

Notes on Rousseau, The Social Contract

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Double parentheses at the start of a paragraph indicate the material in that paragraph is comment or criticism, not straight exposition of the text.

Recall the problem to which the social contract is supposed to be the solution: In Book I, chap. VI, Rousseau poses this challenge: "Find a form of association which defends and protects with all common forces the person and goods of each associate, and by means of which each one, while uniting with all, nevertheless obeys only himself and remains as free as before."

((Comment: Rousseau might seem to be raising the bar too high at the start. Why must the move to political society leave each individual "as free as before"? Maybe a legitimate government takes away some freedom but offsets this loss by providing other benefits that are or should be more important to each individual than the lost freedom, and moreover the mix of costs and burdens that political society imposes is fairly distributed, fair to all. Rousseau does not see it that way. The question arises, what sort of freedom must be preserved or secured, according to Rousseau, if political society is to be justified. When a government uses state power coercively, seeking to force all to obey its authority, how might this be fully consistent with the freedom of each coerced citizen?))

Rousseau states the solution in the same chapter: "the total alienation of each associate, together with all of his rights, to the entire community." But what makes this a solution rather than another statement of the problem? Rousseau observes, "in giving himself to all, each person gives himself to no one." He adds in the same chapter: "*Each of us places his person and all his power in common under the supreme direction of the general will; and as one we receive each member as the indivisible part of the whole.*" Is this double-talk? Is Rousseau speaking with a forked tongue? What does he mean?

"Forced to the free." The puzzle.

Book I, chapter VII might seem to confirm the reader's worst suspicions. He writes, "For since the sovereign is formed entirely from the private individuals who make it up, it neither has nor could have an interest contrary to theirs." (Rousseau earlier in the same chapter had said that the entity formed by the union of persons in the social contract is called "republic or body politic," and is called "state when it is passive, sovereign when it is active," e.g., making laws.) Why not, the reader may wonder? Why couldn't it happen that people agree to form a political society, and establish a government, which involves placing political power in the hands of some political rulers, who may then want to bully or oppress the people, or at least may form interests that are not identical with the interests of the whole people? Further along in the same chapter, Rousseau comments that "each individual can, as a man, have a private will contrary to or different from the general will that he has as a citizen." Rousseau continues, "in order for the social compact to avoid being an empty formula, it tacitly entails the commitment—which alone can give force to the others—that whoever refuses to obey the general will will be forced to do so by the entire body. This means merely that he will be forced to be free."

This "forced to be free" passage puzzles commentators. It's one thing to say that it is fair to coerce and punish a person who does not obey the laws of a decent political order. The individual has benefited from the operation of the decent political order, and maybe his obedience is a fair price for the benefit. But what then is justified, surely, is restricting the person's liberty for the benefit of other persons, those who are cooperating fairly. Rousseau, embracing paradox, says that what we are doing when we force a person to obey the laws in these circumstances is forcing him to be free. Is this claim coherent? Compare a similar claim made by Rousseau in the "Letter to the Republic of Geneva" that is the preface to the *Discourse on the Origin of Inequality*. There Rousseau states that if he could have chosen his birthplace, "I would have wanted to be born in a country where the sovereign and the people have one and the same interest" and that "this could not have taken place unless the people and the sovereign were one and the same

person” which is only true where the form of government is “a democracy, wisely tempered.” Rousseau continues, “I would have wanted to live and die free, that is, subject to the laws in such wise that neither I nor anyone else could shake off their honorable yoke” (“Letter,” p. 26).

If Rousseau’s thinking here is coherent and plausible, showing this is so will involve explicating his notion of the *general will*. This notion is tricky.

Rousseau thinks that the problem of justified political authority as he understands it can be solved only by a particular kind of democratic political order. Only in a democracy can we remain free while obeying coercive laws. What sort of freedom are we talking about here? What sort of democracy?

((You might think Rousseau is wrong here in two ways. First, a democratic government can be oppressive. Even if the majority rules, a stable majority may well pass laws oppressive to a minority. Second, a nondemocratic government need not be oppressive. If we establish a monarchy and are lucky enough to have a string of good kings, the king rules fairly and does not violate people’s rights, but rather respects and promotes everyone’s rights. Is Rousseau merely denying that as a matter of fact democracies sometimes violate some citizens’ rights, and denying that as a matter of fact monarchies and aristocracies ever rule, for the most part, fairly?))

There are at least three notions of freedom or kinds of freedom in play in Rousseau’s discussion. One is moral liberty, which, according to Rousseau, “alone make man truly the master of himself. For to be driven by appetite alone is slavery, and obedience to the law one has prescribed to oneself is liberty” (Book I, chapter VIII, p. 151). Rousseau says one acquires moral liberty (I’ll sometimes call this “autonomy”) in civil society.

((Comment: Puzzles abound. One might think to be driven by appetite alone is slavery, in the sense that one might act to satisfy a desire against one’s will (against one’s true desire, one might say). I will not to smoke, but desire to smoke anyway, and in this way am a slave to my appetite. Another example: I will not to shop at the mall, or to use cocaine, but I desire shopping at the mall, or to use cocaine, and find myself shopping or using. I decide all things considered not to smoke, not to shop, not to use cocaine, so in each case this is my will, but the will is not effective, it is overpowered by desire. This can happen. But there are other cases of being driven by appetite alone that Rousseau also seems to want to include under the category of slavery to appetite. I might have an unconflicted desire to smoke (or shop, or use cocaine), decide to act on that desire, and do so. I don’t think Rousseau counts acting on unopposed desire as moral liberty. Acting on an unopposed desire wholeheartedly does not feel like slavery to appetite. Maybe Rousseau would say I am just a willing, contented slave when I act this way.))

