

ROUSSEAU AND THE PROBLEM OF CENSORSHIP: FREEDOM, VIRTUE,
AND THE EDUCATION OF THE CITIZEN

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I investigate Rousseau's formulation of how the people and their government act as sources of civic education and censorship. I define censorship broadly to include all institutionally or publicly enforced moral or policy views. Using Rousseau's *Letter to M. d'Alembert* as a starting point, I examine the way in which public morals and opinions structure political discourse, determining the influence of laws and the limits of institutions. I argue that while law can force the people to tacitly conform by threat of punishment, it cannot compel the people's will. Unlike classic liberal approaches that separate morality and law, Rousseau emphasizes a reciprocal influence between them, and contends that their relegation to separate spheres enervates the laws and further distances the people from legislation. Public opinion and its product, morals, resist attempts at government censorship, but themselves demand compliance. As a result, Rousseau argues, social and political freedom necessitate a certain uniformity of public opinion and law. That uniformity, however, requires a civic education reinforced by both an institutional and public form of censorship. In addition to a more general civic education, reason and conscience, two key intellectual and psychological traits, require cultivation and proper direction, resulting in the individual's identification with and concern for their fellow citizens' well-being. Overall, my work explores the extent of Rousseau's formulation and the limits of its application to ancient, modern, and contemporary politics.

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CHAPTER 1

INTRODUCTION

Theories of Censorship

Modern liberalism was often hostile to the mention of censorship or the suggestion that it may be beneficial. We usually spoke of censorship as a tool of government power, particularly oppressive regimes, with the people as victims under its control. Although Boyer argues for a more complex and nuanced view of the censor's role and intellect, he offers a harsh viewpoint that encapsulates a number of discussions on censor: "Censorship is a crude business: punitive, petty, anti-humanitarian, and far beneath the work of the truly gifted and intelligent" (Boyer 2003, 511-512). This is particularly the case when we examine news media in relation to politics, especially under authoritarian regimes. A number of studies focus on China's extensive use of censorship, particularly internet censorship, and the effect such wide-scale censorship has on the politics and people of the region (King et al. 2013; Peter Lorentzen 2014; Zhou 2017; Chen and Yang 2019). Chen and Yang begin their work by stating that censorship is the "hallmark of authoritarian regimes." They go on to cite Freedom House's *Freedom of the Press Report* to show that states with "unfree" media "are concentrated among regimes that are undemocratic and grant limited political rights for their citizens" (2019, 2295). Considering censorship in light of democracies, Lorentzen (2014) contends that a free press is essential to democracy and political accountability. To censor the press would yield deleterious effects. Other authors argue that the specter of censorship threatens or shapes the core of our educational systems; leading to limited learning outcomes and even self-censorship by teachers (Noll 1994). Whether it is new media, education, or the internet, people hold legitimate concerns about how censorship limits our freedom or expression.

Censorship, however, does not limit itself to tyrannical or anti-liberal governments. Censorship and the censor do not make decisions in isolation. Social and political contexts add multiple, dynamic layers to the complexity of censorship. Gafaïti argues that context and cooperation by the censored adds to what we often consider a governmental function. “Censorship can be exercised only in relation to a system of values that determines what is good and what is bad, what can be permitted, what can be circulated, what must be forbidden, repressed, or outlawed. Censorship thus exists as an enunciation of power in the sociopolitical discourse that organizes the public sphere” (1999, 60). Censorship reaches beyond sole government action and creates a new interplay between citizens and their regime. While researchers and pundits usually focus on watchdog media to protect the people from their governments, some authors suggest an almost watchdog effect among the people where advocates of censorship are concerned with the potential gullibility of their peers. The “third-person effect” argues that “individuals assume that communications exert a stronger influence on others than on themselves” and that “people are more likely to systematically overestimate the extent to which others are affected by mass media than they are to underestimate that effect on themselves” (Rojas, et al. 1996, 165). The willingness to hold pro-censorship attitudes points to the people’s support of censorship; making them active participants or, at least, cooperative in censoring. The idea of the public censoring to protect their fellow citizens extends to their desire to silence them as well. Divergent viewpoints, especially on contentious political issues, can ignite in the call for censorship. Technology enables new forms of sharing opinions and information along with new avenues for public shaming. When it comes to social media platforms, an area of technology known for its use in expressing political and social dissent, the call for censorship may come from the application’s users or be enforced by companies (Hintz

2015). People and corporations, then, actively participate in censorship.

What Do We Mean by “Censorship”?

Since the mid-1990s there has been a concern for new definitions and redefinitions of censorship both in what constitutes censorship and what the expected social and political effects of censorship might be (Moore 2013). Standard, contemporary definitions of censorship often position the government as a censorial body that perpetuates an antagonistic relationship with the people. Moore offers a simplified version of what seems to be the widely-held definition of censorship: “Censorship is generally understood to be the official suppression or prohibition of forms of expression” (2013, 46). This definition is deceptively broad, but Moore supplements this definition with a more focused concern for the effects of censorship. “Few can argue that censorship does not define us as social subjects. It remains the predominant countering force to the democratic principle of ‘free speech’, constitutive of most forms of modern community and sociability through delimiting the means by which these can be known” (Moore 2013, 46). Especially in societies attentive to the circumscription of free speech, censorship appears authoritarian or, at least, antithetical to democratic principles. The supposition being that a democratic people or system necessitates the people’s ability to participate in the exchange of ideas as a means to political participation, information and overall agency. Censorship, especially political censorship, dilutes this agency by limiting political avenues that public discourse provides.

In discussing what he calls the paradox of censorship, Holquist challenges the concept of censorship as something which we are able to overcome or eliminate. For Holquist, “to be for or against censorship as such is to assume a freedom no one has. Censorship is. One can only discriminate among its more and less repressive effects” (1994, 16). That all societies participate

in some form of censorship is in line with the notion that there are always some practices cultures find unacceptable and wish to limit the people's exposure. Holquist reframes the problem of censorship as one of degrees not existence and focuses on a macro-level view of censorship instead of individual or interpersonal concerns (1994, 16). Censorship is a pervasive element of social and political discourse that permeates our relations in a way more complex than simply a governmental actor silencing a particular author or message. "The phenomenon viewed as a one-way street of simple repression is a kind of folk censorship. But, as demonstrated in a host of recent studies...there is another perception of the scope and complexity of censorship, in which relations between censors and victims appear dynamic and multidirectional" (Holquist 1994, 16). Holquist goes on to explain the constraint censorship thrusts upon both the censored and the censor. When speaking of authorship, Holquist notes the high impossibility of censorship eliminating the offending message and, even when successful, censorship does not last for long.

Social actors determine the boundaries of censorship through their experience of censorship. The censor and censored are "constrained by what is possible amid social forces whose lines of influence bound—while extending beyond—the ecosystem in which censorship seeks to exercise discursive hegemony" (1994, 17). Holquist comments on censorship's propensity to create "sophisticated audiences" that are aware censorship is in play. Because these audiences are aware, their perceptions of the censored material are automatically affected and forever modified by this knowledge. Their sophistication is the result of their becoming textual interpreters who attempt to explain what is available in the "text" in light of what they think the censor has excised. The inclusion of such a context presents the viewer, reader, etc. with the image or idea of what they are not supposed to experience or know. This drives the viewer to determine the author or medium's intent that censorship effectively silenced. Censorship itself

conjures the ideas it is meant to suppress. Moore returns to this idea and applies more concretely to political concerns. “Transparency in censorship systems is necessary, even foundational for representational democracy, even though such transparency is always counter to censorship’s aim, and that is because censorship only properly ‘incites discourse’, as Foucault proposes, when we know we’re being censored” (Moore 2013, 62). That the people are aware of censorship alters their interaction with censorship. By combining the arguments of Holquist and Moore we are left to consider censorship as an often-weak political power in that its practice confounds its aim. The awareness of censorship alters a person’s understanding of the censored text and their relation to it politically. Holquist notes “[t]hat censorship necessarily includes the other it seeks to exclude is often taken as a hopeful sign that any set of prohibitions, no matter how stringent, has loopholes” (1994, 15). When the viewer is aware of its presence, censorship fundamentally changes the text and the viewer’s perception of the text. Under this conception of censorship, we must understand the individual as subject and the individual as a part of the collective subject. Censorship influences individual perceptions and the perceptions of a collective in dialogue with both censorship and every other individual. More simply put, the individual’s perception of censored material exists within a social context. The collective response of the people to censorship in turn shapes the individual’s response to both the censored material and their peers. How does one understand themselves in relation to the whole and does one self-censor in relation to the whole or reject the community’s response?

Post extends Holquist’s definition of censorship and reiterates its pervasive character. Focusing on issues of power developed out of Foucault’s theory and applied to censorship, Post reorients censorship as an inescapable struggle whose tension is felt on all levels and between groups governmental, social, and individual. “If censorship is a technique by which discursive

practices are maintained, and if social life largely consists of such practices, it follows that censorship is the norm rather than the exception. Censorship materializes everywhere” (Post 1998, 2). At the time of writing, Post notes the recent activity of disparate groups joining together to censor everything from pornography to hate speech. He continues by presenting conservative and liberal issues that by their nature participate in or attempt to resist censorship. Whether it is the concern for freedom of expression as resisting censorship or the desire of the left to balance out the power structures by employing censorship on the wealthy or within the realm of women’s issues, all of these rest on a question of government participation and intervention.

Government participation or intervention implies the possibility of agreement or contention on the part of the people. Holquist borrows Paul De Man’s argument to assert that “reading, when it is not mere recitation, is always a deed one performs: reading is an act, an act of resistance. It specifically resists what the censor wants. Truly engineers, though maybe not of human souls, censors intend to construct rather than prohibit. What [censors] wish to make is a certain kind of text, one that can be read in only one way: its grammatical (or logical) form will be seamlessly coterminous with all its rhetorical (or semiotic) implications” (1994, 22). Through reading, the reader performs an act of oppositional interpretation that defies the intent of the censor. To argue that the censor attempts to constrain the reader and force meaning onto a text, suggests that any attempt to restrict textual interpretation is an attempt at censorship. McQuillian notes that, for de Man, neither readers nor authors are able to control the meaning of a text. “Rather the ‘truth value’ of an interpretation can never be verified in relation to the text being read because the figural dimension of language—from which no reading can escape—always interferes with the desire to set a fixed meaning to a text (McQuillian 2001, 18). Even the act of

claiming truth is censorship because it presumes the exclusion of other interpretations or “truths.” Applied beyond textual analysis and interpretation, we can understand censorship and the process of censoring as one of conformity or world-building. Extended to particular behaviors, political actions, or social intercourse, Holquist’s theory of the censor’s desire to construct may be understood as the construction of social or political life itself. That we move past the mere prohibition of ideas into the realm of shaping ideas and behaviors allows for a reconsideration of censorship as productive endeavor, even if we might not care for what it produces. Holquist’s minor aside on the censor is the notion that the censor is an engineer “though maybe not of human souls” suggesting that, even though censors are a kind of creator, the fundamental character of human beings is a limitation on the extent of censorial power. His point on Paul de Man, however, stresses the element of human beings that actively resist censorship. If human beings are active readers and interpreters, the censor’s “engineering” possesses inherent limits. Without considering the coupling of censorship with oppressive physical force, it is the human element that allows for the people to elude censorship.

When we take into account the extent to which governments may employ censorship through physical intimidation or force, we can see the truly the oppressive character of censorship (and certainly the one we fear the most). Van Den Abbeele presents an example of especially oppressive censorship that results from physical as well and ideological force. Van Den Abbeele uses Christa Wolf’s depiction of her childhood town in Prussia under Nazism in her novel *Kindheitsmuster* to describe a kind of self-censorship that is “‘stricter than laws,’ that enforces a repressive state of affairs by encouraging a type of collective denial that is nonetheless experienced and practiced on a solely individual level. In such a situation of extreme terror, there is no longer even the option of expressing truths between the lines since there is left only the

self-evidence of ‘what goes without saying.’ Nothing else can even come into consciousness, as state censorship becomes indistinguishable from psychical repression” (Van Den Abbeele 1997, 12). Censorship like the one found under fascist, Nazi rule, makes nearly impossible the public discourse that resists censorship. Van Den Abbeele’s example shows the limitation of definitions of censorship when applied to particularly villainous forms of censorship. It also implies the possibility for “expressing truths between the lines” as a method of writing under censorship. Van Den Abbeele contends directly with Strauss’ claim that we may wonder “whether some of the greatest writers of the past have not adopted their literary technique to the requirements of persecution, by presenting their views on all the then crucial questions exclusively between the lines” (Strauss 1988, 26). Strauss’ examination of the problem of writing during periods of harsh censorship offers another vantage from which we can view the interaction between censor and censored. The censor influences the author’s approach to writing prior to the actual act of censorship. Furthermore, the author presupposes the reader’s level of sophistication before the moment of censorship and the moment of reading. Strauss’ theory adds an additional layer to Holquist’s assertion that censorship creates sophisticated audiences. The sophistication of Holquist’s audiences is the result of their awareness of censorship. Strauss’s explanation of esoteric writing, however, suggests that both the censor and the audience might be wholly unaware of the hidden meaning within the text. Strauss argues that the expression of thought “between the lines” is a technique thinkers can use as a means to “conceal their opinions from all but philosophers, either by limiting themselves to oral instruction of a carefully selected groups of pupils, or by writing about the most important subject by means of ‘brief indication’” (1988, 35). Since the author’s approach is not to redact but to conceal, burying a philosophical teaching within the broader narrative of the text acts as a form of pseudo self-censorship. The act of

writing “between the lines” becomes a two-fold endeavor that seeks to teach without fear of punishment while also remaining mindful of one’s responsibility to their audience and, by extension, political life. With Strauss’ persuasive theory of authorship in mind, we are still left to wonder about the extreme forms of oppression which establish a total and inescapable form of censorship. While Van Den Abbeele’s example does not account for censorship in all of its forms or under all regimes, it does offer us a better understanding of when the people experience a censorship that is inescapable without providing the means or context to resist it.

But what of more limited forms of political censorship that legitimate regimes support? Moore uses the example of Australian censorship to describe a more political definition of censorship: “In Australia, the aims and effects of national censorship are best described in negative terms—the system foremostly sought to proscribe and absent material from the public eye; to restrict, suppress and curtail.” Moore compares Australia to the majority of Western regimes that “engaged in engendering proper reading insofar as it disallowed improper reading” (2013, 54). Censorship described in terms of government opposition manifests as limitation and erasure. What is deleted from public discourse more than what is cultivated and included. Such a definition easily follows from but is not limited to the idea of censorship as the “official suppression or prohibition of forms of expression.” Moore adds the means of distribution to the complex system of governmental censorship as controlling “agents and methods of [cultural] production” (2013, 55). While certainly not leading to the kind of censorship Van Den Abbeele describes, Moore emphasizes a form of political censorship that focuses only on exclusion. She critiques the definitions of censorship that theorists like Holquist and Post offer as far as they understate the importance of censorship in relation to sovereign power and the enforcement of governmental consensus (Moore 2013, 61).

Moore's focus on the politics of censorship and the control sought by government adds to our understanding of censorship as a means to a political end. One of the more profound possibilities Moore introduces in her investigation is the government's desire to create a political or cultural identity through censorship. Australia's "National uniformity, social constitution, boundary making—these are the primary effects sought by censorship, even as they usually manifest as (falsely) prior conditions of a regime of regulation. Cultural regulation enforces nationhood, whether or not subjects within that nation conform" (Moore 2013, 56). Even if we include its inherent limitations, censorship is a tool for cultivating identity. Moore suggests that, even without the people's conformity, censorship influences social and political outcomes. The activity of censorship is once again an act of construction or engineering. "If censorship is to mould our social and cultural experience, we need to be able to recognise the ability of such experience to determine us as subjects and citizens, as members and inhabitants of nations" (2013, 62). The importance of censorship is not simply in what it prescribes or proscribes. Similar to Holquist's claim, censorship shapes us as a people regardless of how we participate in or attempt to reject it. The people's awareness of censorship is essential for their understanding of and ability to protect against the more harmful manifestations of censorship. Without this understanding, "we are profoundly poorer as subjects and citizens, and, moreover, vulnerable to censorship's violence" (Moore 2013, 62). Returning to the image of censorship as inherently threatening, Moore warns us of the harms associated with our failure to take censorship, especially government censorship, seriously.

Like Moore, Henricksen also questions the political implications of censorship but from the idea of moral well-being and the denouncing of particularly offensive messages. Henricksen opposes Holquist's interpretation of the harms of censorship and points to the problem of always

treating censorship as if the participants, censor and censored, are victims. Henricksen critiques the notion that censorship is what harms and questions what harms may arise from “unscrupulous writings.” He casts doubt on the narrative that the author is always a victim and questions why we “inevitably treat the censored author as a victim, without ever considering the ways audiences can be victimized by unscrupulous texts?” (Henricksen and Holquist 1994, 443). Putting aside literary figures, Henricksen questions the negative messages strewn about by popular culture and media; suggesting that it is easy to claim the censored as victim without considering the genuine effect such messages have on those who experience them. Henrickson continues by suggesting that certain perceptions and attitudes on censorship are products of ideology and conformity, possibly even censorship itself. His concern is certainly a moral one and is an oft-cited defense of censorship. Furthermore, it supports the idea that not only is censorship pervasive, but that it may need to exist in such a way. The tension between Henricksen and Holquist comes down to an interpretation of harm. Are the people victims because of censorship or because there is an absence of censorship? Furthermore, can censorship provide desirable moral outcomes?

In replying to Henricksen’s consideration of beneficent or good censorship and its application within popular culture, Holquist introduces the problem of censorship as unevenly burdensome due to disputes over what we should censor and in what way. Using Henricksen’s examples of predatory television preachers and rap lyrics that support rape and murder, Holquist claims that “[t]hose are his choices. But they are, of course, choices that large numbers of young African Americans or fervent Christians would perceive as intolerable. But these groups, too, have their lists, none of which would lead to censorship that was self-evidently good from other points of view but all of which dramatize the complexity of negotiating censorship's necessity”

(Henricksen and Holquist 1994, 445). On this point we can compare the tension between groups and their disagreement about what should be censored and the purpose of censorship. That different groups will find different messages in need of censoring is to point at the perceived injustices of censorship outside of government restriction alone. The existence of multiple competing messages that have various moral, social, and political value implies the resulting tension between these messages and the communities that support or denounce them. In each example, however, is a group who may seek the censoring of certain material or would decry such suppression of information or entertainment. Holquist's reply only attests to the complexity of censorship, but not whether there could be a morally useful form of censorship. In describing groups with disparate ideas or moral convictions, Henricksen and Holquist attest to the social disunity of modern regimes. To view censorship in a more positive light, it is not that we disagree on whether censorship should exist. We disagree about how we should apply censorship and to what objects we should apply it.

Ultimately, censorship manifests in various ways, and the pervasive character of censorship lends itself to various and broad interpretations. To limit our definition of censorship would be to limit our understanding of such a complex social and political mechanism. Furthermore, if we do not understand censorship and our relation to it, we may fall prey to its more pernicious manifestations as Moore suggests. The tensions among the government, political actors, and the people over censorship reveal the numerous levels on which censorship operates and what it means to participate in censorship. Holquist theorizes the inescapability of censorship while other thinkers like Henricksen and Moore show concern for the cultural and moral outcomes of such systems. What we can readily assert is that censorship makes

participants out of every level of society and that it influences our relation to politics, culture, and our fellow citizens.

Why Rousseau?

Moore's conclusion that democratically free peoples must be wary of and understand censorship includes the critique of censorship as it is opposed to democracy and, ultimately, freedom. More favorably, Henricksen inquires as to the possible benefits of censorship while pointing to the potential harms brought about in its absence. To challenge traditional notions of censorship as categorically oppressive opens new intellectual avenues to what Moore is suggesting, how to understand ourselves as citizens or inhabitants of nations. Taking Moore's warning seriously requires that we do not limit our interpretation of censorship to oppression or, as she calls it, violence. Combining it with Henricksen's consideration of morality, we can pursue relevant questions on morals, culture, and identity. Holquist's "new" definition of censorship supports such an inquiry regardless of his determination of who becomes the victim of censorship. That governments and the people participate in censorial practices on multi-dimensional level opens up possible pathways to fully comprehend and appreciate what we might understand as both the harms and benefits of censorship. Certainly, to do so allows us to ask important political questions that pertain to morality, freedom, citizenship, and culture. Are individual morals or public morals important for politics? Can censorship truly create cultural and national identities? Is censorship always the enemy of the democratic state, or can we utilize it for democratic ends? If so, in what way? Furthermore, is censorship a useful and desirable instrument, or is it really a tool of corrupt government and tyranny?

Advocating for revitalizing the debate over censorship, Allan Bloom is aware that any "suggestion favoring censorship in the arts and sciences is most naturally viewed by us [in 1960]

with suspicion arising from the illiberal interest of party or sect.” Bloom draws our attention to the history of philosophical interest in censorship as the tension between republics and tyrannies with philosophers often arguing that censorship is a necessary component for democracy while tyrannies could offer a bevy of individual liberties. He states that they “began from the presupposition that a free society governed by its members is in need of the most careful education in order that the citizens have the requisite virtues for ruling themselves and one another” (1960, xi). Bloom accounts for contemporary perceptions of censorship as the repressive tool of tyrannies and despots and delineates between censorship as a form of political supervision or education and the repressive tool of unstable and threatened governments. His distinction is important to consider in relation to Moore’s cautionary theory of censorship as a threat to political freedoms and a potential instrument of violence. Investigating such divergent perceptions of censorship allows us to more fully understand how censorship operates and its value to politics. To do so also allows us to better understand democratic and republican governance and determine what freedom and self-rule require.

Jean-Jacques Rousseau considers all of these questions over the course of his writings and concludes that the well-ordered regime not only includes some amount of censorship, it requires censorship. Such an idea grates on us and seems to contradict the premise upon which modern democracies, particularly liberal democracies, are built. Interrogating Rousseau’s thought is particularly useful because of his position on censorship. Furthermore, the era in which he lived was one of growing resistance to government and church control of information and ideas. Writing during the Age of the Enlightenment, Rousseau chose to speak out against what he saw as harmful teachings that led the people toward corruption and vice instead of liberating them. This affords a unique vantage from which we can explore censorship. Rousseau

rejects both his peers' attitudes on censorship and the government's and church's practice of censorship. Most importantly, he does so in the name of freedom and human happiness. The Enlightenment was a period of great intellectual and political change. As a result, nations implemented systems of censorship that controlled and repressed certain messages that sought to undermine or criticize the politics, religion, or morality of the time. Kelly notes that philosophers from Descartes to Diderot published their works anonymously, stating that "in Rousseau's day one could also not judge [a book] by its title page, which could lie about the author, publisher, place, and date of publication." Although the law allowed for the suppression of texts that "undermined the government, morals, or religion, or because they attacked individuals," censorship was often a pretext for rejecting books because they were poorly written or someone of influence wanted them suppressed (Kelly 2003, 13).¹ Touting knowledge as the force that will liberate peoples and the individual, the Enlightenment sought to free the people with science and philosophy. As Bloom notes, the figures of the Enlightenment sought to benefit humanity through reason and the dissemination of the sciences and arts. "Philosophy would purge men of prejudice and make their duties clear without the aid of superstition; the fine arts would civilize them and remove their barbarous rudeness...and the mechanical arts would procure them a longer and more comfortable life" (Bloom 1960, xiii). For each of these points, Rousseau casts doubt on fulfillment of Enlightenment goals, and even claims that science and philosophy are, in part, the reason why people are not free. His willingness to position himself against the luminaries of his time; to advocate against the sciences, arts, and letters; and to praise virtue and duty before enlightenment make him a most peculiar but useful example through which to

¹ Not all controversial texts were immediately censored. Kelly offers the example of Chrétien-Guillaume de Lamoignon de Malesherbes who "made frequent use of censors who were sympathetic to controversial causes" (2003, 14). Although such power had its limits, the example of Malesherbes underscores the importance of censorial discretion and the censor's influence on publication.

examine the problem of censorship. This is particularly true considering that like other writers and thinkers of his time, governments and peoples censored his works, including the public burning of his *Emile* and the *Social Contract*. By considering Rousseau's argument for censorship in its complete form, we can uncover the positive and negative effects of censorship, and see the more complex social manifestations of censorship as Holquist suggests. Furthermore, we can see how censorship influences the people's identity and whether it limits or makes possible their freedom and happiness.

It is unlikely that we will find a person or government that does not claim some messages detrimental to the political order and people's well-being. Even in the United States where the conversation of "rights" drives much of the political discourse, there is not a wholly unfettered form of free speech and restrictions may be placed on freedoms of religion and association. The politics surrounding the limits of these rights suggest that unlimited freedom in this realm is detrimental to public welfare. How far should these limits extend and what does this mean for freedom of the individual and the regime? Rousseau's primary political concerns are the happiness and freedom of the people. Censorship is not to be used nefariously and not to merely prop up tyrannical or fragile regimes. Rousseau is actively against both absolute and arbitrary rule, and sees the happiness of the people as one of the main goals of well-instituted politics and his own writings.

To answer whether censorship may lead to freedom or oppression, we have to inquire what we mean by freedom and what our expectations of a free society are. Is freedom the ability to own property, to choose what intellectual and religious arguments to believe in, or what pleasures to enjoy? Or is there something more to demand out of freedom? What are we willing to give up in order to have genuine freedom, whatever that is? As previously mentioned, certain

freedoms like free speech necessarily resist censorship. As each “freedom” necessitates the liberty to take certain action, it is unclear whether the aggregation of these “freedoms” leads to a people being free. Is what we mean by “being free” or a “free people” the accumulation of particular freedoms or is there a more all-encompassing conception of what it means to be free? In gathering together so many freedoms, we may easily argue that censorship’s curtailment or elimination of any one of them reduces our overall freedom or places us in a state of being unfree. Such a definition of freedom finds support in the idea that freedom is one’s ability to acquire, act, desire, etc. without any intervention or resistance from government or peers. Whatever one wills for themselves would make them free. Unbridled freedom, however, disappears in the presence of any restrictions whether they are political, social, or even natural. Politics inherently delimits freedom and prevents us from freely willing and acting. So many freedoms, then, would be the best for which an individual or society could hope. Living in society necessitates that the people relinquish some of their freedoms while maintaining others. If being free, however, is a matter of willing and political life could fulfill one’s will, then the people could be free. Rousseau considers this to be political freedom. His political implementation of censorship is not to oppress the people or prop up authoritarian regimes. Rousseau is actively against absolute and arbitrary rule, and sees the people’s happiness as one of the main goals of well-instituted politics and his own writings. Censorship, in whatever form it takes, is necessary for the happiness and freedom of the people.

Another important aspect of censorship is that it does not always exist as a relationship between governments and their people. Often censorship does not require an institution. Instead, the opinions of a majority group or competing pluralities can stifle individual or minority opinions and force conformity under the threat of social ostracization. Alexis de Tocqueville

referred to such a phenomenon as the tyranny of the majority and considered it a force in the United States more powerful than any power found in Europe. Tocqueville argues that, in America, “as long as the majority is doubtful, one speaks; but when it has irrevocably pronounced, everyone becomes silent and friends and enemies alike then seem to hitch themselves together to its wagon” (*Democracy*, 243). Public opinion results in conformity, the violation of which leads to an individual’s unhappiness and persecution (*Democracy*, 244). John Stuart Mill echoes Tocqueville’s warning and emphasizes the importance of recognizing tyranny within society and not simply as an act of government or public authorities.

Society can and does execute its own mandates: and if it issues wrong mandates instead of right, or any mandates at all in things it ought not to meddle, it practices a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape penetrating much more deeply into the details of life, and enslaving the soul itself (*On Liberty*, 8). Not all censorship must begin with the government. Forcing conformity and silencing are, in effect, social forms of censorship perpetrated by the people. This leads Mill to warn that “[p]rotection, therefore, against the tyranny of the magistrate is not enough: there needs protection also against the tyranny of the prevailing feeling and opinion...” (*On Liberty*, 8). When a society chooses to support one moral or political message over another and actively shames or wishes to punish those who disagree, they are participating in some form of censorship.

A number of popular political messages shared through social media and more traditional media channels draw scrutiny and public scorn. Technologies that afford individuals a more prominent public voice are also those that make possible their harassment and suppression at the

hands of their peers. The social dynamics of public praise and contempt are rewards and punishments that can have a far more profound influence than government censure. As John Locke notes, both divine and civil law constrain human beings and influence their behavior, but their power does not reach as far as the “law of opinion or reputation” which resides in the people’s power of thinking well or ill of others (*Essay* 2.28, 353). He contends that people think themselves able to escape the punishments of divine law by asking forgiveness or reconciliation. Similarly, people believe they can escape civil law because they will somehow be exempt from punishment. “But no Man scapes [*sic*] the Punishment of their Censure and Dislike, who offends against Fashion and Opinion of the Company he keeps, and would recommend himself to.” People may try to escape public life and flee to solitude, but nobody “that has the least Thought, or Sense of Man about him, can live in Society, under the constant Dislike, and ill Opinion of his Familiars, and those he converses with. This is a Burthen too heavy for humane Sufferance” (*Essay* 2.28, 357). One can debate over which form of censorship is more dangerous, governmental or interpersonal, but their influence on both the individual and society is undeniable. We may, however, apply questions similar to those we would use to interrogate the validity of governmental censorship to the activity of social or public censorship. What moral end does the public seek when they censor their peers? Is this a more justifiable form of censorship or is it more pernicious and oppressive than governmental censorship? Does self-censorship play a role and to what degree is this necessary for public or governmental censorship to successfully reach their intended aims? Like censorship by the government, is there a possibly beneficial form of public censorship?

Admittedly, Rousseau appears to us as a most peculiar philosopher to examine censorship. His first major work, *The Discourse on the Sciences and Arts*, more commonly

known as the *First Discourse*, is a scathing condemnation of corrupt politics and vice-ridden peoples. Written in response to the Academy of Dijon's question on whether the sciences and arts have led to purification of morals, Rousseau assures his reader that the sciences and arts are a sign of moral decay, not purity. He then proceeds to denounce the common practice of science and philosophy and reject the arts as anything more than reinforcement of contemporary morality. Rousseau accuses contemporary morality of being a mere cover for self-interest and amounting to little more than simple agreeableness. Instead, he praises the morality of ancient regimes like Sparta and the Roman Republic and uses them as examples of free and virtuous peoples. In addition to this, there are a number of arguments Rousseau provides that reject the moral posturing of Enlightenment philosophy and appear to praise ignorance and simplicity. He sides with the uneducated and urges them to reject the sciences, arts, and philosophy in favor of remaining in obscurity and practicing virtue. He attacks the writings of Hobbes and Spinoza, calling them dangerous and lamenting that typography has allowed for the continual publication of maxims and teachings that threaten public welfare. In a similar vein, he recounts the stories of Ottoman Sultan Ahmed III who introduced the printing press in the Ottoman Empire and thereby destroyed it, and Muslim Caliph Omar who ordered the destruction of the library of Alexandria (*FD*, 33-34). These powerful illustrations were not Rousseau's only rejections of the arts and letters. In his famous reply to Jean-Baptiste le Rond d'Alembert, *Letter to M. d'Alembert*, Rousseau argues against the establishment of a theater in Geneva and warns of the harm outside influence, beliefs, and morality will do to the city. Each of these examples endorse some form of censorship, whether it is the erasure of foreign teachings and amusements or the rejection of pursuits that exacerbate our vanity and subsequent vices.

So, what are we to do with a figure who readily condemns self-serving morality and

praises regimes long-past? Rousseau's philosophy of human nature and our complexity as social beings offers insight into each form of censorship explored above, including the concerns of violence, tyranny, democratic rule, and freedom. His examination of censorship accounts for the influence of political institutions, political actors, and the people. Such a comprehensive treatment offers a more complete picture of the effects of censorship than Holquist outlines or Moore's concern for the political threat censorship poses. Additionally, Rousseau's theory attests to Holquist's and other scholars' new conception of censorship as a complex, multi-dimensional force that simultaneously influences the behavior of all participants. As such, Rousseau does not always refer to censorial practices by the name "censorship." In line with Holquist and other theorists of the so-called "new" definition of censorship, censorship is not always apparent because it is not simply the dictate of government officials. Additionally, Rousseau concerns himself with the well-being of regimes and their people and censorship is only one mechanism in his overall theory of politics. While he mentions censorship, censors, and censorial institutions like Sparta's ephorate when discussing the shaping or enforcing of morals, his insight into morals and customs is not limited to these institutions.

Rousseau offers us a more-complete account of censorship because of his consideration of how particular moralities manifest under particular regimes. He does not universally advocate for or against censorship. Censorship is an instrument necessary for bringing about certain political outcomes. With this statement comes two caveats. First, censorship is always active in some form regardless of the government's intent. As Holquist argues, "[c]ensorship *is*" (1994, 16). Rousseau is aware that censoring happens as long as people join together in society. With this in mind, we can explore censorial practices by the government and the people. Second, certain measures are suitable for certain political contexts. Certain regimes require censorship

more than others. Similarly, the need for and severity of censorship fluctuates as regimes change over time. Without universal answers, Rousseau's philosophy does not attempt to force utopian answers on existing regimes or try to make modern regimes into ancient ones. He seeks to show what is possible in human beings while remaining aware of the limitations of political change. While censorship may be necessary for certain regimes, it is a threat to the happiness and well-being of other ones.

The following investigation takes seriously the individual, political actors, and both social and political institutions. First, we begin by examining Rousseau's understanding of governance and laws. To determining the general effect governance and law has on the morals of the people is foundational for understanding how the individual, political actors, and government experience and employ censorship. Then, we turn to what is natural in human beings. Rousseau theorizes the development of human beings from their natural state and into society. Once social, human beings adopt a multitude of customs and conventions. It is in their social state that human beings become moral beings which Rousseau treats as a complicating factor, and not simply as progress. Returning to human beings in nature allows us to ground our argument in the universal while accounting for the characteristics of human beings that make censorship possible and influential, their conscience and reason. Conscience and reason are connected to human behavior as moral behavior and are the basis for our social interactions. What Rousseau teaches us about the limits of and potential tension between our conscience and reason is necessary for understanding how institutions and political actors shape our morals. By first understanding the implications of conscience and reason, we may ascertain Rousseau's model for government and the role of institutions and political actors. Conscience and reason are the foundation of our moral behavior and it is their activation, interplay, and often opposition that determine our

individual and public morality.

We then move on to investigate which political actors are able to influence public morals and to what degree. Examining what Rousseau means by the true politician or Statesman and the differing figure of the “Legislator,” we can explain the power of the executive and legislative on public morals. For Rousseau, the true politician and the legislator are able to shape public morals because they guide the people’s reason and conscience. When done with a view to the people’s well-being, the true politician and legislator seek to bring about virtue, justice, freedom, and public felicity. We treat each figure separately with a view to their place in the healthy regime. In both cases, we ask how they are able to shape public morals and whether this engineering partakes in censorship. This requires treating the true politicians both on their own and in concert with censorial institutions. True politicians are not beings of unlimited political power. Instead, they must rely on political institutions and influence the people without exercising force. Knowledgeable about human passions and public opinion, true politicians are able to guide the public and forestall moral corruption. An almost god-like figure whose work is prior to the true politicians, the legislator establishes institutions and transforms the people. A rare figure even by Rousseau’s account, the legislator is no mere lawmaker. The legislator must “feel that he is capable of changing, so to speak, human nature; of transforming each individual, who by himself is a complete and solitary whole, into a part of a greater whole from which that individual receives as it were his life and his being” (*SC*, 191). Considering what is both natural to human beings and what is particular to a people and their society, the legislator constrains the public in order to free them. They establish the institutions that transform a collection of individuals into a people. In doing so, the legislator employs rhetoric and imagery to supplement the judgment of the people and establishes institutions that continually reinforce this endeavor. The work of the

legislator is the foundation for a free and healthy regime, but it is insufficient for its perpetuation. Perpetual attachment to the regime requires a cultivation of morals that continues via public education and censorship.

According to Rousseau, the peoples he would consider truly free are those who identify with their regime and their fellow citizens. Even the word “citizen” takes on a particular connotation for Rousseau that goes beyond official political status in a country. For Rousseau, citizens are those people who identify with their regime; often seeking the well-being of the whole above their own. Identification is steeped in sentiment, and culminates in the citizen’s love for their regime which they “will serve...out of zeal and with all their heart (*Poland*, 175). Citizenship is not a classification that merely brings rights. A person is not a citizen simply by birth. The people, laws, and institutions shape a person into a citizen, and the process of citizen-making is educative. The efforts of the statesman and the legislator focus on the creation and maintenance of the regime. This requires their support of institutions that allow the people to identify with their fellow citizens and the regime. The creation and support of such institutions, however, is particularly difficult in enlightened times, as rational beings tend to focus on themselves alone. Rousseau argues that this is possible only through public education that draws a person’s attention away from themselves as individuals and toward their fellows. Such an education employs the people’s conscience and reason, so that they learn to love the laws and become free. The public education Rousseau promotes, however, is quite dissimilar from how we might perceive public education now. An important component of public education involves limiting what is taught. In this way, education participates in censorship. Cultivating the citizen necessitates a unique education that depends just as much on what is the education excludes as what it includes. Public education develops the morals, tastes, and character of the people.

Ultimately, public education continued throughout the life of the individual shapes the people and cultivates those qualities necessary for the rigors of democratic self-rule. We can return to Bloom's inquiry into what democracy and tyranny require of the people. Rousseau follows Montesquieu in answering this question. Montesquieu contends that, while monarchies and despotic governments do not need much "integrity...to maintain or sustain [themselves]...in a popular state there must be an additional spring, which is virtue." Montesquieu continues by stating that "[w]hen that virtue ceases, ambition enters those hearts that can admit it, and avarice enters them all" (*Spirit of the Laws* 1.3, 22). For Rousseau, virtue and freedom require constant attention and maintenance. A democratic and free people are forever occupied with their regime because to do any less invites corruption and despotism. Tranquility and peace are the absence of this struggle and, therefore, often reside with despotism. People that do not rule themselves may turn their attention to individual pursuits or pleasures. Civic virtue is no longer required when freedom ceases to be the highest goal. For the people to truly rule themselves and be free requires an education to the regime and, by extension, censorship. Ultimately, both the government and the people participate in and uphold censorial practices which are a result of the educative processes of political and social institutions. When reaching its maximum potential, censorship is simultaneously active and invisible. It is a guide for the people's reason and conscience that affords political freedom and the happiness of the people.

After addressing the well-constituted regime, we turn to Rousseau's teaching on the limits of censorship in modern or contemporary regimes. In the end, Rousseau does not recommend censorship in any of its forms as a means to shape the morals of modern regimes. While his claim that modern regimes are corrupt would suggest that they are the nations most in need of reform, Rousseau does not think that modern regimes are able to transform themselves.

Some regimes are exceptions to the impossibility of reformation, but Rousseau warns that they are rare and require some type of politically cataclysmic event that allows figures like the statesman and legislator to transform the regime. Modern peoples cannot suffer the rigors of citizenship and fail to meet the high standard for civic virtue. Seeking the pleasures of comfort and ease, constantly worried about social standing, and perpetually self-centered and vain, modern people are better left with the pursuits and amusements Rousseau would have the well-constituted regime condemn. Although Rousseau appears to offer a number of possible answers for the modern regime's recovery of morals, he concludes that the best course of action is to allow the people pleasures that will distract them from being wicked or committing crimes (*Last Reply* 86; *Narcissus* 106). Peoples are unable to return to an earlier political or moral state. They cannot recover their lost virtue or freedom. Instead of attempting the near impossible, Rousseau suggests that regimes occupy the people in such a manner that it slows the inevitable corruption.

CHAPTER 2

PUBLIC OPINION AND THE LIMITS OF LAW IN ROUSSEAU'S

LETTER TO M. D'ALEMBERT

Introduction

According to Rousseau in the *Social Contract* and the *Letter to M. d'Alembert on Spectacles*, censorship is essential for maintaining moral and civil order. Even considering the importance Rousseau attributes to them, institutions of censorship are not strong enough to operate on their own. A city or state cannot simply establish a tribunal and expect to impress upon the people a new or revived moral order. A study of these works in conjunction with Rousseau's other political works (*Political Economy*, *Plan for a Constitution for Corsica*, *Considerations on the Government of Poland and on Its Planned Reformation*) reveals that various political and social conditions are necessary for the proper function of censorship; including the nature or character of a nation's founding, the strength of the law, and the people's love of the law and the regime. Rousseau even points to the importance of climate, location, and other natural conditions which contribute to the character and growth of a regime. The complex interplay between these attributes coupled with a nation's reliance on chance events makes the conditions under which censorship properly functions seemingly narrow. Furthermore, the limitations of law regarding censorship and the maintenance of morals remain unclear. Rousseau points to the influence public opinion has on morals and the likelihood that public opinion will confound any legislative attempts to impose censorship. The difficulty of this relationship, however, suggests that knowledge of the interplay between law and public opinion is essential to the establishment and operation censorship.

Often considered Rousseau's strongest endorsement of censorship, the *Letter to M.*

d'Alembert contains a persuasive condemnation of the theater and its establishment in Geneva. Throughout his critique, Rousseau incorporates many of the elements mentioned above including law, public opinion, and political institutions established to regulate morals. The most successful means to maintain or corrected public morals is uncertain. In defending Geneva against M. d'Alembert and the authors of *l'Encyclopédie*, Rousseau discusses various institutions and laws and their degrees of success with respect to changing morals. He uses these examples along with his knowledge of human nature to critique M. d'Alembert's remedy for the moral corruption the theater and actors will inevitably bring to Geneva.

After his analysis of tragic and comedic theater, Rousseau reintroduces M. d'Alembert's answer to the problem of actors' troops introducing the "taste for adornment, dissipation, and libertinism...among the youth" (*d'Alembert*, 4). Rousseau begins by explaining the inadequacy of using severe laws to censor the actors. He follows this explanation with a succinct description of the difficulties of law, justice, morals, and public opinion. The brief space Rousseau allots for these topics leaves the reader questioning the extent to which they are connected and their ability to control public behavior or the introduction of questionable entertainments. First, he connects the problem of the actors to the possible ineffectiveness of law. From there, Rousseau discusses law well-executed, universal and private justice, strict right, morals, the Spartan ephorate, a French tribunal on dueling, public opinion, and the influence of the sexes. He gives each of these topics as little as a passing mention or as much as a few pages, but unites all of them under the theme of controlling social and moral order. These themes amount to what we would call censorship. Fortunately, Rousseau covers topics such as Sparta, the tribunal on dueling, and the operation of public opinion in other writings, offering a similar or greatly expanded treatment of the subject. By comparing his examination in the *Letter to M. d'Alembert* to his other works

including *Emile*, *The Government of Poland*, *The Social Contract*, and the *Discourse Political Economy* among others, it is possible to acquire a more complete understanding of the various interconnected issues that Rousseau briefly addresses in the *Letter to M. d'Alembert*.

The following investigation outlines Rousseau's critique of M. d'Alembert's solution and examines its theoretical implications with respect to Rousseau's teaching on law, morals, public opinion, and the best way to organize these elements. Given the brevity of some of Rousseau's explanations and the self-referential character of his arguments, we cannot treat the *Letter to M. d'Alembert* in isolation. Other works by Rousseau touch upon similar problems with regard to censorship, most notably the *Social Contract*. The advantage of considering these works in tandem is that Rousseau includes in each an analysis of many of the same institutions including the Spartan ephorate, Louis XIV's tribunal on dueling, and the limits of legislative bodies. By weighing the influence of these institutions against public opinion, we can better ascertain the limits of political and institutional censorship. Rousseau's examination of laws, morals, and public opinion reveals the strength of public opinion and the extensive constraints it places on political institutions. In combination with unforeseen events, public opinion becomes the primary obstacle that law and the institutions that craft it must overcome. Public opinion, however, is not insurmountable and Rousseau describes a fragile but real influence that institutions can have over morals. Before we can examine his recommendations for institutional reform, we must address Rousseau's critique of M. d'Alembert's remedy and disentangle his definition of law. His brief discussion on law in the *Letter to M. d'Alembert* provides the foundation for his use of law generally speaking and the unique character of law "well-executed." Additionally, understanding the various components of law provides access to two elements necessary for successful laws and institutions, conscience and justice.

M. d'Alembert and the Problem of Law Well-Executed

After discussing the theatrical forms of comedy and tragedy, love, and the relationship between the theater and luxury, Rousseau addresses the actors' profession and the use of law to restrain their behavior. He reintroduces the two forms of law, "severe" and "well executed," that M. d'Alembert suggests in *l'Encyclopédie* as viable solutions to the "libertinism which the actors' troops disseminate among the youth" (*d'Alembert*, 4, 65). Rousseau contends that by suggesting such a harsh and demanding remedy M. d'Alembert must admit the real threat an actor's lifestyle poses to the people of Geneva. Such a concern reminds the reader of the questions Rousseau posits at the beginning of the *Letter*. The first and most obvious is "Whether the actor's profession can be a decent one?" Rousseau casts doubt on M. d'Alembert's recommendation for using severe and well-executed law to make the profession decent when he follows up with an inquiry into the limits of law, specifically "Whether good laws suffice for repressing the abuses?" and "Whether these laws can be well observed?" (*d'Alembert*, 15). Rousseau immediately reformulates the question being asked. M. d'Alembert contends that severe laws well-administered are sufficient to suppress indecency and moral degradation, but Rousseau looks to whether the laws are "good." Additionally, he does not consider the use of good laws as a guarantee for preventing moral corruption and treats the matter as an open question worthy of investigation. When addressing these questions, Rousseau juxtaposes the function and effectiveness of law with the peculiar nature of public opinion. The comparison he formulates makes law problematic when it operates in decree or application without the support of public opinion.

Rousseau separates M. d'Alembert's remedy for the moral effect of the actor's troop into its two parts, tackling severity and execution each individually. His argument against introducing

severe laws is brief and direct. Instead of examining the effect severe laws may have on the actors, he questions the harm severe laws will have on Geneva. “Severe laws? The first is not to tolerate them. If we infringe this one, what will become of the severity of others?” (*d’Alembert*, 66). For Rousseau, the solution is to have one severe law: forbid actors. By implementing one severe law, Geneva can avoid the series of severe laws that the introduction of a theater makes necessary. Furthermore, if the public favors the actors, they will find the severe laws contemptible.

Moving away from the question of severe law, Rousseau refutes the simplicity of suggesting that law merely needs to be “well-executed.” While he affords only a couple of lines to dismissing the dangers of instituting severe law, Rousseau uses M. d’Alembert’s solution of well-executed law as a foundation for exposing the limitations of law, particularly theoretical law. Asking whether it is possible to have well-executed laws, Rousseau claims there are two competing forces that must be in proper proportion for the laws to be well-executed. The “force of the laws” must contend with and outweigh the “force of the vices” (*d’Alembert*, 66). The superior force of law is a necessary precondition for the execution of law. Well-executed law requires that law is already more influential than the impulse of vice. Rousseau does not yet distinguish whether he has in mind the vices of an individual or the collective vices of the people. Furthermore, by generalizing law and vice he does not elaborate on the type or operation of law that may be necessary for combating the influence or “force” of the vices.

Although it is unclear why he does not define these terms, one possible explanation is Rousseau’s concern for and consideration of his audience. He is formally responding to M. d’Alembert while simultaneously addressing the people of Geneva. Speaking to M. d’Alembert, Rousseau says that the article in *l’Encyclopédie* “provided me with some reflections which I

thought I could offer, under your auspices, to the public and my fellow citizens” (*d’Alembert*, 9). Similarly, when discussing “instruments proper to the direction of public opinion” Rousseau claims that it is “another question which would be superfluous to resolve for you and which it is not here the place to resolve for the multitude” (*d’Alembert*, 67). Both a critique of M. d’Alembert’s article and an instruction for the people of Geneva, Rousseau does not take the time to philosophically analyze terms that the people should understand in a political and moral manner suited to them. Additionally, he may have reason to resist outlining for Geneva the way in which one could guide their collective (or public) opinion and, in turn, their morals. Rousseau selects the example of France, a country whose morals and influence he attempts to shield Geneva from. His example focuses on the observations of public opinion he makes use of elsewhere and on France, a people and political body he openly criticizes as corrupt. When Rousseau returns to the cultivation of Genevan morals later in the *Letter to M. d’Alembert*, he emphasizes the customs and ceremonies Geneva already practices; avoiding the introduction of methods or “instruments” foreign which are potentially harmful for Genevans.²

We need to look elsewhere in Rousseau’s works to acquire a better understanding of the distinctions among types of law and the role vice plays. His language in the *Letter M. d’Alembert* is similar to his instruction in the *Discourse on Political Economy* on how to keep people following the laws. Again, Rousseau places law and vice in opposition, but clarifies their relationship by explaining them in terms of political virtue. By “virtue” he means “nothing but this conformity of the particular will to the general will” (*Economy*, 13). What Rousseau means by the “general will” and the “particular will” fills volumes of secondary literature, but we may

² For a brief but insightful discussion about the audience and rhetoric of the *Letter of M. d’Alembert*, see Bloom 1960, *Introduction* p. xvi-xvii. For a discussion of Rousseau’s intent with respect to historical context see Rosenblatt 2002.

summarize the distinction here to better understand the public nature of virtue and vice. The general will is a product of convention and the political derived from the “moral body” that is the people. The people are moral in terms of their social relations and have a collective “will” aimed at the good of the whole and its preservation. As Rousseau states at the opening of Book IV in the *Social Contract* “[a]s long as several men united together regard themselves as a single body, they have only a single will which relates to their common preservation and general welfare” (SC, 243). It is from this single body and its will that a people become sovereign and with their sovereignty create laws. With this in mind, Rousseau distinguishes between the general will (*volonté générale*) and what he calls the “will of all” (*volonté de tous*). The *general will* is the body of the people acting as a whole and willing that which is concerned with the preservation of the whole. The *will of all* is an aggregation of particular and individual persons’ wills acting in their private interest. Rousseau contends that the general will “considers only the common interest,” while the will of all “is merely a sum of particular wills” (SC, 182).³ His differentiation between the two forms of willing reiterates the unique character and desires of individuals and the difficulties associated with their forming a political body. The will of a people acting in the best interest of the whole contends with the particular interests of individuals who make up this whole. These particular wills manifest in the individual or a number of individuals forming a sub-group as interests other than the collective interest. Similarly, sub-groups form their own general will with respect to the sub-group and inherently produce the same contention between the sub-group’s general and particular wills. The possibility for fractured and competing interests among individuals, sub-groups, and the whole threatens the potential for particular wills to

³ For further consideration of Rousseau’s distinction between the “general will” and the “will of all,” see Scott’s footnote 35, (2012, 182).

conform to the general will.

Returning to Rousseau's definition of virtue, all instances of the particular will being contrary to the general will are vice. People align themselves with the general will only insofar as their particular will corresponds to it. In this sense, virtue is a political action and the virtuous are those who conform their particular will to the general will. Examining Rousseau's search for a "'realistic' substitute" for natural law, Strauss explains the problem of human desire in Rousseau's "teaching concerning the general will" as a "law of reason." The problem stems from the preference human beings have for themselves and the recognition of their rights, but not in the rights of others. "This being the case, my desire transforms itself into a rational desire by being 'generalized,' i.e., by being conceived as the content of a law which binds all members of society equally; a desire which survives the test of 'generalization' is, by this very fact, proved to be rational and hence just" (Strauss 1953, 276-277). Since the general will is only generalized in relation to a particular people, the law as rational and just is still law within a particular regime. Adherence to the rational and just laws once they are 'generalized' is the practice of civic virtue.

We may also understand virtue as the conformity of one's particular will to the general will in a less conditional, political sense. When speaking to the imaginary pupil Emile, Rousseau argues for virtue as struggle and contends that "[s]trength is the foundation of all virtue." Emile learns that virtue "belongs only to a being that is weak by nature and strong by will" (*Emile*, 444). Human weakness begins when a person experiences the intensity of their passions, particularly *amour-propre*, and is the reason why the tutor raises Emile in such a way that the boy's social passions remain severely limited. At the end of Book III, Rousseau describes Emile as having only non-political, non-social virtues and lacking knowledge of the social relations necessary to develop social virtues. As Delany notes, the example of Emile is Rousseau's

reflection on the “possibility of a virtuous individual existing in a corrupt society” (2006, 79). Rousseau does not raise the fictitious pupil to be a true citizen or the bourgeois, and depicts the child as independent and accepting of natural necessity. Emile is “educated so that he can be engaged in society,” but he will “never betray his independent self-love [*amour de soi*] by seeking the approval of his fellow man” (*Emile*, 91). The tutor does not educate Emile as the citizen because this requires the invigoration and proper direction of a person’s *amour-propre*, a sentiment that is limited by not extinguished in Emile. With this in mind, it is important to distinguish between the virtues of the social being and the non-social being; the one who depends on others and the one who depends wholly on himself. Rousseau’s discussion of law and vice suggests that the virtues he addresses in the *Letter to M. d’Alembert* are social. The difference underscores the importance of distinguishing social man from natural man and the solitary being, and understanding the distinct virtues associated with each one (*Emile*, 208).

The struggle of social man is in his elevation of the general will above his own particular interests and, ultimately, merging his interest with the general will. In another sense, a person must identify the general will as harmonious with their particular will. Speaking again to Emile, the tutor contends that a man “born in the heart of the woods... would have lived happier and freer. But he would have had nothing to combat in order to follow his inclinations, and thus he would have been good without merit; he would not have been virtuous” (*Emile*, 473). A human being in nature does not need to resist their natural inclinations and a solitary being does not owe their fellows a conformity to the general will and duty to the laws. For Rousseau, being “good” does not require struggle, but being virtuous does.⁴ Melzer argues that goodness for Rousseau “is

⁴ Melzer argues that goodness for Rousseau “is unforced, spontaneous behavior that happens to conform to the standards of morality.” Melzer contends that the distinction between virtue and goodness for Rousseau “hinges precisely on the issue of force.” While goodness is spontaneous, virtue is a “moral action performed contrary to inclination, through self-conquest” (1990, 101).

unforced, spontaneous behavior that happens to conform to the standards of morality.” Melzer contends that the distinction between virtue and goodness for Rousseau “hinges precisely on the issue of force.” While goodness is spontaneous, virtue is a “moral action performed contrary to inclination, through self-conquest” (1990, 101). Rousseau is, however, aware of the difficulty of unifying these interests. Social relations always conflict with the natural preference human beings have for themselves. Whether it is political or individual, virtue rests in the struggle one has with their particular desires and inclinations against a general or higher principle.

With a clearer picture of Rousseau’s notion of civil vice, we can turn to the role of law and what laws make possible the “repressing of abuses.” In Book II, Chapter 12 of the *Social Contract* entitled “Classification of Laws,” Rousseau outlines three different types of law, political, civil, and criminal, and suggests an additional force that we should consider under the category of law: “morals, customs, and especially opinion—a part of the laws unknown to our politicians, but upon which the success of all the others depends” (202).⁵ He later reintroduces public opinion as a “type of law” that an executive-style body like a censor applies to particular circumstances. The executive’s use of public opinion is comparable to the way the government in the *Social Contract* executes the law and will of the sovereign. Morals, customs, and opinion hold sway over the people in a manner similar to law. Since there is a real concern about obedience to law, one can expect a similar concern with respect to morals. Like the “marvels [that] are the work of law” mentioned in *Political Economy*, the law of public opinion is also able to “shackle [the people’s] will by their own agreement...have their consent prevail over their refusal” and make them obey when “no one commands” (*Economy*, 10). Morals and opinion are similar to laws political, civil, and criminal in

⁵ Political laws are those pertaining to the “action of the entire body acting on itself—that is, the relation of the whole to the whole, or of the sovereign to the state.” For Rousseau’s understanding of “sovereign” and “state” see *Social Contract*, Book I, chapters 6 and 7.

that they are conventional, but they are unique due to the aforementioned laws' dependence on them.⁶ Rousseau contends that Books III and IV of the *Social Contract* will pertain only to those laws "which constitute the form of the government," or political laws (203). While Rousseau does not mention civil and criminal law except for in historical examples used to elucidate a more theoretical point, the laws of opinion reappear later in the work, implying that political laws cannot be the only laws relevant to Rousseau's subject (SC, 203). This is due to the relationship between morals and legislation more broadly understood. As he states near the end of Book IV, law cannot control morals, but "it is legislation that causes them to arise." Rousseau prefaces his argument by asserting that the "opinions of a people arise from its constitution" (SC, 262). In this sense, the legislation that orders their constitution and gave them their institutions should hold sway over their morals. Not all laws, then, influence morals as a result of being part of the constitutive legislation of a people.

Rousseau states earlier in the *Social Contract* that since "force produces no right, conventions remain as the only basis of all legitimate authority among men" (167). The use of "force" here is curious in light of Rousseau's competition between the force of laws and the force of vices. When discussing the drafting of laws and the figure of the Legislator in ancient regimes, Rousseau argues that the term "Legislator" is an "abstract word" for modern peoples given to "represent the one who gives force to the laws than the one who drafts them," and that there is "no longer any Legislator than force nor other laws than the interest of the more powerful" (*Geneva*, 103). Without the proper ordering a government through the Legislator, the laws that a governing body issues are acts of force. Rousseau emphasizes this point by focusing on the so-called "laws" that are nothing but rules benefitting the powerful. Therefore, laws of

⁶ See also *Social Contract*, p. 188ff.

this kind cannot accord with the general will because they do not seek the whole or the collective good. His discussion of what modern governments mean by “legislator” also has implications for distinguishing between political and civil law. Rousseau argues that even if the people pass the laws a modern legislator issues, they will be civil laws. Political laws are those that constitute the form of government and differ from civil laws “that have no bearing on the government” (*Geneva*, 103).⁷ Here Rousseau means laws that work as the foundation and structure of a government instead of those laws that dictate the relations between individual members or an individual with the state.

The connection between legislation and morals requires further explanation. Distinguishing between distinct laws, that is to say, those laws created with particular unresolved issues in mind, and the legislation of the Rousseau’s superior lawgiver that forms those institutions essential to cultivating citizenship, patriotism, and opinions, it is likely that Rousseau has the later form of legislation in mind when discussing morals. He presents the “great lawgiver” as an architect who builds a kind of legislative “arch” with sides made up of the “particular regulations” that are locked together by morals which “ultimately form the unshakeable yoke” (*SC*, 203). Rousseau emphasizes the use of appearance, secrecy, and deception as part of the lawgiver’s craft. A people must not know that the lawgiver is actually attempting to change their morals and opinions. The change in morals happens more slowly and over time due to the influence the lawgiver’s institutions have on the people. The legislator may institute laws quickly, but moral reform does not happen overnight. Furthermore, shaping a people’s opinions is possible, but the lawgiver cannot make radical changes and must work with the materials he is given. This limitation reminds us of Rousseau’s warning that particular

⁷ See also, *SC*, 202.

peoples require unique legislation based on time, place, and character. Morals do not merely connect laws and make the arch that is the regime functional. Rousseau's metaphor proposes that the lawgiver has such a profound knowledge of the people and the influence particular laws will have on them, that he can legislate with an eye to transformation.⁸ Transforming the people and shaping their morals is what gives the lawgiver's "arch" its stability and longevity. We can also find support for such a claim in the *Letter to M. d'Alembert* when Rousseau asserts that the law and punishments are methods governments employ that often fail to direct public opinion (67). Rejecting law and its enforcement as suitable means, Rousseau describes for the reader the structure of a particular institution, France's tribunal on dueling. Elsewhere, Rousseau drafts the same typology of laws political, civil, and criminal and instructs Poland to teach these laws in the schools and universities (*Poland*, 207). He uses Poland's institutions to "direct [the people's] opinions and their tastes so that they will be patriots by inclination, by passion, by necessity" (*Poland*, 179). Although the emphasis here is on instilling patriotism, the method shapes opinion and motivates the people through their passions. Rousseau does not mention morals and opinions under the codes of law that must be taught in Poland's schools because opinion cannot be taught like written laws.

The legislator, then, crafts political laws, sometimes referred to by Rousseau as fundamental laws. Civil and criminal laws are there to support or reinforce political laws. Rousseau leaves unclear that which distinguishes political laws that are fundamental from political laws generally speaking. He connects fundamental laws with political laws and contends that political laws are "also called 'fundamental laws'—not without reason if these laws are wise" (*SC*, 202). Rousseau phrasing suggests that political laws may be fundamental

⁸ Compare to *Social Contract* 2.7, 191.

laws, but that one can conflate the two and erroneously regard political laws as fundamental laws. The people may also mistake laws as fundamental if the government is ill-formed or the people corrupt. Rousseau distinguishes between those laws that make possible the best ordering of a state and those that uphold an unhealthy political order. An unhealthy political order arising from the state's fundamental laws is defective in terms of the "action of the entire body acting on itself—that is, the relation of the whole to the whole, or of the sovereign to the state" (*SC*, 202). Rousseau differentiates the state from the sovereign by distinguishing between the character of the people as a collective body in times of passivity and activity. Both understood as the "public person" and "body politic" formed out of individuals collectively giving themselves over to the general will, the state is the manifestation of the body politic when it is at rest. The state is the idea of individual members as a collective body unified by their will but not acting upon it. The body politic exercises sovereignty when it becomes active and legislates in accordance with the general will. The distinction makes clear Rousseau's description of political laws as the action of the entire body acting on itself, or the sovereign acting on the state. Since the sovereign acts through law, the active body politic exercises sovereignty as "an agreement between the body and each of its members" (*SC*, 185).⁹

Rousseau's understanding of origin and application of fundamental laws is more complicated than his brief explanation of the "entire body acting on itself." Schwartzberg notes that for Rousseau fundamental laws are both the political laws and "guiding principles" which include the "principles of utility, or the public good, and the principle of equality" (2003, 391).

⁹ Melzer emphasizes the unique character of Rousseau's formulation and its inversion of the "traditional view." The state "is constituted and held together not by creating but precisely by eliminating the vertical phenomenon of leading and following." Further solidifying Rousseau's peculiar articulation of the state, Melzer also notes that Rousseau's state is not properly a democracy because a democracy is still a "'form of government' being the rule of a part—the many or majority—over the whole, whereas the sovereignty of the general will means the unanimous rule of all over each" (1990, 181).

Adding to the difficulty is that there appears to be a shift from fundamental laws that are particular to a state to those fundamental laws that apply to all states under Rousseau's conception of the legitimate civil order. Matters of public utility and equality necessitate a social compact and sense of unity akin, if not identical, to the general will. Fundamental laws as guiding principles in the way Schwartzberg describes them are directly related to Rousseau's particular understanding of the social compact, sovereignty, and the general will.

Rousseau is aware that what others call fundamental laws are considered to be so under illegitimate and poorly-structured political bodies. These are states that fail to rule according to a general will. "But if the established order is bad, why should those laws that prevent it from being good be considered as fundamental?" (*SC*, 202). Within the *Social Contract's* outline for a legitimate state, the question becomes not so much why *should* the state consider these laws to be fundamental, but how *could* the state consider them as fundamental? Rousseau's query leads to a qualification of laws as "fundamental." While fundamental law appears to impose limitations on the sovereign, the sovereign is capable of changing any law because a "people is in any case always master of changing its laws—even the best ones. For if it likes harming itself, who has the right to prevent it from doing so?" The sovereign may legislate to their benefit or their detriment as long as they legislate in accordance with the general will because it is in this action that the people exercise sovereign authority.¹⁰ For Rousseau, fundamental law well and properly-instituted (according to the lawgiver at the founding or the sovereign thereafter) requires the cultivation of certain customs and reinforcement of institutions that maintain public

¹⁰ Schwartzberg reaches a similar conclusion: "While Rousseau entrenches fundamental law, he does not do so absolutely. Certainly, Rousseau wants to take several topics off the table – founding principles, rules of procedure, the generality provision – but he repeatedly insists that they are ultimately subject to modification...Despite legal protection, every element of the political community, including the social compact, is inherently fragile, and of this, Rousseau was painfully aware" (2003, 400-401).

spiritedness. The life of the state may be prolonged “as far as possible by giving it the best constitution it might have” (SC, 231). The ability to reorder the state for the better by changing fundamental law, however, allows for the possibility of reordering the state to its detriment. From the lack of restraint on the sovereign authority arises Rousseau’s caveat on what we should consider as fundamental law and his connection of fundamental laws to what is “wise.”¹¹

On Rousseau’s Use of Natural Law

When Rousseau classifies the laws at the end of Book II of the *Social Contract*, he does not include natural law. Similarly, when he lists the “codes” that Poland should teach they include “[o]ne political, another civil, and another criminal” and he concludes that, should these laws be taught to students early on and throughout their education, “no other body of right will be needed” (*Poland*, 207). As presented in these two works, Rousseau’s typology of law does not reject natural law simply because it is not listed. Natural law can easily ground political, civil, and criminal laws as a foundation and precursor, but Rousseau understands natural law and civil law as fundamentally different. The problem of natural law, however, holds within it the key to understanding morals, justice, and the love of order stemming from our conscience. Although he does not list natural law in the legislative typology of the *Social Contract* and the *Government of Poland*, Rousseau’s discussion of natural law and our ability to know and follow it has far reaching implications for political obedience, adherence to justice, and the love of the regime.

In the Preface to the *Second Discourse*, Rousseau explains the difficulty of knowing human beings in their primitive state and connects the important task of understanding natural man to understanding natural law. He does this in part to provide a reflection upon and possible

¹¹ Rousseau’s consideration of wisdom when crafting fundamental laws will arise again in his discussion of the lawgiver and the genuine science of legislator. Additionally, we see the importance of wisdom or the wise man when discussing natural law.

answer for the second half of the Academy of Dijon's question, whether inequality among men "is authorized by natural law" (*SD*, 59). Contending with earlier political and legal theories, Rousseau groups natural law under the ancient and "Roman" formulation and compares this general classification against a "modern" one. The Roman jurists use natural law as a basis for what is best for human beings and the social order, and, in both cases, Rousseau considers their formulations (as he presents them) defective. The "Roman jurists indiscriminately subject man and all other animals to the same natural law, because they consider this word 'law' to express what nature imposes on itself rather than what it prescribes." Introducing ancient philosophers who "seem to have set to contradict each other as best they could concerning the most fundamental principles," Rousseau separates them from the Roman jurists. He indicates that even with agreement on matters concerning natural law, understanding the order of nature, human nature, and the possibility of natural right is an enormous undertaking that requires the assumption of numerous qualities of nature and what is natural for human beings.

Erring in a different manner, the "moderns...restrict the province of natural law to the sole animal endowed with reason, namely man" (*SD*, 53).¹² Rousseau critiques the Roman and modern jurists on the grounds that their notions of natural law suffer from their particular understandings of what law is. The Romans understand law as the ordering and relation of all beings, while the moderns apply natural law only to human beings. The defects of each notion of natural law reveal something about Rousseau's articulation of the same problem. The Romans understood natural law as that which nature as a whole obeys. Instead of nature directing or "prescribing" laws for each creature, it restrains itself. Rousseau's critique emphasizes the nature

¹² With respect to the "moderns," Scott (2012) directs the reader's attention to Jean-Jacques Burlamaqui, Hugo Grotius, and Samuel von Pufendorf as the possible candidates for the modern jurists Rousseau references in this section of the *Second Discourse*. Rosenblatt (1997) adds Jean Barbeyrac to this list. See *SD*, 53.

of particular animals and the uniqueness of natural law as it pertains to human beings or imposes laws on them, not itself. Furthermore, Rousseau's critique of the moderns returns natural law to the realm of all living creatures and not humanity alone. This is particularly important because Rousseau emphasizes the difference between the naturally rational human described under the collective "moderns" and his natural man who does not come to reason until "new circumstances cause new developments in his [soul]" (*SD*, 73).¹³

Rousseau argues that the moderns depict a person who is already a moral being with a profound rational capacity. When they describe natural law, they are describing man in society. For Rousseau, the moral being is a person who loses their natural independence and finds artificial guidance in and depends upon convention (*SD*, 61). Coupled with Rousseau's critique of the Roman jurists, natural law is that which is instinctual for each animal and exhibited in their natural needs. Rousseau strips from previous attempts at explaining natural law the tendency to begin "by searching for the rules on which it would be appropriate for men to agree among themselves for the sake of utility." Natural law has no end, will, or purpose. Rousseau criticizes natural law theorists for applying the term "'natural law' to the collection of these rules, without any further proof than the good they consider would result from their universal application" (*SD*, 54). The changing nature of human beings further compounds the problem of imposing theoretical order where it does not exist. Rousseau depicts the endeavor of discovering natural man as an insurmountable task made increasingly more difficult as time passes because of the various social and artificial characteristics human beings developed after leaving their natural condition. He describes the complex task of separating what is "original from what is artificial *in the present nature of man*" (*SD*, 52; emphasis added). The alterations constantly

¹³ See also Masters 1968, 132ff.

arising in humans at different times and in different regions makes discovering the present nature of human beings difficult even without having to reach back to discover their original condition. Every subsequent social and consequently artificial development further shrouds humanity's original state and distances us from understanding natural law and the nature of human beings as they first existed.

