

**Desire and Politics:
Three Liberals and Rousseau**

An Essay Presented
by
Daniel J.H. Greenwood
to
The Committee on Degrees in Social Studies
in partial fulfillment of the requirements
for the degree with honors of Bachelor of Arts

Harvard College

March 1979

Table of Contents

Introduction	1
Part I - Liberals	3
Chapter I: Pandering to Desires: Hobbes, Locke and Rawls	3
1. Introduction	3
2. Thomas Hobbes	6
3. John Locke	10
4. John Rawls	15
Chapter II: The Inadequacy of the State as Madam	21
1. Strangers	21
2. Universal Means	24
3. On the Status of Liberal Theory	28
4. תהו ובהו or, The Secret Life of Liberalism	29
Part II - Beyond Liberalism	31
Chapter III: "Oh proud sacred liberty"	31
1. Theory	31
2. Praxis - Poland, the Republican State	34
Chapter IV: Beyond תהו ובהו	42
1. Particularism, Traditions, and Freedom	42
2. Toleration: an appendix	45

A Note on Notes

References within the text are given to the following authors and texts.

<u>Abbreviation</u>	<u>Reference</u>
Letters	St. Augustine, <u>Letters</u> . in <u>Political Writings of St. Augustine</u> , ed. H. Paolucci; Gateway edition.
Greenwood	D.J.H. Greenwood, "Obligation in Thomas Hobbes," seminar paper for Government 202b, 1978.

- H** Thomas Hobbes, Leviathan, ed. L.B. MacPherson, Pelican Classics.
- K** Immanuel Kant, Groundwork of the Metaphysics of Morals, translated by H.J. Paton, Harper Torchbooks.
- Letter on Toleration** John Locke, Letter on Toleration, Library of Liberal Arts.
- First Treatise** Locke, First Treatise on Government, in Two Treatises on Government, ed. P. Laslett, Oxford University Press.
- L** Locke, Second Treatise on Government, in Two Treatises on Government, ed. P. Laslett, Oxford University Press. (References to paragraph numbers as given by Laslett. Note that these sometimes differ from the European edition; I have noted discrepancies in the text.)
- J.S.M.** John Stuart Mill, On Utilitarianism (Reference to chapter and paragraph.)
- T.J** John Rawls, Theory of Justice, H.U. Paperback. (References to pages (p) and sections (a) as noted.)
- d'A** Jean Jacques Rousseau, Letter to d'Alembert on the Theater, in Politics and the Arts, translated by Allan Bloom, Cornell.
- Cor.** Rousseau, Project for the Constitution of Corsica, in Political Writings of Jean Rousseau, ed. F. Watkins, Nelson Books.
- I D** Rousseau, Discourse on Arts and Sciences, in The Social Contract and Discourses, translated by G.D.H. Cole, Everyman.
- II D** Rousseau, Discourse on Origin of Inequality, in The Social Contract and Discourses translated by G.D.H. Cole, Everyman.
- Em.** Rousseau, Emile, translated by B. Foxley, Everyman.

- Po.** Rousseau, The Government of Poland, translated by W. Kendall, Library of Liberal Arts.
- S.C.** Rousseau, Social Contract, the G.D.H. Cole, Everyman, R.D. and J. Masters, St. Martins Press, and F. Watkins, Nelson Books translations. (References are to book and chapter.)

Introduction

What is the purpose of human life? Or, what is the good life? A philosopher with an answer to these questions might proceed to a political philosophy centered around a state and a society designed to create, encourage, and maintain that good life. But one group of political theorists has renounced this path. The liberals have described a state that is independent of the life goals of its citizens. The laws, in Hobbes' famous image, are to be set as hedges, "not to stop travelers, but to keep them in the way" (H388). The choice of destination is the traveler's own; his choice of good is not a question for politics. The theory of the just state is divorced from that of the good life.

Liberal theory, freed from dependence on any particular society, has claimed a universality for its state unheard of in political philosophy. Plato sought an ideal state that could be maintained only by the best of peoples; Aristotle advised the lawgiver to constantly consider what is the best state in relation to the existing conditions, not merely the abstract (Politics IV, i, 3). Hobbes, on the other hand, holds the Leviathan to be Euclidean in its general applicability. Nor is this merely the over-enthusiasm of an early rationalist. John Rawls, writing in the skeptical sixties, willing only to claim 'reflective equilibrium' and 'considered judgments' as the basis of his theory (TJ48), nonetheless has no qualms about saying that the just state he describes is appropriate to all societies within the circumstances of justice ("the normal conditions under which human cooperation is both possible and necessary").

This state is independent of culture and society precisely because it is independent of any notion of the good life. Whatever his particular desires, Hobbes tells us, any rational man will agree that the Leviathan is appropriate for him. No man, says Locke, in his characteristically negative formulations, whatever his aims, could rationally agree to a state without the limitations on jurisdiction and positive requirements for representation that he calls for. Whatever a man considers the good life, whatever his "rational life plan", he will be helped by the "primary goods" that the Rawlsian state distributes. The state for each of these theorists is a tool to help men attain their desires. With only a formal exception, it does not matter what those desires are.

The liberal solution to the problem of the good life in political philosophy is, then, rather elegant. The just state can be designed without any concrete notion of how men should or do spend their lives. Certain limitations, of course, are necessary: we must, as we shall see, know a great deal about the structural characteristics of human desire. In contrast with the utilitarians, whom I will not be able to consider,

this group of theorists does place a formal constraint on the desires that society is to serve: some group of life goals are not compatible with those of other men, and these are to be rejected. Thus, Locke, in his call for religious toleration, exempts the largest religious groups of the European world. It is not tolerant, and thus need not be tolerated (Letter on Toleration, p) Thus Rawls considers one of his great advances over the utilitarians to be that his system rejects life plans incompatible with the principles of justice, that it "places the right prior to the good"(TJ31). But limitations notwithstanding, the ideal remains one of a very limited state helping men to attain their desires by means of Hobbes' hedges. To the maximum extent possible each man should be able to 'do his own thing'--the problem for politics is only how conflicts are to be resolved.

Now while many liberals have made 'doing your thing' into an ethical precept (see, for example, Mill's panegyric to individuality in chapter 3 of On Liberty), the crucial point is that, for the politics, this is unnecessary. Locke's argument for official unbelief, for toleration by the state, does not require individual unbelief: one might be, if not an orthodox Catholic, at least an orthodox Jew, and still support the liberal state. Rawls has very definite ideas about the best way to spend your life, but the 'full theory of the good' is not expounded until 200 pages after the basic structure of society is determined because it is irrelevant to that structure. Whatever your notion of the good--or whatever the correct notion of the good life, the purpose of life or the proper way to live it--the liberal theory should stand, for the liberal state provides a necessary means, useful whatever your ends.

I have stated the liberal argument quite strongly, and, in the first part of this paper I shall seek to show why I see these assumptions of universality to be crucial to the liberal theory of the state. Then I shall offer some reasons to believe that this sort of "good neutrality" is not possible, and conclude part I with a discussion of a broader notion of politics than can be accommodated within liberalism. We cannot, I will argue, rely on the natural consensus on a universal means to undefined ends that each of these theorists finds, confining politics to a discussion of improvements of these tools while leaving their purpose and use to the individual citizens.

Rather, we must, politically, create an historical consensus on ends, with means chosen only afterwards, to be appropriate to those ends. In part II I will examine a theorist who meets some of these objections. J. J. Rousseau's state, I will argue, is far from everywhere the same, everywhere tacitly accepted and recognized"(SC1iv). Rather, it is profoundly historically contingent. Rousseau's main concern, in fact, is the creation and preservation of that very consensus which I have concluded the liberals are lacking. Far from helping men to achieve their separate and

asocial aims, Rousseau's state must be based on the constant forming and reforming of the desires and needs of its citizens. For the state to stand, men must want only what it means; for the citizen to be free, he must be freed from the very desires that the liberals sought to serve.

I will seek to elucidate Rousseau's notion of freedom as both the consensus itself and its object, to point out some of the grave difficulties in this effort, and finally, in the classic weak ending of the negative theorist, I will try to point to a basis for a social consensus of a possibly more attractive sort.

Part I - Liberals

Chapter I: Pandering to Desires: Hobbes, Locke and Rawls

1. Introduction

Liberal philosophy begins with men, or rather, individual men, and then seeks to derive society from them. In the old days, at least some of the theorists seem to have thought that this chronology corresponds in some fashion to the history of the human race. Today, abstraction from society is more properly defended: it is thought to be a device for removing morally irrelevant features, in order to better expose the ethical foundations of the society that these men create. By looking at the society that isolated individuals retaining some of their socialized characteristics would create, we should, so the argument runs, learn something about the society we would like to see. The special virtue of the social contract, then, is that it makes absolutely clear the role of men in creating their own societies. But even the utilitarians, without this device, treat society as a tool created by men to further their own ends.

This theory was developed in opposition to, and contrasts most strongly with, a very different view taken by many traditional and especially religious cultures. The Jewish law, for instance, is not taken to be a tool for the purposes of the individual; it existed before him and stands above him. Indeed, the individual's own purpose ought to be determined by this law which above all else seeks to control his end, to use him as a tool for the glorification of God. We shall see the barest remnants of a view similar to this surprisingly embedded in the midst of the otherwise quite profane theory of John Locke.

For a theorist of this latter type, the ends of man are not the basis of society at all. Rather, an ideal of some type is used to justify attempting to change control of men's existing desires. In Christian theology, of course, many of these desires are condemned—indeed in some of the stricter sects all desire of any sort seems to be a

sign of the fall of man. One does not obey God because one wishes to--indeed Catholic priests and Lubavitcher hassidim agree that the desire to obey is most often a result of obedience itself. Show a Jew the glories of the Sabbath, say the latter, and he will learn to love the commandment; discipline the heretics, says Augustine, and they will see the truth (Letter's XCIII 16-19).

Now, the religious version of this view which places man deeply below his society and its law is greatly strengthened by a belief in revelation. Indeed it is difficult to understand how, if the law is not sacred, any defense of it could begin anywhere other than in the individual. The great achievement of the liberals is in recognizing that society is made by men, and thus, in some sense must be made with the consent of men if it is to be anything other than brute force. Obedience to a god-made law might be obligatory without any action by men (although the western religions, at least, have usually argued that God has left men a choice even here) but obedience to manmade law can never be so unconditioned.

But the liberal state is constructed by reason, not by men and politics. If this is an improvement over the views of Filmer or religious traditionalists in general, it still leaves a way to go. It is time now to proceed to a more detailed exposition of the liberal position. I shall first explain the general form of the liberal contract, then proceed to show that three of the important contract theorists in fact fit my paradigm. I think that a parallel argument could be made for the utilitarians, but my essay has been structured around the contract device and I must regretfully leave them for another year.

* * *

The form of the liberal contract argument, despite the complexity of its elaborations, retains an underlying simplicity. The philosopher starts by seeking to find something that all men can agree is in their interest. Thus, Hobbes tells us, in the course of an elaborate psychology, that whatever else they want, all men wish to live. Locke postulated certain social goods--the protection not merely of life, but of liberty and property as well--that all men want, and that can be attained only with the help of society and the state. Rawls postulates certain tools, which he calls Primary Goods (PGs), that can be used to further our goals, whatever they are. These three theorists, then, do not deny that men have different, perhaps radically different, goals, but they each find a common denominator, which we might call a Universal Means. I prefer this term to Rawls' "primary goods", since the crucial characteristic of each of these things is not that they are what we are actually ultimately motivated by, as his term 'primary' might imply, but that whatever our ultimate goal may be--these means are useful to that end. Furthermore, the 'good' in Rawls' term may also be ambiguous--

These are goods only in the sense that they are efficacious to our ends, not in any moral or ethical, sense. They are discovered in each case by empirical, not philosophical, enquiry. I also wish, of course, to emphasize the common structure behind these three theorists and not to collapse them into Rawls.

The next step is a definition of the right. While there are major differences on the application of this principle among these theorists, all three agree that a legitimate state is one to which rational men would agree. Tradition and authority, whether of the religious or the Burkean varieties, is not enough. On the other hand, as I will attempt to show, none of them demands--or needs to demand--actual consent in any meaningful sense. The hypothetical agreement is quite sufficient. But that is a luxury possible only because of the initial, empirical, premise of a natural consensus on a universal means. When we take that away in the next chapter, the whole structure will fall.

Why is this? To say that a rational man would agree to something is to argue that in some way that agreement helps him to satisfy more of his desires, to achieve more of his ends than he could in the absence of the agreement. The adjective 'rational' serves primarily to lessen problems of intention versus actual results. Now, obviously, if human desires vary from person to person or from time to time, there will be some difficulty in saying what a rational man might do. His reason tells him to meet as many of his ends¹ as possible, and helps him to find effective means of doing so, but it says nothing at all about those ends themselves. All his actions must be dependent of his desires and the interests that stem from them.