Moral liberty looks to be a virtuous character trait. To have moral liberty in Rousseau’s sense is to be firmly disposed to act only according to laws or rules that one prescribes for oneself. One is disposed to act only according to self-imposed law. A person could have moral liberty in this sense even if she were in jail, or even completely wrapped up in gauze and unable to move so much as a finger. One’s will could still be firm—one is disposed to act only according to self-imposed law. But this construal may not capture Rousseau’s idea fully. Maybe for Rousseau to have moral liberty is both (a) to be disposed firmly to act only according to self-imposed law and (b) to have the opportunity to carry out significant actions according to self-imposed law. Uncle Tom, the conscientious Christian slave in the pre-Civil-War novel *Uncle Tom’s Cabin*, tied up in a cellar by the slavemaster Simon Legree, has a but not b.

Rousseau says one acquires moral liberty in civil society. However, couldn’t one resolve firmly in the state of nature to conform one’s conduct to the natural law and carry out that resolve? Yes, says Locke. It is not clear why Rousseau thinks that when only living under the right sort of government is moral liberty achievable.

Summarizing the gains and losses that one gets by participating in the social contract, Rousseau writes, “What man loses through the social contract is his natural liberty and an unlimited right to everything that tempts him and that he can acquire. What he gains is civil liberty and the proprietary ownership of all he possesses” (Book I, chapter VIII, p. 151). This seems to say that in the state of nature one simply does what one wants without thought of right or morality. This is the natural state of mankind described in Part 1 of the *Discourse on Inequality*. In the *Discourse*, Rousseau describes a long historical process whereby humans gradually become persons moved by ideals, able to stand back from immediate desires and decide whether or not to act on them, capable of being moral or immoral. Here in *The Social Contract* this process appears almost to shrink down to the single act of making an agreement to leave the state of nature. But of course man as primitive animal could make no such agreement, could not comprehend it. To be able to make an agreement to form political society, it would seem one must already possess complex ideas such that one can feel bound by one’s promises or agreements.

On this topic, a relevant passage is Book II, chapter VI, “On Law.” There Rousseau says that there is a natural law, determining what is right and fair, whose validity is independent of social conventions. However, in the absence of effective sanctions to obey, the laws of justice are “without teeth among men.” The laws of justice in this situation “do nothing but good to the wicked and evil to the just, when the latter observes them in his dealings with everyone while no one observes them in their dealings with him.” Rousseau concludes that the laws of justice are not binding on people in the state of nature. In the state of nature “I owe nothing to those to whom I have promised nothing. I recognize as belonging to someone else only what is not useful to me.” The laws of nature become binding on conduct only when political society is established and these laws are interpreted by particular conventions that are enforced.

((Comment: Rousseau here says that even individuals who have a complex distinctively human psychology and are capable of distinguishing right and wrong and conforming to right have no moral obligations in the state of nature. This is so because in the absence of political society you can never trust that any one else is disposed to obey the laws of justice in their dealings with you, and you are not bound to act justly toward those who may not be disposed to act justly toward you. However, this argument is too quick. First, there may be unconditional cooperators in the state of nature, persons who are going to behave justly come what may. You are surely not permitted to do anything useful for one’s preservation to such people—hacking them to death and taking their possessions, for example. Second, even in the absence of governmental coercion, there may be situations in which conditional cooperators (people disposed to obey the laws of justice toward those, and only those, who are likewise disposed) can find and recognize each other and undertake mutually beneficial cooperation. Again, nothing Rousseau says supports the idea that it is morally permissible in a state of nature to trick and manipulate and exploit such conditional cooperators, abusing their disposition to be cooperative and making them one’s prey. For all that Rousseau says, one might be obligated to be a conditional cooperator. Third, Rousseau here seems to be assuming that the laws of justice are conditional—they hold toward a given person only on the condition that this person is disposed to treat one justly. Perhaps the laws of justice are not conditional in this way, or perhaps only some of them are conditional in this way. (Maybe there are some things morality does not permit one to do even to a person who is firmly disposed to be unjust and violate the rights of others.) Compare Locke and Rousseau on the status of the obligation to obey the law of nature in the state of nature.))

Back to the idea of moral liberty: Rousseau identifies moral liberty with obeying only laws that one prescribes for oneself. This needs further interpretation. Suppose that in the state of nature I recognize a natural law and submit to that natural law, resolving to conform my conduct to the natural laws of justice. Do I thereby forfeit moral liberty? Surely not. Or suppose one makes up laws or rules for oneself and resolves to follow them, but these laws have a morally atrocious or arbitrary or simply incorrect quality. Suppose the Marquis de Sade prescribes laws for himself, amounting to the rule to impose pain on others for his pleasure whenever he is able to do so at no cost to himself. Does de Sade by prescribing a rule of sadism thereby achieve moral liberty as Rousseau understands it? Notice that de Sade might really be prescribing a law for himself. He

disposes himself to conform his conduct to this law even when his inclinations go the other way—when his inclinations are to be nice to a potential victim, for example. In a similar way, a conscientious Nazi might prescribe for himself the law “Kill all the Jews one can” and feel bound by this self-prescribed law even when he meets a Jew he likes and does not want to harm. We should distinguish (a) the disposition to make up rules for oneself arbitrarily and follow them, (b) the disposition to discern what morality requires and to follow one’s conscientious judgment as to what the moral laws are, and (c) the disposition allied to the ability actually to discern what the moral rules are and to embrace and conform to what is truly just and moral. Rousseau does not, I think, accept disposition a as amounting to moral liberty. A further complication: The moral laws might leave an individual wide discretion to live in various ways. In this area of discretion an individual might choose what to do whimsically or capriciously, or might prescribe (what seem to her to be sensible) rules for herself and follow those innocent but not morally required self-imposed rules. One might make it a law for oneself that one will go on a diet and lose weight, or work hard every day to complete a novel, or train hard to run a marathon race, and so on. I believe Rousseau would hold that an autonomous individual is disposed to obey such innocent self-imposed personal laws as well as the moral laws she accepts.