Rousseau critiques the Roman and modern jurists for their creation of right and law that can only develop once human beings moved out of their natural condition. He contends that the Academy of Dijon's question requires him to "indicate in the progression of things the moment when, right replacing violence, nature was subjected to law" (*SD*, 61). The revolution of nature resulting in right and justice is one particular to human beings and introduces in a most meaningful way the conventions of justice and mutual dependence replacing self-sufficiency. This is consistent with the progression of human beings from natural to savage man and then from savage to civil man in the *Second Discourse*. He contends that those with a greater number of riches and property, wishing to protect what they held, deceived those who had less and enshrined their inequality under "rules of justice and peace." The agreement "was, or must have been, the origin of society and laws" and "forever established the law of property and inequality" (*SD*, 102-103). The rules do not pertain to nature and are borne out of agreement among a group of people Rousseau depicts as having already deviated from their natural condition. The last step in creating society and law mirrors Rousseau's footnote at the end of the *Social Contract* Book I where he discusses bad governments as those which only have an "apparent and illusory" equality. The idea of protecting everyone's property is only of equal advantage when everyone has property and no one has much more than any other person (*SC*, 178). In his own account, Rousseau draws attention to the difficulty of knowing the origins of society. The distinction he

makes between society and “nascent society” emphasizes the importance of his depiction. By the time of nascent society, human beings have memory, imagination and their *amour-propre* and reason are active. Natural man has developed into a social being that is no longer self-sufficient and now depends on others. Living in a loosely organized group, people contend with one another and often fail to respect anything akin to property rights. The creation of rights and justice around the protection of property is the final step that converts a nascent society into society simply (*SD*, 100ff.). Offering a less literary narrative, Rousseau marks the transition from nature to the civil state by the individual’s recognition of matters concerning justice, duty and right, and using their reason to weigh these ideas against their natural and particular inclinations (*SC*, 175-176).

For Rousseau, human beings do not have a natural authority over one another and justice does not originate in nature. Even after human beings become social and their *amour-propre* is inflamed, Rousseau describes justice as “the as yet weak voice of justice” when he writes on nascent society (*SD*, 101). Melzer contends that “[h]aving used the ‘state of nature’ and the denial of progress to clear the ground of all natural titles to rule and all substantive natural law, Rousseau then erects in their place the positive doctrines of the *Social Contract*, the doctrines of contract and sovereignty, the ‘principles of political right’” (1983, 645). Melzer bases his argument on Rousseau’s understanding of natural man as asocial and without reason, unable to understand the dictates of anything akin to natural law. Furthermore, should a natural law actually exist, nature is incapable of enforcing it. “For a rule of justice to be valid it must promote the natural good of each when all follow it. But in addition, it must have a force or sanction—stemming from the power of reason, from a benevolent passion or from some external agent—which can guarantee to each that the others will follow it” (Melzer 1983, 639). He

concludes that the general will is Rousseau's replacement for natural law and natural justice, making possible a social justice and equality through more "realistic" political means. The absence of natural law as an authoritative principle upon which the lawgiver constructs the regime's institutions or guide for the sovereign in legislative matters is in accordance with convention as the source of legitimate authority. Additionally, it is "convention and right" that make human beings equal while nature places them in a "physical" inequality where they are "unequal in force or genius" (*SC*, 178). Along with civil and criminal laws, political laws are those that make possible civil order possible and equality, right, and justice practicable.

Rousseau's critique of the Roman and modern jurists suggests that he might hold another position altogether separate from those he places in doubt. His discussion of the laws of nature, their existence and their limitations, partakes in some aspects of both the Romans and moderns as he presents them. He does not give any indication that this natural law (as he claims the Roman jurists do) supports "all animate beings for their common preservation" (*SD*, 53). Instead, Rousseau situates himself closer to the moderns in his conclusion that "the first law of nature is the care of preserving oneself" (*Emile*, 193). He does not use the concern with self-preservation, however, to deduce any positive laws or provide a foundation and reason for political association. Self-preservation is an essential component of being a living creature and, therefore, partakes of the "necessity" that distinguishes the majority of Rousseau's exposition on the laws of nature in *Emile*. The necessity that governs his discussion of the laws of nature focuses on those aspects of existence that human beings absolutely cannot live without; the biological functions for survival and reproduction and their eventual manifestation in our sentiments and behavior as moral beings. The fundamental law of nature is self-preservation and all subsequent laws of nature pertain to the needs that result from this preservation.

As Rousseau indicates in the beginning of the *Second Discourse*, he separates physical and political inequality in the same way he separates the natural from the moral. The laws pertaining to our nature are those that originate in our physical being and, without the dictates of morality or reason, demand our obedience. Rousseau's concern with the ability to enforce law and to compel one's obedience through punishment of some kind is congruent with the laws of nature. Due to the necessity of certain bodily functions, our needs compel us to obey. Rousseau mentions that as part of our "perfectibility," that which makes human beings unique, we are able to act as "free agent[s]." He argues that "[n]ature commands every animal, and the beast obeys," but that man "feels the same impetus, but he recognizes that he is free to acquiesce or resist, and it is above all in the consciousness of this freedom that the spirituality of his soul is shown" (*SD*, 72). Human beings are able to deny the laws of nature much like the laws of society. Our bodies compel us to sleep, to avoid pain, to quell hunger, and to fulfill our sexual desires, but with each of these things we can resist. The ultimate punishment for resisting the body's demands is death, but a person can persist for quite some time against this physical coercion. Similar to a person's contestations against positive law, the denial of nature's laws and the obedience they demand from us originates in the will. Continuing his explanation of man as free agent, Rousseau distinguishes between physics and its ability to explain the "mechanism of the senses and the formation of ideas" and the "power or willing" (*SD*, 72). The laws of nature he provides in *Emile* are those things we physically need in spite of our moral development as a species and pertain to the most essential aspects of our animality. In this way, the laws of nature differ from the natural laws of the Roman and modern jurists. The laws of nature can actually compel a human being where natural laws remain reasoned deductions and have no force (*SD*, 72).

Separating the sources of education in a person's life, Rousseau defines the education of

nature as “the internal development of our faculties and our organs” that is “in no way in our control” (*Emile*, 38). The education of nature is noteworthy given Rousseau’s theoretical history of man’s move from nature to society and the peculiar characteristic of “perfectibility” that resides in human beings alone. While there is historical and social change, particular aspects of human existence have not changed and could not logically do so since the time of Rousseau’s natural man. Originating in self-preservation, the first laws of nature do not extend beyond the body and only reach beyond the individual in matters concerning procreation. Through these biological necessities Rousseau describes the ways in which nature, seeking to prepare the individual for a life of hardship, prepares the child’s body should the infant live till they reach adolescence. He warns of the mothers who try and protect the child from harm “hoping to exempt him from the laws of nature,” but make the child weak in the process. Urging mothers to “[o]bserve nature and follow the path it maps out for you,” Rousseau extols the benefits of simply allowing the child to confront the “exercises” of nature which “hardens their temperament by tests of all sorts” (*Emile*, 47).

Society can give new meaning to the laws of nature, and our social condition can create new moral understandings from our distinctly physical being. In a passage on the harm and benefit of speech and its application to an education in sex and chastity, Rousseau illustrates the way in which the teacher transforms the law of nature (sex) from a physical act to a moral act by showing Emile “the sanction of these laws in the physical and moral ills that their infraction brings upon the guilty” and joining “to the idea of the allure given to this act by the Author of nature the idea of exclusive attachment which makes it delicious” (*Emile*, 324). Although the teacher introduces morality to the physical act of sex, the law of nature does not demand this morality; it is social artifice. The shift from focusing on the physical act to the act’s moral

implications is a microcosm of Rousseau's discussion on the shift from a physical being, or, a being of nature, to a moral being in the *Second Discourse*.

The most important distinction we can draw from Rousseau's discussion is the relation between his description of the laws of nature and his critique of the Roman jurists' concept of natural law as that which governs all things. The Roman jurists seek an order for all beings and that contend this order is within and discernable by studying nature. Rousseau limits what these dictates are by emphasizing the natural as biological necessity. Still, he suggests that one can order their lives according to the laws of nature. Speaking to Emile, the tutor claims that "the eternal laws of nature and order do exist. For the wise man, they take the place of positive law. They are written in the depth of his heart by conscience and reason" (*Emile*, 473). The brief and ambiguous passage comes after the pupil returns from touring Europe for two years and gives his perspective on dependence regarding nature and humanity. The tutor replies with a critique of laws and liberty, contending that one always finds "individual interest and men's passions reigning under this name" (*Emile*, 473). At first glance, it appears that Rousseau would agree with the Roman jurists on the eternal laws of nature and of an order in the world. One might even argue that Rousseau's turn toward reason in this passage aligns him with the modern jurists as well. Rousseau's focus on self-preservation appears to place him comfortably among those modern theorists he readily critiques. His deviation begins with his presentation of the state of nature in the *Second Discourse*, and the function of law as a tool to create order or rule. The agreement these lines seemingly have with Rousseau's summation of the jurists is problematic due to the introduction of the wise man, conscience, positive law, and the writing of these laws on the heart of those who recognize them. Understanding Rousseau's teaching on natural law here requires investigating the distinct yet interconnected parts.

Rousseau often speaks of the “heart” and contends that it is in this place that morals and laws must be united. The image of the heart holds particular rhetorical importance for Rousseau. His use of the metaphor is found in his earliest works beginning with the *First Discourse* where he contends that his motive is not to win the prize of the Academy, but to receive the prize found “in the depths of my heart” (*FD*, 10). Similarly, he ends the work by discussing virtue, that “[s]ublime science of simple souls,” and questions how or from where does one gain knowledge of virtue’s principles. As if speaking to virtue, Rousseau asks: “Are not your principles engraved in all hearts, and is it not enough to learn your laws to return into oneself...?” (*FD*, 36). He warns Poland that they cannot have a “good and solid constitution except the one in which the law rules over the heart of the citizens” (*Poland*, 171), and extols the genius of the Spartan regime “in which laws and morals, intimately united in the hearts of citizens, made, as it were, only one single body” (*d’Alembert*, 67). The image of the heart attests to the importance of passion in directing or supplementing reason. Adherence to the law or the practicing of virtue are, for the average person, difficult without a passionate attachment to the pursuit. Passion is also made to counteract passion. By educating the individual toward certain virtues or love of the law, by effectually engraving these pursuits on a person’s metaphorical “heart,” society may combat the pernicious manifestation of love of self, *amour-propre*, and possibly even use a person’s *amour-propre* as the chisel with which to incise virtue and the law upon one’s heart.

Within a conversation between Emile and his tutor, Rousseau recognizes those “eternal laws of nature and order” (*Emile*, 473). He introduces nature and order after rejecting the positive laws of man that are led by private interests. Rousseau implies that we cannot consider these positive laws as truly being law, suggesting the need for law to partake in some sort of order or generality. Given the difficulty of understanding what Rousseau means by the laws of

nature and order, he compounds the problem by presenting them as eternal and asserting that they are knowable by the “wise man.” Rousseau is not clear on what is required for a person to be wise, making it difficult to discern who would be able to know of the eternal laws. After discussing the effect *amour-propre* has in the *Moral Letters*, he prescribes a remedy for those who preoccupy themselves with public opinion to such a degree that they understand themselves only through convention and the opinions of others. With this remedy Rousseau details those people he considers “closest” to wisdom. “As for me, I think that the one who knows best what the human self consists in is the closest to wisdom and that, just as the first stroke of a drawing is formed by lines that make up its boundaries, the first idea of man is to separate him from everything that is not himself” (*Moral Letters*, 198). Rousseau connects wisdom to knowing what a human is by nature or, at least, what the modern man is outside of convention and undisturbed by the nearly indefatigable siren that is *amour-propre*. It is the wise man for whom the laws of nature “take place of positive law. They are written in the depth of his heart by conscience and reason.” Rousseau continues by stating that the wise man “ought to enslave himself” to these laws “in order to be free” (*Emile*, 473). A return to or discovery of these eternal laws of nature and order requires reason and conscience, each one problematic for the person controlled by passion and *amour-propre*; the former makes difficult the use of the reason and both can weaken or even silence our conscience. Rousseau mentions conscience at the end of the *First Discourse* when discussing virtue, and contends that to know virtue we must pay attention to our conscience in the “silence of the passions” (*FD*, 36). In this famous passage, Rousseau suggests that virtue is knowable and comes from a fixed source; it is accessible through conscience and one must partake in “genuine philosophy” to come to know it.

What is the conscience and why is it necessary for the wise man to obey the laws of

nature and order? Furthermore, to what degree, if any, is conscience within all of us and how does this aid us in understanding? Before we can turn to conscience, we must finish examining Rousseau's analysis of law and morality. By doing so, we can better understand the limits law and its ability to influence the passions and behavior of the people, and lay the groundwork for examining the true politicians and the Legislator. To understand these components of political life, however, requires a preliminary look at the law in relation to justice; particularly the difficulties of morals, laws, and universal justice as Rousseau briefly sketches them in the *Letter to M. d'Alembert*.

Morals, Laws, and the Failure of Universal Justice

Rousseau's criticism of M. d'Alembert's suggestion for severe laws is the foundation upon which he builds a more nuanced argument for the relationship between morality, law and justice. By examining the influence each one has on political life, he draws attention to their usefulness but also to their defects. M. d'Alembert's remedy will fail and could possibly harm Geneva because it does not take into account the limitations of law and the peculiar character of the Genevan people. Rousseau begins with M. d'Alembert's purposed legal remedy to reveal what law is incapable of accomplishing. He continues his critique by further delineating between the influence of morals and the influence of laws.

Another observation, no less important, is that matters of morals and universal justice are not arranged, as are those of private justice and strict right, by edicts and laws; or if sometimes the laws influence morals, it is when the laws draw their force from them. Then they return to morals this same force by a sort of reaction well known to real statesmen (*d'Alembert*, 66).

He introduces two distinct sources of authority, morals (*moeurs*) and universal justice, and distinguishes them from private justice and strict right. Initially, Rousseau separates these two groupings because of their relationship to edicts and laws, but then qualifies this relationship

by linking morality and law. Before delving into the connection between and reciprocal nature of morals and law, it is worth noting that Rousseau does not elaborate upon what he means by private justice (*justice particuliere*), strict right (*droit rigoureux*), or, most importantly, universal justice (*justice universelle*). These terms are, however, important for understanding the purpose and limitations of law, and the unique influence of morals. Furthermore, they offer insight into the people's expectations for justice with respect to the political and social spheres.

The phrase "*droit rigoureux*" first appears in Rousseau's notes for the Second *Discourse*. He introduces Note XIX while discussing the unavoidable growth of inequality that results from social relations within and without the institutions of government, particularly with regard to "prestige and authority" (*SD*, 113). Similar to his distinction between morals and law in the *Letter to M. d'Alembert*, Rousseau differentiates the role of morals and law with respect to the punishing of crimes. He states that every society distinguishes between good and evil people regardless of its level of corruption. Distinguishing people in this way, however, is the purview of moral judgment and the magistrate cannot apply it by using the law. "[I]n matters of morals—where the law cannot establish a sufficiently precise standard to serve as a rule for the magistrate—the law...very wisely forbids [the magistrate] to pass judgment on persons, allowing him only to pass judgment on actions." In this way, the magistrate is unable to personally determine "the fate or rank of the citizens" (*SD*, 150). The magistrate is, however, able to judge "rigorous right." Confined to evaluating a person's actions and not their moral character, a magistrate is judging strict right. Strict right, separate from moral concerns, falls under the purview of the law. Using strict right as a guide is necessary in those regimes where the law is not in accordance with or cannot be used to punish morals. Rousseau's distinction is important because he presents the reader with a people who could suffer the judgment of the magistrate on

matters of morality: the Romans. He claims that only “morals as pure as those of the ancient Romans could tolerate censors, and such tribunals would soon have turned everything upside down among us” (*SD*, 150-151). The exception of ancient Rome does not imply the inclusion of all ancient regimes and the exclusion of modern ones. The critique is much more severe by suggesting that few regimes throughout the ancient and modern world had morals “pure” enough to allow a governmental body to pass judgment on questions of morals. As Rousseau states in the *First Discourse*, this kind of corruption is not a “misfortune particular to our age” (*FD*, 14). In the context of the Note, a magistrate’s moral judgments provide a context for abuse. The magistrate would be able to give and take away political advantage along with social equality. The separation of morals and law protects persons from arbitrary judgment through the application of strict or rigorous right. Corrupted regimes will only fail to control morals or breed conflict when they attempt to commandeer from the public the authority to judge moral action. Instead, magistrates must treat each person and their actions equally according to the law without passing a moral judgment on them.

Strict right also appears in Rousseau’s *Emile*. Here, the “rigorous standards of right” dictate that “each man remains free at his own risk in whatever place he is born unless he voluntarily subjects himself to the laws in order to acquire the right to be protected by them” (*Emile*, 455-456). Strict right extends to the individual regardless of whether they agree to participate in a given society, representing the freedom of individuals to choose to participate in society and find protection under its laws. Abdicating one’s freedom demands the protection of law as a dictate of strict right. This echoes Rousseau’s claim in Note XIX of the *Second Discourse* that the uniform application of law is a dictate of strict right. Law represents strict right for an individual when they agree to be governed by it. In this regard, strict right is

“arranged” by edicts and laws. Where law is limited, however, the people are free to collectively determine a person’s moral character.

It is less clear what distinguishes universal from private justice in this passage. While the issue of justice appears again in the *Letter to M. d;Alembert*, Rousseau does not return to the question of universal justice. Rousseau mentions universal justice in a letter from Milord Edward to Claire about the state of Julie and her lover in his novel *Julie, or the New Heloise*,¹⁴ but this brief passage sheds little light on the operation of justice. From the perspective of Milord Edward, a father who steals from his daughter the right to choose a husband is a tyrant and it is in the “interest of universal justice that these abuses be set aright.”¹⁵ The tyranny of the father is a tyranny against nature who is “subject neither to sovereign power nor to paternal authority.” From this excerpt we might conclude that universal justice is simply what nature dictates, but Milord Edward goes on to state that opposing violence and contributing to order are part of man’s duty. These duties may be dictates of nature, but it is left unclear in Milord Edward’s statements. Furthermore, he claims that he would unite Julie and her lover if he was able and, in doing so, he “would be accomplishing heaven’s work, without worrying about the approval of men” (*Julie*, 159). For Milord Edward, universal justice is connected to both heaven and nature and demands certain duties from men. The fulfillment of these duties does not require and cannot stem from peoples’ opinion.

Milord Edward’s conception of universal justice as being outside the purview of man’s precepts and law mirrors Rousseau’s assessment of justice and law in the *Social Contract*. The chapter “On Law” opens with a discussion of the good and the just. “What is good and in

¹⁴ The letter can be found in Part II, Letter II.

¹⁵ Milord Edward’s statements should be compared to the discussion Sophie has with her father on marriage and the choosing of a spouse in Book V of *Emile* (399-402).

accordance with order is so by the nature of things and independently of human conventions” (SC, 188). Found often in Rousseau’s works, that which is good and orderly is that which comes from or is in accordance with nature. “Everything is good as it leaves the hands of the Author of things; everything degenerates in the hands of man” (*Emile*, 37). Human beings are “naturally good,” but entering into society means they are no longer in their natural state (SD, 127).¹⁶ While that which is good and orderly is in line with nature, Rousseau still includes God when discussing justice. Similar to the statements of Milord Edward, Rousseau places justice, “all justice,” in the control of God, but denies that human beings are able to access it. Though Milord Edward thinks that by uniting the two lovers he would be doing heaven’s work, Rousseau contends that “if we knew how to receive [justice] from on high, we would need neither government nor laws” (SC, 188). While one can debate the sincerity of Rousseau’s statement about God and the origin of justice,¹⁷ it is clear to the reader that we are unable to obtain this justice.¹⁸ Instead, Rousseau considers another source of universal justice: “reason alone.” He states that it is “without a doubt” that reason can lead us to the dictates of universal justice, but government and law are still necessary (SC, 188).¹⁹ Although its source is closer to us than “from on high,” we still fail to practice universal justice as it is knowable through reason. Rousseau

¹⁶ Compare this to Rousseau’s statement in the *Letter to M. d’Alembert*: “For never do good laws change the nature of things; they only follow it, and only such laws are obeyed” (79).

¹⁷ For affirmation that Rousseau is serious in his statement about justice and God, see endnote 52 in the *Social Contract*, in *The Collected Writings of Rousseau, Vol. 4*. There Kelly and Masters argue that “far from being ironic, the phrase ‘all justice comes from [God]’ was meant very seriously” (251; see also *Emile*, 315).

¹⁸ After the recounting the “Profession of Faith of the Savoyard Vicar,” Rousseau tells the reader that the Vicar’s teaching is not intended as theological instruction or the “sentiments that one ought to following religious matters,” but as a teaching appropriate for the peculiar education of his imaginary pupil, Emile. Rousseau argues that in the absence of instruction by peoples and cultures, “the light of reason alone cannot, in the education founded by nature, lead us any farther than natural religion” (*Emile*, 313). What we can know about the divine through reason is limited and what we can learn about the tenets of universal justice through natural religion is unclear.

¹⁹ Compare to the earlier discussion on the “least student of law” who is capable of crafting a “moral code as pure as that of Plato’s laws” (*d’Alembert*, 66).

does not say that we do not know how to access or “receive” as the case is with the justice we receive from God. In this case, universal justice would be unknowable. We do not practice the universal justice of reason because we fail to “acknowledge” it.

Our inability to practice universal justice is of our own making. Rousseau does not argue that we are not rational enough to confirm and assent to universal justice, but that individuals do not wish to practice universal justice. Preferring ourselves to others, the difficulty lies in the reciprocal nature of universal justice. For universal justice, “in order to be acknowledged among us, this justice must be reciprocal” (*SC*, 188) Reciprocity is impossible when those who obey the dictates of justice are at the mercy of others, particularly those who wish to benefit from being treated justly without being just in return. Since it is natural for a human being to prefer themselves to others, reason alone becomes insufficient for the practice of universal justice. Rousseau deems universal justice “ineffectual among men for want of a natural sanction” (*SC*, 188). Rousseau offers us an example of a person who, through the guided cultivation of his reason, comes to understand the importance of being good and committing oneself to duty. His imaginary pupil Emile finds “his true interest in being good, in doing good far from the sight of men and without being forced by the laws” (*Emile*, 314) Rousseau states that Emile’s commitment to his duty and the good that exists outside of law is done in part because the boy loves order. What makes this love of order unique is that other human beings will always prefer themselves or “love of self” to the love of order. The juxtaposition of these two loves culminates in Rousseau’s harsh critique of private interest. When conflicts arise, a person will conclude that it is in their interests to “[I]et all other men do what is good for me at their expense; let everything be related to me alone...” (*Emile*, 315). Here, the motivating factor that blinds human beings to universal justice is a pernicious form of self-love, *amour-propre*. The person who

would willingly allow everyone, “if need be, to die in suffering and poverty” so that they are spared “a moment of pain or hunger” is aware of his fellow man and willing sacrifice them for his benefit (*Emile*, 315). That such a person can exist or that people are willing to consider one another in this way makes universal justice unattainable. Reciprocity cannot occur between two people who are unable to view one another as anything more than disposable should the circumstances require it.

Amour-propre is not the only factor preventing the implementation of universal justice. Rousseau states that the laws of justice are impotent “for want of natural sanction.” Since *amour-propre* is born in society, we must look farther back and consider Rousseau’s depiction of human beings in nature. Self-love or *amour de soi* is the natural feeling that “inclines every animal to look after its own self-preservation” (*SD*, 147). Unable to make the comparisons that inflame their *amour-propre*, human beings in the state of nature seek their preservation without considering that it must come at the expense of another, let alone the rest of humanity. Even if the pernicious character of *amour-propre* does not mangle social relations, universal justice remains unlikely. Reason and pity are necessary to shape *amour de soi* and direct it toward humanity and virtue. Prior to the development of reason, human beings were only capable of feeling repugnance at the suffering of other creatures. This natural repugnance is kept human beings from harming each other except in those situations which involve their self-preservation. Human beings, however, do not seek justice for others in the state of nature. Natural man treats human beings like he treats all other animals. In the state of nature “where everything is common,” a person owes “nothing to those to whom [he has] promised nothing, [he] recognize[s] as belonging to someone else only what is useless to [him]” (*SC*, 188). The formulation is simple, but it is suitable only in the state of nature. Once human beings enter into

a social or civil condition, the simplicity of obligation in the state of nature disappears. Furthermore, *amour-propre* replaces the natural ignorance of *amour de soi*, but this does not guarantee the cultivation humanity and virtue through the proper development of our reason and pity. Their cultivation requires a proper education. Rousseau portrays this education in the development of his imaginary pupil, Emile. Directed toward his duty, Emile finds his “true interest in being good” (*Emile*, 314). Without such an education, people concern themselves with private justice and private justice must be ordered through edict and law. Since human beings will take advantage of those who are willing to practice justice, society must protect the just and force the unjust to comply.

Given the difficulties associated with attaining universal justice, we can see how it relates to natural law and the wise man’s love of order. Since reason, the active principle of mind, alone cannot make universal justice knowable to us, reintroducing the active principle of soul, conscience, makes possible our acknowledgement of an order outside of the self or regime. The principles of universal justice are in accordance with reason and the order of nature, but we must overcome our *amour-propre*. Additionally, we must overcome our particular forms of justice and positive law. A final caveat stands in the way of turning toward universal justice: “this justice must be reciprocal.” Furthermore, it lacks a “natural sanction” (*SC*, 188). We cannot guarantee that our fellows will respect the dictates of universal justice and they are not forced to do so by nature. In the *Geneva Manuscript*, Rousseau provides the example of an “independent man” who, guided by his self-interest, reasons about justice, law, and his duty to other people. Presenting the independent man’s thoughts on the problem, Rousseau argues that the independent man would not align himself with the common good.

‘It is vain,’ he might add, ‘that I would endeavor to reconcile my own interest with that of others; everything you tell me about the advantages of the social law would be fine, if

while I scrupulously observe it toward the rest, I were sure that they would observe all observe it toward me; but what assurance can you give me on this score...It makes no difference that you tell me that by repudiating the duties which natural law imposes on me, I simultaneously deprive myself of its rights, and that my acts of violence will authorize all those which others might choose to commit against me. I accept it all the more readily as I do not see how my moderation might guarantee me against them' (*Geneva*, 156).

The independent man addresses the problems of both social and natural law. Through reason alone he concludes that the social law provides no assurances and that by agreeing to follow the law he is at the mercy of those who would not keep their promise. Similarly, natural law and the duties it might command are insufficient guarantees and cannot protect the independent man. Rousseau has the independent man argue instead for the benefits of aligning himself with the strong against the weak. An alliance of the strong "will do more for" the independent man's "advantage and [his] security than will justice" (*Geneva*, 156). Bare reason leads him away from natural law and the justice it provides because it is justice without enforcement.

Such a formulation does not necessitate that universal justice is an illusion, but that personal interest will always guide the purely rational and those motivated by the wicked aspects of their *amour-propre* to choose themselves over law and order. Even *amour de soi* does not ensure a person's commitment to law and order whether they are social or natural. The proper cultivation of one's reason and conscience are essential for directing a person toward universal justice. Rousseau's formulation of the problem has its answer only in the wise man. Those who are able to modify their conscience through reason (or have Emile's education), might be able to successfully make sublime their duty to a natural order and guide themselves toward universal justice. As Rousseau has shown us, those who would undertake this enterprise are few in number and there is likely a smaller number of people who could be successful at it. Love of those

eternal laws of nature and order is not for the multitude. Similarly, while true citizens may love a particular form of justice or positive law, universal justice remains out of reach.

Conclusion

Unable to ensure its observance, universal justice cannot govern the civil state. Morals still maintain their authority, but it is up to edicts and laws to govern matters of private justice and strict right. We are left with the interplay between law and morality. Rousseau qualifies his initial statement on the difference between morals and strict right in their relation to the laws. Morals “are not arranged” by edicts and law, but “if sometimes the laws influence morals, it is when the laws draw their force from them” (*d’Alembert*, 66). Rousseau’s qualified statement emphasizes the primacy of morals on the operation of law in two ways. First, the laws do not always influence morals. In fact, they influence morals in the minority of cases. Second, in these infrequent cases where law influences morals, it is because the laws are strengthened by morals. The relationship is reciprocal, but law cannot truly compel without the structure morals initially provide. Rousseau does not, however, include universal justice in his description of morals and law. It is because of the nature of human beings and their social relationships that necessitate the formation of government and law. While morality and law can influence or buttress one another, universal justice does not operate in a similar fashion. Rousseau initially situates morality and universal justice in opposition to private justice and strict right, but their similarities extend only so far. Universal justice and morals are unique in both their operation in society and their relation to law. As laws draw their force from morals, “[t]hey return to morals [manners] this same force by a sort of reaction well known to real statesmen” (*d’Alembert*, 66).

Having outlined the forms and limitations of law with respect to morals, obedience, and justice, we can return to the question of conscience and reason and their influence on human

behavior. Law well-executed is the counterpart to law well-observed and both are necessary for successful censorship. Success in this sense is found in the public's acceptance of censorship and the benefits censorship provides for the people and safeguarding the regime. Discovering the conditions under which law well-executed and well-observed are possible demands knowledge of Rousseau's typology of law, including his unique interpretation of natural law, justice universal and particular, and the distinction between what is natural (physical) and what is social (moral, artificial, by convention). Additionally, to understand these elements we must recognize their dependence on *amour de soi*, *amour-propre*, reason, conscience, morals and public opinion. While we have begun laying the groundwork for these multifaceted and intertwined components, comprehending their implications for censorship still requires exposition. Now that we have outlined the types of law and their influence, we can examine the people's adherence to social and political order as they relate to those elements natural to us, conscience and reason. Then, we can examine those who legislate and those who execute the laws; determining their indispensable role in organizing and maintaining the regime, both politically and with respect to morals.

CHAPTER 3
ON THE LEGISLATOR AND THE IMPORTANCE OF THE FOUNDING
TO MORALS AND CENSORSHIP

Introduction

Understanding censorship through the political institutions that introduce and enforce it requires a study of those who implement law and provide the civic conditions of justice. Two figures Rousseau briefly turns to in the *Letter to M. d'Alembert* are the legislator and real political thinkers (the term Rousseau uses is “*vrais politiques*”); He introduces each one as having genuine knowledge of law and justice, or knowing best how to implement them. If wisdom is connected to nature, order, and human motivations, both the legislator and true political thinkers have a profound or more holistic understanding of people and the laws suited for a particular regime. Their task and capabilities differ from the common politician or lawmaker because of the scope of their understanding. Where other rulers may have expertise or specialize in an aspect of governance or lawmaking, the legislator and true politicians view the whole of the regime, legislating and ruling with a view to the whole. The only figure who receives Rousseau’s praise for understanding the relationship between the force of law and the force of vice without qualification is the one who has knowledge of the “true legislator’s science” (*d’Alembert*, 66).²⁰

Although he does not clearly define what he means by the legislator who has knowledge of this science in the *Letter to M. d’Alembert*, Rousseau details and praises this unique lawgiver in the *Social Contract*, the *Government of Poland*, and elsewhere. Similarly, the true or “real”

²⁰ The phrase Rousseau uses is “*la véritable science du Législateur*.” Though published at a later date, Rousseau’s use of the term “legislator” (*Législateur*) should be considered in light of its use in the *Social Contract*, particularly 2.7.

political thinker appears to have some knowledge of the relationship between morals and laws, but Rousseau does not outline the qualities of these political thinkers after introducing him in the *Letter to M. d'Alembert*. His discussion of and distinction between the legislator and a political thinker is reminiscent of Aristotle's examination of the best regime in Book 2 of the *Politics*. Nichols (1992) summarizes Aristotle's endeavor there as the examination of three political thinkers (Plato, Hippodamus and Phaleas) and then three existing regimes (Sparta, Crete, and Carthage). She states that "[j]ust as Aristotle's new beginning is a turn to the thoughts of others about regimes, so regimes now appear to originate in thoughts, whether it be those of philosophers who reflect on politics without themselves engaging in politics, or those legislators, who embody their thoughts in the regimes they found" (36). We should keep a similar distinction in mind when discussing Rousseau's legislator and what he calls political thinkers. Theoretically shaping and dissecting regimes, Plato, Hippodamus, and Phaleas would be exemplars of those who might know the reciprocal nature of law and morals while the legislator establishes a physical regime. In a passage strikingly similar to Rousseau's in the *Letter to M. d'Alembert*, Aristotle examines Lycurgus and Sparta (1269a30ff.) and later considers the legislative efforts of Solon (1273b30).²¹ Additionally, Aristotle's treatment of the best regime begins with the same philosopher Rousseau uses when discussing adapting a code of laws to a particular people, Plato. Rousseau never conflates the theoretical regimes of Plato's *Republic* and *Laws* with the activity of the legislator; instead, he distinguishes between the philosopher and the heroic legislator, each one possessing different virtues and degrees of virtue (*Hero*, 1). Both the political thinker and the legislator form regimes, one in the mind and one in actuality. What we can draw upon from each figure will differ insofar as we can discern the general application of

²¹ I would like to thank Sebastian Graham for drawing my attention to this comparison.

law from the particular application.

Though he points to the capabilities of both the legislator and the political thinker with regard to the science of legislation, Rousseau does not outline what the scientific standard for legislation is, how one practices it, and when someone comes to know it. He continues, however, by describing to the reader how modern legislation fails to consider the balance of law and vice. By examining the character of the legislator and those who Rousseau considers to be real political thinkers, we are better able to understand the requirements of sound and just governance. In particular, we can ascertain the political and psychological mechanisms necessary for drawing a people together and establishing a stable regime. According to Rousseau, these two figures have knowledge of law and morality, especially with respect to their interplay and influence on human beings. Part of the art of the legislator and political thinker is knowing how opinion and morals operate, the effect law has on the individual and the populace, and how to fulfill the demand for justice. Furthermore, through these two figures Rousseau makes known how to balance the law against opinion and to shape morals. All of these elements are essential to understanding the promise and the limits of censorship. The extent to which the legislator and political thinker influence politics, craft law, and shape morals, however, differs when considering the place each one holds in relation to the regime. While the legislator makes possible the institutional development and reinforcement of censorial laws, the political thinker does not have such a direct influence on politics.

What constitutes the true science of the legislator is, in part, knowing the influence the forces of law and vice have on the people and being able to account for them when crafting law. The legislator must come to know how these “forces” compare, when law can influence vice, and, finally, when law is capable of overwhelming the people’s inclination toward vice. The

connection between morals and laws, however, is not discussed in terms of science, but as being “well-known” to real political thinkers. What Rousseau alludes to here, he states more concretely in the *Discourse on Political Economy* (14); mainly, that the people’s vices are more powerful than the laws. Furthermore, it is the knowledge that laws can only influence morals when they align with the people’s morals. Once this occurs, law can reinforce morals because the people’s morality supports them. The majority of law, however, fails to reciprocally influence morals because they do not align the public morality in the first place. Once law and morals become misaligned, the people are more likely to flout law and follow their personal inclinations leading to vice.²² Rousseau laments that most legal systems suffer from piecemeal development that creates a hodgepodge system of governance. Lawmakers introduce new laws to solve problems as they arise with little view to the overall legal system or the possible introduction of new problems (*Poland*, 171, 186ff). The Understanding the interplay between—and political importance of—law and morals requires a closer examination of what Rousseau means by legislator and real political thinkers both generally speaking and within the context of the historical examples he employs. He provides the reader with images of the legislator and political thinkers throughout his work, paying special attention to those ancient legislators who, according to Rousseau, display their knowledge of the law, justice, and the enticements of vice. In light of the distinction to be made between these two figures, it is necessary to separately examine their activity or influence over law. By first examining Rousseau’s theoretical depiction of the legislator and comparing it to his historical examples, we can acquire a clearer picture of

²² Morals here and elsewhere is the term used for Rousseau’s “*moeurs*.” In his notes to the *Letter to M. d’Alembert*, Bloom informs the reader that the word *moeurs* is more nuanced than moral rules or superficial manners. Instead, *moeurs* is closer in meaning to those “habits as they are related to moral goodness or badness.” He illustrates this definition by suggesting that “a man’s taste in food or where he goes to take his amusement indicate more adequately the state of his soul and the type of actions he is likely to take than any opinions or principles he holds” (1960, 149).

what is necessary for censorship and how censorship can be profitably utilized. Ultimately, we can uncover not only the basis of law and justice, but how the legislator implements them for the benefit and longevity of the regime.

The Figure of the Legislator and the True Legislator's Science

The difference between who might practice “true legislator's science” and legislators generally speaking is reminiscent of Rousseau's critique of the sciences in the *Discourse on the Sciences and Arts*. What is the difference between the common scientist and those people “whom nature destined to make its disciples...The likes of [Bacon], of Descartes, and of Newton?” (34). Not only is there a difference in intellect or “genius” as Rousseau calls it, but those who truly practice science do so sincerely. If one equates the legislative science to the pursuit of science more broadly understood, we might ask ourselves as Rousseau does:

...who really seeks it sincerely? Even with the best of intentions, by what signs is one certain to recognize it? Amid this host of differing sentiments, what will be our criterion for judging it correctly? And what is most difficult, if by good fortune we eventually find it, who among us will know how to make use of it? (*FD*, 24).

Posed to those who practice the legislative science, these considerations echo Rousseau's concern for the creation of flawed or ineffectual law. He warns of the dangers the “false paths” and errors of science commonly practiced pose for morals and the people's wellbeing. The true scientist and legislator, however, share the distinct ability to better the people's lives. Where the scientist is capable of enlightening the people, the legislator can persuade the people to obey willingly.

When discussing the place of the true scientist in politics, Rousseau supports positioning them within the king's counsel (*FD*, 35). With this in mind, however, the legislator does not “enlighten” the people as the true scientist does, but there remains the question of how to get follow the law, willingly or by constraint. The distinction between leading and enlightening

parallels constraint and willingness, as if by enlightening the people one can make them willingly do good. Leading, has until now required constraining the people. Rousseau's legislator appears to both lead and educate, but fails to enlighten the people. The legislator's education is not the teaching of a scientific or philosophical truth, but the educating of citizens about their duties, often supplemented by rhetoric and appeals to the divine. As long as they are unable to reconcile scientific truths with the duties necessary for political life, the people cannot become enlightened without becoming corrupt. Much to the chagrin of his contemporaries who thought the Enlightenment would provide real political reform, Rousseau contends that reason alone is unable to move people to love the laws, the regime, or their duties. Since the legislator need not depend solely on reason, he is able to move the people through their passions and imagination, ultimately igniting their love of the laws and identification as citizens.

For a true scientist to be able to educate the people, they must be careful not to dissolve the civic bonds necessary for a healthy regime. Rousseau is clear about the harms associated with science and how the pursuit of science leads the individual to question the morals and customs of their regime. Once these elements of the regime are in doubt, the people are unlikely to take them as their guide. The true scientist needs to be aware of the deleterious effects of their teaching and prevent the people from vainly pursuing the sciences to the detriment of the regime. It is with this in mind that Rousseau suggests that princes should allow "the learned of the first rank to find honorable asylum in their courts" where they can "contribute by their reputation to the happiness of the peoples to whom they will have taught wisdom" (*FD*, 35). The goal of the true scientist can become the happiness of the people, including guiding scholars (those who fail to be of the "first rank") toward higher intellectual pursuits and encouraging princes to do well by their subjects. When properly applied to politics, the activity of the true scientist can slow the

corruption of morals and promote happiness. Politics, however, does not allow for naked reason of science, requiring the stirring of the passions through imagery, rhetoric, and emulation. A ruler must guide the people through what they cannot understand by reason alone. This requires persuading them by showing them examples of exemplary conduct and stirring in them a passionate desire to take action. Rousseau claims that unifying those true scientists of the first rank with those holding political power may offer benefits heretofore associated only with the “ideal” philosopher-king of Plato. “It is only then that it will be seen what virtue, science, and authority can do when animated by noble emulation and working in concert for the felicity of the human race” (*FD*, 35). Even here, the scientist’s education or guidance is not wholly rational. The true scientist must stimulate the desire for virtue and nobility in the prince and the people but both are incapable of becoming true scientists. In light of his condemnation of popular science as a search to satisfy one’s vanity, Rousseau turns to emulation while rejecting the possibility of the people becoming scientists themselves. The true scientist must know something of human happiness and virtue within a political context; making possible the emulation of the scientist as a pursuit for the “felicity of the human race.” Within the particular political context of a given regime, the happiness of an individual would be their identification with the regime and the fulfillment of their duties as a citizen. Noble emulation may make a virtuous and happy citizen, but the average person is incapable of understanding humanity as can Bacon or Socrates.

Rousseau implores the average person not to seek the greatness of others because they were not afforded the same intellectual or creative talents. He urges the people with whom he here identifies to leave to “others the task of instructing peoples in their duties” and to limit themselves to fulfilling their own duties well (*FD*, 36). With this plea to the people, Rousseau attempts to persuade a subset of his audience with a rhetorical appeal to duty. Instructing people

of their duties is left to those few great figures who are capable of doing so, but this endeavor is not wholly rational. In his *Last Reply to the First Discourse*, Rousseau differentiates between the philosopher and legislator when he states “Greece owed its morals and its laws to Philosophers and Legislators” (*Last Reply*, 69).²³ Rousseau’s claim does not necessitate that philosophers and legislators are the same, nor does it mandate that qualities of each cannot appear in the same person. Both are aware of what is required to instill willing obedience, the importance of which is rooted in the promotion of the general will and the possibility for political freedom. The purpose of the regime in Rousseau’s *Social Contract* is to make the people free by unifying them under a general will that is fully expressed and reinforced by laws and institutions. In this sense, the people willingly obey (their opinions conform to the general will) because they love the law and identify with the regime. Rousseau’s legislator creates the conditions for willing obedience at the outset of the regime. It will later be up to those consummate or genuine statesmen to make sure that the people continue to obey willingly (*Economy*, 11). What separates the legislators and statesmen from the philosopher is their identity as Rousseauian heroes; those figures like Lycurgus and Solon who constrain men “to bear the yoke of the laws in order to subject them to the authority of reason in the end.” The craft of the legislator and statesman is in convincing the people to take on a burdensome code of laws in order to shape them into a people. Philosophers, however, are unable to teach a public that does not listen to them. While able to provide “salutary instructions,” philosophers are unable to persuade rulers or the people with “abstract views.” This is where naked reason always fails. Rousseau contends that “Men are not governed in that way...one makes them happy only by constraining them to be so, and one must make

²³ Quoting M. Bodes in such a way that Rousseau appears merely to agree with him, Rousseau includes the legislator alongside M. Bodes’ philosopher as one to whom Greece owes its morals and laws.

them experience happiness in order to make them love it" (*Hero*, 2). On deaf ears the teaching of the philosopher falls, but the legislator, that grand figure capable of making the people obey, is able to reach the people because they employ more than reason to persuade their audience. As Kelly explains, the legislator is the heroic figure who seeks obedience to the laws in part through persuasion.

The task of founding a fatherland belongs to one of Rousseau's heroic figures, the legislator whose task is to turn naturally independent and self-seeking humans into social beings. To accomplish this he must have recourse to what Rousseau calls "persuasion," which entails the use of religion, the arts, and other non-rational factors that can encourage identification with the community (Kelly 1997b, 356).

Although the legislator and the scientist both aim for the happiness of the people, only the legislator is in the position to found a regime and place new laws over a people.²⁴ Rousseau's legislator is the first figure in a well-ordered regime that makes possible obedience to the laws, including those laws that instruct morals and virtue by either educating the people or restricting their contact with those ideas that may harm the regime.

A question remains for the legislator: Why undertake the endeavor? For the scientist, Rousseau contends that the "sole encouragement they need" is to want "nothing to be above their genius." These few, great scientists "raise monuments to the glory of the human mind" because the "soul imperceptibly proportions itself to the objects that occupy it, and it is great occasions that make great men" (*FD*, 35). The true scientist's ambition is one discovery and knowledge. They can glory in their discovery because such an achievement elevates them above others and can earn them distinction. Like the true scientist, Rousseau's legislator is not only a person of

²⁴ It is with this in mind that we might reconsider the true scientist who requires the refuge of the court to instruct the prince and the people. The scientist needs existing political structures and the proper direction of his endeavors toward the people's felicity. Oddly enough, the rhetorical call to offer true (and only true) scientists a place in the monarchy's court is made by Rousseau. The refuge of the scientist is, however, in an already corrupt regime, one that was undone by luxury, vanity, and modern laws.

unique genius but they aim to create something greater than themselves; aiming beyond even the difficult task of simply writing laws and founding a regime that they consider worthy of their name and place in history. Melzer describes the legislator as similar to all other people in their natural selfishness. Motivated by “the sheer power and grandeur of his selfish ambitions—the desire for immortal glory of being the founder of a great nation—will lead him to strain every fiber for the common good” (1990, 234). Just as scientists may bring about the happiness of a people by sharing their wisdom through political means, so too does the science of the legislator make possible the happiness of a people. The pursuit of the legislator is the same as the one Rousseau sets out for the “true hero” who has the “happiness of men as his object” (*Hero*, 2). The “heroism” of the legislator is their ability to move the people, simultaneously seeking their happiness and his glory. If the true legislator’s science is knowing the power and influence of the laws necessary to overcome the self-interest and vice of the people, and the legislator’s seeks to make the people happy and well-governed, we must look to how the tension between vice and law affects the happiness of the citizens.

A comparison of legislation and the sciences is instructive, but not without further qualification. The inherent limits to creating extraordinary or, at the very least, effectual legislation differ from the pursuit of science generally speaking. It requires a person of “sense and equity” to create an “institution of laws” that “well observed, would be the most beneficial for society” (*d’Alembert*, 66). Although Rousseau appears to state the simplicity of creating a sound and beneficial system of law, the nature of the legislator and the application of law are factors that continuously confound the establishment of well-executed laws. Comparing the legislator’s science to science *simpliciter* as it is discussed in the *First Discourse*, it is unlikely that we will find a legislator who has both the sense and equity required to establish laws that are

appropriate and well-observed. The sciences, when born out of vanity, are incompatible with sense and equity. The vain scientist seeks self-interest over truth; looking to gain distinction even if it means undermining the regime's laws and customs. If the attraction to the sciences, particularly the legislative science, originates in *amour-propre*, it must come from the side that engenders pride instead of vanity.

Like the truly wise and instructive sciences, founding a regime and drafting its legislation with attention to common good must originate in the legislator's pride and not vanity. Rousseau distinguishes between these two forms of *amour-propre* in his *Plan for a Constitution in Corsica*. Of the two branches of *amour-propre*, the "opinion that puts a great value on frivolous objects produces vanity; the one that falls upon objects great and beautiful by themselves produces pride." Though their source is the same, Rousseau contends that pride is more natural because it "consists in esteeming oneself based on truly estimable goods", while vanity arises from giving value to things that do not have any naturally (*Corsica*, 154). While his definition appears somewhat cryptic at first, it immediately conforms to his principle that what is good in human beings is good by nature. Pride partakes in something natural to us. Rousseau traces pride back to pre-social human beings and their ability to adapt, subdue their prey, and overcome other predatory animals (*SD*, 92). Vanity, on the other hand, does not develop until human beings come together, start comparing themselves to one another, and then delve into the competitive behavior that comes from desiring distinction. Rousseau distinguishes between pride and vanity in a political sense by speaking of the birth of a nation. He argues that a new people is always prideful because there is "nothing more really beautiful than independence and power" (*Corsica*, 154). While pure independence is something Rousseau associates with natural man, the independence he speaks of here is a collective one. Almost paradoxically, the independence of a

regime depends on the people coming together as one body. Often when Rousseau speaks of human beings becoming social it is because they are losing their independence. In politics, however, it is when the people no longer come together collectively and begin to satisfy their individual self-interest over the common good that they become vain. Vanity enshrines a mutual dependence where everyone only seeks self-interest. Conversely, pride exists in the people who bind themselves together through “mutual esteem and benevolence” (*Narcissus*, 102). The people are independent because they are unified and genuinely invested in each other’s well-being. Political endeavors that stem from independence and freedom engender pride. He contrasts this pride against vanity which develops over time because the people, once unified, begin to become a collection of mere individuals. What keeps the legislator, as an individual, from turning toward vanity seems to be the aim and grandeur of his endeavor, the common good.²⁵ The legislator organizes the people in such a way that they look toward the collective good instead of individual self-interest. The legislator’s highest aim, then, is to construct a regime that will keep the people focused on the common good for the longest period of time. In

²⁵ Rousseau offers a contrasting example of the vain philosopher in his *Emile*: Where is the philosopher who would not gladly deceive mankind for his own glory? Where is the one who in the secrecy of his heart sets himself any other goal than that of distinguishing himself? Provided that he raises himself above the vulgar, provided that he dims the brilliance of his competitors, what more does he ask?” (269). The vain philosopher seeks distinction by elevating himself above the people and his intellectual peers. Such distinction is not connected to those things truly estimable. The vain philosopher competes for social distinctions that are conventional and introduced only after society has flourished to the point of luxury and corruption. Vanity motivates the philosopher to deceive the people, but his distinction and elevation, all of his so-called glory, comes from relationships of mutual dependence where he has to elevate himself over others by appearing estimable in their eyes. Such a relation is conventional and differs from the prideful philosopher’s endeavor because the prideful philosopher tries to reintroduce those things naturally estimable in nature, like freedom and happiness, back into society. Freedom and happiness are truly worthy of admiration because they are either natural to us, as in the case of freedom, or the desirable product of any way of living, as is the case for happiness. We can apply the same principle to the pride of the legislator. Rousseau, however, would contend that the legislator who does not seek for the people those objects that are good in themselves like freedom, independence, power, and happiness, cannot be the “true” legislator or follow the “true” legislator’s science. Rousseau mentions philosophers frequently throughout his works, but raises only a few philosophers to the status of “true” philosophers. Like the true legislators who seek the well-being of the people, the true philosophers are the ones who guide us toward humanity. Vain philosophers and lawgivers would be those who prefer their social ascendancy over the well-being of the people and, in the case of the philosopher, the human race.

the negative sense of the legislative hero who aims for greatness, the legislator will create suitable, equitable, and overall excellent laws because that is what will earn him the glory he seeks. Glory-seeking becomes coupled with the people's well-being, specifically their independence and freedom. Legislation directed at a common good differs from those laws made solely for one's sense of superiority or the benefit of a particular person or subset of persons. Rousseau's attention to the pervasive inequality and the vanity of our social relations suggests that finding a person whose judgment is unencumbered by these corrupt elements will be rare. Furthermore, the discovery of those laws that are "beneficial for society" does not guarantee their implementation.

Reexamining Rousseau's glib statement on the ease with which one can establish law presents us with another avenue of inquiry. If one establishes a system of laws that is purely theoretical, the system can remain consistent because it does not have to compete with unforeseen circumstances or adapt to evolving social conditions. A key phrase in what appears to be a passing dismissal of the idea that the "institution of laws is not such a marvelous thing" is the qualification that these theoretical laws be "well observed." Rousseau asks "Where is the least student of the law who cannot erect a moral code as pure as that of Plato's laws?" (*d'Alembert*, 66). Someone with a modest amount of study can craft law that is consistent, but consistency does not guarantee the law will be well-executed or well-observed. The people that would profit from the advantages of a theoretical legal system are the same ones limiting the actuality of this system. Though its aim is prudence and equity, the rational development of law is insufficient if the people are not willing to obey. Even when the laws are theoretically at their best, the problem of obedience demands a proper administration, suggesting that the other half of law well-constructed is law well-executed. For law to be both well-constructed and well-

executed necessitates the legislator's keen understanding of the people. The first step is drafting laws that are suited to a particular people and the second is persuading that people to willingly constrain themselves under this new code. This is where the figure of the legislator makes lawgiving possible and where the reason of the philosopher fails. The people does not readily see or understand what is theoretically the best legal code or what is best suited to them. Rousseau's statement on the theoretically best legal system is instructive because it points to the unwillingness of the people to obey without some sort of additional enticement or mechanism present. People's reason and judgment varies, and a lawmaker cannot depend on mere reason to motivate the people or lead them to a better understanding of the laws.

Rousseau critiques modern politics, arguing that “[o]ne of the errors of our age is to use reason in too unadorned a form, as if men were all mind.” A people will not follow a logical system of laws because they are told it is rational to do so or even that it is in their own benefit. Reason is not enough to persuade a people. Rousseau expresses its limits as “[i]t sometimes restrains, it arouses rarely, and it has never done anything great” (*Emile*, 321). For a people, let alone an individual, to willingly obey a legal code requires their passionate attachment to the laws. Reason is the faculty of calculation, but is unlikely to stir people to action. As Rousseau states, purely rational endeavors are more likely to divide the people than unite them. This critique fits well into the Rousseau's critique of the Enlightenment and its expectations for human beings. When the people decide that self-interest is to guide them, there is little reason to follow the laws when you do not think they benefit you. The only mechanism that government can utilize in a situation like this is punishment. Rousseau even casts doubt on the idea that the laws will curtail illegal behavior by claiming that only “sometimes” will the laws “keep the wicked in check” (*Narcissus*, 105). On some level, observance of the law requires all of these

components: restraint, inspiration or stimulation, and, in some cases, motivation toward greatness. The people must passionately identify with the law, something that pure reason will only undermine.

Philosophical inquiry only teaches us to doubt our laws, customs, and morals, or reject them as falsehoods. Rousseau notes the effect philosophy has on those who pursue it. Reason can actually stifle a person's identification with other people to the point of removing sympathy and terror at the sight of other people's suffering. Rousseau states the reason separates a person "from everything that bothers and afflicts him" and offers an example of the philosopher who witnesses a person being killed outside his window. The philosopher only needs to cover their ears and "argue with himself a bit to keep nature, which rebels within him, from making him identify with the person being assassinated" (*SD*, 84). That the philosopher needs to rebel against their nature to silence the cry of pity and the persistent nagging of their conscience reveals a hard truth about reason. Reason can elevate human beings and lead them to profound new discoveries, technologies and ways of living. While offering these wonders, reason also leads us farther away from nature and can smother those natural sentiments that would bring us together. In a more comical but no less insightful critique, Rousseau suggests that "a philosopher loves the Tartars so as to be spared having to love his neighbors" (*Emile*, 39). The philosopher in this example does not wish to burden himself with fellow-feeling at the sight of people suffering around him, or actually emotionally exert himself by identifying with and then loving others. By taking a cosmopolitan stance, vain philosophers reassure themselves of their humanity while alleviating their natural revulsion at the sight of suffering. The people they fix their supposed humanity upon are physically distant and, therefore, do not require anything of the philosopher to supposedly "love." Rousseau's example also emphasizes the problem of reason engendering a

preference for all of humanity at the expense of one's own regime and fellow citizens. Once someone views all people or peoples as the same regardless of customs or morals, there is no reason to prefer one regime over another unless for selfish or self-interested reasons. Naked reason does not lead us to identify with other people. It requires the supplement of our conscience and passion.

Even if one can overcome the possible vanity and iniquity of the lawmaker, there is another hurdle that they must surmount if they desire well-executed laws – “impos[ing] on the people...less the best laws in themselves than the best of which it admits in the given situation” (*d’Alembert*, 66). This appears to be the most profound knowledge necessary for the true legislator’s science. When introducing the unique character of the legislator in the *Social Contract*, Rousseau argues that only the “superior intelligence who saw all of men’s passions and experienced none of them” would discover the “best rules of society suited to each nation.” The laws most fitting a society are particular to the people of that society (*SC*, 190). That is to say, the legislator must take into account the character of the people and their surrounding environment. The people must love what is theirs and that includes any customs or habits that proximity and familiarity produce. Furthermore, different climates and political situations require laws attuned to these circumstances. Rousseau portrays the difficulty of crafting properly executed law as the interplay between theory and the reality of particular regimes and peoples. “The problem is to adapt this code to the people for which it is made and to the things about which it decrees to such an extent that its execution follows from the very conjunction of these relations” (*d’Alembert*, 65). First, laws are made for particular peoples. The legislator must craft a set of laws with an individual people or regime in mind. The law must also contend with the “things about which it decrees,” and, as a result, the lawgiver needs to consider not only the

particular people but the particular objects, both physical and moral, that occupy that people. When discussing the government of Poland, Rousseau claims that the people need their own distinct ceremonies and traditions alongside their own “spectacles” which recall “to them the history of their ancestors, their misfortunes, their virtues, their victories...” (*Poland*, 173). The idea is to craft legislation that focuses on the people’s attention on themselves as a people. Similar to Aristotle’s critique of Plato’s city in speech (1261b15ff.), Rousseau contends that people love what is theirs, and, even when they do not, the healthy regime requires it. Along with the moral objects of the people, the legislator needs to consider the physical objects including climate and the regime’s physical and political relationship with its neighbors. The physical context of a regime influence whether a people is warlike or peaceful, what industries and agricultural endeavors they pursue, and other qualities that determine the people’s hardships. Discussing the regime’s physical context, Rousseau determines that not all governments are suitable for different countries. As countries vary by their “fertility of climate, the kind of labor the soil requires, the nature of its products, the force of its inhabitants,” or the “greater or lesser amount they need to consume,” so, too, does the necessary structure of government vary. The legislator must take all of these moral and physical qualities into account when crafting the laws. Theoretical legal institutions, however, approach the problem of law and society in general terms, seeking answers outside of the context of a particular city, state, or people. Unlike the natural sciences, the legislative science is at the same time universal and particular. In this way, the “true legislator’s science” is scientific because it looks to the ordering of human beings and seeks to create laws and institutions based first on qualities universal to social man and then on qualities unique to a given people. It is universal in that the true legislator is able to deduce the proper balance between the influence of people’s vices and strength of the laws and understand

the interplay of *amour de soi*, *amour-propre*, and physical needs. The legislator's task is particular in that they must create law that suits a given people.

Rousseau's Image of the Legislator

Investigating the qualities of the legislator and the historical legislators Rousseau uses to depict the virtue necessary for true lawgiving offers an important vantage from which we can understand the conditions and institutions needed to instill obedience and, in turn, how to make the people amenable to censorial laws. The legislator is the first mover in the realm of morals, and the one most able to influence the people at the founding and, if it remains healthy, throughout the regime's lifespan. Rousseau depicts the foundations of ancient regimes as particularly unique, with the origin of the most exceptional ones found in the figure of the legislator.²⁶ In the chapter "Spirit of Ancient Institutions" in the *Government of Poland*, Rousseau distinguishes between a lawmaker and what he refers to as the legislator, stating that modern nations have a great number of the former but none of the later. Ancient regimes, well-constructed, had a legislator at their founding who introduced the institutions, practices, and morals that solidified the people's particular character and attached them to what is now uniquely theirs. The legislator differs from a modern or common lawmaker because the legislator creates the model of the regime through customs and laws while the lawmaker uses law to solve political problems as they arise. Rousseau opens the chapter "On the Lawgiver"²⁷ of the *Social Contract*

²⁶ Rousseau elevates particular ancient regimes such as the Spartan and Roman republics while criticizing other regimes including the more "individualistic" Athens. Ancient regimes were corruptible and could share similar characteristics to those modern regimes Rousseau criticizes so sharply. Strauss suggests, however, that even though Rousseau seems to condemn Athens, as an ancient regime it still holds a position higher than Geneva, Rousseau's oft-used example of a modern, healthy republic. "The Genevans are not Romans or Spartans or even Athenians, because they lack the public spirit or the patriotism of the ancients. They are more concerned with their private or domestic affairs than with the fatherland. They lack the greatness of soul of the ancients. They are bourgeois rather than citizens" (Strauss 1953, 253). Even the worst of ancient regimes could be more praiseworthy than the average, modern regime because they at least contained citizens, a feature absent from modern times.

²⁷ The French title is "*Du Législateur*," though the title of Lawgiver still differs in its intent and importance from

by arguing that to:

discover the best rules of society suited to each nation would require a superior intelligence who saw all of men's passions and experienced none of them, who had no relation to our nature and who knew it profoundly, whose happiness was independent of ours and who was yet quite happy to attend to ours...[g]ods would be needed to give laws to men (190).

Here Rousseau depicts the legislator as an almost impossible being, but he leaves us with an important caveat that allows for the possibility of the legislator while revealing the difficulty of lawgiving. He discusses the one who can discover the "best" rules suited for a nation. While the legislator speaks as if the laws came from a divine source, the legislator is no deity. We cannot expect the best laws, but Rousseau does not rescind the importance of lawgiving or the superior talents. If all legislators had to be divine, Rousseau's examples of Moses, Lycurgus, Numa, or any other historical legislator would be incomprehensible. To get a better sense of the more realistic character of the legislator, we can compare Rousseau's discussion in the *Social Contract* to his comments in the *Government of Poland* about who is capable of offering advice and new institutions. For Poland, he argues, a "good institution...can only be the work of the Poles or of someone who has studied well the Polish nation and those that border it on the spot. A foreigner can hardly give anything but general views, can enlighten the institutor, not guide him" (169). Here the Poles are able to give themselves legislation in addition to an enlightened foreigner. What appears as a deviation to Rousseau's claim in the *Social Contract* is congruous with his discussion of historical legislators elsewhere; Lycurgus was Spartan, Numa was Roman, Moses was Hebrew, and Solon was Athenian. Each figure gave laws to or even ruled over their own people. Rousseau appears to position himself as the foreigner whose task it is to enlighten, offering an analysis of various general aspects of the Polish government and what could be done

lawmaker.

to create a real Polish citizenry. Even he contends that he is ill-equipped to give proper guidance and cannot offer more than general advice. His admission points to the difficulty of someone outside of the regime to give it laws. If we exclude the role of the foreigner from his explanation, what remains is a comparably easy standard to the one Rousseau outlines in the *Social Contract*. The first distinction to be made is between the legislator who is capable of discovering the best rules for a given society and a legislator who seeks a good institution. In short, Rousseau does not recommend gods as legislators for Poland. His warning about the one who should offer Poland advice includes a qualification for those nations whose identities are already solidified and, in this regard, already corrupt.

Unless one has thorough knowledge of the Nation for which one is laboring, the work one does for it, however excellent it might be in itself, will always err in application, and even more so when it is a question of a nation already instituted, whose tastes, morals, prejudices and vices have taken root too much to be easily stifled by new seeds (*Poland* 169).

Rousseau accounts for the practical aspects of crafting new laws and institutions while highlighting the fact that not all peoples can receive new legislation and institutions. The knowledge of the legislator is more realistically achieved while maintaining the need for laws that are particular instead of theoretical, a requirement detailed in the *Letter to M. d'Alembert*. Most importantly, the type of legislating that forms peoples is still possible albeit quite rare.

Of the modern regimes, Rousseau holds Geneva in particularly high regard and claims Poland and Corsica are unique because they are peoples capable of receiving proper legislation. When writing on Poland, however, he does not list any modern legislators capable of creating genuine citizens; preferring ancient legislators to their potentially non-existent counterparts. Of the ancient legislators, Rousseau identifies Moses, Lycurgus, and Numa as “deserving particular attention;” each one praised for their establishing a free and long-lasting people (*Fragments*, 34).

Moses unified a “swarm of unfortunate fugitives” by giving them “morals and practices incompatible with other nations” (*Poland*, 171, 172). To keep the Jews as one distinct group, he “overburdened” them with religious observances and practices that distinguished them from surrounding peoples, turning their focus inward and keeping them together by keeping other peoples at a distance. Rousseau credits Moses with the Jews’ ability to preserve themselves even though they were subjugated and scattered and “continue to exist and will endure as long as the world does, in spite of the hatred and persecution of the rest of the human race” (*Poland*, 172).²⁸ Lycurgus too gave the Spartans, “a people degraded by servitude and the vices that are its effect,” a “yoke of iron” that kept them occupied to such a degree that they identified with it.²⁹ Lycurgus’ “yoke” was made manifest in Sparta’s laws, festivities, games, and the love of the people; all things Rousseau suggests for the reformation of Poland. Although he did not found a city, Rousseau considers the third legislator, Numa, to be the true founder of Rome. Romulus gathered the people in one place, but Numa unified them and made them into citizens “by means of mild institutions that attached them to each other and all to their land by finally making their city sacred by means of apparently frivolous and superstitious rites” (*Poland*, 172-173). Each of these legislators made use of religious rites and appeals to the divine to preoccupy the people and refocus their attention on the regime. Rousseau is particularly attentive to the use of religious observance when discussing Numa and especially Moses, the only one of the lawgivers whose

²⁸ Compare to the *Social Contract*, 193. Here Rousseau speaks of the legislator motivating his people by using divine authority and include: “Trifling tricks may form a fleeting bond; only wisdom makes it lasting. The Jewish law, which still endures, that of Ishmael’s child, which has ruled half of the world for ten centuries, even today still proclaim the great men who dictated them.”

²⁹ Rousseau’s praise for Lycurgus’ transformation of vice-ridden slaves into a nation that loved their fatherland so much that it “made of them beings above humanity” should be considered in light of his argument for the enfranchisement of Poland’s serfs. He argues that the serfs are not yet ready to be free, but that they might be incorporated over time and by careful degrees into society as honorable and free citizens. See *Poland* 185-186, 218-219, 226ff.

work still endures. Rousseau's understands the importance of religious observance much in the same way as Montesquieu who claims that a "religion burdened with many practices attaches people to it more strongly than another one that has fewer; one is attached to the things that continually occupy one." Montesquieu goes on to cite the "tenacious obstinacy of the Mohammedans and the Jews" and compare them to barbarous or savage peoples who did not spend their time observing religious rites (*Spirit of the Laws* 25.2, 480). Rousseau agrees with Montesquieu's reflections on the power of continually occupying a people with religious rites and extends this idea to all matters of law, custom, public entertainment. Part of the constraint lawgiving imposes on the people is the constant attention it requires of the people. For Rousseau, the unrelenting attention the laws demand is the first step to making the people love the laws. Attachments are the product of habit and habituation; an occurrence that Rousseau traces back as far as the earliest forms of the family and society (*SD*, 76, 94ff.).

While Moses, Lycurgus, and Numa made their peoples into citizens and attached them to the regime, Rousseau does not describe them as gods. Consequently, we cannot claim that their appearance in the *Government of Poland* implies that these men found the "best" rules of society, that they did not share in human nature, or that their happiness was independent of those they established law over. That they are not gods is a testament to their ability to create a people bound by law, religion, and custom. Though they lack divine status, the laws they instituted were said to be divinely inspired. In this sense, gods were still necessary to establish the best rules for a society even if Moses, Lycurgus, and Numa were only the supposed conduit for these laws. Here lies another example of the limits of using reason to legislate. The legislator places the new laws and customs "into the mouth of immortals, in order to motivate by divine authority those who could not be swayed by human prudence" (*SC*, 193). Rousseau refers to those who will not

understand the reason for the laws as vulgar. His critique of the limits of the people's judgment is straightforward. The line ends, however, with those who the legislator could not persuade with human prudence. Rousseau's claim is reminiscent of his earlier statements on Caligula thinking himself a god because gods rule over human beings (*SC*, 165, 190, 263). Rousseau relates this point to the idea that peoples' first kings were gods and that human beings a "lengthy degeneration of sentiments and ideas is needed before they could bring themselves to accept their fellow human as a master, and to flatter themselves that this would be a good thing" (*SC*, 263). His statement aligns with his theoretical development of human beings moving out of the state of nature and into society. The idea that human beings should be subservient to one another is contrary to their natural freedom and the people who wish to remain free are likely to resist the rule of another. This is why Rousseau characterizes this change as "degeneration" and refers to modern peoples as slavish or slaves. Whether from speaking with the nymph Egeria or ascending Mount Sinai, these peoples believed the ancient laws were divine in origin and ordained for those receiving them. Both the laws and the divine vehicle that makes them agreeable require an understanding of the individuals for which the regime is established.

