

**John Locke:**  
**Excerpts from *Second Treatise of Civil Government***  
**1689**

**Of the State of Nature**

To understand political power aright, and derive it from its original, we must consider what estate all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons as they think fit, within the bounds of the laws of Nature, without asking leave or depending upon the will of any other man.

A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another, there being nothing more evident than that creatures of the same species and rank, promiscuously born to all the same advantages of Nature, and the use of the same faculties, should also be equal one amongst another, without subordination or subjection, unless the lord and master of them all should, by any manifest declaration of his will, set one above another, and confer on him, by an evident and clear appointment, an undoubted right to dominion and sovereignty....

But though this be a state of liberty, yet it is not a state of license; though man in that state have an uncontrollable liberty to dispose of his person or possessions, yet he had not liberty to destroy himself, or so much as any creature in his possession, but where some nobler use than its bare preservation calls for it. The state of Nature has a law of Nature to govern it, which obliges every one, and reason, which is that law, teaches all mankind who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty or possessions.... And, being furnished with like faculties, sharing all in one community of Nature, there cannot be supposed any such subordination among us that may authorize us to destroy one another, as if we were made for one another's uses, as the inferior ranks of creatures are for ours. Every one as he is bound to preserve himself, and not to quit his station willfully, so by the like reason, when his own preservation comes not in competition, ought to be as much as he can to preserve the rest of mankind, and not unless it be to do justice on an offender, take away or impair the life, or what tends to the preservation of life, the liberty, health, limb, or goods of another.

And that all men may be restrained from invading others' rights, and from doing hurt to one another, and the law of Nature be observed, which willed the peace and preservation of all mankind, the execution of the law of Nature is in that state put into every man's hands, whereby every one has a right to punish the transgressors of that law to such a degree as may hinder its violation. For the law of Nature would, as all other laws that concern men in this world, be in vain if there were nobody that in the state of Nature had a power to execute that law, and thereby preserve the innocent and restrain offenders; and if any one in the state of Nature may punish another for any evil he has done, every one may do so. For in that state of perfect equality, where naturally there is no superiority or jurisdiction of one over another, what any may do in prosecution of that law, every one must needs have a right to do.

And thus, in the state of Nature, one man comes by a power over another, but yet no absolute or arbitrary power to use a criminal, when he has got him in his hands, according to the passionate heats or boundless extravagancy of his own will, but only to reattribute him so far as calm reason and conscience dictate, what is proportionate to his transgression, which is so much as may serve for reparation and restraint. .

Every offence that can be committed in the state of Nature may, in the state of Nature, be also punished equally, and as far forth, as it may, in a commonwealth. For—though it would be beside my present purpose to enter here into the particulars of the law of Nature, or its measures of punishment, yet it is certain there is such a law, and that too as intelligible and plain to a rational creature and a studier of that law as the positive laws of commonwealths, nay, possibly plainer; as much as reason is easier to be understood than the fancies and intricate contrivances of men, following contrary and hidden interests put into words.

### **Of the Ends of Political, Society and Government**

If man in the state of Nature be so free as has been said, if he be absolute lord of his own person and possessions, equal to the greatest and subject to nobody, why will he part with his freedom, this empire, and subject himself to the dominion and control of any other power? To which it is obvious to answer, that though in the state of Nature he hath such a right, yet the enjoyment of it is very uncertain and constantly exposed to the invasion of others; for all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very insecure. This makes him willing to quit this condition which, however free, is full of fears and continual dangers; and it is not without reason that he seeks out and is willing to join 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.

The great and chief end, therefore, of men uniting into commonwealths, and putting themselves under government, is the preservation of their property; to which in the state of Nature there are many things wanting.

Firstly, there wants an established, settled, known law, received and allowed by common consent to be the standard of right and wrong, and the common measure to decide all controversies between them. For though the law of Nature be plain and intelligible to all rational creatures, yet men, being biased by their interest, as well as ignorant for want of study of it, are not apt to allow of it as a law binding to them in the application of it to their particular cases.

Secondly, in the state of Nature there wants a known and indifferent judge, with authority to determine all differences according to the established law. For every one in that state being both judge and executioner of the law of Nature, men being partial to themselves, passion and revenge is very apt to carry them too far, and with too much heat in their own cases, as well as negligence and unconcernedness, make them too remiss in other men.

Thirdly, in the state of Nature there often wants power to back and support the sentence when right, and to give it due execution. They who by any injustice offended will seldom fail where they are able by force to make good their injustice. Such resistance many times makes the punishment dangerous, and frequently destructive to those who attempt it.

Thus mankind, notwithstanding all the privileges of the state of Nature, being but in an ill condition while they remain in it is quickly driven into society. Hence it comes to pass, that we seldom find any number of men live any time together in this state. The inconveniences that they are therein exposed to by the irregular and uncertain exercise of the power every man has of punishing the transgressions of others make them take sanctuary under the established laws of government, and therein seek the preservation of their property. It is this makes them so willingly give up every one his single power of

punishing to be exercised by such alone as shall be appointed to it amongst them, and by such rules as the corn mutiny, or those authorized by them to that purpose, shall agree on. And in this we have the original right and rise of both the legislative and executive power as well as of the governments and societies themselves.