Rousseau on freedom, dependence, and the general will.

In broad terms Rousseau’s solution to the problem of the social contract is plain: when individuals are moved by the general will and follow laws established by the general will, they abide by the social contract and also remain free and independent, each person obeying only laws she prescribes for herself. In a society ruled by the general will, cooperation for the common good coexists with the freedom of each citizen. Voila! Problem solved. What then is the general will? This is tricky. Here is one try at grasping this complex Rousseauian idea: the general will is the will of all citizens directed toward the common good.

Now we can give one interpretation of the forced-to-be-free passage. (In “Freedom, Independence, and the General Will,” Fred Neuhouser calls this the “social autonomy” interpretation.) When each of the members of society participates in the general will, each wills the common good as interpreted by the laws in force. Each is disposed to conform her conduct to rules of justice and treat others fairly. But each of us also is subject to particular desires and aspirations, which may conflict with the general will. The general will might include a rule that regulates hunting and fishing, but I might have a strong itch to shoot moose and catch salmon right now, during the season when these activities are not permitted by law. For another example, the general will might establish a law that regulates economic activity, requiring employers to pay at least a minimum specified wage and maintain safe working conditions in the place of employment, but I want to get rich quick and want to pay sub-minimum wages to my employees and subject them to unsafe working conditions. Absent coercion, I would act against the general will by hunting and fishing out of season and by violating employment law. Suppose the penalties established by the criminal justice system succeed in deterring me from these illegal acts. In such a case I am plausibly regarded as forced to be free—forced to obey the general will, which at some times I do embrace, and which is my truest or deepest will. The last phrase would apply if my considered reflective judgment, made in a cool hour, is to conform to the general will, even if right now I am tempted to disobey and would disobey and moreover will to disobey. (If on the other hand I was a scofflaw who never wills the general will, then you could not say I was being forced to be free, but this would indicate a serious moral fault in me, a failure to achieve autonomy, what Rousseau calls moral liberty.

Neuhouser does not exactly reject the social autonomy interpretation. He urges that it needs to be supplemented. The starting point, indicating what needs to be added, is Rousseau’s statement that the stipulation that individuals be forced to follow the general will “is the condition that, by giving each citizen to the homeland, guarantees him against all personal dependence” (*Social Contract*, Book I, chapter VII, cited in Neuhouser). Neuhouser’s proposal is that according to Rousseau the conformity by everybody to the general will is a necessary condition of each citizen’s freedom. So complying with the general will is complying with what is necessary for you to be free—whether or not you subjectively accept the general will or autonomously will it.

Neuhouser's discussion supporting this proposal is rich and complex. His interpretation connects the fundamental problem of the social contract to *Discourse on the Origin of Inequality* themes. Here's a short summary: human persons are dependent animals; they depend on nature and on other humans for the satisfaction of their needs. Dependence on nature is unproblematic according to Rousseau. Unless nature provides air to breathe, water to drink, the wherewithal for food and shelter, we don't survive. Dependence on other humans is different; it threatens our freedom. Being dependent on other persons, one almost inevitably comes to be subject to their will, and if one obeys the will of another, one is not free. Neuhouser states that Rousseau holds that "The free individual is one who obeys only his own will, or more explicitly, one who obeys *no will* other than his own" (Neuhouser, p.381).

On page 2 of these notes I commented that at least three notions of freedom or kinds of freedom are in play in Rousseau's discussion. One is the freedom just mentioned—one is free in this sense just in case one obeys no will other than his own. Another, closely related, is moral liberty, obedience to self-prescribed law. A third is the civil liberty contrasted with natural liberty at Book I, chapter VIII, p. 151. Civil liberty is what is permitted by the laws of a political society; natural liberty is what is permitted in a state of nature, which in *The Social Contract* appears to be identified is a stateless state—life outside of any political society. (Rousseau seems to state that natural liberty involves the absence of any binding norm that restrains one's conduct, so one may do anything to anybody that one thinks will enhance one's prospects of preserving oneself.

According to Neuhouser's Rousseau, personal dependence comes in two forms: economic and psychological. One is economically dependent on other persons when one can satisfy one's economic needs only with their cooperation. What one needs is what one must have for one's well-being. Dependence might be reciprocal, but asymmetrical dependence (you are dependent on another but this other person is not dependent on you) menaces freedom. Psychological dependence is rooted in each person's self-love, which leads each person to seek self-esteem, which can be stably secured only by having the esteem and recognition of (some) other persons. Psychological dependence also shapes economic dependence, as when one's economic need is to keep up with the Jones's.

The problem of personal dependence is made worse if one develops inflamed self-love and relates to others similarly afflicted with inflamed-self love. That leads to the rat race, social competition for status that makes everyone worse off than they could have been, the social vices of excessive envy and jealousy, the disposition to deception and flattery, manipulation and exploitation, inauthenticity, lack of autonomy, and so on. But even non-inflamed, regular self-love can lead to economic and psychological dependence.

The social contract offers the one way for persons to escape these social ills. In a social contract society ruled by the general will, dependence is "depersonalized," Neuhouser interprets Rousseau to be asserting. One depends on the community as a whole, fairly regulated, not on any individual person. To eradicate personal dependence is to "eliminate the condition which both makes subjection possible and virtually ensures that it will come about" (Neuhouser, p. 384). Of course humans in the primitive condition described by Rousseau in Part I of the *Discourse on the Origin of Inequality* are also self-sufficient and hence do not suffer personal dependence, but returning to this state would not be desirable even if it were possible, for such beings lack not only conjugal love but also "language, reason, virtue, and subjectivity itself."