In the *Letter to M. d'Alembert*, Rousseau considers those laws that fit a particular people and situation, referring to the feats of Solon in a way similar to Plutarch's description of the ancient lawmaker. It is quite likely that Rousseau himself draws from Plutarch for his example. In the "Fourth Walk," Rousseau states that "[o]f the small number of books I occasionally read, Plutarch is the author who grips and benefits me the most...he is almost the only author I have never read without gaining something" (*Reveries*, 43).³⁰ The truth behind Plutarch's account,

³⁰ Skklar, when discussing the "Great Legislator," goes so far as to describe him as a "figure that owes too much to Plutarch to arouse much psychological interest." Turning to more personal aspects of Rousseau, she argues that he "wanted to believe in his Plutarchian heroes, and such figures as the Legislator, Emile's tutor and M. de Wolmar show how well he could imagine men capable of reordering the lives of others" (1969, 128-129). If Skklar is indeed

though possibly important for historical context, does not need to be accurate to investigate Rousseau's meaning and intentions with respect to the legislator. In certain contexts, Rousseau even states that he does not consider the accuracy of an historical account to be of the utmost importance, only the lessons to be learned from them and whether those lessons conform with the reality of human behavior (*Emile*, 238ff.). This is likely the case with any teaching of Plutarch than can rouse the human spirit or at provide some salutary truth (or "untruth"), a type of instruction Rousseau often employs when engaging his reader. Furthermore, Rousseau claims that his contemporaries spend their time attempting to undermine or diminish the image of the hero or statesman, "placing some base interpretation on them, and contriving vain occasions and causes for them." The active foil of his contemporaries, Rousseau emphasizes the grand feats and virtue of historical figures to attain an image of the hero that may move his reader closer to the virtue found in his example. He refers to them as "rare personages, selected by the common consent of the wise as examples for the world" and sides with the wise to praise these men by "not hesita[ting] to add to their honor as much as [his] powers permit." Rousseau's interpretation and use of historical figures is consistent from his earliest writings where he esteems himself a defender of virtue; for it is the "task of good men is to portray virtue as beautiful as possible. And it would not be unseemly if passions carried us away in favor of such saintly forms" (*Last Reply*, 76). Rousseau notes that he is simply agreeing with Montaigne on this point, but it is clear

correct, the legislator may simply reflect Plutarch's characterization of these men in his account of their lives. Rousseau's use of history, however, should be weighed against the claim that his depiction of the legislator is simply owed to Plutarch. First, Rousseau employs other historians including Livy and makes use of biblical figures like Moses. Though this does not weaken Shklar's point, it does extend it beyond Plutarch. Furthermore, Rousseau's historical examples are rhetorical and sometimes romanticized, but remain grounded in their respective sources. The flourish and passion with which Rousseau depicts these men is certainly to persuade his reader. In this regard, Rousseau employs his imagination to stimulate the imagination of his audience. He does maintain, however, that historians must be careful not to create "portraits" that distort the image of an historical figure, making it incongruous with the reality of human behavior (see *Emile*, 238ff.; the context in which he makes this claim should be weighed against the intended use of history).

from his use of history and the figure of the hero that he intentionally portrays the virtuous as beautifully as possible. Again, for Rousseau, it is not necessary for the historical examples to be factually or wholly accurate. In selecting and possibly embellishing historical figures, he aims to elevate human beings by directing them toward virtue. It is with this sublimation in mind that one must proceed through Rousseau's use of the ancient historians and the examples he chooses to depict the legislator and statesman.

There are facets to Plutarch's histories that Rousseau does not embellish while using them as direct support for his figure of the legislator and depiction of well-established law. Comparing the laws of Lycurgus to those of Solon, Plutarch states that Solon fit "his laws to the situation" instead of fitting "the situation to his laws." The distinction between the law of these two rulers emphasizes the particular conditions that allowed Lycurgus to "set his citizens free from laborious and mechanical occupations and confine their thoughts to arms, giving them this one trade to learn and practice." Plutarch notes that at the time of Solon, the city was filled with travelers who came from "all quarters for greater security of living." Lycurgus, on the other hand, was able to establish his laws in a city that was "free from swarms of strangers" with an abundance of land that made the focus on military training and war possible. Solon's use of the law differs from Lycurgus' because he needed to account for the increase in population, admixture of citizens without real roots, and decrease in available farmland. Rousseau praises Solon for his ability to adapt the laws in such a way that they are the best given the situation. Considering Rousseau's critique of modern politics and his argument that the "citizen" no longer exists, his praise for Solon's skill should not be overlooked. Furthermore, well-executed law requires that law conform to a given people. The law of Lycurgus, therefore, would be a failure in the time of Solon (*Solon*, 465).

Rousseau's example of Solon and Plutarch's juxtaposition of Solon and Lycurgus offer context for additional insight into the figure of Rousseau's legislator, both in the timing of and genius necessary for bringing law to a people. The two ancient legislators receive different forms of praise from Rousseau, but he praises each nonetheless. Determining where they differ is, in some ways, more important than understanding their similarities. Given Rousseau's elevation of Sparta and critique of the Athens, it is of particular interest that his commentary on Solon is laudatory. Athens, the "abode of politeness and taste" whose "astonishing works...serve as models in every corrupted age," produced a legislator capable of making laws both suitable for the particular character of Athens and directed at eliminating an enemy of the general will, inequality (*FD*, 17). Plutarch describes the time of Solon as one of political turmoil stemming from the vast inequality between rich and poor. Chosen to legislate, Solon avoided what many thought was the only possible resolution to such factious infighting, tyranny (*Solon*, 437). After Solon took steps to relieve the poor of their debts, the people gave him the power to "reform the constitution and make new laws, laying no restrictions whatever upon him" and wished for him to affix property qualifications for participation in government positions, allowing Solon to "[abrogate] and [maintain] existing institutions at his pleasure" (*Solon*, 449). The power Athens conferred upon Solon allowed for extraordinary latitude which he used to remove many of the severe laws of Draco and institute measures directed at economic equality and the revitalization of religious observances, efforts Rousseau praises. Possibly of greatest significance to matters concerning the general will, Solon allowed all citizens the privilege of filing suit on behalf of another citizen who was wronged. His intention was to "[accustom] the citizens, as members of one body, to feel and sympathize with one another's wrongs" (*Solon*, 453). According to Plutarch, Solon described the city "best to live in" as the one "'in which those who are not

wronged, no less than those who are wronged, exert themselves to punish the wrongdoers” (Solon, 455). Solon’s laws, in part, aimed at the people identifying with one another. This is particularly noteworthy considering the increase in population and inclusion of new citizens. One of Rousseau’s central efforts in creating social cohesion is to stifle disassociation through institutions and laws that encourage citizens to identify with one another and, in turn, their regime. Solon’s efforts, however brilliant, were limited in influence and longevity. The people’s response to Solon’s laws was one of praise and blame combined with incessant questions about interpreting the laws. Leaving the city for ten years with the mind that the people needed to become accustomed to the laws without him, Solon returned to an Athens wracked by faction. The people of Athens “still observed the new laws, yet all were already expecting a revolution and desirous of a different form of government, not in hopes of equality, but each party thinking to be bettered by the change” (Solon, 487). The laws that were to last for a hundred years could not keep the people from degenerating into factions; each one hoping to upend the system in their favor.

The history of Solon and the fate of his laws makes questionable Rousseau’s use of the Athenian lawgiver as an example for his legislator. While Plutarch depicts the limits of Solon’s laws, Rousseau still finds praise for the ancient lawmaker in both the *Letter to M. d’Alembert* and the *Social Contract*; in the former for wisely adapting the laws for Athens’ particular situation and in the latter for his attempts to quash factions. When describing the threat factions pose to the general will, Rousseau states “[t]hat if there are partial societies, their number must be multiplied and inequality among them must be prevented” and praises Solon, Numa, and Servius for the measures they took to counteract them (SC, 183). Solon’s measures, however wise Rousseau makes them appear, ultimately fail to stop the spread of factions. Rousseau’s praise for

Solon begs the question of whether we should consider Solon to be the wise legislator or if Solon's failure has more to do with Athens. Given Rousseau's description of the science of the legislator and the laws of Solon promoting those qualities characteristic of Rousseau's general will, equality, and fellow-feeling, it is possible that Athens was not prepared to receive new legislation. From where or whom does the problem arise? Kelly distills the "task" of Rousseau's legislator into three parts.

First, he must understand the principles of political right. Second, he must discover or invent institutions which embody these principles in a manner that suits the conditions of a particular society. Finally, he must gain the consent of his people to follow these institutions (1987a, 322).

Given Rousseau's admiration for Solon, the Athenian lawgiver appears to meet the first and second qualifications.³¹ The problem then would rest in the third qualification, the consent of the people. Solon left Athens in the midst of disagreement and uncertainty over the new laws, with the hope that the Athenians would accustom themselves to them. As Plutarch recounts it, however, Solon saw that changing or explaining his laws "was out of the question, and that not to do it would bring odium upon him," so, "wishing to be wholly rid of these perplexities and to escape from the captiousness and censoriousness of the citizens," he left Athens (*Solon*, 475-477). Solon's concern with public opinion is in line with the legislator's desire for glory and *amour-propre* generally speaking, but his reaction to possible public outcry hinders the

³¹ Rousseau would likely have additional praise for Solon's position on the theater, particularly tragedy. After viewing a tragedy put on by Thespis, Solon:

accosted Thespis, and asked him if he was not ashamed to tell such lies in the presence of so many people. Thespis answered that there was no harm in talking and acting that way in play, whereupon Solon smote the ground sharply with his staff and said: 'Soon, however, if we give a play of this sort so much praise and honour, we shall find it in our solemn contracts' (*Solon*, 489).

Though he was an old man and no longer in a position to introduce new laws, Solon's attentiveness to morals and public opinion indicates something akin to the knowledge of the legislator's science. Furthermore, his position on the theater and the influence it has on the people points to the troubling aspects of how the theater's influence extends past the moment of viewing and enters the broader social and political discourse.

implementation of his laws. Rousseau underscores the importance of letting the people know how and why particular laws came to pass, a task Solon actively avoids. Stating that “the public will derives its greatest influence from the reason that dictated it,” Rousseau references Plato’s instruction in the *Laws* (719e-724a) to present laws with an explanation of their “justice and utility” (*Economy*, 11). Solon’s preoccupation with the public also runs counter to Rousseau’s characterization of him in the *Discourse on the Virtue of a Hero* where the Rousseau praises Solon for being “able to preserve his freedom and virtue even at the Court of tyrants, and who dared to assert to the face of an opulent Monarch that power and riches do not make a man happy” (5). Here Solon appears as the hero who easily possesses the necessary strength of soul. Ultimately, the failure of the laws appears to have its source in both the legislator and the people. Athens desired new legislation but was not suited for it, while Solon drafted wise laws but failed to either force or persuade the Athenians to bear them. Even if Plutarch’s account of Solon’s ill-timed absence is overwrought, the result is the same.

The Root of Our Sameness and Differences

Rousseau’s praise for Solon is contextual and the particular circumstances under which Solon drafted his laws require examination. In the *Letter to M. d’Alembert*, Rousseau uses Solon as an example of the lawgiver who adapts the “code to the people for which it is made and to the things about which it decrees to such an extent that its execution follows from the very conjunction of these relations” (*d’Alembert*, 66). Rousseau praises Solon because he is able to craft the best laws given the character of Athens at that moment in history. His example of Solon’s genius, however, holds two additional implications that suggest something of both the legislator’s craft and the limitations of political context. First, Rousseau’s consideration of the best laws for a given situation is a practical necessity because, while the laws may be

theoretically the most beneficial for human beings, they are not the most beneficial for particular societies. Again, he mentions that it is easy to create laws that if “well observed, would be most beneficial for society” (*d’Alembert*, 66). That a legislator would need to “adapt” those laws most beneficial for society instead of creating a new set of laws that is at its root wholly unique suggests some sort of common thread among human beings and legal systems. The awareness of both what is common among human beings and what differs among peoples is a key component of the legislator’s science. In light of *amour de soi* and *amour-propre*, the deep and inextinguishable love of self that is the root of all our passions and that neutral but eminently mutable love of self that breeds both scoundrel and citizen, we can see the foundation of all laws and the source of all cultural deviations. The lawgiver exercises the true legislator’s science by making use of these two components; *amour de soi* which remains constant in all human beings and *amour-propre* which transforms our social relations and makes particular institutions and laws necessary. Similarly, a people’s geographical location, climate, and regime size are additional factors contributing to the unique character of each regime that the lawgiver must take into account when legislating, but the individual’s *amour de soi* remains the same. As Rousseau states in his discussion of the people in the *Social Contract*:

What makes the work of legislation difficult is less what must be established than what must be destroyed. And what makes success so rare is the impossibility of finding the simplicity of nature joined with the needs of society. These conditions, it is true, are difficult to bring together. So, one sees few well-constituted states (*SC*, 199).

Destroying those societal elements that are inconsistent with the most basic and unchangeable aspects of our nature is just as problematic as those elements that draw the people away from the general will, citizenship, and love of the fatherland. Rousseau’s statement emphasizes the significance of human nature in the formation of regimes, and how convention draws us farther away from our natural state, giving us new habits that make us more servile and

dependent. While Rousseau states it is impossible to combine the “simplicity of nature” with the “needs of society,” the fact that there have been even a few well-constituted states suggests that combining elements of each is possible.

The second implication of Rousseau’s teaching on context in lawgiving contributes to our understanding of Solon and how the lawgiver will fail in his endeavor if the people are unfit for lawgiving. The people become unfit for lawgiving when their character is too solidified for laws to change it. The people may also be unfit for lawgiving because they are too corrupt. Once the people are corrupt, they no longer seek the common good or are willing to work toward it. Their individual self-interest and preference for pleasures are incompatible with the burden of new laws. Rousseau compares the “wise founder” to an architect “who examines and tests the soil” before putting up a building. Again, the wise founder does not make those laws which are best in themselves, “but first examines whether the people for whom he intends them is fit to bear them” (SC, 194). Like the soil under a large structure, the people must be able to support the weight of the laws. Just as not all patches of land are fit to build upon, not all peoples are fit for good laws. Following his metaphor of the architect, Rousseau states that “thousands of nations on earth have shined which could never have tolerated good laws,” and claims that, of those nations, a few might have been able to tolerate good laws but could only have done so for a limited amount of time (SC, 194). Was Athens under Solon able to receive good laws crafted to meet their particular situation? Rousseau references Solon in the *Social Contract* as an example of the lawgiver who attempted to attenuate inequality in a time of factional strife, thereby reinvigorating the general will. Prior to introducing Solon in this passage, Rousseau contends that the general will is “expressed well” when partial societies do not exist and credits Lycurgus with introducing such a “unique and sublime institution” (SC, 183). Solon’s laws did not remove

factions entirely and the rich and poor were not brought closely enough together to remove the partial societies that come with economic inequality. The presence of factions encourages the flourishing of so many particular wills that contend with the general will. Factions often seek only what is good for the faction or a subset of society, even when they claim their goals are to benefit the community as a whole. Plutarch also notes the difference in success between Lycurgus and Solon while similarly emphasizing the importance of equality in the regime, a trait Rousseau deems essential for maintaining the general will.

According to Plutarch, Solon was unable to please both the rich and the poor because his reforms were not extreme enough.

[Lycurgus]...had great authority, many friends, and power to support his reforms in the commonwealth. He also employed force rather than persuasion, insomuch that he actually lost his eye thereby, and most effectually guaranteed the safety and unanimity of the city by making all its citizens neither poor nor rich. Solon, on the contrary, could not secure this feature in the commonwealth since he was a man of the people and of modest station...(Solon, 447).

According to Rousseau, Lycurgus was actually able to “denature” the Spartans, something Solon was unable to do because his standing in society precluded the use of force or other extreme measures (*Emile*, 40). His claim draws us back to the *Social Contract* where he states that legislators must think themselves “capable of changing, so to speak, human nature” (*SC*, 191). Ultimately, the reforms of Lycurgus were more profound than those of Solon and the Spartans more able to suffer what the laws demanded of them, but this is not without caveat. Plutarch mentions the power Solon and Lycurgus each had due to their station in the city and reputation among the people. Additionally, Solon was able to persuade the Athenians, leading to their request that he reform the laws. Lycurgus’ laws, however, lasted for decades while the laws of Solon could not keep the Athenians from forming factions during his ten-year absence. Instead of using force, Solon deceived the poor and the rich alike by promising the poor new distribution

of law and assuring the rich of the security of their debts (*Solon*, 437). According to Plutarch, Solon even rejects the opportunity to seize Athens tyrannically, something leaders of both the rich and poor encouraged him to do. While Solon did not employ the force of Lycurgus, Plutarch notes his tenacity and resolve in changing the laws, and willingness to use both persuasion and compulsion. Any force he may have used, however, was insufficient and certainly did not denature the Athenians. Ultimately, Solon may have been less like Lycurgus and more like Minos who “merely disciplined a people teeming with vices” (*SC*, 194). Solon’s heroism and his wisdom in lawgiving may have been insufficient in light of Athenian morals. It is possible that Solon implies as much. When asked if he enacted the best laws for Athens, Solon replied ““The best they would receive”” (*Solon*, 443). Solon’s purported statement reveals the difficult task of putting new laws over a people due, in part, to their own character and willingness to adopt these laws. Throughout his works Rousseau presents Athens, an historical foil to Sparta, as a city of luxury and vice. Like Minos in Crete, Solon may have given “good laws” to “wicked men” (*SC*, 194).

Comparing Lycurgus and Solon is more complicated than claiming that successful laws are representative of who best knows the true legislator’s science. While Rousseau uses Solon and Lycurgus as examples, Lycurgus receives distinct praise both in comparison to Solon and throughout Rousseau’s works. Rousseau esteems the Spartan lawgiver above most others and attributes to him the power of transforming a people, a feat above simply reforming the laws. In the *Social Contract*, Rousseau speaks of the legislator as prior to the regime or at least there at its outset; a period in time where a group of people lacks the formal organization of law that binds them together and gives them an identity as a *people*. Rousseau claims that he “who dares to undertake to establish a people’s institutions must feel that he is capable of changing, so to

speaking, human nature; of transforming each individual...of substituting a partial and moral existence for the physical and independent existence we have all received from nature” (SC, 191). Though initially appearing contradictory, Rousseau’s description of lawgiving here does not conflict with his previously mentioned joining of the “simplicity of nature” with the “needs of society.” The distinction rests on the moral and physical, the partial and independent. Rousseau refers to human beings in nature as physical and relates the qualities of natural human beings to natural bodily needs. Even though he includes “qualities of mind,” in his description of natural inequality, natural man does not exercise reason or conscience (SD, 61). Furthermore, natural man is free and independent, able to satisfy their own desires without the support of another person. As human beings become social and enter society, they develop moral qualities or a moral existence. When Rousseau speaks of moral qualities, he refers to social conventions. A partial existence is a social existence because once human beings become social, they are no longer naturally free or independent. Giving people laws, customs, and institutions draws them farther away from their natural state. They become part of a society as citizens and, as a part of the regime, can only find wholeness in the regime. If the laws fail to fully transform the people into citizens, the people are left somewhere between these two extremes. This is what Rousseau refers to as the “bourgeois,” the member of society who is “always floating between his inclinations as his duties...good neither for himself nor for others” (Emile, 40). Human beings in the state of nature are able to fulfill their own desires and their existence is wholly their own. While politics can never destroy our *amour de soi*, it can help us identify our personal well-being with the well-being of the regime. As human beings become social and collective, our invigorated *amour-propre* makes possible a moral and partial existence, but cannot remove all of what is natural to us. The legislator, however, must be capable of quashing the sentiment of

individuality and direct our *amour de soi*, that natural inclination and preference for ourselves, toward the regime. The legislator must accomplish a similar feat with respect to our *amour-propre*. An already social form of self-love that stems from the comparisons we make between ourselves and our peers, *amour-propre* is useful for drawing unifying the people. The legislator must create institutions that encourages the people to direct the competitive aspects of our *amour-propre* toward the competition with and emulation of the most virtuous, dutiful, and heroic citizens. The task of the legislator runs counter to the notion that politics should allow for self-interest to guide the individual toward political participation. Without well-crafted laws and institutions to educate the citizen into the regime, self-interest will always lead a person to prefer themselves as individuals over the community. *Amour de soi*, however, never disappears. This is where natural inclination makes the corruption of the regime inevitable. Rousseau considers all human creations and conventions as temporary, but contends that we can slow the process of degeneration. The better the laws and institutions are at refocusing our *amour de soi* and *amour-propre* toward the regime, the longer the regime will remain healthy and the people virtuous.

The legislator is not taking “natural man” and transforming him into a people, giving him laws and social relations. Natural man is incapable of making comparisons, using language, and experiencing the sentiments necessary to feel duty including reason, conscience, and *amour-propre*. One cannot transform natural men directly into citizens. The individuals Rousseau speaks of here are also, in practical terms, not whole. He describes a people suited for legislation as “[o]ne that, while finding itself already bound by some union of origin, interest, or convention, has not yet borne the *true yoke* of laws” (SC, 191; emphasis added). The examples he gives of legislators who were brilliant enough to give law in a profound sense did so for people who already had some sort of bond, were certainly social, and, in light of these two

characteristics, shared some sort of legal code. The connection, however, was loose and undefined enough that the people were pliant and accepting of new laws; laws that, unlike the laws or rules under which they were previously organized, were particularly burdensome. The demand of the laws, or its “yoke,” becomes the structure under which the legislator shapes the people into citizens, making men “happy only by constraining them to be so” (*Hero*, 2).

The legislator’s ability to change human nature comes with two caveats: that he must “feel that he is capable of changing” human nature, and that it is changing human nature “so to speak.” New institutions will act as the millstone, demanding obedience and conformity while forming a people out of a band of individuals trapped somewhere between natural man and the citizen. The first undertaking of the legislator is to dare to establish institutions and feel that he has the ability to create some profound change. Rousseau considers this to be human nature “so to speak” and not explicitly human nature. Given the aspects of Rousseau’s thought that pertain to what is natural in human beings, including *amour de soi* and the capacity for reason, conscience, and *amour-propre*, we might consider human nature “so to speak” as the ability to harness these key capacities and cultivate them in accordance with our indestructible *amour de soi*. Melzer argues that Rousseau’s approach to politics is one of realism, and a more authentic realism than previous thinkers like Hobbes. “All the modern thinkers, these crypto-idealistic realists, labor under the utopian delusion that good politics is possible without good—that is, public spirited-men” (Melzer 1983, 637). Melzer refers to this as Rousseau’s “superior realism” because, in understanding human beings as naturally “asocial and selfish,” Rousseau in agrees with thinkers like Hobbes, but contends that people cannot simply enter society on the basis of their individualistic nature and selfish behavior. Melzer states that:

If a decent society is to be possible, men must be utterly denatured and collectivized, a course of action difficult but possible as proved by the examples of Rome and Sparta.

Precisely because social men tend to be as bad as Hobbes claims, rigorous virtue or patriotism is needed to guarantee peace and order. Nothing less will do. (1983, 637).

Such an understanding is in line with “taking men as they are and laws as they can be” (SC, 163).

Melzer also lends additional credit to Rousseau’s use of Sparta and Rome as genuine examples of regimes able to harness what is natural in human beings and direct it toward social virtue. The legislator must cultivate institutions that direct *amour de soi* as the fulfillment of self-preservation and well-being away from a solitary endeavor and toward a community-oriented one.

The endeavor is to take social man, transform him into the citizen and, in turn, give him the wholeness that he lacked while precariously positioned between natural man and citizen as bourgeois (*Emile*, 40ff.). The citizen “is nothing, can do nothing, except with all the others” and when “the force acquired by the whole is equal or superior to the sum of the natural forces of all the individuals, the legislation can be said to be at the highest point of perfection it might attain” (SC, 191). The art of the legislator is in creating a political body greater than the sum of its individual members, but achieving this “sum” is no small feat. The sum of the natural forces to which Rousseau refers is the extent of each person’s preoccupation with their own preservation and well-being (Masters 1968, 382ff.). The force of the whole is what impels individuals to identify with the community and perceive their preservation and well-being, the motivations of their *amour de soi*, in a new way. Legislation reaches its desired end when the people become citizens and their unification, cemented by this legislation, creates a fatherland stronger than those nations whose laws and institutions are used merely to settle disputes and maintain order among disparate groups. The technique the legislator employs makes use of what is now deeply engrained in social man to purge him of the destructive aspects of his sociality. *Amour de soi* and *amour-propre* are the sources of this correction and, in particular, *amour-propre*, with its

branches of vanity and pride, is both the poison and the tincture. The individual must understand the city as the new end and fulfillment of their *amour de soi* while it simultaneously acts as the fountainhead of their community-oriented *amour-propre*.

The Role of Religion in Legislation

Rousseau's remedy introduces the question of when in a regime's history the legislative moment, or the effectual appearance of a legislator, is possible. Viewing the question in terms of self-love and the general will, is it only possible to redirect the individual's *amour de soi* and *amour-propre* toward its rational fulfillment in and passionate support of the general will while the regime is still inchoate? Although part of the question can (and should) be answered as Rousseau often does with a condemnation of vice and the accusation of irreversible corruption, the period in history or growth of the regime matters. Gildin argues that there are multiple types of legislators differing by the period in a regime's lifespan during which they brought reform. Drawing the lesson from the *Social Contract*, Gildin distinguishes legislators as "founders who presided over [the original] inception" of a society from legislators "who devised codes for peoples that were already in being, legislators who were lawgivers of cities rather than of nations or countries" (1983, 72). Gildin expands upon this idea by considering these two lawgivers a part of a two-step progression: "First come those founders who create everything out of nothing (the phrase is Rousseau's). They make a nation proud of its distinctiveness and courageous. They are differentiated from legislators who can only appear later and whose job it is to provide political codes" (1983, 74). Masters seems to offer support for Gildin's distinction between two forms of legislators.

The making of laws is the true opportunity for a political hero seeking lasting fame; men can rarely claim responsibility for the very existence of a society—and such claims are often mythical—but a great legislator can rightly be honored for having established all the laws, as did Mohammed, Moses, Lycurgus, Numa, and Calvin (Masters 1968, 359).

Giddin and Masters both distinguish between the legislator as founder and lawgiver, with the qualification that a founder creates laws as well and, with an excellent founding, can be credited with establishing the laws generally speaking (if subsequent law is drafted in the vein of the founding). Both scholars place Lycurgus in the second group, the legislator who gave laws to an already existing people. Similarly, Moses and Numa would also fit the second type of legislator as the founders of their people precede them.

Comparing Romulus, the traditional founder of Rome, with Numa is instructive with regard to how Rousseau understands the initial establishment of a city against the activity of a legislator who transforms the people into citizens. Rousseau's emphasis on Numa giving the Romans religion through "mild institutions" is juxtaposed against the ferocity and force of Romulus. Rousseau credits Romulus with laying the "first foundations" and making possible Numa's task, uniting the "brigands" that Romulus assembled and making them into citizens. A curious aspect of Numa's endeavor, however, is that his achievement was not one of making political laws which, according to Rousseau, due to their "rustic poverty" the people "had hardly any need yet," but creating religious rites, ceremonies, and institutions. Rousseau contends that the work of Romulus would have been for naught had Numa not "attached them to each other and all to their land," and attributes to Numa's religious institutions a "force" and "effect" but claims that these are felt "by so few people" (*Poland*, 172). Romulus placed laws over the Romans at the regime's outset. According to Rousseau, however, the political laws he established were not yet necessary for a people who did not contend with a severe financial and social hierarchy or the threat of one. Instead, religion bound them together when the concern for political inequality was absent. Under Numa, the Roman's yoke was the city's religious institutions that joined each citizen through shared identity.

Numa's institutions have a unique type of force because they access the imagination and not the body. The power of religious institutions is particularly noteworthy considering Rousseau's instruction in the *Letter to M. d'Alembert* that force has "no power over minds" (67). In this context, however, Rousseau is speaking of the effect violence has on public opinion. Instead, religious institutions capture the imagination and belief to such a degree that their influence goes unnoticed by all except a few citizens. We can return to Montesquieu's discussion of the power of religious observance and the effect preoccupying the people with religious rites has on their attachment to faith (*Spirit of the Laws* 25.2, 480). By intermixing religious rites and observances with politics, the legislator ties the people to their regime at its outset. Rousseau agrees with Hobbes insofar as both philosophers argue for uniting religion with politics both in practice and authority; what Rousseau calls the "complete return to political unity" (SC, 266). A regime's political beliefs and practices must align with their religious beliefs and practices, each one fortifying the other. Rousseau extends this idea to the non-dogmatic practice of civil religion and the "sentiments of sociability" it creates. First, he contends that the regime cannot obligate citizens to believe in the civil religion. This statement aligns with Rousseau's claim that force does not compel a person's will while reiterating the importance of true belief when it comes to civil religion. He states that the regime can exile people if they do not believe in the civil religion, but that it must do so on the grounds of sociability. The principle for banishment is that the non-believer would be "incapable of sincerely loving the laws, justice, and if need be of sacrificing his life to his duty" (SC, 271). Again, Rousseau's concern is political and social cohesion, not the well-being of citizens' souls in the afterlife. The importance of religious faith, for Rousseau, is its utility in making the people love and fulfill their duties. His depiction of religious adherence is in some instances softer than we might expect from his statement on

banishment. He does not determine which religion the people should hold or claim that everyone keep the same religion and dogmatic practices “except insofar as those dogmas relate to morality and to the duties which anyone who professes it is bound to fulfill toward others” (SC, 271). The regime should not worry about specific practices as long as citizens fulfill their duties. Rousseau does not apply this attenuated position to the ancient regimes he praises, only contemporary regimes where exclusive national religions are no longer possible. His discussion of contemporary religion and regimes underscores the problem of religions like Christianity that divide the people’s attention between their political obligations and their religious ones. Furthermore, religions like Christianity are universal in character. The universality of a religion prevents a people from attaching themselves to a religion that is uniquely their own, and, by extension, undermines their attachment to the regime. An essential component to the legislative science, religious rites give life and motion to the force of our imagination Individual members of society or, ideally, the people collectively believe first through persuasion and then later through tradition or public opinion that religious institutions or laws, those many avenues of shared identity, are beneficial and just. The marvel of exclusive religious rites are their ability to draw the people together and encourage a willing obedience to the laws and fulfillment of one’s duties; accomplishing all of this without the need for physical coercion and with few of the people being aware of their influence.

Numa instituted religious rites and laws that could transform the Romans into true citizens. What he did not provide, and was essential to Rome’s founding by Romulus, was the kind of force that could draw the so-called brigands together in the first place. In a footnote on the myths that surround ancient figures, Rousseau summarizes the difference between Romulus and Numa by directing the reader’s attention to their names. “The name *Rome*, which supposedly

comes from *Romulus*, is Greek and means *force*. The name *Numa* is also Greek, and means *law*. How likely is it that the first two kings of that city would have borne names that anticipated in such a highly relevant way what they did?" (*SC*, 249).³² It is unclear from this passage, however, if Rousseau means to suggest that Romulus brought together the people through physical force or simply failed to make citizens out of them. When discussing the legislator's use of musical language and religion as persuasion, Kelly argues that:

[Rousseau] is far from denying the necessity of harsh exemplary actions to supplement song. For every peaceful Numa there must be an accompanying Romulus, whose name according to Rousseau means "force"... The sort of forcefulness used by a legislator must be distinguished, however, from the simple physical force of the state of nature and from the more sophisticated force of modern tyrants (1987a, 330).

Masters agrees with Kelly when he claims that Numa differs because "[m]ere force, such as that employed by Romulus, does not produce a stable or disciplined political order," but also argues that Rousseau was in agreement with Machiavelli on the possibility of a "just republic" being "founded by means of wicked actions" (1968; 366, 365). Master's caveat points to the absence of justice prior to the regime's establishment. Kelly suggests that it is not necessarily the use of wicked actions so much as it is the use of symbolic actions carrying a political message that persuades the people. Neither physical force or the sophisticated force of modern tyrants, the legislator's use of force is symbolic. In this sense, the use of horrific actions as symbolism conveys a message that strikes the imagination of those who see or hear of it. Influencing the people without resorting to physical coercion, Kelly contends that these symbols "inspire awe by a sort of visible persuasion. Furthermore, in each instance cited by Rousseau, they inspire an

³² On more than one occasion, Plutarch speculates as to the history and possible origin of the name Romulus, recounting that "we are told that they were named, from "ruma," the Latin word for *teat*, Romulus and Romus (or Remus), because they were seen sucking the wild beast" (*Romulus*, 6.2, 103; see also 4.1, 99). Plutarch opens the life of Romulus by letting his reader know of the considerable disagreement over how the city of Rome earned its name. Rousseau may be playing on the Greek *ῥύμη*.

active indignation against apparent injustice rather than the passive acceptance of injustice that would result from naked force” (1987, 331). Here we find another example of the legislator accessing the people’s imaginations and persuading them in the absence of extensive reasoning. The legislator’s use of symbolism moves us more deeply because they do not directly access our reason. Rousseau once again speaks in terms “heart” to show the need for the people’s passionate connection to an idea or cause. To provide the reader with a better sense of what Rousseau means when he discusses the “language of signs that speak to the imagination” (*Emile*, 321), Kelly selects a number of examples including the “Levite of Ephraim's call for vengeance by dividing his wife's body into twelve sections, Saul's dismemberment of his oxen...Marc Antony's appearance with Caesar's body...[and] the first Brutus's execution of his sons” (1987a, 330-331). In each example, the terror of the action reinforces the intended message. In light of Masters’ (1968) comparisons between Rousseau and Machiavelli, it is worth noting that Machiavelli also points to the importance of using symbols, particularly in his discussion of Remirro by Cesare Borgia’s killing of Remirro.

And because he knew that past rigors had generated some hatred for Remirro, to purge the spirits of that people and to gain them entirely to himself, he wished to show that if any cruelty had been committed, this had not come from him but from the harsh nature of his minister. And having seized this opportunity, he had him placed one morning in the piazza at Cesena in two pieces, with a piece of wood and a bloody knife beside him. The ferocity of this spectacle left the people at once satisfied and stupefied (*Prince*, 30).

Though the context and political message differ, the examples Rousseau uses are similar in their effect. A people seeking justice are overcome with the horror of an act that satisfies their desire for justice while accosting their imaginations. Borgia’s symbolic actions, however, did not arise during the legislator’s founding of a regime. Such a technique, however, remains employable as the need arises and maintains its use as a tool of persuasion. As Rousseau claims in the *Emile* and elsewhere, it is not our reasoning that passionately move us, but how our

imagination makes use of those sights, symbols and sounds we experience. Kelly makes the important but oft-overlooked point that the legislator is able to use musical language and religion as persuasion in conjunction with symbolic persuasion since both forms of persuasion go beyond “naked force” (1987a, 331). The art of the legislator is a spectacle that persuades the people to action instead of forcing them to do so.

While these are both techniques by which the legislator may unify and make obedient a people, persuading them to accept the laws and obey them, did Romulus employ such techniques or was it mere force? Rousseau contends that Numa is the true founder of Rome but resolving the question of Romulus’ use of force holds potential implications for what Rousseau understands as necessary to bring a people together and place law over them. According to Plutarch, Romulus and Remus gathered their first following after they, along with their grandfather Numitor, defeated their great uncle Amulius and established a city that would lead to their quarreling and ultimately to the death of Remus (*Romulus*, ix-x). After the warring with Amulius and the death of Remus, Romulus began establishing the walls of the city and organizing the people, separating those able to bear arms into the military and then establishing an eminent body of patricians. Plutarch gives an account of Romulus’ actions, many of which are in accordance with Rousseau’s expectations for the legislator including the use of religion and spectacle to persuade. According to Plutarch, even those who claimed Numa “introduced the consecration of fire, and appointed holy virgins to guard it, called Vestals...admitt[ed] that Romulus was in other ways eminently religious and they say further that he was a diviner...” (*Romulus*, 161). Many of the deeds depicted in Romulus’ life, however, and certainly those Plutarch praises highly in his comparison between the life of Romulus and the life of Theseus, have to do with war, conquering peoples, and establishing cities. In the most complimentary of

Plutarch's descriptions, he commends Romulus for creating a city "from nothing, and by acquiring for himself at once territory, country, kingdom, clans, marriages, and relationships, he ruined no one and killed no one, but was a benefactor of men without homes and hearths, who wished instead to be a people and citizens of a common city" (*Theseus and Romulus*, 195). In creating the city, Romulus laid the foundation for what Numa later solidifies through law and religion.

Plutarch's praise is similar to Machiavelli's discussion of Romulus in the *Discourses on Livy*. Opening the chapter "Of the Religion of the Romans," Machiavelli names Romulus as Rome's "first orderer" and it is to Romulus that the city owes its "birth and education" (*Discourses on Livy*, 34). Machiavelli later compares Romulus to Numa, concluding that the former was noteworthy and of particular virtue for his founding of Rome. The "virtue of Romulus" made possible not only the ordering of a "civil way of life," but those like Romulus who come "armed with prudence and with arms, will hold [a state] in every mode unless it is taken from him by an obstinate and excessive force" (*Discourses on Livy*, 52, 53). According to Machiavelli, Numa and rulers like him will hold a state only under fortunate circumstances, both receiving an ordered regime and not having the threat of external forces or political tumult from within. It is by the actions of Romulus that Numa was able to govern Rome peacefully, turning to religious observances instead of war. The "virtue of Romulus was so much that it could give space to Numa Pompilius to enable him to rule Rome for many years with the art of peace" (*Discourses on Livy*, 53). Machiavelli elevates Romulus because his "virtue" secured Rome and his rule, making possible the defense and increase of the city.³³ It is because, as Plutarch reports,

³³ Here Machiavelli appears to differ from Livy who states that the "greatest of all [Numa's] works is that, throughout his entire reign, he safeguarded peace no less than he did his kingdom." In Livy's account, the change Numa made in the Romans was so profound that the "neighboring peoples—who had previously felt that a military camp, not a city, had been put in their midst to disturb general peace—came to feel such a respect for the Romans

Romulus created a city “out of nothing” that Machiavelli elevates him over Numa whose rule and success depended on the foundation and context that Romulus wrought into being.

Machiavelli discuss the virtue of Romulus and the lesser abilities of Numa in the chapter titled “After and Excellent Prince a Weak Prince Can Maintain Himself, but after a Weak One No Kingdom Can Be Maintained by Another Weak One” (*Discourses on Livy*, 52). The implication here is that Numa is a weak ruler and Rome might have fallen after him if not for the next king, Tullus. Machiavelli’s apparent preference for Romulus puts Rousseau’s praise for Numa as the “true founder” in doubt. Why does Rousseau give so much credit to Rome’s second king over its first? It is necessary to return to Machiavelli and to the history of Livy to evaluate Rousseau’s agreement with and departure from his intellectual predecessors. Machiavelli does praise Numa and, like Rousseau, it is for the Roman king’s religious laws. Numa was given a “very ferocious people and wished to reduce it to civil obedience with the arts of peace,” turning to “religion as a thing altogether necessary if he wished to maintain a civilization” (*Discourses on Livy*, 34).

Machiavelli extols the wonders that religious observance brought about in Rome, contends that religion is required for the people’s acceptance of “extraordinary laws,” and even praises Numa’s introduction of religion as “among the first causes of happiness of that city” (*Discourses on Livy*, 35). Rousseau and Machiavelli agree on the effect and importance of religion but appear to differ on the strength of Numa compared to Romulus. While Machiavelli elevates the religious laws Numa introduces, he suggests that Romulus did not need recourse to religion to order and maintain Rome: “One sees that for Romulus to order the Senate and to make other civil and

that they considered it sacrilege to do violence to a nation that had so entirely turned toward the worship of the gods” (*Livy* 1.21, 32). That the neighboring peoples considered Rome a military camp emphasizes the threat the city presented to those around it. Though Machiavelli might argue that Romulus was able to use this to his advantage, Livy suggests that this places Rome in constant contention with its neighbors. The neighbors viewing it as sacrilege to harm Rome, however, requires that they have a religiosity considerable enough to keep them in awe as well.

military orders, the authority of God was not necessary” (*Discourse on Livy*, 35). Numa, however, needed to tell the people that a nymph counseled him because he lacked the authority of Romulus and would likely be unable to institute new laws and observances without recourse to mythmaking.³⁴

With this in mind, it is likely that the two philosophers do not disagree so much about the role that Romulus and Numa each play (though Machiavelli does seem to favor even Romulus’ lawgiving), but the extent to which they should be given credit for “founding” Rome. Rousseau’s use of the phrase “true founder” emphasizes the aspects of politics that Rousseau considers essential to making genuine citizens out of the people. While Machiavelli favors Romulus in a number of areas, it is the religion of Numa that brings a component of longevity and happiness to Rome. Machiavelli argues that Numa’s accomplishments would have been impossible if not for the extraordinary undertaking of Romulus. It appears, however, that Rousseau agrees. Romulus brought the people of Rome, those brigands, together, but it was Numa who turned them into citizens. Romulus provided the foundation and an essential yet missing component, force.

With Machiavelli characterizing Numa’s institutions as necessary due to the king’s lack of authority or influence, it is worth investigating how Livy, Machiavelli’s main source for his history of Romulus and Numa, describes these historical figures. Rousseau was also a reader of Livy and understood his works as mainly political,³⁵ emphasizing similar components of

³⁴ Almost paradoxically, Machiavelli’s discussion follows his claim that Numa would likely be honored as the ruler to whom Rome is most indebted. “So if one had to dispute over which prince Rome was more obligated to, Romulus or Numa, I believe rather that Numa would obtain the first rank; for where there is religion, arms can easily be introduced, and where there are arms and not religion, the latter can be introduced only with difficulty” (*Discourses on Livy*, 35). While even Livy discusses the sacrifices and public use of religion by Romulus, Machiavelli emphasizes the first king’s ability to introduce arms, order, and law to Rome without the need for new religious observances. In this way, Romulus is superior in “virtue” to Numa even though religion made possible many wondrous events in Rome, including their strict adherence to oath-keeping (see *Discourses on Livy*, 34ff.). Due to his unique turn of phrase, Machiavelli remains consistent with his argument for the virtue and prudence of Romulus in 1.19.

³⁵ When discussing Emile’s education in history, Rousseau states: “I say nothing of Livy. His turn will come. But he

founding and ruling that Livy does. According to Livy, Numa sought to give a nation “founded by force of arms a new foundation in justice, law and proper observances,” but realized that this could only occur outside of war, requiring “the warlike spirit of his people [to be] softened by their giving up the use of arms” (*Livy*, 1.19, 29). He was aware that preoccupation with war and military discipline made possible Rome’s creation and survival. After ending war with Rome’s neighbors through treaties and alliances, “the first thing to do, he thought, was to instill in them a fear of the gods, on the assumption that it would be most effective with a populace that was unskilled and, for those days, primitive.”³⁶ The people needing to dedicate their lives and occupy their minds with something, Numa replaced the shared identity of war and force with a shared identity of religion and dedication to the gods. While the first effect of Numa’s change was peace, the second effect was more important with regard to the laws. According to Livy, the new religious observations were so successful that “the people’s constant preoccupation with the gods had imbued the hearts of all with such devotion that the state was governed by regard for good faith and oaths, rather than fear of punishment under the law” (*Livy*, 1.21, 32). Livy’s praise echoes Rousseau concern for the people’s adherence to the laws out of a love of duty and the regime. For Rousseau, modern regimes have to turn to force and, even then, cannot expect everyone to obey out of fear of punishment. While punishment under the law existed, religious

is political; he is rhetorical; he is everything which is unsuitable for this age” (*Emile*, 239).

³⁶ Machiavelli and Rousseau both follow Livy’s account of Numa giving religion to the “primitive” Romans (what Rousseau refers to as “rustic poverty”) and emphasize the unique moment where a loose people can become a regime through religious institutions. Machiavelli argues that “whoever wished to make a republic in the present times would find it easier among mountain men, where there is no civilization, than among those who are used to living in cities, where civilization is corrupt.” He does not, however, consider the corrupt civilization to be impossible to guide using religion. He revisits the differences between uncivilized and civilized peoples within the same chapter not two sections later. “Although coarse men may be more easily persuaded to a new order or opinion, this does make it impossible also to persuade to it civilized men who presume they are not coarse” (*Discourses on Livy*, 1.11.3 and 5, 35). Rousseau is adamant about the conditions under which a stable regime that consists of genuine citizens can be founded and by whom. A key aspect of these conditions is a people that shares some connection, but has yet to be fully formed and, ultimately, corrupted by deeply ingrained laws and customs.

rites and observances kept punishments from being the people's main source of motivation.

For Rousseau, adherence to the law from force and fear of punishment threatens instability. Instead of loving the laws, the people obey the law because they fear physical harm or burden. Not only does religion offer credence to the laws, good faith and oaths shift the fear of temporal authority to a fear of the gods, alleviating the possibility of the people coming to hate laws as if they were given to them solely by men. The bringing together of the Romans, however, required not only the threat of punishment but constant warring; the initial yet insufficient yoke of the people that occupied them with a common purpose but did not guarantee the longevity of the regime or shape its warring brigands into citizens.

The Influence of the Legislator and Its Relation to Censorship

Questioning what is necessary for the people to accept the legislator's laws, whether it be force or persuasion, is essential to understanding what makes the first censorial laws possible. The conditions under which the people willingly obey the laws and take on new religious observances, morals, and customs reveal the extreme context and peculiar character of the legislator. While mere force is inadequate, some type of force is necessary. Physical force might be a first condition, but force over the mind through persuasion and stimulation of the people's imagination solidifies the legislative moment. What makes force unique to the legislative moment, is that the use of force, particularly physical force, outside of this moment is likely to fail. This is not to say that the people will not respond to force. Threat of violence, however, does not influence an individual's will and the people only obey the use of force out of concerns for safety. While the people will accept laws that conform to existing morals and customs, only under unique conditions can the legislator persuade the people. The figure of the legislator and the people prepared for this type of lawgiving are both rare, but we can extrapolate what is

necessary for people to willingly accept, obey, and even love harsh laws, including the censorial laws necessary to prevent deviation away from those objects connected to the general will.

Considered together, the legislators Lycurgus, Solon, Romulus, and Numa provide a useful sketch of the legislator, including the necessary character and actions of this unique hero. Looking to Rousseau's depiction of each figure in light of Plutarch, Livy, and Machiavelli provides more practical or (more likely) probable expectations for the legislator than Rousseau's theoretical form of the lawgiver presented at the beginning of the *Social Contract*, 2.7. While Rousseau's presentation of these men is rhetorical, emphasizing the beauty of their virtue, each one fails to meet the high standard set by the image of the legislator as a god among the people. The particular events and characteristics of each legislator, compared and compiled, contribute to a patchwork through which we might ascertain a more realistic Rousseauian legislator and the influence such a person has over a people. The religious and legal institutions, condition of the inchoate regime, and the people's psychology contribute to our idea of how the people first come to accept the laws and then willingly obey and revere them. These elements are essential to their willingness to accept censorship and obey censorial laws that they might otherwise reject outright. The legislator's role at the beginning of a regime and the profound influence they can have when, by revolution or chance, the regime is ready for and requires new legislation makes possible the birth (or re-birth) of a healthy regime.

The moment of true legislation and the subsequent flourishing of the general will is rare. Consequently, creating censorial laws and guiding the public's morality through the legislative moment is also exceptional. Such a political singularity is further concerning given Rousseau's preference for the ancients; lamenting modern peoples as politically and morally unrecognizable to their ancient counterpart because of our "prejudices, our base philosophy, the passions of petty

self-interest, concentrated with egoism in all hearts by the inept institutions that genius never laid down” (*Poland*, 171). Modern peoples are so corrupt that they will generally be unable to suffer the heavy burden and constraint of the laws necessary to reorder and reshape them. What kept the people of Moses, Lycurgus, and Numa free would overwhelm modern peoples and be the constant source of their misery. Rousseau recommends reforming morals by means of legislation because it is through this ancient practice that the character of the people can be initially formed and continuously reinforced.

The legislative moment is where morals are first reined in and censorial laws take hold. The character of the legislator is important for understanding censorship because legislators are the first to successfully institute censorial law. Though Rousseau appears always to praise the ancient regimes against the modern ones, not all ancient regimes received their form from the auspicious moment of true legislation. The corruption of morals, introduction of luxury and vice, and loss of the citizen threatened the ancient regime as well. Ultimately, the legislator makes possible Rousseau’s unique vision for democratic politics and the general will, a political construct reinforcing a shared identity and morality. The most profound and long-lasting form for moral regulation is the initial censorship that the legislator persuades the people to accept. Successfully persuading the people is necessary because of the limits of their reason and conscience in light of their *amour-propre*. Since reason does not move the people to action and it is doubtful that they would even grasp the “sublime reason” of the legislator which “exceeds the grasp of vulgar men.” Persuasion makes way for institutions that create attachments and supplement the people’s deficient judgment by stimulating the imagination, allowing for the legislator to “persuade without convincing” (*SC*, 193). Reason does not touch the imagination like persuasion and the use of symbols and symbolic language, and can cause us to knowingly

distance ourselves from others. Additionally, Rousseau contends that moving the passionate side of human beings, their “heart,” is truly what attaches them to the community, religion, the laws, or any other human convention. Where socialized people are unable to seek the well-being of others through and align their behavior with their conscience, the legislator establishes institutions to redirect their *amour-propre* toward pride and community instead of vanity and pernicious self-regard. Since human beings are radically independent and self-interested by their nature, great steps must be taken to make them sociable in such a way that they do not become servile and vice-ridden. The laws demand a conformity to the regime’s particular religion, morality, and customs, each appearing in some form within the legislator’s work and directed at the freedom and happiness of the people. The work of the legislator is the first use of censorship on a grand scale; first to ensure obedience and then to love the laws, so that citizens share in the general will, experience their freedom, and sense their belonging.

Past the legislator and the legislative moment, censorship is necessary to maintain the character of the regime and the people’s love of their own and the laws. In short, censorship is necessary to accustom and re-accustom the people to the laws and their identity as citizens. This requires institutions and laws that reinforce what is unique to a people while actively excluding and excising practices that undermine the community by introducing foreign ideas, chance, or allow for the people to indulge in practices that distract them from their duties as citizens. This is not to say that Rousseau wishes for communities to be joyless and toilsome. On the contrary, Rousseau understands that pleasure is one of the main motivations for human behavior. The regime must have its pleasures, its festivals, and communal joys, but they must be unique to the regime and focus on public activity and public-mindedness. In his *Last Reply*, Rousseau contends with Charles Bordes’ defense of the arts as the source of our “pleasures of the soul” by

stating that the arts “substituted other pleasures for that of acting well” (74).³⁷ Rousseau offers another example of pleasures unique to the regime when he recounts the story of Spartan emissaries refusing to become Persian subjects. Inaccurately assigning the statement to the Spartan general Brasidas, Rousseau writes “I know the delights of your country, said Brasidas to a satrap who compared the life of Sparta to that of Persepolis, but you cannot know the pleasures of mine” (*SD*, 106).³⁸ Rousseau presents this example as a critique of modern politicians who assume that the people are suited for servitude, suggesting that, while arduous, there are pleasures to genuine freedom and virtue. In the end, censorship is necessary for focusing the people’s attention toward the regime and finding pleasure in what is uniquely theirs. Since the people will always love something, it is necessary to “teach them to love one object over another” and to “love what is genuinely fine over what is malformed” (*Economy*, 20). It is the task of the legislator to begin the people’s education and teach them to love the regime and its citizens.

Inston evaluates the efforts of the legislator as one who “creates a context in which the multitude begins to imagine itself as a democratic community and “strives to enable the citizens to function without his guidance.” He points to the difficulty of the moving past the legislative moment and beyond the guidance of the legislator.

He cannot, however, bring them to a state of complete autonomy: to behave as democratic agents, they must continually both make and submit to laws, they are therefore at once constituted and constituting, determined but never fully determined...we can exercise our sovereignty only if we accept the external limits imposed by the contract, if we continue to identify with the legislator’s laws (2010, 408).

Political activity beyond the founding paradoxically requires adherence to the laws while

³⁷ Compare to *Second Discourse*, Note XVI, 225.

³⁸ Compare to Herodotus’ *Histories*, 7.134.

simultaneously allowing the people to govern themselves, which includes the introduction of new laws. The threat of corruption, the growth of luxury, vice, and rejection of the general will, stems in part from piecemeal laws outside of the spirit of the legislator's laws. Censorship is essential because deviation from the general will is hazardous. The legislator cannot force himself upon a people, but the people, even when prepared to receive new laws, customs and morals, cannot perform the legislator's task for itself. When the legislator's work is complete, the people still require a guide. This political shepherd must direct the people without denying their sovereignty, promote the laws and the general will without forcing obedience. The wise statesman or politician is the second political figure to censor the people, a necessary supplement to the legislator and bulwark against the chance and vice.

CHAPTER 4

STATESMANSHIP AND PERSUASION AFTER THE FOUNDING

Introduction

By investigating what Rousseau means by true politicians we can further develop the relationship between morals and public opinion and explain why M. d'Alembert's endorsement of severe law is insufficient for law well-executed. Rousseau contends that the reciprocal influence of laws and morals is a "reaction" that is known to "real political thinkers," and that "if sometimes the laws influence morals, it is when the laws draw their force from them" (*d'Alembert*, 66 [277]). There are a number of conclusions that we can immediately draw from Rousseau's brief statement. The first of which is the unique knowledge of true politicians who know that morals determine the power or influence of law. Only when morality and law are congruent in some way can we expect laws to influence morals. The power of law is contingent upon morals while remaining influential. To this perplexing formulation we add an additional caveat to the power of law: the likelihood of laws drawing their force from morals is low. Additionally, it is unclear from this passage whether Rousseau is discussing the laws of healthy or corrupt regimes, or if his statement applies to laws generally speaking. Given the context within which Rousseau was writing and his audience consisting of both M. d'Alembert and Geneva, one can argue that he had only contemporary law in mind. This conclusion finds further support in Rousseau's example of the French tribunal on dueling that immediately follows this passage. The important distinction to be made, however, is whether Rousseau is speaking of the average regime, regardless of whether it is ancient or modern. Given key political characteristics including the efforts of the lawgiver, the cultivation of morals, and the love of the regime, the possibility of reciprocity between laws and morals is more likely in the regime of citizens (a

Sparta or Roman republic) than in a corrupt regime. Rousseau's statement, however, does not preclude the laws of a corrupt regime partaking in this reciprocal relationship. With the people seeking their individual interest over the common good, the presence of morally-reinforced laws is unlikely; particularly in corrupt regimes where the laws and the general will are unaligned and individual interests and particular wills silence the general will.³⁹ Still, the possibility of legal-moral reciprocity existing in a corrupt regime suggests a limited avenue for influencing morals and, in turn, an opening for censorship. Legal-moral reciprocity begins with morals; then, laws "draw their force from" or are written in accordance with and invigorated by morals; and finally, the laws buttress morals with a similar force by "a sort of reaction" (*d'Alembert*, 66). The component of "reaction" suggests that morals and law will continue to reinvigorate or support one another without the need for constant maintenance or newly-enacted laws.

Rousseau's somewhat cryptic discussion of the reciprocal nature of laws and morals reveals that knowledge of this relationship is limited. What he means by real political thinkers is not apparent from the text, only that such a thinker is well-versed in the influence law has on morals. Even considering the brevity of Rousseau's comment, it is clear that political thinkers partake in at least some of the insight and talent possessed by the legislator. Additionally problematic for this interpretation is the term Rousseau uses, *vrais politiques*. In this passage, Bloom translates *vrais politiques* as "real statesmen," a term that holds considerable weight in light of the following discussion on the Spartan ephorate. Elsewhere, however, Bloom translates Rousseau's use of "*les politiques*" as "political men" (*Emile*, 225). This distinction heavily

³⁹ Cladis emphasizes the distinction between the particular will and the individual will, noting that "the general will does not oppose the individual will per se. Rather, it checks the *particular* will...that is, the will that places narrow, petty interests (*amour-propre*) above such common goods as law, justice, and equality" (2003, 199). In this way, the destructive aspects of the particular will are not a result of being an individual, they are the product of rejecting what is related to the common benefit of the regime. As long as an individual wills the common good, their will is acceptable to the general will.

influences our interpretation considering Rousseau's use of "*homme d'état*" when discussing the statesman in his other writings.⁴⁰ Kelly provides a correction for Bloom's text of the *Letter to M. d'Alembert* and translates "*vrais politiques*" as "real political thinkers" (300).⁴¹ His emendation is consistent with his translation of "*politiques les plus consommés*" in the *Government of Poland* as "the most consummate political thinkers" (230).⁴² When editing Bloom's translation of *Emile*, however, Kelly does not alter Bloom's translation of *les politiques* as "political men."⁴³ Given the context of the passage in *Emile*, there is no apparent reason to change Bloom's translation to "political thinkers." As Scott notes in his translation of the *Discourse on Inequality*, the term "*politiques*" (which he translates as "politicians") can be used for "political actors of various kinds, including political leaders or political thinkers" (106). Our understanding of the term politician can differ greatly from our conception of the political thinker. While it is clear that those referred to by the name *vrais politiques* have some relation to politics, it is difficult to distinguish between what Kelly calls "political thinkers" and "politicians" or Bloom's "political men." The distinction between political thinkers and politicians can and is likely to be one of activity. While a politician may also be a political thinker by actively partaking in political affairs, the term "political thinker" does not necessitate or carry the connotation of activity in politics. Bloom's choice of "political men" in *Emile* can include both politicians and political thinkers, but remains vague in light of considerations for political activity. The issue of translation arising between "politician" and "political thinker" is more difficult than deciding between "statesmen" and "political thinkers;" as "statesmen" is more easily removed from

⁴⁰ For comparison, see the "consummate Statesman" (*l'homme d'Etat le plus consommé*), in *Poland* (170) and the "genuine statesman" (*le véritable homme d'état*), in *Political Economy* (11).

⁴¹ See *The Collected Writings of Rousseau*, vol. 10, xiv and 277.

⁴² Gourevitch translates the same phrase as "consummate politicians" (248).

⁴³ see *Collected Writings*, vol. 13, 377.

consideration while choosing between “political thinkers” and “politicians” still heavily influences the way in which we interpret the following passage regarding the Spartan ephorate.

Given the inclusiveness of *politiques* and the contexts in which Rousseau uses it, the distinction between political thinkers and those who are actively engaged in politics is more meaningful than distinctions between politician and statesmen. This claim is not intended to diminish the distinction between genuine statesmen and real politicians. Rousseau’s use of each term, however, requires consideration for the context within which they appear. Often what differentiates a statesman, the just leader of a regime seeking the public good, from a politician disappears when Rousseau discusses the well-constructed regime or when he adds “*vrais*” to distinguish a real politician from a common one. Similar to a genuine statesman, real politicians seek the public good and do so with a profound knowledge of politics. Political thinkers, however, can be politicians and, as such, we must consider the term *vrais politique* in light of politicians who have an understanding of politics equal to those we regard as true political thinkers. Whether true politicians or genuine statesmen, *les politiques* understand something of the true legislator’s science, even if they cannot themselves construct the regime. When discussing the legislator’s use of religion, Rousseau states that “whereas proud philosophy or the blind spirit of partisanship sees in [legislators] merely lucky imposters, the true politician admires in their institutions that great and powerful genius that presides over enduring establishments” (*SC*, 193). Considerable evidence suggests that, for Rousseau, a statesman is capable of knowing something akin to the science of the legislator or legal-moral reciprocity. Knowledge of ruling or, at least, the “talent of ruling” is possible for the genuine statesman. The talent of ruling consists in acting as the “guarantor” of the law, “making it beloved” while knowing how to prevent transgressions (*Economy*, 11).

The art of the statesman enters politics in the absence of the legislator and even has a place in regimes lacking an auspicious founding. Although the appearance and influence of such a politician may be less likely in a corrupt regime, the genuine statesman seems capable of knowing and exercising the talent of ruling within any regime. For Rousseau, however, the term “legislator” should not be considered interchangeable with “statesman” or “political thinker.” He separates those who govern a regime from those who found it. The one “invents the machine” while the others “[make] it work.” As Rousseau states in the *Social Contract*: “But if it is true that a great prince is a rare man, what about a great lawgiver? The first need merely follow the model which the second must propose...At the birth of societies, states Montesquieu, it is the leaders of republics who create the institutions, and afterward it is the institutions that form the leaders of republics” (190-191). What action can the statesman take with respect to the laws of a legitimate regime where the people are sovereign and the source of legislation? Furthermore, in what does following the model of the lawgiver consist, especially in times of change when chance events threaten to shake or upend political life?

In his *Discourse on Political Economy*, Rousseau discusses the power of the statesman, here referring to the figure as “*le véritable homme d’état*.” He introduces the “genuine statesman” while discussing the role of government as “guarantor” of the law, “dispos[ing] of a thousand ways of making it beloved” (11). Making the laws beloved involves knowing how to prevent transgressions instead of simply punishing an individual for their crimes. The example of “force” further distinguishes the genuine statesman from statesmen simply. The use of force makes talent or the art of ruling superfluous if the statesman wishes to “mak[e] everyone tremble” or “[win] men’s hearts; for experience long ago taught the people to give its chiefs much credit for all the harm they do not inflict on it, and to adore them when they do not hate it”

(*Economy*, 11). Rousseau connects credit and adoration to an absence of force with the people loving their rulers because they are not being punished by them. Rousseau emphasizes the deleterious effect of force on the people's love for the laws. The artless statesman makes the people tremble and can even thereby win their hearts, but this places the focus on the statesman instead of the laws. Obedience to the statesman replaces obedience to and, ultimately love for, the laws. While the people may "adore" the statesman who does not harshly punish them, they obey the laws only for fear of being punished. For Rousseau, the people obeying laws only because they fear punishment is a sign of a corrupt. In this regime, the ruler becomes the focus instead of the laws and controls the people by dominating their bodies instead of persuading them.

In the *Social Contract*, Rousseau equates force with physical power and contends that he can "not see what morality can result from its effects" because to "yield to force is an act of necessity, not of will; it is at most an act of prudence" (167). Without touching the will, force cannot produce duty, an essential component in obedience to law and love of the fatherland. Furthermore, being physical and not moral, force cannot produce right and fails to engender legitimate authority. While the statesman exercising force holds authority, his rule cannot be legitimate as it pertains only to physical dominance. Echoing his assertion in the *Letter to M. d'Alembert* that "force [has] no power over minds" (67), Rousseau claims that the genuine statesman "exercises his respectable dominion over wills even more than actions" (*Economy*, 11). The art of the statesman, therefore, resides in affecting the morality or the will of the citizens, making authority a matter of persuasion instead of force. While the legislator will use force to unite a people and make possible their conformity to the laws as an extension of their will, the statesman's use of force breaks the connection between obedience and will that is necessary for the well-ordered regime. Ultimately, the artful or genuine statesman need not use

force because they can foresee and forestall what the artless statesman can only punish.

Rousseau's introduction of the genuine statesman in the *Discourse on Political Economy* immediately connects the activity of the statesman to something akin to, yet distinct from, the science of the legislator. Though he does not found a regime or structure its religious observances and laws, the genuine statesman understands what is needed to make the people love and obey the laws. Rousseau suggests the highest achievement of the statesman consists in the well-being of the people so easily and regularly maintained that he need not actively rule, remaining "idle." Rousseau's statement is certainly hyperbolic due to his sincere use of the term "idle" and the requirement that everyone in the regime would be well. It acts as the highest goal for the statesman, not the clearest to see or easiest to attain. Given the extreme improbability of such an achievement, Rousseau states that "[a]t least this much is certain, that the greatest talent of chiefs consists in disguising their power in order to render it less odious, and to lead the state so peacefully that it appears not to need leaders" (*Economy*, 11). The statesman's open use of force makes impossible the accomplishment of these political goals and draws the public's attention to the activity of government. The talent of ruling and the greatest talent of chiefs both partake in making the laws beloved or, at least, in drawing the focus away from the government as the embodiment of the law and refocusing the people's attention on the law itself.

Rousseau's claim that chiefs can make their rule "less odious" suggests that rule broadly speaking is always somewhat odious or that people resist being ruled. If the laws are in accordance with the will of the people, their resistance to rule diminishes. The rule of law must replace the particular rule of the statesman or any other magistrate. Aware of the reciprocal nature of law and morals, the true statesman would know the importance of law in relation to the people's resistance to rule, and establish government as a rule of law. While the "first duty of the

lawgiver is to conform the laws to the general will, the first rule of public *economy* is that the administration conform to the laws” (*Economy*, 11; emphasis in the original). Rousseau contends that the duty of a wise lawgiver and conformity of the administration are sufficient for attaining a state that is not “badly governed.” Such a combination, however, requires a rare lawgiver capable of accounting for the contextual elements of location, including environment and the surrounding countries, and morals, including customs and relations between the people (*Economy*, 11-12). Even if the true lawgiver founds the regime, conformity between the administration and the laws only provides the state with governance that is not bad instead of what is truly desirable, a well-governed state. The administration’s adherence to the laws is necessary for keeping the regime from corruption, but it is not sufficient for the well-governed state. Furthermore, the model for a state not badly governed implies limitations inherent to the role of the statesman, though not necessarily due to a lack of wisdom or those characteristics that make him “genuine.” While a statesman must work within the legislator’s framework, Rousseau contends that they have influence in guiding the regime through law and in forestalling political change. We must distinguish between the state well-, ill-, or not badly governed and the characteristics necessary for genuine statesmanship. From this follows another consideration: Can a genuine statesman exist in a regime that was not established under a true legislator and, if so, what influence can the genuine statesman have in such a regime?

Rousseau contends with the matter of the regime not badly governed and the regime governed well, pointing to those necessities of governance that arise after the founding. While the connection between wise laws and the government’s adherence to these laws is necessary for the potentiality of a regime well-governed, it cannot account for the numerous events brought about by chance or development that require a response not easily seen in the law as written.

Introducing the problem, Rousseau states:

Not that an infinite number of details of policy and *economy* is not left to the wisdom of government: but it always has two infallible rules for acting well on such occasions: one is the spirit of the law, which should help decide the cases it could not anticipate; the other is the general will, the source and supplement of all the law which should always be consulted in their absence (*Economy*, 12).

As expected, proper administration, like the laws themselves, should return to the guidance of the general will. “Absent” laws indicate the necessary limitations of all legislation and the foresight necessary for crafting laws. Additionally, absent laws point to the activity both possible and necessary from government; suggesting that the absence of law offers space within which the government or a statesman may act. The statesman can use the spirit of the laws to administer government in a way similar to using the general will as a guide in the absence of the law. As Rousseau discusses in chapter *On the Censorship*, this is the space where the statesman is capable of “anticipating for the public” and “determining [morals] when they are still indeterminate” (*SC*, 262). The government or statesman do not, however, have unlimited recourse to shape political outcomes. The people and their perception of the governing body’s actions as congruent with the laws and their spirit delimits the statesman’s interpretation.

