negative role, let us use it to remove or equalize property, instantly or progressively (hence, the various degrees of

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<sup>62</sup> George O'Brien, An Essay on the Economic Effects of the Reformation, London, Burns Oates and Washbourne, Ltd., 1923, p. 97. O'Brien also notes: 'Individualism is a quality that cannot be confined to any one department of man's life; and it is only reasonable to expect that men who have been trained to be individualist in one thing should become individualist in all. 'Individualist in their faith,' says Tawney of the English nonconformists, 'they were individualist in their interpretation of social morality'.' (p. 97-98)

socialism), by changing it (hence universal suffrage). Then (i.e. when all are equal economically — in an equal sharing of the available goods) liberty will establish itself. During the French Revolution, Robespierre proposed a Declaration of Rights, article 13 of which reads: "Society is obliged to provide for the subsistence of all its members..."<sup>63</sup> The Constitution of 1793 said in its Bill of Rights<sup>64</sup> that "public relief is a sacred obligation: Society owes subsistence to unfortunate citizens, either by procuring work for them or by providing the means of existence for those unable to work." Legal equalitarianism is hardly satisfactory to hungry men yet it was a threat to men of property as both Robespierre and his disciple, Babeuf, learned at the cost of their heads.

The equalitarian movement found its most forceful voice with Babeuf's Society of Equals toward the end of the French Revolution. The stand of their leader, Gracchus Babeuf<sup>65</sup>, was that "Nature has bestowed upon each and every individual an equal right to the enjoyment of property [tous

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<sup>63</sup> Robespierre, "Declaration of Rights", in John Hall Stewart, A Documentary Survey of the French Revolution, New York, The Macmillan Co., 1951, p. 431-432.

<sup>64</sup> Constitution of 1793 (June 24) "Declaration of the Rights of Man and Citizen" in Stewart, op. cit., No. 21, p. 457.

<sup>65</sup> Gracchus Babeuf, "The Doctrine of Babeuf", May 1796, in Stewart, op. cit., p. 656-657.

les biens];" and "the purpose of society is to defend such equality, often assailed by the strong and the wicked in the state of nature..." Freedom here is impossible without removal of all inequality, because "there is oppression when one person is exhausted by labor and destitute of everything, while another lives in luxury without doing any work at all." The cry of Babeuf and his followers was that "in a real society there ought to be neither rich nor poor." The equalitarian position is strongly affirmed in the following lines:

Anyone who appropriates exclusively to himself the products of the earth or of manufacture is a criminal.

The rich who are not willing to renounce their surplus in favor of the poor are enemies of the people.

The aim of the French Revolution is to destroy inequality and to re-establish the general welfare.

Babeuf, from whom the whole movement of European socialism stems, enjoyed little success in his effort to prolong the Revolution in favour of equality as well as liberty. The nouveaux riches could not countenance the likes of Babeuf and saw him better dead than alive.

Others would soon come out with the same plaint.

"What is competition?" cried Louis Blanc in his Catéchisme des Socialistes<sup>66</sup>. "It is," he replies, "the effort of each

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<sup>66</sup> Louis Blanc, Catéchisme des Socialistes, quoted by John Herman Randall, Jr., in Making of the Modern Mind, a Survey of the Intellectual Background of the Present Age, revised edition, Boston, Houghton Mifflin Co., 1920, p. 135.

to enrich himself by ruining others..." "How," he asks, "shall we pass from the present social order to the one we desire? — By the intervention of the State." After him would come Marx and Communism — all bed-fellows of the same basic individualism.

The people's Republic of Jean-Jacques Rousseau as depicted in the Social Contract stands as ready evidence on whether or not liberty and equality are practically compatible. If equality is arithmetic or quantitative, then each man, as Rousseau believed, counts for one and only one. The question of quality is here secondary at best. This is the sorry way, too, that truth goes in sceptic thought — second best. Kingsley Martin<sup>67</sup> notes that in fact "there is no absolute equality, just as there is no single condition of liberty." The problem of reconciling freedom and equality is a pseudo one if truth is first. Men are actually unequal and different from one another and seek to become more different (in quest of the good) till they gain the One; thus men need freedom. Santayana in Dominations and Powers saw the irreconcilability of liberty and equality:

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<sup>67</sup> Kingsley Martin, The Rise of French Liberal Thought a study of political ideas from Bayle to Condorcet, second edition revised, edited by J.F. Mayer, New York, New York University Press, 1974, p. 220.

Equality and, later, democracy have been nominal battle-cries of liberalism; but liberals have never really desired such things. Real equality is incompatible with that private wealth and that moral liberty which were at bottom the aspiration of this school<sup>68</sup>.

Again he observes:

The banners of humanitarianism and equality, which the rich liberals carried aloft without any sense of hypocrisy, have now been snatched from their hands by a return wave of communism and dogmatic unanimity. But can unanimity and communism coexist with vital liberty?<sup>69</sup>

The distinction between "libertarians", or liberals, and "equalitarians", or socialists, becomes clear-cut only at the end of the eighteenth century. But it had its antecedent in writers who were neither libertarians nor equalitarians. Such writers were Hobbes, Locke and Rousseau.

Hobbes — the most logical of all — says: You cannot have both liberty and equality if you are going to have peace. But peace is the most desirable good, and you may only have it if you forego liberty. As for equality, that is left to the will of the State. The question for natural man is either to give up his valid but useless claim to liberty and equality or to die in misery.

Locke says that cannot be done, because liberty and right of property cannot be given up; they are simply

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<sup>68</sup> Santayana, op. cit., p. 319.

<sup>69</sup> Ibidem, p. 310.

inalienable. So much the worse for equality (economic). But there will be equality of opportunity under the law (of the majority). In such conditions, equality of industriousness should produce equality of property. This means it will be too bad for the lazy man.

Rousseau tries to reconcile the two, i.e. liberty and equality. The state of nature has been definitively corrupted by the institution of property, as noted above, and from this arose the necessity of social order or society which now can be organized so as to preserve liberty and social (if not economic) equality by making of each individual an integral part of the State or General Will. All are equal in this General Will and all are as free as the General Will itself, just as the hand is as free as the whole body and as the whole man. All three (and their disciples) reason from a kind of natural law, but when, in the nineteenth century, belief in natural law has waned, a substitute must be found. In the United Kingdom and the U.S.A. under the equalitarian influence, utility will be the substitute for Locke's natural law. In France and continental Europe, the national will will substitute for Rousseau's General Will.

The philosophy of individualism became a resounding rationalization for the Revolt but the problems which the attitude and philosophy of individualism set off would become practically uncontrollable unless resort to totalitarian

solutions would be made. This can be seen in the individualists, Hobbes and Rousseau.

## CHAPTER IV

### HOBBS AND THE PRIMACY OF INDIVIDUAL RIGHTS

If there is no absolute, objective norm of social behaviour and neither reason, in a spiritual sense, in man nor a transcendental end for him, the society containing such subjects must be totalitarian. For Hobbes, as for Rousseau, the principle of order is the safeguarding of individual rights. But as rights are determined by the will (not reason) they can be maintained only by coercion and so an individualistic order will inevitably degenerate into a totalitarian order. For Hobbes the problem, in part, was to balance off liberty and authority. One is beset, he wrote<sup>1</sup>, with those who contend, "on one side for too great liberty, and on the other side for too much authority, 'tis hard to pass between the points of both unwounded." First of all, what is the end to which other things are subordinated as means? Since Hobbes as a sensist and a materialist, recognizes no end transcending this life, he sees self-preservation of life on earth as most important and death as the summum malum, since, moreover, "there is no natural knowledge of man's estate after

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<sup>1</sup> Leviathan, p. 9.

death...<sup>2</sup> If the working dogma is a kind of hedonism "happiness now or never", then not to die is exclusively critical. Avoiding death, especially by violence, is primary.

In this regard the question of social peace and order is of paramount importance. Only in this way is death best averted. Peace then for the sake of self-interested preservation is the theme, but it is more negative than positive. By the naturalism of Hobbes which identifies man entirely with the subhuman forces of nature and the cosmos, an end was not a final cause toward which a man tends by intellect and will. End here for Hobbes is literally a quantitative termination in the sense of sheer nothingness for the individual man. An intelligible end as cause transcending terrestrial life is something totally alien to Hobbes as it was for Spinoza — to both, "appeals to ultimate moral notions or to supernatural sanctions seemed a superstitious or dishonest playing with words<sup>3</sup>." For foxes and wolves death is simply the end of things. So thought Hobbes of man. Beyond the matter and motions of this life there is no purpose, except instinctively to avert this termination; as e.g. the sheep fearing its end flees the wolf; in man there is no reason in

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<sup>2</sup> Ibidem, p. 73. If averting death is exclusively critical, then things economic will tend to become most important, e.g. economic equality, economic security and property.

<sup>3</sup> Stuart Hampshire, Spinoza, Harmondsworth, Middlesex, Penguin Books, Ltd., 1951, p. 180.

the spiritual sense of the term. Men by nature are in constant competition with each other. And in line of securing their preservation, the condition contrary to this, viz. that of peace, is essential. Order is, therefore, the indispensable good to which all other goods are inferior and on which all others depend — though, of course, it is subservient to the end of avoiding death for the individual and the exercise of his rights. Thus the linkage of self-preservation and peace prevails in Hobbes.

As Sir Leslie Stephen says<sup>4</sup>, "Hobbes infers that as nothing can exist which is not material, thought must itself be motion." What is more, "this is really Hobbes' starting-point and guiding principle. 'Man is an automaton.' The spiritual element in man is utterly exorcized: "thought is a motion in his brain; all his actions can be explained by the laws of motion, like the motion of a clock or of the Chatsworth waterworks." The point is evident at the very introduction of Leviathan:

For seeing life is but a motion of limbs, the beginning whereof is in some principal part within; why may we not say, that all 'automata' (engines that move themselves by springs and wheels as doth a watch) have an artificial life? For what is the 'heart', but a 'spring'; and the 'nerves', but so

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<sup>4</sup> Sir Leslie Stephen, Hobbes, New York, The Macmillan Co., 1904, p. 84. For an interesting discussion on Hobbes' materialism see chapters III and IV of John Laird, Hobbes, London, Ernest Benn, Limited, 1934.

many 'strings'; and the 'joints', but so many 'wheels', giving motion to the whole body, such as was intended by the artificer?<sup>5</sup>

Thus in Hobbes' body politic, the Leviathan, there is hardly room for anything organic.

And it is not hard, therefore, to see how Hobbes precluded reason in any spiritual sense of the word. For him, a natural spirituality is non-existent and so knowledge at best is purely sensory. A mechanistic sensism runs through his works. Concerning man's thoughts, Hobbes says<sup>6</sup>: "they are every one a 'representation' or 'appearance' of some quality, or other accident of a body without us..." All conceptions arise from sense, "for there is no conception in a man's mind, which hath not at first, totally or by parts, been begotten upon the organs of sense," and "the cause of sense, is the external body, or object, which presseth the organ proper to each sense..." Thoughts are superior sensations, but as things of sense they are the "several motions of the matter" made by diverse motions "so that sense ... is caused by the pressure, that is, by the motion of external things upon our eyes, ears..." In his Elements of Philosophy, "Physics, or the Phenomena of Nature" he wrote:

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<sup>5</sup> Leviathan, p. 11.

<sup>6</sup> Ibidem, p. 15-16.

So that if the appearances be the principles by which we know all other things, we must needs acknowledge sense to be the principle by which we know those principles, and that all the knowledge we have is derived from it<sup>7</sup>.

The good, therefore, like the true, becomes subjective and relative to the sensory motions of the individual. Thus for the self-interested individual, "good and evil" are the "things that please and displease<sup>8</sup>." "Nor is there," Hobbes adds accordingly, "any such thing as absolute goodness..." The intelligibility of an absolute reality as a transcendent end is nil, and, for all practical purposes, God as the final end according to which men order their human acts is non-existent. And Hobbes says clearly that human happiness here or hereafter does not consist "in the repose of a mind satisfied<sup>9</sup>." "For there is no such finis ultimus, utmost aim, nor summum bonum, greatest good, as is spoken of in the books of the old moral philosophers." In harmony with his materialism, Hobbes insists that "felicity is a continual progress of the desire, from one object to another." And man's "perpetual and restless desire of power after power" ends "only in death."

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<sup>7</sup> Hobbes, Elements of Philosophy, in The English Works of Thomas Hobbes, now first collected and edited by Sir William Molesworth, 11 vols., London, John Bohn, 1839-1845, Vol. I, p. 369.

<sup>8</sup> Hobbes, Human Nature, Molesworth, Vol. IV, p. 32. Hobbes adds that even the goodness said of God "is his goodness to us."

<sup>9</sup> Leviathan, p. 52.

"But for an utmost end... there is no such thing in this world, nor way to it, more than to Utopia<sup>10</sup>," nor is there such an end knowable. Understandable, therefore, is the Hobbesian fear of death as the greatest evil and "which is worst of all, continual fear and danger of violent death"<sup>11</sup>. Men shun "most of all, the terrible enemy of nature, death, from whom we expect both the loss of all power, and also the greatest of bodily pains in the losing"<sup>12</sup>. Thus the end for Hobbes is to avert death as far as possible for the sake of the individual and his self-interests. Though men are by nature at war with each other, peace must prevail. Hence establishing order, despite man's unsocial nature, is the primary matter. But it will be purely an anthropocentric venture.

The matter of reconciling liberty and equality with each other in human relations was apparently an issue which Hobbes, unlike Rousseau, passed by in favour of peace and order. Hobbes transcends this issue as though it were not especially important, nor is it important outside the implications of the social-contract theory, yet the theory itself

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<sup>10</sup> Human Nature, Molesworth, Vol. IV, p. 33. Cf. Leviathan, p. 73.

<sup>11</sup> Leviathan, p. 64.

<sup>12</sup> Hobbes, De Corpore Politico, Molesworth, Vol. IV, p. 83. This work is also known as Elements of Law.

made the issue important. Hobbes, however, was considerably concerned with the question of individual rights, or liberties — though for him they were never more important than order without which, practically, they were nothing. His concern for order was for the sake and advantage of the individual and hence, doctrinally, he was more an individualist than a totalitarian. Libertarians would prefer retention of liberty as fundamental in society and its relations. But Hobbes tended to see this as anarchy; and so, even though he gives a kind of formal inauguration to modern individualism<sup>13</sup>, he refutes its practicability resoundingly in his totalitarian conclusion. C.E. Vaughan avows that Hobbes had only hatred for individualism<sup>14</sup>; but this is simply not true, since Hobbes' most fundamental, or radical convictions are all in the direction of his doctrine of self-interest, even to the extent of making society the implement of self-interest. If Hobbes had any disaffection, it was primarily for the things, or at least for what he thought were the things, of the Christian tradition. But as for his view upon liberty, he

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<sup>13</sup> Leo Strauss, Natural Right and History, Chicago, Ill., The University of Chicago Press, 1953, p. 182: "He [Hobbes] is the classic and the founder of the specifically modern natural law doctrine."

<sup>14</sup> C.E. Vaughan, Studies in the History of Political Philosophy, Before and After Rousseau, ed. by A.J. Little, 2 vols., with portrait and memoir, new and cheaper edition, Manchester University Press, 1939, Vol. I, p. 22.

saw it in its full flare as something prior and at least fundamental to the creation of society, i.e. as the wellspring or absolute source thereof. Hobbes wants "a human guarantee for the actualization of the right social order<sup>15</sup>," — but he wants it by the individual, for the individual and of the individual. And this occurs by way of individual human rights, or liberties creating society by intra-human compact. Although not a libertarian, Hobbes was the first great modern philosopher of self-interest, from whom libertarians, in considerable measure, took their cue even when attacking him. It is in view of the individual, though, perhaps, not necessarily for his liberty, but at least for his preservation and delectation that Hobbes prefers peace and order.

To the end of self-preservation what are the means that Hobbes envisions? How individual rights, or liberties, become the sole source of society is a vital part of the answer to this question, as will appear later in this chapter. As a man seeks what is good for himself, he aims "to preserve his own body and limbs both from death and pain<sup>16</sup>." This is done by a "blameless liberty of using our own natural power and ability." It is then a natural right, "a right of nature, that every man may preserve his own life and limbs, with all

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<sup>15</sup> Strauss, Natural Rights and History, p. 152.

<sup>16</sup> De Corpore Politico, Molesworth, vol. IV, p. 33.

the power he hath." Moreover, a man may do anything conducive to his conservation and "use all means, and to whatsoever action is necessary for the preservation of his body" since "the end cannot be attained without the means, that is, without such things as are necessary to the end<sup>17</sup>." This natural right "is the liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature; that is to say, of his own life<sup>18</sup>" and so to do "anything, which in his own judgment and reason he shall conceive to be the aptest means thereunto." The means, however, which Hobbes sees as indispensable is society. More specifically, it is society as the State in its exercised sovereign power, making and enforcing law. This society, or social order, as arising from this need and right of the individual comprises the means to human preservation, or security and felicity. Without this sovereign social power, naturally unsocial men acting as individuals freely and equally using their powers to purely private advantage, would never attain their purpose. This becomes clearer in Hobbes' argument as to why society and order become necessary. Society becomes merely the individual's instrument in the drive for individual happiness. But society as the means serving the passions of individual

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<sup>17</sup> Ibidem. Cf. too De Cive, No. 3, p. 27.

<sup>18</sup> Leviathan, p. 65-66.

men must, in order to operate, be stronger than the individual. But what, first of all, is the fuller reason why society, or social order, is the necessary means to preservation and happiness?

As men are naturally free and equal, their quest for what they privately judge to be the good fitting for their respective private ends becomes not an accidental but an essential competition among men<sup>19</sup>. The naturalistic theme of "liberty and equality" would become no less essential for later-day Liberal thought than for Hobbes who, more than anyone else, thrust it upon the modern scene. It is because of equality that, "if any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies<sup>20</sup>" and seek to outdo each other "in the way to their end, which is principally their own conservation, and sometimes their delectation only..." Is it not true that "many men's appetites carry them to one and the same end; which end sometimes can neither be enjoyed in common, nor divided<sup>21</sup>"? In regard

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<sup>19</sup> Cf. the "Introduction", Michael Oakeshott, Thomas Hobbes, *Leviathan*, ed. with an introduction by Michael Oakeshott, Oxford, Basil Blackwell, 1946, p. xxxii-xxxv.

<sup>20</sup> *Leviathan*, p. 63. Cf. p. 76: "All men are equal," says Hobbes who insists "that every man acknowledge another for his equal by nature."

<sup>21</sup> *De Corpore Politico*, Molesworth, vol. IV, p. 82.

to the business of the world this "business consisteth almost in nothing else but a perpetual contention for honour, riches, and authority<sup>22</sup>." Such human association fails to give the individual man delectation; thus "men have no pleasure, but on the contrary a great deal of grief...<sup>23</sup>" Clearly, says Hobbes<sup>24</sup>, "every man regards not his fellow, but his business." And "the right of protesting ourselves according to our own wills proceeded from our danger, and our danger from our equality...<sup>25</sup>" And equally for each individual by desire and ability his "profit is the measure of right...<sup>26</sup>"

It is not for a common good that men labour so much as for self-interest and preservation which is not possible without "blameless liberty" to use all available means:

As a man's judgment in right of nature is to be employed for his own benefit, so also the strength, knowledge, and art, of every man is then rightly employed, when he useth it for himself; else must not a man have right to preserve himself.

Every man by nature hath right to all things... to do whatsoever he listeth to whom he listeth, to possess, use, and enjoy all things he will and can. For seeing all things he willeth, must therefore be

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<sup>22</sup> Leviathan, p. 315 "A Review and a Conclusion".

<sup>23</sup> Ibidem, p. 64.

<sup>24</sup> De Cive, p. 22.

<sup>25</sup> Ibidem, p. 30.

<sup>26</sup> Ibidem, p. 28.

good unto him in his own judgment, because he willeth them, and may tend to his preservation some time or other..., all things may rightly also be done by him<sup>27</sup>.

By "liberty" here Hobbes means an absence of limits. "By 'liberty' is understood, according to the proper signification of the word, the absence of external impediments..."<sup>28</sup>

He writes that this natural freedom is "the absence of opposition; by opposition, I mean external impediments of motion"<sup>29</sup>. And this alone is "properly called liberty". Interestingly, to this he adds what is quite in harmony with his naturalism, namely, that this absence of impediments may be said of non-rational as well as of rational creatures.

This question of Hobbes and liberty will be noted again, but it is interesting to see here, in passing, the essential resemblance between Hobbes' notion of liberty and that of later-day liberal individualism, especially in regard to its negative view and amoral secular context essential to this individualism.

In basic accord here with Hobbes is the liberal, Spinoza<sup>30</sup> who, in discussing "Foundations of a State", like-

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<sup>27</sup> De Corpore Politico, Molesworth, Vol. I/, p. 53-24.

<sup>28</sup> Leviathan, p. 66. Italics are ours.

<sup>29</sup> Ibidem, p. 100-101.

<sup>30</sup> Spinoza, Theologico-Political Treatise, Elwes, p. 200-202. It may be noted that in society, according to Hobbes, the individual must first have renounced the use of natural rights, if not the rights themselves; but, according to Spinoza, the individual in society has his rights decreed by the State.

wise holds that "every individual has sovereign right to do all that he can" since "the rights of an individual extend to the utmost limits of his power as it has been conditioned." Men are conditioned and determined differently by "desire and power". To exist and act accordingly belongs equally to every individual and "it is the sovereign law and right of nature that each individual should endeavour to preserve itself as it is, without regard to anything else." Actions here like any force in nature occur deterministically and devoid of spiritual reason. This necessity is not moral and hence not a moral duty. Spinoza like Hobbes says, moreover, that "we do not here acknowledge any difference between mankind and other individual natural entities, nor between men endowed with reason and those to whom reason is unknown." The law of nature is, therefore, the dictate of desire, or of power — the law of the jungle. Men in this condition are "bound to live and preserve themselves as far as they can by the unaided impulses of desire" because "nature has given them no other guide, and has denied them the present power of living according to sound reason," and hence men are "no more bound to live by the dictates of an enlightened mind, than a cat is bound to live by the laws of the nature of a lion." Thus by this law of nature whatever a man "thinks useful for himself" "he has a sovereign right to seek and to take for himself as he best can" "by force, cunning, entreaty, or any

other means" and so regard "as an enemy anyone who hinders the accomplishment of his purpose." Though an individualist, Spinoza, like Hobbes, hardly displays respect for man as a person having spiritual properties of intellect and will. He says, moreover, that in the infinite economy of nature "man is but a speck" — a view that strongly suggests the contention of another liberal, Oliver Wendell Holmes who held that man is but a ganglion in the cosmos, a momentary intersection. However, Spinoza, like Hobbes, observes that "by the laws of desire each man is drawn in a different direction"<sup>31</sup>.

Clearly, by this individualism self-preservation is precarious and the individual's happiness anything but secure, if at all possible. All private means to private purposes end in frustration and fear. "where every man is enemy to every man, the life of man," says Hobbes<sup>32</sup>, is "solitary, poor, nasty, brutish, and short." Fear of death prevails:

In such condition there is no place for industry, because the fruit thereof is uncertain, and consequently no culture of the earth; no navigation; nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving and removing such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society...

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<sup>31</sup> Ibidem, p. 203.

<sup>32</sup> Leviathan, p. 64.

Now, on these premises of individualism, can the necessary end of self-preservation and happiness be secured? The answer for Hobbes is to be found in society, but society as arising purely from anthropocentric power and appetite. Can a society found order in a preserve of private desire without total access to counter coercion? Or can such a society operate, even as a sheer tool of private interest, without society as stronger than the individual, or as composed of at least potentially over-all power? If man by nature lacks reason in the spiritual sense, can social order be had without force as its first and only effective principle? The answer, according to Hobbes, is: no. From here he argues directly to the inevitability of the totalitarian state for the sake of order serving self-interest.