The solution to the problem of personal dependence, which leads to unfreedom, lies in the firm disposition of the members of a political community to will the common good and comply with it in their conduct. The general will restructures dependence so it is compatible with the freedom of each person. Neuhouser identifies three features of a society ruled by the general will that generate this outcome. First, the general will establishes material equality (limited material inequality) among the members of the society. Second, the general will establishes the rule of law, so that all members of society are equal citizens before the law. The law treats all formally

the same. Third, in the society regulated by the general will, each member of society has a secure basis of recognition by others propping up each person's self-esteem. The status of equal citizen in a just society establishes equality of respect among citizens. There is no bowing and scraping, no toadying, no sucking up to powerful individuals one feels compelled to please. (Or at least, these negative social dynamics are greatly dampened.) All care above all about being members of a just democracy of equal citizens and respect each other as equals.

Given all this, it is according to Rousseau as interpreted by Neuhausser objectively the case that everyone's compliance with the general will is a necessary means to one's freedom. Why so? Couldn't one be free if all others obey the general will and you do not? Even if that would count as being free, that state is unattainable, because you would be excluded from a society effectively regulated by the general will if you refused to comply.) So, in being compelled to obey the general will, against one's own will, one is being forced to be free. This is so even if one does not, even in reflective moments, subjectively align one's will with the general will. So Neuhausser can explain how the "forced to be free" passage can make good sense even if the social autonomy explanation of how this might be so does not apply. In Neuhausser's terminology, freedom has both a subjective and an objective aspect. Full freedom of a person involves both the objective and subjective sides working in tandem. But from the standpoint of one's freedom it is better to be in possession of one of these components of freedom even if one lacks the other. Neuhausser calls his interpretation of Rousseau the *freedom-through-personal-independence* model, which is supposed to supplement the social autonomy model.

((Comment: The connections between freedom, dependence, and the general will that Neuhausser describes can obtain, and he may be correct to attribute to Rousseau the claim that they hold necessarily (or in one case, virtually always). But must they obtain really? I think not. The connections hold sometimes, not always or necessarily.

((Does personal dependence always create unfreedom? Suppose you fall in love with a particular person, or come strongly to want a particular person as your friend. These strong feelings may render you personally dependent on the person you want to have as a lover or friend having reciprocal feeling for you an sufficient feeling to sustain a relationship. But relations of love and friendship do not always lead one to be subject to the will of another. Love and friendship aspirations are sometimes fulfilled. This can be so even if the dependence is asymmetrical. Frances has many friends and I have few, so in becoming her friend, I am more dependent on her favor than she is on mine. But I trust that she is a nice, decent person who will not abuse the power my desire for her friendship confers on her. Sometimes these asymmetrical dependencies go awry and lead to unhappiness and unfreedom, but not always. Moreover, sometimes these risks accompanying ventures in love and friendship are well worth taking.

((Personal dependence can be involved in communal relationships and political relationships as well. Consider the act of joining a monastery (or convent). One takes a vow to obey the abbot, and become personally dependent on his willing what is best for your spiritual development and that of the other monks. But maybe he is wise and good, and the decision to subject oneself to his authority, even by irrevocable vow, is a good one. It's easy to see that personal allegiance to a king or communist party leader could also involve one-way personal dependence, but whether this leads to unfreedom depends on contingencies. If the religious community is bound together by a common spiritual aim, and the political community is bound together by a comparable common aim, doing the will of the leader need not be subjecting yourself to an alien will. However, many of us may judge that all things considered, the risks involved in personal dependence in the political sphere are not worth running, unlike the comparable risks in some intimate personal relationships.

((One might also wonder whether being subject to the will of another and obeying the will of another is always undesirable for a person all things considered. Suppose you get the chance to become personal assistant to a Hollywood celebrity, Tom Cruise or Jennifer Lopez or someone whose personality you find appealing. The pay and working conditions are good, the tasks

assigned to you are stimulating, challenging, and usually fun. The job explicitly involves doing the will of another, including sometimes when your own will pulls in the opposite direction. But this subjection may be rather trivial (you are required to coach Tom Cruise in his song-and-dance routine when you would much rather be watching TV). Why is unfreedom as characterized by Rousseau necessarily of make-or-break significance? Many regular jobs, not merely the exotic job of being a personal assistant, involve an element of such subjection. Some jobs are oppressive, but the mere fact that you do the will of another rather than your own will in the course of the job is not per se oppressive. Question: Is this line of thought fair to Rousseau, or rather based on a misreading of his doctrine of freedom and personal dependence?

((Is the general will as characterized by Rousseau necessarily the enemy of personal dependence and unfreedom in the sense of obeying the will of another rather than one's own will? This seems to me to depend on the specific content of the laws established to serve the common good. Suppose the general will enacts a law that requires the nation to wage war in a certain type of situation, which then arises. The general will decrees by law that the war shall be conducted by troops raised by conscription. You are a pacifist, let's say. Your conscience is antiwar. The general will is requiring you to submit to military discipline, against your conscience, and obey the will of military superiors, even if they order you to shoot the enemy, which you strongly will not to do. Here the general will seems inimical to your avoiding personal dependence and avoiding being subject to the will of another. I don't say the general will in these circumstances is not right all things considered. Ex hypothesi, it is, or we would not call it the general will. But to say the general will never imposes personal dependence and subjection seems an exaggeration.