For in the state of Nature to omit the liberty he has of innocent delights, a man has two powers. The first is to do whatsoever he thinks fit for the preservation of himself and others within the permission of the law of Nature; by which law, common to them all, he and all the rest of mankind are one community, make up one society distinct from all other creatures, and were it not for the corruption and viciousness of degenerate men, there would be no need for any other, no necessity that men should separate from this great and natural community, and associate into lesser combinations. The other power a man has in the state of Nature is the power to punish the crimes committed against that law. Both these he gives up when he joins in a private, if I may so call it, or particular political society, and incorporates into any commonwealth separate from the rest of mankind.

The first power—viz., of doing whatsoever he thought fit for the preservation of himself and the rest of mankind, he gives up to be regulated by laws made by the society, so far forth as the preservation of himself and the rest of that society shall require; which laws of the society in many things confine the liberty he had by the law of Nature.

Secondly, the power of punishing he wholly gives up, and engages his natural force, which he might before employ in the execution of the law of Nature, by his own single authority, as he thought fit, to assist the executive power of the society as the law thereof shall require. For being now in a new state, wherein he is to enjoy many conveniences from the labor, assistance, and society of others in the same community, as well as protection from its whole strength, he is to part also with as much of his natural liberty, in providing for himself, as the good, prosperity, and safety of the society shall require, which is not only necessary but just, since the other members of the society do the like.

But though men when they enter into society give up the equality, liberty, and executive power they had in the state of Nature into the hands of the society, to be so far disposed of by the legislative as the good of the society shall require, yet it being only with an intention in every one the better to preserve himself, his liberty and property (for no rational creature can be supposed to change his condition with an intention to be worse), the power of the society or legislative constituted by them can never be supposed to extend farther than the common against those three defects above mentioned that made the state of Nature so unsafe and uneasy. And so, whoever has the legislative or supreme power of any commonwealth, is bound to govern by established standing laws, promulgated and known to the people, and not by extemporary decrees, by indifferent and upright judges, who are to decide controversies by those laws; and to employ the force of the community at home only in the execution of such laws, or abroad to prevent or redress foreign injuries and secure the community from inroads and invasion. And all this to be directed to no other end but the peace, safety, and public good of the people...

### **Of the Extent of The Legislative Power**

The great end of men's entering into society being the enjoyment of their properties in peace and safety, and the great instrument and means of that being the laws established in that society, the first and fundamental positive law of all commonwealths is the establishing of the legislative power, as the

first and fundamental natural law, which is to govern even the legislative itself, is the preservation of the society and (as far as will consist with the public good) of every person in it. This legislative is not only the supreme power of the commonwealth, but sacred and unalterable in the hands where the community has once placed it. Nor can any edict of anybody else, in what form so ever conceived, or by what power so ever backed, have the force and obligation of a law which has not its sanction from that legislative which the public has chosen and appointed it; for without this the law could not have that which is absolutely necessary to its being a law, the consent of the society, over whom nobody can have a power to make laws but by their own consent and by authority received from them....

These are the bounds which the trust that is put in them by the society and the law of God and Nature have set to the legislative power of every commonwealth, in all forms of government. First: They are to govern by promulgated established laws, not to be varied in particular cases, but to have one rule for rich and poor, for the favorite at Court and the countryman at plough. Secondly: These laws also ought to be designed for no other end ultimately but the good of the people. Thirdly: They must not raise taxes on the property of the people without the consent of the people given by themselves or their deputies. And this properly concerns only such governments where the legislative is always in being, or at least where the people have not reserved any part of the legislative to deputies, to be from time to time chosen by themselves. Fourthly: Legislative neither must nor can transfer the power of making laws to anybody else, or place it anywhere but where the people have...

### **Of the Dissolution Of Government**

The constitution of the legislative [authority] is the first and fundamental act of society, whereby provision is made for the continuation of their union under the direction of persons and bonds of laws, made by persons authorized thereunto, by the consent and appointment of the people, without which no one man, or number of men, amongst them can have authority of making laws that shall be binding to the rest. When any one, or more, shall take upon them to make laws whom the people have not appointed so to do, they make laws without authority, which the people are not therefore bound to obey; by which means they come again to be out of subjection, and may constitute to themselves a new legislative, as they think best, being in full liberty to resist the force of those who, without authority, would impose anything upon them....

Whosoever uses force without right—as every one does in society who does it without law—puts himself into a state of war with those against whom he so uses it, and in that state all former ties are cancelled, all other rights cease, and every one has a right to defend himself, and to resist the aggressor..

Here it is like the common question will be made: Who shall he judge whether the prince or legislative act contrary to their trust? This, perhaps, ill-affected and factious men may spread amongst the people, when the prince only makes use of his due prerogative. To this I reply, The people shall be judge; for who shall be judge whether his trustee or deputy acts well and according to the *trust* reposed in him, but he who deposes him and must, by having deposed him, have still a power to discard him when he fails in his trust? If this be reasonable in particular cases of private men, why should it be otherwise in that of the greatest moment, where the welfare of millions is concerned and also where the evil, if not prevented, is greater, and the redress very difficult, dear, and dangerous...