Hobbes' emphasis on the negative answer has always been immensely disturbing to the exponents of liberal individualism as such, for Hobbes' logic persistently points to something intrinsically wrong with Liberalism. It is for this reason that his work is a very valuable lesson and a tremendous thorn in the side of "the conscientious individualist". Hobbes has been hated heatedly, not so much because he upheld totalitarianism, but rather because he displayed the inevitability of totalitarianism in a society

founded on a philosophy of individualism<sup>33</sup>. The Liberal, if he recognizes his roots as something opposed to the Christian tradition, knows he upholds the basic premises of Hobbes' individualism. Why not, then, Hobbes' conclusion? — especially if resort to said tradition is something to which individualism as such has consistently no title? Hobbes' system is fraught with contradictions, but moving through his classic maze of "Leviathan", its origin and function, there is an admirable consistency — viz. from the premises of man as unsocial by rational nature to man as social by appetite, arbitrary law and force; from man as unteleological (with regard to God) to man as a cog of totalitarian "order"<sup>34</sup>. As Hallowell<sup>35</sup> affirms, Hobbes already "anticipates the conclusions which liberalism must ultimately reach in theory, once it has abandoned its Christian conscience, and which, in fact, it does reach in the twentieth century." It is true that although Hobbes uses this theory of "Absolute Sovereign

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<sup>33</sup> Rousseau says curiously: "It is not so much what is hideous and false in his [Hobbes'] political theory, as what is just and true, that has rendered it odious", Social Contract, p. 118.

<sup>34</sup> And rightly so, for there is absolutely nothing in the philosophy of individualism or liberalism which could stand as a defence against any totalitarianism which makes the individual a tool of society or the social collectivity.

<sup>35</sup> John H. Hallowell, Main Currents in Modern Political Thought, New York, Henry Holt and Co., 1950, p. 83.

Will" "to defend absolute monarchy, it is essentially the same solution to the problem of authority posed by individualism which is adopted by liberalism." And even if Hobbes is seen as "singer of the swan song of the Stuarts" he is best understood, not as such, writes McGovern<sup>36</sup>, but rather "as the prophet of a system which was to be carried out nearly three centuries later by Mussolini and Hitler." The libertarian-equalitarian phase of Hobbes' individualism reduced to totalitarianism has proved disconcerting to many a Liberal, for it is a round refutation of their fondest affections as individualists: it is at one and the same time an orderly arrangement of means to the end of preservation and felicity and then at once it is not, wherefore order must be enforced extrinsically, or accidentally to cope with the essential competition. C.S. Vaughan who registers a typical reaction against Hobbes complains:

With unearmy skill he [Hobbes] turns one part of the theory against the other, and avails himself of the premisses which all the world accepted to destroy the conclusion which eager spirits were coming more and more confidently to draw from them. Nothing could have been more baffling to his contemporaries. .<sup>37</sup>

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<sup>36</sup> William Montgomery McGovern, From Luther to Hitler, the History of Fascist-Nazi Political Philosophy, Boston, Houghton Mifflin Co., 1941, p. 67.

<sup>37</sup> Vaughan, Studies in the History of Political Philosophy, Vol. I, p. 23.

"Baffling" is hardly the best word here, particularly for those individualists of a later day who have been not so much "baffled" as worthily exasperated by persistent exposure from the left flank, so to speak, viz. by Hobbes' consistency — his inconsistencies notwithstanding.

However, for Hobbes himself social peace and harmony are never less necessary than the liberties of equal men. (And what individualist, liberal or otherwise, does not want order, especially when and if confronted here and now with the need for securing it?)

Instinctively by what Hobbes calls the law of nature, a man sees that for his well-being he must have peace. This is so "not only by right but also by necessity of nature"<sup>38</sup> and thus a man must necessarily seek the means thereto. This is not a moral but only a physical necessity. The motions of the passions determine men in this direction<sup>39</sup>: "The passions that incline men to peace, are fear of death; desire of such things as are necessary to commodious living..." Men sense that because of the liberty and equality of every one "no man is of might sufficient, to assure himself for any long time, of preserving himself thereby"<sup>40</sup> and hence he

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<sup>38</sup> Leviathan, p. 75.

<sup>39</sup> Ibidem, p. 65.

<sup>40</sup> De Corpore Politico, Molesworth, Vol. IV, p. 86.  
Cf. too Leviathan, p. 73.

finds himself compelled "to seek after peace, as far forth as there is hope to attain the same; and strengthen himself with all the help he can procure..." The help which he perceives above all as most useful to his security is "a common power, to keep men in awe, and to direct their actions to the common benefit"<sup>41</sup> — i.e. the good which each envisions for himself.

Thus men concur in ceding their private power to a commonwealth; each is "to have parted with his right of resisting"<sup>42</sup> for the purpose of securing protection, no longer by private means, but now by sovereign political power (whether monarchy or democracy or otherwise) as guardian of rights of self-preservation. "There is no man who can hope by his own strength, or wit, to defend himself from destruction, without the help of confederates"<sup>43</sup>. Thus men mutually concur to cede rights. "Security is the end wherefore men submit themselves to others"<sup>44</sup>. The motive and end is "nothing else but the security of a man's person..."<sup>45</sup> The social power, therefore, must be mighty enough by fear, awe

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<sup>41</sup> Leviathan, p. 83.

<sup>42</sup> De Cive, p. 68.

<sup>43</sup> Leviathan, p. 73.

<sup>44</sup> De Cive, p. 72.

<sup>45</sup> Leviathan, p. 67. Cf. too De Corpore Politico, Molesworth, Vol. IV, p. 126-129.

and threat of punishment to enforce this agreement. Between one man and another there must be "a common power set over them both, with right and force sufficient to compel performance..."<sup>46</sup> "By the terror of it" this civil power affects 'particular men unto unity and concord'<sup>47</sup>." Force is absolutely necessary to put order into the relations of men who are "free and equal"<sup>48</sup>; "as long as this natural right of every man to everything endureth, there can be no security to any man, 'except existence nasty and short, then death. If one man sees that another is compelled by "fear, terror and awe" to abide by the civil sovereign law, only then will he do likewise.

But if other men will not lay down their right, as well as he; then there is no reason for any one to divest himself of his: for that were to expose himself to prey... rather than to dispose himself to peace.

But a man has no choice but to avoid death; and so he is impelled to peace. The propulsive motions of passions instinctively determine him in a line away from the summum malum and toward the State and its protective barriers — much like a wild animal, once cornered and perceiving the futility of resistance, moves head-tail-down into the corral. This, a

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<sup>46</sup> Leviathan, p. 69.

<sup>47</sup> De Cive, p. 67.

<sup>48</sup> Leviathan, p. 66.

man must do if he values his life and the passion of comradious living. Just relations first begin within the common barrier of civil coercion:

Therefore, before the names of just and unjust can have place, there must be some coercive power, to compel men equally to the performance of their covenants, by the terror of some punishment, greater than the benefit they expect by the breach of their covenant... So that the nature of justice consisteth in keeping of valid covenants: but this validity of covenants begins not but with the constitution of a civil power, sufficient to compel men to keep them<sup>49</sup>.

There is detectable in Hobbes a huge optimism which is scarcely seen or stressed by most observers — no doubt, in view of Hobbes' dim view of human nature. "It is hard for us to understand," Leo Strauss<sup>50</sup> wrote, "how Hobbes could be so hopeful where there was so much cause for despair." But this criticism may and must also be levelled at the advocates of liberal individualism<sup>51</sup>. This optimism, viz. that men unsocial by nature would operate in peaceful social relations — though thoroughly groundless as such, i.e. on the grounds of individualism — spread its contagious outlook to liberal individualism in the following centuries. It is found

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<sup>49</sup> Ibidem, p. 72.

<sup>50</sup> Strauss, Natural Right and History, p. 175.

<sup>51</sup> The modern world can no longer afford to be fooled by incidentals. The question of whether men in the state of nature were doves or wolves is trivial stuff served up as a sort of sop or ruse to dodge the main issues.

flourishing in one way or another in Spinoza, Locke, and Rousseau; and "the long series of disappointments which subsequent generations experienced have not yet succeeded in extinguishing the hope which he [Hobbes], together with his most illustrious contemporaries, kindled<sup>52</sup>;" The Liberal, Spinoza, notes relatedly that "this danger of submitting absolutely to the dominion and will of another, is one which may be incurred with a light heart...<sup>53</sup>" He adds: "It is very rare for sovereigns to impose thoroughly irrational commands," for the reason that sovereigns "are bound to consult their own interests, and retain their power by consulting the public good and acting according to the dictates of reason..."

It must be reiterated, however, that reason, for Hobbes as for Spinoza, did not signify reason spiritually, nor could it for them as sensists. When Hobbes speaks of man's having to flee the state of nature for the civil state, he says this change is prompted by "the dictates of reason" which often he also variously calls "rules, or precepts of reason". But these for Hobbes, the materialist, are the "dictates of desire," dictates of appetitive power. All

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<sup>52</sup> Strauss, Natural Right and History, p. 175.

<sup>53</sup> Spinoza, Theologico-political Treatise, Alwes, p. 205-206. Compare this general view with the optimism of Locke who declares that the majority (which derives its power from the natural laws of self-interest) cannot conceivably tyrannize over a minority.

these he identifies with the law of nature<sup>54</sup>, which is the law for lions and "arrant wolves"<sup>55</sup>. It is the necessity of physical nature. It is neither a law, properly<sup>56</sup> speaking, he says, for it does not morally oblige in justice, nor does it in effect really yield a right: "the natural right of preservation, which we all receive from the uncontrollable dictates of necessity, will not admit it to be a vice...<sup>57</sup>" anymore than a fox is bad for eating a bird. Hobbes affirms plainly that the "right of all men to all things, is in effect no better than if no man had right to any thing<sup>58</sup>." Hardly spiritual is any such law, or dictate, of "reason".

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<sup>54</sup> Hobbes speaks often enough of the "law of nature", or the natural law, as though it were something morally obligating a man. But Hallowell makes the point that Hobbes seems "surreptitiously to borrow from the tradition of natural law that support for his system which his own premises do not provide. By referring to the keeping of covenants as a 'law of nature' he invokes the memory and sanctions of the natural law tradition although the basic premises of his own philosophy repudiate that tradition." - Main Currents in Modern Political Thought, p. 77.

<sup>55</sup> Hobbes, Philosophical Elements of a True Citizen, "Epistle Dedicatory", Molesworth, Vol. II, p. ii. This work is also called De Cive and also Philosophical Rudiments Concerning Government and Society.

<sup>56</sup> Leviathan, p. 78-79.

<sup>57</sup> Philosophical Elements "Epistle Dedicatory", Molesworth, Vol. II, p. ii.

<sup>58</sup> De Corpore Politico, Molesworth, Vol. IV, p. 34.

As reason here is merely a superior form of sensation, it is no more than the sensory ability to perceive certain connections between objects and man's well-being (for Spinoza, the perception of the nullification of force by force). For Hobbes, as for Spinoza, man cannot help himself doing this or that when his well-being is at stake — unless he perceives that there is no use: he is cornered and faced with a superior force. To give in is "reasonable": it is useful. One sees the connection between self-preservation, or averting death, and a strong social power. Hence the society must be stronger than the individual or any group of individuals. In the conflict for individual happiness and that of all, the individual gives way to society. Otherwise society, obviously, will be unable to function. It will itself be destroyed and the life of man with man will revert to the law of the jungle — the natural law of Hobbes and Spinoza. Thus man "rationally" perceives that for his well-being he must have peace and, as Spinoza stressed, the aid of others. Man "rationally" accepts the State and is thankful for whatever the State leaves to his own individual initiative, i.e. whatever freedom or rights the State decrees he might have for use. Even if irrational, man still needs order. Though an individual man might refuse collaboration if his personal satisfaction is at stake, this social harmony can only be realized by the power of complete domination of

the individual by society — i.e. by the combined will and force of all as confederates against each individual in any actual circumstances of disorder. Hobbes holds a universal consent and a general contract are necessary in the establishing of social order but they are not binding on the individual in any particular situation. They must be enforced. Society must, therefore, be provided with an adequate force. What then remains of individual initiative? Nothing, but that which is allowed him by society — i.e. what is left over after limitations by the rule of law are laid down by the sovereign. No social relation can escape determination by sovereign political authority making and enforcing law. The individual drive for happiness persists. But exertion of control by way of law over the individual on any particular occasion is justified because of the need of authority which makes and enforces the laws. Sovereign authority is warranted because of the wider need, viz. society. But since society is not natural and so not an integral part of that desire and urge for happiness which is in the individual (as a means), society, therefore, is artificial and purely a work of man adapting indifferent means to an end.

Hobbes is definitely and radically an individualist and to view him aside from this context is to misunderstand him completely, as, indeed, has often been the case. A typical, or usual view, e.g. is affirmed by C. Vaughan who

wrote<sup>59</sup>: "The theory of Hobbes is a theory of unadulterated despotism, or it is nothing." Yet Vaughan concedes that Hobbes' work is based on "assumptions representing an extreme form of individualism: an individualism more uncompromising than that of Locke himself" and on "the idea of Contract, as the only possible foundation of the civil state"<sup>60</sup>. If so, then individualism in Hobbes is very much not nothing. In fact, for Hobbes it is so much an unadulterated element or factor in his system that precisely and only because of it, despotism comes about, as a "necessary complement of his individualism"<sup>61</sup>. The individualism of the state of nature is so much a current reality hic et nunc that, so long as its condition somehow exists, totalitarian "order", despotism, if you will, is imperative but only as a utility accidental and subservient to self-interest. And this individualism of nature exists, not so much as a past historical<sup>62</sup> reality, but concomitantly with man's being and nature, i.e. as long

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<sup>59</sup> Vaughan, Studies in the History of Political Philosophy, Vol. I, p. 54.

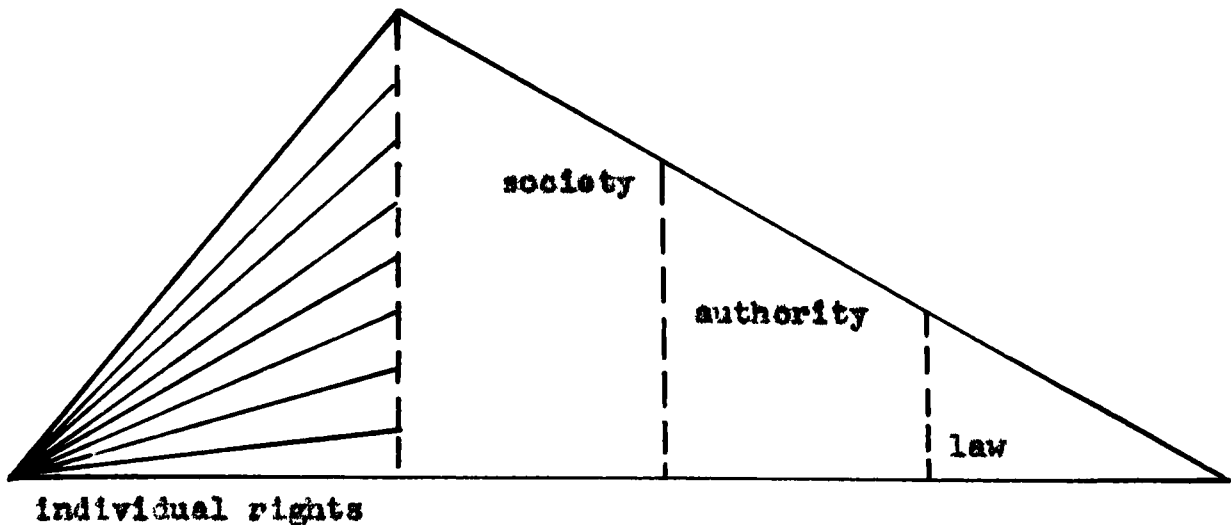
<sup>60</sup> Ibidem, p. 23.

<sup>61</sup> George H. Sabine, A History of Political Theory, revised edition, New York, Henry Holt and Co., 1956, p. 175.

<sup>62</sup> Cf. Vaughan's superficial view that, for Hobbes above all others, "the state of nature was a terrible reality" (Studies, Vol. I, p. 29-30). Vaughan typically fails to see that it is Hobbes' individualism, not his despotism, which is more fundamentally at fault.

as men prevail unsocial by nature. Always, as Spinoza<sup>63</sup> observed, "Man, alike in the natural and in the civil state, acts according to the laws of his own nature, and consults his own interest."

The spirit of Hobbes' philosophy is social order as the tool of the individual. Though Hobbes is not classed as a Liberal, there are all the makings of Liberalism in his position. A key to understanding his highly revolutionary approach is seen in his attempt to reshuffle rights and law, in favour of the primacy of rights. Traditionally, rights always followed upon law. Hobbes' revolution was to reverse the tradition and make law, properly, follow upon rights. This, he did by founding society solely on, through, and of, individual rights —: sovereign authority and then law follow.



<sup>63</sup> Spinoza, A Political Treatise, Elwes, p. 302. Italics are ours.

The power of individual liberties behind the formula do ut des immediately actuates society, when men contract or agree among themselves to give up their natural rights. "The mutual transferring of right, is that which men call 'contract'<sup>64</sup>." This social contract creates society. Hobbes, like Locke and Rousseau, was vague in distinguishing between society and civil society. However, men by this act of will, "the consent of many<sup>65</sup>", create the social man and immediately establish the grounds of sovereign authority and law. "... Men do agree, and 'covenant, every one, with every one'<sup>66</sup>," and thereby authorize the sovereign as their representative. Thus authority, like society, comes immediately<sup>67</sup> from human will, i.e. individual rights. The sovereign power, "the supreme command is constituted by virtue of the compacts which each single citizen or subject mutually makes with the other..."<sup>68</sup> The formula engaging men in this subjection to the sovereign for their private protection and profit is:

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<sup>64</sup> Hobbes, Leviathan, Morley, p. 67.

<sup>65</sup> Hobbes, De Cive, Lamprecht, p. 65.

<sup>66</sup> Hobbes, Leviathan, Morley, p. 84.

<sup>67</sup> In the Christian tradition, authority as it is primally received is recognized as derived from God.

<sup>68</sup> Hobbes, De Cive, Lamprecht, p. 85.

For each citizen compacting with his fellow, says thus: I convey my right on this party, upon condition that you pass yours to the same; by which means, that right which every man had before to use his faculties to his own advantage, is now wholly translated on some certain man or council [monarchy or democracy] for the common benefit<sup>69</sup>.

It is as if every man says to every other<sup>70</sup>:

I authorize and give up my right of governing myself to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner.

Society and its sovereign power exists for the subjects "to bear their person" and to reduce all their wills, by plurality of voices unto one will", "to perform the wills of them all" to protect and safeguard their chiefest interests. In this way rises the Commonwealth, "the generation of that great 'leviathan', or rather, to speak more reverently, of that 'mortal god'", the State.

The revolutionary cleavage that Hobbes engineered between law and rights is a crucial aspect of this individualism which finds natural rights unadulteratedly the fount of society. It is only in the context of his individualism that Hobbes' revolution can be duly understood. In ancient and mediaeval times, the fundamental, natural law was an objective thing, binding and directing, but independent of, the

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<sup>69</sup> Ibidem, p. 86.

<sup>70</sup> Hobbes, Leviathan, Morley, p. 84.

will of the human legislator. Plato and Aristotle were aware of an objective basis of social life. They considered what man is — human nature — and saw the laws of the State as practical determinations of the requirements of human nature. With Christianity the tradition is widened and deepened distinctively in the light of supernatural revelation. There is first a plan of cosmic order, the eternal law, in the divine intelligence or wisdom, then realized in the act of creation by the divine will. Man can discover and know this cosmic order in the nature and reality of things as existing, but he does not, in any way, make this order, for it is real and objective. It is before him. He comes upon it and abides by it, or he does not — as he chooses. For the sub-human world this order is pursued by a blind necessity. But for man, since he can know this order, he must freely conform to it. He must act in harmony with his nature. With this objective foundation of law as intrinsic in the nature of things the question of right reason and conscience centers on a reality with which a man, morally, must comply. Thus a man does not in any way determine what primarily is right or wrong, for the being and nature of man is not his creation. The profound utterances: "I am the Way, the Truth, and the Life" "I am the Alpha and the Omega" "Follow me" — indicated clearly to the mediaeval mind the supernatural direction of this objective order, as well as its origin. This view

revolved around the Scholastic maxim that a man ought to act according to his nature whose efficient cause is also a man's final cause. It is in a general context of this kind that one must view the stand of St. Thomas who says: the law of nature is the eternal law as received by the creature... Thus the natural moral law which is intrinsic in a man's very nature and being is a participation in a man of the eternal law.

With regard to the question of obligation, or duty, this much appears to be certain in the history of thought prior to the modern epoch: in both ancient and mediaeval times attention was paid, in considering law, to the duties of a man primarily rather than to his rights. Athenian Democracy, e.g., was based upon the obligations of the citizens, not on their rights. Accordingly, it was rather the "rights of the State" that achieved attention, if rights were at all mentioned in ancient Athens. Even in the Middle Ages the duties a man had toward God and, accordingly, his own perfection were of paramount importance, hardly to be shaded by rights. It is indeed true that the mediaeval mind was not unaware of individual rights, owing to, and necessary for a man's end. Yet rights were scarcely more emphasized than duties<sup>71</sup>, because, possibly, of an acute awareness of the

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<sup>71</sup> Cf. Jacques Maritain, Man and the State, the interesting treatment of natural moral law, obligation and rights, especially Chapter IV. Qualifiedly, Maritain lauds the modern recognition of rights, p. 94.

radical role of final cause, man's last end. Man's due subordination to final purpose need not exclude emphatic attention on individual rights, but no such emphasis dominated the mediaeval scene where hypersocialisation was probably too much a leading factor. Generally, however, in this period of pre-modern natural law, rights if at all considered are seldom if ever conceived as prior to duties, though both are correlative. Individual rights are derivative from law and duty — not vice versa. These rights, moreover, are never antecedent to, nor independent of, man's social pursuit of perfection. In the Scholastic tradition they rest essentially on man's nature as the principle of his operations and on the fact that, in order to attain the perfection of his goal, he has first an obligation. To this, rights, however important, are only consequent, although as important as means to the end.

Apparently in the spirit of Cartesian novelty, Hobbes, like Descartes, aimed to establish his philosophy by an utterly fresh start independent of tradition and the trammels of prior things, especially things that bind liberty to a transcendental target. Convinced of the failure of traditional philosophy, he endeavoured to set out on a new path to devise his own plan of social harmony by going to the origin of society in the rights of the individual and by establishing law and order on them. For Hobbes the fount of order is

not in duty or law properly understood but rather in the rights, or absolute claims of the individual who is totally independent of, and prior in principle to, society. Hobbes' relegation of duties to the dark is due, no doubt, to the new primacy of the non-transcendental, earthly end. Moral obligation here loses all value. There is little doubt but that this was a great revolution, a distinctive pioneering endeavour which has carried on characteristically into the world of modern thought. It is indeed found in Rousseau.

The next chapter explains in fuller detail this primacy of rights, particularly how it comes to fruition in the social order.

## CHAPTER V

### LEVIATHAN,

#### THE FRUITION OF INDIVIDUAL RIGHTS

How did Hobbes develop this individualist primacy of rights into a social order? He rent asunder law and right. He did this by making right no longer dependent upon moral law and then by positing the new primacy of individual rights over moral law. To see this more clearly it is of value to define his terms, right and law. Hobbes denied natural moral law properly understood as an objective pre-volitional principle innate in rational beings according to which their operations are to be ordered. St. Thomas had described it as an ordination or dictate of reason preeminently objective. Hobbes, however, wrote:

These dictates of reason, men used to call by the name of laws, but improperly ... whereas law, properly is the word of him that by right hath command over others<sup>1</sup>.

Where Hobbes denied natural moral law thus traditionally understood, he would assert a new sort of moral law (and purely

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<sup>1</sup> Leviathan, p. 78-79. Italics are ours.

positive-law "obligation"<sup>2</sup>) as practically and properly<sup>3</sup> the word or will of the political sovereign. For him the natural moral<sup>4</sup> law is not really a law<sup>5</sup>. Properly speaking, it simply does not exist. He proceeded to split the traditional union of right and moral law by separating the issue of rights from its dependence upon natural moral law as traditionally understood. He viewed this union as a confusion. In the Leviathan he wrote:

For though they that speak of this subject, use to confound ius and lex, "right" and "law": yet they ought to be distinguished, because ... law and right differ as much as obligation and liberty...<sup>6</sup>

Similarly, obligation would become as much opposed to liberty as law to right, for only civil law properly obliges<sup>7</sup> a man

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<sup>2</sup> Cf. Howard Warrender, The Political Philosophy of Hobbes, His Theory of Obligation, Oxford, at the Clarendon Press, 1957. Warrender thinks obligation begins in the state of nature, with the law of nature and that Hobbes stresses duties rather than rights as coming first. But on Hobbes' premises "duty" is still only amoral. See summaries on pp. 319, 322-326, 329.