((In the absence of a political society regulated by the general will, it seems on the face of it that people can lead lives in which they avoid personal dependence, subjection of one person to the will of any other, and in which all achieve moral liberty or autonomy. Picture a community of peaceful farmers living side by side. They cooperate sometimes, but are overall self-sufficient. They recognize and embrace the natural law, what Rousseau calls the laws of justice, and scrupulously obey this law in all of their conduct. This might be an unlikely scenario, but its description seems consistent, and moreover it is not inconsistent with laws of physics or psychology. Suppose people vary in their dispositions to be sociable and moral, and this community is formed by people who are far more sociable and moral than the average person. Why not?))

Majority will and the general will.

I'm not sure any of the criticisms above touch any premises Rousseau needs to make his main argument. This argument is to the conclusion that in a certain form of democracy, the problem of the social contract can be solved. The problem is how to unite with others in a stable scheme of social cooperation without losing the freedom that matters most. The problem is solved in a political society in which all members of society are firmly committed to the general will and no one of them obeys the will of any other. How does this come about according to Rousseau?

Rousseau stipulates conditions under which the majority vote of citizens will bring it about that the laws passed by such majority vote will always coincide with the general will—a will directed toward the common good. He seeks a guarantee—a set of necessary and sufficient conditions for majority vote to correspond to the general will. Key texts here include Book II, chapters I-III, Book III, chapter XV, and Book IV, chapters I-II.

Conditions.

1. All citizens participate directly in making the laws on a one-person-one-vote basis. Each makes up her own mind concerning how she shall vote.
2. All those subject to the laws are citizens.
3. Citizens are fully informed about the issues on which they are voting.

See in this connection Book II, chapter III, “On whether the general will can err.”

4. Either: there are no factions, or factions are made to have no impact.
See Book II, chapter III, p. 156. Factions are organized interest groups.

See in this connection Rousseau’s observations on the will of all versus the general will. The former considers private interest and is merely the sum of private wills.

Maybe Rousseau’s idea here is that if most voters are virtuous and conscientiously disposed to vote for the common good as they see it, a few people voting their private interest will not prevent a majority will for the common good from forming. The votes that aren’t seeking the common good are likely to balance each other—they are as likely to fall on one side of the common good as the other. (Here we are assuming a single issue, and possible laws responding to it as points on a line, each varying a little from the points on either side of it—eg the question is whether to raise the single tax rate, and if so, by how much.) However, if there are organized factions, and a tendency for ever more people to become factional, as formerly public spirited voters see others voting for their own private interests, then there is no reason to think the outcome of factional voting by blocs of voters will hit on the common good or anything in the neighborhood of the common good.

5. Proposed laws must be general in form (they must contain no proper names and no rigged definite descriptions).

Rousseau in some passages overestimates the power of this condition to prevent people from tailoring general laws to their particular selfish interests.

Consider the candidate law: Let the retirement system pay especially high pensions for the next fifteen years.

This candidate law contains no proper names nor rigged definite descriptions but may favor young people over young people and be perceived as such by voters not]withstanding its general form.

This problem seems unavoidable. Selfish voters could vote for their interests, and if they coalesce into a majority of voters, the law passed will favor their interests, perhaps unfairly. Think of the example of wrongful expropriation: the majority votes to take away from a minority of people property that rightfully belongs to them and to which the majority has no right.

The purely procedural conditions on voting stated to this point evidently do not suffice to guarantee that voters will by majority vote pick the policy that corresponds to the common good.

Rousseau clearly understands that there is no purely procedural mechanism that will guarantee that the general will coincides with the vote of the majority. Some texts do suggest faith in procedural gimmicks, but the text of the book as a whole does not. So I suggest anyway.

Voters could always vote their private interests even in the absence of organized factions, and the result of a majority vote of self-interested or group-interested voters might be a majority vote for a policy that favors the majority of voters unfairly over the minority of voters.

We need a political psychology of solidarity and allegiance to justice that is widespread among the voters. Voters must be disposed to set aside their private interests when they vote.

We might try to put words in Rousseau’s mouth. He does not explicitly say the following, but I think he implicitly holds a view along this line:

6. All voters, or a commanding majority, conscientiously seek to determine the common good and vote for that.

This condition is in one way stronger than what one needs—one needs on each issue just a bare majority of voters picking the common good.

More important, the whole set of conditions 1-6 is still too weak. Conscientious voters could all be mistaken, swayed by bias.

So add

7. The conscientious voter is not biased by any private interest in her choice of what to vote for.

Even this revised set—going beyond anything Rousseau explicitly stipulates-- does not guarantee that the vote will yield the common good. Mistakes are still possible. (Unbiased conscientious voters with all the relevant information reason badly in ways that are beyond their power to control and get the wrong answer.

Regarding mistakes, Rousseau seems to hold that so long as voters reason independently, and are conscientiously trying to figure out where the common good lies, majority rule will pick out the right answer. He is clearly conceiving of a voting procedure as an attempt to discover the right answer to a problem that admits of an objective solution. There are correct and incorrect answers to the question, what policy (if any) among those proposed agrees with the common good.

This analogy captures Rousseau's thinking on this point. Suppose the task were to add up a long column of figures. We set the task to individuals who are competent at addition and subtraction. Any one individual could slip and get the answer wrong. But if each voter is competent (more than .5 likely to get the correct answer), then the more voters there are, the more likely the majority vote will get the right answer. With a large enough number of such voters, majority rule will yield the answer that is correct with virtual certainty. (If you rise the probability that each voter alone will get the right answer, you get a swifter convergence on this result: majority will is almost certain to be correct.) Of course, the assumptions needed for this to be so are strong, and may well not hold. But Rousseau is thinking along this line.