To conclude. The power that every individual gave the society when he entered into it can never revert to the individuals again, as long as the society lasts, but will always remain *in* the community; because without this there can be no *community*— no commonwealth, which is contrary to the original agreement; so as when the society hath placed the legislative in any assembly of men, to continue in them and their successors, with direction and authority for providing such successors, the legislative can never revert to the people whilst that government lasts; because, having provided a legislative with power to continue for ever, they have given up their political power to the legislative, and cannot resume it. But if they have set limits to the duration of their legislative, and made this supreme power in any person or assembly only temporary; or else when, by the miscarriages of those in authority, it is forfeited; upon the forfeiture of their rulers, or at the determination of the time set, it reverts to the society, and the people have a tight to act as supreme, arid continue the legislative in themselves or place it in a new form, or new hands, as they think good.

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**John Locke: *Second Treatise of Civil Government***

Before reading Locke, do some research and discuss the historical context of the *Second Treatise*. When did he write this and why? **What was main argument?** What was happening at the time that can provide insight into the motivations and perspective of the author?

In what many ways and in what contexts does Locke continuously refer to the laws of nature? How does Locke differentiate between the laws of nature and the laws of man? Provide specific support from the reading.

When, according to Locke, is it necessary for man to give up certain liberties under the laws of nature?

According to Locke, what is the role of the legislative power and how does it get that power? Be detailed in your response.

Under what circumstances, to Locke, might it be necessary for the people to dissolve their government and start anew? Be detailed in your response.

# Charles de Secondat, Baron de Montesquieu:

## Excerpt from *The Spirit of the Laws*

1748

In every government there are three sorts of power; the legislative; the executive, in respect to things dependent on the law of nations; and the executive, in regard to things that depend on the civil law.

By virtue of the first, the prince or magistrate enacts temporary or perpetual laws, and amends or abrogates those that have been already enacted. By the second, he makes peace or war, sends or receives embassies; establishes the public security, and provides against invasions. By the third, he punishes criminals, or determines the disputes that arise between individuals. The latter we shall call the judiciary power, and the other simply the executive power of the state.

The political liberty of the subject is a tranquillity of mind, arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another.

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty, if the power of judging be not separated from the legislative and executive powers. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with all the violence of an oppressor.

There would be an end of every thing were the same man, or the same body, whether of the nobles or of the people to exercise those three powers that of enacting laws, that of executing the public resolutions, and that of judging the crimes or differences of individuals.

Most kingdoms in Europe enjoy a moderate government, because the prince, who is invested with the two first powers, leaves the third to his subjects. In Turkey, where these three powers are united in the sultan's person the subjects groan under the weight of a most frightful oppression.

In the republics of Italy, where these three powers are united, there is less liberty than in our monarchies. Hence their government is obliged to have recourse to as violent methods for its support, as even that of the Turks witness the state inquisitors, and the lion's mouth into which every informer may at all hours throw his written accusations.

What a situation must the poor subject be in, under those republics! The same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of legislators. They may plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, every private citizen may be ruined by their particular decisions.

The whole power is here united in one body; and though there is no external pomp that indicates a despotic sway, yet the people feel the effects of it every moment.

Hence it is that many of the princes of Europe, whose aim has been levelled at arbitrary power, have constantly set out with uniting in their own persons, all the branches of magistracy, and all the great offices of state.

The executive power ought to be in the hands of a monarch; because this branch of government, which has always need of expedition, is better administered by one than by many: Whereas, whatever depends on the legislative power, is oftentimes better regulated by many than by a single person.

But if there was no monarch, and the executive power was committed to a certain number of persons selected from the legislative body, there would be an end then of liberty; by reason the two powers would be united, as the same persons would actually sometimes have, and would moreover be always able to have, a share in both.

Were the legislative body to be a considerable time without meeting, this would likewise put an end to liberty. For one of these two things would naturally follow; either that there would be no longer any legislative resolutions, and then the state would fall into anarchy; or that these resolutions would be taken by the executive power, which would render it absolute.

It would be needless for the legislative body to continue always assembled. This would be troublesome to the representatives, and moreover would cut out too much work for the executive power, so as to take off its attention from executing, and oblige it to think only of defending its own prerogatives, and the right it has to execute.

Again, were the legislative body to be always assembled, it might happen to be kept up only by filling the places of the deceased members with new representatives; and in that case, if the legislative body was once corrupted, the evil would be past all remedy. When different legislative bodies succeed one another, the people who have a bad opinion of that which is actually sitting, may reasonably entertain some hopes of the next: But were it to be always the same body, the people, upon seeing it once corrupted, would no longer expect any good from its laws; and of course they would either become desperate, or fall into a state of indolence.