<sup>3</sup> Leviathan, p. 124.

<sup>4</sup> The law of nature is natural physical law for rocks, oaks, and lions. The generic "natural law" no longer includes the natural moral law but specifically excludes it for all practical social purposes.

<sup>5</sup> De Cive, p. 57-59. Cf. too Leviathan, chapter 26.

<sup>6</sup> Leviathan, p. 66.

<sup>7</sup> Ibidem, p. 124-125 inter alia.

as against the liberties, or rights of the state of nature.

Hobbes also declared:

I find the words lex civilis and ius civile, that is to say "law" and "right civil" promiscuously used for the same thing, even in the most learned authors; which nevertheless ought not to be so<sup>8</sup>.

The reason they ought not to be so confounded, is seen in Hobbes' definition or understanding of them. His aim was to reconcile freedom with law and authority.

His separation of natural right from traditional moral law meant the primacy not only of right<sup>9</sup> over moral law (an analytical primacy) — in the state of nature — but also of civil law over right (a practical, or pragmatic primacy) — in society. In the final analysis, Hobbes has right and liberty opposed<sup>10</sup> to law, whereas traditionally law was opposed only to license. This reversal which makes liberty virtually license and opposed to transcendental law would ride mightily into the field of modern Liberal thought. The end of law, moreover, is here designed solely to limit liberty: "the end of making laws," said Hobbes<sup>11</sup>, "is no other

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<sup>8</sup> Ibidem, p. 134. Cf. explanation, De Corpore Politico, Molesworth, Vol. IV, p. 222-223.

<sup>9</sup> Thus Hobbes speaks of these rights, or liberties, as blameless or amoral powers. Cf. De Corpore Politico, Molesworth, Vol. IV, p. 83.

<sup>10</sup> Leviathan, p. 66, 124, 134.

<sup>11</sup> Ibidem, p. 124.

but such restraint; without which there cannot possibly be any peace." The law, he adds<sup>12</sup>, was brought (as man's creation) into the world "for nothing else but to limit the natural liberty of particular men, in such manner as they might not hurt, but assist one another..." But this picture is not understood except in terms of Hobbes' revolutionary affirmation of individual natural rights as the pure spring from which society and then law come to be. The function of law was no longer direction to God but restriction from death — restriction on men lest in sheer self-interest they tear each other apart. The whole development becomes a secularist humanism, an emancipation from a transcendental direction toward a purely civil one<sup>13</sup>.

Rousseau, apropos, followed Hobbes' rejection of traditional natural law and thus of natural moral rights. It is little wonder, therefore, that his like denial of (traditional) natural moral rights was significantly stressed in these words: "Hobbes had seen clearly the defects of all the modern definitions of natural right..."<sup>14</sup>

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<sup>12</sup> Ibidem.

<sup>13</sup> To be civil then meant, not to be virtuous, but to be peaceful.

<sup>14</sup> Origin of Inequality, p. 196.

In order to dispel the traditional confounding of right with moral law, Hobbes aimed to make his position clear and in Leviathan he wrote<sup>15</sup>: "'right' consisteth in liberty to do, or to forbear..." and "'the right of nature', which writers commonly call jus naturale, is the liberty each man hath, to use his own power, as he will himself..." This alone, he insists, is jus naturale, or liberty, in the proper sense:

By "liberty," is understood, according to the proper signification of the word, the absence of external impediments: which impediments may oft take away part of a man's power to do what he would; but cannot hinder him from using the power left him, according as his judgment and reason shall dictate to him<sup>16</sup>.

Evident is the negative and physical aspect of his notion of right and liberty. A man's freedom, he wrote<sup>17</sup>, "consisteth in this, that he finds no stop, in doing what he has the will, desire, or inclination to do." Again, he said: "Liberty, of 'freedom', signifieth, properly, the absence of opposition." He adds: "By opposition, I mean external impediments of motion; and may be applied no less to irrational and

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<sup>15</sup> Leviathan, p. 66. Cf. also p. 102, and De Cive, p. 175. Hobbes refers to this "liberty" as being "absolute".

<sup>16</sup> Leviathan, p. 66. Cf. too p. 100-101.

<sup>17</sup> Ibidem, p. 100. Cf. too De Cive, p. 109.

inanimate creatures than to rational." Similarly in De Cive he said<sup>18</sup>: "... Neither by the word right is anything else signified than that liberty which every man hath to make use of his natural faculties according to right reason." Hobbes here lays claim to its being rational, yet at the same time he finds the foundation of natural right, not in right reason but in an amoral "irresistible power"<sup>19</sup>:

... A sure and irresistible power confers the right of dominion and ruling over those who cannot resist; insomuch, as the right of all things, that can be done, adheres essentially and immediately unto this omnipotence hence arising.

Natural rights, or liberties, no longer rested on the natural moral law. The moral law was no longer a foundation of natural right, or liberty, just as society no longer rested on man's rational nature.

If the moral law is not properly law, what, properly speaking, is the law? The answer should be clear. For Hobbes, it is really the will or command of the civil sovereign<sup>20</sup>: "A law, to speak properly and accurately, is the speech of him who by right commands somewhat to others to be done or omitted..." The dictates of natural law do not

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<sup>18</sup> De Cive, p. 27.

<sup>19</sup> Ibidem, p. 30. Cf. too De Corpore Politico, Molesworth, Vol. IV, p. 86.

<sup>20</sup> De Cive, p. 59.

constitute law insofar as they come from nature but as they come from will: and insofar as utility is concerned, and utility is quite important for the contractualists, this will as the base of law is nothing but sheer homocentric will<sup>21</sup>: "But those which we call the laws of nature ... are not laws, as they proceed from nature." "... The law is the declared will of the supreme<sup>22</sup>" — viz. the supreme will of the city, or commonwealth. Having denied natural moral law as properly a law, Hobbes declared that "what is our's, and what another's is a question belonging to the civil law," totally and indivisibly<sup>23</sup>, and in no way, moreover, is the moral law determined as a primary principle of right or wrong. It is as such purely and properly a determination of positive law alone:

... But what is to be called theft, what murder, what adultery, what injury in a citizen, this is not to be determined by the natural, but by the civil law<sup>24</sup>.

Hobbes denies there is anything good or bad by nature: "every action in its own nature is indifferent<sup>25</sup>" and "before there

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<sup>21</sup> Ibidem, Cf. Leviathan, p. 78-79.

<sup>22</sup> De Cive, p. 81, footnote.

<sup>23</sup> Leviathan, p. 88. Hobbes refers to "this great authority [as] being indivisible." Cf. too De Cive, p. 105 and 132.

<sup>24</sup> De Cive, p. 81.

<sup>25</sup> Ibidem, p. 129. Cf. too De Corpore Politico, Molesworth, Vol. IV, p. 97.

was any government, just and unjust had no being, their nature only being relative to some command." This denial of intrinsic morality would entrench itself in the strongholds of liberal individualism, particularly as it evolved into Utilitarianism.

It is true that often enough Hobbes has all the appearances of affirming the "law of nature" as a sort of moral principle<sup>26</sup>, or ideal by which deeds are naturally forbidden or prescribed, but actually and practically<sup>27</sup> it is purely a political command, properly speaking, as he himself insists<sup>28</sup>. It is of proper value only for the politicized man.

It might also be mentioned that Hobbes spoke now and then about divine law, or the laws of God as most properly laws<sup>29</sup>. But these, of course, for Hobbes are pre-eminently verbal vacuities of the highest order. Hobbes' very context demands above all things that they be just this and no more. Any transcendental communication of God and man is

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<sup>26</sup> De Cive, p. 161.

<sup>27</sup> Seemingly, it is as though (prior to the State) it were but a kind of unactualized potency.

<sup>28</sup> In this regard, Vaughan makes the comment: "For him [Hobbes] the 'law of nature' stands, on the one hand, for a brute instinct; on the other hand, for a moral ideal. And the levity with which he passes from the one interpretation to its direct opposite is nothing short of astounding"—Studies in the History of Political Philosophy, Vol. I, p. 33.

<sup>29</sup> De Cive, p. 59.

pragmatically lost or socially outlawed or changed to something wholly anthropomorphic<sup>30</sup>. Even God's law, whatever this or God is for the materialist, was properly only the word of the sovereign of State. Hobbes' reference to God as having command over all things is of no value, at least so far as practical human action is concerned — except insofar as God's law is explicitly expressed by the political voice, whether in a democracy, aristocracy, or monarchy<sup>31</sup>. God's law for Hobbes is just as unintelligible in itself extra-politically as the natural moral law of the Christian (or pre-Christian) tradition. Repeatedly and emphatically, he declares<sup>32</sup>: "all subjects are bound to obey that for divine law, which is declared to be so by the laws of the commonwealth." Furthermore, he noted, "none can make laws but the commonwealth; because our subjection is to the commonwealth only...<sup>33</sup>" The human subject does not know how to observe these principles of social order other than by way of these positive laws: "A man knows not otherwise how to obey them." Unwritten law, too, is subsumed under the civil will: "...All

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<sup>30</sup> Ibidem, p. 27.

<sup>31</sup> Leviathan, p. 123.

<sup>32</sup> Ibidem, p. 132-133.

<sup>33</sup> Ibidem, p. 123.

laws, written and unwritten, have their authority and force from the will of the commonwealth...<sup>34</sup>

The civil will alone, therefore, becomes the new moral law. And the new moral law is the civil law. But it can in no wise be subject to itself, because, as Hobbes held, "the sovereign of a commonwealth... is not subject to the civil laws<sup>35</sup>", and much less is the civil will subject to anything above or other than itself<sup>36</sup>, because it cannot act against either natural or divine law<sup>37</sup>: "no civil law whatsoever... can possibly be against the law of nature." Similar notions of the pragmatic primacy of positive law are found in Spinoza, Locke, and Rousseau. The natural law is a divine law, says Hobbes<sup>38</sup>, "... it is the eternal law of God." The civil sovereign can do no wrong, or injustice to any subject<sup>39</sup>. The civil law, moreover, contains the natural law. "The law of Nature and the civil law", said Hobbes<sup>40</sup>, "contain each

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<sup>34</sup> Ibidem, p. 125.

<sup>35</sup> Ibidem, p. 124.

<sup>36</sup> Ibidem, p. 85-86. Cf. De Cive, p. 161, 128-129.

<sup>37</sup> De Cive, p. 161-162.

<sup>38</sup> Cf. the very title of Chapter IV of Philosophical Rudiments "That the Law of Nature is a Divine Law", Holsworth, Vol. II, p. 50. Cf. also Leviathan, p. 129 and 133.

<sup>39</sup> Leviathan, p. 101 and also Chapter VIII, p. 95-16.

<sup>40</sup> Ibidem, p. 124.

other, and are of equal extent." Interesting and revelatory is his contention that law properly is only a conclusion, a conclusion or command of human will, but not as from anything real, least of all as from a prior existing ordinance of reason, seen in the traditional, natural moral law:

These diotates of reason, men used to call by the name of laws, but improperly: for they are but conclusions, or theorems concerning what conduceth to the conservation and defence of themselves...<sup>41</sup>

This means the conclusions are not rooted in reality but are aseitous as political conclusions that first come to be as principles in social relations, but always from man's will. Only "then", he says, "are they actually laws, and not before; as being then the commands of the commonwealth..."<sup>42</sup>

The reason the political sovereign is not obliged by, or subject to, the civil laws is that the social contract (which is the sole source of obligation<sup>43</sup>) is valid only between subjects<sup>44</sup>: this is "by covenant only of one [subject] to another [subject], and not of the sovereign to any of them..." Thus "neither can the city be obliged to her citizen..."<sup>45</sup> Under no moral law then is the sovereign

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<sup>41</sup> Ibidem, p. 78-79.

<sup>42</sup> Ibidem, p. 124.

<sup>43</sup> De Cive, p. 101.

<sup>44</sup> Leviathan, p. 85.

<sup>45</sup> De Cive, p. 80. Cf. also p. 142.

obliged to the citizen. Only subjects are to obey laws for the sake of security and the quest for felicity. The sovereign as having the power to overawe men and so enforce the laws gives reality to obligation, "for it is the sovereign power that obliges men to obey them"<sup>46</sup>." Only thus are disputes among men resolved. The new natural moral law is purely the civil law, a law purified of traditional trammel. The right or will of the political sovereign becomes the actual law. The political powers that he make "the things they command just, by commanding them, and those which they forbid, unjust, by forbidding them"<sup>47</sup>." The sovereign is not bound but free to act, to make and repeal laws "when he pleaseth"<sup>48</sup>." "The city is therefore free when she pleaseth"<sup>49</sup>," for "the law is the intention of the legislator" and "that law can never be against reason"<sup>50</sup>."

Thus morality is plainly based on an arbitrary measure<sup>51</sup>, yet, among others, denying this is Sir Leslie

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<sup>46</sup> Leviathan, p. 124.

<sup>47</sup> De Cive, p. 129. He says too: "There are no authentic doctrines concerning right and wrong, good and evil, besides the constituted laws in each realm and government" p. xxv (Preface to the Reader).

<sup>48</sup> Leviathan, p. 124.

<sup>49</sup> De Cive, p. 80.

<sup>50</sup> Leviathan, p. 125.

<sup>51</sup> Of course, Hobbes' political morality cannot be arbitrary if it is kept in mind that materialism permits no spiritual will and therefore nothing strictly arbitrary. The absurdity is that of Hobbes.

Stephen<sup>52</sup> who, though he sees Hobbes' "legal or purely external conception" of morality as "totally inadequate", maintains that "it does not imply that the moral law is 'arbitrary' or made at will by the sovereign." The reason, he says, is that "it is the law of 'self-preservation' regarded from a purely egoistic point of view." No doubt, egoism is of radical importance here. But no interpretation can fairly expunge the arbitrary character of Hobbes' political sovereign. This is particularly true in the light of Hobbes' voluntarism — and, above all, is it true because society and social order first arise contractually from individual rights, or wills, authorizing society and its sovereign will. The civil laws alone then become "the rules of good and evil, just and unjust, honest and dishonest; therefore, what the legislator commands, must be held for good and what he forbids for evil<sup>53</sup>." How can these lines in their whole context be construed as anything but arbitrary? Sterling Lamprecht<sup>54</sup> makes a similar defence of Hobbes by pointing out that his sovereign is not arbitrary as it exists for "the safety of the people<sup>55</sup>":

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<sup>52</sup> Stephen, op. cit., p. 219-220.

<sup>53</sup> De Cive, p. 128.

<sup>54</sup> Lamprecht, "Introduction", De Cive, p. xxvi.

<sup>55</sup> De Cive, p. 142.

"the city was not instituted for its own, but for the subjects' sake" and that the sovereign is, above all, subject to the laws of nature, or the dictates of reason. But the fitting retort to Lamprecht is that, despite the sovereign's raison d'être, however noble, he can do "no injury to any of his subjects"<sup>56</sup> and can do absolutely no injustice or wrong properly speaking, and, what is more, the laws of nature are simply not proper laws. Where then there is no law, there is no duty. Clearly, then Hobbes' sovereign will is not only arbitrary but as infallible as Rousseau's sovereign, the General will. Huntington Cairns<sup>57</sup> notes that Hobbes' theory of law has become "most powerful" and "is still employed with fruitful results." And this, it may be stressed, has been true chiefly by way of Hobbes' individualism. Hobbes' theory,

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<sup>56</sup> Leviathan, p. 86 et 95. Hobbes says: "It is true that they that have sovereign power may commit iniquity, but not injustice or injury in the proper signification." p. 86.

<sup>57</sup> Huntington Cairns, Legal Philosophy from Plato to Hegel, Baltimore, The Johns Hopkins Press, 1949, p. 271. It may be noted here what was said by W. G. Fogson Smith "The Philosophy of Hobbes, an Essay" in Hobbes' Leviathan..., Oxford, at the Clarendon Press, 1929: "... No thinker on politics has ever probed its [morality] fundamental conceptions more thoroughly; and I say it advisedly, if you would think clearly of rights and duties, sovereignty and law, you must begin with the criticism of Hobbes." (p. xvii) — Maxey wrote: "Hobbes simply could not be ignored, and cannot be ignored even now." Chester C. Maxey, Political Philosophies, New York, Macmillan, 1938, p. 232.

Cairns points out, "seems historically to be at the root of the contemporary realist's conception that law is whatever is done officially about disputes."

The absolute primacy therefore, of "individual, natural rights" — of men "free and equal" — leads to the primacy of sovereign political will. This could be seen in the form of Locke's majority will and Rousseau's General will. It is true that government according to Locke holds sovereign power revocably, only by mandate, unlike Hobbes' fixed or set sovereign. Yet even Locke's majority will of the people is the power, actually supreme and potentially totalitarian as subject only to the natural amoral law of self-interest<sup>58</sup>. Despite the optimism that covers Locke's state of nature, his theory of natural rights as originating the State and government, or as determining civil law is at least fundamentally that of Hobbes and indicates how he swallowed the latter's doctrine of natural rights and the state of nature — as against the prime importance of the tradition of transcendental purpose, moral law and duties. Leo Strauss<sup>59</sup> goes as far as to say that Hobbes is "the founder of modern political

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<sup>58</sup> Cf. Locke, Treatise of Civil Government, Sherman, p. 82-85, 62-65, 56-57, 88-95.

<sup>59</sup> Leo Strauss, The Political Philosophy of Hobbes: Its Basis and Its Genesis, tr. from the German manuscript by E.M. Sinclair, Oxford, at the Clarendon Press, 1936, p. 157.

philosophy"; as he was "the first to distinguish" "between 'right' and 'law', in such a way that he sought to prove the State as primarily founded on 'right', of which 'law' is a mere consequence...<sup>60</sup>;

For Hobbes obviously starts, not, as the great tradition did, from natural 'law', i.e. from an objective order, but from natural 'right'... which, far from being dependent on any previous law, order, or obligation, is itself the origin of all law, order, or obligation.

Hobbes, moreover, made an "unconditional natural right the basis of all natural duties, the duties being therefore only conditional<sup>61</sup>." In Strauss' study of this question there is a peculiar point of view from which this modern revolt appears as a movement against the classical tradition rather than against the Christian tradition, as if the Christian philosophy merits no attention as a prime factor in the whole picture, or as if the solution to the problem is a secular one not to be marred by Revelation and all that this socially entails. Obligation, or duties take on a new and definitive meaning in the light of the Incarnation and the New Law — as Christian philosophy attests. The Protestant and Modern Revolution is most clearly seen in the light of the Christian tradition. For it is, in part at least, against this

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<sup>60</sup> Ibidem, p. xii.

<sup>61</sup> Strauss, Natural Right and History, p. 132.

tradition, or against what they think it is, that Hobbes and Rousseau react. The reaction is only secondarily against the classical tradition. (When Christianized, the classical tradition becomes the bête noire.)

Hobbes' break with tradition appears most radical in its denial of the intelligibility of being, or objective reality — whereupon arises a new "intelligibility", voluntaristic and homecentric. In tune with his individualism, he upholds, like the later-day rationalists, the primacy of reason, i.e. autonomous reason along with a staunch anti-reason. His notion of anti-reason amounts to scepticism, or a metaphysical agnosticism — the denial of the intelligibility of being, natural or divine. If being is unintelligible, then all the more is God, prime Source of being, unintelligible. But as some measure of human social relations is necessary for order, the will of the State, man's highest social institution, arises as the new measure — the new "raison d'être" — "raison d'état". In De Cive Hobbes says: "all things in the natural kingdom of God are inquired into by reason only, that is to say, out of the principles of natural science<sup>62</sup>." He is quite clear in affirming that "we cannot so much as reach to the full understanding of all the qualities of our own bodies, or of any other creatures." In

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<sup>62</sup> De Cive, p. 186.

the Leviathan he says<sup>63</sup>: "as they [these principles] cannot teach us our own nature, nor the nature of the smallest creature living..." "they are so far from teaching us anything of God's nature...", but "there is no other way to know anything but by natural reason, that is, from the principles of natural science." There are, as ever, all the appearances here of Hobbes' having considerable concern for things theological and religious, but actually these things, so far as he is concerned, do not belong in society except as determined, defined, and declared by the political will — a view not much unlike that of the later-day Liberal. Such things are controversial and not conducive to the peace and profit of men. But it is from this sceptic basis that the notion of a liberal tolerance springs as a practical need.

As a part of the revolutionary emancipation "autonomous reason" severs and releases the individual man from a heteronomous dependence upon being and its exactions, especially those of man's nature and the natural moral law — at least as intelligible existents. If being is intelligible, it points too strongly toward dependence upon the old tradition. The individual must become the radical determinant of

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<sup>63</sup> Leviathan, p. 166. Marx, the materialist, moreover, certainly had reason to call Hobbes "the father of us all". Cf. William Y. Elliott and Neil A. McDonald, Western Political Heritage, New York, Prentice-Hall, Inc., 1950, p. 770.

being and truth<sup>64</sup>: "All things were determined by every man's own judgment..." "... Every man is judge<sup>65</sup>." When a man exercises his liberty, or natural right, he acts solely "in his own judgment and reason<sup>66</sup>." "... Every one is governed by his own reason" and "every man is his own judge..."<sup>67</sup> The primal autonomy is quite clear:

... Every man's own reason is to be accounted, not only the rule of his own actions..., but also as the measure of another man's reason, in such things as do concern him<sup>68</sup>.

Nor does autonomous reason cease for a man once he is in society, any more than his existence or liberty ceases. He is always allowed what is left over after civil law speaks and sets the determinations of order. Like religion it must stay out of society unless it is the sovereign reason, or will. Reason can only be curbed and restrained. A man can never be convinced, nor convince another. "To convince a man is not to enjoy a common understanding with him, but to displace his reason by yours<sup>69</sup>." This is an obvious point, it

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<sup>64</sup> De Cive, p. 161.

<sup>65</sup> Leviathan, p. 70.

<sup>66</sup> Ibidem, p. 66.

<sup>67</sup> De Corpore Politico, Molesworth, Vol. IV, p. 225.

<sup>68</sup> De Cive, p. 32.

<sup>69</sup> Oakeshott, "Introduction", op. cit., p. lvi.

should be observed, if reason is not a natural spiritual power. Hobbes wrote:

No one man's reason, nor the reason of any one number of men, makes the certainty; no more than an account is therefore well cast up, because a great many men have unanimously approved it<sup>70</sup>.

Hobbes' rationalism, moreover, is an aspect of his agnosticism about reality. In discussing a common measure for social order, he denied a natural foundation for right reason in the existing order<sup>71</sup>: "This common measure, some say, is right reason: with whom I should consent, if there were any such thing to be found or known in rerum natura." "Right reason," he affirms, simply "is not existent..." what is more, "no man can know right reason from false..."<sup>72</sup> He insists<sup>73</sup>: "Commonly they that call for right reason to decide any

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<sup>70</sup> Leviathan, p. 28. For one man to engage in convincing others is intolerable in society, according to Hobbes.

<sup>71</sup> De Corpore Politico, Molesworth, Vol. IV, p. 225.

<sup>72</sup> De Cive, p. 32.

<sup>73</sup> De Corpore Politico, Molesworth, Vol. IV, p. 225. This viewpoint is very much in evidence in the contemporary world. — Walter Lippmann sees nothing but an obstacle in this attitude which he exposes as follows: "In the prevailing popular culture all philosophies are the instruments of some man's purpose, all truths are self-centered and self-regarding, and all principles are the rationalizations of some special interest. There is no public criterion of the true and the false, of the right and the wrong, beyond that which the preponderant mass of voters, consumers, readers, and listeners happen at the moment to be supposed to want." The Public Philosophy, p. 59.

controversy, do mean their own." But this should not be surprising if it is remembered that, according to Hobbes, reason is merely a superior form of sensation. Nor is there any foundation existing objectively for a distinction between good and evil, or right and wrong other than feelings, or passions, will or appetite<sup>74</sup>:

For these words of good, evil, and contemptible, are ever used with relation to the person that useth them: there being nothing simply and absolutely so; nor any common rule of good and evil, to be taken from the nature of the objects themselves.

