

ownership. Since every owner is regarded as a trustee of the public property, his rights are respected by every other member of the state, and protected with its collective force against foreigners; men have, by a surrender which is advantageous to the public and still more to themselves, acquired, so to speak, all that they have given up — a paradox which is easily explained by the distinction between the rights which the sovereign has and which the owner has over the same property, as will be seen later.

It may also happen that men begin to unite before they possess anything, and spreading over a territory large enough for them all, proceed to enjoy it in common, or, alternatively, divide it among themselves either equally or in shares determined by the sovereign. In whatever manner this acquisition is made, the right of any individual over his own estate is always subordinate to the right of the community over everything; for without this there would be neither strength in the social bond nor effective force in the exercise of sovereignty. I shall end this chapter — and Book I — with an observation which might serve as a basis for the whole social system: namely, that the social pact, far from destroying natural equality, substitutes, on the contrary, a moral and lawful equality for whatever physical inequality that nature may have imposed on mankind; so that however unequal in strength and intelligence, men become equal by covenant and by right.\*

\* Under a bad government, this equality is only an appearance and an illusion; it serves only to keep the poor in their wretchedness and sustain the rich in their usurpation. In truth, laws are always useful to those with possessions and harmful to those who have nothing; from which it follows that the social state is advantageous to men only when all possess something and none has too much.

## BOOK II

## CHAPTER I

*That Sovereignty is Inalienable*

THE first and most important consequence of the principles so far established is that the general will alone can direct the forces of the state in accordance with that end which the state has been established to achieve — the common good; for if conflict between private interests has made the setting up of civil societies necessary, harmony between those same interests has made it possible. It is what is common to those different interests which yields the social bond; if there were no point on which separate interests coincided, then society could not conceivably exist. And it is precisely on the basis of this common interest that society must be governed.

My argument, then, is that sovereignty, being nothing other than the exercise of the general will, can never be alienated; and that the sovereign, which is simply a collective being, cannot be represented by anyone but itself — power may be delegated, but the will cannot be.

For indeed while it is not impossible for a private will to coincide with the general will on some point or other, it is impossible for such a coincidence to be regular and enduring; for the private will inclines by its very nature towards partiality, and the general will towards equality. It is even more inconceivable that there could be a guarantee of harmony between the private and the general will, even if it were to continue always, for such lasting harmony would be the result of chance and not of design. The sovereign might say: ‘What I want at present is precisely what this man wants, or at least what he says he wants’; but no sovereign could say:

'What this man is going to want tomorrow I too shall want', for it is absurd that anyone should wish to bind himself for the future, and it is a contradiction in terms to say that any human being should wish to consent to something that is the reverse of his own good. If a people promises simply and solely to obey, it dissolves itself by that very pledge; it ceases to be a people; for once there is a master, there is no longer a sovereign, and the body politic is therefore annihilated. This is not to say that the commands of leaders may not pass for the general will if the sovereign, while free to oppose them, does not do so. In such a case the silence of the people permits the assumption that the people consents. This will be explained more fully in a later chapter.

## CHAPTER 2

*That Sovereignty is Indivisible*

Just as sovereignty is inalienable, it is for the same reason indivisible; for either the will is general\* or it is not; either it is the will of the body of the people, or merely that of a part. In the first case, a declaration of will is an act of sovereignty and constitutes law; in the second case, it is only a declaration of a particular will or an act of administration, it is at best a mere decree.

Nevertheless, our political theorists, unable to divide the principle of sovereignty, divide it in its purpose; they divide it into power and will, divide it, that is, into executive and legislative, into the rights of levying taxation, administering justice and making war, into domestic jurisdiction and the power to deal with foreign governments. Sometimes our theorists confuse all the parts and sometimes they separate

\* For the will to be general, it does not always have to be unanimous; but all the votes must be counted. Any formal exclusion destroys its universality.

them. They make the sovereign a creature of fantasy, a patch-work of separate pieces, rather as if they were to construct a man of several bodies — one with eyes, one with legs, the other with feet and nothing else. It is said that Japanese mountebanks can cut up a child under the eyes of spectators, throw the different parts into the air, and then make the child come down, alive and all of a piece. This is more or less the trick that our political theorists perform — after dismembering the social body with a sleight of hand worthy of the fairground, they put the pieces together again anyhow.

The mistake comes from having no precise notion of what sovereign authority is, and from taking mere manifestations of authority for parts of the authority itself. For instance, the acts of declaring war and making peace have been regarded as acts of sovereignty, which they are not; for neither of these acts constitutes a *law*, but only an application of law, a particular act which determines how the law shall be interpreted — and all this will be obvious as soon as I have defined the idea which attaches to the word 'law'.

If we were to scrutinize in the same way the other supposed divisions of sovereignty, we should find that whenever we thought that sovereignty was divided, we had been mistaken, for the rights which are taken to be part of that sovereignty prove in fact to be subordinate to it, and presuppose the existence of a supreme will which they merely serve to put into effect.

This want of precision has obfuscated immeasurably the conclusions of our legal theorists when they have come to apply their own principles to determine the respective rights of kings and of peoples. Every reader of the third and fourth chapters of the first book of Grotius can see how that learned man and his translator, Barbeyrac, are trapped in their own sophisms, frightened of saying either too much or alternatively too little (according to their prejudices) and so

offending the interests they wish to flatter. Grotius, a refugee in France, discontented with his own country and out to pay court to Louis XIII, to whom his book is dedicated, spares no pains to rob peoples of all their rights and to invest those rights, by every conceivable artifice, in kings. This would have been very much to the taste of Barbeyrac, who dedicated his translation of Grotius to the King of England, George I. But unfortunately the expulsion of James II – which Barbeyrac calls an ‘abdication’ – obliged him to speak with a marked reserve, to hesitate and equivocate, so as not to suggest that William III was a usurper. If these two writers had adopted sound principles, all their difficulties would have vanished, and their arguments would have been logical; but then they would, alas for them, have told the truth and paid court only to the people. The truth brings no man a fortune; and it is not the people who hand out embassies, professorships and pensions.<sup>4</sup>

the pluses and minuses which cancel each other out, the balance which remains is the general will.\*

From the deliberations of a people properly informed, and provided its members do not have any communication among themselves, the great number of small differences will always produce a general will and the decision will always be good. But if groups, sectional associations are formed at the expense of the larger association, the will of each of these groups will become general in relation to its own members and private in relation to the state; we might then say that there are no longer as many votes as there are men but only as many votes as there are groups. The differences become less numerous and yield a result less general. Finally, when one of these groups becomes so large that it can outweigh the rest, the result is no longer the sum of many small differences, but one great divisive difference; then there ceases to be a general will, and the opinion which prevails is no more than a private opinion.