See Book IV, Chapter II, "On Voting." Rousseau there asks, how can a person be free in submitting to the laws, even the ones she voted against? Rousseau replies, "the citizen consents to all the laws, even to those that pass in spite of his opposition." He continues, "When a law is proposed in the people's assembly, what is asked of them is not precisely whether they approve or reject, but whether or not it conforms to the general will that is theirs. Each man, in giving his vote, states his opinion on the matter, and the declaration of the general will is drawn from the counting of votes. When, therefore, the opinion contrary to mine prevails, this proves merely that I was in error and that what I took to be the general will was not so." (p. 206)

This passage sounds ominous to some readers. If the question is to prohibit or allow abortion, and your conscientious conviction goes against the majority vote, how can it be acceptable to change your conviction, and wholeheartedly accept the majority will as Rousseau suggests? Of course, if I thought majority vote is a procedure more likely to get the right answer than my own opinion (as in the example of adding up a column of figures), then it would be reasonable to change one's conviction on this basis. Rousseau does not hold the conditions necessary for majority vote to be a reliable guide to the right answer may not hold. He says he is presupposing "that all the characteristics of the general will are still in the majority." When that presupposition is wrong, "there is no longer any liberty regardless of the side one takes." Only in a political society ruled by the general will can one be free. In Book IV, chapter I, p. 204, Rousseau describes a society whose members become increasingly prone to selfish pursuit of private ends and factionalism. Eventually "the general will becomes mute." Any so-called laws that are passed do not express the general will.

A puzzle here is that Rousseau sometimes does talk about voting and the general will in ways that suggest that the right kind of democracy is a device that guarantees that self-interested voting will produce laws directed to the common good. In Book II, chapter IV, p. 157, Rousseau writes, "Why is the general will always right, and why do all constantly want the happiness of each of them, if not because everyone applies the word *each* to himself and thinks of himself as he votes for all? This proves that the quality of right and the notion of justice it produces are derived from the preference each person gives himself, and thus from the nature of man." I have been interpreting Rousseau as defining the *general will* as the will of the members of a community directed toward the common good. But on this interpretation I cannot make heads or tails of this passage.

Some interpreters make this passage the base of their interpretation. The general will is then identified with the will of the members of a community, voting under certain constraints. Nobody's will has to be directed at the common good, the general will, the tendency of the votes, just happens always to coincide with the common good when the right procedures and background conditions are in place. In contrast, I have been supposing the general will is a will that (1) conscientiously seeks the common good and (2) correctly recognizes it.

The best I can do with this passage is suggest that Rousseau might be thinking of a special case, and perhaps overgeneralizing from that case. The special case is a type of decision problem in which whatever the majority prefers is the fair solution. Suppose a community has some funds available for a public purposes, and the two options are a swimming pool or a tennis court. Given that each person's preference in this matter is about equally intense, it might well be that the fair thing to do is whatever the majority prefers. Here one side must win and one side must lose, and it is better that a majority rather than a minority prevails. In this situation, if every voter sizes up the situation correctly, each votes her own preference, and the common good solution issues from self-interested voting. However, this is a special case.

((In many political decision-making problems, it is implausible to identify what is fair (where the common good lies), with whatever a majority happens to prefer for self-interested reasons. Suppose the question is whether to raise taxes of people who happen to have dark skin color, and a majority of light-skinned voters would benefit from this tax code change and on this basis prefers it.))

Sometimes Rousseau seems to suggest that the common good consists of interests shared by all members of the community (or perhaps shared interests that withstand critical reflection). Members of the community have particular interests, which conflict, and shared interests, which don't conflict. However, one might alternatively think of the common good as the set of fair solutions to social conflicts or as the requirements of justice. For example, catering to certain particular interests of disabled persons might be fair, and hence part of the common good on this way of looking at it, even if these interests are not shared interests. What is not in doubt is that Rousseau believes that there are objectively correct answers to questions as to what laws should be enacted and enforced, and the democratic voting process rightly ordered is designed so it reliably picks those correct answers,. Rousseau is sometimes said to have an epistemic conception of democracy.

((One might disagree with Rousseau's conception on various grounds. One might hold (a) that there are no objectively correct resolutions of conflicts of interest among members of society, or (b) that whether or not there are such correct answers, it is not the function of the political process to discover them or (c) that if it is the function of the political process to discover them, there is no way of arranging a democratic political constitution to guarantee that the policies it selects always coincide with the common good (the objectively right resolutions).))

((Contrast Rousseau's conception of how democratic political arrangements might be justified (with the right conditions in place, a democratic process guarantees that the society is ruled by the common good) with the conception of democratic politics as fair interest group competition in a

pluralistic society. On the pluralistic view, in a modern society, voters are divided by many cross-cutting conflicts of interest. When conflicts of interest are cross-cutting, those who favor A in the conflict among A, B, and C are not the same people as those who favor M in the conflict among M, N, O, and P, and these people are not the same as those who favor H in the conflict among D, E, F, G, and H, and so on.) Under democratic arrangements, people with the same interests will form interest groups to advance those interests, and political parties will seek to develop a political platform that will bring together a majority coalition of voters drawn by concern for their particular interests. Over time parties press new platforms seeking new majority coalitions. On any given issue, there will just be a majority who favors what is chosen, and no reason to think the outcome fair, but over time, the winning political coalition changes in membership, and over the long run, everybody will have a roughly fair chance of belonging to a winning coalition that brings it about that one gets one's way on issues one strongly cares about. This vision of politics as a competition, perhaps a roughly fair competition, of individuals seeking to advance their particular private interests, would be repulsive to Rousseau. The notion of fairness implicit in the pluralist model is something like equal chances for everybody of satisfying the interests one cares a lot about.)