The universal means provides a way out of this indeterminacy. If something is helpful to all goals, then any rational man would seek this thing in pursuit of his ultimate aims. Because of this accidental feature of reality (there is no logical reason that it must exist), reason alone, with no reference to ends at all, can lead men to a path of action, a path of action necessarily the same for each man.

Let me underline this crucial point. Reason must have an end, an object. If and only if men share the same end will they, through reason, reach the same conclusions about means. Now, for the liberals, the state itself is always a means. Furthermore, men do not share ultimate ends. In fact, in the most extreme version,

¹I have found it impossible to consistently avoid the confusion between ends and desires that liberal philosophy has implanted in our language. The former may be regarded as "that to which our actions are intentionally, voluntarily directed", the latter as "that which we want"--the two are the same for all intents and purposes in liberal psychology, and, while I am uncomfortable with this description of human behavior, a critique would be out of place here.

an individual man, seen through time, cannot be said to share even his own ends(H16O-1). But the universal means, useful whatever their ends, can take the place of those ends, as an intermediate end and the immediate object being pursued.

With this natural and unanimous agreement on a goal, even though it is a partial goal, the state can be deduced as a purely hypothetical (though universal) imperative: if you wish to obtain your U.M., you must agree to the following agreement, the social contract. While the contract may never have been signed, or even articulated, it is nonetheless universally binding. Had we been offered the chance to make this agreement, it would have been rational (in our interest) to do so. Thus let us act as if we had. More than that, we can assert that failure to approve this contract is a sign of irrationality--not only is a vote unnecessary to give it legitimacy, but the vote can add nothing to the validity it already has.

This, then, is the basic form of the liberal argument. In the next section, I will try to show that Hobbes, Locke, and Rawls, despite the differences in their premises and conclusions, all follow this form of argument. In the process, I hope to show why the structure of the argument ensures its failure. I will not attempt to assess the efficacy of the measures each philosopher proposes to attain the end postulated by the theorist. I will, rather, assume that Hobbes' Laws of Nature are in fact rules of right reason, that Locke's limitations of government are necessary to protect property, and that Rawls' two principles are the rational choice for a primary goods maximizer in the original position. I am concerned not with these questions, but with what if anything would follow if these claims were correct.

2. Thomas Hobbes

The Hobbesian state, I would argue, exists to make men act as if they were rational. The morality of the Leviathan, the defense of the state, is in fact an elaborate explanation to the reader of what he is best advised to do to serve his interests. In this sense, Hobbes has the most primitive understanding of the principle of the right as rational agreement: for him, right for you, is that to which you would have rationally agreed.² Hobbesian man, like the believer in Heaven, acts morally when he acts according to his long term and greatest interests. Were he not a passionate and prideful creature, this whole construction would be unnecessary.

The ultimate goal of a man, according to Hobbes, is to fulfill his desires, not just now, but forever: "the object of man's desire is not to enjoy once only and for one instant of time; but to assure for ever, the way of his future desires"(160-1). This

²See his parallel definition of the good(120).

"continual success in obtaining those things which a man from time to time desireth" is what Hobbes calls felicity(129); all men seek it. Felicity is contentless. To say that men desire it is merely to say that men have desires ("nor any man live, whose desires are at end... (160)) and that amongst them is the desire to fulfill his desires. Nonetheless, we can derive from felicity two subsidiary desires: one is for power (160), the "present means to a future good"(150).

The other is for life, the minimum requirement to continue this never ending pursuit of desire(Greenwood, 8). If man can never be satisfied, can have no "finis ultimus" or "summum bonum", he must perpetually fear death, the inevitable end to felicity, ("the continual progress of the desire from one object to another")(H160). Without life, a man can achieve none of his aims: a cadaver cannot desire, endeavor or fulfill desires, and felicity must necessarily be beyond his reach. The living man must, therefore, place life as his highest (though not ultimate) aim, if he is to act rationally. Life is the universal necessary means to his private good.

It is worthwhile, perhaps, to explore this derivation of the desire for life a little more closely. It is based on the absolute egotism of Hobbesian man. Even when he acts to help another, he must do so because this service brings him pleasure. If he seeks honor it is because honor is a form of power, and will help his attempts to fulfill his desires. Even if he learns the aphorism that happiness is to be found only when unlooked for, and finds a cause, something outside of himself to work for, he does it for that unlooked for happiness. When it comes time to make a sacrifice that precludes his ever receiving his reward, when he is asked to die, he must step back from his commitments and say--this is not why I am here. If he does not, he is proud and mad. He is simply acting irrationally, adopting means that cannot possibly serve his ends.

To attain his desires, a man must have life. But, living, if he attempts to pursue the objects of his desire, he will come into conflict with other men: "If any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and in the way to their End...endeavor to destroy or subdue one another"(184). Thus, he needs power(161). But no man can ever have enough power to preserve his life against other men(183), and thus every man needs peace, a social goal, in order to preserve his life, the individual goal. This is the first Law of Nature(190), a "general rule of reason"(189), only improperly called a law, for, "they [Laws of Nature] are but conclusions or theorems concerning what conduceth to the conservation and defense of themselves [the men, not the laws] "(217).

If men were rational, each would see that he needs peace, and all would agree to follow the first and other Laws of Nature. Since they share a goal--life--reason

leads them separately to a common conclusion and a natural consensus can be reached. In a community of rational men, simply explaining the Laws and asking for their approval would be enough to end the state of war and bring peace. No negotiations or discussion would be needed, and each man would understand that it is in his interest to obey at all times.

But men are not rational. While his "thoughts are to the desires as Scouts and Spies, to range abroad and find the way to the things desired"(139), he nonetheless can but rarely see the consequences of his actions(129). Thus, faced with contradictory desires--for "power after power "(161) on the one hand and life on the other--he is unlikely to be able to rationally balance his conflicting impulses. Pride in particular blinds a man to the detrimental effects of his actions, leading him to act against his fundamental and ultimate interests (felicity and life) and against the rules of reason, in the mistaken belief that he can have his cake and eat it too, that he can follow his momentary desire to break the peace, to steal the cake, and still last long enough to maintain his felicity, to eat it and live.

The state is an attempt to resolve this conflict. Without it men would constantly act against their long term interest in a long series of ephemeral pleasures while pursuing the one desire at hand. They violate the Laws of Nature at each momentary passion, failing to see that they thus ensure the state of nature and all its inconveniences, leaving life, or living it, nasty, brutish, short, etc. The state introduces punishments to terrorize him into obeying the law of nature and following his own interest(355). With a noose at the end of every vista, he need not be a philosopher to understand that violating his contracts or succumbing to his momentary desire will lead to his death--and thus his inability to succumb to momentary desire.

Nonetheless he must understand that these punishments are not simply acts of hostility to be avoided if possible (377). Which is to say, he must understand that the authority of the state is legitimate and that it has a right to set up such punishments. If he does not understand this, the punishments cannot lead to the obedience of the rules of reason that is their aim, since the resentful citizen will merely join those seditious roarers. But what does this right, this legitimacy, mean? Simply that we are obliged, which is to say that we have transferred our right (191).

This transference, which is the social covenant, is not an actual historical act. It could not be, since it is an act of reason, and men are rarely rational. Indeed, the social covenant is only necessary because men are not reasonable. Nonetheless, renouncers of right, unlike men, are assumed to act rationally. The reason is clear: every renunciation of right, every assumption of an obligation, if it is done by a

rational being, must be done to achieve some good for the actor (191-2). And thus, saying that something is obligatory is the same as saying that it is in the obligees interest. Only if this is true can a rational actor be conceived of as having consented to it. And only rational covenants of right are valid (192). A just man, then, is one who acts in his own interest, who acts rationally. (And we see immediately that justice could never require a man to sacrifice his life.) An unjust man allows his lesser passions to sway him, endangering the always precarious state of peace, his life, and thus his felicity, the very thing he sought to serve by following his original desires. He is quite simply mad.

But a true lover of liberty --a man who could truthfully say "give me liberty or give me death," aware that he might in fact get death and not acting out of the proud and mad assumption that he can have his liberty and his safety--this man is incompatible with Hobbes' system. This man must say life is not always a means to my end (which is not egoistic, not felicity and not himself), and thus I cannot rationally agree to sacrifice everything to my life.

Indeed, while Hobbes assuredly denies the existence of such a person, he is aware that some things may be more important than life. Presumably a man might feel that under some conditions, the prospects for felicity would be nil even if he remained alive. Thus, in agreeing to the social covenant, the rational man demands not only life, but "the means of so preserving it as not to be weary of it" (192). For these men, then, the state is not now in their interest, and thus not something they could have agreed to (The tense problem here is solved by calling contracts obligatory in intention not words, and by the rationality assumption; with these, contracts return from the past.), and thus not obligatory. By the same logic, of course, the state cannot be in the interest of a condemned criminal, and indeed, he is not obliged (353).

Furthermore, with more than a few of these men, the state might well be unable to maintain the order and security that is its justification for the others. Hobbes' system is a hypothetical imperative deduced from the desire for life. Only if that desire is universal can the hypothesis and the Laws of Nature, be seen as "general" rules of reason; the Leviathan state as universally valid.

But Hobbes has no basis for discussing whether we should value life over liberty, or ourselves over everyone else. He merely asserts that we do, that if men are aware that they must make a choice they will always take the egoistic route. Patrick Henry must have been engaging in rhetorical exaggeration because in his pride he thinks he will be able to get his liberty and not lose his life. The duelist does the same, as do all those seditious rorers (141) and contract breaking fools (203) who deny the consequences of their actions.

If in fact Hobbes' psychological derivation of the desire for life is wrong, and some men, at least, do have causes, beliefs, friends, or commitments for which they would knowingly die, then the Hobbesian system is clearly inadequate. We must decide as individuals when or

whether tis nobler in the mind to suffer the slings and arrows of outrageous fortune; or to take arms against a sea of troubles and by opposing end them;

we must set as a common goal something other than the natural passions of men. And perhaps we as men and as citizens, as individuals and as groups, may wish to set our sights a bit higher than the preservation of our own skins. John Locke sets his a bit higher, but only a bit, as we shall see.

3. John Locke

Locke, unlike Hobbes, treats his social contract and state of nature historically. Where Hobbes is uninterested in accounts of the ancients and mentions traditional law only to disavow it (H 315), Locke seeks to prove that the entrance into society actually took place, entertaining us with examples from anthropology the classics and the Bible (L 100-104). Nonetheless, since every man is born into freedom (61, 189), history and covenants made in the dim past can have very little significance.

The crux of the theory, then, appears in paragraph 119:

Every Man, being, as has been shewed, naturally free, and nothing being able to put him into subjection to any Earthly Power, but only his own consent; it is to be considered, what shall be understood to be a sufficient declaration of a Man's Consent, to make him subject to the laws of any Government.

To justify the government each man must consent--not just some ancestor. And in contrast to Hobbes, Locke is interested in actual consent, not merely consent as a metaphor for one's own interest. Or so it would seem until we look at what Locke concludes from his consideration. He explains what is meant by consent, and we see that every man who has ever lived under any government has by the fact of that living apparently consented to it:

Every man, that hath any Possession, or Enjoyment, of any part of the Domini ons of any Government, doth thereby give his tacit consent, and is as far forth obliged to Obedience to the laws of that Government, during such enjoyment, as any one under it (119).

Lest there be any doubt about the meaning of "enjoyment," he adds that "in effect, it reaches as far as the very being of any one within the Territories of that Government" (119). At second glance, then, it would seem that living under a government constitutes consent to its existence, form, laws, and actions. By now, one might well wonder why this kind of consent gives any obligation at all. But before explaining why, Locke explains the difference between this tacit consent and explicit consent. The latter is necessary to make men "full members of society"--but far from giving them additional grounds from which to complain, it makes them "a perpetual Subject of that Commonwealth," and thus removes the one right left to the tacit consenters, emigration (122).

The subjects of Locke's government, then, nominally consent, but in fact are automatically obliged. Further support for this view can be found throughout his essay, but perhaps the most vivid illustration is in the last paragraph:

The Power that every individual gave the Society, when he entered into it, can never revert to the Individuals again, so long as the Society lasts... [and if the Society hath placed the Legislative in any Assembly of Men, to continue in them and their Successors, the Legislative can never revert to the people whilst that Government lasts: Because having provided a Legislative with Power to continue forever, they have given up their political power to the Legislative, and cannot resume it (243).