Thus if the general will is to be clearly expressed, it is imperative that there should be no sectional associations in the state, and that every citizen should make up his own mind for himself † – such was the unique and sublime invention of the great Lycurgus. But if there are sectional associations, it is wise to multiply their number and to prevent inequality

\* ‘Every interest,’ says the Marquis d’Argenson, ‘has its different principles. Harmony between two interests is created by opposition to that of a third.’ He might have added that the harmony of all interests is created by opposition to those of each. If there were no different interests, we should hardly be conscious of a common interest, as there would be no resistance to it; everything would run easily of its own accord, and politics would cease to be an art.  
 † ‘Divisions,’ says Machiavelli, ‘sometimes injure and sometimes aid a republic. The injury is done by cabals and factions; the service is rendered by a party which maintains itself without cabals and factions. Since, therefore, it is impossible for the founder of a republic to provide against enemies, he must make the best provision he can against factions.’ *History of Florence*, Book viii. [Original in Italian. Trans.]

### CHAPTER 3 *Whether the General Will Can Err*

It follows from what I have argued that the general will is always rightful and always tends to the public good; but it does not follow that the deliberations of the people are always equally right. We always want what is advantageous to us but we do not always discern it. The people is never corrupted, but it is often misled; and only then does it seem to will what is bad.

There is often a great difference between the will of all [what all individuals want] and the general will; the general will studies only the common interest while the will of all studies private interest, and is indeed no more than the sum of individual desires. But if we take away from these same wills,

among them, as Solon, Numa and Servius did. These are the only precautions which can ensure that the general will is always enlightened and the people protected from error.

## CHAPTER 4

*The Limits of Sovereign Power*

If the state, or the nation, is nothing other than an artificial person the life of which consists in the union of its members and if the most important of its cares is its preservation, it needs to have a universal and compelling power to move and dispose of each part in whatever manner is beneficial to the whole. Just as nature gives each man an absolute power over all his own limbs, the social pact gives the body politic an absolute power over all its members; and it is this same power which, directed by the general will, bears, as I have said, the name of sovereignty.

However, we have to consider beside the public person those private persons who compose it, and whose life and liberty are naturally independent of it. Hence we have to distinguish clearly the respective rights of the citizen and of the sovereign,\* and distinguish those duties which the citizens owe as subjects from the natural rights which they ought to enjoy as men.

We have agreed that each man alienates by the social pact only that part of his power, his goods and his liberty which is the concern of the community; but it must also be admitted that the sovereign alone is judge of what is of such concern. Whatever services the citizen can render the state, he owes

\* Please, attentive reader, do not hasten to accuse me of contradiction.<sup>1</sup>  
I cannot avoid a contradiction of words, because of the poverty of language;  
but wait.

whenever the sovereign demands them; but the sovereign, on its side, may not impose on the subjects any burden which is not necessary to the community; the sovereign cannot, indeed, even will such a thing, since according to the law of reason no less than to the law of nature nothing is without a cause.

The commitments which bind us to the social body are obligatory only because they are mutual; and their nature is such that in fulfilling them a man cannot work for others without at the same time working for himself. How should it be that the general will is always rightful and that all men constantly wish the happiness of each but for the fact that there is no one who does not take that word 'each' to pertain to himself and in voting for all think of himself? This proves that the equality of rights and the notion of justice which it produces derive from the predilection which each man has for himself and hence from human nature as such. It also proves that the general will, to be truly v. nat it is, must be general in its purpose as well as in its nature; that it should spring from all for it to apply to all; and that it loses its natural rectitude when it is directed towards any particular and circumscribed object — for in judging what is foreign to us, we have no sound principle of equity to guide us.

For, indeed, whenever we are dealing with a particular fact or right, on a matter which has not been settled by an earlier and general agreement, that question becomes contentious. It is a conflict in which private interests are ranged on one side and the public interest on the other; and I can see neither the law which is to be followed nor the judge who is to arbitrate. It would be absurd in such a dispute to rely on an express decision of the general will; for a decision could only be a conclusion in favour of one of the contending parties, and it would be regarded by the other party as an alien, partial will, a will liable in such circumstances to be unjust and so to fall into error. So we see that even as a private will cannot represent

the general will, so too the general will changes its nature if it seeks to deal with an individual case; it cannot as a *general will* give a ruling concerning any one man or any one fact. When the people of Athens, for example, appointed or dismissed its leaders, awarding honours to one, inflicting penalties on another, and by a multitude of particular decrees indiscriminately exercised all the functions of an administration, then the people of Athens no longer had what is correctly understood as a general will and ceased to act as sovereign and acted instead as magistrate. All this may seem at variance with commonly accepted notions; but I must be given time to expound my own.

It should nevertheless be clear from what I have so far said that the general will derives its generality less from the number of voices than from the common interest which unites them — for the general will is an institution in which each necessarily submits himself to the same conditions which he imposes on others; this admirable harmony of interest and justice gives to social deliberations a quality of equity which disappears at once from the discussion of any individual dispute precisely because in these latter cases there is no common interest to unite and identify the decision of the judge with that of the contending parties.