The legislative body should not assemble of itself. For a body is supposed to have no will but when it is assembled; and besides, were it not to assemble unanimously, it would be impossible to determine which was really the legislative body, the part assembled, or the other. And if it had a right to prorogue itself, it might happen never to be prorogued; which would be extremely dangerous, in case it should ever attempt to encroach on the executive power. Besides, there are seasons, some of which are more proper than others, for assembling the legislative body: It is fit therefore that the executive power should regulate the time of convening, as well as the duration of those assemblies, according to the circumstances and exigencies of state known to itself.

Were the executive power not to have a right of putting a stop to the encroachments of the legislative body, the latter would become despotic; for as it might arrogate to itself what authority it pleased, it would soon destroy all the other powers.

But it is not proper, on the other hand, that the legislative power should have a right to stop the executive. For as the execution has its natural limits, it is useless to confine it; besides, the executive power is generally employed in momentary operations. The power therefore of the Roman tribunes was



faulty, as it put a stop not only to the legislation, but likewise to the execution itself; which was attended with infinite mischiefs.

But if the legislative power in a free government ought to have no right to stop the executive, it has a right, and ought to have the means of examining in what manner its laws have been executed; an advantage which this government has over that of Crete and Sparta, where the Cosmi and the Ephori gave no account of their administration.

But whatever may be the issue of that examination, the legislative body ought not to have a power of judging the person, nor of course the conduct of him who is intrusted with the executive power. His person should be sacred, because as it is necessary for the good of the state to prevent the legislative body from rendering themselves arbitrary, the moment he is accused or tried, there is an end of liberty.

To prevent the executive power from being able to oppress, it is requisite, that the armies, with which it is intrusted, should consist of the people, and have the same spirit as the people, as was the case at Rome, till the time of Marius. To obtain this end, there are only two ways, either that the persons employed in the army, should have sufficient property to answer for their conduct to their fellow subjects, and be enlisted only for a year, as customary at Rome: Or if there should be a standing army, composed chiefly of the most despicable part of the nation, the legislative power should have a right to disband them as soon as it pleased; the soldiers should live in common with the rest of the people; and no separate camp, barracks, or fortress, should be suffered .

When once an army is established, it ought not to depend immediately on the legislative, but on the executive power, and this from the very nature of the thing; its business consisting more in action than in deliberation.

From a manner of thinking that prevails amongst mankind, they set a higher value upon courage than timorousness, on activity than prudence, on strength than counsel. Hence, the army will ever despise a senate, and respect their own officers. They will naturally slight the orders sent them by a body of men, whom they look upon as cowards, and therefore unworthy to command them. So that as soon as the army depends on the legislative body, the government becomes a military one; and if the contrary has ever happened, it has been owing to some extraordinary circumstances. It is because the army was always kept divided; it is because it was composed of several bodies, that depended each on their particular province; it is because the capital towns were strong places, defended by their natural situation, and not garrisoned with regular troops. Holland, for instance, is still safer than Venice; she might drown, or starve the revolted troops; for as they are not quartered in towns capable of furnishing them with necessary subsistence, this subsistence is of course precarious.

Whoever shall read the admirable treatise of Tacitus on the manners of the Germans, will find that it is from them the English have borrowed the idea of their political government. This beautiful system was invented first in the woods.

As all human things have an end, the state we are speaking of will lose its liberty, it will perish. Have not Rome, Sparta, and Carthage perished? It will perish when the legislative power shall be more corrupted than the executive.

It is not my business to examine whether the English actually enjoy this liberty, or not. It is sufficient for my purpose to observe, that it is established by their laws; and I inquire no further.

Neither do I pretend by this to undervalue other governments, not to say that this extreme political liberty ought to give uneasiness to those who have only a moderate share of it. How should I have any such design, I who think that even the excess of reason is not always desirable, and that mankind generally find their account better in mediums than in extremes?

From Montesquieu, *The Spirit of the Laws*, vol. 1, trans. Thomas Nugent (London: J. Nourse, 1777), pp. 221-237, passim.

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Document located at:

Modern History Sourcebook, <http://www.fordham.edu/halsall/mod/montesquieu-spirit.html>

**Baron de Montesquieu: *The Spirit of the Laws***

Before reading Montesquieu, do some research and discuss the historical context of *The Spirit of the Laws*. When did he write this and why? **What was main argument?** What was happening at the time that can provide insight into the motivations and perspective of the author?

Immediately in the first five paragraphs Montesquieu lays out an idea that directly influenced the shaping of American government. What is it and why does he state it is so important?

According to Montesquieu, who should exercise executive power? Who should exercise legislative power? Why?

What does Montesquieu say about the idea of the executive limiting the legislative power? How about the legislative limiting the executive power?

Who, according to Montesquieu, should comprise the army, and what role does he say the army should play?

To Montesquieu, what will ultimately cause the state to perish?

# **Jean Jacques Rousseau:**

## **Excerpt from *The Social Contract***

### **1763**

#### **Origin and Terms of the Social Contract**

Man was born free, but everywhere he is in chains. This man believes that he is the master of others, and still he is more of a slave than they are. How did that transformation take place? I don't know. How may the restraints on man become legitimate? I do believe I can answer that question....