Since residence constitutes consent, and consent once given can only be revoked by emigration, and that only if consent was not given explicitly, it follows that no man can claim that he is not obligated to obey the law simply because he has not consented to it. He has consented. Or rather, he has consented insofar as that government of law can be consented to. Locke, having started out with a notion of genuine consent, by this device transforms the contract back into a Hobbes-Locke subjunctive. That is, once again, we are not looking at what men did do, but at what they would have done ...

Locke has two different arguments about what it is possible to agree to. The first is a question of right, of natural law that he places in the state of nature, but that lives on after that state passes away, and in fact does not depend on that state at all. Some things a man has no right to give away or to agree to--obviously then an agreement that requires doing so is invalid. Specifically, men have no right to take their own lives although they do have the right to take another man's life under certain circumstances) (6, 7). Life is a conditional gift from God; man is "bound to preserve himself and not to quit his station wilfully" (6); thus he may not legitimately authorize

someone else to take it. Any state which is based on a man sacrificing his capacity for self-preservation is, thus, based on a contract that must be without right. Note that the illegitimacy is independent of men's desires or psychology. No form of consent could save this contract. Locke uses literally inalienable right to life to prohibit voluntary slavery, "absolute arbitrary power" and tyranny, none of which may be authorized without violating God's right to our efforts at self-preservation (23³, 135). If these forms of government are to be legitimized (and they sometimes are), the subjects must be men who are morally already dead. It is not their consent but the master's obligation to punish that justifies his subjecting them (23,⁴180).

The second argument is, Hobbes-like, not from right, but from psychology. No rational man ever would agree to certain things, because they would make him worse off; which is to say, they are irrational for him in the strict sense of not being an effective means to his ends. Thus an agreement to do so (by tacit or express consent) is irrational and invalid.

Locke tells us little about the needs of men as individuals but he does give us the basis of a consensus on a social end. Men leave the state of nature only to further the preservation of their property, and thus, they would not have agreed to anything which contradicts this furtherance. Reifying and placing this agreement in the past, Locke says:

The enjoyment of the property he has in this state [of nature] is very unsafe, very unsecure. This makes him willing to quit a Condition, which however free, is full of fears and continual dangers: And tis not without reason, that he seeks out, and is willing to joyn in Society with others who are already united; or have a mind to unite for the mutual Preservation of their Lives, Liberties, and Estates, which I call by the general name, Property (123).

Presocial man, out of a desire for property and a fear of losing it, "parts with his freedom" and "gives up his Empire" (123). He enters society "only with an intention in every one the better to preserve himself, his Liberty and Property" (131). Locke's positive commands about the form of society (beyond, that is, the prohibition of absolute tyranny discussed above) constantly refer back to this original contract. Because men entered society for the preservation of their property, he tells us again and again, any attack on that by the government is a violation of the trust to which

³This, as noted, is Laslett's paragraph number.

⁴This, as noted, is Laslett's paragraph number.

men must have contracted (222, also 124, 127, 131, 136, 171). Or, in terms of the contract, such actions are ones which could not have agreed to.

However, we must remember that the original contract is binding only on those who made it. Why does it give a modern state legitimacy? The answer must be that the arguments given for men in the state of nature also apply to men today, that we too can be understood to have made these agreements. He must mean that all men, not merely those in some historically unattested state of nature (101) would act in this way. In fact, we can state this more strongly: If any rational man would agree to a society in which property rights (for instance) were violated, then such a contract authorizing such a society could, psychologically and rationally, have been agreed to. And if this society could have been agreed to, and it exists, Locke's tacit consent mechanism ensures that it in fact has been agreed to: the fact that men live under it indicates their consent. Thus, to be illegitimate, a state must be one that no rational man, whatever his ends, would have agreed to, thus rendering the existing consent irrational and invalid.

Locke shows us that his contract is this ever present logical one and not merely the founding document by his discussion of governments that cannot be agreed to. They change over time, as the knowledge ascribed to a rational man increases. Thus, in the early days, before men learned of the tendencies to usurpation, before vain ambition (111), and before they had suffered the "Inconveniences of Absolute Power" (107), they can readily be imagined consenting to institutionally unlimited monarchy (107). And Locke clearly believes that, with sufficient good will on the part of the ruler, this is a legitimate form of government--as his discussions of the forms of a commonwealth (132) and the proper use of prerogative (166) show. There is nothing sacred about representative government if the interests of the people can be maintained some other way. On the other hand, speaking to contemporary England, he calls anything less than a representative assembly inconceivable. Not because the people of England have not consented to anything less; they do not seem to have emigrated en masse when the king failed to call a Parliament. Rather, because now that men fully know the danger of other forms of government arbitrarily taking, not protecting, their lives, liberty, and property, it is irrational for them to agree to anything less.

We see then that Locke's society is based on the preservation of property and his theory of obligation states that a legitimate society is one which could be agreed to, and, through the process of tacit consent, necessarily has been agreed to. Put into the negative form, the theory states; an illegitimate state is one that no man can be considered to have consented to. And as we have seen, these banned social contracts

fall into two categories: those that no man has the right to agree to, and those that would be irrational for any man to agree to. It is the second category that is crucial in all but the most extreme cases and it is the second category that fits the general pattern I have sought to describe.

Locke must mean that the desire for the preservation of property is universal, held by all men. Were it not, we could not say that it is irrational and therefore unacceptable to authorize a state that interferes with property rights. For rational is a relative term: a means is rational if it is appropriate to a given end. To say that an end is rational is meaningless. And to say that agreeing to a given thing (e.g. a state that preserves property) is always, universally, without--modifiers-or-reference-to-an-end, rational must mean that the unmentioned end or collection of ends towards which this thing is appropriate is one held by all individuals in the class over which the means is universal. Locke, then, must be saying that all modern men share the "end" of preserving at least property rights. That would make this set of limitations on possible contracts rational.

But no one (or at least very few) desires the preservation of his property for its own sake. Presumably the property is itself a means to further ends. Thus, it must be universally desired as a means, and it must meet one of the two requirements for a universal means. Either it must be a necessary means to some end or ends that all men hold or it must be a means applicable to any different ends held by many different people. If it is the latter, it must also hinder no aim held by anyone who might therefore find it objectionable and destroy the universality. The first of these positions is that taken by Hobbes with respect to his universal means, life. It is the minimum requirement to maintain felicity, itself the object of all men. The second is the position taken by Rawls with respect to his Primary Goods: while men don't share any group of ends, these means (the P.G.s) will be helpful whatever it is that the individual wants(TJ62).

Locke makes a weak argument that property is essential to life, which men are obliged to God to preserve, and thus, that preservation of property is universal and rational in the first sense(182). But it is obvious that this is true only in extreme cases, as Locke himself points out in a number of places(37,108,36, First Treatise136 for examples of the small amount of property necessary; for limited right of a child to father's property). Nor is it obvious that sanctified property rights are always the best way to preserve lives, especially if some people have the rights and others the property. We must conclude then that property is something that we want not merely for life but for something else--perhaps the pursuit of these "innocent delights" casually mentioned in(128). I will argue, in connection with a more general argument

about Rawls' Primary Goods, which include both wealth and liberty, that property, even in Locke's broad sense, is by no means helpful to all human ends and thus fails as a universal means on the second test as well.

If then property is not necessary to our ends whatever they are, the natural consensus on means to individual ends that Locke relies upon does not exist. For some men it might well be rational to agree to a state that does not guarantee property rights. In terms of Locke's philosophy, this simply means that a state that does not have the structural safeguards he demands for property cannot be rejected as something that men could not rationally have agreed to. This again means that the prima facie agreement of tacit consent stands, and the state is legitimate; obedience is obligatory.

The crucial point should not be lost in all this detail. The problem is not that the details of Locke's structure do not work. It is, rather, that he has sought to make the state a tool for all men, with no discussion among them as to what that tool will be used for. By transforming the question of ends from an ethical one into a psychological one, he has tried to remove it from the realm of politics into that of science. But the attempt to avoid answering the question: what should the ends be? has failed, and his state rests on the false ideological assumption that all men wish to do things which require property. Far from defending this as an ethical proposition (men should pursue, preserve property) he has made that argument impossible within his system. If the pursuit of property can be defended, it can also be attacked, and if discussion and debate are possible among rational men, it cannot be true that no rational man would ever agree to the negative side. The Lockean device of a contract-that-cannot-be-agreed-to is of no help if the issue is whether we should consent. And, in reality, we cannot agree to preserve property unless we have first agreed on a common--shared, if not necessarily public--concept of the good life that requires property. Locke's system, with no provision for a political consent, rests on the assertion that all good lives require property rights.

4. John Rawls

John Rawls would undoubtedly be less than pleased to be classified as an apostle of unmitigated privatism. Indeed he argues that major advantage of his system over that of his chosen opponents, the utilitarians, is that he does provide a public conception of the good, an "archimedean point for assessing the social system." Far from "relying on the aims of existing individuals," the principles of justice, his social goal, are independent of those desires and thus able to guide their very creation(s41, s79). Rawls' society is a "social union of "social unions," held together by a public conviction that its basic arrangements are just and good in themselves" and

not (as Hobbes' is) by the "calculations of everyone, or of sufficiently many to maintain the scheme, that any practicable change would reduce the stock of means whereby they pursue their personal ends" (s79: pp.522,527).

On the contrary, I will argue that his principles of justice are adapted to and based on only the special needs of privatized liberal man, and that for this reason it is difficult to believe that they could form a useful foundation for a society based on the different requirements of "social union."

Now one might argue this case from the principles themselves, seeking to show that they are inadequate to bear the weight Rawls places on them. Is it for instance really plausible that an equal right to vote would lead men to see each other as equals despite the day to day reality of hierarchy, subordination and inequalities in income and wealth (pp. 61,199, 536). But I will leave this application of Marx's theory as expounded in On the Jewish Question for another time.

Rather, I will argue from the very derivation of the principles. I seek to show that Rawls' system is in its essential respects similar to the two theories I have already examined. The one major change from the classical theory, seemingly designed to stave off precisely the criticism I will make, succeeds only in rendering the discussion of the 'original position' utterly incoherent. With or without this modification, Rawls' political theory is susceptible to the same criticisms as the earlier versions of liberalism.

Let us start then with the basis of Rawls' two principles. They are, he tells us, "the principles that free and rational persons concerned to further their own interests would accept" (s3). Rawls, then, joins Hobbes and Locke in a consent theory that is based on rationally constructed contracts, not real ones. Like his predecessors, he explicitly rejects the study of agreements as a basis for a theory of obligation. Indeed he seems to go further in this direction than the earlier theorists. Hobbes and Locke both begin with what they see as an actual shared interest of contemporary men, and construct their social contracts by a sort of game theory from that interest. Rawls rejects this approach and in particular decries as unfair the use of "threat advantage" (p34nlO). Hobbes, on the other hand, used this principle to establish the legitimacy of God's rule on earth. So not only real contracts, but hypothetical natural contracts constructed by game theory from the real interests of determined men are invalid as sources of obligation. We are obliged, then, not merely because rational men could have agreed, but because rational men in a fair initial position would have agreed.

Hobbes and Locke, incidentally, do not have to make this additional assumption because of the nature of their universal means. Order and property rights, whatever the private purposes for which they will be used, are essentially social goals upon which, these theorists claim, all rational men naturally agree. The results of this agreement are independent of the position of the consenters: any rational man, whatever his goals or his place, wants to preserve his life and his property, respectively. Under fair or unfair conditions they come to the same conclusion: they cannot pursue their private aim without these public agreements.

We have already established that for reason and rational deduction to tell a man how to pursue his interests, he must have some interest to pursue. Rawls wishes to construct a hypothetical contract which will bind all men--it seems, then, that the interest appealed to must be shared by all men. And so Rawls tells us that his rational persons in the original position want only "primary goods" :

things which it is supposed a rational man wants whatever else he wants. Regardless of what an individual's rational plans are in detail it is assumed that there are various things which he would prefer more of rather than less: With more of these goods man can generally be assured of greater success in carrying out their intentions and in advancing their ends, whatever these ends. (p. 92, also pp. 62, 174).

If we omitted the various qualifiers, "supposed", "assumed", and "generally", this would be the definition I have offered for a universal means. The primary good (p.g.) helps us whatever our ends, and thus we want it. Indeed, more than that, we want "more" of it.

The persons in the original position thus seek to maximize primary goods. They have no knowledge of their ends, in order to maintain generality and fairness, but since "given human nature, wanting them (p.g.s) is part of being rational" (253), they can substitute for determinate ends a desire for p.g.s in making their deliberation. Indeed, he says since all rational humans (not, unfortunately, all rational beings--some of whom might not find p.g.s so useful), want primary goods, the conclusions of these individuals would seem to be Kantian categorical imperatives (253).