Should leaders seek to realize the well-governed regime, they find the general will bounds their actions. Rousseau implies the ease with which “chiefs,”⁴⁴ as he calls them, can understand the general will, claiming that they “know well enough that the general will is always on the side most favorable to the public interest, that is to say, the most equitable; so that one need only be just in order to be sure of following the general will” (*Economy*, 12). Rousseau’s use of equity in relation to the general will emphasizes the importance of a regime’s singular

⁴⁴ Rousseau uses the term “*les chefs*” which Masters translates as “leaders.” The importance of Rousseau’s term is not whether one should maintain “*chef*” as “chief,” but the role of these figures in the regime. With this in mind, it is clear from the context provided that Rousseau is speaking of those who act in government, whether they are called chiefs, leaders, politicians, or even statesmen.

vision. A regime's equity is not a matter of satisfying a people's pluralistic interests. Equity is only achievable if the people share in a similar idea of justice and rule, the general will. Rousseau's concern with equity is reminiscent of his assessment of laws in the *Letter to M. d'Alembert* where he claims that any man of "sense and equity could...easily find those [laws] which, well observed, would be the most beneficial for society" (66). Limitations regarding the institution of laws (in this case, adapting the law to particular people and objects) evoke but do not mirror Rousseau's discussion of the limits of proper governance. They are, however, similar in their relation to the general will and it is the general will which propels and restrains their behavior. Since only the general will can obligate private individuals, the legislative right continuing to reside in the singular character of the legislator makes impossible the people as sovereign and the full expression of the general will through their legislative right. The government is similarly limited except that, where the legislator need leave the regime after its founding, those governing must remain and their rule must conform to the general will. For Rousseau, government only need be well intentioned to avoid violating the general will (*Economy*, 12). Chiefs can know something of the general will by being equitable because the "particular will tends by its nature toward partiality and the general will toward equality" (*SC*, 179). Just as the legislator can mold the people through force and lawgiving at a founding, so too can the wise politician influence the people in spite of the general will. The true politician, however, must persuade the people within the spirit of the laws and, ultimately, the general will.

For the politician seeking to influence or guide the people, the people's obedience to the law is the foundation and end of his activity. Rousseau states that the "chief's most urgent interest, as well as his most indispensable duty is therefore to see to it that the laws of which he is the minister and on which his entire authority is founded are observed" (*Economy*, 10). While

community interest and duty should compel leaders, it is apparent from historical examples (presented by Rousseau throughout his works and otherwise) that leaders will reject duty or seek their interest outside of the public good. Rousseau's observation should not, however, be reduced to a claim of what ought to be. Practical politics still suggests that it is in the chief's interest that the laws are observed. Rousseau extends this practical interest to the obedience of government leaders. Rousseau includes the chiefs under those who must adhere to the laws, first, because "society's commitments are by their [very] nature reciprocal" and, second, law "restores in [the realm of] right the natural equality among men." By rejecting reciprocity of commitments and equality under the law, a chief forfeits the law's protection and fundamentally places themselves outside of the "civil state" and into the "pure state of nature" with relation to other members of society (*Economy*, 10).

Should a leader rule outside of the dictates of law, the people need only obey as they would in nature, by necessity. Force becomes the tool for obedience, but it is unwilling obedience that continues only as long as necessity or prudence demands (*SC*, 1.3). As previously mentioned, force cannot influence the will and is disconnected from morality, making impossible duty to or love of the fatherland. Beyond concerns about the legitimate authority of the chief who rules outside of the law, obedience by necessity makes impossible the active forming of a people's character and morals. As Rousseau makes clear, the "power of the laws depends even more on their own wisdom than their minister's severity, and the public will derives its greatest influence from the reason that dictated it" (*Economy*, 11). Force is unable to provide the reason capable of changing the public will. When force demanding compliance diminishes, the people will resume their behavior according to the public will, having held it to be legitimate contrary to the harshness of government rule.

Though bounded by the general will and predicated on obedience to the laws, the influence of the true politician is made possible by these very limitations. Working within these political strictures makes guiding the people and influencing the public will possible. The general will acts as the unified identity of the people and affords the context necessary for the politician to supplement the people's judgment. Persuasion becomes possible here but the statesman must place new ideas within the spirit of the laws or general will. Returning to Rousseau's claim in the *Social Contract*, certain situations allow the statesman to anticipate public opinion. The statesman's knowledge of the people and the laws allow them to foresee public opinion and codify it by proclamation. Rousseau makes this claim within the context of the French tribunal on dueling, suggesting that this aspect of statesmanship is possible in a corrupt regime. More specifically, this act of statesmanship is possible in regimes that did not receive the wise founding of the legislator. Something similar happens when the statesman determines the people's opinions "when they are still indeterminate" (*SC*, 262). Rousseau's claim implies the limited capability and forethought in the people. A statesman needs to work within the boundaries of public opinion. but he is free to persuade the people. In this way, the statesman is able to convince the people that they should adopt his formulation of the problem and its answer as their own. When public opinion is determined, however, the statesman can maintain the status quo. Speaking in relation to censorship, Rousseau argues that its purpose is to maintain opinions and guard against moral degradation by doing so. While maintenance appears to be a diluted version of shaping opinion, it is no small task. The government must always keep an interest in public opinion and understand how a shift in public opinion can cause a shift in morals. To do so, requires knowledge of the reciprocal nature of laws and morality.

The spirit of the laws and the general will in absence of the laws are avenues of

interpretation that remain consistent with the general will, but do not contain strict prescriptions. The true politician must still work within these strictures because the people must still think and even feel that governance is in accordance with the laws and the general will. If the statesman rules against the general will, the people are likely to resist. Additionally, ruling against the general will introduces a new political guide or moral principle contrary and, therefore, threatening to the general will. If even some subset of the populace takes this new principle as a guiding principle, the statesman would be introducing a particular will that undermines the regime's cohesive character and accelerates the process of moral corruption. Even without a strong and active general will, censorship is able to slow moral degradation. The strength of censorial laws and institutions fluctuate in proportion to the strength of the general will. As the general will diminishes and the people's identification with the regime along with it, the statesman becomes less able to control public opinion and, therefore, morals. Once a regime is corrupt, the only thing a government can do is slow the corruption.

The true politician can employ these forms of persuasion within political institutions, particularly censorial institutions that focus on shaping or maintaining public opinion. Rousseau offers examples of institutions and laws wisely employed that afford government an avenue toward affecting behavior or morals. Institutions, however, can have a profound influence on behavior and morality and reach farther than single isolated laws. Through institutions the true politician can influence the people without having to change laws, allowing them to work within public opinion and morals. The use of censorial institutions affords the true politician an avenue of persuasion that the people already consider as a legitimate political body.

Censorial Institutions: The Tribune and the Spartan Ephorate

Rousseau credits the ephors and the Spartan regime with making possible the merging of

law and morals and forming, “as it were, only one single body” (*d’Alembert*, 67). Rousseau’s praise for Sparta is evident throughout the *Letter to M. d’Alembert*, but he references the ephorate only once and it seems as if he does so to make a more general point on controlling morality through opinion. What makes the ephorate unique is more readily apparent in the *Social Contract* where it plays an important role in Rousseau’s explanation of morals and their influence on the city’s strength and unity. First introduced as part of Rousseau’s discussion on the tribunate,⁴⁵ he describes the ephorate as a political body able to maintain balance between the sovereign, the government, and the people. Rousseau carefully distinguishes between these terms. When the members of a body politic are active, they are defined as “sovereign.” This activity is legislative, derived from the general will, and results in law. The “people” are the members or “associates” of a body politic. They “collectively take the name people, and individually they are called citizens as participants in the sovereign authority, and subjects as subject to the laws of the state” (173-174). Government, however, is “the legitimate exercise of executive power, and ‘prince’ or ‘magistrate’ the man or the body charged with this administration” (206). The tribunate is necessary when these parts of the state are not in their proper “ratio.” That is to say, when one aspect of the regime becomes disproportionately powerful. Restoration of the “true ratio” between the parts of state (the government, the sovereign, and the people) requires a “special magistracy...which is not incorporated with the others” (*SC*, 257). Rousseau introduces a unique institution that does not participate directly in legislative or executive action and is not a part of the people. The tribunate acts as a safeguard to the general will by protecting the people and the government from each other. As Williams notes, the tribunate’s function “is a largely negative one” that “serves the general will by

⁴⁵ The tribunate mentioned here is the theoretical institution of the *Social Contract* and not the Roman tribune.

frustrating private wills” (2014, 176).

Matching the term “magistracy” here to Rousseau’s use of governmental magistrate, the tribunate does not hold legislative power but can oversee certain administrative aspects of governance within its “special” purview. Should its efforts focus on morals like many of the works of the ephorate, Rousseau’s tribunate holds a unique place in the state as a censorial body, able to limit and balance the actions of the constitutive parts. Furthermore, in order for the tribunate to successfully exercise its role in the state, it would require the knowledge of a real politician. Rousseau’s discussion of the tribunate’s purpose is useful for describing the qualities he found praiseworthy in the ephorate. Rousseau compares the activity of the tribunate to that of the Spartan ephors in matters concerning political stability. He aligns the two bodies again when arguing against the tribunate acquiring the legislative or executive power, stating that the purpose of the tribunate is preventative and meant to moderate the legislative and executive. The tribunate’s and, by extension, the ephorate’s role as a stabilizing force is noteworthy in light of Rousseau’s discussion of those real political thinkers who know the reciprocal nature of morals and law. Rousseau’s tribunate and Sparta’s ephorate would not contain statesman as members of the executive, but would benefit from the minds of a true politician. When Rousseau discusses true political thinkers, he does not relegate them to a specific function in the regime. That they could (and should) hold positions in an institution like the tribunate is important for both the balance of the regime and the safeguarding of public morals. The importance of this comparison is heightened with Rousseau’s caution against the potential fragility and volatility of his tribunate and the ephorate. Created to ensure a stable republic, the tribunate and ephorate end in tyranny if not properly constructed and maintained. The potential peril of censorial institutions further suggests the need for wise politicians to oversee its operation, even if it they only protect the

regime from the censorial institution itself.

Rousseau's warning about the limits of the tribunate and ephorate is not unique. Ancient descriptions of the Spartan ephors contain both praise and blame for the institution. Plutarch argues that Sparta introduced the ephori in reaction to the "oligarchical element still too strong and dominant" after Lycurgus' founding of Sparta (*Lycurgus*, 54). Thought to have been established one-hundred and thirty years after Lycurgus' death, the ephori were to check the senate's "high temper and its violence." Plutarch's account of the Lycurgus' senate focuses on the need for a senate that can counteract the city's tendency to vacillate between absolute monarchy and pure democracy whenever one political body, the king or the people, has the advantage. In line with Rousseau's depiction of the Spartan ephors as the body that maintains the "balance between one part and another," they created the ephori to maintain the balance between the king, the people, and the senate. When Rousseau praises the ephorate, however, he appears at odds with Aristotle's harsh critique of the institution as injurious to the regime. In his *Politics* (1270b6-1270b35; 1271a5), Aristotle presents multiple reasons why the ephorate is a degenerate institution, many of which focus on its near tyrannical power. He contends that the ephorate has control in matters of the greatest importance to Sparta, which is harmful because its members are chosen from the people. This is dangerous for two reasons. First, the people are easy to bribe because they came from the lower class and a poorer background.⁴⁶ Second, the king must seek the ephorate's favor because of the extent of the institution's influence, making the regime look more like a democracy.⁴⁷ Combined, these characteristics make the ephorate tyrannical in nature.

⁴⁶ See "Cleomenes" in Plutarch's *Lives*. Describing Cleomenes' actions, Plutarch states "He, still resolving to new model the state, bribed the ephors to send him out to war." After winning the battle for which he bribed the ephors, Cleomenes thought "that it was expedient for the state to shake off the power of the ephors, and to put all their wealth into one common stock for the whole body; thus Sparta, being restored to its old equality, might aspire again to the command of all Greece" (975).

⁴⁷ See "Cleomenes" in Plutarch's *Lives*. "These were called ephors, and at first behaved themselves as servants to

According to Aristotle, the ephors are inconsistent in their rulings on judicial matters and immoderate in their own personal pleasures (1270b28ff.). He argues that Sparta could correct part of the ephors' tyrannical nature if they subjected the ephors to rule in accordance with the law instead of ruling at their own discretion. Aristotle agrees that the ephorate helps maintain the regime, but concludes that this is because the inclusion of the people pacifies them.

Aristotle's harsh critique of the Spartan ephors leads us to question why Rousseau praises them and places such a strong emphasis on the tribunate, an institution he insists should emulate the role of the ephors. Presenting his concerns in a way similar to Aristotle, Rousseau concedes that the ephorate has its limitations and warns against the corruption of the tribunate. "It degenerates into tyranny when it usurps the executive power of which it is merely the moderator, and when it tries to issue laws it should merely protect" (*SC*, 258). These warnings mirror Aristotle's complaints that the ephorate held too much sway over the king and should not be allowed to oversee the senate (1270b13, 1271a5). The role of an institution like the ephorate or tribunate is one of preservation. When an institution like the ephorate usurps power from the executive and legislative, its corruption introduces an institutional imbalance leading to political instability.⁴⁸

Although he agrees with Aristotle that the ephorate had "enormous power," Rousseau does not find fault with the particular structure of the ephorate and contends that it "posed no danger as long as Sparta preserved its morals" (*SC*, 258). Rousseau's emphasis on morals and the absence of criticism for the general structure of the ephors is noteworthy considering his

the kings; but afterwards, by degrees, they appropriated the power to themselves, and erected a distinct magistracy. An evidence of the truth of this was the custom still observed by the kings, who, when the ephors send for them, refuse, upon the first and the second summons, to go, but upon the third rise up and attend them" (977).

⁴⁸ Masters notes that much like every social and political creation, the tribunate will eventually fall into decline and "cannot in itself prevent the ultimate usurpation of sovereign power" by them or by others (1968, 407). Precautions can be taken but only to slow this decline, not eradicate it.

observations on the necessity of the rule of law. The conclusion to be drawn, that maintaining morals is necessary for supporting the regime and its laws, is apt considering Rousseau's formulation of the reciprocal nature of morality and law. The preservation of morals is paramount, requiring the law to act as the link between rights and duties and as a bulwark against the abuse of these rights. Therefore, the ephorate's power originates from something greater than the executive and legislative power, it resides in morals. Referring to a similar power in the tribunate, Rousseau emphasizes this point by stating "[f]or while it can do nothing, it can prevent everything" (*SC*, 258). If the ephors stop moderating the behavior of the executive and legislative and start usurping their authority, it will undermine both the ephorate and the morals they are supposed to protect. The pervasive influence and power of morals leaves the institutions designed to safeguard morals fragile. Rousseau's concession to the fragility of the ephorate allows his conclusion that the ephorate can be both a beneficial and degenerate institution. In this way, Rousseau agrees with Aristotle but, unlike Aristotle, critiques the ephors at two different periods in time. The ephorate at its most successful and its most destructive offer two distinct but possible examples of how well such an institution can function. When the ephorate kept balance between the parts of the state without usurping power, it retained its positive influence on the people, the government, and the respect for law.

At first sight, the balance between government, the sovereign, and the people does not seem related to the ephorate's ability to censor, suggesting that these political bodies are either wholly distinct from one another or their relation rests beneath the surface. Only by examining the ephors' power does the connection become apparent. While they are neither the government nor the sovereign, the ephors influence opinion by ruling on issues of morality and honor. Ruling on issues of morality and honor allows the ephorate to proclaim whether governmental actions or

the people's behavior are in accordance with the spirit of the laws, preventing one body from gaining too much power over another. As previously discussed, the fragility of this balance is demanding and only if Sparta maintains its attachment to morals can the ephorate maintain its authority. To achieve this the ephors must obey the laws much like the chiefs, operating in accordance with the laws and ultimately the general will. Also similar to the chief, the ephors are able to work within the laws and general will while being able to exercise authority where the public has yet to formulate an opinion. The ephorate can use its authority in matters of morals and honor to issue a proclamation that at least appears congruent with public opinion and the laws. To do so, however, the ephorate, much like the government, must foster a love for the laws in the people.

Rousseau echoes his command that the "first of all laws is to respect the laws" (*Economy*, 11) in his praise for the ephorate by calling attention to their first act, "a public proclamation in which they enjoined the citizens not to observe but to love the laws, so their observation would not be hard," and considers this to show that the Spartan regime kept morals and laws "intimately united in the hearts of citizens" (*d'Alembert*, 66-67). The language Rousseau uses to describe the observation of laws is reminiscent of Plutarch's account of the ephorate in *Cleomenes* and *On the Delays of the Divine Vengeance*.⁴⁹ In both works, the ephors' first act is a proclamation forbidding moustaches and the "enjoining men to obey the laws, that the laws may not be harsh with them."⁵⁰ He comments on the prohibition against moustaches in *On the Delays of the Divine Vengeance* as an example of absurd ordinances that do not always have a clear origin or purpose. Plutarch's mention of these oddities precedes his comment that the ephors

⁴⁹ See Bloom's note 52 in the *Letter to M. d'Alembert*, 152.

⁵⁰ See Plutarch's *Moralia*. (193) and "Cleomenes" in *Lives* (976).

command the people to obey the laws, but he does not say that the ephors command the people to *love* the laws. Furthermore, Plutarch considers the prohibition against moustaches trivial and presumes the measure is taken “to accustom their youth to obedience even in the smallest matters” (*Cleomenes*, 976). Where Plutarch finds such prohibitions trivial, Rousseau contends that they are necessary for educating the youth into the regime. Accustoming the youth to certain behaviors and practices forms their identity as citizens and lays the foundation for loving the laws and identifying with the regime (*Poland*, 171, 172, 179ff.).

At first glance, Rousseau appears to reject the account that the people were merely made to observe the laws and claims they were made to love the laws. Where Plutarch thought the ephors’ prohibition trivial, Rousseau claims that this proclamation “was no idle formula” (*d’Alembert*, 67). For Rousseau true observance of the laws is connected to love of the laws. As he states in the *Discourse on Political Economy*, “if you would have the laws obeyed, see to it that they are loved, and that in order to do what one ought, it suffices to think that one ought to do it” (13). Rousseau’s understanding of obedience here is the kind of obedience that originates in the individual’s will and not fear of force or punishment. Coupling this with Plutarch’s account of the prohibition on moustaches, even the most seemingly trivial of proclamations can have a profound effect on morals and love of the laws. A simple command and not one that would likely challenge public opinion or offend the general will, the moustache prohibition transforms a simple matter into an easy exercise toward obedience and love for the law. Introducing obedience through something as seemingly innocuous as proper shaving practices is necessary for habituating the people because proclamations such as these are illiberal. Limiting the people in smaller ways accustoms them to the restrictive nature of the laws while solidifying their identity through shared practices. Plutarch offers additional insight that supporting

Rousseau's claim that the ephorate instructed the people to love the laws:

And the ancients, I think, did not imagine bravery to be plain fearlessness, but a cautious fear of blame and disgrace. For those that show most timidity towards the laws are most bold against their enemies; and those are least afraid of any danger who are most afraid of a just reproach (*Cleomenes*, 976).

Plutarch's assessment suggests that the ephorate dictated matters concerning honor and shame. Obedience of the law is coupled with the fear of criticism from the ephorate and, by extension, from the people. The ephorate's proclamations guide the morals of the people and, when aligned with the laws, these proclamations inspire what Rousseau calls "love" for the laws. Not only are honor and disgrace mechanisms that compel citizens to comply with the law, they introduce our *amour-propre* into our observance of the laws, connecting a person's social standing in the community with their conformity to the law. The use of honor and disgrace suggests what Rousseau claims elsewhere, that self-interest is insufficient mechanism for getting the people to obey the laws. If the people use self-interest as their guide, they begin to forget their fellow citizens and the well-being of the community. This tension reveals the neutral character of *amour-propre* and its ability to motivate individuals toward self-serving or community-serving behaviors. People always seek what is honorable or, at least, wish to appear to do so. If the regime is corrupt, the people will seek what is most beneficial to them regardless of the well-being of the community and honor or virtue will amount to appearances only. The healthy regime leverages *amour-propre* to the benefit of community by conforming what is honorable to what is beneficial for the majority. A self-interested individual may follow the law if it benefits them and will break the law for similar reasons. If honor and shame are tied to the community, however, the disrepute a person faces by breaking the law aligns their self-interest with obedience to the laws.

Coupled with the observations of Plutarch and Aristotle, Rousseau's depiction of the

tribunate and ephorate show how fragile and unique these institutions are. They successfully operate with a particular people and under particular circumstances. In line with Rousseau's claim that "we shall [not] see Sparta reborn in the lap of commerce and the love of gain" (*d'Alembert*, 67), the reappearance of an ephorate-like institution is doubtful. The unification of morals and laws is not only difficult to accomplish, it is rare. If the reciprocal relationship between laws and morals must create "a single body" that unites laws and morals "in the hearts of the citizens," it is unlikely that another regime with a morality and character different from that of Sparta will be able to implement similar institutions. As we learn from Rousseau, once the morals of Sparta changed, so too did the ephorate. An institution intended to balance the constitutive parts of the regime, to keep them in their "true ratio," can lead to tyranny and the usurpation of executive and legislative powers. Requiring such an institution to be at the same time wisely tempered and established in an already sound regime is dubious enough without the need for the people's morals to remain unchanging. Rousseau's tribunate and the ideal form of the ephorate are inappropriate for Europe of Rousseau's time and the Geneva he tries to protect.

After he introduces the ephorate in the *Letter to M. d'Alembert*, Rousseau describes the tenuous condition of morals and laws as unresolvable in light of contemporary politics and shifts his analysis away from the influence of morals on laws and toward the influence of public opinion on morals. Given the delicate balance between Spartan political institutions and the preservation of morals necessary for maintaining this balance, another method or political institution might be sought if the city wants to govern morals while expecting the people to observe the laws. Requiring that the people love the laws will be insufficient if the law is not suited for the people, objects, and ends for which it is crafted. He describes the effect of public opinion on morals by using another historical example, Louis XIV's tribunal to end dueling in

France. His assessment of the tribunal, however, leads him to offer numerous corrections to the king's tribunal that make it appear more like the Spartan ephorate or tribunate of the *Social Contract*. Examining Rousseau's critique of the tribunal offers insight into the limits of governance through morals and law, especially through institutions like the ephorate.

Public Opinion, the Court of Honor, and the Problem of Dueling

If morality and law are difficult to combine, is it possible to have well-executed laws? What conditions or mechanisms are necessary for the people to obey? Rousseau lets us know that we will not see Sparta reborn. "If we had the same maxims," however, "a theatre could be established at Geneva without any risk; for never would a citizen or townsman set foot in it" (*d'Alembert*, 67). Introducing the ephorate in Geneva is impossible due to the unique character of the Sparta and Genevan people. Furthermore, Geneva does not hold the same maxims, which is to say that Genevans are susceptible to the corrupting effects of the theater in a way impossible for the Spartans. To prevent further corruption of Geneva's morals, a theater cannot be introduced. This claim moves past Rousseau condemning the actors and focuses on the ability of the Genevan people to hold onto their moral character. It would be easy to claim that Sparta was such a unique regime that its people held untouchable morals, but Sparta itself could not sustain the moral character suited to their ephorate.⁵¹ The collapse of institutions established to mediate morals is problematic for well-executed and well-observed laws. With the limitations of institutions, what comes of the attempt to unify laws and morals in the hearts of citizens?

Since the ephorate has no place in modern regimes like Geneva, Rousseau rhetorically inquires how the government can influence morals. He concludes that public opinion dictates our

⁵¹ As Shklar states, "[C]ivil life even at its conceivable best is full of inconveniences, as are all men's contrivances. Not even Sparta is a perfect abode for men" (1969, 18).

preferences, habits, and our happiness, going so far to say that “[n]othing appears good or desirable to individuals which the public has not judged to be such” (*d’Alembert*, 67; emphasis added). This passage reminds the reader of his earlier statement that public opinion, along with laws and pleasure, is one of the three instruments that influence morals (*d’Alembert*, 22). In determining our preferences and habits, public opinion shapes our morals. The opinion of others draws us toward certain behaviors and objects. Outside of necessity, all social and political matters are products of convention. Preferences for anything from entertainments to clothing and food fall under public scrutiny. That is to say, all objects or endeavors of interest filter through public opinion. The approval of our peers heavily influences our preferences and, in turn, our morals. How we behave is largely a result of what our peers think of us or, at least, what we assume they would think of us. The people’s preoccupation with public opinion reminds us of Rousseau’s reflections on public life and *amour-propre*. Once *amour-propre* is active, a person is unable to experience social life without comparing themselves against the physical and moral characteristics of the people they meet. As Rousseau states, in *Emile*, “[r]emember that as soon as *amour-propre* has developed, the relative *I* is constantly in play, and the young man never observes others without returning to himself and comparing himself with them” (*Emile*, 243). The “relative I” is the individual in relation to society and replaces the independent I, the condition we are born into by nature. Understanding ourselves only in relation to others and their opinions creates a mutual dependence among people, but we can cultivate and direct this dependence on opinion. By living in the opinions of others, we feel the pull of honor and shame. The desire for people’s esteem is a powerful force that directs our actions and allows for public opinion to guide what we believe to be moral. “When we do not live in ourselves but in others, it is their judgments which guide everything” (*d’Alembert*, 67). The Public’s judgment becomes a

governing force that exists outside of the law and confounds the individual's simple calculation of self-interest. Public opinion constrains our behavior and determines our actions as morally good or wicked. Even though the socially pernicious aspects of our *amour-propre* necessitate a civil order governed by laws, it is also a means through which public opinion can shape individual morality. When discussing how law is the magistrate's guide to judging individual behavior, Rousseau leaves it to "public esteem to establish the distinction between evil and good men" because "the people is the genuine judge of morals" (*SD*, 151). The people hold enormous power in determining the morality of their peers, but their moral judgment is always a conventional one. Not all peoples share the same morals, but public opinion remains a governing mechanism that helps determine and enforce them.

Public opinion has a power and role beyond law, but is not beyond regulation. Ultimately, this regulation of opinion comes from those institutions like the ephorate or Rousseau's tribunate that influence the public without recourse to lawmaking. Rousseau writes that there exist instruments "proper to the direction of public opinion" that are neither "laws nor punishments nor any coercive means" (*d'Alembert*, 67). As previously discussed, there are limits to force and law, each one being necessary or effective only under certain conditions. To this list Rousseau adds coercive means, suggesting that governments have no method of force, coercion, or law that is capable of influencing morals. As Coleman notes, "[w]hen it comes to basic social attitudes, legislation is ineffectual, for in the absence of the public's predisposition to obey, laws could hardly be enforced, and open flouting of the law is worse than vice itself" (1984, 82). The public predisposition Coleman mentions is the result of public opinion and, if the regime has wise institutions and statesmen, the cultivation of habits and a love for the laws. The government must move public opinion, essentially reaching beyond morals in order to influence them.

What moves Rousseau to write is the entry on Geneva and the influence it will have on the Genevan people, putting Geneva on display and making it vulnerable to the opinion of Europe. To combat the praise d'Alembert uses to attempt to shape Geneva's opinion, Rousseau must offer praise of his own, reinforcing Geneva's character by extolling its unique institutions. Instead of specifically detailing the instruments used to sway public opinion, Rousseau offers his reader an example of the failed tribunal Louis XIV established to end dueling in France. He tells d'Alembert that the "choice of instruments...is another question which it would superfluous to resolve for you and which it not the place to resolve for the multitude" (*d'Alembert*, 67). This is a curious line considering Rousseau's effort to provide an example by way of detailing how one might fix the tribunal on dueling. He compliments M. d'Alembert for not needing the matter explained and chooses an example that does not pertain to Geneva. As Coleman points out, the "compliment to d'Alembert is ironic since Rousseau is only too conscious of the role played by the *philosophes* and the *Encyclopédie* in the direction of public opinion" (1984, 83). While Rousseau claims not to resolve the issue for the multitude, he later provides an example specific to Geneva by discussing the public amusements and social circles that the people ought to fortify if they wish to maintain their character. Similar to the *Encyclopédie* entry, Rousseau has to put his "fellow citizens on the stage" and claims that it was due to "repugnance" that he "put off speaking of us as long as [he] could" (*d'Alembert*, 92). He knows that discussing the Genevan people places them on the public stage and under the scrutiny of Europe. The opinion of Europe can easily influence Geneva, particularly if the people of Geneva desire Europe's favor. M. d'Alembert uses the excerpt of his *Encyclopédie* entry on Geneva to leverage the Genevan people's desire to appear modern and enlightened. If Geneva wishes to please or keep up with Europe, they may try to establish a theater. By initially focusing on France's tribunal, Rousseau

is able to discuss governmental control of opinion without any deleterious effects for Geneva. Furthermore, by focusing on the character and customs of Geneva later on in the *Letter to M. d'Alembert*, he separates them from the discussion of actors and the theater and beautifies Geneva for the reader. Rousseau uses the image of Geneva to persuade its inhabitants to prefer their customs over the opinions and tastes of Europe while simultaneously showing Europe an attractive representation of Geneva as happy, free, and moral.

The question remains: Why does Rousseau look to France's tribunal on dueling and what general conclusions can be drawn from this example? The problem of dueling appears in other works by Rousseau as does Louis XIV's tribunal. Offering a synopsis of his reflections on both censorship and dueling in his chapter "On the Censorship" in the *Social Contract*, Rousseau notes that he has treated this subject at greater length in the *Letter to M. d'Alembert*, indicating that the excerpt in the *Social Contract* is a succinct analysis that conforms to his treatment in the *Letter* (SC, 263). In his summary, Rousseau discusses two of the tribunal's objectives: to end the use of seconds in duels and to declare it cowardly to fight a duel. The tribunal's first aim was successful. Rousseau states that this was accomplished by "words alone" in the edict of the king that stated "*as for those who are so cowardly as to call upon seconds.*" The tribunals' second aim, however, failed because the proclamation that fighting a duel is cowardly was simply "contrary to common opinion" and the public "ridiculed this decision, about which its judgment was already settled" (SC, 262). It is particularly curious that the tribunal's sanction on using seconds in duels was not similarly difficult to quash given the excessive use of seconds in France. Rousseau notes that the use of seconds in duels became so common that it was almost fashionable. If the public's judgment settled in favor of using seconds, the king's edict would have met a fate similar to the general prohibition on dueling. Similarly, if public opinion was

solidified against the use of seconds from the outset, the king and his tribunal would not have needed to present an edict forbidding it; public opinion would have established it as cowardly and renounced the practice. It is important to note that the dueling was an accepted practice and source to determine honor, but not everyone participated in duels. While the general public viewed dueling as legitimate, it is likely that the extreme use of seconds was an opinion held by the duelists themselves. Calling on a second may preserve a duelist's life while supposedly safeguarding their honor. Concluding that duels are a sign of honor, the people saw seconds as cowardly, but had yet to collectively affirm this position. It could be said that the people expected more out of honor than the duelists (whose lives were the ones at stake) were readily willing to give. Duelists held to the public opinion of honor, but sought a way to remain honorable without taking lethal risks.

Predicated on honor, dueling cannot admit as part of its practice something the public deems disgraceful. Abolishing the practice of seconds in duels was possible because the public had yet to determine its position on the matter, affording the tribunal an opportunity for influence. Public opinion understood the threat to one's life is a matter of honor and courage, and calling upon aid in the form of a second could easily be construed as cowardly. Though the practice was rampant, the public had yet to collectively reject or accept it. The king proclaiming seconds as cowardly aligned with the public's perception of courage, honor, and redress. "This judgment, by anticipating the public's, immediately determined it" (SC, 262). The king and his tribunal were effective when they sought to solidify an opinion that was in accord with the public perception of honor, but were unable to eliminate dueling entirely. This leads to the tacit conclusion that governments can solidify public opinion with actions or proclamations that align with public opinion itself. Although this appears inconsequential, such an action offers the

government a mechanism that ensures a response from the people and thereby guide public opinion, albeit in a constrained fashion. The question remains: If the public does not respond to edicts that are contrary to common opinion, how or by what instruments can the government alter public opinion?

To better understand the tribunal's failure and the possibility of regulating public opinion we must return to Rousseau's example from the *Letter to M. d'Alembert*. Commenting on the same tribunal of Louis XIV, Rousseau offers possible prescriptions that would strengthen the tribunal's success in eliminating dueling. First, the tribunal should remove the threat of punishments and operate using honor and shame to compel adherence. Second, appoint judges whose authority is credible with the people. Third, the king should not include his "arbitrary decisions in with the decrees meant to represent and...determine" the judgment of the public (*d'Alembert*, 68). The third criterion includes matters concerning honor and religion, compensation in trade for pardoning the offender, and the submitting of one's grievance with the marshals of the tribunal. Finally, everyone whose position requires them to carry a sword, from the simple soldier to the royal family, must account for their actions in front of the tribunal and submit themselves to the "principles of honor established in the nation" (*d'Alembert*, 71). Each of these prescriptions builds off the idea that the government cannot force the public to change its opinion. Instead, government must operate within public opinion if they wish to alter or maintain morals. These prescriptions, however, drastically change the name, operation, composition, and overall political position of Louis XIV's tribunal in such a way that, if France were to implement them, they would reshape the tribunal into something reminiscent of the ephorate.

Rousseau's first prescription is to alter the tribunal's response to violations of the anti-

dueling edict. Reiterating that force does not change the will of an individual or, in this case, their perception of honor, Rousseau suggests that the only type of punishment that the tribunal should mete out is a charge of disgrace. He suggests symbolic gestures to make those charged with a dishonorable act to appear before the tribunal, recommending the touching of “the defendant with a white rod, without any other constraint” (*d’Alembert*, 68). The act, touching the imagination more than the body, uses concern for honor and appearance to replace economic or bodily penalty. This first step radically transforms France’s tribunal without diminishing its purview over dueling. As he begins to distinguish between the king’s tribunal and his improved version, Rousseau argues it is necessary to remove all signs of violence and force to change public opinion, and even criticizes the choice of calling it a tribunal instead of something like “*Court of Honor*” (*d’Alembert*, 67). Coleman explains that Rousseau’s introduction of a new name for the tribunal has an additional connotation not readily apparent in English.

[I]n French the expression *cour d’honneur* has another meaning, which has nothing to do with a court of law. The most usual sense of the phrase refers to the courtyard of a large house of the kind the French call an *hôtel*. Rousseau wants the tribunal to become an open space in which the opposing parties can meet each other without the constraints imposed by an institutional framework, while still remaining in the bounds of a socially-defined area...The Court of Honor will succeed because it is like a stage, on which the parties can play out their conflict without harm coming to anyone, and to the applause of the public (1984, 86).

Rousseau’s transformation of the tribunal into a theatrical presentation for the people adds a public dimension to disgrace and honor. No longer can duelists evade public scrutiny when the Court of Honor calls for their appearance, making the people a participant in honor and shame to better reinforce its effect. Rousseau creates a theater similar to the actors’ theater so beloved in France and detrimental to Geneva. Not just any government official can pass judgment, however, which is why Rousseau recommends the instillation of judges whose honor is indisputable. He gives the example of the “old soldiers laden with honorable titles who have

grown gray with their laurels” and know the obligations and costs of duty. One must keep in mind Rousseau’s caveat. Old soldiers are only suitable in a militaristic or warlike nation that reveres the duty and sacrifice of the warrior (*d’Alembert*, 68). The public’s veneration for the judges depends on what the public holds in high regard, what they deem honorable. The wizened hero, then, will not instill reverence in all peoples. It is incumbent on the tribunal or its creator to understand what the people esteem.

Rousseau’s third proposition reflects upon the nature of honor, who can dictate what is honorable, and how one satisfies affronts to honor. He introduces this proposition by describing the futility of the king’s attempts to combat dueling by using law and force to dictate honor, arguing that as there is “nothing more independent of the supreme power than the judgment of the public, the sovereign ought to have taken care in all things not to mix his arbitrary decisions in with the decrees meant to represent and what is more, to determine this judgment” (*d’Alembert*, 68). The king cannot issue proclamations that run contrary to public opinion and expect the people comply. Since opinion dictates honor and not the law, the people cannot safeguard or increase their reputation by following laws that contradict the public’s opinion of honor. This is the first of many comments Rousseau makes detailing the intended extent of a reformed tribunal’s power in matters of honor, placing the Court of Honor even above the king. Although Rousseau will return to discussing the oversight a Court of Honor should have in matters concerning the king’s honor, he states that the king cannot make the people accept by declaration the honor of anyone they do not deem worthy of it. He reinforces this claim when juxtaposing honor and law in light of the king’s condemning all duelists to death which “created straight-off a shocking opposition between honor and the law; for even the law cannot oblige anyone to dishonor himself” (*d’Alembert*, 68). Law cannot dictate matters of honor and it is only

when law aligns with public opinion that the people deem such a declaration just, forming an interaction similar to the reciprocal relationship between morals and law.

As Rousseau states earlier in the *Letter to M. d'Alembert* and reiterates in the *Social Contract*, our sociality leads us live in the opinions of others. Public judgment replaces our own judgment once we enter the public sphere. Since edicts and force cannot eradicate dueling and the desire for honor is commonplace, we require other means to moderate dueling and eventually eliminate its practice. Rousseau indicates that France can eliminate dueling slowly and by degrees. The Court of Honor could make use of non-violent reparation, a practice that Rousseau heretofore rejected in light of the demands of honor, by “artfully manipulating the maxim that a man has the right to accept a compensation and pardon his enemy (*d'Alembert*, 69). Public acceptance of compensation is a possibility but it faces obstacles. Rousseau does not state what this artful manipulation includes, but later describes the measured process by which the Court of Honor can judge duels, gaining influence over the people’s perception of duels by ruling in accordance with public opinion. He excludes the theater as a source for change by comparing the individuals that make up an audience against the people coming together collectively in the public square. While individuals will experience a play like *Le Cid* and applaud the Spanish warrior who gives the play its name, Rousseau contends that they would come together to hang the same Spaniard in the public square. The theater shows us a curated version of characters that the public accepts and even weeps for when they are sitting in their seats. The public scrutinizes individuals and their crimes differently once the trappings of theater are no longer present. The activity of the people as a collective demanding justice or honor differs because the people are actively viewing and judging one another; something that does not happen in the theater where we go out in public just to sequester ourselves in our theater seats. To this Rousseau adds an

additional component: we have different demands of justice and honor when we suffer the affront. We applaud the character in the theater because the character does not harm us directly. People approach the matter of honor differently when it is their honor at stake.

Instead of condemning every duel from the outset, the marshals overseeing the tribunal should be able to allow dueling when they deem it appropriate. By doing so, the tribunal will reinforce their position by affirming that they are not merely the king's lackey. Since the king declared that all dueling was dishonorable and a crime, the tribunal needs to show the people that their authority is independent of the king's by allowing for duels. Rousseau is careful to say that they should "sometimes exercise this right" and employ it only to reinforce the independence of their position (*d'Alembert*, 70). This adds credibility to the tribunal by assuring the people that it determines disputes over honor. By sometimes permitting a duel, the tribunal aligns itself with the public's opinion that dueling is a form of redress and a source of honor. Additionally, it allows for incremental change in public's opinion on duels by not instantly eradicating the practice. A middle position between the government and the people, the Court of Honor begins to hold a place akin to the ephorate, censoring morals and balancing the constituent parts of the regime. To hold authority in matters of honor, the tribunal must exude autonomy and often practice it. Rousseau's recommendation permits dueling as a necessary step to gradually eliminating it. Once it gains a reputation for its justice and wise pronouncements, the Court of Honor can use each ruling to shape how the people perceive honor. What constitutes a just or honorable duel will by degrees become narrower until the people will no longer view dueling as a recourse for honor affronted.

As the Court of Honor acquired authority over the opinion of the people by the wisdom and weight of its decisions, it would little by little have become more severe until the legitimate occasions had been reduced to nothingness, the point of honor changed on principles, and duels were entirely abolished (*d'Alembert*, 70-71).

Government and political figures cannot simply reason with the public. Instead, institutions must slowly gain authority and with that authority influence public opinion. A Court of Honor must put on a spectacle, draw the attention of the people, and align their ruling with the public's opinions of honor. Like the spectacle of the theater, the spectacle of the tribunal must conform to public opinion, first drawing and then keeping their attention by aligning its judgment with the public's.

Through his example of the Court of Honor, Rousseau emphasizes the principle of public spectacle and extends this new theater beyond the aristocratic class and the practice of dueling. By doing so, he holds every member of society under honor's scrutiny and, therefore, aligns their behavior with public opinion, even the king. His final consideration for Louis XIV's tribunal is that since "no man [is] able to live civilly without honor" the tribunal ought not limit its purview to dueling but include all grievances concerning honor. All members of society, should be "equally subject to being honored or stigmatized according to the conformity or opposition of their lives or sentiments to the principles of honor established in the nation" (*d'Alembert*, 71). Rousseau expands the scope of the Court far beyond anything found in the tribunal on France, giving it the power to rule in matters of honor and oversee the actions of each member of government beginning with the king. By including the king Rousseau reiterates his earlier assertion that the king cannot dictate honor and, therefore, also cannot escape being held accountable for his own dishonorable behavior. Residing at the head of the state, the king need be held most accountable since it "is certain that, as to honor, the kings themselves are more subject than anyone to public judgment" (*d'Alembert*, 73). Rousseau introduces a similar restraint on the king of Poland when offering reforms for their government. Instead of holding the king accountable under a tribunal, Rousseau suggests that the burial of the king and their

subsequent legacy should follow public opinion and the dictates of honor (*Poland*, 234). In both cases, honor holds the king accountable by tying honor to whether they govern well or badly. All members of society, then, are to face public scrutiny and receive praise and shame. As accountability to the public and rank in government increases, so too must a person's accountability in matters of honor before the Court. Aristocracy answers for its conduct and action, issues related to the dignity of their rank and, more importantly, participation in governance. "If the institution is well constructed," Rousseau states, "the grandees and the princes ought to tremble at the very name of *Court of Honor*" (*d'Alembert*, 72). His use of the tribunal extends beyond dueling and acts as a check on governmental power. In this way, Rousseau's Court of Honor acts as a means to balance power in the regime and further solidifies its character as something akin to the ephorate.

Rousseau presents a general structure for such a well-constructed institution but, while doing so, repeatedly reminds his reader of the difficulty of altering public opinion. Slow-paced change and artful manipulations are necessary to align the Court's rulings with people's perception of honor, gaining the public's confidence and approval of the Court's arbitration. As previously mentioned, Louis XIV should have given his tribunal autonomy of disputes of honor while limiting the tribunal's punitive powers to determinations of honor and disgrace, allowing the tribunal an opportunity to influence morals by first aligning itself with public opinion. Combined with his argument for slowly incorporating the Court's judgment on all matters of honor for every member of society, Rousseau affords the Court of Honor a prominent place in society. A similar idea presented in a slightly different fashion is found in the *Social Contract*: "I have said elsewhere that since public opinion is not subject to constraint, there ought not to be any vestige of constraint in the tribunal established to represent it" (263). Here Rousseau is

speaking of a censorial tribunal in general and not an institution designed to tackle one issue such as dueling. The Court of Honor he constructs extends its range function far beyond ruling on duels and can pass judgment on any member of society. Although its influence is still restricted to the laws and punishments of honor, the Court of Honor truly takes on the character implied by its title.

Rousseau elaborates on the absence of constraint by presenting two stories of the ephorate. In the first, when a person of bad morals offered a worthy opinion, the ephors had the same opinion voiced by a virtuous citizen. Rousseau exclaims: “What an honor for one, what a disgrace for the other, without either of them being given either praise or blame!” This brief account reinforces two key aspects of Rousseau’s transformation of the tribunal on dueling. The ephorate holds an authority over honor and disgrace that Rousseau theoretically instills in the Court of Honor. In the second story, when men from the isle of Chios desecrated the ephor’s tribunal, the ephors issued an edict that allowed Chiots to be filthy in public.⁵² After his account, Rousseau argues that a “real punishment would have been less severe than such impunity. When Sparta had declared what was or was not decent, Greece did not appeal its judgments” (*SC*, 263).⁵³ The Choits’ exemption from the law reinforces two ideas Rousseau claims indispensable when understanding and controlling public opinion; the absence of force and the use of honor and shame. Furthermore, by combining the two examples, Rousseau reveals the pervasive character of the ephorate and its ability to use honor and disgrace to influence public perception of a person, a people, or even the worthiness of an idea.

⁵² Rousseau calls them Samians because of the possible play on “Chiots” and chiens in French; see *The Collected Writings of Rousseau*, Vol. 4, note 129, 264.

⁵³ Sparta’s influence over Greece is reminiscent of Livy’s claim that the religious observance of Rome under Numa was so profound that it changed the behavior of neighboring states (see *The History of Rome*, 1.21).

Rousseau's use of the ephorate also provides us with an historical example of the Court of Honor's final form. Rousseau speaks of the conduct and action of nobles under the Court's oversight, but he also points to the speeches and maxims of the people, including the "conformity or opposition of their lives or sentiments to the principles of honor established in the nation" (*d'Alembert*, 71). The Court gradually reforms the principles of honor while making the people accountable for it in both speech and public behavior. Rousseau's use of the ephorate provides only two examples of what is a far-reaching power that would check individual morals, seeking conformity through honor and shame. Although the Court of Honor operates within public opinion, it is through gradual steps that they become an authority in and figurehead for the public's judgment, eventually being able to dictate, albeit in a limited scope, public morals.

The Role of the True Politician: Censorial Institutions and Chance

Before he shifts his argument in the *Letter to M. d'Alembert* to focus on the actors, Rousseau reiterates the power of opinion and the constraints it imposes on the law. He warns of the limited ability of censorship to overcome moral change, particularly in light of an unpredictable challenges resulting from chance. Rousseau depicts the power of chance as seemingly insurmountable, claiming that neither force nor reason is capable of wresting control over "chance, countless accidental causes, countless unforeseen circumstances" (*d'Alembert*, 74). He urges Geneva to reject the theater because with it comes an incalculable number of variables, and anticipating their effect requires a considerable amount of wisdom and foresight on the part of government. As Rousseau indicates in his discussion on the Court of Honor, even when the regime takes precautions, attempting to account for each conceivable need and outcome, effective censorship is a nearly unachievable task.

The limitations Rousseau discusses admit the possibility that these institutions or the laws

they promote will be ineffectual when it comes to altering public opinion and, in turn, morals. They will, however, require prudent politicians and infrequent or at least manageable political and social upset. Wise legislators and statesmen are those who might be able to predict and account for the possibilities brought about by chance. If part of the goal of governance is to maintain the particular character of the city, the role of the true politician requires that they rule with both present and future problems in mind. More specifically, if the government wishes to maintain control over morals, they must wield considerable political foresight to prevent the introduction of any unwanted institution or idea, whether intentional or by chance. Foresight is key because “once [changes] are tolerated and authorized, we are rarely master of their effects and cannot be held answerable for them” (*d’Alembert*, 74). Coupled with chance events, the requirements for a successful censorial council, particularly one that does not threaten the order or stability of government, appear nearly impossible. This does not mean that institutions are unable to hold any sway over moral concerns or that external influences do not perturb public opinion.

Institutions that focus on controlling morals require magistrates that know best how to work within opinion, manipulating it without promulgating edicts or rulings that cause public dissent. In light of Rousseau’s reformation of the tribunal on dueling and the examples of the ephorate, censorial institutions must contain some number of true political thinkers who know both how to maneuver public opinion and foresee political change. A statesman or politician may be able to employ laws in such a way that they sway morals, altering public opinion in the subtlest of ways, but must not allow the people to see their influence. These machinations are accomplished within and without institutions, but institutions require someone at the helm who knows both the power and limitations of law and vice. In both cases, a true politician operating

within an institution and one operating alone as a statesman, efforts must be made either to remain aligned with the general will or, when trying to alter opinion, to appear to do so.

The discussion of institutions does not remain in isolation and looming in the background of Rousseau's reformation of the tribunal on dueling is the problem he originally sought to confront, the theater. It is only after Rousseau broadens the tribunal's focus to all matters concerning honor that we see a truly censorial council that attempts to regulate morals. What Rousseau does not reflect upon when discussing the Court of Honor, however, are institutions that could threaten a censorial council's existence. While the Court of Honor pertains to France and the problem of dueling, the purpose of Rousseau's letter is the construction of a theater in Geneva. The nature of the theater and its influence on public opinion is problematic because it would necessarily compete with any institutional attempts at censorship. The two institutions vie for the public's attention with a censorial institution seeking support from the law and the theater drawing support from pleasure. While Rousseau sets up the Court of Honor as a public spectacle, it does not seem as capable of providing the pleasure "that can be had in the theater, its whole effect is to bring us back more often" (*d'Alembert*, 22). Public opinion, however, constrains both censorial institutions and the theater. Just as members of the censorial tribunal need to understand and operate within public opinion, the playwright cannot choose for us what depictions they want us to like. The playwright must write with our opinions and preferences in mind. Otherwise, "he will write a very fine play to which no one will go" (*d'Alembert*, 21). The theater and political institutions are similar in that they must reflect the people's opinions; the former in terms of passions and taste and the latter in terms of honor and justice.

Although they touch upon different spheres of public life, Rousseau reflects upon the theater and the playwright much as he does political institutions and the statesman. Anticipating

public opinion is a skill the playwright can use much like the censorial institutions can determine morals while they are still indeterminate, but the playwright's power is exceedingly more limited in scope and effectiveness (*SC*, 262). Rousseau contends that even the great Molière did not wait long enough to introduce the *Misanthrope* and the French initially rejected his masterpiece. Rousseau states that the theater cannot "change sentiments or morals, which it can only follow and embellish" and that while Molière "transformed the comic stage...he did not shock the public's taste. He followed or expanded upon it" (*d'Alembert*, 19). While the theater cannot introduce new passions, it can inflame passions already existing and reinforce those that are detrimental to political cohesion and the general will. For Geneva, tragedy will "represent tyrants and heroes...giving us a vain admiration for power and greatness," and comedy will "persuade us that we are wrong to despise the vices that are so much esteemed elsewhere" (*d'Alembert*, 116). In the contest of virtue and morals, the theater can draw out our latent passions and present as pleasing those vices harmful to the regime. By introducing morals that are foreign to Geneva, the theater begins to transform the small republic into the rest of Europe. Bringing with it the morality and customs of other European nations, the theater undermines what makes Geneva unique and, therefore, what keeps it from corruption. As Rousseau argues in his *Preface to Narcissus*, nations transmit their vices to one another instead of their virtues (98). What customs and habits are suitable for one nation can undermine the identity of another and dissolve the people's attachment to their regime by introducing new prejudices ill-suited to the character of the people. Every new opinion the theater introduces is one more variable that the true politician must account for or eradicate. Such a task, however, eventually becomes insurmountable. Furthermore, the theater need not change our opinions to, even unintentionally, amplify those destructive to the particular character of a regime and its general will.

Ultimately, the theater shapes political life because it introduces luxury and exacerbates the pernicious aspects of our *amour-propre*. Additionally, it encourages us to separate and disassociate ourselves from our peers, stifling our connection to the community and the general will. As Dugan and Strong note, there is an emphasized individuality when entering the theater that draws a person away from their “commonality with others,” making their response to the theater, “at best, the ‘will of all’ rather than the ‘general will’ (2001, 333).⁵⁴ First, the theater inflames our *amour-propre* by drawing us out into the public eye to make comparisons based on wealth and corrupted taste. Then, the theater asks us to sit in isolation and consider only ourselves in relation to the characters on stage. With the presence of a theater distracting the public from civic duty or obedience to the law, the government requires a complimentary institution to supplement the activity of the censor or the statesman; one that is a source of pleasure and entertainment for the people, drawing their attention outwardly toward the regime instead of inwardly toward the “unencumbered” individual. Rousseau promotes a different kind of civic-minded spectacle that offers pleasure without distracting from the regime and replaces the satisfaction of our *amour-propre* we derive from going to the theater (or any extravagant amusement that focuses our attention on the self) with a satisfaction derived from our sharing in public life. The characteristics of such an institution, its relation to censorial institutions, and the way in which it bolsters the regime are the next components that require investigation.

⁵⁴ Dugan and Strong go on to state that, as a mere spectator, nothing is required of the individual and that the theater “might in these conditions give us at most the appearance of public virtue the clothing of the human so to speak, but this would merely be the simulacrum of virtue” (2001, 333).

CHAPTER 5

PRACTICAL APPLICATIONS OF CENSORSHIP IN ROUSSEAU'S

CONSIDERATIONS ON THE GOVERNMENT OF POLAND

Introduction

The legislator introduces laws and institutions that shape the people's morals from the outset while true politicians can endeavor to influence the people's morals albeit in a limited way. The question remains as to how the government can maintain public opinion and morality and, by doing so, instill or maintain particular moral sentiments. Maintaining public opinion, let alone public morals, is a nigh insuperable endeavor even for the most well-equipped regime. One of those three instruments by which morals change, the "empire" of public opinion, "although so difficult to govern, [is] nevertheless in [itself] mobile and changing" (*d'Alembert*, 22, 74). That public opinion changes while begin so difficult to govern implies the inevitability of change without any guarantee that the government or wise politician can wrangle in or direct public opinion, Never expecting to find the perfect and unchanging regime, Rousseau is keenly aware of the difficulties arising from new events (whether orchestrated by the government, the result of social institutions, or the product of chance), and expects the eventual moral deterioration of society. He contends that there are few moments in a regime's lifespan that allow for reform and refers to those moments as "violent periods," "revolutions," and "civil wars." Furthermore, he argues that these periods occur only once in a society, are exceptional, and, if they occur too late in the regime's lifespan, can destroy the regime instead of destroying it (*SC*, 194-195).

Institutions and the actions of the legislator during the people's infancy make possible the formation and eventual solidification of a people's character. Rousseau refers to the people's infancy or "youth," but does not clearly define the term. The period of time constituting a

people's youth varies and may be early on in their coming together or may take a much longer period of time. Rousseau compares the epochs of a people's lifespan with the life of a person, arguing that there comes a period in both where they are intractable. Whether a people requires forming or reforming of their regime, such changes do not occur all at once. This is apparent from the necessary burdens or "yoke" the legislator places upon the people or even the gradual progression required to transform a nation (*Poland*, 223ff.). As he states in the *Letter to M.*

d'Alembert:

[i]f the government can do much in morals, it is only in its primitive institution; when once it has determined them, not only does it no longer have the power to change them without itself changing, it has great difficulty in maintaining them against the inevitable accidents which attack them and the natural inclination which corrupts them (74).

The government, the force of the body politic that "takes action in accordance with the directives of the general will," appears as an active institution meant to direct the public in moral concerns as if wholly separate from the sovereign and possibly operating outside the general will (*SC*, 205). The implication of Rousseau's phrasing suggests the government's profound role in determining morals, including the necessity of this role at the regime's founding. Afterwards, any desire the government may have to alter morals necessitates change. This change, however, is on a fundamental level because it requires the institutions of government to change. Rousseau warns of the additional hurdles stemming from political and environmental accident, and natural inclination, the preference for oneself originating in *amour de soi*. Given the importance of the general will and Rousseau's insistence that government execute the law, the power and limits of the government, particularly with regard to the regime's founding, reemerge as possible caveats to Rousseau's statement on the difficulty of directing morals in the *Letter to M. d'Alembert*.⁵⁵

⁵⁵ see *Political Economy*, 9; and *SC* 3.1, 205ff.

As stated in the *Social Contract*, the government is a body within the state “distinct from both the people and the sovereign, and intermediate between them” and “exists only by virtue of the sovereign. Thus, the prince’s dominant will is not—or should not be—anything but the general will or the law” (*SC*, 209). Rousseau somewhat cryptic definition rests on his unique understanding of the state, the sovereign, and the people. He offers a brief synopsis of terms in Book I.6 of the *Social Contract*, each one a component of the “moral and collective body” forming a “public person” known by the term “republic.” According to Rousseau’s terminology, a republic is a “state” when it is not legislating and “sovereign” when it is legislating. The “people” are the members of a republic. The people are “citizens” when participating in the sovereign and legislating, and “subjects” when they are not legislating but subject to the laws. Rousseau makes an interesting distinction when he separates the people and the sovereign and places the government as an intermediary between them. The government is the exercise of executive power, but it also acts as a safeguard for the general will by holding the citizens as sovereign to the general will. This follows from the people’s inability to always understand what is best for itself (*SC*, 182ff.) Williams argues a similar point when stating that the people require an intermediary to hold them to the general will because “they are incapable of doing it on their own, due to temporary weakness or epistemic failures” (2014, 109). Ultimately, the government is the legitimate insofar as it follows the general will which includes upholding the general will in light of the people’s tendency to err. Knowing the real possibility of governmental usurpation of power, whether divided and usurped by individual members or collectively,⁵⁶ Rousseau appears to constrain government to act within the scope of the general will including the

⁵⁶ Rousseau argues that the state dissolves in two ways. “First, when the prince no longer administers the state in accordance with the laws and usurps sovereign power.” Secondly, the “same situation also comes about when the members of government separately usurp the power they should exercise only as a body,” creating “so to speak, as many princes as magistrates” and similarly dividing the state (*SC*, 230).

indispensable role of directing the people back toward it. If the government must act in accordance with the general will to remain legitimate, however, the ability of the government to influence morals is simultaneously implied and put into doubt. Williams asks us to ruminate on another possibility left unanswered at the outset of Book III of the *Social Contract*. He postulates that:

if the people issue laws contrary to the general will, one might imagine that the executive is free not to enforce these laws. In fact, a reader might assume that the executive is obligated to ignore those commands. This is because the people are not sovereign in issuing commands serving the private will above the general will. So there is a normative dimension in the executive branch, or an element of judgment (2014, 109).

William's inquiry is akin to Melzer's (1990) discussion of the active executive and deserves particular consideration when accounting for the political reach of the statesman and the ability of a political individual or collective to influence the people. This is especially true regarding the people's inability to soundly judge for themselves in all matters. For different reasons, Williams and Melzer point to the importance of statesmanship and whether there is space for the statesman to supplement the people's judgment with their own. Furthermore, it points to whether statesmen and, therefore, the executive are able to legitimately influence or even legitimately deceive the public.

Where Williams is open to this possibility, Melzer's investigation seeks to confirm William's query. Melzer reconciles the apparent contradiction in Rousseau's thought by arguing that "so long as the superior men—the legislator and the executive—never disobey or usurp the real right of sovereignty, which belongs inalienably to the people," they are able to "mold the people through informal, indirect, or secret means" (1990, 240). Melzer's use of the term "executive" here makes sense in reference to the statesman or true politicians as the executive and should not be conflated with the executive generally speaking. Not all magistrates are

statesmen and the appearance of wise politicians in government is rare. Furthermore, common magistrates who attempt to persuade the public through indirect or secret means can be dangerous with regard to maintaining the general will or political stability. This is not to suggest that either Melzer or Williams makes the mistake of conflating the executive or government with the unique character of the statesman. It is indiscernible from the question Williams posits, however, whether he would circumscribe his query on the executive to focus only on statesmen.

We can use the evidence Williams provides in combination with Melzer's account of the statesman to discern the limits of the executive. Among other references, Williams introduces his idea of the executive's responsibility to ignore law that contradicts the general will by using the same quote on the "prince's dominant will" cited above. When doing so, Williams prematurely ends Rousseau's statement, leaving off the phrase "or law."⁵⁷ On the whole, dropping the phrase "or law" does little to alter Rousseau's overall intent in the passage, but leads to a subsequent reflection on the difference between the statesman and the executive (or prince) broadly speaking. Also, it puts into question whether we should understand Rousseau's claim in relation to well-founded and ill-founded regimes. In the legitimate regime, the law should be an expression of the general will,⁵⁸ or, at least, must be in accordance with the general will. As a citizen of the regime, any given magistrate would have access to the general will. Much like the people, however, the magistrate can err in understanding or applying it. Magistrates may mistake their particular will or the will of all with the general will. This would be a particular iteration of Rousseau's concern for the dissolution of the regime by the executive's usurpation of power. A magistrate may listen to their particular interest instead of the common interest, acting as a man

⁵⁷ The original excerpt from the Social Contract reads: "*Ainsi la volonté dominante du prince n'est ou ne doit être que la volonté générale ou la loi...*" (SC, 3.1; Grimsley 1972, 158).

⁵⁸ Williams is certainly aware of this point, stating "When the general will is legislated, it is 'law.'" (2014, 88ff.).

instead of a citizen (SC 1.7). Written law provides a guide for the magistrate and, if the general will is the source of the laws, reacquaints them with the general will. Such a caveat directs us to the second question inherent in the executive's conformity to the general will: Is the regime well-founded? Furthermore, are the people sovereign and the law founded on the general will? If the answer to these questions is negative, we cannot expect and should be troubled by a magistrate's attempt, borrowing Melzer's phrase, to make "active" the executive. The executive cannot always guide morals and, even when it can, there is likely to be only a small number of people who are capable of doing so without usurping sovereign authority or ruling outside of the general will.

Returning to the *Letter to M. d'Alembert*, Rousseau's claim regarding the waning power of government with regard to morality follows immediately after his concern for the effect a theater will have on Genevan morals. Of note, he warns that it is only in its infancy that government can "do much," possibly implying that government can still influence morals even after its primitive institution. Given his praise for ancient regimes, the importance of a regime's founding in determining morals, and his warning of inevitable regime decline, Rousseau's statement may apply to any government newly instituted. The ability of the government to influence public morals or even execute law well depends on the regime's institutions and the character of the people. Are the people able to suffer the burden of demanding laws? Rousseau combines these questions when describing the difficulty of restructuring the government of Poland:

Unless one has thorough knowledge of the Nation for which one is laboring, the work one does for it, however excellent it might be in itself, will always err in application, and even more so when it is a question of a nation already completely instituted whose tastes, morals, prejudices and vices have taken root too much to be easily stifled by new seeds (*Poland*, 169).

Long-developed morals and prejudices will stifle the introduction of new institutions and laws, stymieing attempts made through legislation or by the government to transform public morals. Applying Rousseau's warning, there is a point in a people's history where government and law can do little or nothing to direct public opinion. This moment occurs in every well-instituted regime and, in part, determines the regime's longevity; or, to put it in a negative sense, the rate of regime decline. A poorly-founded regime with institutions and laws shaped only over time, by accident, or without future consideration, having no distinguishable primitive institution or a dysfunctional one, are unlikely to ever have a period where the government can profitably form (or reform) morals.

Determining which regimes are capable, whether in their infancy or during rare moments,⁵⁹ of cultivating specific morals requires examining both the founding and its legislator alongside the character of the people for which new institutions are formed. Rousseau asks the question "What people, then, is suited for legislation? One that, while finding itself already bound by some union of origin, interest, convention, has not yet borne the true yoke of laws" (SC, 199). A people must have come together and begun solidifying a relationship among their members. What draws a people together both maintains them as a group and distinguishes them from other peoples. The important and unifying characteristic that brings the people together acts as the foundation for lawgiving. To this list Rousseau adds a number of other conditions including: the people must not have deep-rooted customs or superstitions; the people must be able to resist invaders either alone or with the help of neighboring people(s); the people are small enough that they can know each other and no single member takes on more than they can handle;

⁵⁹ On the longevity of a regime or regime change due to extrinsic accident/extrinsic force see Machiavelli's *Discourses* 3.1.

and, the people are self-sufficient both in terms of wealth and independence. Additionally, the people must combine “the stability of an ancient people [and] the docility of a new people” (*SC*, 199). The combination of stability and newness appears paradoxical, but points to the importance of the people’s unity and shared identity in relation to the of fixedness their laws and customs. The people must be stable enough to accept new laws without the current customs or laws compelling them to resist change. To satisfy everything on Rousseau’s list and find a people suited for legislation is near impossible. While Rousseau states as much in the *Social Contract*, he offers more practical political advice for regimes seeking new legislation in other works like *Poland* and *Corsica*. While the people most suited for lawgiving are rare, we can still compare peoples and, therefore, regimes against these requirements. Rousseau provides evidence in *Poland* and *Corsica* to support the idea that peoples or regimes need not be perfect for lawgiving. The Corsicans and Poles do not meet all of Rousseau’s criteria laid out in the *Social Contract*. Unless Rousseau’s reply to these nations is insincere, his praise for and efforts to help these nations are evidence for lawgiving under imperfect conditions. Williams (2014, 98ff.) introduces such a possibility in relation to Rousseau’s recommendations for Poland. While he does not confirm Rousseau’s position in the matter, he points to Rousseau’s awareness of Poland’s problems and his advice for working around these problems through legislation. Williams’ examples include Poland employing a federal system to deal with regime size in conjunction with developing a strong military and leveraging the Pole’s patriotism to repel invaders. Coupled with the extraordinary characteristics of the legislator Rousseau lists in the *Social Contract*, one could argue that Rousseau’s endeavor is either entirely impossible or will always fail. If we return to the opening of the *Social Contract*, however, we may gain better perspective on Rousseau’s endeavor and what we can expect from what he refers to as an

“inquiry.” Rousseau begins the work by introducing his wish to inquire into “whether there can be any legitimate and reliable rule...taking men as they are and laws as they can be” (*SC*, 163). Rousseau’s professed inquiry is a concern for rule without misrepresenting human beings or the limits of lawmaking. His endeavor is neither wholly practical nor is it an imagined republic where people behave contrary to their nature. Rousseau explains his pursuit as if it is within these boundaries. When we look to the legislator or the regime, Rousseau may present them to us in their optimal form, but he continually leaves his reader with examples and comparisons that do not match the highest political goal. Throughout the *Social Contract*, *Government of Poland*, and *Plan for Corsica*, we see Rousseau grapple with practical applications or practical concerns. Ultimately, I argue that, the legislator, conditions necessary for lawgiving, or any other seemingly insurmountable hurdle as objects necessary for legitimate and reliable rule. In his inquiry, he considers human beings as they are and does not introduce fantastical laws. Maintaining the reality of human beings and law, he introduces other figures like the legislator or the ideal conditions for a people or regime in their ideal forms because only under these conditions can there be legitimate and reliable rule. Coming closer to the ideal remains the goal. We find additional support in *Political Economy* where Rousseau writes that while “it is good to know how to use men as they are, it is much better still to make them what one needs them to be” (12-13). The sociability and perfectibility of human beings implies their mutability. Part of Rousseau’s teaching in the *Social Contract* is that institutions, statesmen, and the legislator can shape habits and reinforce certain behavior and beliefs so that the people appropriate and love them as their own. Indeed, they become and are the people’s own. In the end, Rousseau’s practical application of his political philosophy in Geneva, Corsica, or Poland, speaks to something true in people as natural, social, and political beings. While none of these regimes

possessed the necessary founding or components for legitimate and reliable rule, Rousseau still argues for their possible reform or, in the case of Geneva, seeks to safeguard their morals and character. The ideal form of government and its foundations are benchmarks. While Rousseau is doubtful that any future regime will come close to the ideal, he does not yield from his position that even approximating the ideal is better for human beings than the current alternatives.

Considering the limits of Rousseau's regime building in the *Social Contract* in relation to the usefulness of his approach, a similar case can be made for Rousseau's discussion of the tutor and pupil in *Emile*. Rousseau discusses the tension between nature and convention and introduces two forms of instruction; "the one, public and common; the other, individual and domestic" (*Emile*, 40). Rejecting public education because we no longer create citizens and the education of society because it creates selfish and deceptive human beings, Rousseau turns to domestic education or the "education of nature" asking what "will a man raised uniquely for himself become for others?" and "[t]o form this rare man, what do we have to do?" (*Emile*, 41). Emile's education seeks to raise a child whose natural inclinations and social relations will not develop in him a dual and contradictory character. Emile's education avoids creating a psychological tension within the child that leads to their misery. While Rousseau's goal seems both manageable and cumbersome at first sight, the carefully curated conversations and moments necessary for Emile's education are nigh impossible to properly develop and employ. Furthermore, the figure of the tutor, the one who must guide the pupil through these orchestrations, is rare in skill, form, intelligence (*Emile*, 51ff.). Rousseau often points to the fragility of Emile's education. He encapsulates how easily events poorly handled or outside of the tutor's control lead to a complete undermining of the whole project when he writes: "All is lost" (*Emile*, 68, 179). Rousseau's inquiry in *Emile* is, again, a theoretical one, but we are not to

abandon his conclusions because we cannot raise an Emile for ourselves. He claims that “[o]ur true study is that of the human condition” (*Emile*, 42).⁶⁰ *Emile* is a collection of philosophical ruminations on human beings, nature, society, and the possibility for virtue and happiness. Emile’s education traces the development of human beings and considers their place in society in light of their natural inclinations.⁶¹ In this way, the text offers a philosophical inquiry into and subsequent examination of human beings on the individual level where the *Social Contract* provides a similar inquiry on the political level. Both texts seek to understand the human condition and resolve the tension between what is natural in human beings and what is social. Gauthier draws a similar conclusion when he argues that the importance of examining Rousseau is found in the philosopher’s reflections on “the relationship between the individual and the community” (2006, 4). In addition, Gauthier also notes the peculiar and often unbelievable characteristics of *Emile*’s tutor, the *Social Contract*’s legislator, and *Julie*’s Wolmar when he calls them “redemptive artificers...immune themselves from denaturing” who we could think of as “gods, for they are represented as having the power to arrest and even to reverse the process of degeneration.” Ultimately, he concludes that these various models are “not human insofar as their power and their existence is not explained within the framework of Rousseau’s history of humankind” (2006, 31-32). Gauthier’s interpretation of these characters asks us to reflect on the

⁶⁰ Bloom elaborates upon this point and urges the reader to consider Rousseau’s *Emile* in light of its philosophical teaching on human beings and the human condition, not on employing the education outlined for Emile: “Emile seems ridiculous because it proposes a system of education which is manifestly impossible for most men and quasi-impossible for any man. But this is to misunderstand it. It is not an education manual, anymore than Plato’s *Republic* is advice to rulers. Each adopts a convention—the founding of a city or the rearing of a boy—in order to survey the entire human condition. They are books for philosophers and are meant to influence practice only in the sense that those who read them well cannot help but change their general perspectives” (1978, 152).