At a point in the state of nature when the obstacles to human preservation have become greater than each individual with his own strength can cope with . . . , an adequate combination of forces must be the result of men coming together. Still, each man's power and freedom are his main means of self-preservation. How is he to put them under the control of others without damaging himself . . . ?

This question might be rephrased: "How is a method of associating to be found which will defend and protect-using the power of all-the person and property of each member and still enable each member of the group to obey only himself and to remain as free as before?" This is the fundamental problem; the social contract offers a solution to it.

The very scope of the action dictates the terms of this contract and renders the least modification of them inadmissible, something making them null and void. Thus, although perhaps they have never been stated in so many words, they are the same everywhere and tacitly conceded and recognized everywhere. And so it follows that each individual immediately recovers his primitive rights and natural liberties whenever any violation of the social contract occurs and thereby loses the contractual freedom for which he renounced them.

The social contract's terms, when they are well understood, can be reduced to a single stipulation: the individual member alienates himself totally to the whole community together with all his rights. This is first because conditions will be the same for everyone when each individual gives himself totally, and secondly, because no one will be tempted to make that condition of shared equality worse for other men....

Once this multitude is united this way into a body, an offense against one of its members is an offense against the body politic. It would be even less possible to injure the body without its members feeling it. Duty and interest thus equally require the two contracting parties to aid each other mutually. The individual people should be motivated from their double roles as individuals and members of the body, to combine all the advantages which mutual aid offers them....

#### **Individual Wills and the General Will**

In reality, each individual may have one particular will as a man that is different from-or contrary to-the general will which he has as a citizen. His own particular interest may suggest other things to him than the common interest does. His separate, naturally independent existence may make him imagine that what he owes to the common cause is an incidental contribution - a contribution which will cost him more to give than their failure to receive it would harm the others. He may also regard the moral person of the State as an imaginary being since it is not a man, and wish to enjoy the rights of a citizen without

performing the duties of a subject. This unjust attitude could cause the ruin of the body politic if it became widespread enough.

So that the social pact will not become meaningless words, it tacitly includes this commitment, which alone gives power to the others: Whoever refuses to obey the general will shall be forced to obey it by the whole body politic, which means nothing else but that he will be forced to be free. This condition is indeed the one which by dedicating each citizen to the fatherland gives him a guarantee against being personally dependent on other individuals. It is the condition which all political machinery depends on and which alone makes political undertakings legitimate. Without it, political actions become absurd, tyrannical, and subject to the most outrageous abuses.

Whatever benefits he had in the state of nature but lost in the civil state, a man gains more than enough new ones to make up for them. His capabilities are put to good use and developed; his ideas are enriched, his sentiments made more noble, and his soul elevated to the extent that-if the abuses in this new condition did not often degrade him to a condition lower than the one he left behind-he would have to keep blessing this happy moment which snatched him away from his previous state and which made an intelligent being and a man out of a stupid and very limited animal....

### **Property Rights**

In dealing with its members, the State controls all their goods under the social contract, which serves as the basis for all rights within the State, but it controls them only through the right of first holder which individuals convey to the State....

A strange aspect of this act of alienating property rights to the state is that when the community takes on the goods of its members, it does not take these goods away from them. The community does nothing but assure its members of legitimate possession of goods, changing mere claims of possession into real rights and customary use into property.... Through an act of transfer having advantages for the public but far more for themselves they have, so to speak, really acquired everything they gave up....

### **Indivisible, Inalienable Sovereignty**

The first and most important conclusion from the principles we have established thus far is that the general will alone may direct the forces of the State to achieve the goal for which it was founded, the common good.... Sovereignty is indivisible ... and is inalienable.... A will is general or it is not: it is that of the whole body of the people or only of one faction. In the first instance, putting the will into words and force is an act of sovereignty: the will becomes law. In the second instance, it is only a particular will or an administrative action; at the very most it is a decree.

Our political theorists, however, unable to divide the source of sovereignty, divide sovereignty into the ways it is applied. They divide it into force and will; into legislative power and executive power; into the power to tax, the judicial power, and the power to wage war; into internal administration and the power to negotiate with foreign countries. Now we see them running these powers together. Now they will proceed to separate them. They make the sovereign a being of fantasy, composed of separate pieces, which would be like putting a man together from several bodies, one having eyes, another arms, another feet-nothing more. Japanese magicians are said to cut up a child before the eyes of spectators, then throw the pieces into the air one after the other, and then cause the child to drop down reassembled and alive again. That is the sort of magic trick our political theorists perform. After having

dismembered the social body with a trick worthy of a travelling show, they reassemble the pieces without anybody knowing how....

If we follow up in the same way on the other divisions mentioned, we find that we are deceived every time we believe we see sovereignty divided. We find that the jurisdictions we have thought to be exercised as parts of sovereignty in reality are subordinate to the [one] sovereign power. They presuppose supreme wills, which they merely carry out in their jurisdictions . . . .

### **Need for Citizen Participation, Not Representation**

It follows from the above that the general will is always in the right and inclines toward the public good, but it does not follow that the deliberations of the people always have the same rectitude. People always desire what is good, but they do not always see what is good. You can never corrupt the people, but you can often fool them, and that is the only time that the people appear to will something bad....