The argument from these premises, Rawls says, aims to be "strictly deductive" (121). He tries to show that it is more in the interest of primary good maximizers to adopt his principles than a number of others. Many critics have discussed the success of this endeavor, focusing especially on his use of probability and choice theory. But, again, I shall simply assume, as I did with Hobbes and Locke, that his conclusions follow from his premises.

Now, if this were all there is to p.g. theory, Rawls would be precisely parallel to the other two, and I could now launch into an attack on the notion that primary goods are universal means, that it is rational, whatever your aims, to wish to maximize them. Then, the argument would run, if it is not rational for all men to want more primary goods whatever their goals, we must have some principle stating which goals we wish to support before we can agree on supplying means to those ends. If the things called primary goods are means to only some ends, men cannot agree to maximize them by reason alone. Without a naturally occurring universal means, we cannot simply help all ends and reach a consensus on means. The argument should be familiar by now and would require only a section showing that Rawls' primary goods, like Hobbes' life and Locke's property, are not means to all ends.

When, in an earlier paper, I offered this argument, the objection was raised that the principles of justice are not meant to be means to all ends; that unjust desires carry no weight in Rawls' systems:

In justice as fairness one does not take men's propensities and inclinations as given, whatever they are, and then seek the best way to fulfill them . . . Interests requiring the violation of justice have no value.

This is, true but irrelevant, since primary goods are prior to justice.

The rational self interested and mutually indifferent persons in Rawls' original position cannot abide by principles of justice they have not yet agreed upon--they must know what they want, what their desires are, before they can choose those principles. Rawls does not share Bentham's belief in the moral equality of all ends. Nonetheless, for the notion of primary goods to make sense, having a greater quantity of any primary good must not hinder any possible end. Without the assurance that, after the veil of ignorance is lifted and they are returned to the real world, they will in fact be better off with more p.g.s., whatever their goal, the persons of the original position would have no reason to try to maximize those p.g.s. They might instead, for instance, seek to minimize their dependence on such accidental goods, preferring to concentrate on maximizing their inner strength in the manner of some of the Eastern philosophies.

Analogously, Hobbes' system denies a man who wishes to kill someone the right to do so--so he has rejected certain ends. Nonetheless he does and must claim that life is a means to all life plans, even ones that will later turn out to be forbidden. "In the State of Nature every man has a right to all things."

A more serious problem, however, is that Rawls himself understands that the primary goods are not a full universal means. In what is apparently a direct

contradiction to the definition quoted above, especially the "Kantian interpretation," he tells us that "ofcourse, it may turn out, once the veil of ignorance is removed, (that is, for real men) that some of them for religious or other-reasons may not, in fact, want more of these goods. But from the standpoint of the original position (that is, in ignorance of their ends), it is rational for the parties to suppose that they do want a larger share, since in any case they are not compelled to accept more if they do not wish to, nor does a person suffer from a greater liberty" (143). That is, a primary good is not as we originally thought, something which every rational man wants more of. It is only something which a 'man' in ignorance of his ends would want more of. Real men, to satisfy this definition need only not suffer from more primary goods.

The primary good is still almost a universal means, in one sense: if any real, rational man can be found who does not "suffer from greater liberty," whose ends (whatever they are, since we have yet to define the principles of right), are hindered by more primary goods; then it would be irrational for a 'party in the original position' in ignorance of his ends, to maximize primary goods. For how would he know whether he was helping or hurting his interests? We shall see later some reasons to believe that this problem does exist.

Desiring more primary goods, as persons in the original position do, is no longer clearly characteristic of real men, whose goals may not require or be helped by more than some fixed amount. And it is emphatically not true that "with more of these goods men can be assured of greater success in carrying out their intentions and in advancing their ends." The religious man that Rawls has mentioned, and indeed any man whose desires do not require maximizing primary goods, will eventually reach a point where more is not better.

The problem, then, is that the motivations of real rational men are essentially different from the motivations of persons in the original position who don't know what to do with themselves. Rational men using primary goods as a means presumably seek a certain minimum quantity of them (and are uninterested in more). "Persons" in the original position always want more. Is there any reason to believe that principles rational for the one group are necessarily appropriate to the other?

There clearly is not. Persons in the original position can treat primary goods as an end, even while acknowledging that they are a means, for they see the primary goods as a universal means of the type I have described. Real people use them as a means to other ends. It is quite possible that an end, even one to which primary goods are, ceteris paribus helpful, could be hindered by principles devoted to maximizing primary goods.

Imagine, for instance, that we are a group of middle class individuals whose primary goal as individuals is the solidarity amongst us. We might, for instance, be a kibbutz. Furthermore, assume that, as is sometimes the case in a middle class kibbutz, the major factor hindering solidarity is inequality. Inequality in almost any area, but especially --in this kibbutz which has begun to acquire TV's, cameras, and bicycles, and hasn't enough to go around--inequality in material possessions. When a member sees that someone else has these things and he doesn't, he feels himself to be less privileged, less equal, and less than a full member of the community. The immediate goal of the group, then, is to increase equality.

Now it is clear that, *ceteris paribus*, more primary goods, especially wealth, will help solve the problem. The preferred solution when this problem has actually come up has been to buy each member one of the disputed items, and thus sidetrack the issue. That costs money. Nonetheless, adopting the solution of the persons in the original position who sought only to maximize primary goods, even at the expense of equality, would be irrational to an extreme degree. More inequality cannot solve a problem of too much inequality. Rawls seems, then, to have assumed a degree of 'chain connectedness' in means and ends that does not exist in reality. Maximizing a means to an end is not always the best way to achieve that end.

If this is so, then it seems that Rawls must do one of two things. He could return to the first definition of a primary good, and claim that real rational men also seek to maximize primary goods. In this case, he would be completely parallel to Hobbes and Locke, basing his morality on a putatively universal, empirically discoverable universal means. The general discussion of universal means that I offer in Chapter II, part I would then be appropriate. Or he can claim that men ought to adopt as their goal the goal of the theoretical persons in the original position. He does not do this, any more than Hobbes and Locke say that men should pursue life and property, for reasons we shall explore in Chapter II part 2.

As the theory stands, however, it seems to demand that we guide our lives according to principles that would be agreed upon by rational beings of some other variety. We might as well follow a set of principles that tell us to do nothing but bake brownies. For rational beings who sought to maximize their brownies might well agree to such a society in a fair initial position of equality. And no man suffers from too many brownies!

Once again we see the problems the attempt to provide a purely logical, universal, basis for an apolitical political philosophy. Rational beings can only come to a unique unanimous decision if they share a unique universal means. Rawls has

noticed the difficulties implicit in the necessarily strict requirements for such a means; his attempts to fudge the definition lead only to incoherence.

Chapter II: The Inadequacy of the State as Madam

1. Strangers

I have sought to show, then, that each of these three theorists follows the same general pattern. Obligation, or the legitimacy of the state, is thought to follow from an imaginary contract, constructed by postulating agreements of rational men. But each theorist has recognized reason as "the scout and spy of the passions:" that is, it serves only to find the best way to achieve a pre-existing goal.

Liberal philosophy as represented by these three theorists abstracts from history--and, indeed, all social connections between men. Rawls' "original position" contains men with fully formed values, including, religions, tastes, and desires--but they have apparently been formed in total isolation from one another. It is a society of strangers lacking any common ethos, without any common purpose. When they discuss religion, for instance, each "takes seriously his beliefs," and thus they choose unlimited toleration (TJ s. 33).

This is indeed precisely the way a man would behave if he were contracting to form a state which he expected to join as a stranger, as an adult. It preserves above, all one's right to be separate. But the essence of virtually all religions is the community of believers: Recognizing that few men receive their religion directly from God, I might well conclude that I would prefer a society in which I could inherit a firm belief held by many people. I would ask to be born into a tradition, not the vacuum Rawls seems to imply.

But a tradition is a society and Rawls, like his predecessors' Hobbes and Locke, seeks a state, a just state appropriate to all men. The very universality of his demand renders agreement on a goal, the historical consensus of a tradition, impossible. The liberal state must be designed for a 'society' of strangers--to make it appropriate to all men--and then shown to be acceptable for a people. As we saw in the last section, that final step may be more difficult than it seems.

Strangers share no goal; their relations with each other are the result of the indifference that characterizes the state of nature and the original position. Their goals are private, with respect to each other at least; now man is not included within the ends of the other; they do not care about each other.

At best strangers treat each other with Rawls' mutual respect. The one recognizes that the others are men, equal in rights though separate in aims, and tries

to find a way to achieve his goals without interfering unduly in theirs. But his goals can only be met with the help of other humans--this, surely, is a universal truth of human nature if there are any. So he seeks to find others with similar views and desires to work together on a common interest.

At worst, this civilized form of mutual exploitation breaks down into the terror of Hobbes' state of nature. Now men regard each other as tools--as, indeed, they did before--but as tools with no right to respect. Cooperative ventures in which each helps the other attain his goals in return for help on his own are replaced by the rule of force.

In no event do strangers share Respect is not the same as friendship. True cooperation, modifying your goals to someone else's, is a form of commitment. It requires including in some way the other person's goals as part of your own and it ends strangeness. Taken to an extreme, it may even develop into friendship, where the sharing of goals becomes more important than the goals themselves. Strangers decide which movie to go to and then look for company, friends decide to go together and then check the listings.

The liberals speak to the strangers. Men have goals and enter into society to meet them. From Hobbes trying to find a way to prevent men from killing one another to Rawls elucidating the details of a respectful agreement among equals, each theorist confronts men without a community or interests or beliefs. Rawls, indeed, includes women: he speaks to "persons" lacking any commitments to each other.

But on what basis can a state rule over strangers? If men share no goal, how can reason lead them to similar conclusions? The theoretical resolution to this problem, we have seen, is the universal means. Its appeal is simple: if all men have the same taste in movies, they should be able to decide how to get to the theater together with only the most minimal diminution of their independence.

Indeed, it allows for far more than that. A common goal of men even though it be merely a means to future, independent, and separate ends, allows reason to construct a resolution to problems otherwise irresolvable. Friends, starting with a commitment to each other, cannot be bound to reach a predetermined agreement. It seems far more appropriate to judge how they decide than where they end up. What is important is not which movie they attend, but that both agree.

But, for strangers each committed only to himself and his goals, the situation is different. For each set of goals a solution may be worked out by an outside observer to satisfy the most of them: this is the utilitarian answer. Or, if these strangers are fortunate enough to be in essential agreement on some point, if they

share a universal means, reason may suggest a solution to which all will agree (assuming that, for one reason or another, no one is able to force his own way upon the others). It is not pure independence, but it is the closest practical approach to it, the way to meet as many of your goals as possible while continuing to define them independently of other men. This is the solution of these three liberals and it requires either a universal means or the common goal they reject.

Thus all three theorists see the state as a mediator and a facilitator when it is doing its job; a threat when it is not. In no sense can it be said to be an expression of the communal life of a society. These are strangers, not friends. And, thus, the solutions are arrived at by reason and calculation, not debate or politics. Friends who seek to calculate the best course of action stay home and do nothing--for each person's desires center around the other and no determinate, calculable solution exists. They must decide for themselves, make, not find the solution.

For strangers, though, the government may be separate from the people, ruling over them according to the principles of reason (or of a philosopher) as expressed in a mythic contract. It rules for the people, true; but it need not be of the people. In Locke's evocative metaphor, the government is a trust, guarding the interests of a people otherwise occupied.

This paternalism is reflected in the form of the liberal contract. The common interest, the shared end, the universal means, allows reason to come up with a 'right answer' to which all reasonable men will agree. Hobbes thought that he was founding a geometrical science of politics (H 165); Rawls, while admitting he has failed, nonetheless "aims to be fully deductive" (TJ p. 121). Since the contracts are derived by reason from ends shared by all men, they are valid simply by virtue of that rationality. If all rational men would agree, failure to agree invalidated the reasoning of the recalcitrant. The contract stands.

Furthermore, the deduction can include some pretty substantive politics. If we know where we are going, reason may be able to determine the best way to get there, with no room for argument. Reason specifies that the Leviathan state must have an absolute sovereign, that the ruler ought to act in certain ways and that the citizenry ought to support him even if he doesn't. It tells Locke's England that it must have a representative assembly to vote taxes. It permits Rawls to specify a precise principle for determining the distribution of income to which any just state, however it is governed, will agree.

Each of these conclusions is, or claims to be, a logical deduction from the premise of the universal means. And thus its legitimacy is independent of the people.