The Legislator

I have claimed, Rousseau is sensitive, at least intermittently in the text, to the problem that without virtuous citizens, a democratic political process cannot be expected reliably to select policies that accord with the common good. See Book IV, Chapter I, page 204, middle of page. There are other passages on this theme. One important passage is Book II, chapter VII, "On the Legislator" (this person might better be called the "Constitution-maker").

If people were virtuous and firmly disposed to respect each other's rights when living together in the absence of government and political society, in the Lockean state of nature, then political society would perhaps not be needed. "Perhaps," because one could argue even conscientious angels might disagree about what laws are fair, and need a government to induce most people to coordinate their behavior according to a single conception of what is fair. Some nontrivial number of people are vicious, so political society is needed. But then one might suppose the Rousseauian democratic order steadily following the general will could never get off the ground. At the outset, nonvirtuous people would tend to vote selfishly, so political society would veer away from the general will from the very beginning. Maybe there is only a minority of selfish voters at the outset, but then won't moral voters also start voting selfishly to avoid being the victims of the selfish? The problem might seem especially acute for Rousseau, who sometimes writes in the *Social Contract* as though people shift from amorality to morality in the transition to political society.

Rousseau appears to provide a fascinating solution to this problem when he describes the Legislator, the great leader who brings the laws to a people and initiates a social contract and a political society. The problem is that (1) only through the operation of a fair democratic political order will individuals become rational and virtuous, but (2) unless individuals are rational and virtuous, they will not embrace and operate a fair democratic political order. We won't get a virtuous citizenry unless we already have a well functioning democracy, and we won't get a well functioning democracy unless we already have a virtuous citizenry—so we won't get either one!

The Legislator as characterized by Rousseau solves this problem, if circumstances are favorable. According to Rousseau, the wise Legislator would like the people to accept a political society, but has a problem: You can't rationally persuade the people of the merits of political society—the people are not rational and virtuous enough for rational persuasion to have a hope of success. You can't use coercion to get the people to accept a political society—Rousseau thinks that will only lead to some horrible outcome. What can be done? Answer: The Legislator uses charisma, powerful personal charm, and on this basis succeeds in persuading people irrationally to accept political society. There are good reasons to institute a general will political order, but initially the people can't appreciate these reasons. But led by the strong charismatic leader, they follow, and under the operation of the new political order they grow rational and virtuous, and come eventually to appreciate the justification for the new system. Of course, a people at the historical

moment or moments when a good and just political society can be instituted, might not be so lucky as to have available a great charismatic leader. But if they are lucky, a Legislator will rise up at the right moment. Rousseau mentions the biblical Israelite leader Moses, the Greek leader Lycurgus, and the Protestant reformer Calvin, the founder of Geneva, as examples of the kind of leadership he has in mind. The Legislator solves the dilemma posed at the beginning of this paragraph. Rousseau states; "Thus we find together in the work of legislation two things that seem incompatible: an undertaking that transcends human force, and to execute it, an authority that is nil" (Book II, chapter VII, p. 164). (By "legislation" here Rousseau has in mind what might better be termed "constitution-making.") Rousseau observes that the Legislator is often a religious leader; his charisma is specifically religious charisma. As Rousseau sees the job of the Legislator, he uses the power of irrational persuasion gradually to train people to reason well about the common good.

((Comment: By and large I find in Rousseau's description of the Legislator a good solution to the problem he poses. Some small doubts: (1) Rousseau seems to envisage a very fast transformation from irrational credulity to good citizen rationality; this may be an unrealistic element in his account. I suppose the Legislator is conceived as gradually weaning the people from a taste for hocus pocus to sound arguments and the disposition to appreciate sound arguments. (2) I am not really sure why Rousseau rules out coercion as the solution to the problem of the need for revolutionary transformation in the hearts and minds of people. Maybe military and police power directed roughly at bad people will help jog people toward better ways of thinking. Maybe if we guillotine some aristocrats, or imprison some bad landlords, common people will give up their habits of deference to the powerful and mighty aristocrats and landlords. Maybe, maybe not. Rousseau seems to dismiss revolutionary coercion and violence out of hand. (3) Rousseau's solution depends on the Legislator being an immensely virtuous and wise person, a saint who is also a political genius. Such people might be rarely at hand. (4) If we were lucky enough to be led by a Rousseauian Legislator, a saint and genius, why not then favor a form of political society that puts extra political power, or even concentrated political power, in the hands of this saintly genius? Rousseau says we can be free and obey only ourselves only under the rule of the general will, which requires a certain form of democracy, but is that right? Is a benevolent dictatorship never a good idea, not even as a transition to Rousseauian democracy?))

((A point Rousseau does not mention, but that fits his account: We might see the Legislator as solving a coordination problem regarding choice of fundamental political constitution, foundational political arrangements. There are many such possible constitutions, none obviously superior to the rest, many having some adherents. The Legislator cuts short potentially interminable and intractable conflict about which constitution to put in place by identifying one as divinely chosen or otherwise absolutely binding. If this works, it solves an initial coordination problem and helps foster people's allegiance to the constitution and facilitates long-term stability. One does not want the political constitution to be continuously up for revision, especially since at any given time some people might see factional political advantage in changing the constitutional provisions in a certain way. From the standpoint of the aspiration to secure and maintain the regulation of society by the general will, there are advantages to people's investing mystical authority in the present constitution so long as it is good enough.))

BOOK III. Forms of government. Rousseau on representative democracy.

Rousseau's terminology might confuse the reader. In Book II, chapters I & II, Rousseau writes that sovereignty is "inalienable" and "indivisible." Explaining his meaning, he writes, "I therefore maintain that since sovereignty is merely the exercise of the general will, it can never be alienated, and that the sovereign, which is only a collective being, cannot be represented by anything but itself." (p. 153). This means at least that all citizens must participate on equal terms in the exercise of sovereignty, the making of laws.