If, assuming that the people were sufficiently informed as they made decisions and that the citizens did not communicate with each other, the general will would always be resolved from a great number of small differences, and the deliberation would always be good. But when blocs are formed, associations of parts at the expense of the whole, the will of each of these associations will be general as far as its members are concerned but particular as far as the State is concerned. Then we may say that there are no longer so many voters as there are men present but as many as there are associations. The differences will become less numerous and will yield less general results. Finally, when one of these associations becomes so strong that it dominates the others, you no longer have the sum of minor differences as a result but rather one single [unresolved] difference, with the result that there no longer is a general will, and the view that prevails is nothing but one particular view....

But we must also consider the private persons who make up the public, apart from the public personified, who each have a life and liberty independent of it. It is very necessary for us to distinguish between the respective rights of the citizens and the sovereign and between the duties which men must fulfill in their role as subjects from the natural rights they should enjoy in their role as men.

It is agreed that everything which each individual gives up of his power, his goods, and his liberty under the social contract is only that part of all those things which is of use to the community, but it is also necessary to agree that the sovereign alone is the judge of what that useful part is.

All the obligations which a citizen owes to the State he must fulfill as soon as the sovereign asks for them, but the sovereign in turn cannot impose any obligation on subjects which is not of use to the community. In fact, the sovereign cannot even wish to do so, for nothing can take place without a cause according to the laws of reason, any more than according to the laws of nature [and the sovereign community will have no cause to require anything beyond what is of communal use]....

Government . . . is wrongly confused with the sovereign, whose agent it is. What then is government? It is an intermediary body established between the subjects and the sovereign to keep them in touch with each other. It is charged with executing the laws and maintaining both civil and political liberty.... The only will dominating government ... should be the general will or the law. The government's power is only the public power vested in it. As soon as [government] attempts to let any act come from itself completely independently, it starts to lose its intermediary role. If the time should ever come when the [government] has a particular will of its own stronger than that of the sovereign and makes use of the

public power which is in its hands to carry out its own particular will-when there are thus two sovereigns, one in law and one in fact-at that moment the social union will disappear and the body politic will be dissolved.

Once the public interest has ceased to be the principal concern of citizens, once they prefer to serve State with money rather than with their persons, the State will be approaching ruin. Is it necessary to march into combat? They will pay some troops and stay at home. Is it necessary to go to meetings? They will name some deputies and stay at home. Laziness and money finally leave them with soldiers to enslave their fatherland and representatives to sell it....

Sovereignty cannot be represented.... Essentially, it consists of the general will, and a will is not represented: either we have it itself, or it is something else; there is no other possibility. The deputies of the people thus are not and cannot be its representatives. They are only the people's agents and are not able to come to final decisions at all. Any law that the people have not ratified in person is void, it is not a law at all.

### **Sovereignty and Civil Religion**

Now then, it is of importance to the State that each citizen should have a religion requiring his devotion to duty; however, the dogmas of that religion are of no interest to the State except as they relate to morality and to the duties which each believer is required to perform for others. For the rest of it, each person may have whatever opinions he pleases....

It follows that it is up to the sovereign to establish the articles of a purely civil faith, not exactly as dogmas of religion but as sentiments of social commitment without which it would be impossible to be either a good citizen or a faithful subject.... While the State has no power to oblige anyone to believe these articles, it may banish anyone who does not believe them. This banishment is not for impiety but for lack of social commitment, that is, for being incapable of sincerely loving the laws and justice or of sacrificing his life to duty in time of need. As for the person who conducts himself as if he does not believe them after having publicly stated his belief in these same dogmas, he deserves the death penalty. He has lied in the presence of the laws.

The dogmas of civil religion should be simple, few in number, and stated in precise words without interpretations or commentaries. These are the required dogmas: the existence of a powerful, intelligent Divinity, who does good, has foreknowledge of all, and provides for all; the life to come; the happy rewards of the just; the punishment of the wicked; and the sanctity of the social contract and the laws. As for prohibited articles of faith, I limit myself to one: intolerance. Intolerance characterizes the religious persuasions we have excluded.

From JeanJacques Rousseau, *Contrat social ou Principes du droit politique* (Paris: Garnier Frères 1800), pp. 240-332, passim. Translated by Henry A. Myers.

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Document located at:

Modern History Sourcebook, <http://www.fordham.edu/halsall/mod/Rousseau-soccon.html>

**Jean Jacques Rousseau: *The Social Contract***

Before reading Rousseau, do some research and discuss the historical context of *The Social Contract*. When did he write this and why? **What was main argument?** What was happening at the time that can provide insight into the motivations and perspective of the author?

To Rousseau, what is the fundamental question that he seeks to address in *The Social Contract*? Rephrase and analyze this question.

According to Rousseau, what is the social contract and what are the social contract's benefits to society? Explain thoroughly.

What does Rousseau think of the concept of individualism, and how does the social contract affect individual will?