No vote of the people would make abolishing Locke's property rights rational--and thus no such vote could make it just. The same residence that obliges a man to obey a legitimate state has no effect in an illegitimate one. For the same reason, no consent of real men is necessary to add legitimacy to Rawls' hypothetical contracts: equal liberties, the requisite income distribution, apparently even geographical--not proportional or corporate--representation in the legislature are mandated by reason (TJ p. 223). Failure of the people to agree would simply indicate that they are irrational or unjust. It would not affect the status of Rawls' conclusions, which are based not on their consent, but on the rational and fair pursuit of their interests.

The liberals, inventors of asocial man, have discovered, paradoxically, a common interest of all men. The universal means allows each man to go his own way, while all agree on a common government, a government which can help them all. But this agreement is possible only because of the universal means, only because by promoting preservation of life and property or maximization of primary goods the state furthers every man's goals. We have seen that the needs of a group of strangers may be different than those of a community; but can the strangers be served at all? Is rule without force possible without community? And does liberal freedom exist? The liberals' positive answer to each of these questions depends on the universal means.

2. Universal Means

But does the universal means exist? Is there any reason to believe that Hobbes, Rawls, Locke--and any other postulator of common denominators will be wrong? There are of course some general reasons to be skeptical. The range of human behavior is quite wide. Were we to look for some common feature of human desire, the most likely candidate would be, I'd imagine, the wish to procreate and leave behind descendants. That is, after all, the biological basis of our continued existence as a species; the absence of this behavior is the only characteristic that evolutionary theory can never explain. Nevertheless, individuals, and in a few, short lived cases, whole social groups (Shakers, Tasmanians), or over an extended period of time, large subgroups (priests) have decided not to reproduce. Life, Hobbes' candidate, clearly is not a stronger motivating force than freedom for all men at all times--any recently deceased revolutionary martyr can tell you that.

Rawls gives us a longer list: rights and liberties, powers and opportunities, income and wealth, and self respect, are the social primary goods. These are the primary goods that he feels society can distribute. He also lists health and vigor, intelligence and imagination as natural primary goods: "although their possession is influenced by the basic structure, they are not so directly under its control"(TJ62). It is not at all clear to me why health is not, at least in a statistical sense, under social

control, but let that be. All of these are said to be things that hinder no just human end.

But, if it turned out, for instance, that wealth, one of the social goods listed as a primary good by Rawls, makes it as hard to enter heaven as for a camel to pass through the eye of a needle (Matt. 19:24), then the philosopher would have to offer philosophic, not an empirical, argument. He must persuade us that the goal of heaven is not a worthy one, or at least that there are other more worthy ones that are served by wealth, and that we should be willing to lessen our chance at heaven to promote them. Rawls makes the empirical claim that wealth opens new opportunities without closing old ones. Christ disagrees.

If Christ is right, if wealth precludes, or even hinders, the spiritual life, then the question of the good life must be considered before the structure of politics or of a theory of justice can be discussed. Before we can decide how best to distribute money we must know whether it is good or bad. Rawls has claimed that it never harms and can thus be taken as a good. But if it is helpful for certain goals and harmful to others, then to decide whether it is to be maximized, minimized, or moderated we must talk about those ends.

We need not rely on otherworldly analysis to reach this conclusion: many people have concluded that "less is more" even here on earth. Rousseau, as I will point out later, denies his citizens all but a few rights and liberties, powers, and opportunities and all but a small amount of income antiwealth. He felt that only by so limiting one side of men could another he valued more be developed. This is also his opinion, apparently correct, of such groups as Orthodox Jewry, the Amish, or the Bruderhof. "Once they've seen the city, how will you keep them down on the farm?" - isn't that how the song goes? Over and over traditional societies have discovered that the traditional values cannot be maintained in the face of the freedom, opportunities, liberties, income and wealth of the city. For the man who holds such a tradition to be valuable, these excesses of opportunity are doubly threatening. Not only may they tempt him, perhaps even influence him to change his ways, but they may do so to the others without whom he cannot continue his way of life.

If these ways of life are at all related to the level of wealth in a society, that we cannot simply say more is better, before some explanation of why these are worse.

To say that more opportunity may hinder certain choices seems almost paradoxical; but denunciations of the licentiousness or freedom of the cosmopolitan, tolerant city are not new. Even on less major issues we see the falsity of the notion of increased choice ("a person does not suffer from greater liberty" TJ143) A new

option may make the old decision harder to maintain. Thus, the easiest way to diet is to remove fattening foods from our reach. Thus, many people blame the new option of television for declining test scores and the declining literacy that this presumably represents. Surely this is a clear case of an increase in opportunity and wealth leading to a genuine decrease in opportunity for those who do not learn to read easily and with pleasure.'

Even intelligence, J.S. Mill's famous proof of the superiority of the higher pleasures notwithstanding, hinders as well as helps. If our goal is to be content, the village idiot has a special kind of unquestioning satisfaction forever denied to the intelligent. And, if it is to be happy, Kant explained better than I can that:

In actual fact, too, we find that the more a cultivated reason concerns itself with the aim of enjoying life and happiness, the farther does man get away from true contentment. . . on this account they come to envy, rather than to despise, the more common run of men . . . who do not allow their reason to have much influence on their conduct"(K63).

Reason and intelligence, the capacity to reason, may well be a good thing; it is not a good thing because, as Rawls claims, it opens new options without closing old ones (TJ93). Nor can it be said of this natural primary good that it is "part of reason itself to desire it." If it is a good thing, it must be because the ends to which reason is appropriate are more important than happiness, to which it is not.

Even food and health, seemingly unobjectionable, hinder some quite valid aims. The prophets of the Old Testament, not to mention more recent visionaries, recognized the value of near starvation and ill health in opening the mind to the spirit of God; had they lived in well fed affluence even those solitary walks in the desert might not have been enough to hear His still small voice(I Kings 19:12).

I have spoken till now of reasons why an individual might be unhappy about receiving more rather than less of various so-called primary goods, and shown some reasons to think that the range of human behavior may be too wide to permit finding a common denominator on which to base a hypothetical imperative. But a perhaps even more troubling issue remains. A society, any society, is one society and not another. If it has a culture, and it must, then it does not have some other culture. While we may be able to conceive of a state that is fair to different ways of life, that maximizes life or primary goods, and does not explore what its subjects do with them, beyond ascertaining that they in fact want them, a value free culture is a contradiction in terms.

In the structure of Rawlsian political philosophy, the state appears and is defined without reference to society. One ideal state is appropriate for almost any culture (so long as it is within the economic bounds where justice is relevant, having enough to distribute and not enough to go around)(TJ282). This is, of course, a result of the universality of primary goods: whatever the culture is, the inhabitants will be better off with more PGs. Thus the question of the culture is of secondary importance in designing the state. It may be true that some cultures are superior to others on some grounds, and it may even be true that the existence of culture limits, even severely limits, the possibility of an individual to make certain choices (one cannot be a knight in a society without a knightly order, without succumbing to Quixotic artificiality). Nonetheless if the same state is moral for all societies (it need not be equally useful) the political philosopher may discuss the state, and leave society to the social theorists. This is in fact what Rawls does, when he states that his theory of justice is not incompatible with either a capitalist or a socialist, or perhaps even a Marxist communist society (TJ280-2, also: 197, 200). However, if ever increasing levels of primary goods don't necessarily always open new opportunities and leave the old ones for an individual, how much stronger is this effect on cultures! The culture of the shtetl, of the Bushman, and of the American suburb are each incompatible with radically different levels of wealth. It is nonsense to pretend that an individual at the higher wealth level could live like one at the lower; it is even sillier to think that a culture of one sort could somehow appear attached to the "incomes and opportunities" of another. That conclusion doesn't require Marxist economic determinism. In Iran today, bitter battles are being fought by the proponents of an older culture to ward off the very wealth and liberty that Rawls says is always a help whatever our goal.

What can we conclude from this? I hope, that the idea of a universal means does not work. If in fact we desire life, liberty, or Rawls' primary goods as means, it is as means that are useful to our ends, and not all ends. (Actually, the exercise of liberty and intelligence in particular, and maybe some of the others, might more usefully be described as ends in themselves). In any case, a political philosopher ought to argue that the ends to which these P.G.s are means are worthwhile ends. They are not the only ends. The same task is incumbent upon Hobbes: since it is not the case that we all value life above liberty, he ought to explain why we should. And in order to convince us that these are worthwhile ends, the political theorist will have to step back from his ideal state and into the murky depths of social theory. A state must favor a determinate culture; it cannot as we have seen, remain neutral. Thus the ideal state will vary with the ideal culture; that former cannot be found independent of the latter. And if the latter cannot be found, then the philosopher must at least

explicitly discuss the type of life, the theory of the good life, that his state will encourage. More human life, bereft of all specificity, is not life at all, nor even death.

3. On the Status of Liberal Theory

The liberals do not wish to base their theories of the right on ethical judgments about the passions of men or the lives we ought to live. They do not tell us--living is good, property is good, more primary goods are good--and then command us to go out and pursue those things, setting up a state to facilitate that pursuit.⁵

Rather, they treat the desire they call fundamental or primary as a fact, like the fact that men cannot fly. It is apparently beyond the realm of moral discourse. If a man wishes to do anything--or even nothing at all--he must have his universal means. "The desire for primary goals is a part of reason itself."

Now, a theorist who argued that men should fly in order to fulfill an absolute moral commandment would have little ground in our common moral conceptions.⁶ If he further sought to organize his state so as to further this aim, he might reasonably be accused of being somewhat unrealistic.⁷ But he would be making an ethical argument for the, Levitation state.

Hobbes' argument for the Leviathan state is fundamentally different, as is Locke's for property rights and Rawls' for the two principles of justice. They do not tell us that is good to fly; they say, instead, that it is inevitable that we fly, and seek to show how best to accomplish that aim.

But pursuit of the universal means is not inevitable; indeed, as we have seen, the universal means does not even exist. With the ideological claims to universality stripped away, we see Hobbes, Locke, and Rawls pursuing things to which they give no value, beyond their bare belief that men do, in fact, pursue them.

The theorist does not seek to remake or uplift or even to reform the men of his postulated state. Instead he has sought to find an effective way to serve the private needs of certain men. He takes their desires as given, and panders to them, imposing only a limited amount of mutual respect to restrain the most extensive conflicts between men.

⁵Throughout, I ignore Locke's fundamentally different, theological argument for the inalienable right to life and the liberties necessary for its preservation. (See my Chapter I, p.)

⁶"In the well ordered city, every man flies to the assemblies." (S.c. IIIxv)

⁷"let us set aside the facts, for they do not affect the question." (2nd D., p. 198)

With the universal means stripped of its universality, the desires being served take on a different light. Imaging a Hobbes explicitly, as he does ideologically, arguing that it is immoral to do anything which might endanger your own (not, mind you, someone else's) life. Or a Rawls or Locke saying that only those things which money can buy are morally worthy--if being rich hinders a life of simplicity, then simplicity is unjust: Yet is this not what each one does by denying the existence of such choices, by claiming that "the pursuit of primary goals is part of reason itself?"

These are, of course, possible positions. But they are far less compelling when we are invited to choose them than they were when we were told that all humans do and must hold them. If love of money is not the inevitable result of its ubiquitous usefulness, if placing one's skin above freedom, liberty, or justice is not necessary, we must consider whether these are in fact the goals we wish to place--even while calling them means, mere tools to a further end--as masters of our ideal state.

4. תהו ובהו⁸ or, The Secret Life of Liberalism

The universal means led directly to the notion that politics exists only because men are irrational or evil. For if they were not, they would simply agree to the Laws of Nature, the dictates of reason, or the two principles of justice. Substantive issues of politics would, as we have seen, become amenable to rational thought; political science would indeed be a science; the government a collection of experts seeking the right answer and the best solution.

But without it, we must create--politically--a historical consensus. A rational or natural one cannot be found. Why not just accept the goals the liberals have implicitly offered? What's wrong with liberal society anyway?

It has no overriding value toward which it aims. Rather, it is a universalization of the desire for a more comfortable life that seems to motivate the men that create it: those Hobbesians that prefer life to liberty, the Lockeans who wish to preserve their property, the Rawlsians waiting for a larger basket of social welfare. And if the theory of the society is aimed only at pandering to our desires, so too, the reality ultimately produces men who seek to have their desires pandered to. Like their society, they have no teleology, no purpose in their lives.

They have been freed from the false purpose of religion, the glorification of God who is their creation and the denial of the creative act. But nothing has come to replace it. Felicity, their goal as described by Hobbes and still essentially unchanged

⁸(Genesis 1:2) Tohu vavohu: Chaos, without form and void, desolation.

in Rawls, is merely a flow of desires that may from time to time appear, fulfilled. If, in Rawls or J.S. Mill, the content of these desires has progressed beyond simple pleasure seeking, nonetheless the liberal man remains ultimately narcissistic, unable to look beyond himself. He can seek only longer life, for at death his pleasures must stop. And if Rawls asks him to take as an end justice itself, still, these principles of justice are based on the need and passions of, and are appropriate only to, the classic liberal man.