Hobbes clearly cultivates the grounds or at least the foundations of free-thinking which would loom strong in the individualism of liberal thought. He was in the best of the nominalist tradition in maintaining that "'good' and 'evil' are names that signify our appetites and aversions; which in different tempers, customs, and doctrines of men, are different<sup>75</sup>." Moreover, "because whatsoever a man would, it therefore seems good to him because he wills it...<sup>76</sup>" The measure of good and evil, he found in pleasure and pain,

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<sup>74</sup> Leviathan, p. 32.

<sup>75</sup> Ibidem, p. 78. Cf. too De Cive, p. 57.

<sup>76</sup> De Cive, p. 28. Cf. too Hobbes, Questions Concerning Liberty, Necessity, and Chance, Molesworth, Vol. V, p. 192. Hobbes casts his vote against the transcendentalists (and the principle: "ens, bonum, et verum convertuntur").

"for," as he wrote, "we all measure good and evil by the pleasure or pain we either feel at present, or expect hereafter<sup>77</sup>." The standard is purely relative and subjective<sup>78</sup>: "No man calleth good or evil, but that which is so in his own eyes..." In Human Nature are the following lines<sup>79</sup>: "Every man, for his own part, calleth that which pleaseth... good; and that evil which displeaseth him." But this is so because "while every man differeth from another in constitution, they differ also from one another concerning the common distinction of good and evil." And with this is added significantly: "Nor is there any such thing as absolute goodness..." It is by one's nature and "through diversity of our affections"<sup>80</sup> that "one counts that good, which another counts evil." "Such is the nature of man, that every one calls that good which he desires, and evil which he eschews." This is the gate to rampant subjectivism. But this norm of judging relentlessly tends to pervade common as well as private activity:

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<sup>77</sup> De Cive, p. 166.

<sup>78</sup> Leviathan, p. 306.

<sup>79</sup> Human Nature, Molesworth, Vol. IV, p. 32.

<sup>80</sup> De Cive, p. 166.

And diverse men, differ not only in their judgment, on the senses of what is pleasant and unpleasant to the taste, smell, hearing, touch, and sight; but also of what is conformable or disagreeable to reason, in the actions of common life<sup>81</sup>.

Apparently, then, the loopholes in civil law will be so many that no number of laws could ever catch up with the diversities of human tastes. These diversities are seen not only "in those things we apprehend by sense, as by tasting, touching, smelling; but much more in those which pertain to the common actions of life...<sup>82</sup>" Obviously, the judgments of individual men are independent insofar as "men judge the goodness or wickedness of their own, and of other men's actions, and of the actions of the commonwealth itself, by their own passions<sup>83</sup>." Thus, moreover, it is in the spirit of individualism and autonomous reason that Hobbes wrote: "... the knowledge of good and evil belongs to each single man<sup>84</sup>."

Many a Liberal has found his cue on grounds of this sort. Supreme Court Justice, Oliver Wendell Holmes, held that "morally good" and "morally bad" mean in the final analysis that "I like it" and "I don't like it" just as tastes,

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<sup>81</sup> Leviathan, p. 78.

<sup>82</sup> De Cive, p. 57.

<sup>83</sup> Leviathan, p. 305-306.

<sup>84</sup> De Cive, p. 128.

he says, vary, e.g. one wants coffee with sugar; another, without it<sup>85</sup>. The first principles behind morality are "literally prejudices", as Morris Cohen<sup>86</sup> says in agreeing with Holmes. "It would be well," Holmes asserts<sup>87</sup>, "if the intelligent classes could forget the word sin and think less of being good." At least Hitler seems to have heeded the spirit behind Holmes' thought. The salient significance is seen in Holmes' conclusion concerning order: "It seems to me clear," notes Holmes<sup>88</sup>, "that the ultimate ratio not only regum [of rulers] but of private persons is force." Law is an appetitive dictate:

When the Germans in the late war [No. I, 1914-18] disregarded what we call the rules of the game, I don't see there was anything to be said except: we

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<sup>85</sup> O. W. Holmes, To Lady Pollock, September 6, 1902, in Holmes-Pollock Letters (The correspondence of Mr. Justice Holmes and Sir Frederick Pollock 1874-1932), ed. by Mark D. Howe with an Introduction by John G. Palfrey, Cambridge, Mass. Harvard University Press, 1941, Vol. I, p. 105. Cf. too Felix Frankfurter, "Early writings of O. W. Holmes Jr.", in Harvard Law Review, Vol. XLIV, March 1931, p. 717-724, 723. Cf. too Francis P. LeBuffe and James V. Hayes, The American Philosophy of Law, fourth ed., New York, Crusader Press, Inc. 1947, with an appended article by John G. Ford, "The Fundamentals of Holmes' Juristic Philosophy", p. 377-403.

<sup>86</sup> Morris H. Cohen, "Justice Holmes", New Republic, Vol. XXV, February 2, 1921, p. 295 — a review of O. W. Holmes' Collected Legal Papers.

<sup>87</sup> Holmes, to Mr. Pollock, April 2, 1920, in Holmes-Pollock Letters, Vol. II, p. 178. Here he refers to man as "a cosmic ganglion, a momentary intersection."

<sup>88</sup> O. W. Holmes, The Common Law, Boston, Little, Brown and Co., 1881, p. 44.

don't like it and shall kill you if we can. So when it comes to the development of a corpus juris the ultimate question is what do the dominant forces of the community want and do they want it hard enough to disregard whatever inhibitions may stand in the way<sup>89</sup>.

Holmes, like Hobbes, also attacked the "confusion" of civil law with the moral law:

I often doubt whether it would not be a gain if every word of moral significance could be banished from the law altogether and other words adopted which should convey legal ideas uncolored by anything outside the [positive, or i.e. human civil] law... we should lose the fossil records of a good deal of history and the majesty got from ethical associations, but by ridding ourselves of an unnecessary confusion we should gain very much in the clearness of our thought<sup>90</sup>.

The civil law must be supreme in order that the maximum reaches of human freedom be gained. But for order, Holmes, like Hobbes, holds that the law is the dominant political will:

The will of the sovereign is law [not because proceeding as the expression of the Eternal Law as in the tradition Christianity upheld but] because he has power to compel obedience or to punish disobedience and for no other reason. The limits within which his will is law then, are those within which he has, or is believed to have, power to compel or punish<sup>91</sup>.

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<sup>89</sup> Holmes, To Wu, August, 26, 1926, in His Book Notices and Uncollected Letters, ed. and annotated by H.C. Shriver, with an Introduction by H. F. Stone, New York, Central Book Co., 1936, p. 187.

<sup>90</sup> Holmes, Collected Legal Papers, New York, Harcourt Brace and Co., 1921, p. 179. Italics are ours.

<sup>91</sup> Cf. Harvard Law Review, Vol. XLIV, March 1931, p. 788 and J. Ford in "Fundamentals..." in LeBuffe and Hayes, op. cit., p. 379. The fact that Holmes may have been personally a good man or that his practical court decisions might have been just are--if at all true--tributes to things other than his underlying philosophy of individualistic materialism.

As for Hobbes' view about private judgment, he referred disparagingly, to be sure, to this "private measure" the "private knowledge of good and evil"<sup>92</sup> only insofar as it was seen as a social measure of relations between one man's self-interest and another's. Yet it should be remembered that Hobbes' system never strays from individualism. "Leviathan" is built with, and upon, the blocks of what in no small way came to be known as laissez-faire. It is still always Hobbes' most primal tenet that "there is no reason why every man should not naturally mind his own private, than the public business..."<sup>93</sup> It should not be forgotten that even society, the pure creation of the individual, is but a device of self-interest. Hobbes insists, nevertheless, that this individualism of men "free and equal" is not in the best interests of the human individual and human order. It precludes social order unless some sovereign rectifier is commissioned by free and equal individuals to sustain subjection of each man with his absolute rights to the over-all ordering power. "As long as this natural right of every man to everything endureth, there can be no security to any man..."<sup>94</sup> But the trouble is that men do not know; they do not know "a law that forbids

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<sup>92</sup> De Cive, p. 133.

<sup>93</sup> Ibidem, p. 125.

<sup>94</sup> Leviathan, p. 66. Cf. too p. 149.

them" and "till laws be made they cannot know; nor can any law be made till they have agreed upon the person that shall make it<sup>95</sup>." And men do not know it because it does not exist or has no intelligible being. And as never having had being, it must come into existence by man's will.

Its actuality as a good for man must derive from man alone. And "to say a thing is good, is to say it is as I or another would wish, or as the state would have it, or according to the law of the land...<sup>96</sup>" There is no base for an objective judgment of existence, especially in line of a norm of order among men. Autonomous reason is then futile. There is no right reason — there is no such thing in being, nor "any such thing to be found or known in rerum natura<sup>97</sup>."

... All controversies are bred from hence, that the opinions of men differ concerning meum and tuum, just and unjust, profitable and unprofitable, good and evil, honest and dishonest, and the life, which every man esteems according to his own judgment.

But Hobbes insists that "there should be a common measure of all things" controversial, "as for example: of what is to be called right, what good, what virtue...<sup>98</sup>" Since, however,

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<sup>95</sup> Ibidem, p. 65. Cf. too p. 123.

<sup>96</sup> Questions Concerning Liberty, Molesworth, Vol. V, p. 193.

<sup>97</sup> De Corpore Politico, Molesworth, Vol. IV, p. 225. De Cive, p. 74.

<sup>98</sup> De Corpore Politico, Molesworth, Vol. IV, p. 225. Italics are ours.

"this is certain ... right reason is not existent, the reason of some man or men", he concludes, "must supply the place thereof" — the place of raison d'être — and "that man or men, is he or they [monarchy or democracy or other form] that have the sovereign power..." This will be the positive Law in the role of the new moral law: "Consequently the civil laws are to all subjects the measures of their actions, whereby to determine, whether they be right or wrong, virtuous or vicious..." The lawmaker in any event "is only the sovereign, be he one man, as in a monarchy, or one assembly of men, as in a democracy, or aristocracy"<sup>99</sup>. The notion of totalitarian democracy is clearly to be found in Hobbes.

Indeed, in any society founded on individualism, the subject is bound to observe "the reason of his sovereign"<sup>100</sup>. As there exists no truth, absolute and indisputable, nor intelligible dictates of reason, "we have therefore set up over ourselves a sovereign governor", said Hobbes<sup>101</sup>, and agreed that the resultant "laws shall be unto us, whatsoever they be, in the place of right reason, to dictate to us what is really good." Since he has denied for the social man a

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<sup>99</sup> Leviathan, p. 123.

<sup>100</sup> Ibidem, p. 126.

<sup>101</sup> Questions Concerning Liberty, Molesworth, Vol. V, p. 194. Italics are ours.

transcendental purpose in an intelligible supreme being, he sees social purpose in the negative vein — i.e. in averting death, the summum malum. "Our morality," he says<sup>102</sup>, "is all contained in not disobeying of the laws," and "all the real good, which we call honest and morally virtuous, is that which is not repugnant to the law, civil or natural." "The law," he notes, "is all the right reason we have..." It is "the infallible rule of moral goodness." "The actions of subjects, if they be conformable to the law, are morally good...<sup>103</sup>" and must abide by the law even when lawmakers err as to what is "for the good of the people sometimes when it is not" —: "For the law-makers are men, and may err..." The sovereign's reason must prevail as "judge of what is necessary for peace<sup>104</sup>." The point is: the sovereign power can err but not sin, i.e. can "commit iniquity, but not injustice or injury in the proper signification<sup>105</sup>." The sovereign is under no contract with anyone and is subject heteronomously to no moral law (except the natural law which properly has no

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102 Ibidem. Italics are ours.

103 Ibidem, p. 193.

104 Leviathan, p. 95.

105 Ibidem, p. 86. Cf. De Jure, p. 91: "... The civil person sins not, but those subjects only by whose votes it was decreed; for sin is a consequence of the natural express will, not of the political, which is artificial."

intelligible actuality other than as expressed by sovereign powers). The gain, incidentally, is distinctly in favour of nationalism and power politics, thanks to the philosophy of individualism. The sovereign is as absolutely free as the individual in the state of nature<sup>106</sup>, and is commissioned expressly to voice and enforce his will as that of the subjects whom he represents: "He is their representative unlimited"<sup>107</sup>. The sovereign's rule is reason — right reason — but by this, Hobbes, of course, means the sovereign's will<sup>108</sup>:

All laws, written and unwritten, have their authority and force from the will of the commonwealth, that is to say, from the will of the representative which in a monarchy is the monarch, and in other commonwealths the sovereign assembly.

When the wills of individual men contract to found society, they authorize the sovereign to represent their reason, their rights and wills<sup>109</sup>: "... every subject is by this institution author of all the actions and judgments of the sovereign

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<sup>106</sup> Leviathan, p. 102. Cf. p. 161: Hobbes says: "And every sovereign hath the same right, in procuring the safety of his people, that any particular man can have in procuring the safety of his own body." "... The law of nations, and the law of Nature, is the same thing." If a natural moral law does not exist internationally, how could it exist in relations between sovereign and subjects? Actually the sovereign, therefore, could only operate arbitrarily toward his subjects.

<sup>107</sup> Ibidem, p. 107.

<sup>108</sup> Ibidem, p. 125. Hobbes holds that law is the will and appetite of the State.

<sup>109</sup> Ibidem, p. 86.

instituted" and thus the sovereign is infallible and incapable of injustice. "Every particular man is author of all the sovereign doth" and "of all his sovereign shall do"<sup>110</sup>. By this unlimited representation the de facto will of the sovereign becomes for the subjects what is to be the true and the good. Truth like Leviathan is an artificial production, an issue by way of votes and representation and the like.

Hobbes' society, however, is individualist through and through. It does not have anything like a Common or General Will, as is found in Rousseau, nor a truly common good. It is in no sense an organic unity, despite all suggestions to the contrary, but merely an artificial collectivity of individuals, a multitude made one by the representer—"a 'unity' of the representer, not the 'unity' of the represented..."<sup>111</sup> Its unity resides purely in the singleness of the sovereign representative<sup>112</sup>, "in the substitution, by individual acts of will, of his own will for the many conflicting wills"<sup>113</sup>, for as Oakeshott observes, Hobbes' society, in generation and structure, is the "only society that does

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<sup>110</sup> Ibidem, p. 85. Cf. p. 101 and especially p. 80.

<sup>111</sup> Ibidem, p. 80. Cf. p. 81.

<sup>112</sup> Ibidem, p. 153.

<sup>113</sup> Oakeshott, "Introduction", op. cit., p. lvi.

not compromise the individuality of its components" and "Hobbes' individualism is far too strong to allow even the briefest appearance of anything like a general will." The compacting individual as such authorizes the social authority to be authoritative:

To authorize a representative to make a choice for me does not destroy or compromise my individuality; there is no confusion of wills... my will is in the appointment of the representative... the choice he makes is not mine, but his on my behalf.

Hobbes sees men as naturally a multitude "not one but many", "many authors, of everything their representative saith, or doth in their name; every man giving their common representer authority from himself in particular...<sup>114</sup>" This is representation in the strictest sense. The reality of truth is its creation, so far as social order is concerned. But it begins absolutely in individual human rights, autonomous will, self-interest and autonomous reason free or spiritually out of contact with knowable being.

There is but one more point to be made: in a society founded on individualism there is hardly room for a supernatural society. If being is unintelligible to man by any natural spiritual property of his, then man cannot come to an assured oneness with a universal natural moral law or with God or a Church as a divine society. Once knowable reality

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<sup>114</sup> Leviathan, p. 80.

of a natural moral law is denied, no Church or spiritual government other than or separate from the State and much less above it is possible or knowably existent. Men, says Hobbes, cannot naturally "attain to the knowledge of the nature of God..."<sup>115</sup> and hence it is "inconsiderate and rash" to say "this or that doth not stand with divine justice." Christians are to be subject only to their respective political sovereigns<sup>116</sup>; "... in a Christian commonwealth, obedience is due to the sovereign in all things, as well spiritual as temporal." It is clearly brought out that "... there is on earth no such universal Church, as all Christians are to obey, because there is no power on earth to which all other commonwealths are subject"<sup>117</sup>. This should be evident from Hobbes' notion of the origin of truth by which men must act. Actually he has engineered the total alienation of politics from morals. For the sake of peace and order there can and must be only a temporal governor: "and that governor must be one." And that sovereignty must be "entire sovereignty"<sup>118</sup>; it must be total and indivisible. "No man can serve two masters..."<sup>119</sup>

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<sup>115</sup> De Cive, p. 186.

<sup>116</sup> Ibidem, p. 208. Cf. p. 198.

<sup>117</sup> Leviathan, p. 211-212.

<sup>118</sup> Ibidem, p. 168.

<sup>119</sup> De Cive, p. 75.

There must be only one chief pastor<sup>120</sup>: "but if pastors be not subordinate one to another, so as that there may be one chief pastor, men will be taught contrary doctrines..."

Whether democratic, monarchical, or otherwise, "who that one chief pastor is, according to the law of Nature, ... is the civil sovereign..." Hobbes notes pointedly that "'temporal' and 'spiritual' government are but two words brought into the world to make men see double, and mistake their 'lawful sovereign'." This "liberation" from the intelligible principles of reality, as taken up and adopted as natural by the Christian tradition was the attraction in modern secularist thought. It was this emancipating phase of Hobbes' thought -- especially in regard to Church and State -- of which the Liberal Rousseau speaks well. Rousseau<sup>121</sup> lauds Hobbes highly for being "the only one" to see "the evil and its remedy", viz. the remedy being "a junction of the two heads of the Eagle, and the complete restoration of political unity." Here, Hobbes, like Rousseau, wanted a return to the old pagan unity of Religion and State wherein as of old the latter was dominant. For what had clearly characterized organized Christianity, at least doctrinally, was its distinction of

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<sup>120</sup> Leviathan, p. 212.

<sup>121</sup> Social Contract, p. 118.

Church and State. This Christian separation brought out definitively the natural (i.e. by a man's rational nature) obligations of men, subjects and superiors, to purpose transcending this life. The liberation-protest of individualism with its stress on "individual rights" altered the picture.

Sabine's summary<sup>122</sup> is that Hobbes "caught the spirit which was to animate social thinking for at least two centuries more, the spirit of laissez-faire" — his was in fact the revolutionary theory of the age. Social authority or power which private wills alone set up in the constitution of a State was "the servant of private security"<sup>123</sup>.

For two centuries after Hobbes self-interest seemed to most thinkers a more obvious motive than disinterestedness, and enlightened self-interest a more applicable remedy for social ills than any form of collective action.

Men need this "enlightenment" because, being naturally amoral, they do not sin but only err. "Hobbes is concerned above all with the individual and the rights and privileges of the individual," said William McGovern<sup>124</sup> who notes too that it is precisely this individualism which leads Hobbes "straight to thorough-going statism, the belief that the state should have

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<sup>122</sup> Sabine, op. cit., p. 667.

<sup>123</sup> Ibidem, p. 475.

<sup>124</sup> McGovern, op. cit., p. 66.

absolute control over all the actions of the individual." It should be clear that Hobbes cannot be classed as merely a totalitarian. To consider him so is a gross aberration. Nor, of course, can he be regarded, strictly, as a libertarian, or Liberal, though at least the ingredients of Liberal thought are in him. As Oakeshott<sup>125</sup> observes, "Indeed, Hobbes, without being himself a liberal, had in him more of the philosophy of liberalism than most of its professed defenders." It is by his individualism that Hobbes has the function of the State estranged from contact with man's final destiny and the concerted life of virtue — in favour of the motives that are to be found in liberal individualism, in the primacy of "liberty" and "rights". Unintelligible are obligations to an extra-political spiritual end, as these are unknowable to the individual. Strauss speaks of Hobbes as "the founder of liberalism"<sup>126</sup> if by liberalism is meant the political doctrine which sees as the basic political fact "the rights, as distinguished from the duties, of man and which identifies the function of the state with the protection or the safeguarding of those rights..."

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<sup>125</sup> Oakeshott, "Introduction", op. cit., p. lvii.

<sup>126</sup> Strauss, Natural Right and History, p. 181-182.

What could be more false than the judgment of Vaughan, viz. that Hobbes' "Leviathan has remained... without influence and without fruit...<sup>127</sup>" and with a few exceptions "is worth nothing" "as a step in the development of political philosophy"? Hobbes' work actually presents a great lesson. And, as Cairns wrote, this work will, with good reason, become more important<sup>128</sup>;

That the recent trends towards state absolutism, both in practice and in theory, are in the main current of Hobbes' speculation scarcely needs to be remarked. If those trends continue, his basic legal ideas, in one form or another, will continue to attract a large share of legal speculation.

There is, therefore, every reason to believe that, as the spirit of individualism spreads in the practical order, it begs the totalitarian reaction. That totalitarianism makes total subordination of the individual to society is a fact only incidental to individualism's total subordination of society to the individual.

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<sup>127</sup> Vaughan, Studies in the History of Political Philosophy, Vol. I, p. 37 and 55.

<sup>128</sup> Cairns, op. cit., p. 271.

## CHAPTER VI

### ROUSSEAU AND THE ART OF GUARANTEERING ABSOLUTE LIBERTY EQUALLY FOR ONE AND ALL

Rousseau's thought is characterized as totalitarianism, on the one hand, and as individualism or unbridled subjectivism, on the other. How is this opposition consistently related in Rousseau? to what extent, in his thinking, is the totalitarian solution inevitable upon the grounds of his individualism?

The general social problem for Rousseau is harmony for man, as man now exists in society. Man either is a rational being in a spiritual sense, or he is not. Hobbes says he is not and Rousseau says he is. Rousseau maintains spiritual reason in man, though he distrusts it. If man is thus a rational being, then one of two alternatives follows: Either he has an end that transcends this life; and everything temporal (including society — in that it is temporal) must be subordinated to his extra-temporal finality. Society in this case cannot be totalitarian; or such a transcendental end is not to be considered; for man may realize his happiness on earth — in time. This may be because an extra-temporal end of man is denied or because it is believed that

man is made to be happy on earth and the eternal finality is impertinent to the discussion. Rousseau is found in this group.

But if man is rational, the problem remains to be solved, the problem of social harmony and of reconciliation between freedom and order. Important it is to determine the nature of society especially in its efficient cause or origin. When, in a man's individual drive for his own happiness, he encounters society with its authority and law, is he or society to yield? It is the law, the work-tool of society, that restricts the initiative of the individual. The control exerted by law finds justification in the need for authority which in turn is justified if society is, as to origin and form. But is society natural, i.e. an integral part of that desire and urge for happiness which is in the individual (as a means) or is it artificial, i.e. man-made, a product of practical human reason, adapting indifferent means to an end? The issue is about society itself which is not something substantial, i.e. constitutive of the substance of man, but something accidental of which an individual man might choose to deprive himself, as he can deprive himself of sight. As in the latter case, would he (if he removed himself from society) deprive himself of something which his nature requires for happiness? Rousseau, like Locke, did not think so. For them society emerged from man's practical reason

and will as an artificial, indifferent means of correcting the evil which crept not in man's nature but among men. The problem is to reconcile the attitude of individualism with the universal fact of man living in society and determining the principle upon which social harmony will rest. This can only be a voluntaristic principle, since man as a naturally social being is ruled out.

To effect social order on these grounds of individualism is to set up purely positive law as the norm and rule of social behaviour. This law is arbitrary and relative to human will. And insofar as it poses as omniscient and rests only on force for its reality and effectiveness, it becomes potentially totalitarian.

Rousseau's problem, more specifically, is seen in his fundamental attempt to reconcile freedom and equality together with society and order. For Hobbes the asocial state-of-nature condition of freedom and equality is amoral, or lacking in moral principle. For Rousseau the picture, in this regard at least, is no different. For Hobbes social order itself was of first importance, but for him the natural state of freedom and equality constituted merely the primal sources for society and order, as the status of freedom and equality was a logical necessity for the social contract.

