

ROUSSEAU'S SOCIAL CONTRACT

By H. J. TOZER



THE SOCIAL CONTRACT

OR

PRINCIPLES OF POLITICAL RIGHT

BY

JEAN JACQUES ROUSSEAU

CITIZEN OF GENEVA

TRANSLATED WITH AN

HISTORICAL AND CRITICAL INTRODUCTION AND NOTES

BY

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Fœderis æquas

Dicamus leges.

Virgil, *Aeneid* XI. 321-2.



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"Society is indeed a contract. Subordinate contracts, for objects of mere occasional interest, may be dissolved at pleasure; but the state ought not to be considered as nothing better than a partnership agreement in a trade of pepper and coffee, calico or tobacco, or some other such low concern to be taken up for a little temporary interest, and to be dissolved by the fancy of the parties. It is to be looked on with other reverence; because it is not a partnership in things subservient only to the gross animal existence of a temporary and perishable nature. It is a partnership in all science; a partnership in all art; a partnership in every virtue, and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born."

BURKE, *Reflections on the French Revolution.*

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PREFACE

TO THE THIRD EDITION.

SO FAR as I can discover, no new English translation of Rousseau's *Contrat Social* was published during the century that ended with the year 1894, while only one reprint of an earlier edition was issued. The fact that two editions of the present translation have been exhausted in a comparatively brief period may, it is hoped, be regarded as one among many signs of renewed interest in political philosophy in England and America.

I desire to express my special obligations to the following works, which, among others, were consulted during the preparation of the Introduction and Notes: Mr. Morley's admirable critical biography of Rousseau, and the monographs by Mr. Graham and M. Chuquet; M. Hornung's political essay in *J.-J. Rousseau jugé par les Gênois d'aujourd'hui*; M. Paul Janet's *Histoire de la Science Politique* 3rd ed.); Sir F. Pollock's *History of the Science of Politics*; the late Professor T. H. Green's Lectures on Political Obligation (*Works*, vol. II.); and Professor Ritchie's political essays in *Darwin and Hegel* and other works.

Acknowledgment is also due for occasional aid derived from previous translations of the *Contrat Social* in the rendering of doubtful passages.

Those who desire to study Rousseau's work more thoroughly may now be referred to the admirable edition of the *Contrat Social* (Paris, 1896) by M. Edmond Dreyfus-Brisac. This scholarly volume supplies a large number of parallel passages from various authors and from Rousseau's other works, together with valuable appendices illustrating from autograph manuscripts at Geneva and Neuchâtel the development of Rousseau's political conceptions.

In the present edition the preface printed in the first and second editions has been omitted, and a few amendments have been made in the body of the volume.

H. J. T.

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INTRODUCTION.

THE French Revolution was no sudden outburst of fury against oppression. It was rather the tardy outcome of a vast assemblage of heterogeneous conditions, moral, social, economic, political, and religious—a slowly manifested revulsion against centuries of unavenged wrong. The multiform evils of the long period of autocratic government that had culminated in the reign of Louis XIV., the incalculable injury to commerce and industry resulting from perpetual wars, the overwhelming financial burdens imposed upon the people by government, nobles, and clergy, the ruthless persecutions of Huguenots and Jansenists by the ecclesiastical abettors of royal despotism, the grievous misrule of Louis XIV.'s successors and their ministers,—all these circumstances concurred with the growth of new and pregnant ideas on the various subjects of human interest to evoke that great awe-inspiring outburst of popular wrath, which proclaimed that the many should no longer be the bond-slaves of the few.

Among those who generated and directed the forces by which the materials of that terrific eruption were concentrated and ignited, Rousseau stands pre-eminent. In the writings and speeches of the revolutionary leaders his political doctrines are more distinctly traceable than those of any other thinker; and friendly and hostile critics have alike acknowledged the paramount importance of his work in shaping and disseminating the explosive ideas that kindled the flames of revolution. "The world," said a vigorous critic,* "has not seen more than once or twice in all the course of history a literature which has exercised

* Maine, *Ancient Law*, ch. IV.

such prodigious influence over the minds of men, over every cast and shade of intellect, as that which emanated from Rousseau between 1749 and 1762." While radical reformers have extolled Rousseau as the founder of a new era, conservatives have regarded with contempt or horror the passionate enthusiast who declared in burning words the inalienable sovereignty of the people. This doctrine, long before enunciated, though never clearly realised by the masses until Rousseau preached it, was impressed once for all upon Europe by the Revolution. Since 1789 the tide of popular freedom has rolled rapidly onward, renewing and purifying the nations. A thousand ancient privileges which, by their survival, proved formidable barriers to political progress have been gradually undermined and submerged; and this beneficent process of reformation not only continues, but operates with accelerating force. The feudal and ecclesiastical principle that certain orders in the State are divinely invested with political power is fast vanishing before the loftier democratic principle that every member of the social organism should share the rights and duties of citizenship.