⁶¹ We find another incomplete but compelling comparison between Rousseau’s discussion of the people able to receive legislation in the *Social Contract* and the goals of education in *Emile*. In both cases, Rousseau reflects on the difficulties associated with combining what is natural with what is social and political in human beings. “He who in the civil order wants to preserve the primacy of the sentiments of nature does not know what he wants” (*Emile*, 40). And “what makes success so rare is the impossibility of finding the simplicity of nature joined with the needs of society” (*SC*, 199).

plausibility of Rousseau's answers for human beings in society. Although Gauthier concludes that Rousseau solutions fail to accomplish their intended goal (something of which Rousseau was himself aware), we need not consider the *Social Contract* and *Emile* as simply failed attempts. Instead, when Rousseau asks the aforementioned questions outlining his own inquiry at the beginning of each text, we can see what is necessary for the individual or community to realize these goals and where we will inevitably fall short. Furthermore, the difficulty to ever finding Rousseau's ideal tutor or legislator does not detract from the importance of the philosophical lessons these models can provide.

It is with the practical application of law and censorship that we turn to Rousseau's examples of Geneva, Corsica and, primarily Poland. In spite of the god-like form of the legislator, Rousseau claims that there have been exceptional legislators who transformed peoples with new laws and institutions. A legislator does not need to ascend from the heavens to have a profound influence. Regardless of his extraordinary depictions, some peoples receive better laws and institutions. That peoples have laws is not in question. but what constitutes the "true yoke" of the laws is. The answer seems to reside in his laudatory definition of law found in *Political Economy*. Law is the:

means found to subjugate men in order to make them free...to use the goods, the labor and even the life of all its members in the service of the state, without compelling or consulting them, to shackle their will by their own agreement...to have their consent prevail over their refusal, and to force them to publish themselves when they do what they did not want (*Economy*, 10).

The "yoke" of the law is that burden people hoist upon themselves, connecting their *amour de soi*, the sentiment of their own well-being, to the public good. In regimes where law rules over everyone equally, the true yoke of the laws can transform the individual into the citizen.

Rousseau is clear that law should always command and never individuals. While the laws may

be demand much of the citizen-to-be, Rousseau contends that their burden is transformative and freeing. Conversely, the burden of a particular will in the form of a ruler or government leads to servitude and the slavishness in the people. The yoke of the laws is the force of law, acceptable because it makes possible an equality and freedom. The force of government, however, is the force of a particular will and is by its nature servitude because the people cannot be free under a particular will. The following inquiry examines Rousseau claims about the freeing aspects of lawgiving and applies them to the regimes he saw as exceptions to the poor and corrupt rule of Europe. What freedom ultimately requires, however, is the active participation of all members of the regime. To guide people to the regime requires a public education that is defined by what it excludes in addition to what it includes. Founding is only the beginning. Maintaining a regime requires the active participation of the citizenry, but human beings require the guidance of the laws, customs, institutions, leaders, and one another. Public education necessitates censorship that manifests in two primary ways. First, what an actual public education includes and excludes. The healthy regime must resist the corrupting effects of outside teachings that lead the people away from their customs and duties. This requires a curated education attentive to what will bring the people together and what will lead them astray. Second, the people maintain the regime through public opinion and social censorship. The people come together politically or socially in the form of games and festivals, and, as a result, reinforce the regime's unique identity. Social censorship appears in every regime, but groups often focus on censorship that supports a particular will. Social censorship as Rousseau envisions it directs the people's attention toward the regime and their fellow citizens, and, as a result, reinvigorates the general will. Rousseau's recommendations for Poland, Geneva, and Corsica contain practical advice for each regime that focuses on both what to change and what to maintain. While the following discussion focuses

mainly on Poland, the advice Rousseau gives to each nation contains some aspect of censorship that is necessary to repel corruption and protect freedom.

On the Possibility of Reforming Poland and Corsica

Rousseau favorably mentions a few regimes, indicates their unique character, claims that they are not so corrupted that they cannot be protected or reformed. Along with Geneva for which he holds a qualified praise, Rousseau identifies Corsica and Poland as two regimes that still may profitably reform their regime. Corsica, a country in Europe “still capable of receiving legislation,” deserves to have “some wise man teach it how to preserve” its freedom (*SC*, 199). In the same passage, Rousseau notes that Corsica actually recovered its freedom and was able to defend it, indicating a possible period of reform. Considering the *Social Contract*’s publication in 1762, His comment is likely in relation to the Corsicans fighting for their freedom, forcing the Genoese outward to the coast, and establishing a Corsican republic in 1755. France would eventually purchase the Genoese rights to Corsica and invade the island by 1769. Rousseau wrote both the *Social Contract* and the *Plan for a Constitution for Corsica* (1764) in the period between Corsica’s liberation from Genoa and the invasion of France. History would prove Rousseau wrong about the possibility of Corsica astounding Europe with its government and struggle for freedom. According to Rousseau’s list of conditions for governments to receive legislation, however, Corsica’s struggle for freedom and desire to remain free are a necessary though insufficient component. While Corsica fell to its more powerful neighbors, they kept their “vigor,” a vitality that accompanies the desire for freedom, for a brief period of time. Similarly, while “all the States of Europe [rush] to their ruin,” Poland “still shows all the fire of youth; and it dares to ask for government and laws, as if it had just been born” (*Poland*, 170).⁶² Rousseau’s

⁶² As Szkudlarek notes, the regime to which Rousseau gives advice is not simply Poland, but “a commonwealth of

statement comes with a caveat and a forewarning. Poland's desire for freedom will not last if the people, troubled by past and current struggles, seek tranquility. Once they desire political calm over freedom, they will succumb to their neighbors. In Poland's case, Russia already threatens their chance at self-governance and political freedom. Rousseau refers to the "vigor" of nations because maintaining political freedom requires constant struggle and attention. For freedom to last, it has to always be the people's first attention and desire for their regime. Rousseau's claim is a universal one and applies to Corsica as well and Poland. These regimes were at a point in their history where legislation and reform could protect and cultivate a love of freedom and attachment to the regime, resulting in a kind of refounding that harnesses the techniques of the ancients in order to produce civic-spiritedness. As much as Rousseau praises these regimes, he also warns of the fragility of their condition and the possibility of being overtaken regardless of their willingness to fight for their freedom.

Summarized at the beginning of his plan for Corsica, Rousseau points to the requisite character of the people and what makes founding or, in this case, refounding a regime possible. He contends there "are people who, however, one sets about it, cannot be well governed because the law lacks any hold over them and because a government without law cannot be a good government" (*Corsica*, 123). Law having a hold over the people connects to Rousseau's imagery of the "yoke" of the laws and a people's ability to bear that yoke. For the people to withstand the burden of the laws as they are shaped and profited by them, a love of freedom must invigorate them. Comparing the Poles to other European regimes he considers to be in decline, Rousseau remarks how Poland "is in irons, and discusses the means to preserve itself in freedom!," and

Poland and Lithuania and its official name was The Republic of The Two Nations (*Rzeczpospolita Obojga Narodów*)" (2005, 20).

writes directly to them when he states “You love freedom, you are worthy of it...” (*Poland*, 170). Compared to the description of Corsica in the *Social Contract*, Poland is a step behind Corsica with each nation seeking freedom or the preservation thereof.

In Rousseau’s account of freedom and the necessary disposition of the people to acquire it, he compares what is natural to human beings against the effects of human beings moving into societies. According to Rousseau, contemporary politicians and philosophers mistake the natural inclinations of human beings. Where philosophers fail to properly conceptualize the state of nature, politicians make a similar error when it comes to the love of freedom. Freedom is a natural condition and an essential component to our humanity. Servitude and dependence arise only after the development of social relations, creating needs fulfilled only through mutual dependence where all needs were once satisfied by natural man alone (*SD*, 89). Politicians, however:

attribute a natural inclination to servitude to men due to the patience with which those they have before their eyes bear theirs, without considering that it is the same for freedom as for innocence and virtue, whose value is felt only as long as one enjoys them oneself and the taste for which is lost as soon as they have been lost (*SD*, 106).

Politicians conflate the social condition of human beings with their natural condition and assume that the people were always servile. Instead, Rousseau argues, the people take on submissive characteristics because they have lost their tenacity for freedom through the slow accumulation of social needs absent in the state of nature. Rousseau’s insight into the politician takes on a more malicious and self-serving form in the *First Discourse* when he describes the arts and sciences and those rulers who leverage them to their advantage, stifling in people the “feeling of that original freedom for which they seemed to have been born, make them love their slavery and fashion them into what are called civilized peoples” (*FD*, 12). These questions have particular weight with respect to the Enlightenment and the progress of the arts and sciences, an endeavor

directed at liberating the intellect in order to liberate the individual. Part of the answer is found in a return to the demanding character of freedom. Rousseau warns Poland against succumbing to the desire for comfort or “tranquility” (*Poland*, 170), contending that there is peace under despotism, because it is “[enslaved peoples]” who “do nothing but incessantly boast of the tranquility they enjoy in their chains, and that *they call the most miserable servitude peace*” (*SD*, 106). Demanding constant attention to and engagement with one’s regime, including the necessity of defending the regime against threats external, a people must be willing to cast off all unnecessary pleasures and comforts to retain their freedom. The introduction of the arts, sciences, and any other practice introduced with luxury threatens morals, civic virtue and the adherence of the citizen to their regime (*FD*, 14, 24ff.; *SD*, 43ff.). Rousseau contends that the “taste for letters, philosophy, and the fine arts softens bodies and souls” making human beings “equally incapable of withstanding pain and the passions” (*Narcissus*, 100-101). The aversion to pain coupled with the inability to resist one’s passions undermines both the desire for freedom and the ability to attain or keep it. Once human beings are accustomed to their social condition, they have difficulty leaving it.

The people still able to receive legislation are those who genuinely desire their freedom and are willing to risk comforts and their lives to keep it. In this sense, one must look for a people who have yet to experience such despotism that their love of freedom, an inclination natural to human beings, no longer motivates their actions. A people’s love of freedom becomes an essential component because, as Rousseau warns Poland not long after praising its worthiness for freedom, “[r]epose and freedom appear incompatible to me; it is necessary to choose” (*Poland*, 170). This admonition echoes Rousseau’s comparison of the barbarous man as the untamed horse who would not enslave himself to the laws and institutions that enchain civilized

man, preferring the “most turbulent freedom to a tranquil subjection” (*SD*, 106). The love of freedom makes possible Poland’s liberation from its servitude, a servitude similar to that of those peoples for whom Moses, Lycurgus, and Numa gave legislation. Rousseau describes the Jews as a “wandering and servile troop,” the Spartans as “a people degraded by servitude and by the vices that are its effect,” and the Romans under Romulus as “brigands whom one setback could have dispersed” (*Poland*, 172).⁶³ Although he does not depict the early Romans as slaves, the people Romulus assembles are, in part, slaves and those born of the lower classes.⁶⁴ While Rousseau is adamant that he is presenting those peoples who were truly transformed by the Legislator, the question remains: How can a people who are slavish or began as brigands become the model of citizenship and freedom? More specifically, is there not a better assemblage of human beings with which to form a republic capable of bearing citizens, instilling civic virtue, and fostering love of the fatherland?

Combining Rousseau’s concern with a regime’s primitive institution and his praise for Poland’s ability to “liv[e] and preserv[e] itself in vigor” emphasizes the important role political youth plays in the health of a regime (*Poland*, 170). His discussion of Poland’s vigor echoes a similar claim he makes regarding Corsica. “The Corsican people is in the fortunate condition that makes a good foundation possible...Full of vigor and health it can devote itself to the government that keeps it vigorous and healthy” (*Corsica*, 123). In both cases, Rousseau’s use of “vigor” describes a type of energy and character the people hold in relation to politics,

⁶³ Smith (2013) argues that the situation in which the Poles find themselves is most similar to that of the Jews. While quite dissimilar from Sparta and Rome, Poland differs from the people of Moses only by degree. “If these descriptions are dissimilar it is because Poland...has not yet quite attained the latter’s state of misfortune, toward which Rousseau knows it is inevitably headed. But such misfortune claims Rousseau has restored the ‘fire of youth’ in Polish souls...” (437). While overstated, Smith’s comparison accentuates a key aspect of Rousseau’s advice for Poland—the likelihood of falling under Russian subjugation. For the Poles to be free, they must trade the despotism of tranquility for the turbulence of freedom.

⁶⁴ See Livy, *The History of Rome*, 1.8.

particularly with respect to freedom. The vigor of Corsica and Poland is the desire of the people to remain free, actively shaking off domination by foreign entities and seeking self-rule. Poland and Corsica remain vigorous because they seek government and laws, and maintain a willingness to sacrifice ease and tranquility in return for freedom. The people must couple their desire for law to rule with a dedication to resisting tyranny. Rousseau expresses this principle when marveling at Poland stating that the country “is in irons, and discusses the means to preserve itself in freedom,” and that it “feels in itself that force which that of tyranny cannot subjugate” (*Poland*, 170). To remain free from political oppression, both external and internal, requires the constant attention of the government and its citizens. Given Rousseau’s warning to Poland about the oppression of political tranquility, Poland (and Corsica) would lose its “vigor” should it choose the ease of peace over the inexhaustible demands of freedom.⁶⁵ A people maintains its vigor when the “sweetness of freedom” means more to them than tranquility because repose is only possible under despotism (*Poland*, 170; see also *SC*, 168). Political freedom is, in part, an extension of individual freedom. In the chapter of the *Social Contract* titled “On the Civil State,” Rousseau claims that with a civil state we have “moral freedom, which alone makes man truly master of himself. For the impulsion of appetite alone is slavery, and obedience of the law one has prescribed to oneself is freedom” (*SC*, 176). A regime’s vigor is connected to the people’s desire for government and law because self-legislating is freedom. Obedience to one’s own laws is the political manifestation of willing and doing so collectively affords political freedom. For

⁶⁵ We have seen as early as the *First Discourse* an account of how despotism can stifle the desire for freedom: “the sciences, the letters, and the arts—less despotical and perhaps more powerful...stifle in [men] the feeling of that original freedom for which they seemed to have been born, make them love their slavery and fashion them into what are called civilized people” (12). In this passage, the sciences and arts are compared to government and laws. They are less despotical because they are pleasurable, not requiring force in order to cajole us into relinquishing freedom. Here, again, we see pleasure as a driving force in shaping behavior. Rousseau’s call for civic virtue in support of political freedom has been a consistent theme since his earliest works.

Rousseau, once this taste for freedom is lost, the people are unlikely to reacquire it (*SC*, 2.8).

Just as Poland's and Corsica's political histories are different, so are Rousseau's description of their current political situations. While Rousseau praises both countries for their vigor, he only describes Corsica as being in "health." Rousseau's description of Poland positions it somewhere between its neighboring states and complete political dissolution. Calling Poland a "singular [spectacle]" after inquiring how a "[s]tate so bizarrely constituted could have continued to exist for such a long time," Rousseau calls the nation a:

large body formed of a large number of dead limbs, and of a small number of disunited limbs... which can make no resistance to anyone who wishes to encroach on it, which falls into dissolution five or six times each century, which falls into paralysis with every effort it wants to make, with every need it wants to provide for... (*Poland*, 169ff.)

Constantly threatened with dissolution yet still desiring freedom and new governance, Poland retains its vigor but still requires a period of political convalescence. Rousseau describes the country as oppressed and vulnerable to its neighbors, shaken by anarchy. Given Poland's political turbulence, regime health is not a necessary requirement. Rousseau juxtaposes stable monarchies and republics against Poland and deems them to be in decline, lacking the desire for freedom found in Poland. Rousseau's warning to Poland against succumbing to the pleasures of tranquility which tend to beautify despotism is significant because, should Poland turn toward the pursuits of other European countries, they will forfeit the opportunity to form citizens and a free nation. Compounding the problem, Rousseau argues that the regime must remain distinct from its neighbors in order to keep the people focused on civic duty by giving them something unique to both focus their attention on and love (*Poland*, 172 and 174ff.). Placing Rousseau's statement in the context of Russia, Smith argues that "[u]nless the Poles continue to believe their liberty is threatened, they will begin to believe they can enjoy the luxury of possessing liberty; and then Poland will start down the familiar path of bourgeois corruption, culminating in

despotism (2013, 409). Presenting Poland with one of two possible paths, tranquility or freedom, Rousseau urges them toward the freedom made possible by the convulsions in their political system. These two components, political upheaval and the yearning for freedom, afford Poland's reformation.

The perfect conditions for refounding the regime, however, appear neither possible nor necessary. For both Poland and Corsica, Rousseau praises certain characteristics of the people while concurrently rejecting others. Rousseau suggests that both nations must adhere to those practices and customs uniquely their own (*Poland*, 170; *Corsica*, 125). There even appears some level of corruption that each nation can expunge from their institutions and character. Rousseau contends that the "Corsicans have not yet taken on the vices of other nations, but they have already taken on their prejudices; it is these prejudices that must be combated and destroyed in order to form a good establishment" (*Corsica*, 124). Similarly, he tells Poland that it is "necessary to maintain, or reestablish old practices, and to introduce suitable ones, which are specific to the Poles" (*Poland*, 176). In both instances, Rousseau is urging not a particular set of customs and laws, but a rejection of those uncharacteristic of Poland and Corsica respectively. Corsica and Poland must eradicate foreign prejudices without harming what makes each nation unique, ultimately making possible the people's attachment to their respective regime. In this way, Corsica and Poland have not reached the point of other nations whose "tastes, morals, prejudices, and vices" are too deeply engrained to be removed (*Poland*, 169). Furthermore, in the case of Corsica, it appears that refounding and reeducating are possible even when one of these characteristics (prejudices) has already solidified within the regime.

Since there need not be a perfect condition under which regime founding is to occur, we can more readily compare Poland and Corsica to Rousseau's ancient examples. Furthermore, the

concern with matters of servitude and the slavishness of soul that it creates may be reversible if the servitude is a kind of physical bondage instead of a moral one. Here, I use the term “moral” in a way similar to Rousseau’s use of moral near the beginning of the *Second Discourse* (61). What is moral in that context is that which is social and connected to both politics and convention. Moral slavishness would include the servitude of the mind that arises under the regime of luxury, stifling the people’s love of freedom. Physical bondage and moral slavishness, while relating to their particular forms of slavery (of the body and of the mind), deal with freedom. Physical bondage demands that a people be freed from their servitude, but burdened with new laws, rituals, and customs. Slavery of the mind, however, may become uniquely entrenched when the people accept their political servitude, finding pleasurable those distinct practices that mask despotism. Rousseau makes a similar point when discussing the possibility of people being slaves by nature: “Slaves lose everything in their chains, even the desire to leave them...Force made the first slaves, their cowardice perpetuated them” (*SC*, 166). Clearly rejecting the idea of a natural slave, Rousseau instead discusses the effect slavery has on the individual. A slave cannot exist by nature since freedom is our natural condition. Even the activity of our will that allows us to act contrary to nature’s dictates requires a freedom unique to human beings (*SD*, 71-72). Appearing only in society, the wicked institution does not act solely on the body through physical force. Physical bondage becomes inescapable as slavishness seeps into the mind, stealing the love of freedom and the desire to acquire it at any cost. In this way, the individual shares a “vigor” similar to that of a people. When this vigor or love of freedom is lost, it is not easily recovered.

Despotism is a harsh word for what many might consider stability, power, civility, and refinement. Hobbes would likely scoff at Rousseau’s use of the term and relegate it to what he

considers the common use of tyranny which “signifieth nothing more, nor lesse, than the name of Sovereignty, saving that they that use the former word, are understood to be angry with them they call Tyrants” (*Leviathan* 4.48, 486). While Hobbes uses a similar argument to differentiate between monarchy and tyranny (*Leviathan*, 2.29, 225ff.), Rousseau would classify both forms of government as despotic (though he would not entirely rule out the potential for monarchy under certain circumstances; see *SC* 3.6, and *Poland* 14, 230ff.). This distinction is particularly meaningful when considering Hobbes’ political project and the inclusion of private aims and comforts, each one drawing the public eye away from the community, and focusing their attention toward private interests.

Congruous with his formulation that lawgiving is possible only with a people who are connected by some common origin or custom, Rousseau contends that the people must have yet to move beyond the moment of maturity and into the period where prejudices, customs, vices, etc. become irreversible. Regarding Corsica, the people have some of Europe’s prejudices but are still able to receive legislation, giving credence to Rousseau’s claim that the difficulty of legislation is “less what must be established than what must be destroyed” (*SC*, 199). In Corsica as well as Poland, the people seek to cast off the dominance of their neighbors and maintain that spirit of freedom, combining the people’s willingness to contend for its freedom with the so-called “youth” of their situation. Rousseau’s extolling of Poland’s resilience to foreign dominance mirrors his explanation of similar historical events that make lawgiving possible.

There are:

periods during the lifetimes of states when revolutions have the same effect on peoples as certain crises have on individuals, when the horror of the past serves as a kind of forgetting, and when the state, set ablaze by civil wars, is so to speak reborn from its ashes and recovers the vigor of its youth as it escapes death’s clutches...But these events are rare. They are exceptions the reason for which is always found in the particular constitution of the state so excepted (*SC*, 194).

Rousseau continues by warning that these events do not happen twice with the same people, and that a people can still “free itself as long as it is merely barbarous.” Barbarity in this sense still requires social cohesion, political institutions, and customs in order for legislation to be possible, but barbarity is not sufficient on its own.

Rousseau speaks of Czar Peter “The Great” who failed to properly order Russia because he implemented reforms that imitated Western European institutions and did not recognize the proper moment in Russia’s history during which a reformation was possible. He critiques Czar Peter I’s efforts, claiming that he should have made Russia warlike instead of imitating European nations. Rousseau’s correction mirrors the ancient legislators Romulus and Lycurgus in their efforts to bind a people by burdening them with martial responsibilities and practices, making them warlike and solidifying their character as such. Even though Rousseau uses Russia as a failed attempt at reform, Russia becomes an instructive example of the period during which a nation can successfully receive legislation. Rousseau separates the “youth” of a nation from what we might deem its childhood. “For nations as for men there is a time of youth—or maturity, if you wish—that must be awaited before subjecting them to laws. But the maturity of a people is not always easy to recognize, and if one acts too soon the work is ruined” (SC, 195). While Czar Peter I misjudged Russia’s maturity, Rousseau seems to think that, at the time of his writings on each nation, Poland and Corsica are in a moment of youth; a maturity within each nation where reforms can truly civilize the Poles and Corsicans and transform them into genuine citizens. To transform Corsicans and Poles into citizens, however, requires introducing practices that cultivate an austere civic virtue and “raise souls to the pitch of ancient souls” (*Poland*, 175) That is to say, the people require institutions and customs that fortify their strength of will and resist the complacent and fearful softness that arise from social vices (*Last Reply*, 71); making the

people capable of not only bearing the burden of the laws, but to ease this burden through loving them. As Cullen notes, “Rousseau’s exemplary founding advances against minimal resistance. The people will be docile, passive, and accepting. The force of the Legislator must be sufficient to create a new identity, but not so great as to break the free spirit of the people. Presumably, if the latter experience their subjection to law as a *painful* yoke, they may become either rebellious or slavish as a consequence” (1993, 110). Since the laws make freedom possible, the people must both accept the laws and maintain the identity which binds them together, making the work of the legislator a most difficult balance of maintaining, destroying, and transforming.

On Rousseau’s Use of Ancient Examples for Poland

Writing to Poland, Rousseau describes ancient history and its effect on the modern reader, as if after reading it “one believes one has been transported into another universe and among other beings,” but “[n]evertheless, they did exist, and they were humans as we are” (*Poland*, 171). The reader is first struck by the possibility of rhetorical flourish and wonders whether Rousseau is not simply embellishing the virtue of these historical figures, transforming them into the image of virtue and beauty. Quoting heavily from Montaigne’s essay on “Cato the Younger,” Rousseau emphasizes the “task of good men” being the portrayal of “virtue as beautiful as possible” (*Last Reply*, 76). One could dismiss the thought as solely Montaigne’s with Rousseau’s attribution less as an appeal to authority or commiseration of thought than a distancing between Rousseau and his source. Rousseau’s use of Montaigne in this footnote is extensive, and, if the reader was unaware of its original source, would find it wholly consistent with the *First Discourse*. As Rousseau quotes: “I see most of the minds of my time exercising their ingenuity in dimming the glory of fine and generous ancient deeds, placing some base interpretation on them, and contriving vain occasions and causes for them” (*Last Reply*, 76). One

can still question whether Rousseau attempts to convince Poland through ancient examples by exaggerating their depiction and elevating their virtues. Congruity between Rousseau's and Montaigne's discussion on ancient virtue, however, extends beyond the excerpt Rousseau provides in his *Last Reply* with Montaigne's influence on Rousseau's thought being readily apparent in other aspects of Rousseau's critique of his contemporaries. The line in "Of Cato the Younger" immediately preceding Rousseau's quote also appears as if it could be lifted from some of Rousseau's other works: "Our judgments are still sick and follow the depravation of our morals" (206). Moral degradation and the habits and innovations that accelerate it are key to Rousseau's understanding of the modern political problem. It is our prejudices, he contends, that keep us from seeing what he and Montaigne found in the most virtuous of the ancients.

In light of modern political failures in the realm of morality, virtue, and forming true citizens, however, there is likely little harm in embellishing the virtue of the ancients; instead providing a salutary example meant to inspire Poland and other peoples with seemingly attainable models of virtue. However, separating what Rousseau thinks achievable from that which could only be meant to inspire is necessary for understanding what people are capable of achieving in political life. First, agreeing with Montaigne, Rousseau claims that the feats of virtue found among the ancients are not only real, but are attainable by human beings. These feats come in two main forms: the virtue of the ancient citizen, shared within those well-formed regimes but absent in modern ones, and those actions of ancient heroes, that source of emulation that exceeds even the virtuous citizen. Rousseau explicitly separates the hero from the citizen when discussing the virtues suited to both. "If the virtues had to be distributed to those they suit best, I would assign prudence to the Statesman, justice to the Citizen, moderation to the Philosopher. As for strength of soul, I would give it to the Hero, as he would have no reason to complain about his share"

(*Hero*, 9). This does not preclude the possibility of finding strength of soul in the citizen. Rousseau selects a virtue for each person, assigning them in such a way that he emphasizes what would be fitting for each figures' station were they to possess only a single virtue. The distinction goes beyond the citizen and the hero because, prior to his assigning of virtues, Rousseau claims that the virtuous man possesses those three virtues attributed to the Statesman, Citizen and Philosopher, while the Hero often has none of these three. "The virtuous man is just, prudent, moderate without being a Hero on that account, and too frequently the Hero is none of these things...often it is even to the scorn of these virtues that Heroism has owed its brilliance." Rousseau claims that, in the absence of these particular virtues, the Hero has strength which is "the true foundation of Heroism, it is the source or the supplement of the virtues which constitute it, and it is what makes it suitable for great things" (*Hero*, 9).⁶⁶ What makes the virtuous citizen possible, however, is their emulation of the hero, whether in the form of the legislator, a statesman, or those who sacrificed greatly for their homeland. Rousseau makes an example of Poland's Confederates of the Bar who sought freedom from Russia, and urges the construction of a monument in the name of their heroic resistance so that the Poles may remember them as heroes. He even suggests including the Confederates who might have later worked against the common cause because "such a great action ought to erase the faults of a whole life" (*Poland* 175). The importance of heroic emulation for forming civic attachments is such that the heroic figures need not be perfect examples. Their deeds, however, must have been courageous and beneficial to the regime. Rousseau's claim about the Confederates of the Bar reiterates the virtue of the hero and emphasizes the possible absence of justice, prudence and moderation in the hero. Dedication to the regime is of such profound importance to politics and citizen emulation that it

⁶⁶ see also, Kelly 1997b, 349.

subsumes other questionable acts. Rousseau's plan for Poland attempts to cultivate the Poles' strength of soul, the "unifying principle for all virtue" (Kelly 1997b, 351-352) which makes possible heroic citizenship. It is with this psychological fortitude that the people are able to bear the burden of the laws and the struggle for freedom in the face of despotism's enticing tranquility.

Ultimately, Rousseau sketches a new government for Poland that provides the foundation for political freedom. It is with the spirit of freedom that a people is able to receive legislation and through this refounding maintain their freedom. A well-founded regime contains citizens who, connected to the common good, generalize their will thereby placing themselves in a state of political freedom. Cullen summarizes the relationship between freedom and the general will as "[e]ach individual, by generalizing his will, prescribes the law to himself and obeys only himself in an act of moral freedom. As a citizen and member of the sovereign, he is free in adhering to the general will because the latter can be said to be his own" (1993, 83). It is important to note that Rousseau distinguishes between moral, political, and natural freedom. Natural freedom cannot exist in the state, but moral and political (civic) freedom can and must in order for the regime to be legitimate. Distinct from civic freedom, moral freedom, is what "alone makes man truly the master of himself. For the impulsion of appetite alone is slavery, and obedience to the law one has prescribed to oneself is freedom" (*SC*, 176). Rousseau distinguishes moral freedom from natural freedom because it requires social conventions for its introduction and development. Natural freedom can coexist with impulse and appetite because natural man has yet to develop reason, conscience, or social relations. Moral freedom is rooted in self-mastery involving the overcoming of impulse and adherence to principles one has given to themselves. In a political context, moral freedom and political freedom should align. In all of its forms, natural,

moral, and political, freedom requires willing and adhering to one's own will. The legislator, in founding the regime and establishing the laws, sets up the conditions for freedom, while the individual, as the citizen who loves the laws and adopts the general will as their own, participates in and reinforces moral and political freedom.⁶⁷ Discussing the task of the legislator, Rousseau states that there is the need, often made possible by the use of religion, to persuade people to accept the laws, “so that peoples—subject to the laws of state as to those of nature, and recognizing the same power in the formation of man as in that of the city—obey with freedom and bear the yoke of public felicity with docility” (*SC*, 193). By aligning their will with the general will and obeying those laws that bind everyone, the citizen is free because the general will and resulting laws are their own. The Legislator's use of religion embodies the difficulty of persuading the people to identify with the laws and, therefore, make possible political freedom.

Invoking the divine, Rousseau states that even good laws create contention if people do not perceive their advantage in them. People are more likely to see the “constant privations” that come from the laws instead of the common good they can bring (*SC*, 192). That the law aims to bring about the common good escapes the individual who fixates on personal losses. To them, new laws are nothing more than another form of subjugation. Rousseau contends that where prudence fails, as does the people's ability to recognize the wisdom of the laws or the lawgiver, imagery and divine authority may succeed. The claim is a curious one with regard to deception (see Williams 2014, 93ff.), but remains consistent with the idea that the average person would have a difficult time reasoning through the excellence of lawgiving and its suitability for the

⁶⁷ Cullen continues by explaining that “a[s] an instance of self-legislation, moral freedom required that law conform to a person's will or, more precisely, that each freely prefer the general to an exclusive preference of his own. Moral freedom appeared as a ‘moment’ of political freedom in which the individual gives the law to himself ‘before’ expressing it as part of the sovereign. Political freedom per se requires that the law express the will of everyone who belongs to the community” (1993, 89).

people's happiness and freedom. The "wise," as Rousseau puts it, must speak to the people in their own language (*SC*, 192). The people do not easily comprehend the complex political goals sought through lawgiving. The legislator persuades the people that the laws of the city are binding like the laws of nature because a divine will sought to create human beings and give them laws by which to live. This way, the people more readily accept the authority of the laws because it is not a single mortal dictating rules. Being subject to the authority of another person is onerous and the people will not "with docility" follow the laws. The people must willingly accept the laws in order to willingly accept the burden of the laws. What law demands of the individual, especially when the person cannot see or understand how particular laws benefit them, is a constant source of tension between the citizen and the city. legislator must persuade the people that the laws and their aim are beneficial to everyone and ordained by god(s); easing their perceived burden. The legislator's work, however, is not complete in the moment of lawgiving. As Rousseau states in more than one place and in more than one way, regimes are doomed to degenerate and fall into decline. The legislator must also create institutions and introduce customs that regularly draw the people's attention back to the regime, transforming the commandments of law into a source of political stability and public happiness.

Part of Rousseau's discussion in his work on Poland focuses on the institutions, laws and customs that attach the people to their regime; causing them to willingly adopt and obey those laws that seek the common good. In this way, love of freedom is the condition under which censorship and public education are possible and it is because of censorship and public education that the people are able to live in freedom. Mutually reinforcing, the public requires constant guidance through public education in order to be free. Additionally, ideas from which the public is shielded play a large role in the longevity of the regime. Ultimately, the citizen of a healthy

regime will view with scorn those institutions and customs that would corrupt the citizen or run counter to the general will. Rousseau considers the “morals of a nation” and “the objects of its esteem” to be inextricable (*SC*, 262). The institutions and those who guide them must leverage pleasure, one of the three sources of moral change, in educating the people. On the other hand, censorship must obstruct those pleasures that may change public opinion to the detriment of the regime.

I direct the following discussion toward ascertaining those elements of education and distinguishing them from a more distinct activity of censorship. Public education in Rousseau’s writings, however, takes on the character of censorship in terms of what is both prescribed and proscribed. Necessary for creating citizens, instilling virtue, directing the people toward and engendering love of the regime, reinforcing the general will, and bringing real force to the laws, public education “under rules prescribed by the government, and under magistrates established by the sovereign is, then, one of the fundamental maxims of popular or legitimate government” (*Economy*, 21). The kind of public education Rousseau deems fundamental is by nature censorial due to its scope and purpose. Public education emphasizes what is unique to a people including identification with the regime and community, civic duty, and virtue. Rousseau circumscribes his public education not only in its content but in its source. There are limits both to what children should be taught and who should teach them. The education he recommends for Poland follows in what Rousseau presents in the *First Discourse* and elsewhere as the ancient tradition. When compared to the positive depiction of public education in *Poland*, the *First Discourse* and Rousseau’s replies to his critics offer a more complete understanding of what a free regime should include in their public education and what they should discard. In addition to the actual instruction of youth, public education becomes censorial due to the sentiments it forms in

conjunction with *amour-propre* and the forces of esteem and public opinion. In this way, education of the youth lays the foundation for what becomes a continual public education and censorship throughout the life of the citizen. We must distinguish education as censorship, however, from those political bodies instituted with the sole or specific task of censoring like the Spartan ephorate, Rousseau's Court of Honor, and the censorial or Beneficent Committee that Rousseau introduces as part of his reform for Poland (*Poland*, 227). Censorship, whether through a political body tasked with overseeing it or by means of public education, is essential to legitimate government and the freedom of the people.

Poland as a Model for Reformation

At the behest of leaders within the Corsican and Polish governments, Rousseau offered political advice. He began but never completed a draft for a new constitution for Corsica. Although a posthumous publication, for Poland he presents a means of political reform during a time of considerable division within the government and the threat of neighboring nations. The reforms Rousseau recommends for Poland are sometimes small degrees by which the nation would move closer in form and character to the ancient regimes he praises throughout his various political works and the theoretical regime of the *Social Contract*. Rousseau maintains that Poland should not deviate from its political fundamentals, those qualities that make it unique, while detailing a gradual progression by which the government can enfranchise the serfs and the lower classes can elevate their social and political standing through their dedication to the regime. While his *Plan for a Constitution for Corsica* shares many of the recommendations and themes he presents to Poland, it does not delve into these themes to the same degree. The *Considerations on the Government of Poland*, complete and suitable for unaccompanied examination, depicts a Poland capable of escaping the political decline befalling its neighbors. Rousseau's advice for

Poland reveals the possibility of transforming a modern regime so that it better mimics an ancient one, presenting a modern regime in which censorship can operate profitably and to the benefit of both freedom and justice. Introducing Rousseau's use of censorship and civil religion in the *Social Contract* as a countervailing force to political and moral decline, Einspahr notes that while *Poland* is "ostensibly a book about constitutions," Rousseau:

spends the majority of his time explaining how the Poles might become 'a people.' This is to be accomplished through distinctively Polish habits, customs, mores, costumes, music, and rituals, not through any abstract attachment to a constitution. The latter attachment will inevitably fail if the more basic one has not been rendered sufficiently stable (2010, 460).

Gallagher makes a similar point when comparing the order in which Rousseau discusses history, ceremony, and the forming of Poland's national character against the structure of the *Social Contract*, stating:

Contrary to the *Social Contract*, where civil religion, a comparatively 'soft' concern, appears only toward the end of the work, Rousseau reverses the order in which he discusses the Polish (re-)constitution. By beginning with the role of ceremony, he structurally highlights it in a way he does not in the *Social Contract*. Only after having assessed the state of the Polish "soul" (a word he returns to repeatedly), and its suitability for constitutional reform does he move on to institutional matters (2016, 14).

In both cases, Einspahr and Gallagher touch upon something essential to Rousseau's thought on state-building, but overstate particular aspects of Rousseau's writing or intent. Both scholars overshadow a key component of Rousseau's argument by doing so. While Einspahr argues that Rousseau spends the majority of *Poland* explaining how the Poles might become a 'people,' Gallagher notes the place of character-forming in relation to Rousseau's institutional design for Poland and compares it to the *Social Contract*. Both authors emphasize the prominence of Rousseau's efforts to shape the Poles into true citizens, but downplay the reformation of the constitution. These two components are inseparable for Rousseau. Additionally, to argue that Rousseau's reflections on Poland meaningfully reverse the order of Rousseau's *Social Contract*

is a provocative point, but can overemphasize the structure of each work while downplaying the indispensable shaping of “souls” and transforming individuals into citizens that occurs in the *Social Contract*. Even Rousseau’s use of the term “constitution” requires consideration of context; in some cases, directing the reader to consider a written document or formal institutions and, in other contexts, pointing to the character of the people, including their morals, customs, and shared history. When reflecting upon his unfinished *Political Institutions*, Rousseau states that since his first inception of the work his “views had been much more extended by means of historical study of politics.” He had:

seen that everything depends radically on politics, and that, from whatever aspect one considers it, no people ever would be anything other than what it was made into by the nature of its Government; thus this great question of the best possible Government suited to forming a people that was the most virtuous, most enlightened, most wise, in sum, the best, taking this word in the most extended sense. I had believed I had seen that this question depended very closely on this other one, if it even differs from it. What is the Government which by its nature keeps itself closest to the law? From that, what is law? and a chain of questions of that importance. I saw that all this was leading me to great truths, useful to the happiness of the human race... (*Confessions*, 340).

Without speculating about what the rest of his *Political Institutions* would have included, from Rousseau’s motivations we can glean the importance of morals, institutions, law and their relation to the best possible regime. Furthermore, we see the transformative effect government has on a people. Reflected in his *Social Contract* and throughout his political works are the same concerns about the rule of law and its primacy in the formation and maintenance of the regime, including its role in sovereignty and attaching the people to the fatherland. Although Poland does not exemplify the best possible regime, that the application or conveyance of these truths could benefit humankind suggests that these principles, while not necessarily making the most virtuous and enlightened of peoples, may be of unique benefit. Rousseau’s realization that a people are the product of their government combined with his attention to whether a people are able to bear

the “yoke” of the laws, necessitates an investigation into the character of a people both at the founding, and throughout the life of the regime. Formal political structures and mechanisms are inseparable from forming the character of the people through so many means of political education. To separate political education from the nation’s laws or institutions is to establish a regime poised for rapid degeneration, stifling the general will and destroying those characteristics Rousseau deems essential to civic virtue. The regime must unify its education, law, and institutions to prevent the advancement of particular wills that arise from unique educations. Otherwise, the people may view their life and goals as separate from their regime and their fellow citizens.

An analysis of the *Government of Poland* expands upon the problematic themes found in the *Letter to M. d’Alembert*. The limits of legislation, the often-reciprocal nature of morals and law, the seemingly insurmountable yet “mobile and changing” obstacle that is public opinion, and the presence of enfeebled censorial institutions in modern regimes are all discussed to some degree in the *Government of Poland*. The difference between the *Letter to M. d’Alembert* and *Poland* is the context in which Rousseau discusses these problems. While the *Letter to M. d’Alembert* gives a better representation of modern censorial institutions and their limitations, *Poland* illustrates the political context in which censorship could successfully operate. The necessary conditions for censorship that Rousseau depicts in the *Letter to M. d’Alembert* are part of the practical advice he offers Poland. The two texts are similar, however, in Rousseau’s emphasis on public festivals and the possibility of the people identifying with each other through common games and celebrations. The festivals connect the people’s shared identity to the shared pleasures of celebration. This public activity contains another importance aspect of shared identity. In seeing and coming to know one another, the people come together as watchful

censors who reinforce public morals without the need for direct intervention of the statesman or censorial institutions.

Poland offers additional insight into the possible applications of Rousseau's theory, particularly how governments might restructure existing institutions with an aim toward expanding freedom, reducing class struggle and inequality, and instilling a national identity through emulation that allows these and other political reformations to come to fruition. It also provides a loose example of the practical application of Rousseau's *Social Contract* and his *Discourse on Political Economy*. Although he does not model his suggestions for reforming Poland strictly following the structure of either text, Rousseau references his "small treatise," *Social Contract*, on legitimate rule several times when discussing his suggestions for reformation. Additionally, his understanding of social relations and their political outcomes as explained in *Discourse on Political Economy* are put to work in his recommendations for Poland. *Poland* often mirrors Rousseau's discussion of political economy in the *Discourse on Political Economy* and *Poland* often appears as the application of the *Social Contract*. There has been both support and rejection of such an approach to Rousseau's political writings. Dana Villa compares Rousseau's *Social Contract* and *Plan for a Constitution for Corsica* to Plato's *Republic* and *Laws*, suggesting that "[i]n each case, we have a fairly abstract presentation of the ideal or best regime, followed by a more practical and down-to-earth, 'second best' formulation suited to specific circumstances that do not permit the flight of architectonic fantasies" (2017, 71).⁶⁸ Similar to Villa's claim about *Corsica*, Rousseau's recommendations for Poland are consistent with his analysis of regime corruption and the methods for focusing the people's

⁶⁸ Rousseau's practical applications of his theoretical principals remains a matter of debate among scholars (see Schaeffer 2010, 377ff.).

attention on the fatherland that he outlines throughout the *Social Contract* and *Letter to M. d'Alembert*. Denise Schaeffer argues that Rousseau does not offer Poland a mere application of his principles but an “attempted transformation of the Poles’ political imagination,” claiming that the “various compromises one notices in Poland are neither merely capitulations to existing conditions and limitations nor strictly rhetorical devices, but must be situated in the broader context of Rousseau’s education of self-interest by means of a transformed political imagination” (2010, 380-381). The people of Poland will experience this political invigoration of their imaginations during childhood and throughout their lifetime. While we cannot expect the entirety of the *Social Contract* to manifest in Poland’s institutions, Rousseau’s approach in *The Government of Poland* remains consistent with his other political writings. His recommendations reaffirm his understanding of how to transform a people and detail what this process might look like for eighteenth-century Poland.

An analysis of *Poland* is useful as both a continuation of and comparison to the themes established in the *Letter to M. d'Alembert*, particularly in regard to questions of public opinion, law, and the political institutions that shape them. Furthermore, it reveals the peculiar character of Rousseau’s “citizen” and the use of education, honor, and law necessary to form the citizen. Grappling with political issues developed as far back as the *First Discourse*, *Poland* covers a range of topics including luxury, the tension between ancient and modern institutions, and the importance of citizenship to a well-governed regime. These issues are essential to Rousseau’s analysis of the failures of censorship and the corrupting effect of the theater in Geneva. His treatment of the unique character of ancient peoples, laws, and institutions further clarifies the tension between law and public opinion discussed in *d'Alembert* and elaborates upon the characteristics necessary for establishing political institutions that can function within the

confines of public opinion while simultaneously influencing it. By the end of his considerations, Rousseau presents the reader with a general sketch of how to acclimate members of the government to his suggested reforms, educate children into citizens, and use honor and emulation for positive political ends; offering a timeline of when Poland may best take advantage of his recommendations. Ultimately, he presents the elements necessary for shaping public opinion and reorienting the people in relation to their regime. Although Rousseau claims that reason, virtue, and law cannot vanquish public opinion absent the art of changing public opinion, *Poland* suggests that he may have already come to understand this elusive art.

Rousseau's examination of legislation in the *Government of Poland* depicts law in practice that is capable of more than merely adjudicating strict right and elucidates the relationship between the "force of the laws" and the "force of the vices" established in the *Letter to M. d'Alembert* and the *Discourse on Political Economy*. The reformation of Poland's legal system affords another look at institutions in relation to honor and persuading the citizen. The interplay between law and public opinion is again brought to the fore and used to instruct Poland on the method through which the legislator may reach the "hearts" of the people (*Poland*, 171). Political institutions persist only insofar as they support civic duty and promote the people's love of the laws because "once all particular interests unite against the general interest which is no longer that of anyone, public vices have a greater force to enervate the laws than the laws have to repress vices" (*Economy*, 13-14). The ultimate motive is to align the people's particular wills with the general will. Part of Rousseau's endeavor in the *Government of Poland* is to describe how the government can make the people love the law and their duty as citizens. In this way, his recommendations for Poland offer a unique context in which we see what an institution well-constructed might look like.

Rousseau's positivity with respect to genuine reform in Poland is uncommon in his writings on modern politics. If citizens living for their regime are the only ones who are susceptible to the positive, transformative effects of censorship then modern societies may find it impossible to successfully influence public opinion or guide morals. National institutions make possible the citizen. If "[t]hese two words, *fatherland* and *citizen*, should be effaced from modern languages," modern regimes have failed to establish institutions that give them the unique character necessary for developing either one (*Emile*, 40). For a nation to foster genuine citizens, it must not be "modern" but "ancient" in its character and institutions. Rousseau considers such a regime possible, but the conditions under which it is likely to appear are rare. Poland is capable of instituting Rousseau's reforms because of its instability and unformed character. Like the regimes of Moses, Lycurgus and Numa, Poland is at a point where legislation can create political coherence. The likelihood of properly implementing Rousseau suggestions, however, still remains in doubt.

The ancient men Rousseau praises for transforming people into citizens are examples of how legislation can create social order. Moses, Lycurgus and Numa "put their efforts into objects that would appear worthy of derision to our learned people," and "had successes that would be judged impossible if they were less well attested" (*Poland*, 171). Rousseau refers to his explanation of ancient legislators and their respective governments as digressions, but they are the basis for what he advocates Poland to imitate. Rousseau's comment reminds the reader of a discouraging statement he makes a few pages earlier. There he calls Poland a "State so bizarrely constituted," depicts the country's disjointed and weak structure, and shares his surprise that such a nation could have existed for as long as it has. Poland, however, still "lives and preserves itself in vigor," making one of the "most singular spectacles that can strike a thinking being"

(*Poland*, 169-170). The praised legislators each shaped their respective regimes under similar circumstances. Moses bound together “unfortunate fugitives” lacking “arms...talents...virtues...courage” and made up “an alien band upon the face of the earth.” Lycurgus assembled a people out of those who were “already degraded by servitude and by the vices that are its effect,” while Numa turned Romulus’ “brigands” into citizens (*Poland*, 171-172). These legislators made citizens out of peoples who in some way the people of eighteenth-century Poland resemble. Poland’s transition to a new government, however, requires a gradual progression. Since it is “impossible to create new citizens at a stroke it is necessary to begin by making use of the ones who exist and to offer a new path for their ambition is the means for giving them the disposition to follow it” (*Poland*, 240). Though Poland is not yet a regime of citizens, there are some whose disposition seems to meet the requisite passion and zeal for one’s country and fellow citizens. The process of making citizens and transforming the government begins with leveraging the ambition of a few who will take up the task and provide an example of citizenship for the people to emulate. Rousseau neither mentions nor excludes the possibility of these few citizens to be statesman or true politicians, and attests to their character as citizens, not their prowess as politicians. If they follow their ambition by standing as a model of citizenship and encouraging emulation of that model, then the regime can gradually transform the people into citizens. By degrees Poland could reattach the disjointed limbs of their political body by fomenting the passionate love of country and maintain their union through the employ of honor and emulation.

The creation of citizens and the function of censorship are connected to public opinion. Public opinion ensures that each member fulfills their duty to the regime so that their fellows may favorably consider them as citizens. Censorship cannot exist where public opinion is against

it and, in turn, functions best when the people themselves participate in censoring. Rousseau's reforms for Poland tie emulation and honor to public opinion and encourage the regulation of morals and behavior under the ever-watching eye of the people. Rousseau warns, however, that public opinion is both "difficult to govern" and "very mobile and changing" (*d'Alembert*, 74). These traits make public opinion a problem for those institutions that wish to create citizens and regulate morals. Legislators or governments cannot universally apply institutions to various and often drastically different cultures. As people vary in history, climate, law, religion and customs, so too must their institutions vary. This is particularly true of institutions that seek to censor or regulate morals. As Rousseau argues in the *Letter to M. d'Alembert*, uninformed or piecemeal laws and force are ineffective means for shaping morals. His view of the constraints placed on government and its institutions contains a summation of the problem and its possible solution. Morals may be mobile and changing, but they have a force of their own. Governments would find the task of transforming morals to be nearly impossible since public opinion is already determined. Rousseau argues that the government itself needs to change and even then, it would face two challenges: "inevitable accidents" or chance and what he refers to as "natural inclination" (*d'Alembert*, 74). Natural inclinations are those impulses born out of a person's natural preference for themselves and warped by their *amour-propre* in society. While easier to control at the founding, natural inclination forces the government to change and take account of public opinion.

The reformation of Poland provides a possible answer to Rousseau's first caveat. As it is in a period of political turmoil, Poland can restructure its institutions. Each new king is "preceded by an interval in which the nation—brought back to all its rights and taking on a new vigor—cuts off the progression of abuses and usurpations, in which the legislation rallies and

takes back its first resilience” (*Poland*, 200). The instability created by Poland’s elective kingship also makes possible the country’s freedom. Rousseau’s plan for reformation does not merely alter a few of Poland’s political institutions. Rousseau writes that the changes Poland makes “might not be fundamental and do not appear extremely large” (*Poland*, 236). He makes this claim after he is done outlining his own reforms and advises that, regardless of the reforms they adopt, Poland should wait for a moment of political tranquility or risk political dissolution. Rousseau is aware the Poland does not have to undertake his plan for reformation. If they did, however, it would be difficult for Rousseau to argue that creating a regime of citizens would be a small change. That retaining Poland’s fundamental laws and avoiding extreme changes can transform the Poles into citizens gives some credence to Rousseau’s claim that reform is possible for Poland and, by extension, Corsica. The relationships the people have with the government and collectively as a nation require vast social and political change. As depicted by Rousseau, Poland’s political disarray is astounding (*Poland*, 169ff.). Even the death of the king sends the nation into political convulsions as the courts suspend action. Poland’s political incoherence, however, makes possible its reformation. Rousseau echoes this opportunity in the *Social Contract* when he discusses the bonds of origin, interest, or convention that draw a people together (*SC*, 199). The Poles remain connected even when their government is unstable.

A final concern for censorship and the regulation of morals in Poland and elsewhere is the presupposition of censorship as a tool of tyranny instead of the guiding hand of a free republic. Early on in both the *Letter to M. d’Alembert* and the *Government of Poland*, Rousseau addresses the importance of freedom. In the *Letter to M. d’Alembert* he contends that M. d’Alembert “will surely be the first philosopher who ever encouraged a free people, a small city, and a poor state to burden itself with a public theater” (15). Rousseau grapples with the

implications of introducing a free people to the theater for the rest of the *Letter*, including problems related to morality, law, and the structure of the regime. A regime can be free only insofar as it is free on its own terms. Human beings in nature are the same. “Man,” however, “modified by religions, governments, laws, customs, prejudices, and climates becomes so different from himself that one ought not to seek among us for what is good for men in general, but only what is good for them in this time or that country” (*d’Alembert*, 17). Though the Geneva of Rousseau’s *Letter to M. d’Alembert* differs politically from Poland, Rousseau’s recommendations for both nations include the perpetuation of laws and institutions that maintain the unique character of each people. Similar to Rousseau’s defense of Geneva against the amusements of France, the philosopher counsels against mirroring other European neighbors. Instead, he presents a plan for Poland’s laws and institutions that distances the nation from modern Europe and echoes without simply adopting the political practices of the ancients. In each case, free peoples are those who follow austere laws and participate in public activities and institutions that reinforce particular national characteristics and identities.

While the object is to create citizens and establish a fatherland capable of bringing political justice without destroying freedom, the question remains: How is this possible in Poland? From this question follows another: What does this mean for the effectiveness of censorial institutions in modern politics? Seeing his reforms as a possibility for Poland, Rousseau considers them “well adapted to the human heart, what is good, what is practicable, especially in Poland, having applied myself in my views to follow the spirit of that Republic” (*Poland*, 240). Rousseau tailors his reforms to Poland’s particular political circumstances, customs, and already established institutions. In this regard, he closely follows his own advice that Poland should not deviate from what makes it unique (*Poland*, 170). Poland’s particularities, however, do not

change the core of Rousseau's recommendations which look to the shared elements of human psychology. What is "adapted to the human heart" and "what is good" are related to those things natural to human beings and later developed in society. This includes the concern for what is natural to human beings rooted in our *amour de soi* and the social aspects stemming from *amour-propre* (which, in turn, is linked to our *amour de soi*). The art of legislating, then, takes part in knowing what is true for all human beings and what is unique to particular peoples. The origin of our particular desires, opinions, or customs can always be traced back to *amour de soi*. The difficulty arises in knowing how to reform laws and institutions in light of both what is natural to human beings and what is social or conventional. Rousseau's concern with taking "men as they are and laws as they can be" echoes this distinction and reveals what one must be aware of when legislating or reforming (SC, 163). Rousseau notes that *amour-propre* is malleable with respect to particular behaviors and practices and that this malleability is related to custom and education.⁶⁹ While education can cultivate a healthy manifestation of our *amour-propre*, the underlying mechanism and response is the same and shared by all social human beings. Without the consistency of *amour de soi* and *amour-propre*, legislating in the Rousseauian sense would be an impossible task because the legislator would find any given people to be incomprehensible. While customs and institutions vary among peoples, *amour de soi* and *amour-propre* are consistent even if the way they manifest in society is not. If Poland were able to reform its constitution by adhering to Rousseau's guidelines, it is because of this consistency in human

⁶⁹ Hobbes also discusses the importance of education in his conclusion when assuring the reader that the *Leviathan* is suitable and beneficial for society. He suggests the use of universities, those "Fountains of Civill, and Morall Doctrine," to disseminate his teaching. Arguing that universities have been put to use for similar purposes, he contends that doing so will better inform the people of their duties and protect the nation against foreign and domestic (491). While Rousseau appears to mirror Hobbes' recommendation in the *First Discourse* when he argues for Europe to reform its academies, he presents a more thorough and far-reaching form of public education than Hobbes. Given the necessary laws, institutions, and political considerations that Rousseau deems essential for public education and attaching the people to their regime, he would likely argue that Hobbes' vision for universities educating toward the Leviathan is insufficient and doomed to fail.

nature and sociality that Rousseau can turn to the laws and institutions of ancient regimes. Theoretically, the Rousseauian citizen and the well-founded regime are not relegated to antiquity, making their appearance in Poland a possibility, albeit a limited one.

The Problem of Reforming Law in Poland

Poland might be able to transform itself into a nation of free people, of citizens who love the laws and the fatherland, but it requires particular political circumstances and careful legislation. Additionally, the people must be in a kind of “youth” where customs and practices are not so deeply rooted that they cannot be transformed. Throughout the *Government of Poland* Rousseau accuses modern nations of cultivating slavish, weak, and contemptible human beings who cannot be truly free because freedom requires severe laws and the ability of the people to govern and defend themselves.⁷⁰ He depicts the enormous wealth and armies of Europe, criticizes their complicated legal systems and decries their corrupted morals. Freedom, for Rousseau, “is a hearty nourishment but requires strong digestion” and demands more than simply being “rebellious in order to be free” (*Poland*, 185-186). Rousseau does not argue that only the free regime of the citizen is able to flourish. In fact, the largest and grandest of Europe’s nations are examples of what Rousseau considers “nations magnificently instituted” (*Poland*, 170) or one of the “thousand nations on earth [that] have shined” but could “never have tolerated good laws” (*SC*, 194). It is important to keep in mind Rousseau’s description of shining or magnificent regimes when examining his recommendations for Poland, Corsica, Geneva, or any regime capable receiving good laws. Modern nations are able to conquer, expand, and devote themselves to science and the arts; they are the pride of the Europe and the target of Rousseau’s criticism

⁷⁰ See also *Economy*, 20ff.

and derision in the *First Discourse*. Magnificent in scale and strength but lacking those elements necessary for true political freedom, modern nations are the product of particular wills ruling instead of the general will.

While the critique of modern Europe is not unique to the *Government of Poland*, his comparison of political institutions ancient and modern offers new insight as he considers Poland's potential for reformation. His recommendation for national institutions that would mimic the structure or spirit of ancient regimes suggests that a modern nation might still be able to form genuine citizens. National institutions "form the genius, character, tastes, and morals of a people, what make it itself and not another, what inspire in it that ardent love of the fatherland founded on habits impossible to uproot" (*Poland*, 174). Europeans, Rousseau argues, all have the same tastes, passions, and morals because their countries lack the national institutions that would make unique their opinions and morals. Instead, they lack a real sense of civic duty, share a similar corrupted morality, and seek only wealth and ease. Since we should not "flatter ourselves that we should see Sparta reborn in the lap of commerce and the love of gain" (*d'Alembert*, 67). In his *Discourse on Political Economy* Rousseau describes Rome as being "for five hundred years one continual miracle that the world should not hope to see again" (22). While Sparta and Rome cannot be replicated, Rousseau's praise for places like Corsica and Poland still leaves open the possibility of reform. Poland or Corsica could never be Sparta and Rome because they are unique regimes (*SC* 2.11, 3.2). Even if no regime can reach the grandeur of the Roman Republic, a regime need not be Rome to have a free people. What are we to expect from reforming Poland? Expressed more broadly, can modern regimes ever mimic ancient regimes and what would they need to look like (especially for censorship) to be functional?

In the *Letter to M. d'Alembert*, the primary question regarding law and morality is whether laws are able to influence morals. A force key to shaping morals, public opinion, further complicates this relationship. Since nothing “appears good or desirable to individuals which the public has not judged to be such,” law must contend with opinion and the public’s perception of legitimacy (*d’Alembert*, 67). Consequently, as public opinion shifts, morals shift and confound the ability of law to influence either one. Rousseau states that if “you would have the laws obeyed, see to it that they are loved...[t]hat was the great art of ancient governments” (*Economy*, 13). Offering an example of the intermingled character of laws and morals, he points to the Spartan ephors who instructed citizens not to merely observe the laws but to love them. Rousseau praises the ephorate’s approach and considers it to be an example of the “spirit of the Spartan regime in which laws and morals, intimately united in the hearts of the citizens, made, as it were, only one single body” (*Economy*, 13). Rousseau’s reflections on Sparta are similar to his discussion of the necessary basis from which Poland might be able to reform its government. He warns that there “will never be any good and solid constitution except the one in which the law rules over the hearts of citizens” (*Poland*, 171). With its institutions and laws in disarray and its freedom threatened by neighboring countries, Poland seeks the advice of European political thinkers and considers dramatic constitutional reform. Rousseau agrees that Poland should correct their constitution, but cautions against changing too much or implementing laws that are simply better in the abstract. As he reminds us in the *Letter to M. d’Alembert*, when ignoring particular time, place, or the inclinations of the people, anyone well-versed in legal matters can craft law that is both logical and morally pure (66). Creating laws for a particular people is something altogether unique and requires a profound understanding of the nation for which the laws are made.

To account for the particular character laws must take in Poland, Rousseau reformulates the problem around a new question: “How then to move hearts, and make the fatherland and laws loved?” (*Poland*, 171).⁷¹ He considers Count Wielhorski’s request for help and the possibilities for Poland’s future under this new question. The rest of the *Government of Poland* develops the answer using Poland’s political situation as a framework. In this way, the *Government of Poland* offers another viewpoint (and a real example) from which we are able to ascertain Rousseau’s position on laws, morals, public opinion and their correct arrangement with respect to healthy and free governance. How these conditions are important for censorship becomes apparent when considering the laws necessary for freedom properly understood and the public’s identification with the law, the regime, and what it means to be a citizen. Law and public opinion become intertwined in such a way that restrictions, whether legally imposed or reinforced by public judgment, become a form of censorship unseen by the people because as an extension of the people’s will, these laws are, so to speak, engraved on their hearts.

Poland will need to craft new laws to reform its constitution. Introducing specific laws, however, is not the main obstacle. Incorporating new law under a reformed constitution will be difficult because the people of Poland are not adhering to established law. Any new laws and institutions must contend with the people’s habit of flouting law generally. Part of this inclination stems from the nature of human beings for it is “impossible to make any [laws] that men’s passions do not abuse, as they have abused the first ones” (*Poland*, 170). Law itself is in contention with human passions and the primary hurdle in lawmaking is creating laws which the people willingly obey. Rousseau states clearly the near impossibility of establishing law that

⁷¹ Reformulating the problem is not uncommon for Rousseau. Compare the proposed question to the question Rousseau claims to answer in the *First Discourse*, *Second Discourse*, and the *Discourse on the Virtue Most Necessary for a Hero*.

meets such criteria. “To put law over man is a problem in politics which I compare to that of squaring the circle in geometry” (*Poland*, 170). Human beings resist rules and restrictions. As will be shown, Rousseau’s recommendations leverage men’s passions against their desire to resist rule. By making honor and emulation their focus, the people will obey laws not only because they love the laws, but because they are in accordance with public opinion, shame, and honor.

Rousseau’s consideration for the limits of governance is reminiscent of his concession to fortune in the development of political matters in the *Letter to M. d’Alembert* where he outlines the struggle law has in overcoming public opinion and chance. Even the consummate Statesman who is knowledgeable of political affairs is often left guessing as to the proper law or action for “all that human wisdom can do is to forestall changes, to arrest from afar all that brings them on” (74).⁷² The ability to craft law that will rein in human passions, prevent abuses, lead to good governance, and be able to foresee all current and future problems is unlikely. Rousseau is not merely stating an obvious point on the limits of human intelligence or arguing that human beings cannot craft the perfect regime. In fact, Rousseau’s reflections on Poland are offered with the caveat “that all the works of men are as imperfect, transitory, and perishable...” (*Poland*, 240). Although there are merits to each of those claims, the importance of Rousseau’s argument is found in what lawmakers or, in this case, constitutional reformers should expect from the law. This includes how realistic or practicable their rule will likely be given that human passion, in addition to chance, often thwarts law.

Rousseau warns that until you can solve the problem of putting law over people, “be sure

⁷²Rousseau rephrases the problem in *Poland*: “To foresee and to weigh all these abuses to come is perhaps an impossible thing for the most consummate Statesman” (170).

that where you believe you are making laws rule, it will be the men who are ruling” (*Poland*, 170-171). Rousseau’s warning suggests that the people will be those who are ruling; that public opinion or individual desires will rule over law. His statement also points to the possibility that members of government will rule outside of legal restrictions. In either case, the rule of law often fails to guide politics and order political life. The distinction, however, remains important because Rousseau treats both groups, the members of government and the public, separately but with the same goal in mind: to have law rule over their hearts, controlling and dictating their behavior because they identify with and love it. By examining the members of government as distinct from the general public, Rousseau can reform particular institutions and functions of Poland’s legislature, judiciary, and monarchy while shaping their attachments to the regime. The end result is a governing body that does not govern for its own interest, but with the interest of the people and the honor of Poland in mind. Furthermore, like the people whom they expect to follow the laws, they too obey law and for a similar reason.

In the seventh chapter, “Means for Maintaining the Constitution,” Rousseau describes how Poland and Europe regularly implement laws as a process of “bits and pieces” slowly collected over time and accumulating into what they understand to be the whole of their legislation. Legislation is often a piecemeal process where a problem or “abuse” arises and a law is used to correct it (*Poland*, 186). This results in a host of new and unforeseen defects that require additional laws to correct for them. As laws are made to correct for new abuses upon discovery, the law itself weakens. Rousseau argues that the proliferation of laws undermines each law specifically and legislation broadly understood. His critique of European legislation is comparable to his discussion of the true legislator’s science in the *Letter to M. d’Alembert*. In his response to M. d’Alembert’s suggestion to implement wise regulations for restraining actors,

Rousseau quips that “if it had to do only with publishing edict after edict, regulation after regulation, to remedy abuses as they arise, doubtless many very fine things would be said” (66). Lawmaking requires both foresight and prudence with respect to the potential ramifications of piecemeal legislation and a profound knowledge of the people for whom laws are made. Poland can no longer make new laws haphazardly or with a single problem in mind. Instead, law must be holistic and compliment the spirit of the regime. Inherent in Rousseau’s critique is the claim that modern statesmen do not possess these qualities and fail to account for the unique character of their country.

Although he does not detail exactly what he means in the opening of chapter seven, returning to Rousseau’s letter to Geneva from the *Second Discourse* provides additional context for his statements. There he describes the type of regime in which he would have preferred to have been born. In this regime, Rousseau would have a legislature that does not allow proposing new laws according to the people’s “fancy.” The magistrate would have to carefully exercise the right of introducing laws, so that the people, who are always “hesitant to give its consent to these laws...had the time to be convinced that it is above all the great antiquity of the laws which makes them sacred and venerable” (*SD*, 44). He would like the people to identify with and revere the laws because they are ancient, uniquely their own, and part of their national character. Ultimately, Rousseau would like the people to view law in this manner because, if they do not, they will not come to love the laws. For law to retain its solemnity and command obedience, it must be consistent with the most foundational laws left untouched. It is with this in mind that Rousseau warns Poland to “[c]orrect, if possible, the abuses of your constitution; but do not despise the one that has made you what you are,” and urges them to make changes only with “extreme circumspection” (*Poland*, 170). Furthermore, it is not just that ancient law lends itself

to veneration, but that the propensity for modern laws to change with each new abuse breeds disdain for the law. As the people “scorns the laws which it sees change daily,” they also become “accustomed to neglect ancient practices on the pretext of doing better” (*SD*, 44). Once a people begins to think that all laws are mere placeholders that they can improve upon, the stability of legislation and the willingness of the people to obey it are tenuous. The people’s assumption that laws can always be better, coupled with their lack of veneration for the laws, further generates legislation that Rousseau links to the failures of modern European governments. Taking into account his doubt as to whether even the most “consummate Statesman” is able foresee and correct for pitfalls that arise with new legislation, we can expect that the people who always wish to institute “better” laws will likely invite those “great evils” that are “often introduced to correct lesser ones” (*Poland*, 170). Reverence and identification with the law is indispensable for practicable legislation that does not undermine itself through repetitious innovations and adjustments. Furthermore, it makes possible a consistent, knowable system of legislation that, like the people’s connection to their country’s history, religion, or customs, encourages the people to identify with and love their regime. Rousseau’s response to Poland and the question of constitutional reformation details the way in which the legislature can gain hold of the law and use it to guide the people. More specifically, Rousseau sketches the process by which Poland can reform their laws and institutions; introducing a common education and amusements that influence public opinion and guide individual citizens toward the general will.

Making Individuals into Citizens: On Honor, Emulation, and Poland’s Institutions

Proper implementation of and instruction in law are necessary to maintain a free and well-governed republic. The remaining challenge is how to assure that public opinion and morals bolster and refocus the people’s attention to laws political, civil, and criminal. When this

challenge is overcome, the people will by habit conform their behavior to the laws (SC, 202).