Whichever way we look at it, we always return to the same conclusion: namely that the social pact establishes equality among the citizens in that they all pledge themselves under the same conditions and must all enjoy the same rights. Hence by the nature of the compact, every act of sovereignty, that is, every authentic act of the general will, binds or favours all the citizens equally, so that the sovereign recognizes only the whole body of the nation and makes no distinction between any of the members who compose it. What then is correctly to be called an act of sovereignty? It is not a covenant between

a superior and an inferior, but a covenant of the body with each of its members. It is a legitimate covenant, because its basis is the social contract; an equitable one, because it is common to all; a useful one, because it can have no end but the common good; and it is a durable covenant because it is guaranteed by the armed forces and the supreme power. So long as the subjects submit to such covenants alone, they obey nobody but their own will; and to ask how far the respective rights of the sovereign and the citizen extend is to ask how far these two can pledge themselves together, each to all and all to each.

From this it is clear that the sovereign power, wholly absolute, wholly sacred, wholly inviolable as it is, does not go beyond and cannot go beyond the limits of the general covenants; and thus that every man can do what he pleases with such goods and such freedom as is left to him by these covenants; and from this it follows that the sovereign has never any right to impose greater burdens on one subject than on another, for whenever that happens the matter becomes private and is outside the sovereign's competence.

Granted these distinctions, it becomes manifestly false to assert that individuals make any real renunciation by the social contract; indeed, as a result of the contract they find themselves in a situation preferable in real terms to that which prevailed before; instead of an alienation, they have profitably exchanged an uncertain and precarious life for a better and more secure one; they have exchanged natural independence for freedom, the power to injure others for the enjoyment of their own security; they have exchanged their own strength which others might overcome for a right which the social union makes invincible. Their very lives, which they have pledged to the state, are always protected by it; and even when they risk their lives to defend the state, what more are they

doing but giving back what they have received from the state? What are they doing that they would not do more often, and at greater peril, in the state of nature, where every man is inevitably at war and at the risk of his life, defends whatever serves him to maintain life? Assuredly, all must now fight in case of need for their country, but at least no one has any longer to fight for himself. And is there not something to be gained by running, for the sake of the guarantee of safety, a few of those risks we should each have to face alone if we were deprived of that assurance?

## CHAPTER 5

*The Right of Life and Death*

It will be asked how individuals, who have no right whatever to take their own lives, can transfer to the sovereign a right they do not possess. This question looks difficult to answer only because it is badly formulated. Every man has the right to risk his own life in order to preserve it. Has it ever been said that a man who leaps out of a window to escape from a fire is guilty of suicide? Would the same crime be imputed to a man who perishes in a storm on the grounds that he knew of the danger when he embarked?

The purpose of the social treaty is the preservation of the contracting parties. Whoever wills the end wills also the means, and certain risks, even certain casualties are inseparable from these means. Whoever wishes to preserve his own life at the expense of others must give his life for them when it is necessary. Now, as citizen, no man is judge any longer of the danger to which the law requires him to expose himself, and when the prince says to him: 'It is expedient for the state that you should die', then he should die, because it is only on such terms that he has lived in security as long as he has and also

because his life is no longer the bounty of nature but a gift he has received conditionally from the state.

The death-penalty inflicted on criminals may be seen in much the same way: it is in order to avoid becoming the victim of a murderer that one consents to die if one becomes a murderer oneself. Far from taking one's life under the social treaty, one thinks only of assuring it, and we shall hardly suppose that any of the contracting parties contemplates being hanged.

Moreover, since every wrongdoer attacks the society's law, he becomes by his deed a rebel and a traitor to the nation; by violating its law, he ceases to be a member of it; indeed, he makes war against it. And in this case, the preservation of the state is incompatible with *his* preservation; one or the other must perish; and when the guilty man is put to death, it is less as a citizen than as an enemy. Trial and judgement are the proof and declaration that he has broken the social treaty, and is in consequence no longer a member of the state. And since he has accepted such membership, if only by his residence, he must either be banished into exile as a violator of the social pact or be put to death as a public enemy: such an enemy is not a fictitious person, but a man, and therefore the right of war makes it legitimate to kill him.

But, it will be said, the condemnation of a criminal is an individual act. Agreed; and it follows that such duties do not pertain to the sovereign; condemnation of criminals is a right the sovereign can confer but not exercise himself. All my ideas hold together, but I cannot elaborate them all at once.

In any case, frequent punishments are a sign of weakness or slackness in the government. There is no man so bad that he cannot be made good for something. No man should be put to death, even as an example, if he can be left to live without danger to society.

As for the right of pardon, or of exempting a guilty man from

the penalty prescribed by law and imposed by a judge, this belongs only to that entity which is superior to both the judge and the law, namely the sovereign; but even this right is not entirely clear and it will be exercised very seldom. In a well-governed state few are punished, not because there are many pardons but because there are few criminals. In a decaying state the very multiplicity of crimes assures impunity. Under the Roman Republic neither the senate nor the consuls ever attempted to pardon criminals; nor did the people do so, though they sometimes revoked their own sentences. Frequent pardons signalize that crimes will soon need no pardon; and anyone can see what that must lead to. However, I can feel my heart whispering and restraining my pen; let us leave the discussion of these questions to the just man who has never erred and has therefore had no need of pardons.

### CHAPTER 6 On Law

WE have given life and existence to the body politic by the social pact; now it is a matter of giving it movement and will by legislation. For the original act by which the body politic is formed and united does not determine what it shall do to preserve itself.

What is good and in conformity with order is such by the very nature of things and independently of human agreements. All justice comes from God, who alone is its source; and if only we knew how to receive it from that exalted fountain, we should need neither governments nor laws. There is undoubtedly a universal justice which springs from reason alone, but if that justice is to be acknowledged as such it must be reciprocal. Humanly speaking, the laws of natural justice, lacking any natural sanction, are unavailing among

men. In fact, such laws merely benefit the wicked and injure the just, since the just respect them while others do not do so in return. So there must be covenants and positive laws to unite rights with duties and to direct justice to its object. In the state of nature, where everything is common, I owe nothing to those to whom I have promised nothing, and I recognize as belonging to others only those things that are of no use to me. But this is no longer the case in civil society, where all rights are determined by law.

Yet what, in the last analysis, is law? If we simply try to define it in terms of metaphysical ideas, we shall go on talking without reaching any understanding; and when we have said what natural law is, we shall still not know what the law of the state is.