But then in Book III we find Rousseau discussing the comparative merits of different forms of government—democracy, aristocracy, and monarchy—and being open-minded about where the balance of advantages lies. He suggests that in different circumstances, one or another form of

government might be best for a people. Is he then taking back what he seemed to assert in Books I and II? No. We need to clarify Rousseau's terminology. Suppose we distinguish the legislative (law making, executive (law executing and administering) and judicial (judging what the law requires when one is accused of a violation of some law or some citizens demand compensation from others who have committed a tort or breached a contract and there is a dispute to resolve) functions of government, which might be split among three branches of government—legislative, executive, and judicial. Rousseau's terminology is different. What we ordinarily call the legislative, the law-making branch of government, Rousseau calls the "sovereign." What we ordinarily call the executive branch of government, Rousseau calls the "government." Rousseau sees the judicial function being carried out by the government (or a branch of the government. The entire set of government officials, whether or not they are judges, Rousseau refers to as "magistrates."

Here is Rousseau's classification of forms of government, in Book III, chapter III. If the sovereign entrusts the job of government to a majority of the citizens or a fraction of the citizens greater than one-half, Rousseau will call the government a "democracy." If the governing function is entrusted to less than one-half of the citizens but more than one, Rousseau calls this type of government "aristocracy." The third alternative occurs if the sovereign concentrates "the entire government in the hands of a single magistrate from whom all the others derive their power," then we have monarch or royal government. Given the definition of monarchical government (which is not said literally to consist in administration of the laws by a single person), we should say that in a democracy, a majority or more of citizens are public officials with some independent authority, not merely subordinate to a higher official, and in aristocracy, fewer than one-half of the citizens but more than one are public officials with independent authority. Recall that the Rousseauian "government," be it democratic, aristocratic, or monarchical, is charged with executing and administering the laws passed by the democratic sovereign consisting of all citizens.

Rousseau in Book III embarks on a complicated discussion of what form of government (in his special sense of the term) is best in various types of circumstances.

Many readers are likely to suppose that a democratic government might take the form of a direct or indirect democracy. In direct democracy, all citizens participate directly in the legislature and vote on proposed laws. In an indirect democracy, citizens as voters elect representatives, and the representative assembly is the body whose members draft legislation and vote among proposals to enact laws. Rousseau denies that indirect or representative democracy could be a legitimate form of legislative. At some points he seems to rule out representative democracy by stipulative definition. Given his definitions of *sovereign* and *general will*, sovereign authority cannot be exercised by voters selecting representatives who then select the laws. But the substantive normative questions here—what political arrangements are desirable?—which ones ought we to institute and sustain?—cannot be settled by such definitions. They invite the response, "OK, We concede our form of government does not instantiate *sovereignty* as Rousseau conceives it, but it instantiates *shlovereignty*, where *shlovereignty* is exactly like *sovereignty* except that shlovereignty is compatible with representative democracy.

Rousseau might have an argument to the effect that only if all citizens actually participate in the making of laws by voting on them and thus being responsible for their enactment will citizens be living under the regulation of the general will, so that living in a political society is compatible with the ideal that each citizen is free in the sense that no citizen obeys the will of any other person. How would that argument go?

Rousseau discusses and rejects representative or indirect democracy in Book III, chapter XV, "Of Deputies or Representatives." A lot of interest turns up here.

There is a striking indication of Rousseau's disinterest in what I call "wide option freedom" (see class notes for Monday's class for this idea). Suppose a society's political arrangements, providing necessary public goods like a system of roads, costs money to maintain. We could get

the roads built by taxing citizens and using the funds to hire road builders, or by conscripting all citizens to work on road construction. A clear advantage of the tax scheme is that in a wide range of circumstances, it permits individuals to fulfill their public duties at smaller cost to themselves, without any loss in the quality of the public goods provided. One can also see a gain in freedom of a sort: If the public duty takes the form of conscripted labor, I have just one choice: labor on the roads. If the public duty takes the form of a tax bill, I have many options if there are many ways available to me to get the money needed for this purpose. I can work at any of many jobs the market economy provides, that will earn me enough to pay my tax bill. I might engage in self-employment, eg singing for a fee at my neighbors' parties. And so on. Rousseau takes a different view. He prefers that when a community needs a communal good, it is better that all citizens wish to join directly in doing the work to provide the good. If one wants to serve the public need in this way, conscription of one's labor will not be felt as a burden. In a society of public-spirited citizens, Rousseau thinks, all citizens will have the attitude just described. He comments, "I believe that forced labor is less opposed to liberty than are taxes" (p. 198). So one might raise the question, in what sense of "liberty" or "freedom" is Rousseau's claim plausible? ((Some who disagree with Rousseau on this general point might agree with him for the specific case of military conscription. One might consider why one might regard military service as special.))

Rousseau believes that in a society of public-spirited citizens, they will prefer to join directly in law-making rather than delegate this task to elected representatives. So a shift to representative democracy indicates a shift for the worse in citizens' attitudes and values, according to Rousseau. But aside from being a symptom of change for the worse in citizens' virtue, what is wrong per se with representative democracy for Rousseau? He might believe that a shift to representative democracy will exacerbate whatever tendencies toward weakening of public-spiritedness are present in the people. In that case, the shift of representative democracy would be cause as well as symptom of evil.

More important, Rousseau believes it belongs to the essence of sovereignty that the law-making function must be carried out by all citizens on equal terms, so it cannot be the case that laws passed by a representative assembly are legitimate, a legitimate expression of the general will. Why so? What are Rousseau's reasons?