Rousseau's solution is to form a national character and institutions that engender affection for the regime and develop bonds among its citizens. To accomplish this, he promotes rigorous public education during childhood and the continuous cultivation of these bonds throughout the citizen's life. Rousseau suggests "children's games; with institutions that are idle in the eyes of superficial men, but which form cherished habits and invincible attachments" (*Poland*, 171). Once the people are given a national character that is particular to them, the legislation so important for maintaining freedom can find purchase on what Rousseau refers to as the "soul" of the citizen. The purpose of this life-long education is to animate in the citizen a love of the regime and its people that is tied to the citizen's sentiment of their own well-being (*amour de soi*) and informed by their desire to be well-regarded by their fellow citizens (*amour-propre*).

Rousseau once again frames the problem facing Poland as not merely a constitutional reformation, but a reformation with a particular end – "that is to say of giving the constitution of a large kingdom the stability and vigor of that of a small republic" (*Poland*, 183). His recommendations for Poland aim at giving the nation the character of a small republic despite its size and political instability. To do so, Rousseau recommends that Poland create a federative government that will afford a large country some of the advantages of a small country. He is actually quite adamant on this point stating that a federative government is the only one that can suit Poland and claims that if Poland "neglect[s] this advice, [he] doubts that [Poland] can ever make a good work" (*Poland* 184). In comparing Rousseau's recommendation for Poland to his discussion in the *Social Contract*, Williams notes Rousseau's flexibility on the conditions necessary for a people able to receive legislation. Williams explores Rousseau's possible exceptions to these criteria in relation to Poland's size and the philosopher's recommendation for

federative government, arguing that it is “doubtful that Rousseau meant his principles to have such narrow applications” (2014, 99). Without approximating the character of a small regime, Poland would be unable to benefit from the kind of transformative legislation Rousseau outlines in the *Social Contract*. For Rousseau, a small republic allows for a person’s identification with the regime and their fellow citizens. Furthermore, it makes possible the people’s recognition of talents, virtues, and vices because real anonymity is difficult to achieve in a small community (SC 2.9). One’s recognition of their fellows is of the utmost importance because the people must be able to see one another, compare themselves, and weigh each other’s actions. Republics need to be small so that “citizens in them know each other and watch each other, since the leaders can see by themselves the evil that is done, the good they have to do” (*Poland*, 183). While regime’s boundaries are important for legal matters including knowledge and execution of the laws, remedying deficiencies, and operational matters including taxes, they are essential for preserving a cultural homogeneity that allows for citizens to recognize themselves in their neighbor. According to Rousseau, separation of peoples by the mere distance of territory generates variety in customs and morals. The variation in customs and morals causes certain groups under the same nation to be more tolerant of particular laws than others. In the *Discourse on Political Economy*, Rousseau elevates the public education of the Cretans, Lacadaemonians, and the Persians, contending that “[o]nce the world was divided into nations too large to be well governed, public education was no longer practicable” (*Economy*, 22).⁷³ The size of nations (along with “other reasons which are readily evident to the reader” but Rousseau does not detail)

⁷³ Rousseau adds Rome to the list noting that, while it lacked public education, the Romans loved their fatherland. As it is often found in Rousseau’s writings, Rome is an exceptional example of austerity, justice and freedom where their “homes [were]...so many schools of citizens” and the “father, more feared than the magistrate, was the censor of morals and the avenger of the laws in his domestic tribunal” (*Economy*, 22). The extreme example of Rome suggests that under certain conditions the people can be so virtuous that they need not be guided by regime-backed public education.

is a main reason why public education is absent from modern politics. Furthermore, regime size is a limit on the statesman's ability to recognize and forestall problematic behavior including the citizenry's diverging opinions and indulgence in their particular wills.

One might contest Rousseau's claim by arguing that contemporary nations see the benefit of public education and invest in schooling for their youth. For Rousseau, however, our public educations are insufficient for building the sense of identity and community necessary to develop love of and identification with the regime. Contemporary public education does not reinforce public character and political institutions, lacking the interconnectivity of all the components of the regime. Furthermore, public education too often focuses making the people supposedly learned individuals instead making them good citizens. Educations are always for society because the social qualities of human beings and their understanding of a role or place in society are not inherent or, more accurate to Rousseau's terminology, natural. As habits and opinions form, human beings take on characteristics that become unique to their time and place. Rousseau points to the tendency human beings have to actively shape the world around them. Rousseau compares education to horticulture when he states, "Plants are shaped by cultivation, and men by education" (*Emile*, 38). Since someone has a hand in shaping the plant and the person, the educations occurring in this comparison are not educations by nature. Instead, human beings control and resist what would occur by nature without them. This brief example of education echoes Rousseau's strong claim in the opening paragraph of *Emile* about the human tendency to warp and deform nature.

Everything is good as it leaves the hands of the Author of things; everything degenerates in the hands of man...[Man] turns everything upside down; he disfigures everything; he loves deformity, monsters. He wants nothing as nature made it, not even man; for him, man must be trained like a school horse; man must be fashioned in keeping with his fancy like a tree in his garden (*Emile*, 37).

Rousseau's observation is indicative of his position on nature and society. It emphasizes the way in which human beings have not only removed themselves from the state of nature, but have a propensity to remove everything else from its natural state as well. Much like the cultivation of plants, there is a positive aspect of education. Human beings can shape and cultivate the world around them to allow for a certain kind of flourishing. Just as horticulture may allow a plant to grow, develop, and thrive under conditions that it would normally be unable to, education can shape human beings into something more, and allow them to thrive in ways unthinkable in the state of nature. This does not deny Rousseau's claim that everything is good as it occurs in nature. Once human beings become social, however, we are forever removed from the state of nature. Afterwards, education becomes necessary for their acclimation to and flourishing in society. Rousseau's negative account of the deformity that occurs by the hand of humanity may act as a warning about education. He follows what appears to be a condemnation of education with a consideration of what human beings in society would be without education. "Were we not to do this, however, everything would go even worse...In the present state of things a man abandoned to himself in the midst of other men from birth would be the most disfigured of all" (*Emile*, 37). Now that human beings no longer live in the state of nature, they require an education of some kind to live among each other. Rousseau is adamant about education and its indispensable role in society. Left to the numerous conventions, customs, morals, prejudices, teachings, etc. that arise in society, a person will simultaneously receive numerous and possibly conflicting educations. Rousseau's warning is really a critique of education as people currently employ it. Education should not be training youth like a school horse or shaping people to match one's fancy. The conflicting educations of society are made worse when the tutor educates a student according to their own desires instead of keeping the student's wellbeing in mind. But

what is best for a student's wellbeing?

Rousseau's position is evident as early as the *First Discourse* where he critiques the goal of modern education in comparison to the education of the ancients. Even here, Rousseau emphasizes the vanity of the sciences and arts and details how their pursuit leads to a corruption of youth education. After lamenting the damaging effect a pursuit of sciences has on the martial qualities of virtue and courage, Rousseau warns that the sciences are even more harmful to moral qualities and these harms appear first in the education of children. "From our earliest years a foolish education adorns our minds and corrupts our judgment" (*FD*, 30). It is evident that he is concerned with the proper cultivation of judgment from an early age. The cultivation of judgment is essential for a person's incorporation into society. While law is necessary for forming good people, it is only after they are given a proper education, one suited to their regime and a correct use of judgment, that they will understand the laws and their duty to their fellow citizens. The only human being exempt from this type of education would be natural man who receives an education only from nature; what Rousseau refers to as the "internal development of our faculties and organs" (*Emile*, 38). The "education of men" is to instruct us in how we should use this natural development. The education from nature occurs without any artificial incentive or commencement. The education of men, however, is varying and malleable. Rousseau makes clear that nations should direct public education toward the regime. Since each regime is unique, each public education requires its own particular objects. The number of possible educations is further multiplied with the inclusion of the modern, non-public education. Again, a truly public education is not simply an education given to the public or provided by the government. It is an education that seeks to form the citizen and raise children with an eye to the regime and a love of the laws. By educating the youth in this manner, they will become a part of and identify with the

community as a whole. Rhetorically inquiring into the substance of a child's education, Rousseau argues that children should "learn what they ought to do as men, and not what they ought to forget" (*FD*, 30). Those things that ought to be forgotten are, for Rousseau, the majority of what passes for education. When the education of men is an education of the citizen, what they ought to do as men is always connected to duty.

Rousseau contends that, at least in theory, it is only the education of men that we are masters over. He claims that we are masters only in theory because "who can hope entirely to direct the speeches and the deeds of all those surrounding a child?" (*Emile*, 38). In the context of Rousseau's *Emile*, Emile's education is tightly controlled. Filled with contrived situations and speeches, the boy interacts with people whose reactions to the boy are products of careful orchestration. Rousseau is aware of these difficulties and that is why the education of Emile is not an education for the people. His education leads neither to the bourgeois nor the citizen. Similar to the goal provided at the opening of the *Social Contract*, Rousseau takes "men as they are" in educating Emile, but instead of taking "laws as they can be," the endeavor is akin to taking education as it can be (*SC*, 163). The goals are certainly different. The project of the *Social Contract* will make citizens out of the people while Emile will become no such thing. The question remains: If education is such a fragile endeavor that requires so many safeguards, how can we educate a people into the virtue and dutifulness of citizenship? Rousseau turns to ancient examples to show the possibilities of a genuine public education. Unlike the education of Emile, he describes the method of education in general terms using examples that do not include peculiar orchestrations and irreparable pitfalls. The failure of public education, however, closes off the possibility of a moral and virtuous people. Instead of the loss of a single pupil, the corruption of an entire people is at stake. Once this happens, we would be lucky to find those few

who are truly virtuous.

Once human beings become social, they require education. Rousseau is clear: "...we are born stupid, we need judgment. Everything we do not have at our birth and which we need when we are grown is given us by education (*Emile*, 38). An education is principally a cultivation of judgment that instructs us as to how we should reason about particular objects and behaviors. When those objects and behaviors are not connected to usefulness, duty, and virtue, there looms the threat of moral corruption. Judgment, however, is not bare reason. Human beings retain their passions and certainly would be useless to the community and failures as citizens without them (*Economy*, 20). The inability of human beings to inform their behavior by reason alone makes necessary the cultivation of judgment in tandem with the stimulation of one's passions. Naked reason will not engender the love necessary for commitment to one's regime, their duties, and the laws. Modern education, according to Rousseau, fails to properly cultivate the child's judgment and directs their passions toward the satisfaction of their corrupt *amour-propre*, preparing children for a life of vain competition and dissembling. The foundation of modern education is one of talents, performance, and appearance with the "...first and almost the only concerns of our education are both the fruit and the seed of these ridiculous prejudices" (*Narcissus*, 100). The problematic aspects of *amour-propre* that arise among adult relations have their root in the child's education.

For the sake of teaching us letters, we are tormented during our unhappy youth, we know all the rules of grammar before ever having heard mention of man's duties: we know everything that has been done up to now before we are told anything about what we should do; as long as we are trained to prattle, nobody cares whether we know how to act or think (*Narcissus*, 100).

Being trained as prattlers is for the display of talents instead of acquiring useful knowledge. The problem of talents and their comparison reaches as far back as the first comparisons made in

primitive societies. “Each began to look at the others and to want to be looked at himself, and public esteem had value...and this, then, was the first step toward inequality and at the same time toward vice. From these first preferences arose vanity and contempt on the one hand, and shame and envy, on the other” (*SD*, 96). These early distinctions were related to strength, beauty, cleverness, or even eloquence after the development of language. Rousseau even mentions dancing, a talent that does not have any inherent value in relation to necessity. The emphasis is on the differences between people and the problem of love-of-self in light of these differences. As these comparisons and distinctions are made, the individual’s *amour-propre* becomes active and brings with it the seed of our immorality. We seek to gain the attention of our peers, begin to detest others for their talents, and are willing to deceive, undermine, or harm others to elevate ourselves. What education currently instills is the desire for recognition for supposed knowledge. The display of knowledge is more important than actual thinking and the spectacle of one’s talents becomes a way to draw attention and praise.

Rousseau’s inquiry into the harms arising from the unequal distribution of talents introduces a possible critique of his depiction of virtue and talent as a zero-sum game. Can human beings display their talents and still practice virtue? As early as the *First Discourse*, Rousseau suggests the incompatibility of virtue and talents. He asks the reader: “From where do all of these abuses arise, if not from the fatal inequality introduced among men by the distinction of talents and by the degradation of virtues?” (*FD*, 31). Talent itself is not the problem. One would expect the Legislator, statesman, hero, or citizen to have some number of talents and Rousseau does not argue that we should be talentless human beings in order to be virtuous ones. The problem arises when we prefer talents over virtue. When the exercise of one’s talents is not in the service of virtue, people will exercise their talents in the service of their vanity. The

preference for distinction in talents over virtue pervades society and engrains itself in public opinion. “It is no longer asked of a man whether he has integrity but whether he has talents, or of a book whether it is useful but whether it is well written” (*FD*, 31). Once people reward one another due to talents in the absence of virtue or civic-mindedness, virtue need not be cultivated or exercised. Displays of talent satisfy a person’s *amour-propre* and, since the public does not seek virtue, the individual gains nothing from displays of virtue. In the most corrupt societies, the people may even view virtue with scorn and treat the virtuous person as a fool.

Rousseau looks to instilling virtue over cultivating talents because “...we are born with our talents, only our virtues belong to us” (*Narcissus*, 100). Talent draws the attention of others and satisfies the vain needs of our *amour-propre*, but talents are not equally distributed. When education encourages human beings to focus on talent over virtue, it culminates in competition through displays of talent and a ceaseless quest to satisfy *amour-propre*. From educations in prattling arise vice, contempt, shame and envy. Then, public education is only “public” insofar as we need to display our education for the approval of others. For Rousseau, public education is for turning individuals toward their regime and to make them a part of the whole through citizenship. His discussion of education in the *First Discourse* is paramount to his critique of the moral effect of the sciences and arts because it is from their youth that nations raise the people to become vain pursuers of distinction. Nations will raise children to be agreeable and pleasing to others, but “...as for the words of magnanimity, equity, moderation, humanity, courage—they will not know what they are” (*FD*, 30). Since these virtues are absent in the child’s education, Rousseau contends that we cannot expect people to know or even pursue these qualities as adults.

It is with this in mind that Rousseau compares the education of in his time with the public

education of the ancients. He does not, however, claim that all ancient educations were excellent. Instead, he depicts certain educations known to us through various avenues of philosophy or history. Rousseau borrows both the argument and authority of Montaigne's essay "Of Pedantry" to delineate between beneficial and harmful educations. As if it was meant as an aside, Rousseau places Montaigne's argument in a footnote and changes some words or phrases while adding others. Rousseau's paraphrase embodies the spirit of Montaigne's concern for pedantry while leveraging it to emphasize his critique of the arts and sciences.

Rousseau excerpts Montaigne's discussion of education in Sparta, Persia, and Xenophon's *Cyrus*. With respect to Sparta, Rousseau recites that the youth "spurning every other yoke, had to be furnished only with teachers of valor, prudence, and justice instead of our teachers of science" (*FD*, 30).⁷⁴ When Montaigne speak of the Spartan youth's yoke, he claims that they reject "any other yoke than that of virtue" (*Essays*, 104). Considering the focus of the *First Discourse* and much of Rousseau's other writings, it is difficult to discern why he does not include Montaigne's phrase about virtue. Conversely, it is easy to understand why Rousseau picks up on Montaigne's criticism of our "teachers of science." He rejects an education in science in favor of letting children "learn what they ought to do as men" (*FD*, 30).⁷⁵ Rousseau reiterates this point by turning to Montaigne's summation of education in Plato's *Alcibiades I*. Although the education Socrates describes to Alcibiades is for the son of the Persian king, Rousseau uses it as an example of an education suitable to "make him good, [not] to make him learned" (*FD*, 31). The child learns of wisdom, justice, moderation and courage from eunuchs

⁷⁴ The phrase Scott translates as "teachers of science" is "*Mâtres de sciences*" in Rousseau's original (*FD*, 30). Similarly, Frame translates Montaigne's "*maistres de science*" as "masters of knowledge" (*Essays*, 104).

⁷⁵ Attributed to the Spartan king Agesilaus, this phrase introduces Rousseau's footnote on education and his use of Montaigne's essay.

regarded as those best in the king's service (*Alcibiades I*, 121d). Without altering Montaigne's writing, Rousseau lists what each eunuch taught the royal child: "The first taught him religion, the second always to be truthful, the third to conquer his appetites, the fourth to fear nothing" (*FD*, 31). Each of these four educations are connected to moral character and not to the sciences, arts, or letters. Furthermore, the child's education in wisdom, justice, moderation, and courage are limited and non-philosophical. This is noteworthy considering the child's education corresponds to the four Platonic virtues (*Republic* 427e). Wisdom is taught as adherence to Zoroastrian religion, justice extends no further than telling the truth, moderation appears more like continence, and fearlessness replaces courage.⁷⁶ Persia does not raise the royal child to be a philosopher. It raises him in those forms of virtue particular to a Persian ruler, instead.

The final reference to education in Rousseau's footnote, Cyrus' education in justice, is also the education of a would-be ruler and a test of his understanding of justice and its application. Cyrus' Persian teacher asks him to judge a case where a large boy forcefully exchanges his small tunic for a smaller boy's larger tunic. Retelling the story to his mother, Cyrus states that he found the larger boy's switching of the tunics to be fitting and rules that things should stay as they are with the large boy keeping the large tunic and the small boy keeping the small tunic. The teacher beats Cyrus for his ruling and scolds him for looking only to what is fitting and not what is just. Cyrus summarizes his instructor's reply as follows: "saying that whenever I should be appointed judge of the fitting, I must do as I did; but when one must

⁷⁶ Similar to the Persian education of these four virtues, Socrates' discussion of these virtues with Galucon leads to a depiction of these virtues in relation to the city, taking on political forms and not necessarily representing intellectual virtues or virtue in itself (*Republic* 428aff.). Bloom delineates between the two forms of these four virtues discussed throughout the *Republic* as virtues intellectual and virtues moral. While the intellectual (or "philosophic") and moral (or "demotic, or vulgar") differ, they both lack the quality of being virtue for its own sake. "The implicit Socratic teaching is that no such proof is possible, that nature does not give a ground for a virtue not connected with some other end" (Bloom 1968, 396).

judge to whom the tunic belongs, then one must examine, he said, what is just possession, whether it is to have what is taken away by force or to possess what [one has] made or purchased.” According to Cyrus’ teacher, “the lawful is just, and the unlawful violent,” ordering that “the judge always cast his vote in conformity with the law” (*Cyrus* 1.4.17). Rousseau’s use of this example is noteworthy considering the juxtaposition of what is fitting and what is lawful. In both cases, there is an argument for justice. Additionally, we can isolate two major concerns for Rousseau and education: the child’s use of judgment and justice in accordance with the laws of the regime.

In Rousseau’s use of Montaigne, we see three nations and three educations, each one particular to their regimes with respect to morality, virtue, and justice. In the case of the Persian education spoken of in *Alcibiades I*, only the royal child receives this education. In the *Education of Cyrus*, the Persian education in the “schools of justice” is available to all; though, Xenophon writes that only “those who are able to raise their children without putting them to work” send their children (*Cyrus* 1.2.17). The education is common, but not everyone participates due to economic need. Otherwise, this is the public education of the Persians that Rousseau praises alongside the Spartan education as not only being successful, but producing wonders (*Economy*, 22). In each example, the education directs the student’s attention the regime, its laws, and its religion. The second element, that of judgment and its application, is found in each of the three examples, but not necessarily in Rousseau’s use of Montaigne. When quoting Montaigne, Rousseau excises a passage on Spartan judgment that could have found its way into *Emile*.

Montaigne claims that the Spartan method of teaching:

was to ask them questions on their judgment of men and their actions; and if they condemned or praised this person or that deed, they had to reason out what they said; and by this means they both sharpened their understanding and at the same time learned what was right (*Essays*, 105).

Comparing the Spartan education to Emile's education in history allows us to refine what is gained from each education and what separates seemingly identical activities. In *Emile*, the pupil is finally allowed to read Plutarch after eighteen years of a profoundly unique and tailored upbringing that is meant, in part, to develop and preserve the child's judgment. Reading examples from Plutarch, Emile is able to see human beings as they are without succumbing to similar passions or being seduced by portrayals. His tutor asks Emile to apply his judgment to the actions of others in a way similar to the education of the Spartan youth. Emile, however, does not receive an education with a view to a particular regime. In each of the aforementioned ancient regimes, the purpose of education is to foster judgment in accordance with the law and justice of the respective regime. Cyrus displays his judgment and suffers punishment for it; but, in the end, he learns something of what is fitting and what is lawful.

Rousseau advises Poland to have magistrates that rule in accordance with or in the spirit of the law, suggesting that he would have sided with Cyrus' teacher on a proper education toward the laws. There remains an element of judgment in his recommendation for Poland's education, but, as will be shown, this education is still meant for sound judgment in accordance with the regime, its laws, and its unique rules of justice. In this sense, the education of citizens and the education of Emile overlap. In both we can find an education in judgment and what is good. They differ, however, in terms of the cultivation of judgment and the understanding of what is meant by "good." Additionally, they are rejections of what Rousseau refers to as the "education of society" which is fit for making "double men, always appearing to relate everything to others and never relating anything except to themselves alone" (*Emile*, 41). The education of society is an education in deception. Even if everyone knows it to be the case, such an education encourages falseness and the disassociation of one's wellbeing from the wellbeing

of others. Rousseau separates the education of society from the public or common education of the ancients. The latter produces citizens while the former places the people in contradiction with themselves. The education of society creates an inner tension between a person's personal inclinations, beginning with one's *amour de soi* and exacerbated by the needs of their *amour-propre*, and their duties.

Public education's foundation follows one of Rousseau's underlying principles on the nature of human beings. People are unable to meaningfully employ their reason or their conscience and should not be expected to do so. Even when using reason, people are unable to access naked reason and will always default to particular prejudices and customs. Furthermore, they do not naturally see their personal benefit in the well-being of others or in following the law. The natural inclination we have in the preference for ourselves makes particular wills more powerful and enticing than the general will. Education of the youth is essential to making people love their laws and think and behave in accordance with the general will. Clear from the Rousseau's discussion of the ancients, shaping students' judgment and reason is a necessary component in public education. Judgment and reason retain their limitations and education must not lead the average person to philosophy or vain pursuit of the sciences. Both of these endeavors result in the education of prattling and talents and, in the most destructive way, weaken the social and moral bonds of society (*Narcissus*, 101). Rousseau's theory of human beings in nature and their eventual move into society leads to a harsh conclusion about the capabilities of most people and the conditions for happiness. "Science is not suited to man in general. He forever goes astray in his quest for it; and if he sometimes attains it, he almost always does so to his detriment. He is born to act and to think, not to reflect. Reflection only makes him unhappy without making him better or wiser" (*Narcissus*, 104). His claim is meant

for people generally speaking and certainly excludes those great geniuses he praises in the *First Discourse* and elsewhere. Some can practice the sciences or philosophy (two terms that are often used interchangeably in the *First Discourse* and *Preface to Narcissus*), but the majority of people do so for the wrong reason. Seeking the favorable opinion of their peers, people will pursue the sciences out of vanity. Rousseau warns that the pursuit of science will not make the average person better or wiser; two qualities the Enlightenment and current academics expect out of the pursuit for knowledge. Shattering moral, political, religious bonds without offering a suitable replacement is detrimental to the stability of the community and the general will. Furthermore, it is unclear whether the average person will know whether they are successful in their pursuit or necessarily what to do with that knowledge once they attain it. Rousseau posits a series of questions that act as necessary threshold for the proper pursuit of the sciences:

...the truth has but one mode of being. Furthermore, who really seeks it sincerely? Even with the best of intentions, by what signs is one certain to recognize it? Amid this host of differing sentiments, what will be our criterion for judging it correctly? And what is most difficult, if by good fortune we eventually find it, who among us will know how to make good use of it? (*FD*, 24).

The initial two questions Rousseau poses address the purpose of the pursuit and the ability of the pursuer. The first question in this list echoes Rousseau's unwavering critique of the vain pursuit of science. The second question suggests both the possible lack of intellect suitable for the task while reiterating the point that truth is singular and falsehoods abound. To even be certain that one has attained truth is necessary before we implement scientific discovery and innovation. Building upon the difficulty of acquiring knowledge, Rousseau's second set of questions attests to the problem of wisdom and the suitable application of knowledge for the benefit of humanity. Scientific discoveries are not pure acquisitions of knowledge devoid of social or political application. How we should apply these discoveries in light of our morals or politics may

radically transform how we see ourselves and our communities. Figures like the Legislator or the statesman are unique in part because they see the potential harms, benefits or transformations ushered in with new knowledge. The truth holds no intrinsic value and is only harmful or beneficial in relation to our understanding and application of it. Rousseau's argument is one of talents and ability and emphasizes the importance of our natural inequality "established by nature, and which consists in the difference in age, health, strength of the body, qualities of the mind, or of the soul" (*SD*, 61). While such an argument of inequality, especially intellectual inequality, sounds harsh to our ears, Rousseau's awareness of these differences informs his understanding of the role science and philosophy play in society. Someone who does not pursue knowledge sincerely or have the wisdom to make good use of it, undermines both scientific inquiry and the political well-being of the people.

If the average person is unable to pursue knowledge safely and in earnest, of what should public education consist? How does one develop an adequate curriculum that makes the people better and encourages proper action and thought while avoiding the pitfalls of philosophical reflection? Rousseau's warning on reflection hints at another more meaningful question for the people: What kind of public education leads to happiness and freedom? The public education that instructs the people in their duties, virtue, and the particular laws and customs of their city. The education that directs the people's attention to their regime and instills in them a love of their fellow citizens is the one most fitting for happiness and freedom. Such an education is meant to shape public morals and opinions by making the people love what is uniquely their own. What this education actively excludes is just as important as what it includes. In this way the regime must employ education and censorship concurrently.

So where should one begin when trying to shape morals and opinions? Education instills

a proper set of opinions and morals; cultivating tastes that are unique to the regime so that the child comes to love and identify with their nation. The goal is to create citizens by directing “their opinions and their tastes so that they will be patriots by inclination, by passion, by necessity” (*Poland*, 179). Inclination and passion are distinct from reason. Reason can inform us about our duties, even patriotism, but it does not connect us to or make us love our duties. Rousseau’s inclusion of necessity suggests that his expectations for education are far reaching. In line with Rousseau’s insistence that freedom necessitates hardship, this kind of patriotism is essential for establishing and maintaining a republic and free people. A citizen should not see themselves as an individual participating in social and political activities; separate from the group but willing to come together for political necessities. He goes so far as to describe public education as “one of the fundamental maxims of popular or legitimate government” (*Economy*, 21), and states that “[n]ational education belongs only to free men” (*Poland*, 179). Public education, then, is essential for free regimes and peoples because self-governance requires knowledge about and love for the regime, including identification with one’s fellow citizens. Rousseau does not outline the specifics of public education and considers that each education is particular to a given country. Codified “under rules prescribed by the government, and under magistrates established by the sovereign” (*Economy*, 21), public education must follow the law which “ought to regulate the material, the order, and the form of their studies” (*Poland*, 180). Education and the laws are intimately connected in a way similar to the reciprocal nature of morals and laws. Education can instruct taste and morality, educate the people on the laws, and make them love their laws. Law dictates education while education invigorates attachment to the law.

While Rousseau does not provide specific details about the contents of public education,

he offers broad examples and general statements about the necessary structure of educational institutions. The education of youth should include as many of the children as possible because each person must be made into a citizen. “Since, by the constitution of the state, all are equal, they ought to be brought up together in the same manner” (*Poland*, 180). The regime must abstain from separating children by class and giving students different or even conflicting educations. Civic educations are particular to their regime and should include those elements that are unique to a people. Such an education does not preclude the teaching of sciences or mathematics, but it does not emphasize them. Furthermore, we could not expect Rousseau to condemn modern educations wishing to make so many little philosophers out of the youth in the *First Discourse*, only to praise such an education in *Government of Poland* or the *Discourse on Political Economy*. the type of learning he critiques as antithetical to the formation of citizens. At best, we might expect the sciences and mathematics to reenter public education by taking on a character similar to how the tutor teaches the sciences to Emile. The tutor focuses his efforts on Emile’s use of judgment and not on making him into a philosopher. Instead of trying to teach the pupil all that one can about the natural sciences, the tutor favors “limited but precise knowledge,” so that what the child “acquire[s] is less science than knowledge” (*Emile*, 192). Emile is never taught grand scientific theories or expected to execute complex scientific experiments. Instead, the tutor gives the child a foundation for judging natural occurrences by detecting inconsistencies while considering the possibility that his senses deceive him (*Emile*, 203ff.). Such an education helps cultivate the pupil’s judgment and would not inherently undercut public education. Once education attempts to make scientists out of all its students, however, the focus of education loses its civic-minded character.

In line with Rousseau’s concern for public education as unique to a regime, he warns

against instructors who are not attached to the regime or may introduce ideas that undermine the focus of public education. Rousseau is clear when he states that he “would not like children to follow the usual studies directed by foreigners and priests” (*Poland*, 180). Children should learn about their nation from other citizens and avoid instructors from foreign nations or the priesthood. Laws, morals and customs of foreign nations have no place in the education of the citizen. Rousseau’s exclusion of foreign instructors is consistent with his theory on the sources of our vices. According to Rousseau, the communication between nations introduces more vices into each country and its people than it transmits virtues. Rousseau admits that “[n]ational hatreds will die out,” but warns that love of one’s regime will follow along with it (*FD*, 14). Education into foreign ideas, matters, or concerns, only guarantees a kind of soft cosmopolitanism. Removing national hatreds is not the same as engendering love for other nations or peoples. Rousseau is skeptical of cosmopolitanism because he sees it as a means by which people feel morally upright or even superior without having to make real moral decisions or devote time to others. He warns the reader to “[d]istrust those cosmopolitans who go to great length in their books to discover duties they do not deign to fulfill around them,” and critiques the philosopher who “loves the Tartars so as to be spared having to love his neighbor” (*Emile*, 39). Once a cosmopolite satisfies their sense of self in relation to moral matters, they need not lift a hand to aid their neighbor. Such a disposition does not encourage a person to engage with or aid their fellows, and certainly cannot engender the love of one’s fellows that makes for a good citizen. Rousseau reiterates this point in the *Geneva Manuscript* when discussing the way in which people generalize about societies. Our notions of society develop from our reflection on smaller societal forms and social relations. Familial bonds are the first we understand and extend to those around us. When talking about societies as a whole, we “conceive of the general society

on the basis of our particular societies...and we do not really begin to become men until after we have been Citizens” (*Geneva*, 81). Our ability to generalize about politics and society is a gradual process of coming to understand less complex or smaller relationships. From there, we might come to understand and love humanity. Rousseau frames this generalization both from the perspective of the individual and of a smaller society, arguing that it was not until Christianity that the concern for all of humanity arose. Even as a sufficiently generalized idea, a “brotherhood of all men” does little to move people to action for the sake of all humanity (*Geneva*, 81). As Rousseau states in the *Social Contract*, the “more the social bond extends, the looser it grows” (195). To extend this social bond to all of humanity is impossible. A unified human race does not exist in nature and only arises through convention. Nature does not compel us to secure and love all of humanity. Such an idea requires an historical progress and, once realized, is unlikely to genuinely move enough people to be meaningful. It is with this in mind that Rousseau critiques the so-called cosmopolitans once again. These “supposed Cosmopolites who, justifying their love of the fatherland by means of their love of the human race,” invert the process of generalizing. Without first coming to love their fellows, they cannot love the human race. Rousseau points to the deceit in their claim and criticizes them as “boast[ing] of loving everyone in order to have the right to love no one” (*Geneva*, 81). To truly love the human race, we must reduce our goal and learn to love those around us. This begins in the family, continues through our immediate communities and the regime, and eventually extends to the human race. In short, we first become citizens before we are able to know and extend that love to the human race. Rousseau is aware that an anti-cosmopolitan stance has its drawbacks including the tendency for distrust or animosity between nations. He considers this to be a “drawback” that is “inevitable, but not compelling.” That it is not compelling does not mean that Rousseau wishes to raise

citizens to actively detest or war with neighboring nations. In fact, a republic that constantly faces war or seeks conquest is likely to fall to luxury or succumb to the prejudices of the conquered, undermining the morals and stability of the regime. As he states in the *Last Reply*, war is “sometimes a duty, and it is not made to be a profession. Every man should be a soldier in the defense of his freedom, non to invade that of another” (74). Rousseau argues against warring unless necessary, though this maxim does not eliminate the possibility of national hatreds or quarrels. For Rousseau, the essential thing to do as a citizen “is to be good to be good to the people with whom one lives” (*Emile*, 39). If one must first be a citizen, then they must come to love their own regime. This is a task much easier to accomplish because the individual has an easier time identifying with their fellow citizens and need not make generalizations past their regime.

Past the concern of false cosmopolitanism, contact between foreign people and nations becomes an exchange of vices, not virtues. Rousseau introduces the idea of nations transmitting their vices through everything from conquest to commerce. “The crusades, commerce, the discovery of the Indies, navigation, far-flung expeditions...have perpetuated and increased this disarray” (*Narcissus*, 98). Rousseau claims his list is incomplete, but the methods of international contact he does mention are suggestive of how far-reaching and commonplace the interaction between peoples affects their morals. While one might agree that the events like the Crusades have only added to immorality or vice, it may be more difficult to accept that commerce or navigation have done more harm than good. Montesquieu mentions the softening of morals when discussing commerce, claiming that it “cures destructive prejudices” and that it has “spread knowledge of the mores of all nations everywhere; they have been compared to each other, and good things have resulted from this” (*Spirit of the Laws* 20.1, 338). He further points out that

commerce between nations engenders peace between them. Rousseau agrees with Montesquieu on the effects of commerce, and notes the softening of morals, including the dying out of national hatreds, that accompanies the rise of commerce and luxury generally speaking. Why he rejects the notion that this is a wholly beneficial change is important for his understanding of well-organized and, ultimately, free regimes. As Montesquieu further elaborates, “[o]ne can say that the laws of commerce perfect mores for the same reason that these same laws ruin mores. Commerce corrupts pure mores...it polishes and softens barbarous mores” (*Spirit of the Laws* 20.1, 338). He continues by discussing what the effect of commerce has on countries compared to individual members of those countries. While commerce unites nations, it divides individuals. Nations that are predominately commercial exchange goods and services, creating bonds of mutual dependence that encourage peace. Individuals, however, begin to monetize and commercialize all things, great or small. They become more individualistic as does their desire for justice. Commerce is in opposition to the crimes of banditry, but it is also contrary to “those moral virtues that make it so that one does not always discuss one’s own interests alone and that one can neglect them for those of others” (*Spirit of the Laws* 20.2, 339). Rousseau considers pure morals, as Montesquieu calls them, and the individual’s identification with others as components essential to a healthy and free regime. The requirements for freedom are harsh burdens that a people can withstand only if they have strict morals. The softening of morality leads to the softening of peoples, and, in turn, to the loss of freedom. Commerce trades a harsh or strict morality for a soft morality that Rousseau relates to agreeableness. We need not contend over moral matters if we can exchange goods and benefit one another instead. Furthermore, the individual becomes concerned with justice as it is owed to them alone and draws their attention away from the well-being of the community. Such an effect is unsuitable for Rousseau’s regime of citizens

since civic-mindedness is essential for political virtue and the people's love of freedom. The people must view themselves as a part of a whole, a sentiment that commercialism and its cousin, luxury, all but quash. Its connection to luxury is particularly important for Rousseau who argues that luxury introduces the sciences and arts. He describes the effect the sciences and arts have on morality in a way similar to Montesquieu's discussion of commerce's effect on morals. As one may expect, however, Rousseau harshly criticizes this change as the loss of virtue. Explaining the effects of the sciences and arts, he exclaims to his reader that they "owe to them that delicate and refined taste on which [they] like to pride [themselves]; that softness of character and urbanity of morals that make relations among [them] so affable and easy; in a word, the appearance of all the virtues without having any of them" (*FD*, 12). As Montesquieu presents the effects of commerce in these brief passages, commerce simultaneously improves and weakens morals. Commerce softens morals by pulling them away from two extremes toward a sort of moral middle ground. While Rousseau critiques this change as an absence of morals, he elsewhere admits that we might consider them as morals. We may regard agreeableness and urbanity, as "supplements to virtue," according to Rousseau, but they are not virtue in a genuine sense (*Last Reply*, 66). Rousseau continues this line of thought by explaining that agreeableness is not a virtuous act, but a desire to please. We can see the parallels between Rousseau's claim about agreeableness and Montesquieu's discussion of the effect commerce has on individuals. In both cases, the individual now seeks benefit for themselves alone instead of the benefit of others. In Rousseau's well-ordered regime, the individual understands their own benefit as connected to the wellbeing of others. Commerce is harmful because, along with the desire for luxury, it creates slavish attitudes, introduces a preference for comfort and ease, and makes the people more agreeable than truly virtuous. All of these qualities are more suited to a peaceful but

despotic regime.

As previously noted, Rousseau does not limit his critique of to the effects of commerce. He regards everything that “facilitates communication between nations transmits not the virtues, but the crimes of each to the others and adulterates the morals appropriate to the climate of each and to the constitution of its government” (*Narcissus*, 98). Rousseau understands the importance of time, place, and the uniqueness of peoples in determining what introduces vice. His consideration for climate connects to other considerations including whether a nation is too large or a people is able to receive legislation. Nature, for Rousseau, influences and determines how a people survives, by what means they acquire sustenance, the development of their language, their industry, and a number of other qualities that shape their character, including habits and customs. The establishment of government is a result of these differences in climate, and, therefore a change in morals also affects the people’s relation to their government. We can return to Rousseau’s statement about government begin able to influence morals. Once morals are determined, the government no longer has “the power to change them without itself changing” (*d’Alembert* 74). The communication between nations introduces new customs, habits, morals, and ways of living. They can influence the people’s belief in religion and trust in their form of government or laws. By introducing new modes of living and governing, the citizen may begin to doubt the laws, religion, or government of their country. Much like the questioning of established morals and customs that arises in philosophical studies, the introduction of new ways of living undermines the established customs of a regime. Rousseau contends that the such intercourse between nations introduces vices instead of virtues because customs and habits that are virtuous in one nation are vice in another. Different customs or practices suitable for one country are unsuitable for another.

To form regimes of citizens where the people love their country and their fellows demands that each nation be unique. Rousseau emphasizes this point when instructing Poland to establish a public education that forms Polish citizens that are distinct from other peoples in Europe. If customs, laws, and governments are all interchangeable, a regime cannot argue that their way of living is superior or worth defending over another. The people will not love what is theirs if they cannot determine the difference between their way of life and that of another nation. Public education is a means by which the regime can solidify its national character. For a people to be free, they need to have a “common existence and [be] truly tied together by Law.” Rousseau treats education as a necessary foundation for Poland’s reformation because, otherwise, they will default to appearing like the rest of Europe. “A Frenchman, an Englishman, a Spaniard, an Italian, a Russian are all just about the same man: he leaves school already completely formed for license, that is to say for servitude” (*Poland*, 179-180). Without a proper public education, the individual will never become the Rousseauian citizen. The pupil who finds themselves at home in any nation will not attach themselves in a meaningful way to their own. Public education can create “true republican[s]” whose entire existence is intertwined with their love of the regime and their fellow citizens (*Poland*, 179). Without such an education, Poland will all have the same tastes, passions, and morals of any other European. Rousseau contends that we can group European peoples together because they did not receive a public education, and, therefore, share the same characteristics. For Rousseau, these peoples are interchangeable on a moral level, which is to say, they are corrupt.

Rousseau includes the clergy when he rejects the introduction of and certainly an education in foreign ideas. Priests, as an ecclesiastical body or Church, are part of a community foreign to the regime. Rousseau critiques the role of the clergy in education and governance in a

number of his works including *Poland*, the *Social Contract*, and *Emile*. Bloom notes Rousseau's quiet criticism of so-called public education in the *Emile* as a clerical education that constrains capable, non-clerical instructors from properly educating the youth (1979, 482; note 9).

Rousseau briefly mentions priests in *Poland* and, when doing so, only outlines what tasks they are allowed to undertake. He does not develop a system of honoring and public scrutiny that would place priests to positions of grave importance or merit in government. The priests are often absent in discussions on politics, education, and moral regulation. Priests introduce a teaching that focuses on universalities and truths incompatible with the singular and insular government Rousseau suggests for Poland. Furthermore, they draw the people's attention away from their regime, asking them to obey the Church over country and love all people indiscriminately.

Considering the prominence of Catholicism in Poland including the connection the Confederation of the Bar had to the Catholic Church (of which Count Wielhorski was a member),⁷⁷ the scarcity of both Christianity and the priesthood in Rousseau's suggested reformation is noteworthy. As previously discussed, Rousseau wishes for only citizens of Poland to educate the youth and couples priests with foreigners as those barred from teaching. He does suggest that a bishop could be placed at the head of the "college of Administrators of education," but should that happen, no one with ties to an ecclesiastical body could be admitted to the college. When Rousseau returns to the topic of priests at the end of *Poland*, he places them in a diminished role. A few priests "who are judged most worthy of this honor" would be included on a "censorial or beneficent Committee" as some of the "notables of all stations" who make decisions for a given province. Rousseau does not extend these positions to all priests, in part

⁷⁷ See *Poland*, 175 and Gourevitch 2007, 254, 310ff.

that it “might also throw some emulation among the Village Priests, and protect a great number of them from the vile morals to which they are only too subject” (*Poland*, 227). Priests do not escape the criticism Rousseau levels at lawyers and soldiers, but the only figures they are given to emulate are the few priests of the beneficent committee. Along with other members of the province, priests would be expected to report to the committee on their parishes. The committee would then take these reports and decide on matters concerning everything from charitable endeavors to distinguishing individuals whose honorable actions deem them worthy of public praise. Whether they sit on the committee or report to it, the priests are tasked with matters of charity and public welfare. Rousseau, however, makes no mention of their ecclesiastical duties.

Considering that religion was essential to the character of ancient regimes and the love ancient citizens had for their fatherland, one might expect Rousseau to spend time elevating the Church or the priesthood, examining ways to rectify their shortcomings, or offering examples of how they would properly integrate religion into governance. The ancient legislators Rousseau mentions, Moses, Lycurgus, and Numa, each placed a religious observation in addition to a political one over their people. He extends consideration for this practice to “all ancient Legislators” claiming they sought “bonds which attached the Citizens to the fatherland and each to each other, and they found in them distinctive practices, in religious ceremonies which were always exclusive and national by their nature...” (*Poland*, 173). Following this insight Rousseau directs the reader to the end of the *Social Contract* for his discussion on civil religion. While his analysis in the *Social Contract* argues the importance of religion in ancient regimes and its unification with all matters political, it also provides a critique of Christianity and insight into why he does not discuss religion and the priesthood at length in *Poland*.

Rousseau begins by depicting a period in history before human beings accepted being

ruled by one another. The only rulers were gods and every government was a theocracy. Reminiscent of his theoretical origins of society in the *Second Discourse*, Rousseau argues that it required a “lengthy degeneration of sentiments and ideas...before they could bring themselves to accept their fellow human as a master, and to flatter themselves that this would be a good thing” (SC, 263). Although the nonbeliever might argue that the existence of a god is fictitious and unnatural, Rousseau suggests that so is the rule of one human being over another. Beyond the problem of slavery, the mere acceptance of one’s political subservience requires the reconfiguration and in some sense the disfiguration of social relations. This point is of particular importance given Rousseau’s comparison of placing law over individuals to the squaring of the circle in geometry, his assertion that law, to which “men owe their justice and freedom,” is the only means to “shackle their will by their own agreement,” and that all ancient legislators used religion to create a people by bonding citizens to each other and their fatherland (*Economy*, 9-10).⁷⁸ The emergence of political rule required a divinity and law, eventually evolving into the people’s acceptance of another human being as their master. A nation’s connection to the divine as the foundation of its laws and customs eventually became unnecessary for governance, but the difficulties associated with political rule have not abated.

The absence of a divine origin or connection puts the burden of justice and order, the willingness of people to be ruled by another, on law. Additionally, it creates a new challenge for modern regimes attempting to make individuals into citizens and stimulate the love of the laws and the regime. In light of these difficulties, one might expect Rousseau to give a passionate defense of religion and a prominent place for the priesthood in his reformation of Poland. The problem, however, is not with religion itself or religion in the abstract. According to the

⁷⁸ See also *Poland*, 170.

argument in the *Social Contract*, Christianity is incompatible with politics and lacks the characteristics that allowed ancient religions and institutions to mold individuals into citizens. Christianity brought with it the separation of the “theological system from the political system, made it so that the state ceased to be a unity, and caused the intestine quarrels which have never ceased to convulse Christian peoples” (*SC*, 265). Once politics and religion became two separate entities, two separate bodies ruled the people and expected them to obey two masters. In a nation where Christianity has real influence, the clergy are “master and lawgiver.” Members of the clergy are connected to one another through a religion that transcends political boundaries. With the ability to pass judgment on both the people their rulers, particularly through the power of excommunication, the clergy commands the obedience of the people; potentially placing the authority of the church at odds with a government’s political authority. Rousseau refers to the “communion” of priests as a body of “fellow-citizens” and a “masterpiece of politics” (*SC*, 266).⁷⁹ A political body should not compete for the attention of its citizens. In this way, the education of priests becomes an education of a foreign political order.

Rousseau offers a simple typology of religion that distinguishes when the presence of a religion in society is detrimental or harmful for the cultivation of duty toward the regime. Religions fall under one of three categories: religion of man, religion of the citizen, and religion of the priest (*SC*, 267).⁸⁰ The religion of man is “without temples, without altars, without rights,” and is wholly unattached to politics and political life. Rousseau refers to it as a “purely internal form of worship” and “true theism” that has its relation between only the individual and the

⁷⁹ Later in the chapter Rousseau warns against allowing theological intolerance because it strips political power from the magistrates and places it in the hands of the priests. See *SC*, 271ff.

⁸⁰ To the religion of man Rousseau attaches the title “divine natural right” while the religion of the citizen is a “civil or positive divine right.” The religion of the priest “results in a sort of mixed and unsociable right which has no name.”

being they worship (*SC*, 267). Religion of man has no relation to the laws and, as such, does not add to their force. That is to say, without a relation to politics or a political body, the religion of man does not strengthen a political order or institution. On the contrary, “far from attaching the citizens’ heart to the state, it detaches them from it as it does all earthly things” (*SC*, 268). Pure Christian belief, as a religion of man, would offer nothing to society as the devout would not be concerned with the material world, only the eternal world beyond this one. The devout would show no concern for the perpetuity of a particular political regime and as long as they are fulfilling their duty to God, “it does not matter much whether everything goes well or badly down here on earth” (*SC*, 269). Such a disposition is unsuitable for citizens who must love and defend their regime. The religion Rousseau describes of the ancients often mirrors his depiction of the religion of the citizen. Instead of the internal worship of the religion of man, the religion of the citizen is an external worship connected to a particular regime and law. More specifically, the religion of the citizen “combines divine worship and the love of the laws,” making the regime “the object of the citizen’s worship.” Religion supports the laws, strengthening them and adding to them a “force” derived from the shared bonds of divine worship. Religion of the citizen excludes those who are not citizens, engenders contention among nations, and “puts a people into a natural state of war with all others, which is very harmful to its own security” (*SC*, 267-268). The third and “more bizarre sort” of religion, the religion of the priest, is often found in the practice of Christianity by modern societies. The religion of the priest divides human beings both internally and externally by giving them “two bodies of legislation, two leaders, [and] two fatherlands” (*SC*, 267). It is as if a person must practice both the religion of man and of the citizen. The contention between a duty toward God and all fellow human beings and the duty to a particular people and nation pulls the devout in opposite directions. Among other religions,

Rousseau mentions Roman Catholicism by name and argues that religions of the priest “destroy social unity” (*SC*, 267). The religion of man and the religion of the citizen offer the individual something that the religion of the priest cannot: wholeness.

Rousseau typology of religion echoes his critique of modern society in *Emile*. Natural man, like the religion of man, “is numerical unity, the absolute whole which is relative only to itself or its kind.” Civil man, like the religion of the citizen, understands himself only in relation to society. He is a part of a whole, a “fractional unity dependent on a denominator,” that cannot recognize his natural individuality (*Emile*, 39). Whether one practices a religion of nature or of the citizen, their devotion is consistent and whole, either to the individual or to the city. The religion of the priest is an “institution” that puts “man in contradiction with himself” and is therefore “worthless” (*SC*, 267). One could effortlessly transplant Rousseau’s assessment of civil man torn between natural and social inclinations in *Emile* into his critique of the priestly religion: “Always in contradiction with himself, always floating between his inclinations and his duties, he will never be either man or citizen. He will be good neither for himself nor for others” (*Emile*, 40). Rousseau’s concern for the denaturing of human beings, either completely as the citizen or not at all, is a matter of the individual’s well-being and happiness. The internal devotion exemplified in the religion of man mirrors the natural man, whole within himself. The external devotion exemplified in the religion of the citizen mirrors the citizen, entirely denatured and understood only within society. Christianity, the religion of the priest, asks of the devout something impossible; maintaining one’s duty to a particular social and political existence while simultaneously recognizing everyone as one’s “brothers” detaching oneself from “all earthly things” (*SC*, 268). Furthermore, it creates for civil man two masters, the magistrate and the clergy, and places the rule of government at odds with the rule of the church.

If Christianity and the priesthood poses such a difficulty for freedom and the republic, why include them at all? Rousseau is aware of the need to maintain even some of the more troubling aspects of Poland's political order, warning "[c]orrect, if possible, the abuses of your constitution; but do not despise the one that has made you what you are" (*Poland*, 170). The inclusion of a single bishop as an administer of education, allowing the best few of the priests as members of the beneficent committee, and requiring priests to report to the committee are part of Rousseau's plan to slowly incorporate his recommendations for Poland. He urges Poland to initiate reforms but "[n]ever shake the machine too abruptly" and rejects any approach that includes "taking by surprise and in some manner tricking the Nation" (*Poland*, 239). Removing the Church and any ecclesiastical presence from public life would be too dramatic of a shift in Poland's moral and cultural character. Rousseau's inclusion of the priesthood, though diminished, is necessary for political reformation in Poland.

Though Rousseau is silent on the exact nature of religion in Poland, aspects of his civil religion outlined in the *Social Contract* provide some indication of what one might expect Poland to adopt should they proceed with his recommendations for reform. This expectation is in part due to Rousseau's repeated reference to the *Social Contract* throughout *Poland*⁸¹ and the consistency of his plan for Poland with respect to law, love of fatherland, and duties of the citizen. The civil religion he puts forth has dogmas "simple, few in number, stated with precision, within explanations or commentaries" (*SC*, 271).⁸² Such dogmas would be the religious equivalent to the laws Rousseau recommends for the reformation of Poland. The ease

⁸¹ See *Poland* 173, 188, 189, 191, 197, and 236.

⁸² Rousseau lists the following "positive dogmas:" the "existence of a powerful, intelligent, beneficent, foresighted, and provident divinity, the life to come, the happiness of the just, the punishment of the wicked, the sanctity of the social contract and the laws." The only negative dogma is "intolerance" which "belongs with the forms of worship we have excluded" (*SC*, 271).

with which the people would be able to learn and understand these dogmas would make it possible for them love and practice them with a similar effortless. While each citizen should “have a religion which makes him love his duties,” the importance of one’s personal beliefs and opinions is limited to the concerns of the community. The community has an interest when an individual’s beliefs conflict with morality and one’s duty as a citizen. Otherwise, the practice of the civil religion is similar to the practice of the laws. Rousseau states that the sovereign determines the “purely civil profession of faith” which is to say the people as sovereign collectively determine those dogmas which promote sociability and “without which it is impossible to be a good citizen or loyal subject.” The penalty for failing to practice these dogmas is less a punishment for lacking faith, but for being “unsociable, as incapable of loving the laws, justice, and if need be of sacrificing [one’s] life to his duty” (*SC*, 271). Even with a plan of progressive implementation, putting a general civil religion unencumbered by particular political conditions into practice would be difficult for the Christian Poland of the time. Rousseau diminishes the role that religion and the priesthood play in Poland’s political affairs to make possible the citizen’s focus on duty and the love for the laws. Since there “is no longer and can no longer be an exclusive national religion,” Rousseau urges that all religions should be tolerate “insofar as their dogmas contain nothing contrary to the duties of the citizen” (*SC*, 272). The diminution of Poland’s clergy does not guarantee a flourishing civil religion, but it approximates the best relationship Poland can have with its Catholic heritage if the country wishes to raise free citizens.

Public education is a means to give the people a “national physiognomy.” Rousseau contends that by making the regime and its people different from others, you can “keep them from dissolving” and introduce “a vigor which will replace the abusive operation of vain

precepts, which will make them do out of taste and passion what is never done well enough when it is done only out of duty or interest” (*Poland*, 175). The people must hold themselves in high regard, taking pleasure in their identity which they readily share with, and only with, their fellow citizens. The people’s ability to resist finding pleasure in and adopting the vices of other nations is a result of the pleasure they experience in communion with their fellows and subsequent identification with the regime. The process of identification comes from a public education that is careful about what it excludes as much as what it includes. Rousseau wishes for Poland to establish institutions that raise citizens who would “die of boredom among other peoples in the bosom of delights of which it is deprived in its own” (*Poland*, 174). Given Rousseau’s concern for the transmission of vices between nations, this is no small claim and certainly no small achievement. His description of the result is important to understand in relation to the goals of education. To achieve such a disposition in the citizens would afford the people a new strength in resisting vice. This comes about from a curated education that elevates the practices and pleasures of one’s own regime while excising the practices of other nations. The rejection of foreign teachings and instructors, including the priesthood, is a means by which the regime censors certain ideas and teaching that may not only be antithetical to the regime, but may encourage the citizen’s identification with something other than their peers. The introduction of censorship in public education precludes specific teachings that distract the youth from their regime. All censorship in this manner is political in character because it does not attempt to cultivate morals that are universally good. Instead, it leads youth toward a morality and virtue specific to their nation. Additionally, the removal of teachings that are foreign in content or presented by non-citizens is a political safeguard. All public education aims at creating citizens, an ultimately political goal, and does not cultivate the variety of opinions regarding justice, the

laws, religion, virtue, etc. that we often consider important for a well-rounded individual. The citizen must see themselves in their peers and understand themselves as a part of the whole, their wellbeing and love-of-self connected to the wellbeing of the regime and its members. In short, the censorship present in public education does not merely target ideas or morals found displeasing to one group or another. Instead, censorship is a political instrument used for a unified goal, nurturing virtue, freedom, and happiness in the citizenry. Censorship provides a carefully curated education that develops the citizen's use of judgment about matters concerning the politics and the community. Much like the education Cyrus receives in Persia or the Spartans provided for their citizens, proper judgment about justice and the laws is essential to a free society that rules by law. Xenophon's example of Cyrus and the exchanging of tunics is noteworthy considering the disparity between justice according to the laws and what is fitting. Xenophon's account reveals the possible tension between the laws and what fitting, and how one's judgment about these in relation to justice is important for political stability. To conclude that the laws are unjust because they do not see to what is fitting affords an element of judgment that undermines the laws. The regime must raise its citizens to love the laws, so that they have a consistent basis for all of their political relations. This is especially important for political matters that pertain to the question of justice or right. Cultivating a public-minded judgment on these issues is meant to afford the people a consistent basis for justice, allowing them to passionately adhere to the laws because they understand them as a source of justice and just rulings. The censorship that occurs in public education attempts to prevent the spread of ideas that undermine the regime, cause its members to disassociate from the nation and each other, and, ultimately, introduce vices that draw the people toward so many particular wills over the general will. Furthermore, it sets the people up for the public form of censoring that they will

adopt throughout their lives. In this way, the regime initiates a process of active public censorship that reinforces the habits, morals, and identity public education first introduced. Alleviating the need for constant pressure by governmental bodies, public education is the foundation for making so many censors out of the citizenry.

Public education continues through physical education in such a way that the people's pleasures are connected to games of competition, public approval and approbation. Rhetorically asking how "move hearts" and get the people to love their laws and country, Rousseau states "[w]ith children's games; with institutions that are idle in the eyes of superficial men, but which form cherished habits and invincible attachments" (*Poland*, 171). His explanation suggests just how mistaken modern Europe is about what constitutes idle behavior. In the *First Discourse*, Rousseau argues that the sciences and arts are both the products and endeavors of idleness (24). Idleness is the inattentiveness of the citizens to matters concerning the state. The good citizen is constantly engaged by and active in the community. The sciences and arts draw the people's attention away from their duties and encourage self-aggrandizement. While there are some who are capable of producing exceptional art or scientific discoveries that benefit the community, Rousseau warns that most who employ themselves in these pursuits do not do so for the benefit of the whole. They seek praise for themselves as individuals, not as citizens. In this way, they are idle because they are not actively benefitting their fellows. The games and institutions Rousseau describes in *The Government of Poland* appear idle to those who fail to see the profound influence they have on citizens. Rousseau does not consider them idle because they act as part of the foundation for the people's identification with their regime. Under Rousseau's formulation of the problem, games and institutions that encourage public engagement and remind the citizen of their nation are a way to actually combat so-called idleness.

Physical exercise and competition combine with education's intellectual pursuits to solidify the love of the regime and one's neighbor, further engaging the pupil in process of citizen-making. The purpose of physical exercise is to, first, occupy children and, then, to acclimate them to the watchful eye of their neighbor. While classroom education familiarizes the youth with the laws and history of the regime, exercise and competition stimulate the child's *amour-propre* and instill in them the desire to emulate their fellows. On its own, occupying children helps to "prevent the vices from being born" which is "enough for virtue" (*Poland* 181). This is particularly important given Rousseau's warning that when children reach the age of twelve, they have just passed through the "most dangerous period of human life." To keep children from vice is often enough to begin instilling virtue because once vice takes hold, it is difficult to correct in the child. This early period of childhood is "the time when errors and vices germinate without one's yet having any instrument for destroying them; by the time the instrument comes, the roots are so deep that it is too late to rip them out" (*Emile*, 93).⁸³ To occupy the youth with communal games and exercises draws their attention to the community while making it difficult for them to participate in behaviors that breed vice. Since the child has yet to develop reason and judgment capable of resisting the temptations of vice, they will succumb to immoral behavior without understanding the full import of their actions. Rousseau point on vice settling in children is similar to his argument for the difficulty of changing public morals once they solidify. Rousseau recommends games of competition that are held with a "little pomp," made into a "spectacle," and award prizes given out by the spectators.⁸⁴ Even if

⁸³ See also *Economy*, 20ff.

⁸⁴ The word translated here is "*spectacle*" in the French and of particular importance in the *Letter to M. d'Alembert*. Rousseau's description of the games is reminiscent of his story of the "indolent and last child who was to be trained in running" and the footraces in *Emile* (141ff.). Instead of having the child train in running, the narrator ("I, that is to say, the man who speaks in the example") has the lazy child compete with other runners for a prize in the form of cakes. The children run for the prize while "passers-by" provide "acclamations, shouts, and clapping." The narrator

parents educate their child at home, public physical exercise and competition is mandatory because it “accustom[s] them early to regulation, to equality, to fraternity, to competition, to living under the eyes of fellow citizens and to desiring public approval” (*Poland*, 181). Children experience the approbation and disapproval of their peers in a controlled setting that provides politically beneficial outcomes. Instead of creating competition that causes the individual to draw inward and undermine their neighbor for their own gain and glory, public competition leverages one’s *amour-propre* and directs it toward prideful endeavors instead of vain ones. Ambition becomes a communal affair where the public weighs and judges according to shared customs and morals. The regime makes positive use of the people’s *amour-propre* by directing it toward a social good and away from pernicious behavior. In his *Emile*, Rousseau warns that *amour-propre* “in itself or relative to us is good and useful.” *Amour-propre* ceases to have a “neutral” character when we begin to compare ourselves in relation to other people. Then, it “becomes good or bad only by the application made of it and the relations given to it” (92). The cultivation of the citizen presupposes the stimulation of a child’s *amour-propre*. With proper guidance, however, the desire for competition and approval are a necessary foundation for social relations that form the Rousseauian citizen, the citizen who loves their country and would be nothing without it.

Rousseau’s use of *amour-propre* in forming citizens faces limitations similar to that public education. Since human beings are constrained in their ability to love that which is unfamiliar or dissimilar to them, the size of the state matters. Rousseau suggests that “the sentiment of humanity dissipates and weakens as it spreads to the whole earth,” and, as a result, “[i]nterest and commiseration must in some way be constricted and compressed in order to be

even mocks the child a little to encourage a sense of competition. This passage should be compared to Rousseau’s discussion of competition and comparison after the age of reason in Book III (*Emile*, 183ff.)

activated” (*Economy*, 15). Here we see a further elaboration of Rousseau’s critique of cosmopolites and their counterfeit humanity. Although it would be problematic for those who champion cosmopolitanism, the inability of this “sentiment of humanity” to extend beyond the borders of a small nation is actually advantageous for creating fellow-feeling among citizens. Patriotism is born out of the “habit of seeing one another” coupled with a “common interest that unites them.” Public education, both in the teaching of the youth and public entertainments, instills patriotism and a love of one’s country by transforming the often-volatile *amour-propre* into a passion of commiseration. *Amour-propre* is essential to the love of one’s country and directs toward the state “that exquisite sentiment which any isolated man has only for himself...transform[ing] into a sublime virtue the dangerous disposition that gives rise to all our vices” (*Economy*, 20). When connected to the regime, our desire to be seen and loved by others can have a positive political outcome, but this requires cultivation. Rousseau contends that it is impossible to teach human beings to love nothing. Teaching the people to love one object over another, however, is possible and can lead to the elevation of certain attachments and behaviors over others. The education of the citizen is one of directing self-love toward the state. Early on, individual must be taught to “perceive their own existence as, so to speak, only a part of [the state’s] existence” (*Economy*, 20). It is because Rousseau’s citizen cannot understand themselves outside of their regime that we can stifle and replace the more pernicious aspects of one’s *amour-propre*. One’s love-of-self becomes intertwined with the love of one’s regime. Consequently, one’s love-of-self becomes a love of one’s fellow citizens and fosters a sense of duty to the state. All of this begins with public amusements, competitions, and the shared pleasures and approbations they provide.

Rousseau’s advice for Poland is similar to his critique of building a theater in Geneva and

preference for local festivals as the amusements of a republican people. Although one must leave the private sphere to view a play, the modern theater is not a place of fellowship or shared experience. “People think they come together in the theater, and it is there that they are isolated. It is there that they go to forget their friends, neighbors, and relations in order to concern themselves with fables, in order to cry for the misfortunes of the dead, or to laugh at the expense of the living” (*d’Alembert*, 17). Modern European theaters encourage a form of escapism that allows the viewer to indulge in their passions. Instead of providing catharsis, the theater exacerbates the passions one already has. According to Rousseau, the only way to purge these passions is through the use of reason, but reason does not move the average theater-goer in the same way as displays of passion. Far from aiding us in moderating our passions, the theater inflames them while remaining unable to instruct through reason. While characters may appeal to reason in their speeches, they cannot move the audience through reason alone and must always intermix passionate displays. Rousseau’s account of the theater reminds us of the necessary steps the legislator must take to persuade without convincing. Reason does not move the people like passionate appeals or imagery, and the audience does not go to the theater to hear lectures. If the theater does not move the audience, it cannot please the audience and, as Rousseau states, a “man without passions or who always mastered them could not attract anyone” (*d’Alembert*, 18). The dissolute theaters of Europe are antithetical to republican virtues and education because they aim to please and, therefore, must play to European passions, none of which reinforce national characteristics or morals. For Rousseau, the theater of Europe keeps amused corrupt peoples and reinforces corrupt morals. The theater’s agitation of the passions, however, has its advantages. While the theater cannot alter public morals for the better, it can reinforce them. It is with this in mind that the theater can strengthen the ties between citizens and the morals of their country.

Rousseau's advice for Poland requires that the people have their interests wholly tied up in the interests of the nation. They see their lives and happiness intermingled with their duty and love for the fatherland. Amusements like the theater are used as an escape from civic life and duty. If the goal is to keep citizens "ceaselessly occupied" with their country, entertainments that encourage the forgetting of one's duty, work, and fellow citizen stand in direct contradiction to the strength of the state (*Poland*, 176). When Rousseau speaks of the corrupting effects of theaters, however, he is referring to modern theaters found in corrupt regimes. The Greeks performed their plays "in the open air and as a body of the nation" (*Poland*, 173). Ancient performances brought the public together both in person and through their shared history and culture. Unlike the European theaters Rousseau critiques, he elevates ancient theater because it reinforces the regime through its depiction of national histories, heroes, and myths. The people come together in the open air, so that they cannot hide in their theater boxes or the dim light of the playhouse. Even if the people enter the theater and experience the sort of isolation that Rousseau decries, the plays and recitations strike their imaginations with culturally significant stories and images. The public nature of these plays counteracts Rousseau's concern for the isolation arising in contemporary theaters. Additionally, while the artist must always please their audience if they wish for fame, the constraints public morals place on the theater make possible the use of the theater to reinforce public morals. Again, much like the reciprocal nature between morals and the laws, the theater influences public morals insofar as the entertainments they provide align with public morality. As Rousseau states in the *Letter to M. d'Alembert*, "[l]et no one then attribute to the theater the power to change sentiments or morals, which it can only follow and embellish" (19). It is in following and embellishing public morals that the theater can be of use in Rousseau's healthy regime. Art, whether it is found in the theater or in the form of

paintings and statues in public display, should participate in the country's history or myths. Statues and paintings should depict the country's heroes and cultivate a love of virtue in the viewer (*FD*, 31). The "general effect of the theater is to strengthen the national character, to augment the national inclinations, and to give a new energy to all the passions" (*d'Alembert*, 21). If the nation establishing a theater is in a corrupt regime, the people's entertainments will only further solidify their corruption. If the people are virtuous and national morals reign, however, the theater can reinforce public morals and the character of the regime. This still requires that the theater take place out in the open, so that the audience can see one another and collectively participate. Citizens cannot hide in the theater for fear that they may find pleasure in their isolation or, more importantly, outside of the community.

Rousseau's reformed theater approximates the entertainments he would prefer the people to practice, public festivals. Rousseau praises Geneva for its public festivals and suggests introducing even more of them. When discussing Poland, Rousseau suggests introducing unique entertainments so that one will "be amused more in Poland than in other countries, but not in the same way" (*Poland*, 177). Allowing the citizen to find pleasure, especially great pleasure, in amusements that are common to other countries encourages them to find their happiness outside of the regime and away from their fellow citizens. Since one's pleasures influence their morals, finding enjoyment outside of the regime introduces morals that, while they may be virtues for others regimes, are vices at home. Like the theater, public festivals should be in the open air where people can easily commune and see one another. This allows them to collectively participate in shared activity that alleviates the tensions of their daily lives instead of hiding in theaters and similar houses of entertainment. Theaters cause the spectator to see the actors and feel only for the characters they play; to go into public only to remain isolated and alone. Public

festivals should strive to make the “spectators become an entertainment to themselves; make them actors themselves; do it so that each sees and loves himself in the others so that all will be better united” (*d’Alembert*, 156). Festivals allow for a level of participation and interaction that surpasses the theater. Rousseau describes the transformation of the Genevan people as they participate in public festivals. “They are unrecognizable...The people are lively, gay and tender...they seek to communicate their joy and their pleasures...All societies constitute but one, all become common to all” (*d’Alembert*, 127). The shared experience of public festivals allows citizens to take pleasure in something uniquely their own and indulge in each other’s company. Just like public education, Rousseau advocates for the public festivals and amusements that a nation can call its own. This principle extends to all forms of entertainment and games, and for all social classes. When Rousseau applies this principle to Poland, he urges them to eradicate amusements that appear in all royal courts and exchange them for “games, festivals, solemnities that are so specific to that Court that they are not to be found in any other one” (*Poland*, 176-177). The melding of pleasures, joys, and concerns helps to keep the people focused on the regime. Finding happiness in the communal joy of the citizenry keeps the individual citizen from seeking it only in themselves. Furthermore, it encourages the people to act as their own censors. Public festivals draw the people closer to their regime because they find their shared endeavor pleasurable. They also bring everyone under the gaze of their peers and subject them to the approbation and disapproval of so many citizens acting as public censors.