What is Rousseau's overall thinking on the concept of representative democracy vs. direct democracy? Explain in detail.

In what ways are Rousseau's theories and Locke's theories of the role of government similar? Cite specific examples.



## Excerpts from Thomas Paine's Common Sense, 1776

. . . Mankind being originally equal in the order of creation, the equality could only be destroyed by some subsequent circumstance: the distinctions of rich and poor may in a great measure be accounted for, and that without having recourse to the harsh ill-sounding names of oppression and avarice. Oppression is often the consequence, but seldom or never the means of riches; and though avarice will preserve a man from being necessitously poor, it generally makes him too timorous to be wealthy.

But there is another and greater distinction for which no truly natural or religious reason can be assigned, and that is the distinction of men into **KINGS** and **SUBJECTS**. Male and female are the distinctions of nature, good and bad the distinctions of heaven; but how a race of men came into the world so exalted above the rest, and distinguished like some new species, is worth inquiring into, and whether they are the means of happiness or of misery to mankind.

In the early ages of the world, according to the scripture chronology there were no kings; the consequence of which was, there were no wars; it is the pride of kings which throws mankind into confusion. . . .

In the following pages I offer nothing more than simple facts, plain arguments, and common sense: and have no other preliminaries to settle with the reader, than that he will divest himself of prejudice and prepossession, and suffer his reason and his feelings to determine for themselves: that he will put on, or rather that he will not put off, the true character of a man, and generously enlarge his views beyond the present day. . . .

I have heard it asserted by some, that as America has flourished under her former connection with Great Britain, the same connection is necessary towards her future happiness, and will always have the same effect. Nothing can be more fallacious than this kind of argument. We may as well assert that because a child has thrived upon milk, that it is never to have meat, or that the first twenty years of our lives is to become a precedent for the next twenty. But even this is admitting more than is true; for I answer roundly, that America would have flourished as much, and probably much more, had no European power taken any notice of her. The commerce by which she hath enriched herself are the necessaries of life, and will always have a market while eating is the custom of Europe.

But she has protected us, say some. That she hath engrossed us is true, and defended the continent at our expense as well as her own, is admitted; and she would have defended Turkey from the same motive, viz. for the sake of trade and dominion.

Alas! we have been long led away by ancient prejudices and made large sacrifices to superstition. We have boasted the protection of Great Britain, without considering, that her motive was interest not attachment; and that she did not protect us from our enemies on our account; but from her enemies on her own account, from those who had no quarrel with us on any other account, and who will always be our enemies on the same account. . . .

But Britain is the parent country, say some. Then the more shame upon her conduct. Even brutes do not devour their young, nor savages make war upon their families; wherefore, the assertion, if true, turns to her reproach; but it happens not to be true, or only partly so, and the phrase parent or mother country hath been jesuitically adopted by the king and his parasites,

with a low papistical design of gaining an unfair bias on the credulous weakness of our minds. Europe, and not England, is the parent country of America. This new world hath been the asylum for the persecuted lovers of civil and

religious liberty from every part of Europe. Hither have they fled, not from the tender embraces of the mother, but from the cruelty of the monster; and it is so far true of England, that the same tyranny which drove the first emigrants from home, pursues their descendants still. . . .

I challenge the warmest advocate for reconciliation to show a single advantage that this continent can reap by being connected with Great Britain. I repeat the challenge; not a single advantage is derived. Our corn will fetch its price in any market in Europe, and our imported goods must be paid for, buy them where we will.

But the injuries and disadvantages which we sustain by that connection, are without number; and our duty to mankind at large, as well as to ourselves, instruct us to renounce the alliance: because, any submission to, or dependence on, Great Britain, tends directly to involve this continent in European wars and quarrels, and set us at variance with nations who would otherwise seek our friendship, and against whom we have neither anger nor complaint. As Europe is our market for trade, we ought to form no partial connection with any part of it. It is the true interest of America to steer clear of European contentions, which she never can do, while, by her dependence on Britain, she is made the makeweight in the scale of British politics.

Europe is too thickly planted with kingdoms to be long at peace, and whenever a war breaks out between England and any foreign power, the trade of America goes to ruin, because of her connection with Britain. The next war may not turn out like the last, and should it not, the advocates for reconciliation now will be wishing for separation then, because neutrality in that case would be a safer convoy than a man of war. Every thing that is right or reasonable pleads for separation. The blood of the slain, the weeping voice of nature cries, 'TIS TIME TO PART. Even the distance at which the Almighty hath placed England and America is a strong and natural proof that the authority of the one over the other, was never the design of heaven. The time likewise at which the continent was discovered, adds weight to the argument, and the manner in which it was peopled, increases the force of it. The Reformation was receded by the discovery of America: As if the Almighty graciously meant to open a sanctuary to the persecuted in future years, when home should afford neither friendship nor safety. ...

\*Tis repugnant to reason, to the universal order of things, to all examples from former ages, to suppose that this continent can long remain subject to any external power. The most sanguine in Britain doth not think so. The utmost stretch of human wisdom cannot, at this time, compass a plan, short of separation, which can promise the continent even a year's security. Reconciliation is now a fallacious dream. Nature has deserted the connection, and art cannot supply her place. For, as Milton wisely expresses, "never can true reconcilment grow where wounds of deadly hate have pierced so deep."