I have already said that the general will cannot relate to any particular object. For such a particular object is either within the state or outside the state. If it is outside, then a will which is alien to it is not general with regard to it: if the object is within the state, it forms a part of the state. Thus there comes into being a relationship between the whole and the part which involves two separate entities, the part being one, and the whole, less that particular part, being the other. But a whole less a particular part is no longer a whole; and so as long as this relationship exists there is no whole but only two unequal parts, from which it follows that the will of the one is no longer general with respect to the other.

But when the people as a whole makes rules for the people as a whole, it is dealing only with itself; and if any relationship emerges, it is between the entire body seen from one perspective and the same entire body seen from another, without any division whatever. Here the matter concerning which a rule is made is as general as the will which makes it. And *this* is the kind of act which I call a law.

When I say that the province of the law is always general, I

mean that the law considers all subjects collectively and all actions in the abstract; it does not consider any individual man or any specific action. Thus the law may well lay down that there shall be privileges, but it may not nominate the persons who shall have those privileges; the law may establish several classes of citizen, and even specify the qualifications which shall give access to those several classes, but it may not say that this man or that shall be admitted; the law may set up a royal government and an hereditary succession, but it may not elect a king or choose a royal family — in a word, no function which deals with the individual falls within the province of the legislative power.

On this analysis, it is immediately clear that we can no longer ask *who* is to make laws, because laws are acts of the general will; no longer ask if the prince is above the law, because he is a part of the state; no longer ask if the law can be unjust, because no one is unjust to himself; and no longer ask how we can be both free and subject to laws, for the laws are but registers of what we ourselves desire.

It is also clear that since the law unites universality of will with universality of the field of legislation, anything that any man, no matter who, commands on his own authority is not a law; even what the sovereign itself commands with respect to a particular object is not a law but a decree, not an act of sovereignty but an act of government.

Any state which is ruled by law I call a 'republic', whatever the form of its constitution; for then, and then alone, does the public interest govern and then alone is the 'public thing' — the *res publica* — a reality. All legitimate government is 'republican';\* I shall explain later what government is.

\* By this word I understand not only an aristocracy or democracy, but generally any government directed by the general will, which is law. If it is to be legitimate, the government must not be united with the sovereign, but must serve it as its ministry. So even a monarchy can be a republic. This will be clarified in Book III.

Laws are really nothing other than the conditions on which civil society exists. A people, since it is subject to laws, ought to be the author of them. The right of laying down the rules of society belongs only to those who form the society; but how can they exercise it? Is it to be by common agreement, by a sudden inspiration? Has the body politic an organ to declare its will? Who is to give it the foresight necessary to formulate enactments and proclaim them in advance, and how is it to announce them in the hour of need? How can a blind multitude, which often does not know what it wants, because it seldom knows what is good for it, undertake by itself an enterprise as vast and difficult as a system of legislation? By themselves the people always will what is good, but by themselves they do not always discern it. The general will is always rightful, but the judgement which guides it is not always enlightened. It must be brought to see things as they are, and sometimes as they should be seen; it must be shown the good path which it is seeking, and secured against seduction by the desires of individuals; it must be given a sense of situation and season, so as to weigh immediate and tangible advantages against distant and hidden evils. Individuals see the good and reject it; the public desires the good but does not see it. Both equally need guidance. Individuals must be obliged to subordinate their will to their reason; the public must be taught to recognize what it desires. Such public enlightenment would produce a union of understanding and will in the social body, bring the parts into perfect harmony and lift the whole to its fullest strength. Hence the necessity of a lawgiver.

## CHAPTER 7

*The Lawgiver*

To discover the rules of society that are best suited to nations, there would need to exist a superior intelligence, who could understand the passions of men without feeling any of them, who had no affinity with our nature but knew it to the full, whose happiness was independent of ours, but who would nevertheless make our happiness his concern, who would be content to wait in the fullness of time for a distant glory, and to labour in one age to enjoy the fruits in another.\* Gods would be needed to give men laws.

The same reasoning which Caligula used empirically, Plato used philosophically in his dialogue *The Statesman* to reach a definition of civil or kingly man. But if it is true that great princes seldom appear, how much more rare must a great lawgiver be? A prince has only to follow a model which the lawgiver provides. The lawgiver is the engineer who invents the machine; the prince is merely the mechanic who sets it up and operates it. Montesquieu says that at the birth of political societies, it is the leaders of the republic who shape the institutions but that afterwards it is the institutions which shape the leaders of the republic.

Whoever ventures on the enterprise of setting up a people must be ready, shall we say, to change human nature, to transform each individual, who by himself is entirely complete and solitary, into a part of a much greater whole, from which that same individual will then receive, in a sense, his life and his being. The founder of nations must weaken the structure

of man in order to fortify it, to replace the physical and independent existence we have all received from nature with a moral and communal existence. In a word each man must be stripped of his own powers, and given powers which are external to him, and which he cannot use without the help of others. The nearer men's natural powers are to extinction or annihilation, and the stronger and more lasting their acquired powers, the stronger and more perfect is the social institution. So much so, that if each citizen can do nothing whatever except through cooperation with others, and if the acquired power of the whole is equal to, or greater than, the sum of the natural powers of each of the individuals, then we can say that law-making has reached the highest point of perfection.

The lawgiver is, in every respect, an extraordinary man in the state. Extraordinary not only because of his genius, but equally because of his office, which is neither that of the government nor that of the sovereign. This office which gives the republic its constitution has no place in that constitution. It is a special and superior function which has nothing to do with empire over men, for just as he who has command over men must not have command over laws, neither must he who has command over laws have command over men; otherwise, the laws, being offspring of the legislator's passions, would often merely perpetuate his injustices, and partial judgements would inevitably vitiate the sanctity of his works.

When Lycurgus gave laws to his country, he began by abdicating his monarchical functions. It was the habit of most Greek cities to confer on foreigners the task of framing their laws. The modern republics of Italy have often copied this custom; the republic of Geneva did so, and found that it worked well.\* Rome in its happiest age saw all the crimes of

\* Those who think of Calvin merely as a theologian do not realize the extent of his genius. The codification of our wise edicts, in which he had a large share, does him as much credit as his *Institutes*. Whatever revolutions may take

the Tyranny revived within its borders, and came near to perishing simply because it had put both the legislative authority and the sovereign power in the same hands.