Before turning to the people’s role as censors, we must consider to what extent their opinions influence public outcomes. Rousseau’s prescriptions for Poland ensure that public education and the leveraging of *amour-propre* toward love of the regime continue throughout the citizen’s life. Poland is to use the spirit of competition and public approval to make life-long

citizens. Much like the public festivals Rousseau recommends to Geneva and Poland, awards, emulation, and glory contribute to the people's desire to be worthy of the country they love. For Rousseau, the ability of citizens to rise in position is "the key to a great spring in the State." Positions of importance "ought to be considered only as testing places and steps for rising higher after deserving to do so," and are earned through actions deemed meritorious by the people (*Poland*, 180). By using the recognition of the people to award positions of honor and importance, Rousseau directs the people's ambition toward the wellbeing of the state. Since it is the recognition of the people and not only the king or a noble class, the people actively participate in the elevation of citizens they deem worthy. This is meant to ensure that the will of the people determines what and who is honorable. An ambitious person could not merely please the king and receive a high-ranking position. They must show their service to the regime and convince the public of their virtue. This process of honoring and elevating citizens continuously reminds both the people and the ambitious of their duty to their country.

Rousseau provides examples for the progress and elevation of citizens to positions of importance. First, citizens can distinguish themselves in such positions as lawyers and judges. Each position allows for the citizen to ascend after distinguishing themselves by their deeds, their work, and their dedication to their country. To these, Rousseau adds "Assessors...managers of some portion of the public funds, and in general in all the inferior positions that give those who fill them the opportunity to show their merit, their capacity, their exactitude, and above all their integrity." Rousseau's system affords all members of society a means by which to fulfill their ambition, receive the approbation of their neighbor and serve their country. From here, citizens are able to move upwardly by means of a "graduated progression" through which members of the many inferior positions might be "elected Deputies at the Diet, Deputies to

Courts, Commissioners of the chambers of accounts or charged with any public function that belongs to sovereignty” (*Poland*, 223). Once reaching this level, citizens are eligible to be Senators. Some outward sign of the conferred honor accompanies each gradation and requires the approval of the public. Having the virtue necessary to ascend is insufficient. The public must see the citizen and be aware of their deeds, judging them worthy of the honor they have earned. To represent their service to the state, citizens are to acquire new titles and a plaque they are to affix in a place visible to all. The first plaque they earn has written on it “*Spes Patriae*” (Hope of the Fatherland) and they are referred to as “Servants of the State,” while the second grade earns them a plaque with the words “*Civis electus*” inscribed on it according to their new title: “Citizen elect.” After reaching the third grade, the citizen is given a plaque inscribed “*Custos legum*” (Guardian of the laws) and they are to wear it for the rest of their lives regardless of their held position. The title of “Guardian of the law” emphasizes Rousseau’s insistence that law is essential to a free and equal republic. Moreover, for the citizen to truly love the law and have it rule over their heart, the law must be venerable and worthy of protection (*Poland*, 223, 256). The outward sign of honor worn by those elevated in rank is essential for Rousseau’s reformation of Poland because it contributes to the citizen’s desire for emulation and public approval. Public games and festivals become venues in which high-ranking and honored members of society can be seen wearing their plaques and awards. He calls for “many spectacles in the open air, where the ranks might carefully be distinguished” (*Poland*, 177). The public spectacles provide honor in both spirited competition and the comparison of rank. To ensure that everyone feels the effect, festivals and games should be available to all instead of relegated to those of wealth or high social standing. This allows for genuine ascension of any member as long as they serve their nation.

Rousseau favors smaller nations because they are more likely to maintain a shared identity and allow for the kind of public engagement he desires to arise in festivals and competitions. Furthermore, it allows for the people to participate in matters of honor or a citizen's ascension to positions of public importance. As Rousseau states in the *Social Contract*, "[h]e who judges morals judges honor, and he who judges honor derives his law from opinion" (262). The connection between honor, morals and opinion, suggests the extensive influence the people have once they are able to dictate honor and grant positions of power. Regime size benefits matters of social identity and communal entertainments because it makes possible the people's active engagement as public censors who reinforce the customs and morals of the regime. Rousseau contends that "in less populated places where individuals, always in the public eye, are born censors of one another" (*d'Alembert*, 59). Part of the reason Rousseau recommends public festivals and ceremonies is so the citizens can see one another, and take pleasure in their union while simultaneously monitoring their peers. Public festivals are a way to remind the people of their country while leveraging their *amour-propre* for the common good. Once *amour-propre* becomes active, a person will always be sensitive to the opinions of their peers. They will modify their behavior insofar as they are concerned about the opinions of others and wish to appear good or just. Although it is easy enough to assume that people are willing to pass judgment upon one another, it is a wonder why they should do so in a manner akin to censorship. Rousseau uses Rome to explain how the people might behave as censors. "[I]n the great days of Rome, the citizens, watching one another, publicly accused one another out of zeal for justice" (*d'Alembert*, 106). The Roman's love for justice included the hatred of vices, those behaviors antithetical to the morals of the regime, and animated the people much in the same way Rousseau hopes Poland's reformation will lead to the Poles' love of justice. By attaching one's

amour-propre to the wellbeing of the country and its citizens, Rousseau tries to direct the public's willingness to praise and shame their peers toward the common good. Once the people become the censors, a citizen who commits a morally repugnant act will have to face the people in addition to any punishment by the government.

The activity of meeting and participating in public stimulates the citizen's the *amour-propre*. While this is true of all people, the citizen is particularly susceptible because they are raised to view themselves as only a part of the whole community. The citizen's identity is wholly caught-up in their homeland. Since everyone desires the favorable opinion of their peers, they keep to behaviors, attitudes, and practices that will win the approval of their fellows. Furthermore, since each person experiences the same public education and amusements, they hold similar opinions about moral behavior and justice. These opinions animate them to pass judgment on their peers just as their peers will pass judgment on them. Since *amour-propre* always keeps people living in the opinions of others, the people of a corrupt regime and the citizens of a healthy regime differ only in the content of their morals and opinions. People will always try to praise and blame each other, but the citizen must do so in accordance with the wellbeing of the country. Corrupt peoples attempt to deceive and undermine each other for their own gain. A citizen still seeks their own benefit, but their benefit is intimately connected to the community. In their role as public censors, they act as an extension of the regime because their identity, opinions, and morality are more unified than the people of a corrupt regime. When corrupt peoples attempt to publicly censor, there is likely to be disagreement, division, or even false accusations leveled with the intent to do harm, not bring justice.

The censorship present in public education and amusements leads to an insular society where every individual becomes a censor in the public sphere. The people act more uniformly in

healthy, well-constituted societies where the people love the laws and take their bearing from the general will. Otherwise, the people judge and critique one another, but such judgments are always made in relation to particular wills or morals that are not connected to the support and health of the regime. Rousseau continues discussing Rome to warn of corruption and its relation to public censors. After Rome “was corrupted and there was nothing left to do for good morals other than to hide the bad ones, the hatred of vices that unmasks them became one itself” (*d’Alembert*, 106). Again, Rousseau points to the hatred of vices as a motivator for public censorship. A corrupt regime, full of people who hold opinions and behave contrary to the wellbeing of the community, cannot reinforce good morals by employing the citizens as censors. *Amour-propre* still consumes the individual and makes them desirous of being held in high regard. Since the people are corrupt, they only keep the appearance of morally upright behavior, donning a “mask” by attempting to deceive everyone around them. *Amour-propre* always causes us to live in the opinions of others, but what those opinions are and how they determine the relationship between the individual and their community vary. By reforming Poland and introducing public education and amusements, Rousseau aims to transform the Poles into public censors. Like the Romans, the Poles will have to love justice and hate vice so much that they want to publicly accuse anyone they deem a transgressor.

Conclusion

While public education and institutions aim at establishing a free regime, they also prime the citizenry to reinforce morals and attitudes in harmony with the regime and the general will. By making the people love the laws and their country, the regime also makes the active adulators and judges. Censorship becomes a self-reinforcing activity where public education and entertainments either exclude, restrict, or emphasize certain opinions and behaviors. Then, the

people, molded under these institutions, reinforce them by censoring unacceptable behavior in their peers. As with all societies, the people succumb to their *amour-propre* and conform to the opinions of their peers. Citizens, however, are meant to be lovers of their country, its laws, and their fellow citizens, so that their opinions are more or less unified and in agreement with the general will. In this way, the people and their government apply censorship in a consistent fashion and always toward the happiness of the regime. As the people censor in conformity with the general will, they are actively maintaining the freedom of their regime. Since human beings are exceptionally individualistic by nature, uniting them under laws that they not only obey but willingly adopt is, as Rousseau refers to it, akin to squaring the circle. All educations, activities, and pleasures must guide the individual toward the regime. They must find themselves ceaselessly occupied by their country, so that they understand themselves only through their culture, customs, and fellow citizens. Once their beliefs about what is good and just, what is worthy of merit and deserving of condemnation, aligns with their regime and comports with the opinions of their peers, they can consider themselves politically free. What they will and desire is in accordance with the laws and the rest of the citizenry. To achieve this freedom, however, requires that all members fulfill their roles as citizens. The role of the citizen is, in part, the role of public censor.

While we see the legislator craft institutions that create insular societies through censorship and shape the people's morals through burdensome laws and religious rites, the legislator cannot move the people to obedience after they found the regime. Similarly, the true statesman may guide the people and persuade them when they err about the general will, but they cannot force the people to abide moral strictures. The limited capacity of the government to censure the people demands that the regime constitution be set up in such a way that the people

participate in regulating their own moral behavior. Even when Rousseau speaks about censorial institutions like the ephorate or the Court of Honor, he argues that these bodies only have so much sway over the people and are unsuitable for corrupt regimes. As Rousseau states in the *Letter to M. d'Alembert*, "in society [our habits] are born of others' opinions. When we do not live in ourselves but in others, it is their judgments which guide everything" (67). Without mentioning it by name, he is describing the influence of our *amour-propre*, a manifestation of self-love unavoidable in society. He goes on to declare that nothing appears "good or desirable to individuals which the public has not judged to be such, and the only happiness which most men know is to be esteemed happy" (*d'Alembert*, 67). The legislator attempts to harness this powerful social mechanism by establishing wise institutions that take into account public opinion and the effects of *amour-propre*. By aligning the people's affections and opinions with their laws and country, Rousseau seeks to unify the people and their government. To do so, however, requires that the people deem good and desirable that which is both unique to them and enjoyed in common.

The people act as censors and enforce moral uprightness in a way similar to censorial institutions established for that purpose. Regardless of whether we are considering censorship by established institutions or the public, all censorship "maintains morals by preventing opinions from becoming corrupt." In this way, the people provide a function identical to that of an institution designed for censoring. They prevent opinions from becoming corrupt by praising or shaming their peers. An ambitious person's ascension in government can only happen with the public's approval and they rule in line with the general will. Due to their size, however, the people differ from censorial institutions in a significant way. Censorial institutions are able to preserve morals "through wise applications, sometimes even determining them when they are

still indeterminate” (*SC*, 262). Censorial institutions can still apply the wisdom of a true politician and use their judgment to guide the people when they are in error or have yet to settle on an issue of moral importance. Like all other components of the regime, the people need to align themselves and work in unison with their government, and both must conform to the general will. A wise founding, prudent magistrates, and the people’s watchful gaze, combine to safeguard morals and cultivate virtue. At every level, censorship constrains political actors and the people to return their attention to the common good and the general will.

As previously noted, all governments have a difficult time meeting the benchmark set by the regime of Rousseau’s *Social Contract*. As Rousseau seems to suggest with his recommendations for Poland, Corsica, and Geneva, nations can approximate the regime of the *Social Contract*, and those that do should find ways to stave off corruption. Rousseau makes recommendations for Poland knowing that it cannot match the high bar he sets. Poland is not small nation, is constantly under the threat of its neighbors, and has not benefitted from Rousseau’s god-like legislator. They have, however, preserved their love of freedom, something missing in corrupt regimes. The question remains as to what corrupt regimes can do to reform or maintain their morals. Since they are not nations filled with Rousseauian citizens, their remedy must come from a source wholly different than public education, common festivals, or the wise laws of the legislator. Censorship cannot maintain morals where public opinion continuously flouts it. The people will have their opinions, but, in a corrupt regime where the people do not love the laws and are out to deceive their fellows for their own benefit, none of these opinions will align with a common good. In corrupt regimes, public opinion reinforces corrupt behavior. At best, we see that the people will feign morally upright behavior when they must. Even then, they do so by wearing a mask to hide their true intentions. Institutional censorship that does not

align with public opinion will always fail. Public censorship, on the other hand, will never censor toward a common, moral good. It can only reinforce particular wills or corrupt opinions. We must look somewhere else if we wish to maintain morals, defy corruption, and nurture the last remaining fragments of a healthy regime.

CHAPTER 6

THE PROBLEM OF CENSORSHIP IN A TIME OF CORRUPTION

Introduction

Rousseau appears to have little hope for the modern regime. In Poland, his critique of the nations of Europe being “European” instead of French, German, or Spanish is in accordance with his warning that Europe is corrupt (*Poland*, 174ff). That Geneva, Poland, or Corsica are capable of legislation or are not so corrupt that Rousseau considers their institutions and morals worthy of protection reveals something exemplary about these nations. But was the fate of Europe truly decline and corruption? Rousseau actively conflates European nations because at their moral foundation the people are the same. Wealth and social—or rather, asocial—ascendancy are more valuable to the average European than virtue or duty. After spending a few lines castigating Europe on more specific points, Rousseau emphasizes the people’s resistance to identifying with a single regime based on two points. First, European nations no longer have a unique character, so the laws of one regime are similar enough to another. His claim to similarity is not one of specific laws or that the majority of laws in each nation are the same. Europe’s similarity is based on possessing luxury. This leads to Rousseau’s second point: the people are not genuinely interested in the public good and they fixate on luxury and wealth. He characterizes the people of Europe as speaking about the “public good and think[ing] only about themselves” and being “ambitious only for luxury” (*Poland*, 175). The people, regardless of station, are willing to monetize their values and even their own person. Ultimately, Rousseau asks, “What does it matter to them which master they obey, the law of which State they follow? As long as they find money to steal and women to corrupt they are in their own country everywhere” (*Poland*, 175). The period of regime decline is a period of increasing moral corruption in the regime reaching its

“zenith” when the people turn virtue “into an object of derision and [despise] it.” Rousseau warns that when corruption reaches this point “there is no more hope of remedies” (*Last Reply*, 68). As with all political developments, Rousseau contends that we cannot simply return to a previous condition in our history, moral or political. He does not go so far as to say that Europe despises virtue, but there is enough evidence in his critique of Europe to affirm this conclusion and little indication that Rousseau thinks otherwise. What people of Europe values virtue when they seek wealth, luxury, and physical pleasure?

Even if we consider Rousseau’s description of Europe to be intentionally hyperbolic and that there still may be remedies, that the people of Europe are corrupt by his standards is clear. In his *Emile* Rousseau warns that we are “approaching a state of crisis and the age of revolutions” and that he holds it to “be impossible that the great monarchies of Europe still have long to last. All have shined, and every state which shines is on the decline” (*Emile*, 194). While history has proven Rousseau correct in a certain sense, the disappearance of European monarchies is not as important as his emphasis on political decline. A nation need not reach the zenith of corruption in order to be corrupt. As regimes begin to acquire wealth and luxury, making possible a pursuit of the sciences and arts, moral corruption is not far behind. Putting aside the demise of European regimes as a result of this decline, we can focus on moral corruption, whether this corruption is prevalent in contemporary regimes, and what might still benefit corrupt regimes. Without needing to debate the specifics of custom and law, contemporary regimes do not match Rousseau’s description of a regime well-constituted. Major economic ideologies encourage political norms and behaviors that contradict the qualities necessary for the Rousseauian citizen. Capitalism focuses on individualism and wealth acquisition. Although one might turn to communism, communistic ideologies argue for a shared interest on the level of property and

wealth. These interests do not guide the individual toward a specific regime or shape them into the citizen. Marxists exclaiming to the working class of all countries to unite do not properly consider what draws a people together and the limits of using ideology to unify an economic class across multiple nations. Rousseau would warn that casting off one's "chains" as a proletariat, even by revolutionary means and class overthrow, does not guarantee the working class's release from the psychological servitude they experienced under despotism. Additionally, aligning the people across a single, economic facet of their identity is an insufficient replacement for the many shared customs, beliefs, and laws that unify a people and lead to virtue. You can create a regime based on economic principles, but doing so does not gift the people their freedom or make them virtuous. The size of nations and their social and political interconnectedness compound these problems. Regime size is of paramount importance if you wish for a people to share the same laws and identity (*SC*, 2.9). With the politics and economics of regimes becoming so interconnected and the general progression toward a more globalized world, the uniqueness of cultures and customs fades. Given Rousseau's theoretical principles, his critique of eighteenth-century Europe is still appropriate and applicable to more nations, albeit to varying degrees. Rousseau warns that nations only share their worst qualities and that this cultural exchange undermines the customs and practices unique to each nation (*Narcissus*, 98-99; *Poland*, 174ff.). Although his critique of cultural exchange is harsh, the international trade in vice is a matter of people adopting customs that are incompatible with their regime's character and their identity. Seeking justification for their immoral behavior, they may find attractive and adopt practices that are ill-suited for, or vices in, their own culture. Once the people start to sample practices they enjoy and discard those they find unappealing, they begin using other cultures to validate their own moral behavior. For Rousseau, this is a moment of moral decline and a particular

manifestation of the decline that, barring their instant annihilation in war or some other catastrophic event, all regimes will face (*SC*, 231). The correlative effects of self-interest, luxury, conquest, and commerce are not historically new and existed in ancient regimes (*FD*, 14-15; *Narcissus*, 98). Moral corruption, however, has been “in proportion as our sciences and arts have advanced toward perfection” (*FD*, 14). The advancement of the sciences and arts, both within academics and without, suggests that Rousseau would expect us to be more corrupt than our predecessors. Luxury and commerce certainly accompany and exacerbate this moral corruption.

The steps to become a healthy regime are compound, arduous, and require a number of capable figures who seek the people’s well-being. Furthermore, you cannot turn back time and you cannot force new laws and customs on an already solidified regime and its people. The people are likely to consider the multitude of orchestrations necessary to reform the regime unjust and actively resist under such circumstances. Once moral corruption has taken root, human beings must be treated differently. First, they are no longer free and cannot be made free by these methods. Second, censorship is only a means to create and sustain these regimes and cannot revive them. This includes public education. While there will be public education in corrupt regimes, it would require that this education seeks to educate the people on the regime and instill a love for the fatherland and one fellow citizens. Third, government censorship would have to instill a love of the laws and bolster the general will. Without a love for the laws and the general will as a guide, the people are unlikely to follow any form of censorship or unfavorable law. Additionally, the people are likely to take particular wills as their guide. Whether the particular will is their individual will or that of a group or “faction,” it is always to the general will’s detriment. Fourth, public (as distinct from government) censorship will always occur because opinions and pleasure rule the day. Public opinion is always in play whether the regime

is healthy or corrupt. *Amour-propre* is active without government and its effects operate in society regardless of its health. Outside of the well-constituted regime, public censorship reinforces slavishness, vanity, dissembling, and cowardice. The arts compound this problem as do the sciences which seek to make more philosophers. Lacking the transformative institutions Rousseau praises in ancient governments, modern governments, unable to effectively educate or persuade the people, will combat public opinion by oppressing the people through force. Governments might not need to, however, because the sciences and arts distract us from political life and entice us to trade our freedom in exchange for the comfortable pleasures they provide.⁸⁵

What can be done for contemporary regimes or even regimes in Rousseau's time?

Without some sort of politically cataclysmic event and conditions amenable for a favorable reconstruction, we are unlikely to see the well-constituted regime reappear (*SC*, 2.8). Rousseau is skeptical of such an occurrence during his time and it is likely that there are few if any opportunities now. Even populism, which often employs the idea of the general will to motivate and unify the people, fails to account for the totality of the problem. Mudde and Kaltwasser argue that populists employ the rhetoric of the general will, but are careful to note Rousseau's distinction between the general will and the will of all (2017, 16-17). More than an election or popular mandate is necessary for the people to transcend the collection of private interests that constitute the will of all and govern through the general will (*SC*, 183ff.). Rousseau is adamant about introducing the institutions necessary to make the general will speak louder than the will of all. We are left to discern what can be done to slow the corruption of regimes or make any positive

⁸⁵ Wokler argues that Rousseau's theory of culture "reinforces, elaborates and embellishes this conception of illusory bonds under which political slavery masquerades as freedom." Positioning Rousseau against his liberal critics, Wokler contends that, while they fight against Rousseau's concept of freedom, they "forget how profoundly negative was his philosophy of history, according to which our liberty had been lost already" (1987, 71). For Rousseau, the sciences and arts are the products of a society on its way to corruption, and do not necessarily lead us to the political, especially political freedom.

progress to reverse the damage of luxury, idleness, the sciences and arts, and all of the pernicious developments of our *amour-propre*. Since we are not discussing well-constituted regimes, we cannot turn to censorship or harsh laws focused on moral change. We do not have Rousseauian citizens and new laws that work against public opinion and taste are unlikely to be well-received. This is where the people are quick to view government censorship as unjust along with any other laws that do not align with public opinion. We might expect that regime will just introduce new laws supplemented by the use force. Force, however, is physical and has power only over the body. Again, to “yield to force is an act of necessity, not of will” (*SC*, 167). While Rousseau admits that force compels our behavior, it is out of prudence and not because we genuinely “will” it. His position is contrary to Hobbes who argues that willing, even if it was fear that brings us to that point, is connected to the last desire we experience before taking action (*Leviathan* 1.6, 44). For Hobbes, what motivates a person to the point of deciding and acting is irrelevant. While Rousseau is aware the right of the stronger can command obedience, he does not agree with Hobbes that the act of obeying under such circumstances is an act of willing. As Williams notes, it is “[f]or this reason, while it may often be true that the stronger force legislates, this does not mean that it has any moral authority (2014, 43). Force does not hold power over morality and cannot be used to instruct morals in a positive way (*d’Alembert*, 67; *SC*, 166ff.). That laws or institutions can compel behavior is not the same as laws shaping opinions or morals. Even if these laws are applied, the people may flout them depending on whether the community deems them legitimate.

Rousseau’s writings suggest a number of options; some of which participate in something akin to censorship while others appear to address corruption by taking a contradictory approach. Rousseau offers four major possibilities spread throughout his works: having philosophy or

philosophers in politics, elevating the moral role of women, encouraging books to be read in isolation from public life, and allowing the people to indulge in the sciences and arts. Though it appears to be a hodgepodge list at first glance, each of these possible answers touches upon a particular facet of Rousseau's critique of morality and modern regimes. Their effectiveness, however, varies and we should not expect one of these answers to act as a catholicon. As listed above, Rousseau's recommendations move from the most transformative and least practical to the least transformative and most practical. His most transformative recommendations have been the kinds of proposals that, though he meant them least seriously, have led to charges of him being the father of totalitarianism.⁸⁶ Practicality here is a concession to the limits of shaping a corrupt people and the effort required for implementation. Regarding morality, having philosophers enter into politics and allowing the people to indulge in the sciences and arts are on opposite poles. Rousseau's teaching on the transformative effect respecting women might have in public life or that reading books can have in private life suggests that these can be meaningful changes but are ultimately limited as answers.

The Possibilities for Philosophy in Politics

The concluding pages of Rousseau's *First Discourse* offer both critique and possible reformation of morals. After praising those few "preceptors of the human race" capable of raising "monuments to the glory of the human mind," Rousseau posits the wedding of science and political authority as a possible solution to moral corruption (*FD*, 34, 35). These rare

⁸⁶ Kateb contends that the modern interpretation of Rousseau as a purveyor of totalitarian democracy began with Talmon (1952), though it has its roots in Constant's claims of Rousseau as a "friend of despotism" (1961, 519). Kateb points to Rousseau's teaching of the general will as the source of both his critics and defenders "saying that Rousseau is either a collectivist or despot or totalitarian, or an individualist," and argues that, once we understand the purpose of the general will is justice, "no warrant is left for thinking that Rousseau is a collectivist, totalitarian, despot, or individualist" (1961, 520). On the claim of totalitarian thought in Rousseau, see Chapman 1956.

geniuses should be able to influence politics and the people in a beneficent and non-corrupting way. To do so requires rulers to accept these figures into politics and allow for their teachings to shape political outcomes. While this is not the philosopher-king properly speaking, Rousseau's attempt to combine philosophical genius with politics leads to a similar end. Socrates states that

Unless...the philosophers rule as kings or those now called kings and chiefs genuinely and adequately philosophize, and political power and philosophy coincide in the same place, while the many natures now making their way to either apart from the other are by necessity excluded, there is no rest from ills for the cities,...nor I think for human kind...(Republic, 473d).

Socrates excludes those who by their nature are politicians or philosophers, suggesting that the union of both is quite difficult to find. His language implies that either philosophers rule as kings, or current rulers turn to philosophy. While the philosopher would not wish to rule, the politician is unlikely to philosophize and to do so genuinely. Similarly, Rousseau does not conclude the *First Discourse* with a proclamation to let philosophers rule. Rousseau's claim is closer to Socrates' discussion of having political power and philosophy "coincide in the same place," but he does not suggest that we shall find it in the same person. His depiction of great geniuses aligns with Socrates' implication that philosophers and politicians by their nature pursue philosophy and politics respectively. Rousseau's preceptors of the human race are those "whom nature destined to make its disciples [and] needed no teachers" (*FD*, 34). He continues by claiming that an education given by an ordinary teacher would have harmed these geniuses. That these geniuses are by their nature philosophers further distinguishes them from the average scientist or the public. Rousseau does not mention the nature of any politicians at the end of the *First Discourse*. Given the unique characteristics and abilities of the Legislator and true politicians, Rousseau is likely speaking to or about current rulers and does not expect them to be politicians by nature.

Rousseau's claim that leading people is easier than enlightening them echoes his critique of trying to use the sciences and arts to enlighten them for instead undermining politics (*FD*, 35). Furthermore, it reiterates the people's intellectual and rational limitations while emphasizing the distinction between politics and enlightenment. The Enlightenment takes for granted the power of the sciences and their ability to inform political life. In rejecting this point, Rousseau and Socrates agree. "But as long as power is by itself on the one side, enlightenment and wisdom by themselves on the other, the learned will rarely think of great things, princes will even more rarely do noble things, and people will continue to be abject, corrupt, and unhappy" (*FD*, 35). Those suited for politics differ from those suited for philosophy. This furthers Rousseau's distinction between these great geniuses and the Legislator or Statesman. While the Legislator and the Statesman both need to know something of the city as a whole, their endeavor differs from the pursuits of a philosopher.

Rousseau distinguishes between types of philosophers. Not all philosophers would be adequate for or up to the task. A more damning distinction Rousseau makes is that not all philosophers are concerned with humanity. First, Rousseau makes the case that philosophy leads the philosopher away from the people and can even make the philosopher callous to the plight of the people. When the philosopher leads the people toward philosophy, they also lead the people away from the morals and customs of the regime.

A taste for philosophy loosens all the bonds of esteem and benevolence that tie men to society, and this is perhaps the most dangerous of the evils it engenders...his *amour-propre* grows in direct proportion to his indifference to the rest of the universe. Family, fatherland, become for him thin words devoid of meaning: he is neither parent, nor citizen, nor man; he is a philosopher (*Narcissus*, 101).

The philosophes' position that "scientific reason could make us not just less ignorant but happier and more virtuous" (Hullung 1994, 156) persisted in spite of Rousseau's warning. In this way,

the Enlightenment's efforts to make pseudo-philosophes out of the people by detaching them from their particular customs and regimes has been, on the whole, successful. If philosophers truly behave as Rousseau claims, it would be little wonder why the uncorrupted city would rid itself of such a person. The corrupt regime, however, is already filled with people detached or disinterested in the public good. The vanity and vices of philosophers are less hazardous where there are no citizens because the people have already succumbed to the negative aspects of their *amour-propre*.

Rousseau often uses the term philosopher in a broad sense and does not use the title to address only those he understands worthy of it. "Philosopher" often appears as a term of derision and refers to the number of people who pursue philosophical or scientific questions regardless of their aptitude or intent. With regard to aptitude, Rousseau refers to many luminaries as "philosopher" that we have historically regarded as such, including Diogenes, Protagoras, Hobbes, and Mandeville (*Narcissus*, 100). Although they certainly were intelligent people who sought the truth, their philosophies and maxims harm the people and work against the regime. Rousseau attributes to them dangerous teachings that came about because they sought distinction over the well-being of the people. While Rousseau's criticism of these thinkers may be hyperbolic, his concern is with philosophical inquiries that do not promote civic virtue or political freedom. At its root, vanity drew them to disseminate their unique teachings.

The first Philosophers earned great renown by teaching men to perform their duties and the principles of virtue. But before long these precepts had become commonplaces, and in order to achieve distinction men had to strike out in opposite directions. Such is the origin of the absurd systems of such men as Leucippus, Diogenes, Pyrrho, Protagoras, Lucretius (*Narcissus*, 100).⁸⁷

⁸⁷ Rousseau's list in the *Preface to Narcissus* has some overlap with the thinkers he mentions in relation to the dangers of typography in the *First Discourse*, notably Leucippus and Hobbes (*FD*, 33).

The call of vanity seduces philosophers just as it does the people, regardless of their intellect or awareness of it. That philosophers have chosen distinction over teaching duty and virtue suggests a fundamental danger philosophy poses for the regime. If philosophers could somehow find satisfaction as the first philosophers did, it would eliminate a threat to the regime and afford the possibility of rulers incorporating philosophers into government for the benefit of the people. In this way, the regime would put philosophers to use while satisfying any need for distinction or renown. For Rousseau, returning to a previous condition is always insurmountable, and he does not exempt philosophers from the impossibility of escaping their vanity. To become more like those first philosophers, the regime must harness their vanity and direct toward the public good.

Rousseau is a bit hyperbolic when he states that philosophers can be beneficial to the city and emphasizes that they must be philosophers properly speaking. “I have said a hundred times over that it is good that there be Philosophers, provided the People do not pretend to be Philosophers” (*Last Reply*, 70). The “true” philosophers would remind us that humanity, virtue, duty, and citizenship exist, but are rare and certainly compete with the many other philosophers (*Narcissus*, 100). The competition of ideas does not even require that these philosophers are still alive. One of the reasons Rousseau scorns books and does not suggest them for the average would-be reader is that writing and publishing preserves these corrupting ideas (*FD*, 33). It is not dangerous for philosophers to read these writings. They have already detached themselves from anything akin to citizenship and the regime. The teachings these texts contain are so many instructions with which the average person will also detach themselves from the regime. The well-constituted regime would be unable to suffer such teachings and would need to censor these works. Ideally, however, the people of the well-constituted regime would never consider picking up such a book let alone opening it to consider its contents (*Julie*, 3ff.).

Who, then, are those philosophers who can remind us of duty and virtue? Rousseau contends that there is a small number of:

sublime geniuses capable of piercing the veils in which the truth wraps itself, a few privileged souls able to resist the folly of vanity, base jealousy, and the other passions aroused by a taste for letters. The small number who have the good fortune of combining these qualities are the beacon and honor of mankind; only they may properly engage in study for the good of all... (*Narcissus*, 104).

Other thinkers are philosophers because they seek knowledge, but their *amour-propre* limits their pursuit. They are culpable in the same way all who pursue the sciences and arts are culpable. Philosophers may be able to acquire knowledge, but vanity taints their pursuit and they harm the customs, laws, and beliefs of the regime. The true philosopher escapes this two-fold problem. They are capable of pursuing knowledge unhindered by vanity which allows them to exclude teachings that the common philosopher would include either as a testament to truth or their own distinction. Inherent in the pursuit of philosophy is a responsibility to those whom it would harm. The exemplary philosopher for Rousseau is, without question, Socrates. "If celestial intelligences cultivated the sciences, only good would come of it; I say as much about the great men who are made to guide the others. Socrates, learned and virtuous, did mankind honor; but the vices of vulgar men poison the most sublime knowledge and render it pernicious to the Nations..." (*Last Reply*, 65). Rousseau's praise for Socrates includes the claim that certain people are meant to guide others, but it is unclear from this excerpt what kind of guide these "great men" should be. Furthermore, Rousseau does not make obvious why philosophers would act as a guide when philosophy has the tendency to separate the philosopher from the regime and distinction does not come from outmoded teachings on duty and virtue.

Rousseau's solution implies the expectation that philosophers would be willing to undertake political goals, especially those who are most suited to benefitting humanity. While

the Enlightenment sought a similar goal, Rousseau challenges the Enlightenment and its philosophes as to what is truly most beneficial to humanity. Philosophers cannot bring about the people's attachment to virtue and duty through scientific discovery or the arts. As Orwin notes, Rousseau "intends the teaching of these philosophers to the peoples to be moral, not theoretical" (1998, 183). Philosophy must circumscribe the pursuits they encourage to civic virtue and enlighten the people by eliminating their individualistic interests in exchange for collective ones. He briefly sketches what may be possible through uniting philosophy and politics, arguing that rulers will need to set aside their own prejudices. "Let [kings] renounce that old prejudice, invented by the pride of the great, that the art of leading peoples is more difficult than enlightening them" (*FD*, 35). Rousseau's claim that leading people is easier than enlightening them returns us to his critique of the sciences and arts and their ability to undermine politics. While Enlightenment thinkers tout their pursuits in the sciences and arts as the true enlightenment of the people, Rousseau, once again, rejects the idea that introducing these studies teaches the people anything more than how to seek distinction. For Rousseau, enlightenment should help the people understand their role in the common order, and lead them to do good and come to the aid of others voluntarily. Such enlightenment mirrors his claim in *Emile* that the wise man does not follow "individual interest" but the "laws of nature and order" that replace positive law (*Emile*, 473). His formulation of the problem includes the use of one's reason and conscience to reach such a conclusion, willingly obeying laws that seek the collective interest over the individual interest. The highest form of this understanding, though, applies not to a particular regime, but humanity. This would be the most challenging form for ordinary people to achieve. It also includes an additional problem to overcome, the pride of rulers. Rousseau instructs rulers to allow those superior intelligences to advise them knowing the difficulties that

come from vanity even on the level of rule. Furthermore, his observation that enlightening the people is more difficult reiterates the people's intellectual and rational limitations while emphasizing the distinction between politics and enlightenment. The Enlightenment takes for granted the power of the sciences and their ability to inform political life. "But as long as power is by itself on the one side, enlightenment and wisdom by themselves on the other, the learned will rarely think of great things, princes will even more rarely do noble things, and people will continue to be abject, corrupt, and unhappy" (*FD*, 35). Those suited for politics differ from those suited for philosophy. With both the nature and pursuits of the philosopher and the politician being different, motivating the philosopher to take a position in politics requires some explanation. What does the philosopher receive in return for benefitting the people?

Rousseau asks that the "learned of the first rank find honorable asylum" in the ruler's court and "there obtain the sole recompense worthy of them: that of contributing by their reputation to the happiness of the peoples to whom they will have taught wisdom" (*FD*, 35). The philosopher still receives distinction, but Rousseau connects this elevation in status to the well-being of the people. He mentions recompense for the philosopher in the form of intellectual achievement and having done good for humanity. This is where he suggests to rulers that they must make space for philosophers and their lofty pursuits. "But if one wants nothing to be above their genius, nothing must be beyond their hopes. This is the sole encouragement they need" (*FD*, 35). Rousseau appears to make true philosophers out of those who are able to overcome all but the most necessary satisfaction of their pride. Hidden in plain sight is Rousseau's nagging "if." While there are some philosophers who wish for "nothing to be above their genius," there are so many others who, according to Rousseau, do not pursue philosophy in earnest, and seek only praise and distinction. Rousseau's shift to discussing exceptional geniuses like Bacon,

Descartes, and Newton does not eliminate the problem of the many philosophers he critiques throughout the *First Discourse*. This suggests that the regime or ruler would need to discern which philosophers are “those preceptors of the human race” and which ones might be part of that “throng of rudimentary authors” who philosophize for the sake of their vanity (*FD*, 34). Should true geniuses undertake the task of enlightening the people, the regime need not worry about their virtue and happiness. Vain philosophers and their motives, however, remain problematic. Employing Rousseau’s answer for the many vain philosophers would simultaneously solve the problems of philosophy and political rule by drawing the vain philosopher into politics and reorienting their pursuits toward the well-being of the people. Otherwise, the regime would need to somehow undermine their teachings or rid itself of their presence to prevent the people from following corrupt teachings. Self-interest intertwines with civic-mindedness and the philosopher satisfies their need for distinction by earning one of the highest honors in the court and the praise of regime. Rousseau contends that it is “only then that it will be seen what virtue, science, and authority can do when animated by a noble emulation and working in concert for the felicity of the human race” (*FD*, 35). His grand conclusion is optimistic by his own standards and speculative. Although he praises ancient regimes and their politics, here he writes about European monarchies and includes Enlightenment philosophy. The ancient regimes Rousseau praises are often the least enlightened ones like Sparta. Though unenlightened, Sparta was capable of making virtuous citizens, and, as he states in his *Last Reply*, ignorance is not incompatible with virtue (67). European monarchies and Enlightenment philosophy, however, are either out of character for the well-constituted regime or insinuate the possibility of regime corruption. The task of convincing rulers and philosophers is difficult enough without the inclusion of the people. To induce change, Rousseau’s writing needs to

persuade all three groups. Each one, however, has their own goals and *amour-propre* affects all of them to various degrees. One of the principle problems outlined in the *First Discourse* is the people's desire to elevate themselves by pursuing the sciences and arts. Rousseau has to persuade the people and the vain philosophers who made possible the people's entrance into the "sanctuary" of the sciences that pursuing the sciences and arts is harmful to the regime and the people. At the end of the *First Discourse*, Rousseau identifies with the people and implores them to stay in obscurity: "Let us leave to others the task of instructing peoples in their duties and let us limit ourselves to fulfilling our own well: we do not need to know anything more" (*FD*, 35-36). He continues by asking the people to listen to their conscience and not envy the famous. With the problems of *amour-propre*, conscience in relation to the passions, and the persistent desire to distinguish oneself, given all of the limitations Rousseau details when discussing morals and virtue, it is difficult to take his entreaty seriously or expect it to bring about real political change.

Introducing the philosopher into politics would be easier if the regime was not already corrupt. To transform a vice-ridden people into a virtuous one is a task Rousseau depicts as nigh-impossible outside of some catastrophic event that returns the vigor and youth to the people. It is unclear how well Rousseau expected such a tactic to work or whether this is simply an artifact of his earliest political writing. The people having lost their "taste" for freedom and virtue are unlikely to reclaim either one. Additionally, the steps necessary to guide the people toward virtue would still require strict laws, likely even censorship. Whether we can expect profound change or not, it is still possible for the regime to benefit from philosophers and rulers coming together for the well-being of the people. The benefit might be small and the change incremental, but forestalling further corruption or simply slowing its progress are still worthy goals and ones that

Rousseau pursues by other means.

The Moral Ascendancy of Women

Rousseau has drawn considerable attention and controversy due to the role women play in his writings. While it is not the purpose of this work to address the full scope of Rousseau's discussion of women and its application to contemporary politics, both the possible role women play in society and the power Rousseau attributes to them in the realm of morals requires attention. In this vein, scholars have presented a considerable number of critiques regarding Rousseau's discussion and use of women in his writings. Critiques of Rousseau's position often analyze the limited role he affords women in society, and his focus on the importance of childbearing, domestic work, and an education that reinforces these responsibilities.⁸⁸ Comparing Rousseau's writings on women to his constant defense of freedom and equality, Okin regards Rousseau's role for women in society as contradictory to his professed philosophical principles, and derides his work as a manifestation of patriarchal culture that "rationalized the separation and oppression of women throughout the history of the Western world" (1979, 99). Similarly, Kofman and Dukats (1989) describe Rousseau's entire approach to women as "phallogocentric," claiming that even his use of "Nature, to oppose the 'philosophers' and their prejudices, he can only repeat the most hackneyed and symptomatically masculinist philosophical discourse" (1989, 124). Others, like Wexler, attribute Rousseau's "antifeminist" stance as "an expression not of his disdain for women, but rather of his fear of them, a fear he never conquered" (1976, 269). Rosenblatt (2002), however, argues from a more sympathetic position and recommends reading Rousseau in the historical context of his writing. Claiming that previous studies of

⁸⁸ Abrey notes the early application of Rousseau's teaching by Restif de la Bretonne who, "following the path of Rousseau's *Emile*, ordered that all thought of equality between the sexes be suppressed," and wished to limit women to domestic tasks (1975, 45).

Rousseau's writings on women "are repeatedly taken out of the discursive contexts within which they are made," Rosenblatt approaches Rousseau from an historical perspective while avoiding the personal qualities of Rousseau that presume his misogyny (2002, 93). While Schwartz agrees with Okin that there are patriarchic elements to Rousseau's thought, he emphasizes Rousseau's teaching that the differences between the sexes "can point not to the impotence of women but to women's power and to women's justifiable attempts to exercise their power" (1984, 8).

Ultimately, most readings of Rousseau portray him as, at best, a reluctant anti-feminist and, at worst, an outright misogynist. Even though his arguments for the potential role of women may be jarring for the contemporary reader, women as agents of moral change is prominent enough in Rousseau's writings that it requires proper consideration. Is there a natural or socially constructed relationship between men and women that can potentially result in positive moral change? If so, what is the nature of this relationship, for what types of regimes might such a moral transformation be suitable, and, for our present concerns, does it partake in any form of censorship?

Rousseau introduces the social differences of the sexes as a matter of taste in relation to the arts. As Rousseau presents it in the *First Discourse*, women recently came to have great influence on Europe's morality and taste in matters concerning the arts. While he initially introduces the issue as a problem for the regime, Rousseau subverts the reader's expectations by suggesting that there are potential positive outcomes that begin with the female influence in moral matters. "I am quite far from thinking that this ascendancy of women is in itself an evil. It is a gift nature has given them for the happiness of the human race...It is not sufficiently appreciated what advantages would arise for society if a better education were given to that half of the human race that governs the other" (*FD*, 27). Women, Rousseau suggests will provide the

decisive influence in morality, that their influence is actually a gift of nature, and that a certain education yields an overall benefit to society. Rousseau makes reference to Plato's *Republic* (451b-457b) suggesting that the equality and education of women is of utmost concern to the regime. "If you want to become great and virtuous, therefore, teach women what greatness of soul and virtue are" (*FD*, 27). There is a deeper implication about the greatest of men and whether they can achieve greatness on their own. Greatness of soul and virtue only appear when women are given an education in both. Even though the regime can educate men toward greatness and virtue, they cannot achieve it without women. Women's moral expectations shape men's behavior. Rousseau appears to place the sole burden on women and requires that they receive an education focused on greatness of soul and virtue. That women should receive an education in virtue does not mean that it is a unique aspect of their studies, but that they are also not exempt from learning about virtue. As with all political considerations for Rousseau, once the people do not believe in virtue or seek it as a standard, their moral relations begin to come undone. Making virtue desirable and, when joined with sex and the sentiment of love, pleasurable attaches people to one another. Even when women do not seek virtue in men, what they desire will influence men's behavior. Rousseau warns of men who will only seek to flatter and provide amusements (*Emile*, 365). Once men and women no longer seek virtue, they begin to fill their relations with other pleasurable ends. These ends often focus on individual interests unattached to any mutual or public good. Rousseau's argument for public education suggests that anyone who would be a citizen should receive some sort of education in duty, virtue, and proper judgment of morality and taste.

Rousseau's theoretical depiction of human beings leaving the state of nature supports his understanding that the social relationships between men and women are conventional and

contrary to their natural equality. What is natural to the sexes, however, influenced the development of their social relationships and in turn the form of the family. From there, as families developed into small communities and later into nations, sexual differences resulted in moral and conventional differences. He speaks of the need to maintain the necessary connection between what is natural for human beings and the basis of their moral relations:

I speak of that subversion of the sweetest sentiments of nature, sacrificed to an artificial sentiment which can only be maintained by them—as though there were no need for a natural base on which to form conventional ties; as though the love of one’s nearest were not the principle of the love one owes to the state; as though it were not by means of the small fatherland which is the family that the heart attaches itself to the large one; as though it were not the good son, the good husband, and the good father that make the citizen! (*Emile*, 363)

For Rousseau, love of the regime and fellow citizens is a development of the love felt for another individual or the family. Although he was one of Rousseau’s most out-spoken critics, Burke agrees with him on the importance of the “small fatherland,” but calls it by another name. “To be attached to the subdivision,” writes Burke, “to love the little platoon we belong to in society, is the first principle (the germ as it were) of public affections. It is the first link in the series by which we proceed towards a love to our country, and to mankind (*Reflections*, 44). By steps the moral relations between members of the family extend to the moral relations between citizens. Much like our self-love (*amour de soi*) informs our concern for other people’s well-being, the family and the sentiments it engenders are the foundation for our participation in and identification with the regime. The foundation for the healthy regime is the healthy family. Forming and maintaining the well-ordered regime requires strong familial bonds and the guidance or even correction of morals by women. In the formation of citizens, both sexes play a role and, while those roles are different for Rousseau, they are of equal importance.⁸⁹

⁸⁹ As Jonas notes, for Rousseau, “sex, love and happiness are inextricably connected, and he believes that men and women will be happiest when they inhabit certain sex roles—not because sex roles are valuable in themselves, but

In his dedicatory letter to Geneva at the beginning of the *Second Discourse*, Rousseau offers a passionate argument depicting the role of women and their importance to the regime. “Could I forget that precious half of the republic which creates the other’s happiness, and whose gentleness and wisdom maintain its peace and good morals? Amiable and virtuous citizen-women, the fate of your sex will always be to govern our own” (*SD*, 49). Rousseau continues by showing that women hold a power and responsibility similar to the one he originally placed in the role of the Legislator and his institutions or the statesman and his clever persuasion. “It is up to you to always maintain the love of laws in the state and concord among the citizens by your amiable and innocent dominion and by your engaging ways...Therefore, be always what you are, chaste guardians of morals and gentle bonds of peace, and continue to assert, at every opportunity, the rights of the heart and of nature to the benefit of duty and virtue” (*SD*, 49-50). Again, Rousseau introduces nature as a source of women’s authority and couples it with the sentiments of the heart, love, and tenderness. What Rousseau originally considered as the recent historical ascendancy of women in the *First Discourse* he now presents as having a natural origin. Furthermore, the union of the sexes establishes a “right of the heart” which, for Rousseau, relates to the bonds people establish and the sense of justice that develops from those bonds. But how could this be if people were individuals by nature and did not keep social relations long enough even to develop the family let alone society?

Rousseau grounds his argument in the idea that men and women require certain things by nature, and that by nature they come together to complete a natural end, children. The union of the sexes based on childbearing and childrearing, however, has become unnecessary in light of technological developments. As Schwartz notes, childbearing is only one of the changes

because only through them can either men or women hope to be happy” (2016, 145).

technology introduced that made the liberation of women possible. For this reason, Schwartz explains, “Rousseau’s pronouncements about sexual relations...could never be immediately and unthinkingly applied to our very different contemporary condition (1984, 144). For Rousseau, however, the social and moral conventions that arise from this union stem from the unavoidable transformation of human beings moving out of nature and into society. Included in Rousseau’s connection between natural and artificial sentiments is the citizen and, therefore, the healthy regime. It is not possible to create citizens without the foundation and love of the family. As Jonas explains, “Rousseau believes that by using the raw, animal, nascent desire for sex as the motivational impetus for love, faithfulness and marriage, the individual can be saved from debauchery” (2016, 155). While Jonas overstates the potential for avoiding debauchery, Rousseau is attempting to leverage sex and direct it toward a moral good. The love of what is yours originates in the conjugal bond, solidifies in the family, and extends to the broader community. In this way, the natural inclination of sex finds sublimation in the origins of the family. Rousseau returns to Plato’s *Republic* in *Emile*, but reframes his point in light of the Platonic city in speech removing private families (*Emile*, 362). As Bloom notes, “Rousseau puts family where Plato put city, as the end for which other things are done and as the ground of relationships, partly because he lowered standards and expectations, partly because he saw in the former greater humanity” (1986, 77). In this regard, Rousseau sides with Aristotle in questioning the limits of familial love when the bond of husband and wife is absent and children are raised in common (*Politics*, 1261b20ff.).

Social need dictates unique duties that are an outcropping of the only thing Rousseau sees as distinguishing women from men, their sex. “The only thing we know with certainty is that everything man and woman have in common belongs to the species, and that everything which

distinguishes them belongs to the sex” (*Emile*, 358). If Rousseau is correct in his assessment of the moral relations between the sexes, women hold a profound power over men. Such a balance between men and women suggests that women, if they came together in agreement about morality and the behavior of men, could collectively influence men. Commenting on Rousseau’s consideration of women in Geneva, Rosenblatt notes that the “problem in Geneva was that the wrong kinds of women, mainly patrician women, were exercising the wrong kinds of influence. And, increasingly, the wives of ordinary citizens were copying them” (2002, 113). The collective action of women is necessary to induce moral change. Such a transformation requires that few women deviate from the norm. It is unclear whether the female correction of male behavior would be enough to transform society in spite of men’s corruption or have such a dramatic effect like the Greek women ending the Former (Peloponnesian) War by withholding sex in Aristophanes’ *Lysistrata*. Rousseau is adamant that moral change necessitates the intervention of women (*d’Alembert*, 71-72). Men would be foolish to think that they can change politics without the aid of women or morals without their consent. At best, to do so would be contrary to nature and inevitably lead to a corrupt regime. For there even to be citizens, women must participate in and identify with the regime.

The sublimation of sex is the most important and underlying component granting women an influence over men in moral matters. Rousseau presents us with a clue when discussing the profound effect of women on society. “Observe how the physical leads us unawares to the moral, and how the sweetest laws of love are born little by little from the coarse union of the sexes. Women possess their empire not because men wanted it that way, but because nature wants it that way (*Emile*, 360). This striking passage indicates that sex, “the freest and sweetest of all acts,” itself is the connection between men and women and it is this natural act that affords the

natural albeit latent dominance in moral matters (*Emile*, 359). Men and women are driven by their natural sexual interest. Their motivation originates in the basic sexual need shared by human beings and intensifies as the imagination comes into play. “It is especially in the relations between the two sexes that taste, good or bad, gets its form. Its cultivation is a necessary effect of the aim of these relations. But when the ease of enjoyment cools the desire to please, taste must degenerate; and this, it seems to me, is another very evident reason why good taste depends on good morals” (*Emile*, 341). The ease of enjoyment Rousseau speaks of here is the ease with which men are able to acquire the attention and affections of women, specifically sex. As these relations become easier and men are able to acquire what they desire without much effort, the need to please women and, therefore, to behave as they desire fades. Morals and convention create the unique conditions for expressing and satisfying these desires. In the artificial realm of morals and conventions, women are able to dictate how men should express their desire and under what conditions they should expect satisfaction. This is why Rousseau encourages women to become “citizen-women,” promote familial relations including chastity, and, ultimately, to safeguard virtue and the regime.

What would the virtuous citizen-woman look like? Rousseau offers an example of the woman who commands in Sparta when describing the qualities of the citizen in *Emile*. He recounts a story found in Plutarch of the Spartan woman who is more concerned with news of the Spartan victory than the deaths of her five sons. So dedicated to the city, that upon hearing both the news of her sons’ deaths and the Spartan victory, the Spartan mother goes to the temple to thank the gods (*Emile*, 40). That the mother appears so callous at the news of her children’s deaths might make her appear barbaric, but she is the representation of the pure citizen. Rosenblatt argues that Rousseau’s story of the Spartan woman was:

[a]nother way Rousseau tried to reorient women's values toward republicanism was by extolling the women of ancient Sparta and speaking of the great respect they commanded. Spartan women loved the laws and knew how important it was for the laws to be loved; they were not soft; they educated their sons to be patriotic citizens (2002, 113).

That we might find it so callous and unnatural illustrates Rousseau's point on the necessary denaturing of the citizen. He recounts the story of the Spartan woman right after offering an example of the Spartan Pedareus who ran for the council of three hundred and failed, but remained joyous because there were three hundred other Spartans more suitable than he for the position. The citizen holds preference for the regime. "He who in the civil order wants to preserve the primacy of the sentiments of nature does not know what he wants. Always in contradiction with himself, always floating between his inclinations and his duties, he will never be either man or citizen. He will be good neither for himself or others" (*Emile*, 40). Natural man and citizen sit at opposite poles. The citizen is no longer the free individual in nature and cannot live solely according to their natural sentiments. We are not to understand Rousseau's statement to suggest a complete denaturing, just that the sentiments which have their source in nature are no longer primary motivations. Marks carefully examines the nuances of Rousseau's presentation, and claims that Rousseau's depictions of the complete but opposite forms of wholeness, natural man and the citizen, are overstated. He shows how both citizen and natural man contain elements of division and should not be considered as completely "whole" in the way Rousseau depicts in the beginning of *Emile*. Contending that not all movements toward society negate nature, Marks claims that the "numerous states Rousseau praises between these two possibilities have received less attention because it is difficult to account for these hybrids in terms of the presumed and connected bipolarities of Rousseau's thought" (2005, 9). What is natural to human beings as an outcropping of their *amour de soi* remains. The denaturing of the citizen eradicates the sentiments derived from our natural inclinations by replacing them with

social or conventional sentiments. As in Rousseau's example of the Spartan woman, the love of the regime replaces the Spartan woman's more natural preference for her children. What *amour de soi* introduces, *amour-propre* modifies. The Spartan woman is so caught up in the idea of the regime that the sentiment of her own well-being is inextricably intermixed with the well-being of Sparta as a whole. She thanks the gods for victory, not the preservation of her sons, because victory remains an achievement for her, her fellow citizens, and even her deceased sons.

The example Rousseau provides of the Spartan woman is a harsh one and difficult to understand outside of a closed regime. With the difficulty of making citizens and forming a healthy regime, can we today expect the Spartan citizen? Regardless of the likelihood of seeing such a profoundly transformed individual in society, the Spartan citizen would certainly be out of place in modern politics. In light of our contemporary attitudes, what influence do women really have over the morals of men and vice versa? Similarly, how does Rousseau depict such an interaction given his criticism of corrupt regimes? Rousseau's offers us another condemnation of dueling, but does not address it as a matter of government correction. Unsurprisingly, Rousseau suggests that in matters such as dueling, women will have an enormous influence over men. He is "convinced that we will never succeed in working these changes without bringing about the intervention of women, on whom men's way of thinking in large measure depends" (*d'Alembert*, 71-72). This is probably why Rousseau chooses the character of Julie in the eponymous novel to reiterate the same critique of dueling he outlines in the *Letter to M. d'Alembert*.

Rousseau completed Julie after the publication of the *Letter to M. d'Alembert* but began work on the novel prior to his reading of the article on Geneva in l'Encyclopédie. Each work shares a similar condemnation of dueling, but Rousseau has the novel's characters discuss dueling through passionate considerations of love, honor, reason, and justice. The altercation

recounted by Julie's friend Claire begins with a discussion of how much Julie's lover, St. Preux, and Milord Edward had to drink and the subsequent disagreement resulting in the call for a duel. "The conversation fell naturally on the subject of you [Julie]; for you are not unaware that Milord can talk of nothing else but you." Merely discussing Julie incites St. Preux, and the two men, one intoxicated with drink, insult each other and "[leap] to their swords" (*Julie*, 123). Julie responds to this news by sending both men a letter chiding them for their behavior. Within each letter are the characters' reflections on honor, decency, civility, and duty set within the context of dueling.

Rousseau places his characters in circumstances similar to those he claims in the *Letter to M d'Alembert* no longer incite men to dueling – drinking and mistresses. In the novel, however, the main characters are not depictions of corrupt people. They concern themselves with love and the opinion and honor of their lover. The importance of this difference cannot be understated. The characters' response to one another's arguments for and against dueling would not happen in the society Rousseau describes in the *Letter to M. d'Alembert*. A unique set of moral relations are necessary for the events to unfold. While the novel's characters struggle with their own moral questions, by dwelling in the countryside they are distant from corrupt city life. St. Preux has ventured abroad, but his contempt for the morality of city life safeguards him. Rousseau's depiction of Julie treats her as an adjudicator of honor much like those members of his fictional Council of Honor. Similar to the impossibility of an ephorate-like council to exist in the Europe of the 1700s, the exchange Rousseau describes in *Julie* will not happen without a particular kind of moral sentiment.

Julie's first letter is to St. Preux. She begins with the premise that the argument for dueling is one of courage and the defense of honor. Asking him why he should find offense in a

remark that is “related solely to [her],” Julie argues that taking offense at such a statement suggests the slander is true and sacrifices her “honor to a false point of honor” (*Julie*, 125). She then compares false and true honor and concludes (as Rousseau does in the *Letter to M. d’Alembert*) that dueling does not make one courageous or absolve them of their vices. Julie, however, takes the argument a step farther and appeals to an honor that does not change over time or place. Particular prejudices do not alter the “timeless source” of this honor which “lies in the heart of the just man and the inalterable rule of his duties” (*Julie*, 126). She later treats virtue in the same way by arguing that its source is outside of human convention and her lover should “learn to serve [virtue] in her way, and not in men’s ways” (*Julie*, 126). In the *Letter to M. d’Alembert*, human convention or “men’s ways” dictates honor and virtue. Julie places virtue and honor outside of convention in attempt to forestall her lover’s appeal to the public’s opinion of honor. She depicts that character of the ancients and argues that even though customs change over time and place, some customs are universally good. Her appeal to the universal contradicts Rousseau’s discussion of public opinion in the *Letter to M. d’Alembert*. One can argue that Julie’s appeal to the universal shares something in common with Rousseau’s discussion of universal justice. Since cities are unable to practice universal justice, Julie’s appeal to particular customs being always good does not mean these customs are aligned with universal justice. Her argument is similar, however, in that it appeals to the idea of unchanging justice and, in the case of dueling, honor and virtue. While Rousseau claims that “neither reason, nor virtue, nor laws will vanquish public opinion” (*d’Alembert*, 69), Julie contends that reason and virtue show how barbaric and foolish dueling is. She rails against the idea that people’s opinions should matter and maintains “the good and the honest do not depend on men’s judgment, but on the nature of things” (*Julie*, 128). Julie appears to echo Rousseau’s statement on what is good, orderly and in

accordance with nature. However, Julie speaks of what is good and honest (*le bon & l'honnête*) and does not extend her argument to make similar connections. Furthermore, while Julie's command to St. Preux suggests that there is something universal or orderly about virtue, her protesting is rhetorical and persuasive. She offers examples and does so passionately, but her reasoning is not strictly philosophical. She employs imagery of heaven and God, asking St. Preux to understand dueling as a vice and not a matter of public opinion. Part of Julie's passionate condemnation of dueling is to convince St. Preux of dueling's incongruity with genuine honor and morality. In this way, Julie attempts to persuade St. Preux to reject a commonly held custom of honor.

After aligning true honor, virtue, and reason against the practice of dueling, she ends her letter by describing her disgust with those who duel. In her brief letter to Milord Edward, Julie reiterates her revulsion and predicts the brutal outcome of the impending contest. Milord Edward's initial response appears to keep in line with the public opinion on honor and dueling. He states "that affairs of honor have their rules to which one cannot make exception; you have seen what transpired in this instance; it must be discharged by the rules" (*Julie*, 132). Milord Edward's summation of the events is what we would expect given Rousseau's claim that affronts to honor find satisfaction in dueling. Rousseau, however, does not have the two men duel. Persuaded by Julie's letter, Milord Edward apologizes on his knees in the name of virtue and justice to St. Preux and begs his forgiveness. The sentimental scene depicts two men who overcome their desire to duel; Milord Edward because honor requires him to admit the injustice of his actions, and St. Preux because in Edward's apology he recognized a "grand and generous soul" who temporarily erred in judgment (*Julie*, 133). The exchange between Milord Edward and

Julie's lover is the inverse of the public's attitude toward honor and dueling in the *Letter to M. d'Alembert*.

The characters in Rousseau's *Julie* are unique in that they do not hold the corrupt opinions of their time. The difference between Rousseau's characters and the people he criticizes as vice-ridden and corrupt compels the reader to question whether Julie is a suitable example of the female persuasion of male morals. Woman's inability to control men and their moral behavior stems from the same reason men are unable to remain virtuous or good. Public opinion, *amour-propre*, and the desire for pleasure corrupt men and women in equal measure. Just as men and women are equal in everything except in those qualities that relate to sex, they are equally corruptible. The moral relations they hold as a result of their sex and sexuality leads both sexes toward corruption together. That is not to say that Rousseau thought this relationship to be a false one. The need for men to gain the acceptance, approval, and consent of women is a reservoir of powerful moral agency. In this way, women are able to censor the behavior of men. It is a non-governmental appeal, but it is also a more natural one rooted in sex and extended through the activity of our *amour-propre*. In corrupt societies where governmental censorship has limited effect, women can still hold sway as censors. Although Rousseau's depiction is not particularly flattering for men or women, the proper relationship between the sexes is indispensable for a morality and a healthy regime of citizens. "Woe to the age in which women lose their ascendancy and in which their judgments no longer have an effect on men! This is the last degree of depravity. All peoples who have had morals respected women" (*Emile*, 390). Once respect for women is lost, so too are morals and virtue. In an extended sense, freedom depends on the ascendancy of women and their influence over morals. Rousseau does, however, consider the loss of women's ascendancy to be the last degree of depravity. With the loss of esteeming

women positioned somewhere in the final steps of corruption, it may be the one most easily recovered. Such a transformation would require the near universal agreement among women, but the proliferation of particular wills in a corrupt regime stymie such a development. It would take a marvel similar to Lysistrata's organizing of the women of Greece, and one that, according to Rousseau's critique of corrupt regimes, is ill-suited to our morals.

A Moral Education from Reading in Solitude

Rousseau's use of the novel to convey moral sentiments is an attempt to change public opinion without using force or punishment. Julie's case against dueling relies on the unchanging character of virtue and justice; concepts that Rousseau contends are inaccessible due to human nature and the meekness of reason with respect to *amour-propre*. In his preface to *Julie*, Rousseau lets the reader know that he expects the public to harshly critique his work. His expectation of public rejection puts into question the novel's ability to influence public opinion. If the reader carefully studies a novel, their imagination, "constantly encountering the same objects, is more vividly affected by them" (*Julie*, 9). To meaningfully read a novel one must momentarily remove themselves from the public eye. As Rousseau mentions elsewhere, it is in the "silence of the passions" (*FD*, 36) that one can listen to their conscience because "it seeks solitude, the world and noise scare it, the prejudices whose work they say it is are its most mortal enemies" (*Moral Letters*, 198). Reading a novel is an actively private matter that requires reflection upon its characters and images. The effect a novel can have on the reader is profound in this regard. Rousseau's reflections on the novel strike great contrast with his assessment of the theater. The theater, as a brief public spectacle, is wholly different from the novel. The novel is encountered in the solitude of private life while the theater requires a public presence. The novel provides a moral instruction that can only be taught when public opinion and discourse are kept

at a distance. Rousseau notes, however, that “worldly people” will not benefit from his novel because they seek to show off that they have read, prefer entertaining books over instructive ones, and cannot break from the “worldly maxims” that constantly press upon them. Only outside of the city where people are few can “these obstacles cease to be insurmountable, and that is where books can be of some use” (*Julie*, 13). The content must not depict as attractive those social vices of corrupt societies and the reader must read in solitude for the novel to have an influential moral instruction.

If the novel cannot persuade the opinion of people who live in cities, what effect does Rousseau expect from his writings? Julie’s use of reason, justice, and virtue would seem as persuasive as Rousseau’s argument in the *Letter to M. d’Alembert*. Since people who regularly concern themselves with the judgment of others will gain little from the moral instruction of the novel, the novel, though it may be beneficial for some, will not shift public opinion. Rousseau’s critique of Louis XIV’s tribunal adequately describes the novel’s possible influence on dueling: “If duels are rarer today, it is not because they are despised or punished, but because the morals [manners] have changed” (*d’Alembert*, 71). One should expect Rousseau’s appeal to justice and reason in the *Letter to M. d’Alembert* and *Julie* to have succeeded as much as the king’s tribunal in changing the public’s opinion on dueling. The two attempts (if we consider Rousseau’s critique as an attempt) differ, however, in their approach. Where Louis XIV sought to end dueling through law and force, Rousseau employed persuasion and appealed to his reader by trying to present attractive depictions of virtuous people and their moral struggles. He made appeals to living in the country, investing in familial ties, and duty over self-indulgent satisfaction of the passions. We can expect such rhetorical depictions because Rousseau’s writing is often rhetorical.

Rousseau as a writer suggests the possibility of Rousseau's role as a moral reformer. Reformation through novels does not partake in censorship, but it is an appeal for moral change in the individual. The end of the *First Discourse* is a call for political and moral reform. After trying to show the potential marriage of politics and philosophy and how it differs from the Enlightenment attempts to wed politics and philosophy, Rousseau makes a case for the people to seek contentment in their lives and virtue via their conscience. He shows the destructive and corrupting effect of the sciences and arts when the motivation to practice is vanity and the ability to adequately pursue them is absent. Rousseau makes a similar rhetorical claim for Geneva in the opening dedicatory letter to the *Second Discourse* and the latter half of the *Letter to M. d'Alembert*. He implores the Genevans to love their homeland, seek comfort and pleasure in their customs, and practice the virtue suited to them. These public entreaties are not philosophical teachings per se, but they use a truth to protect the people and foster their well-being.

Rousseau as moral reformer introduces the possibility that he practices true philosophy or is approximating the role of true philosopher. He even appropriates the line "*vitam impendere vero*" from Juvenal's *Satires* (4.91) meaning to "dedicate life to truth" (Bloom 1968, 153). Considering plays and their playwrights, Rousseau states that he "cannot acquit my debts at the expense of the public good and the truth" (*d'Alembert*, 132). Truth and the public good motivate Rousseau philosophically and as a writer. Though a paradoxical argument given Rousseau's rejection of philosophy speaking the unvarnished truth to the people, Kelly contends that Rousseau's use of the phrase "*vitam impendere vero*" meant "both publicly taking responsibility for what one publishes and, also, publishing only those things that will be of public benefit" (2003, 1). Kelly goes on to explain that Rousseau carefully considered the conditions under which the truth was morally useful, and "was convinced that authorship was an essentially public

and political activity and that the pursuit of truth was essentially a private and personal activity (2003, 5). Rousseau, then, is aware of the tension between philosophy and the public good, and carefully curtails his arguments; introducing them only under circumstances which benefit the public. Such a position is in line with his condemnation of those philosophers who seek the truth regardless of the harm it brings the people. In light of his critique of philosophers who draw the public's attention away from duty and virtue, it is prudent to consider Rousseau's writing as a reflection of what he thought public writing should be. He claims to write only because necessity drives him to do so and he publishes his writings because they will benefit the public. Necessity in this sense appears to relate to both the truth and the public good. "Never did personal views soil the desire to be useful to others which put the pen in my hand and I have almost always written against my own interest. *Vitam impendere vero*: this is the motto I have chosen and of which I feel I am worthy...Love of the public good is the only passion which causes me to speak to the public" (*d'Alembert*, 132). Through the paradoxical combination of writing for the public good while consecrating his life to the truth, Rousseau presents his motivations in a way similar to those he refers to as true philosophers. The dual character of this presentation reconciles Rousseau's philosophical works with his works that appear less philosophical by presenting models or maxims that appear to rest on a truth while bolstering the customs, laws, or religion of a people. A reoccurring concern in Rousseau's works and one that he professes to actively pursue is the well-being of the people.