Hobbes sacrificed liberty on the altar of order<sup>1</sup>. And Hobbes was not particularly mindful of conciliation between liberty and equality. Locke who swallowed Hobbes' state-of-nature condition of freedom and equality sacrificed equality (especially economic) on the altar of liberty. And Locke, the libertarian, was not especially dedicated to reconciling liberty and equality, since he spoke egregiously in behalf of defending unequal property rights. Rousseau's endeavour is: how not to surrender liberty as did Hobbes and how not to surrender equality as did Locke. This is a key to understanding Rousseau. Rousseau's aim is to re-establish as much as possible in society the state-of-nature condition of both liberty and equality and so to found social harmony upon their reconciliation. As Charles Mendel<sup>2</sup> wrote, Rousseau seeks to make "society a scene of liberty and even-handed equality". Rousseau's conceptualized state of liberty and equality becomes for him a kind of norm or anthropomorphic

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<sup>1</sup> But this is not to imply that Rousseau had no interest in order.

<sup>2</sup> Charles William Mendel, Jean-Jacques Rousseau, Moralists, London, Oxford University Press, 1934, Vol. II, p. 323. Continuing his description of Rousseau, Mendel says: "... where a principle is found in common there is liberty and equality for all, and nothing is greater than these goods. Nor, indeed, is anything secure without them, for otherwise all is left to brute force. It was in following the logic of his own idea, against the weight of tradition, that Rousseau won his spurs as a thinker." (p. 325)

ideal for order. G.D.H. Cole, commenting upon the Discourse on the Arts and Sciences, one of Rousseau's early works, pointed out<sup>3</sup> that "in it, Rousseau is already in possession of his idea of 'nature' as an ideal". When Rousseau speaks for freedom, he is also speaking at least implicitly for equality. For him they are both crucial, when social order is involved, despite the fact that liberty seems to be his sole or chief concern: inequality is ruinous to freedom, as Babeuf would say: the poor are not free, as they are too much economically dependent and thus unequal to the rich. Thus the socialist State will seek to equalize things in behalf of order and liberty for all<sup>4</sup>.

Recognizing men as they are, as actually in society, Rousseau aims to set up the solution to the problem with men thus social and rational. Hence the problem is: how to secure order by reconciling freedom and equality for all. What principle or law will establish this reform whereby men will salvage "the natural" and regain liberty and equality and live in harmony in the social state? Rousseau believes that with men and institutions as they are it is of no use to go

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<sup>3</sup> G.D.H. Cole, "Introduction", The Social Contract and Discourses, p. xi.

<sup>4</sup> An interesting question worthy of research is: to what extent is the amoral state of nature with its absolute freedom and equality related to the Communist ideal?

back to a state of nature, nor is it even possible<sup>5</sup>. But the state of nature still carries something in the nature of an ideal for him, viz. the very condition of freedom and equality. And so he endeavours to bring this conceptualized condition, what can be revamped and revitalized of it, into civil society. What is more, society, especially as he envisions reforming it, is better than the spoiled state of nature.

Rousseau conceives men as naturally "being all born equal, and all free<sup>6</sup>". Men are not social by nature, though they are by nature free and equal. Property sparked the upset of this natural state of things. The old tradition, especially that of Christianity, was for Rousseau, the libertarian, a burdensome check or curb upon human liberty, especially by moral obligations of conscience. The restraining bonds of obligation (or at least what he thought was moral obligation) were the bête noire, as Rousseau brought out, e.g. in his Emile. "I only reject," he said, "all obligation

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<sup>5</sup> Cf. Origin of Inequality, p. 169; Rousseau says: "For it is by no means a light undertaking to distinguish properly between what is original and what is artificial in the actual nature of man, or to form a true idea of a state which no longer exists, perhaps never did exist, and probably never will exist; and of which it is, nevertheless, necessary to have true ideas, in order to form a proper judgment of our present state."

<sup>6</sup> Social Contract, p. 6.

to be convinced of its truth [of Revelation]"<sup>7</sup> — in preference not to any dictates of reason, but to the care-free whims of individual feelings: "Let each think as he pleases; I cannot see that it matters to anyone but himself..."<sup>8</sup> As for the rules of conduct Rousseau finds them "in the depths of my heart..."<sup>9</sup> "I need only consult myself with regard to what I wish to do." Right or wrong is "what I feel". In the Discourse on the Arts and Sciences he asks<sup>10</sup>: "Why should we build our happiness on the opinions of others when we can find it in our own hearts?" And what, moreover, is more evident in the Christian tradition than the decided inequality of rights and duties — along, too, with its philosophy of the unequal hierarchy of things, physical and moral? The economic injustices of Rousseau's times were also factors that inspired his efforts and served as a spark triggering off many of his views. In this regard, Charles Mendel observed:

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<sup>7</sup> Emile, Foxley, p. 271. Emile for which Rousseau had high regard held as one of its chief themes, that a man should not be subjected to restraints since such are unnatural.

<sup>8</sup> Ibidem, p. 344.

<sup>9</sup> Ibidem, p. 249.

<sup>10</sup> Rousseau, A Discourse on the Moral Effects of the Arts and Sciences, tr. with Introduction, by G. D. H. Cole, London, J. M. Dent & Sons, Ltd., 1913, p. 153.

When he scored the unjustified inequality, it was not simply because he, Jean Jacques Rousseau, had been made to suffer injustice, tyranny, humiliation, at the hands of his betters, but because he had been convinced by other ardent spirits, such as Fénelon, of the evils of monarchy and the whole system of inequalities bound up with it<sup>11</sup>.

But Rousseau perceives the supreme good of all, therefore, to embrace an order of law-making which insures both freedom and equality for all men:

If we examine in what precisely consists the supreme good of all, which ought to be the object of every system of legislation, it will appear to reduce to two principal points: liberty and equality: in liberty, because all private dependence subtracts so much force from the body of the State: in equality, because liberty cannot subsist without it [equality]<sup>12</sup>.

Rousseau is unquestionably, above all things, an individualist. His reputation is, perhaps, more that of a libertarian staunchly pleading the cause of a rampant subjectivism, yet he is decidedly an equalitarian. Of him Charles Frankel says: "Rousseau is the pre-eminent spokesman for the values of equality and fraternity"<sup>13</sup>. In Discourse on the Origin of Inequality Rousseau declared:

If we compare the prodigious diversity, which obtains in the education and manner of life of the various orders of men in the state of society, with the uniformity and simplicity of animal and savage life, in which everyone lives on the same kind of

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<sup>11</sup> Mendel, Rousseau, Moralist, Vol. II, p. 323.

<sup>12</sup> Social Contract, p. 46.

<sup>13</sup> Frankel, "Introduction", Social Contract, p. xxix.

food and in exactly the same manner, and does exactly the same things, it is easy to conceive how much less the difference between man and man must be in a state of nature than in a state of society, and how greatly the natural inequality of mankind must be increased by the inequalities of social institutions<sup>14</sup>.

It is Rousseau's position that "the inequality of mankind is hardly felt, and its influence is next to nothing in a state of nature...<sup>15</sup>" This ideal condition is one of "natural independence"<sup>16</sup>, as he describes it, a state in which a man is neither under the bonds of servitude to another, nor in need of the aid of another but is his own asocial, solitary master. For here there is no inequality of one man as bound to another, certainly no moral bond of one as obliged to another:

... Every one must see that as the bonds of servitude are formed merely by the mutual dependence of men on one another and the reciprocal needs that unite them, it is impossible to make any man a slave, unless he be first reduced to a situation in which he cannot do without the help of others: and, since such a situation does not exist in a state of nature every one is there his own master...<sup>17</sup>

"Natural independence" and equality go together. Rousseau explains how they are related and how they fall together with the institution of property:

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<sup>14</sup> Origin of Inequality, p. 204. Cf. also p. 214.

<sup>15</sup> Ibidem, p. 205.

<sup>16</sup> Social Contract, p. 30.

<sup>17</sup> Origin of Inequality, p. 205.

But from the moment one man began to stand in need of the help of another; from the moment it appeared advantageous to any one man to have enough provisions for two, equality disappeared, property was introduced, work became indispensable and ...<sup>18</sup> slavery and misery were soon seen to germinate...

Evils spread on all sides. The bonds of society and its laws become necessary. All these evils, however, come not from man's nature (as Hobbes held) but from relations among men, in institutions — or in "a concurrence of things, and not of men..."<sup>19</sup> for, according to Rousseau, men are naturally good<sup>20</sup>, "they are not naturally enemies"<sup>21</sup>, "nor can private war between man and man exist in the state of nature, where there is no settled property..." Nevertheless, "all these evils were the first effects of property, and the inseparable attendants of growing inequality"<sup>22</sup>.

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<sup>18</sup> Ibidem, p. 214.

<sup>19</sup> Social Contract, p. 11.

<sup>20</sup> Origin of Inequality, p. 239: "...man is naturally good."

<sup>21</sup> Social Contract, p. 11.

<sup>22</sup> Origin of Inequality, p. 218. Rousseau says that where there is no property there is no injustice or injury (p. 213). The pure state of nature is one of propertylessness. Property or the right thereof does not rest on the law of nature or a natural moral law, says Rousseau, but on conventional law which becomes the moral rule in civil relations. "... Property, once recognized, gave rise to the first rules of justice" (p. 216). He speaks of "the right of property, which is different from the right deducible from the law of nature" (p. 217), — "the right of property being only a convention of human institution..." (p. 227). "Besides, as man began to look forward [by reason] to the future, and all had something to lose, every one had reason to apprehend that reprisals would follow any injury he might do to another" (p. 216).

Rousseau enumerates these evils in the Origin of Inequality. In concluding this work he makes the following summary:

It follows from this survey that, as there is hardly any inequality in the state of nature, all the inequality which now prevails owes its strength and growth to the development of our faculties and the advance of the human mind, and becomes at last permanent and legitimate by the establishment of property and laws. Secondly, it follows that moral inequality,

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Property once recognized gave rise to moral principles of justice; "for, to secure each man his own, it had to be pos-

sible for each to have something" (p. 216). Self-preservation became important. Compassion gave way to calculation, as reason seemed to arise from a kind of sleep to become active: "Behold then all human faculties developed, memory and imagination in full play, egoism interested, reason active, and the mind almost at the highest point of its perfection. Behold all the natural qualities in action, the rank and condition of every man assigned him; not merely his share of property and his power to serve or injure others, but also his wit, beauty, strength or skill, merit or talents... (p. 217) Free and independent as men were before, they were now, in consequence of a multiplicity of new wants, brought into subjection, as it were, to all nature, and particularly to one another; and each became in some degree a slave even in becoming the master of other men: if rich, they stood in need of the services of others; if poor, of their assistance; and even a middle condition did not enable them to do without one another. Man must now, therefore, have been perpetually employed in getting others to interest themselves in his lot, and in making them, apparently at least, if not really, find their advantage in promoting his own... Insatiable ambition, the thirst of raising their respective fortunes, not so much from real want as from the desire to surpass others, inspired all men with a vile propensity to injure one another... In a word, there arose rivalry and competition on the one hand, and conflicting interests on the other, together with a secret desire on both of profiting at the expense of others" (p.218). Property and mounting inequality caused these evils.

authorized by positive right alone, clashes with natural right, whenever it is not proportionate to physical inequality...<sup>23</sup>

Usurpation following upon smoral natural right, or absolute freedom of independence made for inequality and the need for protection of property. Hence this depraved condition brought about society with its positive laws and bondage opposing natural right or freedom, and confirming inequality, in line at least of protecting property rights. It is this society, as Rousseau sees, that needs a re-forming, a re-casting, by which as much as is socially possible this freedom and equality are reconciled, i.e., as much as this reformation is possible outside a context in which man is social by nature. If need be, human nature as rational must be changed<sup>24</sup> and led back, perchance, to a kind of prevalence of human compassionate nature.

Society is thus better than the depraved state of nature, but, then, too, human relations in reformed society, as Rousseau envisions it, will be better than those in currently crooked society. For it is present society with its rational, unnatural laws which, first, has begotten the monstrosity of moral bonds (corroborating certain property rights)

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<sup>23</sup> Origin of Inequality, p. 238.

<sup>24</sup> Social Contract, p. 36.

in the place of natural amoral freedom — and which, secondly, has reared and brought out the rational, reflecting man in the place of and at the expense of the compassionate man. Such, Rousseau conjectured<sup>25</sup>, was "the origin of society and

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<sup>25</sup> Origin of Inequality, p. 221. "Thus, as the most powerful or the most miserable considered their right or misery as a kind of right to the possessions of others, equivalent, in their opinion, to that of property, the destruction of equality was attended by the most terrible disorders. Usurpations by the rich, robbery by the poor, and the unbridled passions of both, suppressed the cries of natural compassion and the still voice of justice, and filled men with avarice, ambition and vice... The rich, in particular, must have felt how much they suffered by a constant state of war, of which they bore all the expense; and in which, though all risked their lives, they alone risked their property. Besides, however speciously they might disguise their usurpations, they knew that they were founded on precarious and false titles" (p. 219-220). In this condition both rich and poor suffer from insecurity or insufficient strength for self-defence: "the rich man, thus urged by necessity, conceived at length the profoundest plan that ever entered the mind of man: this was to employ in his favour the forces of those who attacked him to make allies of his adversaries, to inspire them with different maxims, and to give them other institutions as favourable to himself as the law of nature was unfavourable" (p. 220). Thus by the social pact the State and civil institutions appear. The rich man persuades the poor: "'Let us join', said he, 'to guard the weak from oppression, to restrain the ambitions, and secure to every man the possession of what belongs to him: let us institute rules of justice and peace, to which all without exception may be obliged to conform; rules that may in some measure make amends for the caprices of fortune, by subjecting equally the powerful and the weak to the observance of reciprocal obligations. Let us, in a word, instead of turning our forces against ourselves, collect them in a supreme power which may govern us by wise laws, protect and defend all the members of the association, repulse their common enemies, and maintain eternal harmony among us'" (p. 220-221). Civil society here is merely the tool of self-interest. "All ran headlong to their chains, in hopes of securing their liberty ... without experience enough to enable them to foresee the dangers" (p. 221). Rousseau notes that, although men are now in chains, they take to themselves

law, which bound new fetters on the poor, and gave new powers to the rich." But his complaint is that this "irretrievably destroyed natural liberty, eternally fixed the law of property and inequality, converted clever usurpation into unalterable right." A minority, i.e. "a few ambitious individuals", profited while mankind fell into "perpetual labour, slavery, and wretchedness"<sup>26</sup>. Fraternity faded with the loss of freedom and equality. It is easy to see, Rousseau adds, how the founding of one society made all the rest necessary, and "how, in order to make head against united forces, the rest of mankind had to unite in turn"<sup>27</sup>, "at least for preservation: "Societies soon multiplied and spread over the face of the earth..."

Thus in the beginning of the Social Contract Rousseau raises the cry of complaint<sup>28</sup>: "Man is born free and yet we see him everywhere in chains." These are the chains of

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superiors "in order that they might be defended from oppression, and have protection for their lives, liberties and properties, which are, so to speak, the constituent elements of their being..." (p. 224) To free man from his chains current society must be reformed. "The fundamental maxim of all political right," says Rousseau, is "that people have set up chiefs to protect their liberty, and not to enslave them" (p. 224).

<sup>26</sup> Origin of Inequality, p. 221.

<sup>27</sup> Ibidem.

<sup>28</sup> Social Contract, p. 5. Italics are ours.

society with its yoke of authority and law. Rousseau's emphasis is upon freedom to be sure, but freedom for everyone and all. He entertains the grounds of both libertarian and egalitarian individualism. His stress upon freedom is to be seen in his attempt to reconcile freedom and equality — i.e. to establish amoral (but only politically moral) absolute freedom in a society wherein all men are "all engaged under the same conditions, and should all enjoy the same rights"<sup>29</sup>. So long as men are naturally good and compassionate<sup>30</sup> to each other, self-preservation is no problem, unlike the case of Hobbes. Organized sociability is thus naturally needless. And so, too, is organization for an end, a Summum Bonum, transcending this life. But when men begin to lose freedom and equality, their status as such and their very existence become precarious. Men resort to society as the tool whereby each man may regain his freedom or insure his preservation. In this way "all ran headlong to their chains, in hopes of securing their liberty..."<sup>31</sup> Self-preservation, indeed, is every man's chief concern<sup>32</sup>. Each alone is unequal to the

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<sup>29</sup> Ibidem, p. 29. Cf. too p. 22.

<sup>30</sup> Origin of Inequality, p. 171-172.

<sup>31</sup> Ibidem, p. 221.

<sup>32</sup> Ibidem. Cf. p. 183.

job of self-defense: "this primitive state can therefore subsist no longer<sup>33</sup>." To overcome the individual's insufficient powers of resistance, "the only means men can employ for their preservation is to form by aggregation an assembly of forces" which is "to be put in motion as one body, and to act in concert<sup>34</sup>." Rousseau like Hobbes says<sup>35</sup>: a man's "first law is that of self-preservation" and each man is "his own master" and "only judge of the means proper to preserve himself." "The force and the liberty of each man are the chief instruments of his preservation...<sup>36</sup>" and thus if each is an autonomous free and equal force, "how can he engage them [each other man] elsewhere without danger to himself, and without neglecting the care which is due himself?" How establish a society which leaves men "as free as before"? The means to self-preservation is society, especially reformed society which comes from the social contract of men ceding

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<sup>33</sup> Social Contract, p. 14.

<sup>34</sup> Ibidem.

<sup>35</sup> Ibidem, p. 6. Cf. Origin of Inequality, p. 213-214. Before the institution of civil law, says Rousseau, every man "was the only judge and avenger of the injuries done him, so that the goodness [natural and amoral] which was suitable in the pure state of nature was no longer proper in the now-born state of society." It becomes necessary that moral rules be made and enforced in order to cut down spreading disorders.

<sup>36</sup> Social Contract, p. 14.

individual, natural freedom and rights" in order to obtain what is more useful<sup>37</sup>." Rousseau aims to explain what it is that makes the yoke of society legitimate, or why it is that men are in society if they are not social by nature. He seeks to justify the change from "nature" to "society" and then to discover not simply how society is to return to nature so much as how nature can be assimilated into society.

He commences the Social Contract with these words:

My design in this treatise is to enquire whether, taking men such as they are, and laws such as they may be made, it is not possible to establish some just and certain rule for the administration of the civil order<sup>38</sup>.

What is the principle of order and obligation, which while it is socially efficacious will still enable each man equally to be as free and independent as in amoral nature — where absolutely no subjection is in order. In Political Economy: the question, says Rousseau, is: "By what un-conceivable art has a means been found of making men free by making them subject?"<sup>39</sup> Each is to be equally subject and thus free:

Where shall we find a form of association which will defend and protect with the whole common force the person and the property of each associate, and by which every person, while uniting himself with

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<sup>37</sup> Ibidem, p. 6.

<sup>38</sup> Ibidem, p. 5.

<sup>39</sup> A Discourse on Political Economy, p. 256.

all, shall obey only himself and remain as free as before.<sup>40</sup>

Rousseau adds that this is "the fundamental problem of which the Social Contract gives the solution." His problem is still the perennial, over-all one of due order between the individual drive for happiness, on the one hand, and the happiness of all, on the other. Specifically, it is the reconciling of both freedom and equality with civil order. But he is actually endeavouring to found order upon an experimental philosophy of individualism, a social order for which avowedly men by nature are unfitted, but into which they enter, nevertheless, and hope to sustain by the aseitous anthropocentric arts of purely man-made laws. Rousseau wrote<sup>41</sup> that "the social order is a sacred right which serves for the basis of all others. Yet this right comes not from nature; it is, therefore founded on conventions." For Rousseau, therefore, social or civil rights arise as such not from nature or the law of nature but purely from positive law which in turn is founded

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<sup>40</sup> Social Contract, p. 14-15. Hans Reisen, in our day, has written: "If we must be subordinate, we wish to be subordinate only to ourselves. Politically free is only he who is subordinate to no one's will but his own. In this sense the idea of freedom together with that of equality serves as basis for the democratic idea." (Italics are ours.) Quoted by Mark Vishniak, "Justification of Power in Democracy" in Political Science Quarterly, Vol. LX, Sept. 1945. The Rousseauian spirit is far from dead.

<sup>41</sup> Social Contract, p. 6. The question, he says, is "what these conventions are".

solely upon convention, the social contract<sup>42</sup>. But this contract is constituted of individual wills who by mutual agreement to protect themselves, their freedom and their property set up society, authority and civil law which is the General will. For Rousseau, no less than for Hobbes, individual natural rights are at the origin of society (and civil law) insofar as man is not naturally social. For Rousseau these natural rights (or liberties), as against civil rights, are powers asocial and amoral. For him, just as for Hobbes, there is no moral law of nature and so no natural moral rights or duties<sup>43</sup>. Clearly, Rousseau's individualism, like that of Hobbes, brooked no natural moral duties or obligations in any strict sense. For Rousseau morality as such begins primarily with the social contract establishing society and the law of the General will. This is the new "natural moral law" whence alone as such stems civil right and obligation — this purely human dictate of will is to become the principle of social order.

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<sup>42</sup> This is clearly a case for moral positivism and extrinsic morality.

<sup>43</sup> Cf. e.g. Origin of Inequality, p. 195-196. Rousseau agreeing with Hobbes says that "men in the state of nature, having no moral relations or determinate obligations one with another, could not be either good or bad, virtuous or vicious..."

With this understanding of the problem and the initial direction of the solution, how, specifically, does the tree of totalitarianism grow in the garden of Rousseau's individualism? Before explaining, however, how he treats the establishing of the State and social order by the social contract and the General will, some observations should be made first on how at least in principle the relation between reason and final purpose is to fare in Rousseau's social philosophy.

It should be noted that the State or any temporal society cannot become totalitarian if it is subordinated, in behalf of the human person, to an end transcending this life. The subordination of the State to this transcendental purpose is intelligible only insofar as man is seen to be a rational being who acts as such and orders his life personally and politically upon this fact of his rational nature. Rousseau upholds man's rationality, yet how is it possible that his social solution is potentially totalitarian? Although Rousseau observes that man is a rational animal, he distrusts reason and displays affection for primacy of passion and appetite and, in this regard, reveals himself radically not much unlike Hobbes. Rousseau's basic voluntarism swallows up his belief in rationality<sup>44</sup>. This fact is especially

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<sup>44</sup> Rousseau says: it is not so much "understanding that constitutes the specific difference between the man and the brute, as the human quality of free-agency." (Origin of Inequality, p. 184.)

evidenced in his General Will which comes by civil society originating from agreement of individual wills as natural rights or liberties.

For Hobbes, as noted, natural (amoral) rights give rise to positive law which is the Sovereign Will serving as a new kind of moral law for social order. And for Rousseau natural rights give rise to positive law, the General Will, in a similar role of the "new ethic". The natural law behind these natural rights is for Hobbes nothing more than the law of preservation, the law of the jungle. The natural law behind these rights for Rousseau is still an amoral, non-rational or pre-rational law. As in the case of Hobbes, it is still not properly a moral law for social order. For Rousseau this law is not strictly rational<sup>45</sup>, but it is more than merely the principle of self-preservation. It is two-fold in nature and involves compassion as well as preservation, as Rousseau said<sup>46</sup>:

... I think I can perceive in it two principles prior to reason, one of them deeply interesting us in our own welfare and preservation, and the other exciting a natural repugnance at seeing any other

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<sup>45</sup> Related is Rousseau's view that "a state of reflection is a state contrary to nature" — "a thinking man is a depraved animal." Origin of Inequality, p. 181.

<sup>46</sup> Ibidem, p. 171-172.

sensible being, and particularly any of our own species, suffer pain or death<sup>47</sup>.

Rousseau implies that Hobbes seeing only the law of preservation saw only the law of the jungle and mere force as natural right<sup>48</sup>. Hobbes, he complains, failed to see this counter principle, the moderating and tempering principle of compassion:

There is another principle which has escaped Hobbes; which, having been bestowed on mankind, to moderate, on certain occasions, the impetuosity of egoism, or, before its birth, the desire of self-preservation, tempers the ardour with which he pursues his own welfare, by an innate repugnance at seeing a fellow-creature suffer... I am speaking of compassion... the pure emotion of nature, prior to all kinds of reflection...<sup>49</sup>

Rousseau says it is this feeling of humanity "which in a state of nature supplies the place of laws, morals and virtues...<sup>50</sup>" insofar as "compassion is a natural feeling, which,

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<sup>47</sup> To this Rousseau adds: "It is from the agreement and combination which the understanding is in a position to establish between these two principles, without its being necessary to introduce that of sociability, that all the rules of natural right appear to me to be derived — rules which our reason is afterwards obliged to establish on other foundations, when by its successive developments it has been led to suppress nature itself."