. . . Small islands not capable of protecting themselves are the proper objects for government to take under their care; but there is something absurd, in supposing a Continent to be perpetually governed by an island. In no instance hath nature made the satellite larger than its primary planet; and as England and America, with respect to each other, reverse the common order of nature, it is evident that they belong to different systems. England to Europe: America to itself. I am not induced by motives of pride, party or resentment to espouse the doctrine of separation and independence; I am clearly, positively, and conscientiously persuaded that it is the true

interest of this continent to be so; that everything short of that is mere patchwork, that it can afford no lasting felicity,—that it is leaving the sword to our children, and shrinking back at a time when a little more, a little further, would have rendered this continent the glory of the earth. As Britain hath not manifested the least inclination towards a compromise, we may be assured that no terms can be obtained worthy the acceptance of the continent, or any ways equal to the expense of blood and treasure we have been already put to. . . .

. . . . As I have always considered the independency of this continent, as an event which sooner or later must arrive, so from the late rapid progress of the continent to maturity, the event cannot be far off. Wherefore, on the breaking out of hostilities, it was not worth the while to have disputed a matter which time would have finally redressed, unless we meant to be in earnest: otherwise it is like wasting an estate on a suit at law, to regulate the trespasses of a tenant whose lease is just expiring. No man was a warmer wisher for a reconciliation than

myself, before the fatal nineteenth of April, 1775, but the moment the event of that day was made known, I rejected the hardened, sullen-tempered Pharaoh of England for ever; and disdain the wretch, that with the pretended title of FATHER OF HIS PEOPLE can unfeelingly hear of their slaughter, and composedly sleep with their blood upon his soul. . . .

. . . But where, say some, is the king of America? I'll tell you, friend, he reigns above, and doth not make havoc of mankind like the royal brute of Great Britain. Yet that we may not appear to be defective even in earthly honors, let a day be solemnly set apart for proclaiming the charter; let it be brought forth placed on the divine law, the Word of God; let a crown be placed thereon, by which the world may know, that so far as we approve of monarchy, that in America the law is king. For as in absolute governments the king is law, so in free countries the law ought to be king; and there ought to be no other. But lest any ill use should afterwards arise, let the crown at the conclusion of the ceremony be demolished, and scattered among the people whose right it is.

A government of our own is our natural right: and when a man seriously reflects on the precariousness of human affairs, he will become convinced, that it is infinitely wiser and safer, to form a Constitution of our own in a cool deliberate manner, while we have it in our power, than to trust such an interesting event to time and chance. . . . Ye that oppose independence now, ye know not what ye do: ye are opening a door to eternal tyranny, by keeping vacant the seat of government. There are thousands and tens of thousands, who would think it glorious to expel from the continent, that barbarous and hellish power, which hath stirred up the Indians and the Negroes to destroy us; the cruelty hath a double guilt, it is dealing brutally by us, and treacherously by them.

To talk of friendship with those in whom our reason forbids us to have faith, and our affections wounded through a thousand pores instruct us to detest, is madness and folly. Every day wears out the little remains of kindred between us and them; and can there be any reason to hope, that as the relationship expires, the affection will increase, or that we shall agree better when we have ten times more and greater concerns to quarrel over than ever?

Ye that tell us of harmony and reconciliation, can ye restore to us the time that is past?

Can ye give to prostitution its former innocence? neither can ye reconcile Britain and America. The last cord now is broken, the people of England are presenting addresses against us. There are injuries which nature cannot forgive; she would cease to be nature if she did. As well can

the lover forgive the ravisher of his mistress, as the continent forgive the murders of Britain. The Almighty hath implanted in us these unextinguishable feelings for good and wise purposes. They are the guardians of his image in our hearts. They distinguish us from the herd of common animals. The social compact would dissolve, and justice be extirpated from the earth, or have only a casual existence were we callous to the touches of affection. The robber and the murderer would often escape unpunished, did not the injuries which our tempers sustain, provoke us into justice.

O! ye that love mankind! Ye that dare oppose not only the tyranny but the tyrant, stand forth! Every spot of the old world is overrun with oppression. Freedom hath been hunted round the globe. Asia and Africa have long expelled her. Europe regards her like a stranger, and England hath given her warning to depart. O! receive the fugitive, and prepare in time an asylum for mankind.

**Thomas Paine: *Common Sense***

Before reading Paine, read the introduction in the book and discuss the historical context of *Common Sense*. When did he write this and why? **What was main argument?** What was happening at the time that can provide insight into the motivations and perspective of the author?

How does Paine view the role and importance of government in general? Be specific.

What are Paine's views on the monarchy, both in general and that of England? Use supporting details from *Common Sense*.

What arguments does Paine use to support the notion that the American colonies would be better off as an independent nation?

A number of Paine's appeals and ideas exhibit the influence of people like Locke, Montesquieu, and Rousseau. Discuss some areas where you see these influences.