Whether he appears as economic man, accumulating the money that is a means to the pleasure he will never experience⁹ or as his polar opposite Homo californianus sub-consumeras or some such, using the tools that the accumulator accumulated for equally pointless, trivial and endless consumption, he is equally unsatisfactory. Seeking pleasures he seems consistently to miss happiness, trying all and knowing nothing, definitionally anomic, his desires are without bound and his dignity renounced. All things of value--education, community, thought, health, friends, aid to others--become tools, are devalued into means, with no point to the end, another twitch of the pleasure Skinner so much more efficiently gives his pigeons by direct lemnisculate brain stimulation. But the freedom to reject roots is one that can only be enjoyed by those who have roots to reject.

Political philosophers and even ethicists have left liberal man without aetiology or teleology, purposeless, functionless, drifting. His society unable to take a stand in the conflict of opinion and culture has left him without one, has devalued all cultures to lifestyle by replacing the commitment and education necessary to sustain the former with the casual interest characteristic of the latter. "We'll pick you a lifestyle this weekend, before your heavy date," says Zonker. By offering freedom of choice the liberal society eliminated the genuine choices that were to be chosen.¹⁰ Without coercion of some sort to help us overcome the initial difficulties of absorbing a culture or culture itself we are reduced to enjoying only the immediately pleasurable: whatever the ultimate wonders of cello playing, wood working, literacy, or even cigarette smoking, they are inaccessible without a long and sometimes unpleasant apprenticeship that someone must impose on the new generation. Perhaps, then, it is time to look at a theorist who is openly and frankly goal directed, who seeks not

⁹Karl Marx, Paris Manuscripts, "Money."

¹⁰Of course it is quite possible that many or all of them deserved to be destroyed. Many of our grandparents fled less from the death and starvation of the old world than from its stifling and all-encompassing heritage. But this is a philosophic issue that must be debated, no hidden in the interstices, just as Rawls' primary goods and Hobbes' Life may very well be valuable goals for a society even though they are not objectively necessary ones. The issue will return resoundingly with Rousseau, sometimes an advocate of precisely that stifling...

to take man as he is, but man as he should be, as the basis of his society, whose state and society have a purpose and perhaps a bit of elusive meaning.

Part II - Beyond Liberalism

Chapter III: "Oh proud sacred liberty"

1. Theory

Rousseau bases his state not on pandering to men's desires but on securing their freedom. He seeks to make men not satiated but dignified. He gives not the greatest possible amount of primary goods, but the greatest amount of independence.

Various critics have accused him of being a totalitarian or an individualist, a Kantian and a romantic, a revolutionary or a conservative. But these categorizations miss the point and obfuscate the unity of Rousseau's political writing. His problem is the one we have seen already: how can men whose aims are radically different live together?

He starts with the liberal state of nature, and he accepts the liberal notion of a unanimous agreement to found the state (SCIV). But he perceives no eternal, natural common desire of men: for Rousseau there is no universal means. Indeed, in the Golden Age or the first state of nature, men are far more independent of each other than in Hobbes or Locke. Men¹¹, for Rousseau, have no natural need for each other--so long as they are willing to remain "stupid and unimaginative animals"(SCIViii), so long as they desire no more than "food, a female and sleep"(IIDp210). Now, while Rousseau presents this natural or savage "human machine"(IIDp207) historically, it is crucial to remember his disclaimers in the introduction to the Second Discourse: the state of nature is not a historical reality, but rather what's left "if we strip this being ... of all the supernatural gifts he may have received, and all the artificial faculties he can have acquired only by a long process"(IIDp200). The noble savage is man without society and he is fundamentally different from man in society.

This natural man, out of simplicity, is self sufficient, "Perpetually whole and entire"(IIDp201). His independence, despite all of his other rather unattractive

¹¹When Rousseau speaks of men, he means specifically male-men, and not, as I have elsewhere used the word, male-or-female men. While a full discussion of why this is out of place, I will note the basic reason at an appropriate place.

features, gives him a certain dignity: he is the noble savage. For him, slavery is impossible; as he has nothing to lose, it is impossible to control him (IIDp233).

But modern man is not independent. His socially created needs force him to rely on other men for his well being. It is a fundamental premise of Rousseau's that this dependence on another man is "the worst that can happen" (e.g. IIDp255), and much of his politics is devoted to avoiding this situation.

The problem then is this: the expanding needs of "self perfecting" men bring them to a point where they need each other. Yet these private needs are in competition with each other, and each man sees the others as means to his end. He must end up master or slave. In the "historical" account of the Second Discourse, Rousseau shows how, pursuing comforts or ambition (the same passions that Hobbes felt inspired all states), men were gradually forced into slavery (IIDpp262-4). In the moral account of the Social Contract, he simply begins with the evident fact: "Man was born free and everywhere he is in chains"(SCIi). Rousseau's mission is to bring these slaves to throw their chains, and in regaining their liberty, to reclaim their humanity.¹²

But we cannot return to the first state of nature. Innocence once lost can never be regained. While Rousseau himself ultimately sought his freedom in isolation, his political writings present a different ideal: a way for men who can no longer live on acorns to live together in liberty and equality, neither slaves nor masters, beggars nor flatterers nor thieves.

The problem that he poses--to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before (SCIvi)--is almost, but not quite, the liberal formulation. For Rousseau has inverted the relationship of the passions and reason found in the liberals. Hobbes first called the thought the "scouts and spies" of the passions and set the reason as a servant to desire. Rawls, while he seems to reject this psychology in his full theory of the good, nonetheless derives his rules of justice via reason from a desire for primary goods. On the other hand, for Rousseau, it is crucial that reason control desire: "for the mere impulse of appetite is slavery, while obedience to a law which we prescribe to ourselves is liberty" (SCIviii).

¹²While this is not the place to prove it, I think that this problem of dependence is the core of Rousseau's attitude towards women. He doesn't see the possibility for the shared ends between man and woman that he finds between man and man, and thus he recommends that man be a master lest he be a slave.

Thus, while the liberals have each based the law that makes men free on an analysis of the structure of appetite, Rousseau emphasizes the act of will involved in making that law, and indeed, the content of the law itself is almost unimportant.

Again, we can return to the analysis I have presented in Part I. Rousseau's problem is simply, how can we all agree, without a common interest? While the liberals, -examining desires and appetites, found such a common interest, Rousseau recognizes that we must, artificially, through an act of will or human history, create and maintain the common aim. We must find a desire, create a will, that will allow us to live together.

Rousseau offers two overlapping solutions to this problem. The first and basic one is simplicity. The fewer things that men desire, the more they have in common. The poorer we are the easier it is to agree on what we want. Thus, speaking of Switzerland, he says, "All having the same tastes and interests, found it easy to unite in pursuit of the same objects; the uniformity of their life served them in place of law" (Cor297). The second one requires less simplicity, but still extreme equality (e.g. SCIIxi); it is the law, properly understood, and especially the unwritten law, the moeurs of a virtuous society (SCIIvi and IIxiii). In either case, the unity of men's passions allows the creation of an objectively correct common interest, which, furthermore, can be perceived by each individual. This is the general will.

The liberals solved the problem of rule without force by postulating a naturally discoverable common, though not communal, interest. Rousseau offers instead the general will: law which has been approved by all and applies to all. If we live in a state governed by this law (and he tells us repeatedly that we do not), then clearly we are making our own law and following it. Then, and only then, when the state imposes force to ensure that we obey, it is simply "forcing us to be free." Then, indeed, it is even conceivable that duty could require sacrificing one's own life (SCIVviii).

But all this follows only if approval is unanimous if each man can be taken to have agreed. How can this unanimity be achieved without the natural common interest of the universal means? Only if the law itself is our aim: if men "receive the general interest as their own private interest." If what each man wants is the success of the community, then unanimity should, in principle at least, be possible, or at least approachable.

Rousseau thus seeks to create a society in which men feel this way, as the only possible alternative to the rule of force. If men pursue private interests that are different, no common interest exists, and law, which aims only at the common good,

also cannot exist. We are left merely with force, the force of an illegitimate minority-- or an illegitimate majority.

Let us see, then, how this artificial consensus can be created.

2. Praxis - Poland, the Republican State

In the Poland, Rousseau outlines a proposed constitution for an actual, or partially actual, state. Since he makes it clear that he is unqualified to be Poland's legislator on the first page of his essay, think that we may assume that the work is intended to have some broader implications; it is an application of the principles outlined in his more abstract works to a real case. Thus, I would like to start with this concrete study, one of Rousseau's later works, to see if it will help to understand the notoriously difficult earlier works.

The liberals based their politics on a hypothesis of certain empirically determinable characteristics of human psychology. But Rousseau denies the common structure to human desire that is the foundation of their work. Contra Hobbes, he argues that men must be brought to a point where they will prefer many things, among them the good of their country, glory and honor, to mere life. Contra Locke, he argues that not only are property rights and the desire for more property not a sound basis for society, but that the desire for property is the surest cause of illegitimate government. Property achieved may put a man above the laws; but the "passions of narrow self interest, inculcated in our hearts by ill advised institutions," are the real problem (Po.5). Men must come to love the laws (Po.5). Contra Rawls, virtually everyone of the primary goods is incompatible with a free society: wealth and income we have already dealt with; powers and opportunities, rights and liberties are all helps for the very private projects that Rousseau would forbid: Lycurgus, to make the Spartans free "fixed on them a yoke of iron" (Po 7). Far from giving them an increased ability to use his powers, the legislator ought to "take away man's own forces"(SCIIvii), perhaps even, as Lycurgus did, to "see to it that they never had an instant of free time they could call their own"(Po 7). The liberties that Rawls feels no man suffers from, Rousseau feels are incompatible with republican virtues and thus, the continued existence of Republican Geneva: that is why he denounces the proposal to build a theater there.

In short, man differs so much from place to place and time to time, that "one ought not to seek among us for what is good for men in general, but only for what is good for them in this time or that country"(d'A p17). No theory can be built on the unchanging structure of desire that is the foundation of the three liberals we have seen. Nonetheless, "man is one," and the varieties I have just mentioned are

"modifications," making him "different from himself." This natural man, the savage of the first state of nature, lives a life that if not nasty, is certainly solitary, poore, brutish and short. He is at peace with himself because he is acting only by instinct: the reason that beasts are at peace. He doesn't speak, doesn't think, has no foresight, nor knowledge of other men (and only the barest, Biblical knowledge of women, often an afterthought in Rousseau's various systems). If he is good it is only because he is untempted (all he needs is acorns), and this goodness has nothing to do with virtue (which presumably must be at least conscious, if not intentional—his actions are without morality-(SCIviii). All of this is not a very attractive picture, and obviously not intended as a standard for modern man. The fact that something is natural does not mean either that it is possible (one can't return to natural innocence) or desirable: "did not the abuses of this new condition often degrade him below that which he left, he would be bound to bless continually the happy moment which took him from it (the S.O.N.) forever, and, instead of a stupid and unimaginative animal, made him an intelligent being and a man" (SCIviii).

What then is the basis for judgement? If the state is not to give men what they want, what can it use as a basis for deciding what to do? Rousseau seems to argue, to tackle these questions in reverse order, that the just state does very little indeed, that it is one in which men are free, in a sense not common to English philosophy, and that its decisions are those of the general will, which in turn seems to be the consensus of virtuous citizens. The free state is the one that does what virtuous citizens want it to do, and virtuous citizens are those that want a free state. This rather paradoxical statement is at the core of my reading of Rousseau, and shall serve as the basis of my attempt to go beyond him.

Freedom is Rousseau's great aim. Man is born free, he tells us, and everywhere he is in chains. The great changes that he proposes for Poland's educational system, for its economy, even for its sports, are defended, because they alone will produce the love for the laws that will "make it happy and free and keep it happy and free"(Po 23). These customs must make men who will be strong enough to withstand "proud, sacred liberty," whose laws "are as stern as the tyrants' yoke is never hard"(Po 29-30). Political freedom¹³ means to be "so far subject to the laws that neither I nor anybody else should be able to cast off their honorable yoke".

These laws, however, have two crucial aspects that must be constantly recalled: first, they are distinctive and national. This alone can "establish the republic in the Poles' hearts, so that it will live on in them despite anything your oppressors

¹³The civil freedom of SCIviii.

may do"(Po 10). It will make them indigestible (Po 11), and thus like the Jews, who, "faith-fully preserving their laws," "subjugated" and "dispersed" remain a nation, and apparently "a political society, a free people."¹⁴ More often, however, Rousseau treats and nationalism as merely a prerequisite to freedom: only thus can men learn to love the law, and by loving it, they "will do by inclination and passionate choice the things that men motivated by duty never do quite well enough ... they will obey, not elude, the law, because the laws...will enjoy the inward, assent of their own wills"(Po 12).