And yet even the decemvirs themselves never arrogated the right to make any law on their own authority alone. 'Nothing we propose to you,' they said to the people, 'can become law without your consent. Romans, be yourselves the authors of the laws which are to ensure your happiness.'

Thus the man who frames the laws has not nor ought to have any legislative right, and the people itself cannot, even should it wish, strip itself of this untransferable right; for, according to the fundamental compact, it is only the general will which binds individuals and there can be no assurance that an individual will is in conformity with the general will until it has submitted to the free suffrage of the people - I have said this already, but it is worth repeating.

And so we find in the work of the lawgiver two things which look contradictory - a task which is beyond human powers and a non-existent authority for its execution.

There is another difficulty which deserves mention. Those sages who insist on speaking in their own language to the vulgar instead of in the vulgar language will not be understood. For there are thousands of ideas which cannot be translated into the popular idiom. Perspectives which are general and goals remote are alike beyond the range of the common herd; it is difficult for the individual, who has no taste for any scheme of government but that which serves his private interest, to appreciate the advantages to be derived from the lasting austerities which good laws impose. For a newly formed people to understand wise principles of politics and to follow the basic rules of statecraft, the effect would

have to become the cause; the social spirit which must be the product of social institutions would have to preside over the setting up of those institutions; men would have to have already become before the advent of law that which they become as a result of law. And as the lawgiver can for these reasons employ neither force nor argument, he must have recourse to an authority of another order, one which can compel without violence and persuade without convincing.

It is this which has obliged the founders of nations throughout history to appeal to divine intervention and to attribute their own wisdom to the Gods; for then the people, feeling subject to the laws of the state as they are to those of nature, and detecting the same hand in the creation of both man and the nation, obey freely and bear with docility the yoke of the public welfare.

This sublime reasoning, which soars above the heads of the common people, is used by the lawgiver when he puts his own decisions into the mouth of the immortals, thus compelling by divine authority persons who cannot be moved by human prudence. \* But it is not for every man to make the Gods speak, or to gain credence if he pretends to be an interpreter of the divine word. The lawgiver's great soul is the true miracle which must vindicate his mission. Any man can carve tablets of stone, or bribe an oracle, claim a secret intercourse with some divinity, train a bird to whisper in his ear, or discover some other vulgar means of imposing himself on the people. A man who can do such things may conceivably bring together a company of fools, but he will never establish an empire, and his bizarre creation will perish with him. Worthless tricks may set up transitory bonds, but only wisdom makes lasting ones. The Law of

\* 'The truth is,' writes Machiavelli, 'that there has never been in any country an extraordinary legislator who has not invoked the deity; for otherwise his laws would not have been accepted. A wise man knows many useful truths which cannot be demonstrated, in such a way as to convince other people.' (*Discourses on Livy*, Book V, Chapter xi.) [In Italian in original. *Trans.*]

place in our church, the memory of that great man will not cease to be honoured among the adepts of that religion while the love of country and of liberty still lives among us.

the Hebrews, which still lives, and that of the child of Ishmael which has ruled half the world for ten centuries, still proclaim today the greatness of the men who first enunciated them; and even though proud philosophy and the blind spirit of faction may regard them as nothing but lucky impostors, the true statesman sees, and admires in their institutions, the hand of that great and powerful genius which lies behind all lasting things.

Even so, we must not conclude from this, with Warburton, that religion and politics have the same purpose among men; it is simply that at the birth of nations, the one serves as the instrument of the other.

#### CHAPTER 8

##### *The People*

Just as an architect who puts up a large building first surveys and tests the ground to see if it can bear the weight, so the wise lawgiver begins not by laying down laws good in themselves, but by finding out whether the people for whom the laws are intended is able to support them. Such reasoning led Plato to refuse to provide laws for the Arcadians or the Cyreneans, because he well knew that those peoples, being rich, would not tolerate equality. Crete, too, provides an example of good laws and bad men, for the people Milos tried to discipline were dominated by their vices.

The world has seen a thousand splendid nations that could not have accepted good laws, and even those that might have accepted them could have done so only for short periods of their long history. Nations,\* like men, are teachable only in their youth; with age they become incorrigible. Once customs are established and prejudices rooted, reform is a dangerous

\* [Altered in Edition of 1782 to 'Most nations . . .' Trans.]

and fruitless enterprise; a people cannot bear to see its evils touched, even if only to be eradicated; it is like a stupid, pusillanimous invalid who trembles at the sight of a physician. I am not denying that just as certain afflictions unhinge men's minds and banish their memory of the past, so there are certain violent epochs or revolutions in states which have the same effect on peoples that personal crises may have on individuals; only instead of forgetting the past, they look back on it in horror, and then the state, after being consumed by civil war, is born again, so to speak, from its own ashes, and leaps from the arms of death to regain the vigour of youth. Such was the experience of Sparta at the time of Lycurgus, of Rome after the Tarquins, and, in the modern world, of Holland and Switzerland after the expulsion of the tyrants.

But such events are unusual; they are exceptional cases to be explained by the special constitution of the states concerned. It could not even happen twice to the same people; because although a people can make itself free while it is still uncivilized, it cannot do so when its civil energies are worn out. Disturbances may then destroy a civil society without a revolution being able to restore it, so that as soon as the chains are broken, the state falls apart and exists no longer; then what is needed is a master, not a liberator. Free peoples, remember this maxim: liberty can be gained, but never regained.