The *Social Contract* has a double claim to be considered an epoch-making work: historically, on account of its enormous influence upon European life and thought; and, philosophically, because it is the most eloquent expression of the theory of a social compact. An adequate appreciation of Rousseau's work, and a true idea of the significance of certain doctrines to which he gave free currency, and which to-day subsist in full vigour, can be obtained only by an enquiry into the origins of his principal theories—those of the social contract and of popular sovereignty. The purpose of this Introduction is to sketch briefly the development of these and kindred theories, with especial reference to the writers by whom Rousseau was most influenced.

I.

Rousseau had a profound admiration for the political ideals of antiquity. This is manifested in his direct borrowings from the treatises of Plato and Aristotle, as well as in his frequent references to the constitutions of Sparta and Rome, which, like his contemporaries, he lauded without much knowledge or discrimination. The subordination of the individual to the State, which was the dominant feature of these ancient polities, was also, as we shall see, the leading characteristic of Rousseau's own theory. In Hellas or in Rome the citizen had but few personal rights; his conduct was largely subject to public censorship, and his religion was imposed by State authority. In Plato's and in Aristotle's works the fundamental features of Hellenic States are retained unaltered; the only true citizens and members of the sovereign body being an aristocratic caste of freemen, whose manual work is performed by slaves possessing no civic rights.

* The notion of a social contract may be found in Plato. Socrates (*Crito*, 49-52) is represented as contending that whoever, after reaching man's estate, voluntarily remains in a city, should submit to the government, even when he deems its laws unjust; accordingly, on the ground that he would break his covenant with the State by escaping from prison into exile, he determines to await the execution of an unjust sentence. Again, in *Republic*, II. 359, Glaucon, who probably represents the views of the Sophists as modified by Socrates, affirms in the course of a discussion on justice that legislation and contracts between man and man originated in a compact of mutual abstinence from injustice. Plato depicts in the *Republic* a kind of idealised Sparta. He traces the origin of society and the State to mutual need, for men as isolated beings are incapable of satisfying their manifold wants.* In an ideal State philosophers should rule; and to this aristocracy, or government of the best, the body of citizens would owe implicit obedience. Plato's emphasis on the careful train

* In *Laws*, III., Plato traces *historically* the growth of the family into the State, and the systematisation of customs into laws.

ing and education of citizens finds a parallel in Rousseau's *Émile*.

While Plato aimed at constructing an ideal State, Aristotle in his *Politics* expounded an elaborate political theory in a purely scientific spirit.* He was the first to disentangle politics from ethics, though he was careful not to sever them. The majority of men, he urged, are ruled by their passions rather than by reason, and the State must therefore train them to virtue by a life-long course of discipline, as in Sparta. Until political society is instituted there is no administration of justice. Since the State is a supreme and all-embracing society for the promotion of virtue, and since the highest good and the complete happiness of the individual can only be realised in the State, it is necessary to enquire into the best constitution and the best system of legislation. The germ of the State is found in the family or household. From the union of several households arose the village community, the members of which were blood-relations, subject to the kingly rule of the eldest male, in other words, to patriarchal government. By the association of several villages was formed the State, a natural, independent, and self-sufficing organisation. The State is the complete development of the household and the individual, though prior to these "in nature," since it is a whole of which they are parts. But while the household is ruled monarchically, in constitutional governments the subjects are free and on an equality with their rulers. Natural sociability and mutual advantage impel men to union. Man is by nature a political animal. But, although the impulse to political association is innate, the actual formation of States must be due to the initiative of particular persons.