Which brings us to the second essential aspect of the law. It must, to be legitimate law, enjoy not only the inward, but the expressed, consent of the citizens. In fact, according to the Social Contract (IIvi), a law, if it is properly so called, is an act of the entire people concerning the entire people. Thus, freedom is defined in the Social Contract in a more limited way than in the Second Discourse: it is "obedience to the law one has prescribed for oneself" and is contrasted not only to the foreign domination mentioned above, but to liberty itself as it is understood by the liberals: "For the impulse of appetite alone is slavery"(SCIviii). (Compare Hobbes: "By liberty is understood, according to the proper signification of the word, the absence of external impediments" (H189); or Rawls: "Thus persons are at liberty to do something when they are free from certain constraints whether to do it or not to do it and when their doing it or not doing it is protected from interference from other persons"(TJp202)). Rawls specifically mentions law as an example of a constraint limiting liberty; while for Rousseau, law is an essential part of a liberty and a freedom that, far from being an absence of impediments, is "incompatible with repose"(Po 3), that is contrasted with "license, that is to say servitude"(Po 19), that the slavish who wish only to be mutinous would "flee in terror as they would a burden about to crush them" if "they understood the price at which she is won and held" (Po29). The contrast could not be more complete: for the liberals, liberty is doing what you feel like doing; to safeguard one liberty, we should give up others. Thus Hobbes: "Desire of ease and sensual delight disposeth man to obey a common power"(H161). But for Rousseau, "to renounce one's freedom is to renounce being a man"(SCIv). For the liberals, no man would renounce a liberty without a quid pro quo (Hobbes again: "Whensoever a man transfereth his right...it is either in consideration of some right transferred to himself, or for some other good he hopes for thereby"(H192). For Rousseau, though, men, who must remain free to remain men, flee from liberty.

¹⁴Of this last I am not certain. That is Rousseau's description of the Jews during the 40 years of wandering. They had then only their legislation, and have now not much more, so it would seem that the Jews, simply by virtue of legislation and distinctiveness, remain free.

"Slaves lose everything in their chains, even the desire to be rid of them"(SCIIii). Rousseau's liberty is the common exercise of will, not the fulfillment of random desire of the liberals.

It is this definition of liberty that is followed in the Poland. The Poles are told that only the knightly order has the right to make laws, and thus only it is part of the state (Po 29). More than that, the knights are not men, happy or free, for "do not flatter yourselves that you are either so long as you keep your own brothers in bondage" (ibid). And that bondage is not merely serfdom: it is disenfranchisement, exclusion from the making of the law: by freeing the serfs and giving them the right to cantonal representations in the dietines, the nobility would merely be "conceding them the right, already conferred upon them by nature to participate in the government of their country" (Po 97).

Meanwhile, however, Rousseau shows us a republic that consists only of the nobility. What little he has to say about the underclasses is devoted to tying them "by bonds of affection" to the country and the laws (Po 94) with the ultimate intent of making them fit for liberty (compare ibid and Po 30). Just as Sparta, Rousseau's ancient ideal, was a free nation based on slavery, so too will be his Poland, at least for the immediate future. This is imperfect, even illegitimate (you-are not men...), but necessary and the best possible, now.

The nobility, then, constitutes the nation. It is they who must make the laws that will make them free. For, "The law of nature ... does not permit us ... to make the laws binding upon any person who has not cast his vote on them either in person ... or at least through chosen representatives"(Po 29).

Rousseau's pessimism is intense. Not only are the serfs (and the "free" bourgeoisie) denied the rights that can make them men, but it is impossible to give them these rights. Not merely the "misguided self interest, the pride and the prejudice of the owners"(Po 29), but the debasement of the slaves themselves prevents liberation: the elaborate plan for enfranchisement in Chapter XIII is as concerned with changing the attitudes of the peasants as with the owners.

However, in these unlikely circumstances, with a population that is mostly unable to be free, with a territory that violates every prescription that Rousseau laid down in the Social Contract, we can see his principles in some sort of action. Freedom requires making the law. Specifically, the populace must approve it in person, to ensure that it is an action of the general will. In the Social Contract he suggests that the law itself will be created by an outsider; but it must be approved by all. So the nobility, who constitute the Polish state, must come together, if not all at

once, then separately in local assemblies (the dietines). It is these local groups, then, that make all the decisions--the national legislature is made up entirely of bound representatives. The principle of the general will, it seems, can only allow representation so long as it is not, in fact, representation.

But the Social Contract introduces another distinction that is crucial to understanding Rousseau's notion of a free state, and why he organizes the Poland as he does. The general will is to make the law, is not merely the result of a majority decision. It can only be found by a vote of all the people; that is clear from the requirement of generality. But a vote of the people results in the general will, and thus a law that makes men free, only if the people vote on the common good and not their individual goods. The latter will result in the will of all; it is not, it seems, law because the object of the law is not sufficiently general. Men voting on their private interests will come up with a result that is in the interest of most men--but for the law to be binding, it must be in the common interest, the interest of all men. The general will plays here the role of the missing universal means--all men must be able to agree to it, and if the vote is not unanimous, it must be due to failure of reason, not genuine disagreement. Rousseau tells us that in his favorite republic, Roman plebiscites, when conducted properly, invariably resulted in an overwhelmingly lopsided result (SCIVii). Indeed, on crucial questions, Rousseau is quite willing to accept Poland's liberum veto and institutionalize unanimity.

The possibility of such a general will implies that any given time, for a given question, in a given state, a correct answer to the question--what is our common interest, what will best tend to our preservation as a free society--exists. Furthermore, it is not extraordinarily difficult to find, given some extraordinarily difficult background conditions. While Plato's Republic requires a philosopher to find the correct answer for each question, Rousseau's only requires one once, at the beginning, to make men capable of seeing the right answer later. This first legislator is given the right to use deceit, though not coercion, in order to bring the people to this state. But after that, while Rousseau at times seems still to assume that a philosopher will be needed in the background to write the laws, this philosopher can simply be a patriot, and most importantly, the people can be trusted, without coercion and new false claims to divine inspiration, to discern the correct way to maintain a still sound state (though leadership remains crucial, for "the sovereign is easily fooled (its representatives, easily corrupted)").

In any case, if the people are voting on the correct question--the good of all--and they are properly perspicuous the result will be the general will. In principle, it ought to approach unanimity as the rationality and virtue of the people approach

perfection. To improve the rationality of the people does not seem very possible- at least Rousseau never seems to talk about how to do that. Rather, what is needed is virtue: the citizens must see the interest of all as their only self interest, and thus the general will must completely displace the private will. Only if this happens can the structural reforms of direct democracy in fact result in freedom.

Liberty, then, is indeed a harsh taskmaster. She requires more than merely structurally creating a democracy the likes of which the world has never seen. To have each citizen, in person, and, though I'm not certain this is essential, en masse (that is, not by Napoleonic style plebescite), approve each law is not enough. They must approve it for the right reason as Aristotle differentiated good politics that democratically pursued the common good, from bad democracies that democratically pursued only the interests of the majority). The bulk of the Poland, as indeed much of the Social Contract, is taken up with the institutions and conditions necessary to ensure that democracy is freedom and not merely another form of despotism.

On the simplest theoretical level, the problem was stated first in the opening pages of the Social Contract: how can we find a way for "each one, uniting with all, nevertheless to obey only himself and remain as free as before" (SCIVi). Note that "free" in this sentence, if Rousseau is being consistent with the definition of freedom he offered two chapters later, does not simply mean an absence of restrictions. Rather, it is an absence of specifically human restrictions; not civil liberty (obeying the law we have made) for it predicates society, but emphatically not "the absence of all impediments". The liberal man becomes "more free" by the progress of the sciences that can give him more "powers and opportunities, wealth and income..."; Rousseau's man has no powers, but also no desires, nothing that can be taken away from him, nothing that will cause him to obey another man. And it is that obedience which is what Rousseau fears. Even to our own passions it is slavery—how much more so to another's.

The only way out of this bind--as R.P. Wolfe recently found, when posing himself the same question¹⁵--is for each person to will the law that all obey. The way that Rousseau finds to ensure that each person wills the same thing is through the intense nationalism and particularism that he calls virtue. Only by completely eliminating the private desires that he calls corrupt or debased, can he ensure that men will not be interested in the things that the liberals claim they are interested in; and only if they are not interested-in these in principle competitive goods, can they be brought to the unanimity that is necessary for law to be binding. It is crucial to note

¹⁵In Defense of Anarchism, Harper Torchbooks

that the phrase in the Social Contract, about "forcing men to be free," often used to show that Rousseau is a totalitarian, only refers to forcing men to obey, in a specific instance, the law that they, personally, have approved in general. It forces a man to be free by forcing him to live up to his own beliefs and commitments, and not by allowing someone else to impose upon him.

When the legislature consists only of all the citizens, when its decisions are, in principle, approaching unanimity, the conventional notions of a government imposing obligations on its subjects break down. The participants in Rousseau's general will have, I think, approved of the law they are forced to obey not merely by living in their country, nor just by casting a ballot but by actually approving that law. If they have not, even after seeing the results, agreed that the majority has seen the common good, and especially, though, I think, not necessarily, if they are correct, then they are not in fact free, they have not willed the law, and forcing them to follow it is force, not freedom.

Rousseau, then, requires draconian, or more precisely Mosaic and Laconian, measures to ensure that unanimity will be reached. Men must be raised above themselves, given new heights and new interests. They will attain a new level of happiness for this, he says (Po. 13), but most of all, their thoughts will constantly be on the fatherland, and formed by the laws, the unique customs, the constant spirit of emulation (which is different, only and crucially, by the background, from the "worldliness" he so bitterly denounces in the letter to d'Alembert.) will lead them all to reach the same conclusions. The free republic must be small, he says, so that its members can know each other, watch over each other, as the discussion circles do in Geneva, and control each other ensuring that no one develops tastes different from the others, that might provoke a genuine controversy.

For so long as men remain simple, agricultural, almost equal in wealth and education (the free citizens of Poland are to have a uniform, secular, education) there is little cause for controversy. All can unite around opposition to those, outside and inside the nation, who would change the constitution. None need disagree over insoluble issues because men only care about issues that are soluble by the simple device of keeping everything as stable as possible. The danger of luxury is not only that it will distract the citizen from his duties, but that it will give him desires which, as in the cruel world of the liberals, can only be met at the expense of other men. Some men can be rich only if others are poor, it seems, and with that genuine conflict of interest, the republic cannot stand.

Indeed the problem is broader than class conflict—the general will can only give an answer where an answer exists. And since the common interest is not an

objective fact, derived from a universal means, it cannot simply be derived by some neutral social scientist or rational philosopher. It must be based on a fundamental, and fundamentally arbitrary, consensus. Where the consensus fails, so too must the community. Kibbutzim with long term disagreements split. The early democratic towns of New England did the same, or sent out new settlements. In fact, it has been suggested that the failure of this mechanism may have been a cause of the Salem witch panic¹⁶. The community must be able to reach unanimity on the common interest.

Furthermore, Rousseau doesn't have in mind the balancing act of modern logrolling, backscratching pluralism: the universality that he imposed on the law makes this trading of specific favors impossible. And of course, it is difficult to see how anyone could accept the notion that living under law is freedom without this restriction: the law, if it is to make you free, must provide us with a higher good that we can pursue (the common good). If it only says, you do your thing and I'll do mine, we are left "slaves to the passions", and susceptible to the liberal invitation to further serve our passions by giving up governing ourselves altogether, to, like Locke's People, cease to stir (L230). For being republicans takes time: if we are only seeking to win the right to more private activities, the republic is pointless. Younger-poorer and simpler- kibbutzim have higher attendance rates at general meeting than the larger, more differentiated and therefore more private, ones. When the only evening activity available was singing, everyone sang, and everyone went to meeting. Today the meeting must decide how to balance the darkroom budget against the swimming pool - and members begin to distinguish between their own private interests, and those of the community as a whole.

* * *

Note, then, the peculiar status of the free life that Rousseau is offering as an ideal. It is hard, a stern task master, poorly fitted to the naturally lazy men he describes in the state of nature. And it is constantly subject to dissolution, because the attractions of privatism are easier and/or greater. In fact, given Rousseau's conclusion that slaves wish to remain slaves, and that freemen frequently wish to become slaves, it would seem that John Stuart Mill, following his Socrates/ fool/pig reasoning (JSMII:6), would have to declare slavery of higher utility and therefore preferable. In the long run, everyone chooses to be slaves.