For nations, as for men, there is a time of maturity which they must reach before they are made subject to law; but the maturity of a people is not always easily recognized; and something done too soon will prove abortive.\* Peoples differ; one is amenable to discipline from the beginning; another is not, even after ten centuries. The Russians will never be

\* [In the Edition of 1782, this sentence is revised as follows: 'Youth is not childhood. For nations, as for men, there is a time of youth or, if you prefer, of maturity which they must reach before they are made subject to law . . .' Trans.]

effectively governed because the attempt to govern them was made too early. Peter the Great had the talent of a copyist; he had no true genius, which is creative and makes everything from nothing. Some of the things he did were sound; most were misguided. He saw that his people was uncivilized, but he did not see that it was unready for government; he sought to civilize his subjects when he ought rather to have drilled them. He tried to turn them into Germans or Englishmen instead of making them Russians. He urged his subjects to be what they were not and so prevented them from becoming what they might have been. This is just how a French tutor trains his pupil to shine for a brief moment in his childhood and then grow up into a nonentity. The Russian Empire would like to subjugate Europe and will find itself subjugated. The Tartars, its subjects or neighbours, will become its masters — and ours. Such a revolution seems to me inevitable. All the kings of Europe are labouring in concert to hasten its coming.

## CHAPTER 9

*The People: Continued*

JUST as nature has set bounds to the stature of a well-formed man, outside which he is either a giant or a dwarf, so, in what concerns the best constitution for a state, there are limits to the size it can have if it is to be neither too large to be well-governed nor too small to maintain itself. In the body politic there is a maximum of strength which must not be exceeded, and which is often fallen short of as a result of expansion. The more the social bond is stretched, the slacker it becomes; and in general a small state is relatively stronger for its size than a large one.

A thousand considerations bear witness to the truth of this. First, administration becomes more difficult over great dis-

tances, just as a weight becomes heavier at the end of a long lever. Government becomes more burdensome as its area is enlarged, for each town has its own administration, which the people pays for, and each region has its administration, which the people also pays for, then each province has one, and so on up to the greater governments, the satrapies, the viceroyalties, each costing more the higher they rise and always paid for by the unfortunate populace; and then on top of all comes the supreme administration, bearing down on everyone. Such a great number of charges added to charges continually exhausts the subjects; and far from being better governed by this hierarchy of orders, they are much worse off than they would be if they had only one administration over them. As it is, there is hardly any public revenue available for emergencies, and when the state is faced with such a need, it trembles on the verge of ruin.

Nor is this all. Not only is the government less vigorous and swift in enforcing respect for the law, in preventing nuisances, correcting abuses and thwarting any seditious movements that may arise in distant quarters, but at the same time the people has less affection for governors whom it never sees, for a homeland that seems as vast as the world, and for fellow-citizens who are mostly strangers. The same laws will not suit so many various provinces, which, with their different customs and contrasting climates, cannot tolerate the same form of government. Having different laws only creates misunderstanding and confusion among peoples who live under the same governors and are in continuous communication with one another; they intermingle and intermarry, but if different sets of rules prevail, they will not even know if what they call their patrimony is really their own. Talents are hidden, virtues are ignored and vices remain unpunished when such a multitude of men, who do not know one another, is brought together in the same place by one single seat of

supreme administration. The governors have too much to do to see everything for themselves; their clerks rule the state. And the measures needed to maintain a general authority, which so many scattered officials try to evade or exploit, absorb all political attention, so none is left to study the people's happiness, and hardly any left for its defence in case of need. This body which is too big for its constitution collapses and perishes, crushed by its own weight.

On the other hand, a state if it is to have strength must give itself some solid foundation, so that it can resist the shocks that it is bound to experience and sustain the exertions that it must make to preserve itself; for all peoples generate a kind of centrifugal force, by which they brush continuously against one another, and they all attempt to expand at the expense of their neighbours, like the vortices of Descartes. Thus the weak are always in danger of being swallowed up, and indeed no people can well preserve itself except by achieving a kind of equilibrium with all the others which makes the pressure everywhere the same for all.

This shows us that there are reasons for expansion and reasons for contraction; and indeed it is not the least part of political wisdom to judge, as between the one and the other, the precise balance which is most conducive to the preservation of the state. In general one might say that any reasons for expansion, which are exterior and relative, ought to be less compelling than the reasons for contraction, which are internal and absolute. A strong and healthy constitution is the first thing to look for because the strength which comes from good government is more reliable than the resources which large territories yield.

One may add that there have been states whose political structure was such that the necessity of conquest was part of their very constitution, states which, in order to maintain themselves at all, were obliged to enlarge themselves unceas-

ingly. Possibly they have congratulated themselves on this, as a fortunate necessity; but reflection on the same necessity must also have shown them that at the end of their greatness lay the inevitable moment of their fall.

## CHAPTER 10

*The People: Continued*

THERE are two ways of measuring a body politic, by the extent of its territory and by the number of its people; and there must be a certain balance between these two dimensions if the state is to achieve its best size. Men make the state and the soil nourishes men; thus the right balance requires that there be land enough to feed the inhabitants and as many inhabitants as the land can feed. It is in this proportion that the maximum strength of a given number of persons is brought forth; for if there is too much territory, care of it is burdensome, cultivation inadequate and produce excessive; and this soon becomes the cause of defensive wars; while if, on the other hand, there is too little land, the state must live on what it can import at the discretion of its neighbours, and this soon becomes the cause of offensive wars. Any people which has to choose between commerce and war is essentially weak; it depends on its neighbours; it depends on contingencies; it will never have more than a short, uncertain existence; either it conquers and ends its predicament, or it is conquered and exists no more. It can safeguard itself in freedom only by means of littleness or bigness.

One cannot specify the exact mathematical proportion there should be between the area of the land and the number of inhabitants, because of the different characteristics of different places, differences in degrees of fertility, in the nature of the produce, in the effects of climate; and also because of the

differences there are between the temperaments of men who inhabit the different territories, some consuming little in a fertile country and others living well off a frugal soil. Again we should have to consider the greater or lesser fecundity of the women, the distinctive features of the land, whether more or less favourable to population; the number of immigrants that the lawgiver might hope to attract by his institutions. From this it follows that he must make his decisions in the light not of what he sees, but of what he foresees, calculating not so much the number of the existing population as the number which the population must naturally reach. Finally, there are a thousand occasions when some particular accident of situation demands or allows the assimilation of more land than appears necessary. In a mountainous country, where the type of cultivation — woodland and pastures — requires less work, where the women are shown by experience to be more fecund than in the plains, and where the steep slopes of hills leave only a marginal degree of that flat land which alone can be relied on for vegetation, men will spread out more widely. The contrary is the case on the edge of the sea, where men will draw together in a small area, even among rocks and sands that are almost barren; for fishing can make up for much of the deficiency of agricultural produce; and being close together enables such men the better to resist pirates, and they can easily rid themselves by overseas settlement of any surplus population.