The State is much more than an alliance which individuals can join or leave without effect, for the independent or cityless man (*ἀπολις*) is unscrupulous and savage, something essentially different from a citizen. The members of a State are numerous, and they differ in their personal qualities; it is by the co-operation of

* *Ethics*, X. 9.

its various parts in the performance of their proper functions, and by the reciprocal equality of these parts, that the State is constituted an organic whole, and its preservation secured. Plato (*Republic*, III.) had anticipated this conception of the State as a body whose members combine harmoniously for a common end.* Aristotle held that where freedom and equality prevail there should be alternate rule and subjection, but it is best, if possible, that the same persons should always rule. In opposition to Plato's communism, he argued in favour of duly regulated private property, considering that only a moral unity is possible or desirable in the State.

Aristotle divided governments into monarchies, aristocracies, and republics (*πολιτεΐαι*), and their respective perversions, tyrannies, oligarchies, and democracies, according as the supreme power is in the hands of one or a few or the many, and according as the end is the general good or the private interests of the rulers, regard being also paid to freedom, wealth, culture, and nobility. Each polity consists of three parts—the deliberative, the executive, and the judicial bodies. Citizenship is constituted neither by residence, nor by the possession of legal rights, but by participation in judicial power and public office. The many, having attained a certain standard of morality, should rule; for, though individually inferior, they are collectively wiser and more virtuous than a select few. But, while undertaking all deliberative and judicial functions, they should be excluded from the highest executive offices. The best polity is that in which the middle class between the very rich and the very poor controls the government, for that class has the most permanent life, and is the most conformable to reason, as well as the most capable of constitutional action. This is virtually an affirmation that sovereignty should reside in the majority of the citizens, slaves of course being ignored. Democracies agree in being based on equality in respect of personal liberty, which implies the eligibility of all citizens to hold, or elect to, the offices of State, and the rule of each over all and all over each in turn. Aristotle, like Plato,

* Cf. the fable of Menenius Agrippa (*Livy*, II.) and *Ephesians* iv. 25

treated democracy as a debased form of government, and held that it is more suitable to large States than to any others. Like Plato, too, he concerned himself chiefly with small city-states of the Hellenic type—States large enough to be independent, and small enough for all citizens to be acquainted with one another.

The conquests of Alexander changed the aspect of the Greek world; and the tendency to individualism that manifested itself upon the decay of the national spirit in Greece found expression in the Stoic and Epicurean philosophies. The Stoics, developing the principles of the Cynics, made a great advance towards cosmopolitanism. They regarded all men as partakers in the divine reason, and as members of one community subject to nature's universal law, which required observance of contracts and abstinence from injury. The Epicureans revived the notion of a compact as the basis of justice. Justice, said Epicurus, is nothing in itself, but merely a compact of expediency to prevent mutual injury.

Little of direct importance was added to political theory by the Romans, but in a closely allied department—viz., Jurisprudence—they made contributions of deep interest and value. Under the Republic there had grown up beside the Civil Law (*Jus Civile*) a collection of rules and principles called the *Jus Gentium*, which represented the common features of the institutions prevailing among the Italian tribes. The great Roman jurisconsults, deriving from the Stoics the idea of a natural condition of society anterior to the formation of States, came gradually to identify the Law of Nature (*Jus Naturale*) with the *Jus Gentium*. They taught that this law was divine and eternal, and that, being imposed by natural reason on all mankind, it was superior in majesty and validity to the laws of particular States. Natural law was supposed to be actually existent and bound up with civil law, though distinguishable from it by its greater simplicity, harmony, and generality. In the Antonine era, when Roman Law attained a high development and Stoic doctrines were most influential, the jurists formulated as juridical, but not as political principles, the maxims that all men were born free, and that by the law of nature all men are equal—the implication being that although the civil law recognised class

distinctions, all mankind were equal before the law of nature. These unfounded assumptions of a state of nature and a natural law, which thus obtained a kind of authoritative recognition, were destined to exercise extraordinary influence on mediæval and modern political theories.*

The Roman jurists did not postulate a contract as the origin of civil society; but it has been suggested that Roman Law produced a strong tendency to deduce recognised rights and obligations from a supposed, but non-existent contract.† With regard to sovereignty, the citizens assembled in the *comitia tributa* exercised the supreme power during the golden days of the Republic. Under the Empire, the sovereign authority was vested in the Emperor, and, according to the later jurisconsults, the people, by the *lex regia*, delegated the supreme command (*imperium*) to each Emperor at the beginning of his reign, thus conferring on him all their rights to govern and legislate.‡

In the Middle Ages the chief representative of political theory, as of all scholastic philosophy, was Thomas Aquinas (1226-1274). Following the Roman jurists, who were assiduously studied at this period, Thomas recognised a natural law, the principles of which have been divinely implanted in human reason, together with positive laws that vary in different States. He held that the legislative power, the essential attribute of sovereignty, should be directed to the common good, and that, for the attainment of this end, it should belong to the multitude or to their representative, the prince. A mixed government of monarch, nobles, and people, with the Pope as final authority, seemed to him the best.