Nor does, this disturb Rousseau--he is quite aware that we are not likely to be convinced of the attractiveness of the life of freedom. His freedom is not the self

¹⁶Paul Boyer and Stephen Nissenbaum, Salem Possessed, Harvard University Paperback, 1974.

indulgence of Hobbes. It is moral righteousness with the rigors and deprivations thereof. But this also should not be taken as criticism, or at least not as a powerful criticism, of Rousseau. Many of the things that we value are less immediately rewarding than things we value less. The number of children who prefer to watch TV rather than to learn to read is apparently quite great, but this is no reason to propose that TV is of more, or even any, value. The happiness that Rousseau promises us is a difficult and elusive one, requiring truly stupendous sacrifices. It is freedom,, but freedom for what?

What do we approve in those assemblies? Only the continuance of the law. And if the law is not concerned with politics, what? And if not now, when? That is, this law is Hillel's¹⁷ law. It is not particularly concerned with the distribution of primary goods, or indeed any tools to personal ends, it assumes, that these are not important. It is concerned only with maintaining its own distinctive self; the Mosaic law is the surviving example, lacking only the political manifestation of a ritual reconfirmation. But like the halakhah, Rousseau's constitution and moeurs regulate all aspects of daily life, in order to create a community. These are the most important laws, those inscribed in the hearts of men (SCIIxii). And they are the prerequisite to the making and following of laws that he calls freedom. Only the orthodox (little does he know!) can expect to share enough--to will generally, and thus freely. In the next Chapter, we shall explore these matters further. Perhaps freedom to o, and not merely men, ought to have a purpose outside of itself.

Chapter IV: Beyond תהו ובהו

1. Particularism, Traditions, and Freedom

J. J. Rousseau has allowed us to pose the problem correctly, but the notion he offers requires measures that are unacceptable. I can conclude only by stating the paradox in a way that explains the full difficulty of any resolution. The free state must be based on agreement: in J. J. Rousseau's classic statement, we must "find a form of association in which each, while uniting himself with all, may still obey himself alone and remain as free as before"(S.C.Ivi). That is fundamental. And reason plus the nature of man are insufficient to generate a state to which all can agree. This is the conclusion to my exploration of the liberals.

Rousseau has suggested that the solution must be in a society of friends, not strangers. By love for each other we can come to an agreement-but only because

¹⁷"If I am not for me, who will be for me? If I am for myself alone, who am I? If not now, when?"

solidarity (or, as he calls it, patriotism) is more important to each of us than the details in which this is manifested. Our individual aims must simply be the common aim. Now, to create this involvement he sees several necessary components; especially, a tiny society and an intense communal particularism. These alone can give the citizens the sense of togetherness (because of the separation from all outsiders) necessary to make the common interest his private interest. "The true republican imbibed love of fatherland with his mother's milk"(Po.16): only thus can he perceive its interests as his own.

Again, the analogy with friends may help to explain this notion of a common interest that is not simply the sum of private interests. The interest of a friend A is to see the African Queen, of friend B to see Jaws. Summed, they might go to a double billing or simply go alone. But the common interest is to go together--it may lead to an absolutely different resolution, perhaps to see Jules and Jim.

Rousseau seeks to create a common history in order to create community and thus common purpose. The group of men forming the state must become a people to be free. He does not indulge in romantic-nationalist nonsense about natural peoples, so they must constantly recreate themselves as a people with a common interest to remain free. The process, obviously, is difficult to begin: the *deus ex machina* of the legislator is a partial solution. But truly, "gods would be needed to give laws to men" (SCIIvii).

And it is difficult to maintain, because only the intense difference of those men from all the others can maintain their togetherness. The force of inertia, of leveling, of assimilation must in the end win over all (except the Jews, who, eternal outsiders, will remain a people and maintain their law to "the end of the world itself" (p 06).

This, of course, is the source of the conservatism that some have seen in Rousseau. The tendency of Europe to homogenize men; he can identify no counter force beyond the actions of occasional and near-divine legislators; and so, a free nation must above all resist. Censorship is vital because, simply, it is the only tool available for maintaining precarious traditions (d'A.) which in turn can allow us to share a common end, always endangered by the private interests of men--and especially by the desires for material goods, so easily aroused and so fatal to the community of men, to their attention to each other and to the equality that is an essential, if not sufficient, prerequisite for their common interests. For "without equality, the law must always act to the detriment of the poor"

Forming a common culture seems to require some kind of differentiation; forming a common purpose by this route requires a great deal of differentiation, as

Rousseau proposes. Perhaps it is for this reason that every nationalist movement begins by reviving a long and blessedly dead language: it allows full freedom to insiders, while excluding the outsiders. From a common base we can disagree, but at all costs the Rousseauian people must not allow anything to endanger that fundamental and constantly endangered basic sense of commonality.

The problem then seems to be irresolvable: how can we preserve our (liberal) right to be different from our neighbors, the absence of which seems to be unacceptable coercion; while at the same time preserving a precarious and artificial sameness or shared heritage, without which all rule must be foreign, the universal laws just unjust force. Rousseau suggests that (after the initial generation), the free society can exist only so long as the problem never arises: when our mutual indoctrination, our particular education of our children, fails sufficiently so that a man arises who wishes to be different, the cause is lost. To allow him to be different is the end of the community: to force him to be the same is to destroy the justice and freedom that is the community's aim. This is why a society which still agrees that the theater is bad ought to ban it. When the ban is needed, it will already be too late.

Rousseau thus leaves us with no program. Corsica alone of all Europe could become free (SCIIx). (Though, perhaps, had he foreseen a way to reunite them, orthodox Jewry, still a people, might also have been a candidate). I wish to propose a possible alternative to this pessimism.

The consensus that Rousseau creates for his society is fundamentally arbitrary and historical. Perhaps if we turned it around, some of its less attractive features might fall away. Let us not endow merely men, but their society with a purpose outside and greater than themselves. Indeed, Rousseau, in his state religion (SCIVviii), in his choice of mores, in his comment that atheism is incompatible with social existence (SCIViii), suggest that such a purpose may be necessary. Service to God is not merely an accidental part of his program (Savoyard Vicar, SCIVviii).

It has also been a crucial part of many of the successful attempts at community or self-rule of the type he describes. The Quakers, for instance, who make communal decisions by unanimous consensus, find that the system works only because of a shared purpose in worship, far greater than the issues at hand. Where they have sought to export the system it has worked only in movement groups with a very powerful common purpose.

Faith in God, unfortunately, is, for those of us who have not received personal revelations, one of those aspects of a Rousseauian common culture that are extremely hard to regain once lost (though despite his initial categorical claim, he offers at least

the example of the Romans as an enslaved people who shook off their chains). And for me, and perhaps many of us, service to God is no longer an option for a core of a common goal.

But the answer must nonetheless lie this way. We must have a cause beyond ourselves as individuals to escape from the triviality and isolation to which liberal man is doomed. Rousseau uses that cause to create a community--but to maintain that community by anything other than fossilization the cause must be beyond ourselves, even as a group. If service to God is not the answer, service to man, not as they are but as they should be, service to an ideal of a better world for better men to live a better life, must be. In the words of Moshe Harif, describing his own secular community's attempts to maintain its communality, "The kibbutz must remain a movement, and not merely a way of life." And the problem is, what is to be the nature of this ideal of a better life. The social welfare ideal of ever more primary goods for all cannot inspire men to go beyond themselves, for it is profoundly based on men who--if not the idealist, at least the recipient--pursue nothing more than themselves. Rousseau's particularism can be a goal only for those fortunate enough to inherit it, as can the religious solution of particular worship of God. For the rest of us, an ideal of political freedom and social justice for all men and not merely ourselves must be the basis on which we found the community that perhaps in a small way can put that ideal into practice. But how we are to agree on an ideal; how we are to avoid the arbitrary decisions which create separated particular communities free in themselves, but at the cost of eternal hostility to all who are different, that I do not see.

2. Toleration: an appendix

I said that I am not prepared to offer a full theory of the ideal; yet I have suggested, at least, that a state ought to be based on a consensus, and that the consensus must be made, not just discovered. Rousseau offered us the backwards looking consensus of a tradition: If some great man would only appear to give us laws and mores that would lead us to take our communal existence to be our primary private interest, then all we would have to do would be to defend ourselves, our society, and our legislation against the pressures of assimilation to the privatism of our neighbors. But since anything which takes men's minds off the fatherland, anything which might give them competing interests and interfere with the unanimity of the general will (S.C. IIvii), is a threat to an always precarious liberty, he demands a socially composed conformity that almost seems to render the consent given to the law meaningless.

Yes, liberty is a harsh task master; yes, it is republics and not slavish peoples that must guard their morals--but how can a totally closed society be taken as free?

Rousseau wishes to ensure that no citizen ever wishes to do anything that might cause a genuine split in the community: for the general will can only make men free so long as it is general, so long as a common interest does exist. In the name of preserving this unity, itself centered around preservation of ancient laws (e.g. dedication to IID.), he makes men narrow and limited--he takes Sparta, not Athens, as his ideal. -A tradition requires constant maintenance, for it flies in the face of man's capacity for self-perfection.

I want, in conclusion, to suggest that the measures Rousseau takes seem too successful. To protect men from the difficult task of choosing to be free, he makes them incapable of doing otherwise--his virtuous republicans seem more like xenophobic philistines. For freedom to have the "uplifting" effects he seeks, perhaps 'proud liberty' (po 29) must be borne by men not quite so deprived of their own forces(SCIIvii). Men must consent, perhaps, not simply out of love for the laws, but with respect as well. They must know the alternatives in a more meaningful sense than Rousseau's citizens can--and this means dissent must be allowed. More than that, a free society must expect a certain failure rate: even after its best efforts, some of its children should choose to leave. The frailty of human reason is such that only thus can we be sure it is being exercised.

Indeed, I would argue, this function of debate as an essential part of the process of political consent is the foundation of our right to free speech. Rawls saw it as a liberty--a right of individual men against the society--and as primary good. No man would agree to lessening his options by limiting his freedom of speech. But we see, in Rousseau's Letter to D'Alembert, in the belief, probably correct, in the corrupting influence of western culture in China, Iran, and Saudi Arabia, in the ultimate success of the enlightenment in overthrowing the ancien Regime, that this is nonsense. Free speech closes off all those options, attractive or not, that require a closed society. It is not a universal means, appropriate whatever our ends.

J.S. Mill offered a different but no sounder approach--he saw free debate as a tool towards truth and "the progress of the race," but he didn't notice that we value free speech precisely in those areas where we seem to make no progress at all towards reaching the truth. Science, perhaps his paradigm, neither leads inevitably to a better world (A bombs), nor does it hold the sacred position of the arts: we feel that some scientific knowledge may do more harm than good (DNA recombination).

On the other hand, we do protect much artistic activity that clearly does do harm (violent movies and T.V.) Mill's utilitarianism would seem to lead to opposite results. Rawls's argument is simply wrong. Rather, we value these freedoms because, with Rousseau, we accept consent as an essential part of freedom; contra him, we see

the exposure to alternatives as an essential part of that consent. Pornography has no socially redeeming value in Mill's senses, but it offers a decadent alternative that must be rejected for our virtue to be meaningful.

Rousseau's society bases its consensus on inherited laws, and thus it is forced to avoid all "corrupting influences"--including, perhaps, much substantive debate. Indeed Rousseau suggests, in D'Alembert and in the chapter on the civic censor (SCIVvii), that serious debate is to be avoided at all costs, preempted if possible, in order to maintain the sanctity of ancestral virtue.

Perhaps, with a forward looking consensus on a social ideal, one perhaps at some level arbitrary, but not so clearly so as the customs of Rousseau's Poland or Cycurgus' Sparta, debate will be less threatening, a reasoned and not just inherited consent, more possible. Unanimity could be less a function of the legislator's skill in ensuring that "each citizen is nothing and can do nothing except with all the others"(SCIIvii), less a function of lack of choice, and more a function of a communal vision and a moral choice.

The hardest question, of course, remains: Can we offer a vision to inspire a community of this sort, a vision sufficiently non-arbitrary so as to spare us from Rousseau's separatism, but a vision strong enough to create the bonds of community he seeks, a vision that can make us friends without making everyone else an enemy?

It must be in some way an ideal achievable or livable in our own lives, to have the sustaining power necessary to create the unity of purpose I seek. But if we live it, surely the ideal will degenerate into yet another particular and separate tradition; and if we achieve it, our purpose is gone and the movement/community dissolves. We need, in the end, a common goal that can provide the unity of Rousseau's polis without its narrowness, the universality of the liberal state without its pointlessness; a goal towards which we may make real progress, but which cannot be achieved--at least not without, in the manner of Marxist or religious messianism, bringing history to a close.