There is yet another condition for the institution of a people, one condition which no other can replace and without which all the rest are unavailing: a peace and plenty must be enjoyed; for the period of the formation of a state, like that of the lining up of a regiment, is the time when it is least capable of resistance and most open to destruction. A state can defend itself more effectively amid total chaos than during the time of fermentation, when everyone is thinking about his own position and not about the common danger. If there is a war,

famine or sedition during this critical period, the state will inevitably be overthrown.

It is true that many governments have been set up during such disturbances, but then it is the governments themselves which destroy the state. Usurpers always choose troubled times to enact, in the atmosphere of general panic, laws which the public would never adopt when passions were cool. One of the surest ways of distinguishing the work of a lawgiver from that of a tyrant is to note the moment he chooses to give a people its constitution.

Which people, then, is fit to receive laws? I answer: a people which, finding itself already bound together by some union of origin, interest or convention, has not yet borne the yoke of law; a people without deep-rooted customs or superstitions; one which does not fear sudden invasion, and which, without intervening in the quarrels of its neighbours, can stand up to any of them, or secure the help of one to resist another; a people in which every member may be known to all; where there is no need to burden any man with more than he can bear; a people which can do without other peoples and which other peoples can do without,\* one which is neither rich nor poor, but has enough to keep itself; and lastly one which combines the cohesion of an ancient people with the malleability of a new one. What makes the task of the lawgiver so difficult is less what has to be established than what has to be destroyed; and what makes success so rare is the impossibility of finding the simplicity of nature

\* If two neighbouring peoples cannot do without one another the situation is hard for the one and dangerous for the other. Any wise nation, in such a case, will hasten to deliver the other from its dependence. The republic of Thlasca, an enclave within the Mexican Empire, preferred to do without salt rather than buy it from the Mexicans, rather even than take it from them when it was offered as a gift. The wise Thlascans saw the trap concealed in the Mexican generosity. They kept their freedom; and their little state, locked within the territory of a great Empire, was in the end the instrument of that Empire's ruin.

together with the needs that society creates. It is difficult to combine all these conditions; and that is why so few well-constituted states exist.

There is still one country in Europe which is fit to receive laws, and that is the island of Corsica. The valour and fidelity with which this brave people has recovered and defended its freedom entitle it to be taught by some wise man how to preserve that freedom. I have a presentiment that this little island will one day astonish Europe.

## CHAPTER III

## Various Systems of Law

If we enquire wherein lies precisely the greatest good of all, which ought to be the goal of every system of law, we shall find that it comes down to two main objects, *freedom* and *equality*: *freedom* because any individual dependence means that much strength withdrawn from the body of the state, and equality because freedom cannot survive without it.

I have already explained what civil freedom is; as for equality, this word must not be taken to imply that degrees of power and wealth should be absolutely the same for all, but rather that power shall stop short of violence and never be exercised except by virtue of authority and law, and, where wealth is concerned, that no citizen shall be rich enough to buy another and none so poor as to be forced to sell himself; this in turn implies that the more exalted persons need moderation in goods and influence and the humbler persons moderation in avarice and covetousness.\*

\* Do you want coherence in the state? Then bring the two extremes as close together as possible; have neither very rich men nor beggars, for these two estates, naturally inseparable, are equally fatal to the common good; from the one class come friends of tyranny, from the other, tyrants. It is always these two classes which make commerce of the public freedom: the one buys, the other sells.

Such equality, we shall be told, is a chimera of theory and could not exist in reality. But if abuse is inevitable, ought we not then at least to control it? Precisely because the force of circumstance tends always to destroy equality, the force of legislation ought always to tend to preserve it.

However, these general objectives of all institutions must be modified in each country to meet local conditions and suit the character of the people concerned. It is in the light of such factors that one must assign to each people the particular form of constitution which is best, not perhaps in itself, but for that state for which it is destined. For example, is your soil meagre and barren or the territory too narrow for its inhabitants? Then look to industry and crafts, so that manufactured goods may be exchanged for the natural resources that are lacking. Suppose, on the other hand, you have rich plains and fertile slopes, good land too little inhabited. Then concentrate on agriculture, to increase the population, and eschew artisanry, which invariably depopulates the countryside and brings the few inhabitants there together in certain urban centres.\* Have you a long and convenient coastline? Then fill the sea with ships, develop trade and navigation, and you will have a brilliant if short existence. Does the sea, along your shores, wash against almost inaccessible rocks? Then remain ichthyphagous barbarians; you will live more peacefully, better perhaps, and certainly more happily. In short, apart from those principles which are common to all, each people has its special reasons for adopting these principles in its own way and for having laws that are fitted to itself alone. Thus it was, in the past, that the Hebrews, and more recently the Greeks, took religion as their chief object, while the Athenians had

\* Any branch of foreign trade, says the Marquis d'Argenson, brings only an illusory advantage to the kingdom in general; it may enrich a few individuals, even a few big towns, but the nation as a whole gains nothing and the people is none the better for it.

Literature, Carthage and Tyre trade, Rhodes seafaring, Sparta war, and Rome civic virtue. The author of *L'Esprit des lois* has shown with scores of examples how the art of the lawgiver directs the constitution towards each of its ends.

What makes the constitution of a state really strong and durable is such a close observance of conventions that natural relations and laws come to be in harmony on all points, so that the law, shall we say, seems only to ensure, accompany and correct what is natural. But if the lawgiver mistakes his object and builds on principles that differ from what is demanded by the circumstances; if his principle tends towards servitude while circumstances tend towards liberty, the one towards wealth and the other towards increased population, the one towards peace and the other towards conquest, then the laws will be weakened imperceptibly, the constitution will deteriorate, and the state will continue to be disturbed until it is finally destroyed or transformed, and invincible Nature regains her empire.

has found that way ought to keep to it. But if the established order is bad, why should the laws which prevent its being good be regarded as fundamental? Besides, a people is in any case entirely at liberty to alter its laws, even its best laws; and if it chooses to do itself an injury, who has the right to prevent it from doing so?