In his *Defensor Pacis*, Marsilio of Padua (d. 1328) advocated the doctrine of popular sovereignty, and combated the papal pretensions to temporal power that had been based on the False Decretals. Since men adopted civil life for their mutual advantage,

* Maine, *Ancient Law*, chs. III. and IV.

† Sir G. C. Lewis, *Methods of Observation and Reasoning in Politics*, I. p. 423.

‡ *Digest*, I. iv. 1.

the laws ought to be made by the body of citizens; for laws are not likely to be the best possible, nor to be readily obeyed, unless enacted by those whose interests are directly affected and who know what they need. He affirmed that the legislative power belongs to the people, and that the legislature should institute the executive, which it may also change or depose.

The Reformation marks the beginning of a new and momentous era—an era destined to terminate three centuries later with the French Revolution, which was the legitimate sequel of the Reformation in the sphere of politics. The right of the individual to liberty of opinion was the principle underlying the great religious upheaval that once for all freed men's minds from the fetters of mediæval scholasticism. The Renaissance, organically connected with the Reformation, contributed new stores of learning, and stimulated thinkers to unwonted vigour and independence of research. The study of Plato and of purer texts of Aristotle was especially instrumental in broadening and deepening the movement by presenting novel and lofty ideals of life and by suggesting freer methods of investigation. All departments of knowledge were vitalized, and the circumscribed philosophy, which for a thousand years had served as the handmaid of a crude and narrow theology, rapidly gave place to a new philosophy of nature and man, more liberal, more profound, and more comprehensive.

Relieved from the incubus of ecclesiastical authority, and untrammelled by tradition and superstition, thought once more became active and fruitful. Bacon recalled men from metaphysics to nature and actuality, while Descartes vied with Bacon in advocating direct appeal to experience. Philosophy must begin with universal scepticism. But one fact is soon found to be indubitable: the existence of a thinking principle in man (*cogito, ergo sum*). The existence of consciousness is a root-principle by reference to which the certainty of all other knowledge must be tested. The appeal to subjective conviction, to the authority of the individual, which was so strongly emphasized in the Reformation, thus becomes the very basis of the Cartesian philosophy, and we shall see it made prominent, with all its merits and defects, in the teaching of Rousseau and his contemporaries.

While a revolution was working itself out in the world of thought, a kindred revolution was proceeding in the world of action. As the consciousness of the individual longed for autonomy, so did the nations long for independence and self-government. In the Middle Ages feudalism had linked men in a chain of personal dependence. King and noble, freeman and serf, were connected by mutual obligations in each separate State, while the Pope claimed paramount authority over the whole system of European States. But the Reformation had struck a deadly blow at the temporal power of the Papacy, feudal privileges had been curtailed, municipal life had been reawakened, and a keener popular interest in public affairs was springing up. Undivided allegiance to the supreme national authority gave birth to a truer patriotism, which was quickened by the exclusion of priests from the offices of State. At first, however, liberty of thought was hardly more secure under the Reformers than under their theological antagonists, while the removal of the controlling discipline of the ancient Church, which, in spite of its corruptions and superstitions, had certain relative advantages in a comparatively barbarous age, was followed by disorder and strife. The urgent necessity of settling national governments on a legitimate basis began to be acutely felt, and the evils engendered by the prevailing unrest impelled many thinkers to original research on questions of government. To this new movement the study of Roman Law and of ancient works on politics gave impetus and guidance.

The modern period, so prolific in political theories, was heralded by Machiavelli, for whom Rousseau cherished a warm admiration; but his famous book, the *Prince*, is not so much a philosophical treatise as a manual of practical statecraft. He seems to have had a preference for republican government, though, doubting the stability of a popular constitution, he inculcated maxims for securing a strong princely rule. His advocacy of a centralised government has greatly affected political theory and practice in Europe. Machiavelli was perhaps the first writer who treated politics from a purely secular standpoint.

The majority, however, of important thinkers on government