<sup>48</sup> Cf. Social Contract, p. 8-9.

<sup>49</sup> Origin of Inequality, p. 197-198. Rousseau speaks of this compassion as "the only natural virtue", "the force of natural compassion, which the greatest depravity of morals has as yet hardly been able to destroy..."

<sup>50</sup> Ibidem, p. 199-200. Here Rousseau sings the praises of passion mentioned earlier. Cf. p. 186.

by moderating the violence of love of self in each individual, contributes to the preservation of the whole species."

At this level the prevalence of sentiency is uppermost in the mind of Rousseau as well as Hobbes. The roots of the law of nature are pre-rational passions that need not be specifically human. For Rousseau here the life of reason is clearly not primary or properly natural. In any event what is reasonable for man in the light of a transcendental end, other than self-preservation, is not of paramount importance for Rousseau — as was true in the case of Hobbes. This is indeed a crucial point in the whole picture. Any society founded in or from this context is not subordinated to man's final end as transcending this life. Society is instrumentally or pragmatically subordinated to man's preservation and absolute freedom — freedom unconditioned by moral bonds perceived upon rational judgment or reflection. It is by intellect or reason that man properly and naturally perceives something of his ultimate transcendental end and the relation of means thereto. The law of preservation is still indeed the big factor in Rousseau's picture, as property and reason enter the setting. Freedom and equality are useless unless a man's life is preserved. If for Rousseau man is a rational, sentient being, reason — at least in the state of nature — is not actually the primary thing, but seemingly it is merely a kind of dormant potency. To become astir and develop it

requires the "fortuitous concurrence of many foreign causes that might never arise, and without which he [the natural man] would have remained for ever in his primitive condition...<sup>51</sup>" Accidental concurrences surrounding the coming of property give rise to "the state of reason"<sup>52</sup> and are to "have improved the human understanding while depraving the species, and made man wicked while making him sociable..." Rousseau envisions the picture with reason thus activated<sup>53</sup>: "Behold then all human faculties developed, memory and imagination in full play, egoism interested, reason active, and the mind almost at the highest point of its perfection." But once reason becomes active, especially in society, its function is purely pragmatic and oblivious of transcendental purpose beyond temporal society and death. The issue is: not what is reasonable so much as what do men like or desire.

What now specifically is the origin and nature of the polity by which, according to Rousseau, is achieved man's supreme good, viz. self-preservation with the status of freedom and equality for all? What is the civil association "by which every person, while uniting himself with all, shall obey only himself and remain as free as before?"<sup>54</sup>

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<sup>51</sup> Ibidem, p. 205.

<sup>52</sup> Ibidem, p. 199 and 205-206.

<sup>53</sup> Ibidem, p. 217.

<sup>54</sup> Social Contract, p. 14-15.

The autonomous self-interest of man, the individual, in spoiled nature or in unreformed society was so sufficiently ruinous and so much bent in the direction of tyrannical action that Rousseau finds it imperative, for the sake of social order, to curb and redirect the private interests of naturally unsocial man into a kind of organic totality, a social union directed by the common interest, the general will of all interests<sup>55</sup>: "the private will is inclined by its nature to partiality, and the general will to impartiality." Rousseau says that "if the clashing of private interests has rendered the establishing of societies necessary, the agreement of the same interests has made such establishments possible<sup>56</sup>." It is in the concurrence of wills, the social contract, that civil society with its social bonds come to be. The surrender is equally of each and every man, "the total alienation of each associate, and all his rights, to the whole community<sup>57</sup>." Since every individual gives himself up entirely, "the condition of every person is alike; and being so, it would not be to the interest of any one to render that condition offensive to others." The alienation being without

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<sup>55</sup> Ibidem, p. 23—: "La volonté particulière tend, par sa nature, aux préférences, et la volonté générale à l'égalité."

<sup>56</sup> Ibidem.

<sup>57</sup> Ibidem, p. 15.

reserve, Rousseau continues, begets this union which is "as complete as it can be". Only a union founded on total alienation can constrain the divisive interests of individual men by nature unsocial. In consequence, "no associate has any further claim to anything." The reason for this total egalitarian solution is found in Rousseau's individualist assumptions:

For if any individual retained rights not enjoyed in general by all, as there would be no common superior to decide between him and the public, each person being in some points his own judge, would soon pretend to be so in everything; and thus would the state of nature be continued and the association necessarily become tyrannical or be annihilated.

Indeed, order would be annihilated if man is the individualist naturally asocial.

In this civil communion each gains equally for himself the power of all the rest to defend and protect the interest they have in common: "it is on the basis of this common interest alone that society must be governed":

Each person gives himself to all, and so not to any one individual; and as there is no one associate over whom the same right is not acquired which is ceded to him by others, each gains an equivalent for what he loses, and finds his force increased for preserving that which he possesses.<sup>58</sup>

Rousseau sums up what is the very core of this social contract:

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<sup>58</sup> Ibidem, p. 23 and p. 15.

Each of us places in common his person and all his power under the supreme direction of the general will; and as one body we all receive each member as an indivisible part of the whole<sup>59</sup>.

From that moment, the will or private interests of the individual as such cease to be. Otherwise disorder reigns.

"Private interest," says Rousseau<sup>60</sup>, is "seducing" and quite "dangerous" in society. The individual then becomes now the citizen — a civil being. As a separate individual he no longer exists except as an integral member of the body politic directed by the law of the General Will of which allegedly he is an indivisible part. He participates equally with others in creating this law which communally he prescribes to and for himself. Subjects are to bow to none but "their own will"<sup>61</sup>.

It is here that so-called "moral liberty" and "moral rights" for Rousseau take primal form. "Freedom", he says characteristically as a libertarian, is "to obey a law which

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<sup>59</sup> Ibidem, p. 15.

<sup>60</sup> Ibidem, p. 35 and 59.

<sup>61</sup> Ibidem, p. 30. Rousseau says too: "Nous ne commençons proprement à devenir hommes qu'après avoir été citoyens" Manuscrit de Genève, in G. . . Vaughan, The Political Writings of Jean-Jacques Rousseau, ed. from the original manuscripts and authentic editions, with Introductions and Notes, 2 vols., Cambridge, at the University Press, 1915, Vol. I, p. 453.

we prescribe for ourselves<sup>62</sup>." Such a free society is made up of as many members as there are individual wills or votes. Civil association arising from the contract "is the most voluntary of all acts; every man being born free and master of himself, no person can under any pretense whatever subject him without his consent<sup>63</sup>."

From that moment, instead of as many separate persons as there are contracting parties, this act of association produces a moral and collective body, composed of as many members as there are votes in the assembly, which from this act receives its unity, its common self, its life, and its will<sup>64</sup>.

Each man counts for one and only one — the equalitarian aspect of Rousseau's solution. The State is born artificially as the tool of the individual, yet it serves each equally only insofar as he is a citizen under the law of the General Will, i.e. only insofar as he desists from living as an individual self-interested and unsocial. "Man... till then regarded none but himself...<sup>65</sup>" Equal surrender of self-will is essential. Though the self-surrender of rights is total, the renunciation is really no loss, says Rousseau optimistically, but only "an advantageous transition<sup>66</sup>" from "continual

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<sup>62</sup> Social Contract, p. 19. Cf. p. 95-96.

<sup>63</sup> Ibidem, p. 95.

<sup>64</sup> Ibidem, p. 15-16.

<sup>65</sup> Ibidem, p. 19.

<sup>66</sup> Ibidem, p. 30.

and unavoidable conflicts" "from a mode of living unsettled and precarious to one better and more secure, from a state of natural independence to one of [civil] liberty", to one of a civil, positive "right which social union renders invincible". Men's very lives here are all equally and freely "devoted to the State" but they "are continually protected by it"<sup>67</sup>."

This protection is needful if liberty is naturally amoral and rights are unlimited by a natural moral law prior in principle to the State. "Man," says Rousseau<sup>68</sup>, "loses by the social contract his natural liberty, and an unlimited right to all which tempts him, and which he can obtain...", but in exchange he acquires something more useful, viz. civil liberty, under a law prescribed by himself through his will. He also gains "proprietaryship of all he possesses", "positive title"<sup>69</sup> to property, since civil law alone is the base of a property right. It is this "moral liberty" of the civil state, the mystic body politic "which alone renders a man master of himself"<sup>70</sup>."

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<sup>67</sup> Ibidem.

<sup>68</sup> Ibidem, p. 19.

<sup>69</sup> Ibidem. Cf. Origin of Inequality, p. 217 and 227.

<sup>70</sup> Social Contract, p. 19. It is this mastery by extrinsic morality that will entail the mastery of man by the State.

Rousseau like Hobbes though discarding intrinsic morality at one moment seems only at another moment implicitly to decri the disadvantage of denying its value. "Natural liberty," says Rousseau<sup>71</sup>, "knows no bounds but the power of the individual..." To Rousseau this boundless liberty is not altogether in every way a good. The privation in line of natural moral bounds is hurtful to one and all if men are designed for any degree of rational togetherness. But Rousseau like Hobbes clearly never gets beyond a man-centered extrinsic morality:

The passing from the state of nature to the civil state produces in man a very remarkable change, by substituting justice for instinct in his conduct, and giving to his actions a moral character which they lacked before. It is then only that the voice of duty succeeds to physical impulse, and a sense of what is right, to the incitements of appetite<sup>72</sup>.

By way of this contract then morality stems from human will in the State. Reason is only that of the State originating in man's will.

Rousseau carried on the modern revolutionary banner of Hobbes. Both as individualists were sponsors of an anthropocentric humanism and as such upheld in one way or another the importance of the social contract. It is a mistake to

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<sup>71</sup> Ibidem.

<sup>72</sup> Ibidem, p. 16-19.

think that Rousseau was decidedly less an advocate of the social contract than Hobbes. Charles Frankel<sup>73</sup>, moreover, observes well that "Rousseau's 'social contract'... is the exchange of a situation in which there is no human morality for one in which there is." But it is indeed questionable to hold, as Frankel does, that the social contract is "relegated to a minor role in Rousseau's argument" and that "what there is left of it is so substantially reinterpreted as not to be recognizable as a contract at all." If one examines Rousseau's social contract in the light of his secular humanism, one sees it as playing a crucial role. Rousseau believed that by virtue of it man is able through his human will to actuate ascetically and thus, of course, extrinsically the very principles of moral order.

Alfred Cobban<sup>74</sup> says that for Rousseau "the social contract sinks into a place of secondary importance," as it is introduced to explain "in orthodox fashion the origin of political society, but what is really of significance is to be found in the developments that follow," — especially the General Will. But the point that should be added to this and emphasized is that it is not so much what follows the social

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<sup>73</sup> Frankel, "Introduction", The Social Contract, p. xi-xxi.

<sup>74</sup> Alfred Cobban, Rousseau and the Modern State, London, George Allen and Unwin, Ltd., 1934, p. 123.

contract that is of significance so much as it is what has been initially denied in the tradition — especially the natural moral law which for Rousseau is replaced by the General Will.

As noted already, Hobbes, undermining the tradition, had begun not from an objective moral order and law, but from amoral rights as concurring and forming civil polity and law. After Hobbes, law followed upon "natural rights" of the individual. But obligation upon a moral law of nature was here quite alien. The spirit of this Hobbesian revolution is found just as emphatic in Rousseau, despite incidental differences. Like Hobbes, he too begins in a certain primacy of individual will, viz. of individual rights and liberties which become in the social contract the origin of society, sovereign authority and the basis of law in social relations. But since for both Hobbes and Rousseau the law of nature is not genuinely or properly a law in any moral sense of the term, it does not oblige in justice nor really yield a true right in any civil way. There is simply no natural moral law (prior in principle to the State) as in the tradition, and so any right founded on amoral law is not strictly a right or liberty. Nor then can there be any natural moral obligation as following upon any pre-civil moral law. Hence non-civil rights are uncondusive as such to social order. Morally lawless are such rights or liberties. They are not properly

rights. Rights in the proper sense (as civil) are in no sense rooted intrinsically in nature but artificially in human institution<sup>75</sup>. This is what Rousseau meant when he said property rights are not natural but only civil<sup>76</sup>: "the right of property ... is different from the right deducible from the law of nature," and "besides, the right of property being only a convention of human institution, men may dispose of what they possess as they please...<sup>77</sup>" Men do what they please in the morally lawless state of nature, insofar as they are naturally unsocial. By the contract men give up their lawless liberty and right. Although for Rousseau "natural rights" of the individual are not "real rights"<sup>78</sup>, they establish, nevertheless, in the contract the civil union which by the law of the General Will creates "real rights" out of the "original rights"<sup>79</sup>. Thus Rousseau, like Hobbes, gives a degree of primacy to "natural rights" of the individual following which comes the law properly (the only real law for civil order), and then properly a right (the only real right for civil order). It is "the social contract,

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<sup>75</sup> Social Contract, p. 33.

<sup>76</sup> Origin of Inequality, p. 217.

<sup>77</sup> Ibidem, p. 227.

<sup>78</sup> Social Contract, p. 20.

<sup>79</sup> Ibidem, p. 15.

which within the State serves as the basis of all rights...<sup>80</sup>  
The contract constituted of asocial natural rights creates the State and the law and then "... every right is determined by law<sup>81</sup>" — the law of the State. "Duty" follows upon this positive law alone, as if there is no existent moral law of nature. Since, practically, the "moral law" has no being, it comes to be purely by way of man's will. But can such a so-called duty resting purely on civil law of human will be binding, unless binding by pure force? whereas in the tradition the order was (intrinsic moral) law, then right, Rousseau following Hobbes, reverses this and says it is a right, then law. Force remains as the only possible bond. Law then, moreover, is rather a dictate of will than of reason and as such is arbitrary and thus it is a principle of order only insofar as it is enforceable.

Any Bill of Rights, moreover, founded in such a context of civil law cannot possibly sponsor an inalienable moral right for the human person.

To enumerate Rousseau's absurdities is not the aim of this study. Yet there is a consistency in his solution which though radically individualist becomes, on this very account, totalitarian, so far as practice is concerned.

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<sup>80</sup> Ibidem, p. 20. Italics are ours.

<sup>81</sup> Ibidem, p. 33.

Rousseau holds the contract necessary for society and social order if man is not social by nature. But along with authority and law the contract is not binding in any particular situation. It is not binding for the solitary, autonomous individual man who by nature is amoral and asocial. But it is because civil pact and law are not binding in any particular situation that total force is here an absolute need. If men are not rationally or morally impelled from within, what remains but to have them compelled from without? Mastery will be purely from without. It is precisely because the compact and the consequent civil law bring no moral bond in conscience, i.e. binding intrinsically from within man's rational, social nature, that there remains only the physical bond of sheer force to insure order or a semblance thereof. This contractual law cannot bind intrinsically as by rational nature or as a dictate of reason. It is not a rational, moral bond transcending man and the State. It is as arbitrary as human actions are morally indifferent. If it binds, it can bind only from without, amorally. Thus the only bond available for social order is physical compulsion. All moral necessity has been expelled in favour of libertarian sentiments and the like. Rousseau's solution bears out this consistency whereby he goes from his individualist freedom to the chains he bewailed. Society then which arises as the individualist tool of self-preservation must, in order to

defend itself, be provided with adequate power of force — total power. Nothing short of total power is adequate for controlling the divisive forces of "individual natural rights" for which Rousseau the libertarian had such passionate affections.

Gobban<sup>82</sup> makes a reference to Rousseau "as the true prophet, if not the very source and fountain-head of the modern democratic state." There is truth to this, but Rousseau's State, though democratic, is rather totalitarian than Christian. Rousseau is found often flying in the face of the Christian tradition. His polity merits the title "democratic" as its political will stems purely from the individual wills of men.

But it is precisely from this context of individualism that the totalitarian solution rears its head, as the following chapter will treat in more adequate detail. Rousseau's attempt to reconcile liberty and equality amounts to the socialist State in which each man is equal to nothing more than another. But as each counts, arithmetically, for one and only one, he is practically nothing, in face of the political whole which must survive. There is no intrinsic

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<sup>82</sup> Gobban, Rousseau and the Modern State, p. 24. Italics are ours. Gobban says: "Rousseau is worth studying, if only because in him can be clearly seen for the first time so many of our own accepted ideas..." (p. 22).

reason, moreover, why, in a society based on individualism, the individual citizen must in any way in moral obligation of conscience be protected against being completely subordinated to the good of the State. Martin Hillenbrand<sup>83</sup> in discussing "Failure of Modern Theory" notes well that "Rousseau's concept of the general will lent itself readily to the complete Hegelian subordination of the individual to the state." There is truth to this interpretation if for no other reason than the basic moralism, the artificial patchwork of extrinsic morality. Hitler and Stalin are decidedly in the wake of this "new ethic". Emil Brunner<sup>84</sup> believes the totalitarian State is simply "legal positivism in political practice, the abrogation in actual fact of the classical and Christian idea of a divine 'law of nature'." Here the State or political will may declare to be law whatever it likes: "... there is no limit set to its arbitrariness save its actual power to give force to its will." The groundwork for this revolutionary change is found clearly in Rousseau, the individualist and "true prophet of the modern democratic state."

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<sup>83</sup> Martin J. Hillenbrand, Power and Morals, New York, Columbia University Press, 1949, p. 42. M. Josephson writes that "Rousseau in his absolutism certainly envelopes the 'Social Contract' with a spirit that foreshadows modern communism. 'The State', he [Rousseau] says, 'with regard to its members, is master of their property by the social pact'." Matthew Josephson, Jean-Jacques Rousseau, New York, Harcourt, Brace and Company, 1931, p. 351.

<sup>84</sup> Emil Brunner, Justice and the Social Order, tr. by Mary Hottinger, New York, Harper & Brothers, 1945, p. 7-8. Cf. p. 140-141.

## CHAPTER VII

### THE TOTALITARIAN PEOPLE'S REPUBLIC OF ROUSSEAU

The State, which for Rousseau is an organic union voluntarily made up of citizens both free and equal, has absolute control over all its members. Here nothing can socially escape the determination of the political arm. How can the State which arises to serve self-preservation of individuals ever hope to preserve its very political self unless it has this absolute control over its citizens? In the context of this libertarian individualism the State cannot preserve itself if morally unbound individuals are left unrestrained by a political power commissioned to put bounds on individual natural rights. Inequality besets a man's freedom and his life itself. But without State-preservation, there is no self-preservation. It is only living men who enjoy freedom and who, to secure life, liberty and equality, contract to the State. And the State as the volunteered means of self-preservation exists to serve self-interest indifferent to any end transcending man and the grave. Commissioned by free and equal men to protect their self-interested rights under positive law, the State may, therefore, use absolutely all means toward the end of preserving itself as a whole. The sole principle of order is the common interest, the will

of the people constituting the body politic. Rousseau affirms that if the State's "most important care<sup>1</sup>" is that of preserving itself, "there is a necessity for its possessing a universally compulsive power, for moving and disposing each part in the manner most convenient to the whole." It is the whole then that must count, for only thus can the individual parts profit. It is true the whole exists for the parts, according to Rousseau, the individualist, but now no longer for the parts as such, or, i.e. for individual persons as such. The State must have complete control over all, like the command a man has over the members of his body<sup>2</sup>:

As nature gives to every man absolute command over all his members, the social compact gives to the body politic absolute command over the members of which it is formed; and it is this power, when directed by the general will, that bears, as I have said before, the name of "sovereignty".

This sovereignty is but "the exercise of the general will<sup>3</sup>" and "the laws are but the acts of the general will<sup>4</sup>". The sovereign authority then acts only by the law of the general will of the people. Like Hobbes, Rousseau is thoroughly convinced, that only total control can keep all individuals in

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<sup>1</sup> Social Contract, p. 27.

<sup>2</sup> Ibidem. Cf. p. 32, the implications between "simply a man" and "a moral person".

<sup>3</sup> Ibidem, p. 23.

<sup>4</sup> Ibidem, p. 34. Cf. p. 80 and 86.

order, owing to "the seducing voice of private wills"<sup>5</sup>. Private interests, Rousseau admits, promote "tumults, dissensions"<sup>6</sup> and "nothing is more dangerous than private interest having any influence on public affairs..." Thus total surrender of individual rights is necessary.

Yet Rousseau, to be sure, hardly abandons his libertarian affections. He aims to insure their prevalence, for he is bent upon a social order which is founded upon, and functions with, unlimited freedom, with individual autonomy and independence. John W. Chapman<sup>7</sup> in his work, Rousseau - Totalitarian or Liberal? argues that "perhaps Rousseau's conception of man is closer to that of modern liberals than we have suspected" and complains that "concern with his [Rousseau's] work as a source of totalitarian doctrine may have obscured its contribution to the theory and practice of liberal democracy." Chapman maintains rightly that it is "the liberal spirit" "which moves in Rousseau's work"<sup>8</sup>: "... individual autonomy is the key to Rousseau's moral and political theory." Rousseau, says Chapman<sup>9</sup>, "is concerned

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<sup>5</sup> Ibidem, p. 35.

<sup>6</sup> Ibidem, p. 94.

<sup>7</sup> John W. Chapman, Rousseau - Totalitarian or Liberal?, New York, Columbia University Press, 1956, p. vii, "Preface".

<sup>8</sup> Ibidem, p. 144.

<sup>9</sup> Ibidem.

for man's moral autonomy as well as his political freedom, for his capacity to make his own appraisals of values and to be independent." Such is prerequisite for the good society and the expression of the General Will; "liberty means to Rousseau not just political equality, as Talmon holds, but also individual autonomy<sup>10</sup>", otherwise, Chapman contends, one rebs Rousseau's General Will of "its dynamic quality and its basis in moral independence." Chapman explains<sup>11</sup>:

Neglect of the dynamic aspects of Rousseau's general will distorts the nature of the consensus which he thinks men ought to aim at and can achieve. It is not a consensus which may be imposed, which can be described in terms of conformity, or which represents the subordination of individuals to society. Rather it is a dynamic consensus, the validity of which depends on individual autonomy. This form of consensus may hardly be described as an illiberal ideal. Nor can the process by which it may be attained be described as undemocratic. It is thoroughly democratic in its recognition of the value of the contribution which may be made by each and every participant to the expression of the general will.

Chapman is correct: Rousseau's ideal here is neither illiberal nor undemocratic, yet this fact does not free it from having the potentialities of the totalitarian society. But the point is that Rousseau's solution begins in the spirit of individualism. Faith in Rousseau's thought is not dead. "This conception of the individual obedient to himself was a

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<sup>10</sup> Ibidem, p. 80.

<sup>11</sup> Ibidem, p. 83.

leading idea of Rousseau's, " writes Charles Morgan<sup>12</sup> who goes as far as to say that "if rightly understood, it proceeds not to anarchy but to justice, a known, continuing and compassionate justice resting upon a profound moral authority" — that of the individual. Morgan writes: "The General Will was, for Rousseau, a mystical resultant of all individual wills" — but not of them "considered as a mass...but as individuals," nor as a majority or minority.

Rousseau's sovereign, however, hardly makes sense unless it is somehow seen as within a kind of organic whole. At least it is not so atomistic, however, as that of Locke. Rousseau's sovereign, moreover, differs from that of Hobbes which is a purely representative power apart from the subjects it represents and rules. Rousseau's sovereign is not separate but is one with all its members freely and equally forming it as an autonomous whole. It has absolute control over its members, but, says Rousseau, it is not tyrannical or despotic, because all are equally a part of it: no one man (or group) is master over another<sup>13</sup>. It is one with the wills of the people who collectively constitute it. "For at the moment that there is a master, there is no longer a

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<sup>12</sup> Charles Morgan, Liberties of the Mind, New York, The Macmillan Co., 1951, p. 182-183.

<sup>13</sup> Cf. Political Economy, p. 256.

Sovereign<sup>14</sup>," and the State as such falls with inequality.

"Each person gives himself to all, and so not to any one individual<sup>15</sup>". Each counts for one and only one, for this union is "composed of as many members as there are votes...<sup>16</sup>"

But this "universally compulsive power" is absolute and total in its control which it can wield over its subjects, since it itself is not subject to any law other than that of itself. It is self-sufficient and autonomous. Thus it becomes potentially totalitarian: it rests purely on the will of the people who are thereby exclusive authors of society, authority and law. "The Sovereign, by its nature," says Rousseau<sup>17</sup>, "is always everything it ought to be." "The general will is always right<sup>18</sup>." Within the State it is the measure to be followed in everything<sup>19</sup>: "the first rule of legitimate or popular government... whose object is the good of the people... is to follow in everything the general will."