The second relation is that of the members of the body politic among themselves, or of each with the entire body: their relations among themselves should be as limited, and relations with the entire body as extensive, as possible, in order that each citizen shall be at the same time perfectly independent of all his fellow citizens and excessively dependent on the republic - this result is always achieved by the same means, since it is the power of the state alone which makes the freedom of its members. It is from this second relationship that Civil Laws are born.

We may consider a third kind of relation between the person and the law, namely that of disobedience and its penalty. It is this which gives rise to the establishment of Criminal Laws, though at bottom these are less a specific kind of law than the sanction behind all laws.

To these three sorts of law must be added a fourth, the most important of all, which is inscribed neither on marble nor brass, but in the hearts of the citizens, a law which forms the true constitution of the state, a law which gathers new strength every day and which, when other laws age or wither away, reanimates or replaces them; a law which sustains a nation in the spirit of its institution and imperceptibly substitutes the force of habit for the force of authority. I refer to morals, customs and, above all, belief: this feature, unknown to our political theorists, is the one on which the success of all the other laws depends; it is the feature on which the great law-giver bestows his secret care, for though he seems to confine himself to detailed legal enactments, which are really only the

#### CHAPTER 12

##### *Classification of Laws*

FOR everything to be well ordered and the best possible form given to the republic, there are various relations to be considered. First, there is the action of the whole body politic on itself, that is to say, the relation of all with all, or of the sovereign with the state, and this relation, as we shall see, is made up of relations between intermediary bodies.

The laws which regulate this relation bear the name of Political Laws, and are also called Fundamental Laws - not unreasonably, if the laws are wise ones. For if in each state there is only one good way of regulating it, the people which

### THE SOCIAL CONTRACT

arching of the vault, he knows that morals, which develop more slowly, ultimately become its immovable keystone. Among these various classes of law, it is only Political Laws, which constitute the form of government, that are relevant to my subject.

### BOOK III

BEFORE speaking of the various forms of government, let us try to fix the precise meaning of this word, which has not hitherto been very well explained.

#### CHAPTER I

##### *Of Government in General*

I MUST warn the reader that this chapter should be read with care, for I have not the skill to make myself clear to those who do not wish to concentrate their attention.

Every free action has two causes which concur to produce it, one moral – the will which determines the act, the other physical – the strength which executes it. When I walk towards an object, it is necessary first that I should resolve to go that way and secondly that my feet should carry me. When a paralytic resolves to run and when a fit man resolves not to move, both stay where they are. The body politic has the same two motive powers – and we can make the same distinction between will and strength, the former is *legislative power* and the latter *executive power*. Nothing can be, or should be, done in the body politic without the concurrence of both.

We have seen that the legislative power belongs, and can only belong, to the people. On the other hand, it is easy to see from principles established above [Book II, Chapters 4. and 6] that executive power cannot belong to the generality of the people as legislative or sovereign, since executive power is exercised only in particular acts which are outside the province of law and therefore outside the province of the sovereign which can act only to make laws.

The public force thus needs its own agent to call it together and put it into action in accordance with the instructions of the general will, to serve also as a means of communication between the state and the sovereign, and in a sense to do for the public person what is done for the individual by the union of soul and body. This is the reason why the state needs a government, something often unhappily confounded with the sovereign, but of which it is really only the minister.

What, then, is the government? An intermediary body established between the subjects and the sovereign for their mutual communication, a body charged with the execution of the laws and the maintenance of freedom, both civil and political.

The members of this body are called magistrates or *kings*, that is to say *governors*, and the whole body bears the name of *prince*.<sup>\*</sup> Thus, those theorists who deny that the act by which a people submits itself to leaders is a contract are wholly correct. For that act is nothing other than a commission, a form of employment in which the governors, as simple officers of the sovereign, exercise in its name the power it has placed in their hands, a power which the sovereign can limit, modify and resume at pleasure, since the alienation of such a right would be incompatible with the nature of the social body and contrary to the purpose of the social union.

I therefore call 'government' or 'supreme administration' the legitimate exercise of the executive power, and I call 'prince' or 'magistrate' the man or the body charged with that administration.

It is in the government that we may discern those intermediary forces whose relations constitute those of all with all, or of the sovereign with the state. This last relation can be

\* Thus in Venice the ruling college is called the Most Serene Prince even when the Doge is not present.

depicted as one between the first and last terms of a geometric progression, of which the geometric mean is the government. The government receives from the sovereign the orders which it gives to the people; and if the state is to be well balanced, it is necessary, all things being weighed, that the product of the power of the government multiplied by itself should equal the product of the power of the citizens who are sovereign in one sense and subjects in another.

Furthermore, no one of these three terms can be changed without destroying the ratio. If the sovereign seeks to govern, or if the magistrate seeks to legislate, or if the subjects refuse to obey, then order gives way to chaos, power and will cease to act in concert, and the state, disintegrating, will lapse either into despotism or into anarchy. Lastly, as there is only one geometrical mean between two extremes, there is only one good government possible for any state; but as a thousand events may change the relations within a nation, different governments may not only be good for different peoples, but good for the same people at different times.

To try to give some idea of the various relations which may exist between the two extremes, I shall take as an example the number of the people, as this is a relation easily expressed as a ratio. Suppose the state is made up of ten thousand citizens. The sovereign can only be considered collectively and as a body, but every member as a subject has to be considered as an individual. Thus the sovereign is to the subject as ten thousand is to one, that is to say, each single member of the state has as his own share only a ten-thousandth part of the sovereign authority, although he submits himself entirely to it. Now if the people is increased to a hundred thousand men, the position of each subject is unaltered, for each bears equally with the rest the whole empire of the laws, while as sovereign his share of the suffrage is reduced to one hundred-thousandth, so that