<sup>14</sup> Social Contract, p. 24.

<sup>15</sup> Ibidem, p. 15.

<sup>16</sup> Ibidem, cf. also p. 96.

<sup>17</sup> Ibidem, p. 17.

<sup>18</sup> Ibidem, p. 26 and 35. Cf. also Political Economy, p. 249 and 253-255, 259-260, 269, 272.

<sup>19</sup> Political Economy, p. 255.

Rousseau, it is true, says "all justice flows from God"<sup>20</sup>. But Rousseau's problem is not that of heeding a transcendent-immanent God: he wants an anthropocentric norm immanently and boundlessly determinable by human will — not a binding dictate of reason geared to an end transcending the State or determining as a measure man's civil acts.

It is interesting to note that during World War II a group of contemporary leaders issued The City of Man, a Declaration on World Democracy, designed to be a blueprint of hope for men against the Nazis. In the following lines it affirmed generally the same naturalistic humanism as did Rousseau<sup>21</sup>:

Democracy teaches that everything must be within humanity, nothing against humanity, nothing outside humanity. The dictatorship of humanity, on the basis of a law for the protection of human dignity, is the only rule from which we may hope for life for ourselves and resurrection for the nations that have fallen<sup>22</sup>.

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<sup>20</sup> Social Contract, p. 33. This is like the utterance Hobbes made, but, in the political context of Rousseau, it is just as much a vacuity as was Hobbes' similar statement. Rousseau here is quite illogical, or, equally as bad, he speaks as a pantheist.

<sup>21</sup> Committee of Fifteen, or Herbert Agar and others, The City of Man, a Declaration on World Democracy, New York, Viking Press, 1940, p. 34. The preface to these quoted lines reads: "The teachers of totalitarian philosophy have said that 'everything must be within the state, nothing against the state, nothing outside the state'."

<sup>22</sup> Auguste Comte in the nineteenth century expressed the same general vein of thought in another way. Denying the intelligibility of an "objective synthesis" of things, in the manner of Hobbes, Comte held that only a human "subjective synthesis" is possible: "The futility of an objective

The "new moral law," Rousseau holds, is the dictate of the popular will<sup>23</sup>: "the voice of the people is in fact the voice of God." This holds only in a people's republic — i.e. "the body politic, whose general will is always the law of nature...<sup>24</sup>" positive human law. The new "natural law" is obviously no longer eternal law as received by rational human nature.

It should be kept well in mind that this is not a question of forms of government. Rousseau is not talking about mere forms of government, democratic or otherwise. He is setting forth what is radically a secularist way of life, a way which would find full expression in Communism. The Liberal English poet, Stephen Spender, upon affirming decided affections for Communism, wrote<sup>25</sup>: "I do not doubt but that in the modern world communism — the classless, international society — is the final goal of liberalism." Liberalism, says

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synthesis is by this time so freely admitted," said Comte, that men "may accept the human point of view as paramount, as alone adapted to connect everything." Auguste Comte, System of Positive Polity Theory of the Future of Man, tr. by R. Congreve, London, Longmans, Green and Co., 1877, Vol. IV, p. 176.

<sup>23</sup> Political Economy, p. 254.

<sup>24</sup> Ibidem, p. 253. Cf. Social Contract, p. 16, 31, 54, 58, 97.

<sup>25</sup> Stephen Spender, Forward from Liberalism, London, Victor Gollancz, 1937, p. 203.

Spender<sup>26</sup>, is concerned with a way of life and puts "the love of man before that of God," but Spender attacks a spirit of compromise found in many a Liberal and sees reason, moreover, for agreeing that the individualist is "a split man" until, going all the way, he embraces the classless society of Communism: "the future of individualism lies in the classless society<sup>27</sup>," where no doubt all men are equal and free, free

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<sup>26</sup> Ibidem, p. 47-50, 54-55. "Liberalism," writes Spender, "is not concerned with religion but with the way of life. Yet only the most extreme liberals ... have recognized this obvious fact." (p. 48) — "The split in liberalism goes deeper than parliamentary politics, down to the fundamental liberal conceptions of individualism and freedom." (p. 54) — "It is important to remember that modern communism and liberal idealism both have as their final aim the liberty that could be enjoyed in a classless society." (p. 46-47) Is this the apolitical condition described by Rousseau in Origin of Inequality? Spender says: "The fundamental strength of liberalism lies ... in its idealist claim that political freedom could be achieved within the existing system." (p. 74) — "To go forward, the masses must be given not merely political but also economic freedom, so that they may produce their own free individualists and their own culture." (p. 71) — "I am a communist because I am a liberal." (p. 202)

<sup>27</sup> Ibidem, p. 71. "The process of democracy must be carried to its logical conclusion, else the individualist becomes the artificial growth of one pampered class." — "... The fact is that individuals, as such, have no virtues or vices; morality only exists in relation to humanity or God, the idea that men's minds have projected. The individualist suffers because he is incapable of either virtue or vice." (p. 183) Yes, indeed, the individualist suffers, if, though rational, he acts as if he is by nature amoral. "Communism," says Spender, however, "is not merely a political system, it is a moral system as well." (p. 261) As soon as the citizen has deeply realized that the economic interests of his neighbor are identical with his own, and that the whole wealth of the state increases and can be shared without exploitation, he will regard the exploitation of man by man as an evil greater than murder." (p. 262)

for purely human morality.

But according to Rousseau, whatever government executes the law, that government is to be, in any event, only the minister of the sovereign General Will. "The sovereign power," says Rousseau<sup>28</sup>, is "all absolute, all sacred, all inviolable." It is subject to nothing above itself, for it stems directly from the wills, or rights, of its own members who create it in making the State. This arrangement involves in no way a covenant "between a superior and an inferior"<sup>29</sup>, or between God and man. Subjects here "obey no one but only their own will"<sup>30</sup> and to ask what is the extent of the rights of the Sovereign and the citizens "is to ask how far the citizens can engage with themselves, each towards all, and all towards each." Moreover, "when the whole people determines for the whole people, it considers only itself..."<sup>31</sup> The sovereign will wields total control indivisibly<sup>32</sup> and is "always right"<sup>33</sup> to the extent that this power comes only from all, self-interestedly, as free and equal members of the

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<sup>28</sup> Social Contract, p. 30.

<sup>29</sup> Ibidem, p. 29.

<sup>30</sup> Ibidem, p. 30.

<sup>31</sup> Ibidem, p. 33.

<sup>32</sup> Ibidem, p. 24.

<sup>33</sup> Ibidem, p. 28.

whole: "... the equality of right, and the idea of justice which it inspires, is derived from the preference which each gives to himself<sup>34</sup>." The political sovereign, says Rousseau, "ought to come from all, if we are to apply it to all"<sup>35</sup> and "we must also grant that the Sovereign is the only judge of what is important to the community." The State, by Rousseau's individualist premises, becomes a necessary evil, but it is just as much morally unlimited as the asocial individual himself.

The Sovereign power is simply not bound or obligated in any moral way: "the body politic, or the Sovereign, which derives its existence from the sacredness of the contract, can never bind itself..."<sup>36</sup> Because it is "formed only of the individuals who compose it," it can have "no interest contrary to theirs," "it can do no injury to any individual in particular," hence, "the sovereign power need give no guarantee to its subjects..."<sup>37</sup> Certainly then the State has no obligation whatsoever to any individual citizen. It is idle or needless, moreover, to ask<sup>38</sup> "whether the law can be

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<sup>34</sup> Ibidem. Italics are ours.

<sup>35</sup> Ibidem.

<sup>36</sup> Ibidem, p. 17.

<sup>37</sup> Ibidem.

<sup>38</sup> Ibidem, p. 34.

unjust" or "how we can be free while subjected to the laws, since they are but the registers of our own wills." Since "the laws are but the acts of the general will" which is "always right"<sup>39</sup> the real question is: whether a proposed law "is conformable or not to the general will"<sup>40</sup>. If so, then it is just. This is substantially the political morality of Hobbes. These laws are dictates of will and yield conventional justice. "The political authority, being purely arbitrary as far as its institution is concerned, can be founded only on conventions..."<sup>41</sup> And Rousseau says clearly that "there is not in the State any one fundamental law which cannot be revoked not even the social compact..."<sup>42</sup> But this is because "the people are masters, and may change even the best laws"<sup>43</sup>. Subjects are to "obey no one but only their own will"<sup>44</sup>. "The people submit themselves to the laws, and ought to enjoy the right of making them..."<sup>45</sup> This power belongs only to the body of the people<sup>46</sup> and thus once the

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<sup>39</sup> Ibidem, p. 34-35.

<sup>40</sup> Ibidem, p. 95. Cf. Political Economy, p. 250.

<sup>41</sup> Political Economy, p. 249.

<sup>42</sup> Social Contract, p. 91.

<sup>43</sup> Ibidem, p. 49.

<sup>44</sup> Ibidem, p. 30.

<sup>45</sup> Ibidem, p. 34.

<sup>46</sup> Ibidem, p. 50.

State has come into being, it subsists in being," not by the laws, "but by the legislative power"<sup>47</sup>. "The principle of political life is seated in the sovereign authority. The legislative power is the heart of the State..."<sup>48</sup>

Executive power as a distinct function merely applies this will. Administration, or execution of this conventional law and justice is possible only by force. This will and force are absolutely supreme. "Nothing", says Rousseau<sup>49</sup>, "is or should be done without their concurrence [i.e. of will and force]." Insofar as the sovereign will is absolute, the executive power — the government — enforcing this will is likewise absolute but only as the minister or agent of this "constant will of all the members of the State"<sup>50</sup>. Government<sup>51</sup> is the exercise of the executive power. Government must act, says Rousseau<sup>52</sup>, "according to the direction of the general will." Here he followed similarly in the vein of Locke who made government merely a mandate of the political will. "The government," writes Rousseau<sup>53</sup>, "receives from

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<sup>47</sup> Ibidem, p. 80.

<sup>48</sup> Ibidem, p. 79.

<sup>49</sup> Ibidem, p. 50.

<sup>50</sup> Ibidem, p. 95.

<sup>51</sup> Ibidem, p. 51.

<sup>52</sup> Ibidem, p. 50.

<sup>53</sup> Ibidem, p. 51.

the Sovereign the orders which it transmits to the people..." and "depends entirely on the Sovereign<sup>54</sup>." It is the agency which forcefully binds the State into unity. This force "gives motion to all the parts" of the whole. This necessary concurrence of force and will is geared to preservation of life for men living in a society founded on the philosophy of individualism. Only as absolute in will and force can the State preserve itself and thus its citizens.

Locke had held that the contracting parties, the people, in order "to preserve their lives, liberties and fortunes<sup>55</sup>" set up government as well as society. But for Locke government is dependent on popular consent, the majority, and is only a mandate whose powers are limited by the terms of the mandate which stipulates that government afford protection for established rights. Though the State is set up to resolve the conflict of individual interests by communal protection self-interest persists in practice, according to which the people make the laws. But for Locke it is the majority which is the most powerful force in the State and which thus actually is to determine what is the civil law. As for rights of minority interests, Locke says idealistically that the majority cannot violate them since it derives its power from the

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<sup>54</sup> Ibidem, p. 54.

<sup>55</sup> Locke, Treatise of Civil Government, Sherman, p. 91. Cf. p. 82.

natural law of self-interest. For Locke this primary law of nature cannot err. The majority will of the people, therefore, does no wrong: it is always reasonable and right.

For Rousseau, however, only the General will itself is always right, for it is not the majority as such (especially Locke's majority) but the General Will which is free of inequality. Vote-counting expresses the General Will: "the general will," says Rousseau, "is found by counting the votes<sup>56</sup>." Majority vote is merely a tool indicative of the General Will, but never as having the final word in the sense of replacing or taking over the General Will.

Nevertheless, according to Rousseau, for all practical purposes the will of the majority may be taken as a sign expressive of the General will. In Political Economy, Rousseau refers to the General Will as something "decided by vote of a majority<sup>57</sup>." Moreover, he says that "unanimous consent<sup>58</sup>" is not always necessary: "There is one law only which, by its nature, requires unanimous consent; I mean the social compact..." No man can without his consent be subjected to

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<sup>56</sup> Social Contract, p. 96.

<sup>57</sup> Political Economy, p. 278.

<sup>58</sup> Social Contract, p. 95.

this compact<sup>59</sup>." "Except in this original contract, a majority of votes is sufficient to bind all the others<sup>60</sup>" and "... all the characteristics which mark the general will still reside in the most votes." Practically, therefore, majority will, insofar as it is a true sign of the General Will, is always right. The "obligation" to observe this political will arises purely from the original consent, the social convention. "In fact," says Rousseau<sup>61</sup>, "if there was no prior convention, where would be — unless the election was unanimous — the obligation which should bind the minority to submit to the choice of the majority?"

However all this may be, underlying it all there still remains Rousseau's problem<sup>62</sup>: "how a man can be free and yet forced to conform to the will of others."

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<sup>59</sup> But Rousseau says that "when the State is instituted, residence constitutes consent; to inhabit a territory is to submit to the sovereignty." (p. 95) Cf. Political Economy, p. 257. It is out of order for the individual to leave the compact, according to Rousseau, while, according to Hobbes, an individual could break the contract and leave the State, in which case, he reverts to a personal state of nature, where life is necessarily "... nasty, brutish and short", and where he could very well become the proverbial "dead duck".

<sup>60</sup> Social Contract, p. 96.

<sup>61</sup> Ibidem, p. 11. He notes, too: "The law which gives the majority of votes the power of deciding for the whole body can only be established by a convention, and proves that there must have been unanimity at one time at least."

<sup>62</sup> Ibidem, p. 95.

In any event, the concerted political will whatever it is, is the law always in the right as made up of free constituent wills. All must obey it or be forced to do so. It is a kind of new eternal or natural law, a work of human art like the body politic. Here alone are found "the most certain and universal rules, by which we can judge whether a government is good or bad, and in general of the morality of all human actions<sup>63</sup>." But whichever way Rousseau's totalitarian solution is viewed, it begins in individualism, and particularly the spirit of moral autonomy, as though morality is purely an artistic creation of man. Chapman<sup>64</sup> says that "emphasis on his [Rousseau's] concern for moral creativity makes Rousseau a liberal." This is true, though Rousseau's Liberalism can provide no defence against a totalitarian solution to the problem of order. According to Rousseau, if the will of a minority or an individual man is contrary to the will of the State, there is only one position to be taken, total submission. In order that State-preservation serve self-preservation the political whole must immediately count first, not the individual man as such. One is an organic part of the whole, not as an individual person but "as a

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<sup>63</sup> Political Economy, p. 253.

<sup>64</sup> Chapman, Rousseau—Totalitarian or Liberal? p. 75. Individualism is morally defenceless against totalitarianism and useless for Liberal hopes.

citizen". Thus alone are his rights of the civil constitution. Rousseau says:

In fact, each individual may, as a man, have a private will [volonté particulière] dissimilar or contrary to the general will which he has as a citizen. His own private interest [intérêt particulier] may dictate to him very differently from the common interest<sup>65</sup>.

In obeying the General Will a man is actually obeying himself, for he with others — each equally counting for one and only one — shares in it to make it what it is, his public conscience for civil relations.

If a man upon voting thinks his vote is right, but finds that he was wrong because contrary to the expressed General Will, then that man's reaction should be as follows: I thought I had voted the right way, now I find I was wrong. As an individual person I voted and thus was wrong. As a citizen my vote is that of the General Will. I must turn about. As a citizen I must obey the will of my true self, the civil will to which I bow, despite my opinion as an individual. In the State only the will of the cooperative citizen counts:

When, therefore, the motion which I opposed carries, it only proves to me that I was mistaken, and that what I believed to be the general will was not so. If my particular opinion had prevailed, I should have done what I was not willing to do, and

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<sup>65</sup> Social Contract, p. 18.

consequently, I should not have been in a state of freedom<sup>66</sup>.

Rousseau asks<sup>67</sup>: how shall a man "obey only himself and remain as free as before?" or

How can it be that all should obey... and yet have no masters, but be the more free, as, in apparent subjection, each loses no part of his liberty but what might be hurtful to that of another?<sup>68</sup>

Rousseau answers significantly in terms of a kind of mystical body politic:

These wonders are the work of law. It is to law alone that men owe justice and liberty. It is this salutary organ of the will of all which establishes, in civil right, the natural equality between men. It is this celestial voice which dictates to each citizen the precepts of public reason, and teaches him to act according to the rules of his own judgment, and not to behave inconsistently with himself<sup>69</sup>.

Thus alone can the State preserve itself and with "absolute command" over its members move and dispose them "in the manner most convenient to the whole"<sup>70</sup>.

Only in obeying this positive law is a man free. "Whoever refuses to obey the general will shall be compelled to it by the whole body: this in fact only forces him to be

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<sup>66</sup> Ibidem, p. 96.

<sup>67</sup> Ibidem, p. 15.

<sup>68</sup> Political Economy, p. 256.

<sup>69</sup> Ibidem.

<sup>70</sup> Social Contract, p. 27.

free<sup>71</sup>." The reason for this is that "this is the condition which, by giving each citizen to his country, guarantees his absolute personal independence, a condition which gives motion and effect to the political machine<sup>72</sup>." The reason why Rousseau says men must be forced to be free is to be found in his individualism reduced, for the sake of order, to an organic solution. Unless the whole body politic survives, no member can live to be free. This is true equally for all:

As soon as this multitude is united in one body, you cannot offend one of its members without attacking the body; much less can you offend the body, without incurring the resentment of all the members<sup>73</sup>.

For Rousseau's sovereign is not a representative unit apart from the people who constitute it, as is true of Hobbes. Rousseau's organic body politic has the tissue and cells of all its citizens cemented solidly in the structure as the only effective means of ensuring civil "cooperation" against the mortally divisive effect of man naturally asocial. In Rousseau's society men are part and parcel of the sovereign power. In Hobbes' Leviathan men as authors of the sovereign are represented and as such are totally apart from the sovereign power and thus men are forcefully united by it. It is

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<sup>71</sup>Ibidem, p. 13.

<sup>72</sup> Ibidem.

<sup>73</sup> Ibidem, p. 17. Cf. Political Economy, p. 264 and 252 for a few of the many evidences that Rousseau conceives his body politic as an organic one.

well said then that Rousseau's organic body politic holds together while Hobbes' mechanistic body politic is held together. Rousseau's society holds together under its own will and force while Hobbes' society is subdued as a tamed multitude.

This difference no doubt is what Rousseau had in mind when he wrote the following:

There will always be a great difference between subduing a multitude and governing a society. When unorganized men are successively subjugated by one individual, whatever number there may be of them, they appear to me only as a master and slaves; I cannot regard them as a people and their chief; they are, if you please, an aggregation, but they are not as yet an association; for there is neither public property, nor a political body, among them. A man may have enslaved half the world, and yet continue only a private individual; his interest is separate from that of others, and confined to himself alone. When such a man falls, his empire remains unconnected and without any bond of union...<sup>74</sup>

Rousseau's aim is for an equalitarian society in which every man as equal cannot rise up to dominate in the spirit of libertarian inequality ruinous to the life and liberty of others. Rousseau seeks an indestructible union, an organic State in which the members are preserved, though this is possible only if first the political whole survives.

According to him, when a man upon being attacked puts up his arm in defence to protect himself, the arm is rightly forced into the service of the whole body. The member has no

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<sup>74</sup> Social Contract, p. 13.

independence. It may be injured, but its injury redounds to the good of the whole and thus, in turn, to the member, or, too, "as a wounded man has his arm cut off to save the rest of his body<sup>75</sup>." So, too, in the State an individual member may have to be forced to serve the whole body. Or, as Bertrand Russell<sup>76</sup> says, in regard to "the new ethic", men will come to "little use for the superstition of guilt and punishment" as they come to "viewing society, as a whole..." — liquidation of the individual will then follow:

We view a human body as a whole, and if, for example, it is necessary to amputate a limb we do not consider it necessary to prove first that the limb is wicked.

It is as the citizen, Rousseau affirms, that man acts in concert integrally with others. As such he takes on the character of the whole civil structure, and in it he acts as a substantial part of the whole. As a citizen he might be compared to a brick or stone set into the edifice of the State. A brick or stone in a building has its own individuality but it also assumes a new nature as being in and of the whole building. Thus man has his own individuality but as a member of the State, as citizen, he acquires a new existence,

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<sup>75</sup> Origin of Inequality, p. 221.

<sup>76</sup> Bertrand Russell, The Scientific Outlook, London, George Allen and Unwin Ltd., 1931, p. 211-212.

a higher character as cemented in the communion of the whole.

Moreover, what is good for the whole is good for the individual parts, since the whole prevails as a unit. If one part is out of order, the whole is said to be in disorder. Hence there is need for the body politic to curb and eliminate any disorderliness of the individual members, in order to restore the health and function of all. Thus, says Rousseau, the individual members must be totally subordinate to the good of the whole. Otherwise society cannot preserve itself, nor then can any individual member. Thus, too, "the right which each individual has over his own property is always subordinate to the right which the community has over all..<sup>77</sup>" And if this were not so, "there would be no solidity in the social bond, nor any real force in the exercise of sovereignty." If men are not social by nature, they are social by contract. If they are social by contract, civil society is at least potentially the master of their lives and goods: "... the State is made master of all their wealth by the social contract, which within the State serves as the basis of all rights<sup>78</sup>."

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<sup>77</sup> Social Contract, p. 21-22.

<sup>78</sup> Ibidem, p. 20.

What is more, Rousseau declares<sup>79</sup>, "the citizen is not a judge of the peril to which the law may expose him." This is because the "autonomous judgments" of the individual are only relative to pure private interest and so ruinous to order, just as Hobbes held. When and if to a citizen the government says: "'It is expedient for the state that thou shouldst die', he ought to die<sup>80</sup>." Positive civil law is ultimate and final. The citizen must die, for "it is only on that condition that he has enjoyed his security up to that moment<sup>81</sup>." What is more, "his life is not to be considered simply as the boon of nature, but as a conditional gift from the State<sup>82</sup>," insofar as the State preserving itself in existence is the reason the members avert loss of equality, liberty and life.

There are lines more startling than these to be found in Rousseau the individualist. The extent to which Rousseau expects to establish unity among, and the transformation of, individual men in the body politic is astounding. His view amounts to an annihilation of human nature, in order to insure the success of this society of "liberation". To those

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79 Ibidem, p. 31.

80 Ibidem.

81 Ibidem.

82 Ibidem.

who would attempt to found a State Rousseau has these rather surprising words to say:

Those who dare to undertake the institution of a people must feel themselves capable, as it were, of changing human nature, of transforming each individual, who by himself is a perfect and solitary whole, into a part of a greater whole, from which he in some measure receives his being and his life; of altering the constitution of man for the purpose of strengthening it; of substituting a moral and partial existence instead of the physical and independent existence which we have all received from nature<sup>83</sup>.

Only when the individual man and his energies are absorbed in the State does he first find himself and also assist most in the perfecting of social life.

It is necessary, Rousseau says<sup>84</sup>, to "remove from man his own proper energies to bestow upon him those which are strange to him, and which he cannot employ without the assistance of others." A man's natural powers must be annihilated and "the more those natural powers are annihilated, the more august and permanent are those which he acquires and the more solid and perfect is the institution<sup>85</sup>." Thus perfection is achieved "if each citizen is nothing and can do nothing but when combined with all the other citizens...<sup>86</sup>" The individual drive for happiness must be controlled in terms of the

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<sup>83</sup> Ibidem, p. 36.

<sup>84</sup> Ibidem. Italics are ours.

<sup>85</sup> Ibidem. Italics are ours.

<sup>86</sup> Ibidem.

whole, the total force which must be "equal or superior to the sum of all the natural forces of all these individuals ...<sup>87</sup>" Rousseau says that of the different wills in the State they "become more active in proportion as they are concentrated<sup>88</sup> under the sovereign will. "Virtue is nothing more than this conformity of the particular wills with the general will<sup>89</sup>." "The most absolute authority," he affirmed, "is that which penetrates into a man's inmost being, and concerns itself no less with his will than with his actions<sup>90</sup>." But, above all, "if it is good to know how to deal with men as they are, it is much better to make them what there is need that they should be<sup>91</sup>."

Clearly, Rousseau is at least potentially the totalitarian, though he never really ceases being the individualist. In the Social Contract which most emphatically reveals his totalitarian attitude, he hardly intends to abandon his individualism but to favour it, to nourish and protect it, until it grows up to become the very energies and stuff of the tree of society. Thus Alfred Cobban<sup>92</sup> says of Rousseau:

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<sup>87</sup> Ibidem.

<sup>88</sup> Ibidem, p. 56.

<sup>89</sup> Political Economy, p. 260.

<sup>90</sup> Ibidem, p. 259. Italics are ours.

<sup>91</sup> Ibidem.

<sup>92</sup> Cobban, Rousseau and the Modern State, p. 239.

"... To the end a hard and insoluble core of individualism remains in his thought and refuses to be dissolved away by the rising tide of communal values." What is more, "even in politics the sacredness of individuality and the importance of the individual initiative is still his guiding principle." Cobban adds rightly that "this is why we have to discard Vaughan's description of him [Rousseau] as 'the sworn foe not only of individualism, but of individuality'<sup>93</sup>." Vaughan sees that for Rousseau: the individual is "absolutely merged in the community" while individual freedom is "utterly lost in the sovereignty of the State. This is against all reason and all experience<sup>94</sup>." Vaughan then rightly concludes that 'a State of which this were true would be a State without freedom, without life, without hope of progress<sup>95</sup>.' It would, of course, be the totalitarian State<sup>96</sup>, despite any fundamental individualism underlying it.

Even for Rousseau the libertarian-become-totalitarian there had to be room somehow for the spirit of I-want-what-I-want: "I need only consult myself with regard to what I wish

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<sup>93</sup> Ibidem. Cobban says: "Rousseau's political theory starts with the Individual and it ends with the Individual" (p 7)

<sup>94</sup> J. V. Vaughan, The Political Writings of Jean-Jacques Rousseau, Vol. I, p. 59.

<sup>95</sup> Ibidem.

<sup>96</sup> Ibidem, p. 39. Vaughan sums up Rousseau's Social Contract as "the porch to a collectivism as absolute as the mind of man has ever conceived."

to do...<sup>97</sup>" "Let each think as he pleases...<sup>98</sup>" Emancipation from the Christian tradition or at least from what he thought was the tradition, appeared to require the philosophy of individualism. The problem was to mix order with this spirit of "liberation". Throughout Rousseau's totalitarian conclusions he is radically the individualist endeavouring to reconcile freedom and equality and hoping somehow to establish as a principle his libertarianism with its absolute liberty, while at the same time he bemoans its disastrous effects and so resorts to statism and the bonds of physical force.

Christopher Dawson has summed up what this "liberational" movement amounts to in practice. "As Liberalism did not create moral ideas, so too," he notes, "it cannot preserve them" — like a parasite it has flourished on things to which it as such has absolutely no title<sup>99</sup>:

It lives on the spiritual capital that it has inherited from Christian civilization, and as this is exhausted, something else must take its place. Once society is launched on the path of secularisation it cannot stop in the halfway house of liberalism; it must go on to the bitter end, whether that end be Communism or some alternative type of 'totalitarian' secularism.

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<sup>97</sup> Emile, Foxley, p. 249.

<sup>98</sup> Ibidem, p. 344.

<sup>99</sup> Christopher Dawson, op. cit., p. 64-65.

Moreover, on the international level there is likewise for Rousseau as for Hobbes no natural moral law and hence no moral bonds among peoples, or nations. The will of the State, says Rousseau, is "the moral law" "the rule of justice"<sup>100</sup>. But by this will, of course, Rousseau clearly means the will of the individual State, no universal norm common to all men and States:

It is important to observe that this rule of justice, though certain with regard to all citizens, may be defective with regard to foreigners. The reason is clear. The will of the State, though general in relation to its own members, is no longer<sup>101</sup> so in relation to other States and their members...

Justice is strictly artificial. The amoral law of nature prevails among individual States, as among individual men in the state of nature, since man is by nature asocial and amoral. This is the spirit of nationalism, or the "international individualism" of the modern Nation-State engulfed in compacts and power politics. And, as Hobbes and Rousseau saw, force is the final arbiter in an amoral order.

A few final words might be mentioned with regard to Rousseau's views on "civic religion" since it throws some light on this study. Since for Rousseau the political sovereign is absolute and indivisible, it is not to be subordinate to anything in any way above it. The State must be

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<sup>100</sup> Political Economy, p. 253.

<sup>101</sup> Ibidem.

one. Thus Christianity is out of order since it disrupts the "political unity" and stands opposed to the primacy of man's will in the past.

Rousseau's society is totalitarian because thus it is one. Its secularist unity shuts out an end other than that which is totally within the body politic. If transcending the State there is an end that serves as a practical principle of order for political life, then the State cannot lay claim to absolute unity. Rousseau bewails this fact and lauds, as did Hobbes, the old pagan unity of religion and State, wherein "each State had its own cult and its own gods" and "did not distinguish its gods from its laws"<sup>102</sup>; "the jurisdiction of their gods being, as it were, limited by the boundaries of the nation"<sup>103</sup>. "Every religion," he says, was "peculiarly united with the laws of the State which prescribed it..."<sup>104</sup> "Converting a people" was "by enslaving them" while the only missionaries were conquerors and the "obligation of exchanging one cult for another being a law imposed on the vanquished, men had to conquer before they began to convert"<sup>105</sup>.

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<sup>102</sup> Social Contract, p. 115.

<sup>103</sup> Ibidem, p. 116.

<sup>104</sup> Ibidem.

<sup>105</sup> Ibidem.

Rousseau's complaint is that, with the coming of Christianity, the State loses this "unity" and becomes divided in the separation of Church and State by the claim to another and higher jurisdiction: "... Jesus came to establish a spiritual kingdom on earth, which, by separating the theological from the political system, made the State no longer one...<sup>106</sup> "This double power," says Rousseau, divides the civil whole by concentrating and binding man's attention on an end outside this whole and entails "a perpetual conflict for jurisdiction which has made any system of good polity impossible in Christian States..."<sup>107</sup> Pragmatically, there is only one end, a civil one. The end transcending the State is, in practice, "more injurious than useful to the constitution of the State"<sup>108</sup>." Moreover, "whatever breaks social unity is worthless; all institutions which set man in contradiction with himself are worthless"<sup>109</sup>." In the vein of the libertarian, man's will is not to be countered. Human will is not to be guided or gainsaid except by this new civil law and religion to which man in the past freely subscribes and of which he is wholly author. There is advantage in this

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<sup>106</sup> Ibidem, p. 117. Italics are ours.

<sup>107</sup> Ibidem.

<sup>108</sup> Ibidem, p. 119.

<sup>109</sup> Ibidem, p. 120.

old pagan civil unity, says Rousseau<sup>110</sup>, since it teaches the citizens that "to serve the State is to serve its tutelary God" "by making their country the object of the citizens' adoration." "No State or government," Rousseau affirms<sup>111</sup>, "can ever be well-established" without "the complete restoration of political unity." This was the solution held by the totalitarian, Hobbes. It is precisely for this reason that Rousseau has highest praise for Hobbes who had "dared to propose a junction of the two heads of the Eagle<sup>112</sup>."

While Rousseau believes men may think, in libertarian fashion, as they please, he never overcomes the disturbing fact of the incompatibility of individualism and social order and thus resorts to his compulsive "political unity". "The right which the social compact gives the Sovereign over the subjects," he says<sup>113</sup>, "extends no further than is necessary for the public good." Every man must be absolutely at liberty to think and do as he pleases but without harming others<sup>114</sup>. No sovereign may control the opinions of the subjects unless

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110 Ibidem.

111 Ibidem, p. 118.

112 Ibidem.

113 Ibidem, p. 123.

114 Cf. Political Economy, p. 256.

"these opinions may affect the community<sup>115</sup>." However, "it is of consequence to the State," Rousseau declares<sup>116</sup>, "that each of its citizens should have a religion which will dispose him to love his duties" to the State and public good. This, of course, is not so much because of any love or regard for truth itself but merely for the practical end of civil order that men may equally enjoy perfect autonomous liberty<sup>117</sup>:

The dogmas of that religion interest neither the State nor its members except as far as they affect morality and those duties which he who professes them is required to discharge towards others. For the rest, every individual may entertain what opinion he pleases...

All that is necessary is that citizens conform to the law. Religion is a purely private affair unless it is that of the State; in this case the religion must be social<sup>118</sup>:

There is therefore a purely civil profession of faith, the articles of which it is the business of the Sovereign to arrange, not precisely as dogmas of religion, but as sentiments of sociability without which it is impossible to be either a good citizen or a faithful subject.

The Sovereign, Rousseau adds, cannot oblige men to believe them, but "it can banish from the State whoever does

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<sup>115</sup> Social Contract, p. 123. Each man is absolutely free but not free, apparently, to injure others.

<sup>116</sup> Ibidem.

<sup>117</sup> Ibidem.

<sup>118</sup> Ibidem, p. 123-124.

not believe them; not as an impious person, but as an unso-  
ciable one...<sup>119</sup> or it may sacrifice a man's life, if need  
be. But if there is any man who, "after he has publicly  
subscribed to these dogmas, shall conduct himself as if he  
did not believe them, he is to be punished by death<sup>120</sup>."

However strong these lines, they are not altogether  
inconsistent with Rousseau's thought already affirmed. Rous-  
seau entertains all the perilous potential of totalitarianism  
well before he ever speaks thus of this civic religion or  
profession of faith. The danger is that this may not be seen.  
There are still those who naively believe Rousseau is a  
totalitarian chiefly because of such lines voiced in his  
"Civic Religion", as though these views have no direct rela-  
tion with Rousseau's individualism other than being a strange  
"monstrous appendage". But this is far from being the truth.  
F.C. Green in his study of Rousseau is a typical instance of  
this aberration. Commenting on this punished-by-death arti-  
cle, Green writes<sup>121</sup>:

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<sup>119</sup> Ibidem, p. 124.

<sup>120</sup> Ibidem. Italics are ours. Such a man deserves  
death, adds Rousseau, because "he has committed the greatest  
of all crimes: he has lied in the face of the law."

<sup>121</sup> F.C. Green, Jean-Jacques Rousseau, a Critical  
Study of His Life and Writings, Cambridge, at the University  
Press, 1955, p. 304.

Recklessly, in that fatal article of his civic profession of faith, he [Rousseau] conceived the formula for a process of judicial mass murder which, with various refinements, was destined to form the basis of the twentieth-century totalitarian State.

Green then continues but this time affirming his faith in what amounts to Rousseau's basic individualism as though it has no menacing ties with the totalitarian State:

That a noble creation like the Contrat Social should have been disfigured by such a monstrous appendage is one of the most baffling enigmas recorded in literature. But we should not allow it to blind us to the enduring truths enshrined in Rousseau's treatise. Of these the greatest and, today, the most precious, is that sovereignty belongs to the people and must never, under any pretext, be transferred to any individual or group of individuals. What happens when Rousseau's teachings are ignored is written large on the map of the World.

One thing, however, is certain in a study of Rousseau: in him there is indisputable evidence of individualism, on the one hand, and, of totalitarianism, on the other. The latter is by no means an accident, or a coincidence, but an inevitable consequence of the practical need to control the former.

## CONCLUSION

The totalitarian juggernaut, it is said, especially Communism, is the chief danger to the modern world. But a sounder conclusion is that the threat is not so much from the open crudities of totalitarianism as from the subtle elusiveness of individualism. This is true particularly since so much of the philosophy of individualism with its concomitant, democratic myths is still entrenched in western thought and is far from being uprooted, or exposed for its worthlessness. Individualism needs decisively to be stripped of its Christian associations, for it has no title to them. Bills of Rights, popular or majority vote, amoral primacy of individual rights or democratic will, freedom under law, representation, separation of powers and the like, are, in a secularistic, social context, either dangerous or thoroughly worthless. This has not been a study in democracy but in individualism's relation to the totalitarian polity. To some, democracy is the same as individualism, but only because to them democracy is a secularism, as has appeared in the course of this essay. Individualism is at bottom a mortal myth and, in any society founded upon the philosophy of individualism, the totalitarian strangle-hold is inevitable. Order in human relations is a patent exigency; but how in the garden of individualism

can there be any order or can any hope be entertained of gathering the fruits of social harmony? It follows that the tree of totalitarianism is planted in the garden of individualism.

To put it another way, individualism shatters society, leaving behind only individuals and the State so that the choice is anarchy or statism. "Human grains of sand must remain separate individuals or else get set in the cement of totalitarianism — where their identity and personality are lost<sup>1</sup>." But the plain fact is that man is not a self-sufficient being. That he will resort to some political structure is inevitable. It will be then some brand of totalitarianism.

The universal problem has been reconciliation between freedom and social order or between the individual's drive for happiness and the happiness of all. Individualism's revolutionary answer to the problem arose in the wake of the Protestant Revolt, in part as a protest against things mediæval and, especially, as a means of breaking the back of Divine-Right kingship. The core of this philosophy of individualism was the denial that man is social by nature. It was a "rationalization" in the unfavourable sense of the term. But the denial meant that human problems must be viewed according to, and solved by, purely temporal norms.

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<sup>1</sup> Neill, op. cit., p. 72.

In social practice it meant that men could proceed with temporal affairs either pantheistically<sup>2</sup> or as though God were no necessary part of the picture. It meant a beclouding of man, the rational animal, and of man's rational principle of operation, and final purpose. It was an experimental, "emancipatory" attempt to find a purely human actualization of order. Man was to be "liberated" from the trammels of the past. He was to begin afresh for a new order.

But the problem remained and was made more difficult: how attain human harmony if man is autonomously free? It would be through society, but not through his nature as rational. But then by what justification would the law, the practical work-tool of society, restrain him? Clearly it would not be the natural moral law, the rational law of his nature. Law becomes a dictate of man's will or appetites. The civil law is justified if society is. But how is society justified? By man's rational nature of which God is author? No! Society is purely an artistic creation of man. So then is authority and then law — all pure creations of man, in that order: society, authority, law. If man is not social by nature, he is social by his will or by contract, and hence

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<sup>2</sup> Apropos, Hobbes' pointed note on pantheism is not irrelevant: "... to say the world is God is to say there is no cause of it, that is, no God." Leviathan, p. 165.

he alone creates authority without which no social goal is possible. He alone is radically the sovereign authority of the law and those principles whereby man lives, acts and attains happiness. Liberty is by way of himself alone.

But any political system thus founded on will is arbitrary. In practice it rests on force; to force alone it can resort and so is potentially totalitarian. It operates as if no social relation can be legitimately outside the omniscient reach of the political arm.

The conclusive point to be stressed, however, is that individualism is morally defenseless. There is no intrinsic reason why in a society based on individualism the individual citizen must in any way, in moral obligation of conscience, be protected against being totally subordinated to the good of the State. The work of Hobbes and Rousseau clearly evidenced this truth. If civil society in fact is merely a tool of the ego, there is no reason in fact why the ego should not become merely a tool of the State, if pragmatically this needs be — by the political will prevalent. Absolutely nothing in the philosophy of individualism or Liberalism can stand as a bulwark against tyranny or a collectivist abuse of the human person. Hence the unfailing attempt — sane, indeed, but inconsistent — of the individualist to resort to the things of common sense or of the Christian preserve.

The alternative to rejection of individualism is obviously not totalitarianism, nor is it the discarding of individual rights except amoral "rights". Such "rights" morally are nothing as Hobbes and Rousseau evinced. Men cannot ignore the philosophia Perennis and expect, indifferent to Christian values, to come upon an intelligent plan of social order. Hobbes and Rousseau unwittingly serve to make the argument abundantly clear. To take into account the future of human freedom and felicity does not require a study of Hobbes and Rousseau. Yet the truth to which their writings are the unwitting witness is the treasure.

The problem is a philosophical one, before it is a political one. The question of whether or not there should be a Welfare or Socialist State should be amply prefaced by a concerted consideration of the underlying philosophical issues. An honest consideration yields more fruitful conclusions as to man's nature, rational and social, his origin and purpose, and the rules for human relations with regard to society, authority, and law. These are the wider issues — the issues that are worthier than vote-counting, separation of powers, representation, however important in another way.

The conclusion may well be made that even the governments of the U.S.A. and England — insofar as they heed the myths of individualism — are totalitarian potentially or in theory if not in practice, whether ultimate authority be in

the English Supreme Parliament or in the U.S. Supreme Court or majority rule. Neither Bills of Rights, nor constitutions nor democratic representations and so forth, which are used by individualism, give the answer, however useful they may be within a Christian context or in a democracy rooted in the natural moral law. Rights unless founded in this natural law are baseless. A Bill of Rights itself is no defense against totalitarian rule and is thus but simpleton's tinsel. Man's hope against gas chambers, concentration camps, and the tightening ring of Communism is not in individualism, or in mechanically guaranteed rights, or in the bubbles of democratic secularism. Further, if rights, in the spirit of individualism, are determined by will (not reason), they can be maintained only by coercion and so an individualistic order will inevitably degenerate into a totalitarian order. If law is a pure imperative sanctioned by force — as in England and America — a Bill of Rights creating individual rights is necessary. (For thus rights then are just as much the result of whim or will as is the law. If this is true of law, it is true of rights, which rest on law.) But then freedom in this context is in a purely precarious position. It is at the mercy of the whim of a majority, or ruling group. Ignoring natural moral law and therefore moral rights, men fall back to reliance on purely positive, human law and civil rights. But here civil rights alone are as arbitrary as

amoral positive law and as strong or effective as force. But then there is the awful problem of filling gaps and loopholes in the law. Endless resort to positive legislation is made in a kind of mechanical make-shift attempt to have the laws do what fulfilled obligation in natural moral law is to accomplish. There is in the United States, for example, a super-abundance of laws beyond laws aiming at the preservation of individual rights — and this, as the boast goes, in a country founded on the philosophy of individualism. Indeed, legitimate are the fears of those observers who refuse to believe in the impossibility of an American totalitarianism.

The problem in the real situation is difficult enough even recognizing<sup>3</sup> that man is rational and social by nature and that law is an ordinance, or dictate of reason, but it is made insanely difficult by experimentally making the principle of order arbitrary and voluntaristic and effective by force alone. This peculiar experiment began largely in the

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<sup>3</sup> Voluntarism insofar as it gives undue preeminence to the will over the intellect is, no doubt, a doctrine intellectually vicious. Yet a word of caution is in order lest intellect be unduly stretched to the detriment of the role of will: it must be stressed that mere knowledge or education is insufficient. Understanding needs its complement in the function of the will. Intellect, or understanding is never so important as to replace will, or its appetitive arightness. Socrates' aberration that "virtue is knowledge" is still very much afoot in modern thought.

sixteenth century. It has been a "flop". It should be abandoned except to record the lessons and learn from them. As man is social by nature, society and its laws must be in harmony with the author of that nature and the end for which the human person exists. This, of course, does not mean return to a dead past or to the peculiar defects and corruptions of the Middle Ages.

The State cannot become totalitarian if it is subordinated in behalf of the human person to an end transcending this life. The subordination of the State to this transcendental purpose is intelligible only as man is seen to be a rational being who acts as such and orders his life personally and politically on this fact of his rational nature.

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## ABSTRACT

This study is an attempt to expose thoroughly the practical relation between the philosophy of individualism and totalitarianism and to throw a more vivid light on the whole question, indeed a timely one, by entering upon it in a somewhat new way, different from a merely philosophical approach. The question, though primarily a philosophical one, is here considered in a historical context, as a philosophical-historical question. It is indeed true that there are many absurdities in the philosophy of Thomas Hobbes and Jean-Jacques Rousseau, but there is also a precious truth in their positions. The procedure is to witness how these individualists par excellence draw in their own words and in their own logic — by an ineluctable consistency — the totalitarian conclusion to the social problem. Individualism and totalitarianism are not opposed as contradictories. The former is the fodder of the latter.

The basic social problem is reconciliation of freedom and order, or harmonizing the individual's drive for happiness with the happiness of all persons. Can the philosophy of individualism give the solution to this problem? The whole question, even as it appears today, is tangled in complicated associations with things of the Christian tradition. Individualism as a philosophy is simply a denial that man is

naturally social — a revolutionary denial of a traditional thesis, a denial that is quite complicated in its ramifications and one that has had tremendous repercussions. Individualism's revolutionary answer to the problem arose in the wake of the Protestant Revolt, in part as a protest against things mediaeval and, especially, as a means of breaking the back of Divine-Right kingship. This philosophy of individualism was indeed a "rationalization" in the unfavourable sense of the term. This denial meant in fact that human problems were henceforth to be viewed according to, and solved by purely temporal norms as though God were no necessary part of the picture. It meant a beclouding of man, the rational animal, and of man's rational principle of operation, and final purpose. It was an experimental "emancipatory" attempt to find a purely human actualization of order. Hobbes and Rousseau were among the leading figures bearing out this revolt. Both emphatically deny man is social by nature. For Hobbes as for Rousseau this is a rejection of the natural moral law, whence in modern thought arises a predominance of moral positivism and extrinsic morality. Human perfection comes then only by positive human law alone, exercised by the body politic which has no obligations to anything above itself and so to none of its members.

Hobbes inaugurates the primacy of individual rights, moral rights which when surrendered in a social contract

give rise to society and civil law which alone is law morally in the proper sense for human relations. Where traditionally law was first, then obligation, or duty, Hobbes makes rights first, then law, viz. the will of the civil sovereign, representing all its members in the Leviathan. If man is social, not by rational nature, but by will or pact, he must be in an amoral condition of liberty and equality — i.e. the state of nature, a mere logical necessity of individualism. Only thus can he contract into society and become himself full author of morality and law. Hobbes stressed order. Locke stressed the liberty aspect of the mythical state-of-nature condition while ignoring the economic inequality that this "liberty" left in its wake. Rousseau's problem was to reconcile this "liberty and equality" — an impossibility. Rousseau like Hobbes begins with rights as the source of society and law but reconciles them in an organic polity of citizens under the new, democratic "moral" law, the sovereign General Will. The citizens all equally obey this law which they all equally and freely author. For Hobbes and Rousseau the solution to the problem was to be through society, but not through man's nature as rational. The question was: by what justification was the law, the practical work-tool of society, to restrain man? Clearly it was not the natural moral law, the rational law of his nature. Law then becomes a dictate of man's will or appetites. The civil law is justified if society is.

But how is society justified? By man's rational nature of which God is author? No! Society is purely an artistic creation of man. So then is authority and then law — all pure creations of man, i.e. of his will, in that order: society, authority, law. If man is not social by nature, he is social by his will or by contract, and hence he alone creates authority without which no social goal is possible. He alone is radically the sovereign authority of the law and those principles whereby man lives, acts and attains happiness. Liberty is by way of himself alone. But any political system thus founded on will is arbitrary. In practice it rests on force; to force alone it can resort and so is potentially totalitarian. It operates as if no social relation can be legitimately outside the omni-competent reach of the political arm. Order in human relations is an obvious exigency, but how in the garden of individualism can there be order or how can any hope be held of gathering the fruits of social order except by totalitarianism?

There is no intrinsic reason why in a society based on individualism the individual citizen must in any way, in moral obligation of conscience, be protected against being totally subordinated to the good of the State. Far from being a bulwark against statism, individualism is morally and philosophically defenceless. Hobbes and Rousseau clearly evidenced this. If civil society in fact is merely a tool of

the ego, there is no reason why the ego should not become merely a tool of the State, if pragmatically this needs be — by the political will prevalent. If rights in the spirit of individualism, are determined by will alone, they can be maintained only by coercion. Neither Bills of Rights, nor constitutions, nor vote-counting, nor separation of powers, nor democratic representation, which are used by individualism, solve the problem, however useful they may be in a Christian context or in a democracy rooted in the natural moral law. Rights unless founded in this natural law are baseless. The State cannot become totalitarian if it is subordinated in behalf of the human person to an end transcending this life. The subordination of the state to this transcendental purpose is intelligible only as man is seen to be a rational being who acts as such and orders his life personally and politically on this fact of his rational nature. Men cannot ignore the Philosophia Perennis and expect, indifferent to Christian values, to come upon an intelligent plan of social order. Hobbes and Rousseau unwittingly serve to make the argument abundantly clear.