In his public calls to reinstate virtue, sound judgment, conscience, and institutions that foster these important elements, Rousseau writes to instruct by way of reason supplemented by passionate persuasion. This is particularly important if we understand Rousseau as a citizen who, like Socrates, practices true philosophy and, therefore, teaches of virtue and humanity. The

distinction between Rousseau as philosopher and Rousseau as citizen is a matter of authorial intent. Rousseau's comparison of Socrates and Cato in his *Discourse on Political Economy* offers a useful example by which we can better discern the difference between the most excellent of philosophers and the most excellent of citizens. When explaining the importance of love of fatherland and what such an experience means for the citizen, Rousseau compares Socrates and Cato: "the one was more a philosopher, the other more a citizen" (*Economy*, 16).⁹⁰ Rousseau's phrasing suggests that Socrates and Cato both had qualities of philosopher and citizen. He calls Socrates "the wisest of men" who "teaches some few private individuals, fights the sophists, and dies for the truth," and refers to Cato (when comparing him to Caesar and Pompey) as a "god among mortals" who defends the state, freedom, the laws against conquerors of the worlds, and finally leaves the earth when he no longer finds on it a fatherland to serve" (*Economy*, 16). Rousseau depicts Socrates as the philosopher who finds his own happiness and Cato who seeks his happiness in the happiness of others. He compares the benefits of Socrates teaching a people and Cato leading a people, and determines Cato most excellent for the people because "no one has ever made a people of wise men, but it is not impossible to make a people happy" (*Economy*, 16). Rousseau's conclusion reinforces the notion that the people should not practice philosophy, but can live happy and meaningful lives as citizens. Furthermore, it supports the idea that rulers need to supplement the people's judgment and persuade them instead of reasoning with them. It is better to have the people emulate Cato and make them citizens and lovers of the regime than

⁹⁰ In comparing Cato and Socrates in the *First Discourse*, Scott states "As we saw, unlike Cato and Fabricius, who are clearly examples of virtuous citizens...Socrates is a different kind of citizen, one who combines the life devoted to philosophy with a concern for the virtue of his compatriots" (2020, 72). Rousseau's depiction of Cato in the *First Discourse* is of Cato the Elder and is, therefore, inconsistent with Rousseau's comparison of Cato the Younger to Socrates in *Discourse on Political Economy*. While Rousseau always relates the character of citizen to Socrates, Cato the Younger's relationship to philosophy is underdefined. Whether it is Cato the Elder or Cato the Younger, the idea of the valorous hero-citizen being somewhat philosophical is most interesting in light of the Legislator and Statesman and whether their endeavor approximates or includes philosophical inquiry.

try to have them seek their own happiness out of reason and philosophic virtue.

Rousseau, then, attempts in his writings the nigh impossible task of uniting the best features of Socrates with those of Cato. Rousseau's contrasting of Socrates and Cato appears to suggest that he is not following Socrates when writing as the Citizen of Geneva, but that he follows Cato. We may reconcile this distinction by the way Rousseau introduces Socrates in relation to Athens: "Athens was already lost, and Socrates no longer had any other fatherland than the whole world" (*Economy*, 16). Rousseau seems to praise Cato more highly (and certainly does so when it comes to the greater happiness of the people) when he states that Cato "carried his fatherland in his heart...lived for it alone, and could not outlive it" (*Economy*, 16). This distinction, however, brings forward a more important reflection on Socrates; his self-sufficiency and the possibility of his being political and a citizen as grand as Cato. Socrates did not have a fatherland in Athens like Cato did in Rome, but Rousseau's comparison implies that Socrates could have been something different if born under a different regime. Gourevitch points to Rousseau's understanding that citizenship is not always an option and, indeed, there is ample evidence in Rousseau's writings that this is the case (1997, xxx). Without the regime, citizenship, that zeal for one's regime and the love of those who constitute it, is inaccessible. That is to say, though conjugal love and the family are the basis for this last form of love, that of the regime, the people could not be citizens without a collective identity grounded in a tangible community. Rousseau positions himself either as a Cato-like figure who defends his fatherland of Geneva or as a Socratic citizen who pursues wisdom but, like the true philosopher, also instructs the people in duty and humanity. Although he refers to himself as a Citizen of Geneva in some of his writings, many of them focus on the happiness of humanity and, even as early as the *First Discourse*, he champions his teachings as such. He does not, however, expect to make the people

wise, only more dutiful, virtuous, and happy.

Rousseau certainly positions himself a citizen when he wishes to side with the people over the learned scholars and so-called philosophers of his day. When siding against the Academy in the name of virtue or defending the Genevan way of life by condemning the theater, Rousseau presents himself more as Cato than Socrates. This is particularly jarring when juxtaposing the dedicatory letter of the *Second Discourse* against the philosophical content found in its main text. Rousseau begins the work by telling the people of Geneva to love their regime, government, and customs. He insists that they maintain what is uniquely their own. The text of the *Second Discourse*, however, presents a theoretical development of human beings from the state of nature and into society. The history he traces is a history of the species and he offers the general developments of human beings as it must have occurred at different points in time among what would eventually be different peoples. Rousseau in his account of humankind in the *Second Discourse* presents himself more as Socrates than Cato. Whether we argue that Rousseau takes the role of Socrates or Cato or that he is like a Socratic citizen, Rousseau practices the kind of true philosophy that he praises in his *Preface to Narcissus* and the figure of Socrates. As Orwin (1998) demonstrates, Rousseau's depiction of Socrates is truly a "figure," and not an accurate representation. Similar to Kelly's (2003) discussion of Rousseau as philosopher and author, Orwin shows that "[t]o serve both the truth and the good of society, a writer must contrive to defend both genuine knowledge before the few and genuine ignorance before the many. This dilemma explains many of the peculiarities of Rousseau's Socratism" (1998, 177). Rousseau's Socrates as citizen is, therefore, a literary creation to reach a political end. Orwin argues that Rousseau substitutes Socrates' philosophic virtue for the virtue of the citizen, "an intense patriotism fueled by a passion for the city and its laws," and, ultimately, "assimilates

Socrates...to his own persona in the *Discourse*: a respectable man who knows nothing and thinks no less of himself for that” (Orwin 1998, 179-180). Investigating Rousseau as an author requires that we are aware of his seemingly contradictory goals, to philosophically consecrate his life to the truth and to show people how they can be happy and free in society.

We find an example of Rousseau’s defense of the people at the outset of his *Letter to M. d’Alembert*. Seeing the danger of d’Alembert’s praise of the Genevan clergy as Socinians, he defends the clergy before addressing the problem of the theater. Rousseau’s defense of the Genevan pastors begins with a question about the search for truth and the benefits or harms it might introduce. Attempting to save the pastors from the label of Socinians that d’Alembert gives them, Rousseau anticipates d’Alembert’s argument of philosophy seeking the truth. “You will tell me that it is a question of facts and not praises and that the philosopher has more respect for the truth than for men. But this pretended truth is not so clear or so indifferent that you have the right to advance it without good authorities” (*d’Alembert*, 10). Contained in this brief passage is both Rousseau’s critique of philosophy and the harms brought about by philosophers disseminating their philosophy to the public. Philosophy often seeks the truth regardless of the harm that it may bring to the people. That a truth may not be “so indifferent” implies that the truth may be damaging. Rousseau begins his reply to d’Alembert with the importance of writing and doing so with both the truth and fate of others in mind. Even “taking up the pen” is something done out of necessity.

But consideration outweighs duty only with those for whom all morality consists in appearances. Justice and truth are man’s first duties; humanity and country his first affections. Every time private considerations cause him to change this order, he is culpable. Could I be culpable in doing what I ought? To answer me one must have a country to serve and more love for his duties than fear of men’s displeasure (*d’Alembert*, 3).

Rousseau begins by giving his reasons for why he breaks with his friend, d’Alembert. His reply

to d'Alembert actually emphasizes the importance of truth, but it is also in relation to justice, duty, and country. Where Rousseau anticipates d'Alembert's response with a claim about the importance of truth, he includes within his reason for breaking with d'Alembert both a dedication to the truth and love of country. In conjunction with Rousseau's claim to consecrate his life to truth at the end of the *Letter*, his opening passage in defense of those principal duties and affections bookends his letter on the theater. His argument incorporates philosophic reflection, the duty of the citizen, and a concern for morality, and, by extension, Geneva's well-being. Rousseau's practice of true philosophy is why he considers it necessary to reply to d'Alembert while once again positioning himself as a citizen against the intellectuals. Even his addressing of the letter to d'Alembert on the title page lists his interlocutor's many academic titles while only referring to himself as a citizen of Geneva.

Rousseau authorship is consistent with his careful practice of philosophy as not only seeking truth, but protecting the people by instructing them in duty and virtue. He downplays his intellect and aligns himself with the philosophical practices of Socrates. After referring to Socrates as one who "praises ignorance" in the first part of the *First Discourse*, Rousseau concludes the second part by praising ignorance in his own voice and positioning himself as one of the vulgar. As previously mentioned, Rousseau's account of Socrates is purposefully skewed. Orwin returns to Plato's *Apology* to show how Socrates, "while proud of his knowledge of his ignorance, does not present himself as knowing nothing. Rather he claims to know what he knows and what he does not, and this, in turn, he depicts as true human knowledge" (1998, 176). Orwin points to Rousseau's Socrates as one who discourages his audience "from seeking to ascend from opinion to knowledge," and, in a comical and revealing turn of phrase, claims that Rousseau's Socrates' "working motto is evidently that the examined life is not worth living"

(1998, 179). Rousseau asks the people to cease any pursuit of the arts and science by saying “let us remain in our obscurity.” When speaking of virtue and listening to one’s conscience he calls it genuine philosophy asking of his reader to “let us know how to be satisfied with it” (*FD*, 35-36). Rousseau’s alignment with the people appears disingenuous after his incisive critique of the sciences and arts that includes a number of philosophic, literary, and historical references. What appears to be at its best a foolish contradiction and at worst a form of deception is really the defense of virtue and the safeguarding of the people’s happiness. The practice of philosophy Rousseau condemns in the *First Discourse* and elsewhere is philosophy practiced without consideration for the well-being of the instructed.

While consideration for “true” philosophy influences Rousseau’s writing, his expectations for books as potential avenues for this curated education remains in doubt. Rousseau harshly critiques books, who should read them, and when throughout a number of his writings beginning with the *First Discourse*. In the *Last Reply* Rousseau critiques Charles Bordes’ argument for the need of good books stating “the Learned will never write as many good books as they set bad examples” and that “there will always be more bad books than good” (*Last Reply*, 84). Authors are unlikely to write in accordance with the principles Rousseau set down for himself. For Rousseau, two main issues preventing books from providing sound instruction are the reader’s ability to discern and then derive the benefit from a book’s teaching. As previously mentioned, *amour-propre* and public opinion stymie the people’s ability to employ their conscience and reason. Their conscience will remain silent and their judgment may be lacking. With regard to conscience, a person must remove themselves from the public sphere and return to their private life to read. The solitude of reading affords the reader distance from public life and those opinions that quiet the conscience. Reading leaves an impression upon us that differs

from public discourse and the watchful gaze of our peers. Accessing our conscience is a first step toward benefitting from the moral instruction of books. The employment of our reason, however, is subject to the prior cultivation of our reason. The teacher who provides their pupil with an instruction in “prattl[ing]”, the practice of repeating lessons to give the appearance of understanding without having real knowledge, is unlikely to properly educate their judgment. Such an education gives the student only an ability to please and not the ability to properly judge or know how to act (*Narcissus*, 100). Will they understand the text? If so, what lessons are they drawing from it?

The lesson drawn from certain texts is not simply a result of its contents. Judgment plays an important role and aides the reader in drawing useful teachings from a book. In his *Emile*, Rousseau has Emile read Plutarch’s *Lives*, but waits until the boy reaches the age of eighteen. Emile’s education focuses on the proper cultivation and employment of judgment which is necessary for his reading of history. Rousseau tells us that the average pupil is unlikely to derive beneficial instruction from reading because:

[w]e are bent over books from our childhood and accustomed to read without thinking; what we read is all the less striking to us since we already contain within ourselves the passions and the prejudices which fill history and the lives of men, and therefore all men do appear natural to us because we are outside of nature and judge others by ourselves (*Emile*, 241).

The activity of reading reinforces prejudices and behaviors more-often than it instructs us in the correct ones. As Strong explains it, “[a]s readers, we will find in a book what we want and will thus recover only the sense we have made to ourselves of ourselves back to ourselves” (2002, 37). We become unable to weigh and judge historical figures or characters in a novel with any probity because we are likely to see our prejudices reflected back to us and find satisfaction in the discovery. Furthermore, we can never elevate ourselves through reading if we always see

ourselves in such a way that we justify our own behavior. The tutor has raised Emile to this point with “sound judgment and a healthy heart” as the principal object of his education (*Emile*, 241). For Rousseau, judgment is always connected to reason and the image of the “healthy heart” recalls to us the other natural albeit latent characteristic of human beings, conscience. In continuing his critique of Bordes’ faith in good books, Rousseau claims that reason and conscience are the best guide of an honest man, and that the person of an “unsound mind or a hardened conscience” cannot derive anything good from reading (*Last Reply*, 84). He contends that a pupil raised like Emile will look beyond appearances and judge the figures of history and literature “only by the condition of their hearts.” Those minds “biased by vulgar opinions” will see happiness in the success of conquerors and usurpers and draw a positive lesson from what they read (*Emile*, 242). The same book presents us with two divergent educations with the possibility of many others. That nothing morally beneficial resides in a particular book is possible, but this judgment is still left up to the reader. The reader with sound mind and active conscience may even be wise to simply put a seductive and corrupting book down, regardless of the benefits bestowed by judgment and conscience (*Julie*, 3-4).

Rousseau suggests that books may provide an individual with moral instruction, but he does not promote them as a means of dramatic moral reform. Opening his preface to *Julie*, Rousseau states that “[g]reat cities must have theaters; and corrupt peoples, Novels. I have seen the morals of my times, and I have published these letters.” Theaters and novels are suitable amusements for corrupt people. So why did Rousseau write in the form of the novel? Rousseau published *Julie* because the morals of his time are corrupt, but soon after claims that his book was “not meant to circulate in society and is suitable for very few readers.” His purpose for publishing *Julie* is for the benefit of those “who in their dissolute lives have preserved some love

for honesty” (*Julie*, 3). While the size of Rousseau’s intended audience is left unclear, he assures us that the audience who benefits is small. He maintains that the majority of people will reject it as saccharine or fantasy while the moral and virtuous will never (or, at least, should never) pick up such a book.⁹¹ The people who will benefit are likely those outside of the city. Rousseau goes so far to assert that urbanites and cosmopolites are unable to receive a moral teaching through novels. Moving through multiple books in succession dulls the teaching of a given text while repeatedly reading the same book filled with “worldly maxims” will reinforce a person’s corruption.⁹² If a text contains lessons contrary to a corrupt person’s maxims, the lessons are unlikely to overwhelm the reader’s already solidified prejudices. In light of these difficulties, Rousseau maintains that there “is a point where these obstacles cease to be insurmountable, and that is where books can be of some use” (*Julie*, 13). His hopeful statement is laden with important caveats. First, the reader must escape city life and the opinions of the many. Second, the reader must be of a particular disposition to access the lesson without finding it foolish or fantastical. Finally, Rousseau states that these obstacles cease to be insurmountable, not that they suddenly become easy to overcome. Even after this last caveat, books may only be of some use.

While Rousseau’s expectation for histories and novels to effect moral change is low, he still defends these works as possible avenues to instruct the few and provide at least some moral

⁹¹ As Stewart and Vaché note, “*Julie* became one of the greatest international publishing successes in the eighteenth century, with scores of editions, and the English translation itself went through fifteen editions before it withered on the vine in 1812” (1997, x). Though Rousseau claims it will be unappealing to a general audience, Masters lets his reader know that he will not analyze *Julie* because “it is primarily dictated by the orientation of the work to popular or vulgar opinion, especially that of ‘rustics,’ rather than to philosophers and truth as such” (1968, xv). With this in mind, we must consider whether Rousseau is being wholly genuine when he makes this claim.

⁹² Replying to Charles Bordes on the point of useful books, Rousseau claims that “for anyone whatsoever, the only books needed are the books of Religion, the only ones I have never condemned” (*Last Reply*, 84). Rousseau does not limit his comment to or mention by name the Bible.

benefit. Extending the benefits of books past histories and novels, we see Rousseau as an authorial citizen principally concerned about the well-being and happiness of the people. Kelly convincingly argues that Rousseau adopts a form of “literary citizenship” that replaces the “heroic citizenship” required of an active citizen of the regime, and that, “Rousseau’s authorship is, itself, a model of what he understood good citizenship to be” (2003, 116-117, 173). His writings often depict the corruption of society or defend the simple pleasures and morals of regimes like Geneva and Corsica. He writes only because truth and necessity compel him. How effective he expected his writing to be is uncertain. He would argue that the people of a well-constituted regime should never read his writings and the people of a corrupt regime would likely reject them. To have the time to read, you must be idle. Rousseau rejects the idle person as incapable of being a good citizen. The only period in history for which Rousseau mentions anything positive in relation to idleness is that “golden mean between the indolence of the primitive state and the petulant activity of our pride” where people held loose associations and did not wholly depend on one another, but this is not an epoch for making citizens (*SD*, 97). It is the inevitable move out of this period in human history that makes citizenship both possible and elusive. But maybe, the few who still have some love for honesty will be able to benefit from a small portion of well-intentioned writings.

Let the People Practice the Arts and Sciences in Their Idleness

What is left for the corrupt regime when it comes to censorship? The people of a well-organized regime suffer censorship without feeling injustice because their will aligns with the general will. The Legislator, statesmen, and carefully crafted institutions shape the people’s judgment. This cultivation of judgment requires censorship, but, as participants in this system of

ensorship, the people do not feel censored or the victims of injustice. They are able to bear the burden of the laws because of the hardship required at the founding. Once they become a people in an established regime, they continue to bear the burden of the law and even censorship because they love the laws and understand them as the means by which they can continue living in freedom. The corrupt regime, even if it once flourished in freedom as the Roman republic before its decline, does not contain a people who guide their actions by the general will or received an education suitable for the cultivation of their judgment as citizens. The member of a corrupt regime is not a citizen and identifies with particular wills, whether as an individual or as part of sub-groups within the regime.

Rousseau's remedy for a corrupt regime is to occupy the people with the sciences, arts, letters, and other pleasures (*Last Reply*, 86; *Narcissus*, 106ff.). His answer for corrupt regimes is staggering in light of his discussion of idleness and its relation to despotism and slavishness. At its core, however, occupying the people is not a genuine antidote. Rousseau states that he has "seen the evil and [has] tried to discover its causes: Let others, more daring and more intemperate, seek the cure" (*Last Reply*, 86). After the multitude of possible suggested avenues, some of which Rousseau attempts himself, the sciences and arts can only be hoped to palliate moral corruption without ever curing it. Rousseau reiterates his position that human beings cannot return to virtue or revert their morals back to a previous time and character. "For, in the first place, since a vicious people never returns to virtue, the problem is not how to make good those who are no longer so, but how to keep good those who are fortunate enough to be so" (*Narcissus*, 105). Knowing that once corrupt a regime never returns to non-corrupted state is instructive for understanding Rousseau's aims as an author and what he expects to come from his writing. The limitations of books and the prejudices of the reader make impossible moral reform

on a widespread-level. The probability of his other possible answers to corruption, the union of philosophy and politics or the moral ascendancy of women, coming to fruition is likewise questionable. With this in mind, Rousseau aims to slow the inevitable moral degeneration by occupying the people with the source of their corruption.

...the same causes that corrupted peoples sometimes help to prevent a greater corruption; thus, a man who has ruined his health by injudicious use of medicines is forced to continue to rely on doctors in order to stay alive; and that is how the arts and sciences, having fostered the vices, become necessary to keep them from turning into crimes; they at least coat them with a varnish that prevents the poison from spreading quite so freely (*Narcissus*, 105).

Rousseau returns to the imagery of the sciences and arts transforming the appearance of our social relations. In the case of vices and crimes, the sciences and arts slow the process of corruption. Unable to reverse moral corruption, the sciences and arts keep the ailing regime alive without ever curing it. Rousseau's metaphor of slow-moving poison affirms his expectation that corrupt regimes will continue down the path of moral corruption. Keeping the people occupied with the sciences and arts does not require making citizens out of them and, since moral erosion is inevitable, the idleness these endeavors bring about keeps the people from indulging in worse behaviors. Idleness begets idleness. Although it is the harbinger of the sciences and the arts, idleness becomes necessary to slow the moral decline it introduces.

Rousseau returns to the problem of the sciences and arts and their encouragement of idleness throughout the *First Discourse* and in his replies to it. Rousseau contends that the "misuse of time is a great evil" (*FD*, 25) and that "in politics, as in morals, it is a great evil not to do good, and every useless citizen can be regarded as a pernicious man (*FD*, 24). He also relates

idleness to the well-constituted state arguing that “every citizen has duties to fulfill; and he holds these important cares too dear to find leisure for frivolous speculations” (*Narcissus*, 99). Even given the distinction between idleness and leisure, Rousseau states that the “no honest man can ever boast of leisure so long as good remains to be done, a Fatherland to be served, unfortunates to be relieved” (*Last Reply*, 82). Citizens of a well-constituted regime are always focused on the well-being of the regime and their fellow citizens. Furthermore, just as freedom requires constant attention and safeguarding, so does the well-being of the citizenry. For the citizen to have time for study and reflection, their fellow citizens must not need their aid and the regime must be without worries. Rousseau’s depiction of the well-constituted regime, however, emphasizes the citizenry’s unrelenting preoccupation with their fatherland. The people are either at work or they share in communal activities whether political or for amusement. To the benefit of their peers, citizens are attentive to each other’s suffering. Additionally, the regime requires citizens to come to its defense. Yet, when the people occupy themselves with the sciences and arts, courage and martial virtue disappear. Rousseau suggests that all sedentary pursuits can affect the people’s ability to suffer physical hardship necessary for defense. “How, indeed, do you think men whom the slightest need crushes and the slightest difficulty rebuffs would envision hunger, thirst, fatigue, danger, and death?” (*FD*, 29). Having enough needs to occupy us from nature, Rousseau warns against adding to or multiplying the needs we already have (*Last Reply*, 86). The sciences, arts, luxury, and ease, all introduce new needs as they make us less suited for physical exertion, habituate us to a sedentary and comfortable life, and do not require us to sacrifice anything for others. In fact, the development of new needs ensures our dependence on others out of self-interest instead of mutual esteem and benevolence. We become mutually dependent on one another, but seek to fulfill our own ends instead of a common good.

The people become slavish due to the multitude of conventional needs they adopt in society. To have ever-multiplying needs, whether they are social, political, or material, contributes to the people's dependence and mutual dependence. As Rousseau states early on in the *First Discourse* and repeats elsewhere, rulers prefer to keep their people subservient and the best way to do so is to keep them occupied.

Princes always view with pleasure the taste for the agreeable arts and for superfluities that do not result in the exportation of money spread among their subjects. For aside from thereby nurturing in them that pettiness of soul so appropriate to servitude, they well know that all the needs which the people gives itself are so many chains with which they burden themselves (*FD*, 12).

Despotism invites frivolities, amusements, and even the sciences and arts. Rousseau asks: “Indeed, what yoke could be imposed on men who need nothing?” (*FD*, 12). Like the yoke of the laws, need burdens human beings. The yoke of the laws differs, however, because they are a burden equally shared and engraved on the heart of the people. Furthermore, need becomes that which we cannot do without instead of something that we willingly place over ourselves because we have grown to love it. The fulfillment of our needs, however, staves off the concern of freedom. By satisfying these needs we maintain our political bondage while feeling the satisfaction of our pleasures. The false freedom it creates leaves us blind to our servitude. The people will find censorship unacceptable and unjust under these conditions.

To further clarify Rousseau's position on the political consequences of the sciences and arts, we can return to his early critique of modern nations.

While government and laws provide for the security and well-being of assembled men, the sciences, the letters, and the arts—less despotic and perhaps more powerful—spread garlands of flowers over the iron chains with which men are burdened, stifle in them the feeling of that original freedom for which they seemed to have been born, make them love their slavery and fashion them into what are called civilized peoples (*FD*, 12).

Rousseau's description of government and law suggests that they provide circumscribed benefits

including security and well-being, but he is not clear about what this entails. Security is an essential benefit of governance and its value to the people is clear, but well-being is deceptive in light of Rousseau's critique of corrupt nations. Original freedom, however, is not political freedom, so its replacement here is not dubious at first glance. Security and well-being should be the ends of law and government, but Rousseau includes the sciences and arts as being "less" despotic, suggesting that the government and laws in question operate to some degree despotically. Rousseau's famous claim that "everywhere [man] is in chains" (*SC*, 163), echoes his warning in the *First Discourse* that the sciences and arts "spread garlands of flowers" over these "chains" (*FD*, 12). Furthermore, the people's transformation into a so-called "civilized" people includes the sciences and arts to alleviate a burden, stifle the feeling of freedom natural to human beings, and even make them love their slavery. All of these effects suggest a government already poorly-constituted that does not lead a free people. The sciences and arts do not create the chains that burden people, they only make the chains pleasant in appearance. The sciences and arts beautify a corrupt regime, so that it is at least pleasing. That they can make the people love their slavery puts forward a possibly horrific conclusion, that the sciences and arts make bearable an oppressive regime and that this might be a boon for the despotically ruled. Pleasure and amusements thieve from the people and quash the desire for genuine freedom. They do, however, provide the decoration for chains that people will likely never break. Habituation and pleasure work against the spirit of freedom, but make life pleasurable. They may even make the public believe they are free because of the readily available amusements and occupations they may enjoy.

But what does Rousseau mean by slavery here? It is certainly not the physical bondage and labor, but a slavishness. When describing moral freedom Rousseau states that "the impulsion

of appetite alone is slavery, and the obedience to the law one has prescribed to oneself is freedom” (SC, 176). Civil freedom is similar in relation to one’s obedience to law but civil freedom always relates to the general will. In this way, moral freedom and civil freedom overlap. Slavery in this sense is in proportion to the individual’s inability to participate in the legislative concerns of governance and the disunion between established law and the law one would prescribe for themselves. Related to the political form of slavery is a type of slavishness the people often willingly adopt and find difficult to overcome. When pleasure and luxury are held above virtue, the people become physically and psychologically timid. When discussing the preference for luxury and the splendor it brings, Rousseau warns that “...it is not possible for minds degraded by a host of trivial concerns to ever rise to anything great and even if they had the strength to do so they would lack the courage” (FD, 27). Ease and pleasure supplant the strengths of body and spirit that allow the people to suffer loss and overcome challenges. This is not limited to threats to the regime. Servitude is closely related to the desire for freedom in Rousseau’s writings and often appears as the willingness (or its absence) to struggle for one’s freedom. He states that freedom is the same as innocence and virtue “whose value is felt only as long as one enjoys them oneself and the taste for which is lost as soon as they have been lost” (SD, 106). Pleasure and enjoyment are strong motivators. If the people came to know the pleasures of innocence, virtue, and freedom they would more willingly adopt the morals and behaviors associated with these qualities. When replying to Bordes’ critique that the arts brought us “pleasures of the soul,” Rousseau argues that this “is to say that they have substituted other pleasures for that of acting well...” (Last Reply, 74). When the people draw pleasure from the sciences, arts, letters and the amusements they provide, they are likely to trade in concerns of virtue and freedom for the ease of pleasure provided by civilized society. Furthermore, when

they are pleasures that we enjoy individually like the experience of the theater, our entertainments draw us farther away from the community.

Rousseau concludes that, regardless of its beautification under the sciences, arts, and amusements, despotism can be, and often is, insufferable. In his chapter on slavery in the *Social Contract*, Rousseau reflects upon the promise of civil tranquility under a despot. Citing the war, greed, and government harassment that is likely to occur under despotism, Rousseau asks “What do they gain from it if this very tranquility is one of their woes? Life is tranquil in dungeons as well; is that enough for them to be good?” (*SC*, 168). Despotism that does not reach such a level of intolerable oppression is not devoid of its own oppressions. More pleasurable due to the sciences and arts, less openly oppressive regimes make bearable the people’s lives. Inevitably, the sciences and arts help disguise all but the worst forms of despotism.

The sciences and the arts encourage vanity, self-interest, and idleness while acting as a political buttress by aiding despotic regimes. Once these harms begin to proliferate, the regime must occupy the people with distractions and keep them delighted with objects that do not involve crime. The inability of regimes to revert to an earlier, uncorrupt time in their history makes positive moral change nigh impossible. Rousseau makes clear that he does not recommend overturning current regimes or customs, abolishing the sciences and arts, or trying to undo the burden of new needs and dependences human beings have thrust upon themselves (*Last Reply*, 86). Wokler notes that “Rousseau proposed no revolutionary transformation of corrupt society into new republic of virtue,” and argues that “it cannot be stressed too strongly that [Rousseau] wished to avert rather than promote revolution and spurned the idea of overthrow, through violence, of any of the government of his day” (1987, 94). Although Rousseau did not promote revolutions, he thought that they would occur on their own. Holding it to be “impossible

the great monarchies of Europe still have long to last,” Rousseau warned that Europe was “approaching a state of crisis and the age of revolutions” (*Emile*, 194). Predicting political revolutions in Europe is, however, different from advocating for them. Instead, Rousseau recommends preserving “and even carefully to support Academies, Colleges, Universities, Libraries, Spectacles and all the other amusements that might to some extent distract men’s wickedness, and prevent them from spending their idleness in more dangerous pursuits” (*Narcissus*, 106). Rousseau is aware of his seemingly contradictory stance on idleness, corruption, and the sciences and arts. His reply to such a criticism implies the irreparable problem of moral corruption. Idleness is a permanent consequence of societal progress. Once people become used to the pleasures and ease of their idleness, the laws are limited in their power to repress bad behavior and they are no longer able to make the people good. The sciences and arts keep the people busy “with trifles to divert them from bad deeds; they have to be entertained instead of being sermonized” (*Narcissus*, 106). Rousseau warns that once morals are corrupt the regime turns its attention to entertainments. As the people develop new and corrupt prejudices, moral appeals become irritating to them. Moral change requires strong wills and possibly strong bodies. The constitution of an idle urbanite is not suited for either.

Rousseau presents his reader with a passionate defense of virtue and morality while condemning the self-serving and corrupt nature of civilized people. He spends pages comparing ancient and modern regimes and peoples, discussing the harsh requirements for freedom, and outlining the ways by which you can create a well-ordered regime where the people love the laws. After all of his posturing as an insufferable scold and the bad conscience of his time, Rousseau does not advocate for sweeping political or social changes. On the contrary, he often warns against them (*Last Reply*, 86ff.; *Narcissus*, 105ff.). If we become slavish or corrupt, all

that we can expect is to slow this process and be wary of the time when the sciences and arts no longer make despotism bearable. Just as his project for the *Social Contract* considers human beings as they are and laws as they can be, his recommendations for corrupt peoples aims at a similar albeit more practical end. Corrupt peoples are what just that, corrupt. Once the people no longer respect morals and customs, they have “no rule but [their] passions, and no curb but the laws, which can sometimes keep the wicked in check, but can never make them good” (*Narcissus*, 105). Law can no longer transform a people or even guide them; it serves only to punish and never to instruct. Rousseau maintains some hope that moral instruction can reach a few people who are not so caught up in public opinion and maintain some love for virtue and honesty. A corrupt regime, however, cannot suffer law as a source of moral instruction and, as long as public opinion moves against censorship, the people will always view moral correction as an injustice.

CHAPTER 7

CONCLUSION

A Restatement of the Problem

According to Rousseau, human beings are radically independent and individualistic by nature. With their move into even small groupings of families and early societies, human beings become competitive and desirous of accolades and distinction. The combination of radical individuality and the drive of our *amour-propre* develops a psychologically painful tension in human beings that is difficult to resolve. Modern people are often what Rousseau calls the *bourgeois*. Torn between their preference for themselves and fulfilling their duties in society, “he will be good neither for himself nor for others” (*Emile*, 40). A casual glance at this line robs the profound force that lies within these words. If human beings are no longer in their natural state and they are not or cannot be citizens, they will always live with the inner struggle between what is natural and what is social. They will always be, on some level, corrupt.

If the tension we experience as a result of our *bourgeois* existence is truly what undoes society and causes so much personal and interpersonal conflict, are we to flee the company of others? Rousseau’s discussion of *amour-propre* and conscience in the *Moral Letters* suggests that some amount of distancing from public life is beneficial. Our conscience is more active without the constant stimulation of our *amour-propre*. Furthermore, time spent alone can revivify our love for others. “When one lives alone one loves men better, a tender interest reconciles us to them. Imagination shows us society through its charms, and even being bored with solitude turns to the profit of humanity” (*Moral Letters*, 199). Our social condition constantly pricks our *amour-propre* causing resentment, hatred, or contempt of others. Struck by our need to please, the feeling of shame, or a desire for distinction, we experience and fixate on

the ugliness of human beings. Frustration with or disgust for other human beings does not necessitate a hatred of others. According to Rousseau in his critique of Molière's *Misanthrope*, a genuine misanthrope would be a monstrous figure who incites terror instead of laughter. Rousseau contends that the play's titular character, Alceste, is no misanthrope, but a "good man who detests the morals of his age...; who, precisely because he loves his fellow creatures, hates in them the evils they do to one another and the vices which these evils are the product" (*d'Alembert*, 37). Molière's supposed misanthrope only feels repulsed by people because he truly loves them and thinks them capable of good. Given Alceste's revulsion at the other characters' vices, it is no wonder that he adopts a seemingly proto-Rousseauian answer to his problem and goes into exile at the end of the play.

Removing ourselves from society allows us to consider others at a distance, engage our conscience, and potentially renew our love for humanity. Self-exile, however, is a curious way to foster a love for others. This is especially true in light of our eventual return to society where we will rekindle our *amour-propre* and encounter other people's vices once again. The constant push and pull of our *amour-propre* due to our exiting and reentering society is why Rousseau turns to the citizen as a possible answer for the pernicious aspects of our *amour-propre*. People cannot leave their communities *en masse* or even at regular intervals to rejuvenate their love of others. Societies require constant interaction between their members. Since society is inescapable for most people, Rousseau directs the citizen's *amour-propre* to the wellbeing of the community and uses it to foster the citizen's love for their fellows. Even this answer is only possible for smaller, insular communities where opinions and experiences are more homogeneous. Furthermore, forming the citizen requires particular conditions and singular players for the chance at founding a well-ordered and healthy regime. It is much easier to recommend a three-

day trip to the countryside for those able to do so (*Moral Letters*, 199).

Rousseau's advice in the *Moral Letters* is, however, a positive depiction of a solitude that lasts only a few days and not a recommendation for complete withdrawal from public life. As Rousseau writes in *Rousseau, Judge of Jean-Jacques: Dialogues*, solitude and seclusion are likely to lead to a "somber, taciturn, and always discontent life." Such a position seems irreconcilable with Rousseau's critique of society and its moral outcomes. His assertion is particularly perplexing when he states: "I also know that absolute solitude is a state that is sad and contrary to nature: affectionate feelings nourish the soul, communication of ideas enlivens the mind. Our sweetest existence is relative and collective, and our true *self* is not entirely within us" (*Dialogues*, 118). The solitary life of natural man is truly solitary because they have no need they cannot satisfy on their own, have little contact with others, and could not effectively communicate should they happen to interact with other human beings. In their notes to this passage in the *Dialogues*, Masters and Kelly remind the reader of a statement Rousseau makes in *Emile* that differentiates between two senses of "natural" (1990, 265). "One must not confound what is natural in the savage state with what is natural in the civil state" (*Emile*, 406). Masters and Kelly argue that we should consider Rousseau's statement in light of his many applications of the terms natural and nature. The sweetest of sentiments can only enter when human beings are able to judge and compare social conventions, employ their reason and conscience, and engage their imaginations. Natural man can conceive few ideas, none of which are complex, and are more suited for contentment. Since they have yet to encounter the passions that arise from social interactions and reflection, they do not experience anything that we might consider to be the "sweetest existence." Masters and Kelly also turn our attention to Rousseau's claim about the "happiest and most durable epoch" in human history occurring only after human beings became

social and our *amour-propre* began to develop (*SD*, 97). There is similar evidence in Rousseau's works where he describes the transports of love, the sentiment that commits us to our romantic, familial, and (should we become citizens) political bonds, as the "sweetest sentiments of nature" (*Emile*, 363). Since we cannot experience the bonds of love until we are social beings, the sweetest and happiest moments known to human beings are, therefore, social. The passions and sentiments we experience in society can also be the most volatile, destructive, and sorrowful. Human beings in nature experience neither extreme.

Considering Rousseau's account of the solitary life, we can see that human beings are always led back to communion with their fellows. Our *amour-propre* is persistent once it is active. That our social nature differs from our nature in the state of nature reiterates the problem of returning to a prior existence or even fleeing from the company of others. Our social interactions will satisfy our soul and mind, and make pleasurable our existence. If Rousseau is correct, our ills will always be the same. We will continue to compete and struggle, sometimes cooperating but always defecting from or exploiting the community when necessary. We cannot simply eliminate our *amour-propre*. For all of his insight and keen formulation of the problem, Rousseau could not do as much. Even when in solitude, Rousseau finds himself struck by the pangs of his *amour-propre* and preoccupied with the opinions of others. That we find the sweetest sentiments of our existence from the social relations we form, however, is encouraging. Furthermore, these sentiments support the foundation upon which Rousseau builds his political remedies. What is the citizen without the love of their fellows and their country? The greatest pleasures of romantic and paternal bonds all rest on love and sometimes on its more effusive manifestations. If we can apply this kind of passionate outpouring to our laws, our country, and, ultimately, our fellow citizens, we may return to some kind of virtue or healthy morals. This

requires a consideration of Rousseau's advice for places like Poland, Corsica, and Geneva, alongside his harsh criticism for peoples and nations he considers corrupt. While the point is often lost in Rousseau's flourishes or passionate and seemingly uncompromising language, he is painfully aware of our nagging natural inclinations always whispering to us a particular will that leads us away from the community.

Part of the reason Rousseau leaves us with so few answers and so little recourse is a result of his view of human nature and the political problems that arise once we become social. Melzer concludes that the "essential defect of the constructive part of Rousseau's system... is that it takes a far too narrow and skeptical view of what is possible in politics. It simply cannot account for the possibility of a relatively decent monarchy, or modern nationalism, or of liberal democratic capitalism." He argues that the source of Rousseau's limited view of politics comes from his "skeptical assumption that man is not naturally social" (Melzer 1990, 291). Melzer's challenge to Rousseau is certainly a judicious one considering the philosopher's restrictive definitions of political freedom and governmental legitimacy coupled with his penchant for bombastic claims. Rousseau's answer to society's ills requires so many matters of chance to perfectly align that any substantial deviation in the political history or structure of a regime may undo its chances at health and longevity. Even if we treat Rousseau's major works like the *Social Contract*, *Emile*, or the *Second Discourse* not as practicable answers to the problem of society, but as philosophical ruminations on the nature of human beings, we are left with a tapestry of problems that have few practical answers. His seemingly unachievable answers are what could be possible for human beings given their nature, reason, and conscience. Just as Rousseau contends that we do not have citizens or fatherlands anymore, we must understand ourselves and

conceive of political solutions that reside outside of Rousseau's complex and often conditional answers.

Given the unlikelihood of healthy political regimes in the Rousseauian sense, a straightforward answer for our ills may still reside in the earliest of Rousseau's works. His appeal to conscience and virtue at the end of the *First Discourse* may be the only positive instruction we can truly follow, but even then, it is a difficult one. For us to achieve such a reduction in our search for glory, distinction, and meaning requires the transformation of our *amour-propre*. We must become genuinely invested in the wellbeing of our fellows. Rousseau affords a general answer to the dissonance between our private and public selves.

Let us extend *amour-propre* to other beings. We shall transform it into a virtue, and there is no man's heart in which this virtue does not have its root. The less the object of our care is immediately involved with us, the less the illusion of particular interest is to be feared. The more one generalizes this interest, the more it becomes equitable, and the love of mankind is nothing other than the love of justice (*Emile*, 252).

Rousseau's many educational and political orchestrations, institutions, and social remedies attempt to extend our *amour-propre* in its positive manifestation toward others. Unlike his account in the *Emile*, however, the attempts at political reform are of narrower focus and apply to a single regime, not all of mankind. Their purpose is to cultivate the necessary sociability and commiseration that political life requires of us, and they attempt to achieve social cohesion on a profound level. When defending his answer to the Academy of Dijon in the *First Discourse*, he argues that by "[s]howing, as [he] did, that our morals were not purified, the question was more or less resolved" (*Narcissus*, 98). We should not consider Rousseau's claim as a mere dismissal of his self-proclaimed adversaries' criticisms because he goes on to refute his critics in detail and on a number of specific points. He qualifies his own statement with an admission that one could find moral corruption in ancient peoples as well, but contends that the morals of modern peoples

are simply worse. His defense of the *First Discourse* points to the difficulties of making asocial, independent creatures into social, dependent human beings. After human beings became social, there was no determinable point in their history where a people's morals were pure. Again, Rousseau presents us with a clear picture of the problem, but fails to provide practicable answers. He offers ways to approximate his political answers, but, once human beings are social, flight from or the reformation of society always compete with our *amour-propre*.

Rousseau's Political Solution and the Role of Censorship

For Rousseau, political problems relating to social cohesion, public morals, and the inner tension stemming from our *amour-propre* require a systematic approach for their resolution. A regime cannot expect to apply Rousseau's political solutions in a partial or piecemeal fashion. This is, in part, why Rousseau's investigation into the possibility of having "legitimate and reliable rule of administration in the civil order" requires so many considerations and components that must operate harmoniously (*SC*, 163). Each component buttresses the other to provide a complex but coherent political system that works toward a common goal, political freedom and happiness. It is worth returning to Bloom's interpretation of the *Emile* and applying his argument against using the text as a guide for education to Rousseau's other major political works. If Rousseau's *Social Contract* or *Second Discourse* "are meant to influence practice only in the sense that those who read them well cannot help but change their general perspectives," we should not expect that his complex and restrictive recommendations to produce practicable new regimes (*Bloom* 1978, 152). We can, however, consider Rousseau's insights in relation to what they can tell us about human nature and people's motivations in society. Furthermore, we can evaluate our own political systems and theories against Rousseau's insights. Weighing our governments and institutions against Rousseau's critique of modern society is meaningful for

understanding the politics of public opinion, morality, and the willingness of the people to obey law. It is with this in mind, that we should reconsider the effects of censorship and what Rousseau can tell us about its application and limits.

The purpose of censorship in Rousseau's system is to reinforce and, when possible, guide public morals. If the regime correctly introduces and applies it, censorship safeguards the regime by reminding the people of their civic duties and virtues. Instead of feeling the constraints of censorship, the people are to become willing participants and censor their peers, thereby reinforcing the regime. Through censoring they satisfy the desire to judge and receive justice, and direct their *amour-propre* at the wellbeing of the regime. In addition, the public compels the ambitious to seek their glory through public approval and adherence to custom and law. For censorship to reach this goal, however, requires a number of other institutions and political figures that put the regime into motion. Censorship is one component in the overall political system Rousseau endorses and it cannot properly function without a people ready to receive burdensome legislation, a proper founding by a wise legislator, censorial institutions and genuine statesmen to confirm public opinion when it aligns with the general will and correct it when it errs, and public education and entertainments to form the people and make them love their regime. Each one of these essential components are distinct, but always work in unison and require the presence of the others. Censorship cannot stand on its own, and, if it does, the people are likely to consider it unjust when they disagree with it and just when they do. Though a straightforward and generally acceptable point, disagreements over justice undermine social cohesion. When the public identity splinters, there is disagreement among the people and a dissonance between public opinion and government action. Censorship, for Rousseau, is meant to unify and reinforce public opinion.

People will always weigh, judge, and compare themselves to others. Such behavior is the result of our *amour-propre* and occurs in corrupt and healthy regimes. Additionally, public opinion will always be a driving force in political matters. As we can see from modern polling data, however, the people of any given nation do not always agree. This does not mean that they do not actively participate in censoring their neighbors, only that they do so inconsistently and to varying degrees. When an individual is subject to public censorship, their behavior is more likely to conform to a particular will instead of the general will. While no one wishes to suffer the condemnation and jeers of their neighbor, censorship in a well-constituted regime will lead the individual back to the general will and the law they chose for themselves. As long as the people are Rousseauian citizens, public censoring should confirm the general will and maintain the free state. When public censorship occurs in a fractured society, the public compels the censored person or persons to conform to a particular will, or at least to appear to conform. Since only the appearance of conformity is necessary, we see the desire to please becomes more meaningful than the desire to be virtuous or just. Rousseau warns of the soft morals this creates that replace virtue with agreeableness. As Rousseau claims in his *Preface to Narcissus*, [a]nyone who cultivates agreeable talents wants to please, to be admired, and indeed to be admired more than anyone else” (102). Agreeableness makes our social relations easier because we interact with each other through a false presentation that seeks to please, to be “agreeable.” Our desire for praise and the favor of our peers invites deception and trades virtue, which often requires disagreement, for deception and flattery. We become unlikely to defend truly moral or virtuous actions because “once one is exempted from being a good man provided that one is an agreeable man, it takes less to achieve distinction by chatter than by good morals,” and the agreeable man “works solely for himself” (*Last Reply*, 66). Being useful for others is essential for political life,

and remains one of the largest hurdles to overcome once human beings become wholly social and dependent on one another. We cannot be of true use to each other if we live fractured and fraudulent lives, misleading others for our own benefit.

Rousseau offers a nuanced critique of self-interest and its effect on our mutual dependence. No longer able to live solitary lives like we did in nature, society slowly strips us of the ability to live without others and creates bonds of mutual dependence that “oblige everyone to contribute to everyone else’s happiness in order to secure his own” (*Narcissus*, 102). Our motivations are wholly caught up in our own wellbeing, but require us to aid, please, and satisfy others. Rousseau’s political prescriptions attempt to form citizens who understand their wellbeing as intimately connected to the happiness of their fellows, so that the desire to safeguard our own wellbeing is inextricable from the happiness of others. This is what he means when he refers to the “bonds of society formed by mutual esteem and benevolence” (*Narcissus*, 102). For human beings to overcome the inner tension that makes them *bourgeois*, they must align their natural inclination and preference for themselves with a duty to others, particularly their fellow citizens. Only then will agreeableness cease to be the product of deception and flattery, and become companion to the love of one’s fellows.

The problem of agreeableness and our lack of desire to genuinely benefit other people stem from our radically asocial character in the state of nature. Although we develop reason and conscience, the two latent qualities that allow us to know and love what is good, they are unstable moral guides. As a result, we cannot depend on them to ensure moral behavior or our willingness to aid those around us, but they remain indispensable for knowing and following through with moral action. Put another way, reason and conscience are both necessary but insufficient for influencing morals. When critiquing Bordes’ assertion that the use of good books

is to protect “weak minds,” Rousseau argues that “honest men’s best guides are reason and conscience,” stating that “those of unsound mind or a hardened conscience” receive few benefits from reading (*Last Reply*, 84). Although reason and conscience are common to all people, they are unreliable. Reason is always subject to one’s passions and requires proper cultivation if a person wishes to avoid an “unsound mind.” Furthermore, conscience becomes hardened when our *amour-propre* is active. We are more likely to succumb to the opinions of our neighbors than seek out our conscience as a moral guide. The limitations of our conscience multiply when a person lacks sound judgment. Conscience is at its best when reason modifies our sentiments “Reason alone teaches us to know the good and bad. Conscience, which makes us love the former and hate the latter, although independent of reason, cannot therefore be developed without it” (*Emile*, 67). In the “Profession of Faith of the Savoyard Vicar,” the Vicar tells his pupil that to “know the good is not to love it; man does not have innate knowledge of it, but as soon as his reason makes him know it, his conscience leads him to love it” (*Emile*, 290).

Conscience is the sentiment we experience that moves us to act on the good, and we know of the good through our reason. That is to say, we use our reason to compare ourselves with others, determine what is common to us both in society and by nature, and draw conclusions from those comparisons about what the good is. To employ our reason in understanding the good, we must first cultivate our judgment to properly evaluate social relations and our place in them. Human beings by nature seek what is good and flee what is bad, but our relationship with everything external to us is much simpler in nature. We need not understand complex moral relations to judge what are only physical harms. When we enter into society and develop moral relations with other people, we need to cultivate our reason to better attune our conscience to these new relationships. In nature, before we acquired the faculty of reason and the sentiment of

conscience, pity was our guide to understanding suffering. Although we more readily felt the horrors of suffering through our natural pity, it was not sophisticated enough to encourage actions beneficial to others. Savage man is more likely to flee at the sight of harm than aid the victim. Our natural pity does, however, prevent savage man from harming others unless our self-preservation requires it (*SD*, 83ff.). Judgment, then, becomes of utmost importance in moral behavior.

We can consider our conscience as an extension of our pity in the sense that it is more sophisticated, but it often leaves less of an impression on us. While pity may strike savage man with a strong and immediate experience, it does not compel moral behavior. As Plattner notes, “[m]an’s natural goodness lacks the human and positive aspect that we associate with genuine compassion” and that “pity ‘softens’ not so much Rousseau’s natural man as Rousseau’s presentation of natural man” (1979, 87). Our conscience, on the other hand, can move us to moral action. While reason “teaches us to know the good or bad,” our conscience “makes us love the former and hate the latter” (*Emile*, 67). Conscience leads us to feel obligation and remorse which we experience as a genuine ill (*Emile*, 81, 91). Furthermore, moral action cannot arise without the presence of reason, something that is only latent in natural man. As we become more social, our conscience tends to torment us less, and we can just as easily use our reason to reject the voice of our conscience. This development is most evident in Rousseau’s critique of the philosopher whose reason has taught him that he is different from his sufferer and will close his window at the sound of a person being murdered (*SD*, 84). Though Rousseau’s example is an extreme one, it is still useful for understanding the function of reason in relation to our morality. Our reason can lead us to know the good, but it cannot make us follow it. In fact, the more we employ our reason, the more we find grounds to disassociate with our neighbor and even close

off our hearts at the idea of their suffering. Absent sound judgment, we cannot know the good. Too much reason, however, and we can ignore the good or rationalize our immoral behavior. Conscience, therefore, serves two primary functions in relation to our reason. First, it acts as a safeguard and keeps our reason from causing us to detach ourselves from others. Second, it moves us to take action once we know the good. If everyone was of sound and similar judgment and had an active conscience, it is likely that Rousseau would be less concerned about our moral relations. In light of his theory on the relationship between reason and conscience, we could at least expect that he would not castigate Europe for their vices. Since our conscience becomes inactive in the din of society and we cannot trust the poorly-formed reason of corrupt people, we require a political answer to solve the problem of our destructive sociability. Although human beings have the capacity to be good, it is nature that “made man happy and good” while society “depraves him and makes him miserable” (*Dialogues*, 213). We must correct our reason and conscience, but to make these corrections requires political institutions and the proper cultivation of our reason through public education.

The reformation of our morals is no small feat. As Rousseau states in both the *Government of Poland* and the *Social Contract*, once custom and habit take hold they are difficult to uproot (*Poland*, 169; *SC*, 199). Should a people find itself in the rare condition where change is possible, the process requires a number of institutions and actors working in unison to bring such a transformation to light. The refounding of a regime requires a wise legislator who introduces new laws and institutions that denature the people, transforming them into citizens. Once established, the regime attempts to be self-reinforcing, but there will arise moments in a country’s history where the expert guidance of statesmen becomes necessary. Genuine statesmen are able to see the error in the people’s judgment and forestall events that would undermine the

nation's character. The work of the legislator and statesman, however, are only to establish government and act as a guiding hand when necessary. Much of the work is done through institutions and their maintenance. As Rousseau tells Poland, "[n]ational institutions are what form the genius, character, tastes, and morals of a people, what make it itself and not another, what inspire in it that ardent love of the fatherland founded on habits impossible to uproot, what make it die of boredom among other peoples in the bosom of delights of which it is deprived in its own" (*Poland*, 174). The legislator must craft institutions suitable for a particular people, but once created, these institutions shape the people and their culture. The institutions most noteworthy for their influence on morals are public education and shared ceremonies, including religious rites and festivals. In each case, the legislator, statesman, and public education and entertainments all aim at cultivating or accounting for errors in the people's judgment. The legislator does so when first forming the people and his work continues through the institutions and laws he establishes. The statesman can guide the people, but cannot simply alter their morals and opinions. Politicians must work within the strictures of public opinion, and do so mostly to strengthen morals, not alter them. If the regime is well-constituted, all new opinions, laws, or customs threaten political change. Rousseau emphasizes this point when speaking of the harms Geneva faces from outside influence. "[I]n a state as small as the republic of Geneva, all innovations are dangerous and that they ought never to be made without urgent and grave motives" (*d'Alembert*, 123). While the regime can suffer some alteration due to chance occurrences or unavoidable events, the more change that occurs, the more likely the regime will deviate from its original principles and introduce moral corruption. A magistrate is always to follow the general will, but sometimes the people are in error about the general will and its political application. Their error is due to inadequate judgment which is likely to arise in at least

part of the community on any given issue. Using the example of voting, Melzer writes that “[i]f a citizen votes with the minority, that is either because he has followed some partisan will rather than the general will within him, or because his general will was based on a mistaken conception of the common interest (1990, 170). The statesman must wisely foresee and forestall changes to the regime, supplementing the public judgment with their own. This includes the oversight of censorial institutions which can only reinforce public opinion or anticipate it. Both of these functions, however, are of the utmost importance to the maintenance of morals and regime stability. Confirming public opinion reinforces the public’s judgment while anticipating public opinion can prevent it from deviating from established law and morals. Statesmen and censorial institutions intervene when public judgment degenerates from unavoidable political circumstances or from error about the general will.

The legislator and statesmen supplement the people’s reason through persuasion and passionate appeals. Where the public cannot clearly discern what is in their best interest now or in the future, these notable figures aid the people and keep them free. The people, however, do not see themselves as being in need of guidance. Rousseau illustrates this point in his discussion on fundamental laws. “Furthermore, a people is in any case always master of changing its laws—even the best ones. For if it likes harming itself, who has the right to prevent it from doing so?” (SC, 202).⁹³ The legislator directs the people at the founding while the statesman may mitigate the people’s potential deviation from their interests. While the statesman participates in censorship after the founding, the legislator employs censorship at the founding and sets up the institutions that perpetuate censorial practices. The founding of the regime and creation of

⁹³ Williams suggests that this passage does not contradict Rousseau’s previous statements on the general will because it is not the “sovereign” who is harming itself but the “people.” “[B]y definition,” Williams writes, “a people choosing to harm itself is not sovereign. It is merely a people, a conglomeration. It is the will of all, not the general will” (2014, 104).

citizens requires great effort, wisdom, and censorship. The legislator burdens the people with new laws, occupying them with religious observances, duties to the regime, and, in some cases, martial occupations. While the art of the legislator appears harsh (and in some cases it is), his purpose is to establish a regime that allows for the free and legitimate rule of the people as sovereign. Although his historical examples vary with regard to ruling after lawgiving, Rousseau's principle in the *Social Contract* is that the legislator always remains a lawgiver and never a ruler (*SC*, 191ff.). The legislator crafts laws to constrain the people, redirect their selfish interest toward the common interest, and give them unique practices that distinguish them from other nations. In this way, the legislator's censorship is one of exclusion and prevention. The people must focus on only those activities related to their regime. This includes everything from fulfilling necessary duties to the entertainments they enjoy. The people must willingly adopt, love, and perpetuate the laws. To do so requires the guiding hand of the legislator who knows how to teach the people "to love one object rather than another, and to love what is genuinely fine rather than what is malformed" (*Economy*, 20). By never allowing the people to take their attention away from their fellow citizens and regime, the legislator constrains them so that they may be free. The curated experience of the people transforms them into citizens by intimately connecting their wellbeing with the wellbeing of the community. This is a feat possible only once the people love their regime. They develop this love through the constant interaction with their fellow citizens within the constraints the legislator provides. Few legislators, however, approximate Rousseau's high benchmark for the legislator while others fail to successfully adopt the laws and convince the people to love them. Without the founding of a wise legislator, it is unclear what burdening the people with demanding laws and observances will do for public opinion and morals. Should the laws be ill-suited to the people or falter in their application,

burdensome laws and the censorship they embody are more likely to instill a sense of injustice and create contention between the people and their government than they are to guide the people toward a love of the regime. Should wise legislation take hold, political institutions that perpetuate the principles sought in the founding must follow.

No longer simply good by nature, human beings now must be good according to their social relations. Shaping citizens to suit their regime requires public education and the pleasures that come from communal entertainments. The powerful instrument of ancient regimes, Rousseau argues that the kind of education that made Sparta a grand state no longer exists. In his estimation, however, public education is the means by which the regime can foster the people's love of their laws. Important to the nation is an education in the particular character of the regime including economics, geography, history and law. In the example of Poland, Rousseau does not detail the specifics of a Polish education, but offers some general reflections that outline what a child should know at a given age.

I wish that in learning to read, he might read things about his country, at ten years of age he might be acquainted with all its products, at twelve all the provinces, all the roads, all the cities, at fifteen he might know all of its history, at sixteen all the laws, that there not be in all of Poland a fine action or an illustrious man about which his memory and heart are not full, and about which he cannot give an account at a moment's notice (Poland, 180).

The educational outcomes Rousseau lists for each age are all related to the regime, including its form, laws, and citizens worthy of emulation. The entire education culminates in what a person should be at the age of twenty, a Pole. Public education occupies the student citizen with the knowledge of their nation, acting as the first institution to constantly draw their attention toward what makes them unique. Much like the people's circumscribed perspective of the world at the regime's founding, public education proceeds with a similar form of censorship that excludes as extraneous those aspects of education that do not make the people better citizens

or draw their attention to the wellbeing of the community. The requirements for Rousseau's public education would be idealistic by contemporary standards, but are vital to a system where public education is paramount to identity, patriotism, and the forming of a citizen. Educators are carefully selected and achieve their position only through duty to the regime. Furthermore, Rousseau's public education excises foreign customs, laws, and teachings from the curriculum. One might wonder whether Rousseau would also excise from public education the ugliness of a nation's history. While Rousseau does not articulate his position on the matter, we might draw some conclusions from his depiction of heroic figures. Rousseau adopts Montaigne's portrayal of heroic figures as "saintly forms," stating that he "shall not hesitate to add to their honor as much as [his] powers admit" (*Last Reply*, 77-78). His accentuation of heroism matches his recommendation that Poland elevate the Confederation of the Bar as "virtuous citizens who had the honor of suffering for the fatherland in the enemy's chains," including those who "subsequently might have betrayed the common cause" (*Poland*, 175). Rousseau encourages Poland to emphasize the heroism and virtue of the Confederates, even for the members that committed an egregious violation of the common interest. While he does not indicate that Poland should whitewash parts of its history, he certainly seeks to elevate certain heroic actions while downplaying treacherous ones. Although it is tempting to apply this example to other people or events, it is limited to heroic figures. Rousseau's position does indicate that the removal of foreign teachings and the elevation of one's own heroes are necessary components of public education. As Schaeffer summarizes Rousseau's recommendations for Poland "they should become increasingly indifferent toward their neighbors and concentrate their attention on the great deeds of their own ancestors" (2014, 180). A regime that seeks to raise a people uniquely for themselves cannot suffer foreign teachings that may undermine the laws or public judgment.

Though it fosters a form of nationalism, the purpose of education is more than instilling a preference for one's own people and culture over those of other nations. Kelly and Bush contend that the "nationalism supported by Rousseau is of a very specific character in that it has a political component rather than being simply cultural or pre-political." They continue by differentiating Rousseau's nationalism on the grounds that it instills a "love 'of the laws and of freedom'." Kelly and Bush argue that Rousseau "does not encourage attachment to a particular community based simply upon its ethnic ties, religion, or shared history. Rousseauian nationalism identifies the nation with a set of political institutions that are compatible with freedom" (2005, xix).⁹⁴ For the people to develop a love of the laws and freedom, they must have laws and practices that are uniquely their own and receive an education into the regime. Ultimately, censorship in public education is for the preservation of the nation.

Public education sidesteps the concern for government dominance and force in relation to censorship. While the force and punishment of despotic governments can control the population, it cannot compel their will. When such force arises, the people act in accordance with the laws out of fear instead of willing obedience. For Rousseau, obedience without willing is servitude while following laws you willingly place over yourself is a form of freedom. If governmental censorship is incongruous with public opinion, the people may conform out of fear of physical punishment, but will hold fast to their opinions. When this occurs, governmental censorship is an obstacle to political freedom. Public education, however, is only part of the solution. The people cannot have lives of drudgery and school does not bring every child pleasure. Another necessary supplement to the regime comes in the form of communal recreation, rites, and celebration. Like

⁹⁴ Kelly and Bush do not use Rousseau's form of nationalism to deny or justify Rousseau's influence on modern nationalism. They note that Rousseau "must be regarded as one of the fathers of modern nationalism, particularly if that nationalism is understood as a reaction against the liberal emphasis on self-interest" (2005, xix).

public education, such activities contain an element of censorship.

Public festivals and competitions extend the effect of public education. Like public education, all amusements and competitions should reinforce regime identity. The people meet out in the open where they can see and compare each other. These shared pleasures inform the people's *amour-propre*. To be thought well of by one's peers is a constraint on one's behavior, and to conform to the force of public opinion is to yield to censorship. The people become so many individual public censors that maintain the moral status quo by correcting deviant behavior. As mentioned at the outset of this work, Locke contends that no person escapes the punishment that comes from offending the opinions of those with whom they keep company (*Essay* 2.28, 357). Holding a similar opinion, Rousseau constructs a political system that leverages our *amour-propre* to keep public opinion relatively homogenous and in the service of regime stability. All celebrations are in service to the regime, and the pleasures people derive from such merriment occupy their imagination as well as their bodies in a similar service.

Since the citizen is almost ceaselessly occupied with the regime, it is difficult to discern the role conscience is to play in politics. A permanent facet of social life, *Amour-propre* always overwhelms the voice of our conscience. As a result, our moral behavior becomes subject to public opinion more than our conscience. The constant interaction with other people and the activity of our *amour-propre* work against our conscience instead of in accordance with it. We begin to judge our behavior against the opinions of others and become wholly caught up in those opinions. For Rousseau, our conscience is not the activity of our knowing the good in relation to a deity, but in accordance with nature and our identification with other people. Returning to Rousseau's example of the philosopher who could cover his ears at the murder of another, it is our reason that allows us to avoid identifying with others, while our conscience requires this

identification to move us toward moral action. That we can understand what we need and desire for ourselves and extend that idea outwardly to include other people, possibly all of humanity, is the activity of our conscience informed by our reason. Public education attempts to supplement conscience and reason. First, education cultivates the people's judgment about matters concerning the regime. Should our *amour-propre* silence the activity of our conscience when we enter the community, the people in whose opinions we live are our fellow citizens who take their moral bearings from the regime. Once we seek the approval of our peers, they will check our understanding and our sentiments. In this way, the people act as public censors who maintain the regime by reinforcing public opinion in light of individual errors. Knowing that *amour-propre* is an indestructible component of our sociality, Rousseau leverages it to serve the common good instead of merely self-interest.

Morality in Corrupt Societies

Rousseau's solution to the problem of our radical self-interest is an all-encompassing one. On each level there is some aspect of censorship operating in the government or the people. While all nations participate in some form of censorship, few would be able to employ censorship in the way Rousseau recommends. Furthermore, censorship in corrupt regimes is often tied to force and punishment instead of persuasion and opinion. Without Rousseau's extensive and interlocking institutions, censorship remains a threat to liberty instead of a defense against tyranny or servitude. As Kelly notes, "Rousseau did not live in anything resembling what he regarded as optimum circumstances" (2003, 31). While Rousseau did not live in a country that matched the optimum circumstances, he also suggests that such a place does not exist in modern Europe or anywhere else. His examples of Geneva, Poland, and Corsica reveal that they are by degrees closer to what is optimal, but do not meet the rigorous standard. Again, we can

compare actual governments with Rousseau's ideal and still find something beneficial in his teaching. We are at a loss however, when it comes to practical moral reform and the practice of censorship.

Outside of the well-constituted regime, Rousseau provides few answers to the problem of moral corruption and none of them satisfactory. The simplest of his answers requires almost no effort to employ. For his contemporaries, Rousseau suggest that they keep the sciences and arts, continue with established entertainments, and distract the people so they harm each other the least (*Last Reply*, 86; *Narcissus* 108). Slowing corruption by maintaining the country's morals and customs is almost universal advice that applies to corrupt regimes and healthy ones. The healthy regime must maintain its morals for as long as possible. The political founding, institutions, laws, education, and ceremonies must all guide the citizenry back to their shared identity. All components of the regime operate concordantly. Censorship has a positive role in this regime because it operates to the same end as each constituent part. For corrupt regimes, safeguarding morals is truly a task of forestalling further corruption, but this cannot be done through attempts at moral reformation. Contrary to the accusations supplied by some critics of the *First Discourse*, Rousseau argues against demolishing academies, destroying libraries, and "overthrowing existing society." He argues in opposition to their destruction and encourages European nations to aid these institutions so that they may occupy the people, thereby preventing more grievous harms. According to Rousseau, "one ought not to entertain the chimerical project of making honest men of them" (*Last Reply*, 86). Interestingly enough, another parallel between healthy and corrupt regimes appears from Rousseau's mordant advice to modern nations. Whether the regime is healthy or corrupt, the people must find themselves occupied by the pursuits and pleasures to which they are accustomed. In a healthy regime, this will lead citizens

back to the love of the laws and political freedom. In a corrupt regime, it will only prevent the people from becoming more wicked.

We are past the point where moral reforms will be transformative or even take hold. The opposition between the general will and our particular wills, whether individual or collected under a small group or political faction, prevents the people from seeking guidance in the general will in such a way that it becomes freeing. “For the general will to be expressed well, it is therefore important that there be no partial society in the state and that each citizen give only his own opinion” (*SC*, 183). Rousseau warns of particular opinions adopted by sects that can easily turn to contentious factions. When accounting for factions, Madison attempts to solve the problem by addressing their effects instead of removing their causes. To remove their causes, according to Madison, would require “destroying the liberty which is essential to [their] existence” or giving everyone “the same opinions, the same passions, and the same interests” (*Federalist 10*, 41). With the first solution being completely unacceptable for Madison and the other impracticable, he turns to controlling the effects of factions. Rousseau, on the other hand, would reject the notion that true freedom resides in the ability to create factions, or, as he might argue, politically enshrine particular wills. We need to look no further than our current political climate to see what Rousseau has in mind. In light of “special interests” that regularly manipulate political outcomes, promote inequality, and subvert the common good, a reconsideration of Rousseau’s position would be timely. There can be no moral consensus or social cohesion where factions reside. Madison, however, argued for an extended republic that would cover a territory too expansive to satisfy the conditions of Rousseau’s political project. While Madison’s answer is more realistic than Rousseau’s, it does not answer Rousseau’s concerns about morality in relation to self-interest. Harnessing self-interest does not necessarily make us better citizens.

According to Rousseau, creating political institutions and mechanisms that embrace self-interest and, therefore, attempt to leverage it only encourage the more divisive aspects of our nature.

When we come together and cooperate for a common goal, it is likely that we do so only to serve our self-interest and are deceptive about our motives. Being candid about our selfish reasons, while possibly commendable in relation to honesty or the rejection of hypocrisy, does not eliminate the self-interested and, therefore, self-serving aspects of our behavior. The farther removed our interests become from the common good and wellbeing of others, the more likely we are to fall to the pernicious aspects of our *amour-propre* and in our hearts defect from the community when it no longer suits us to participate.

Without a strong and informative general will, however, there will be few moral questions which do not present significant contention among the public or opposition to government control. Where individual rights efface the concept of duties in political life, we shall not see the people come together under a unified vision of the regime. Rousseau states that “whoever refuses to obey the general will be constrained to do so by the whole body, which mean nothing else but that he will be forced to be free” (SC, 175). This formulation realizes its full potential only under a regime of citizens. To “be forced to be free” in this sense is to conform to the general will and fall under the dependence of the whole of the regime and its laws instead of to particular wills. When people are subject to particular wills, they are subject to personal, not communal, dependence. That is to say, that they are dependent on a will that they did not authorize and one that runs counter to the general will. Rousseau expresses this idea in terms of what we often call the free-rider problem. When a person independently follows a particular will, their interest may be wholly different from the common interest. When this occurs, their “independent existence can lead him to view what he owes to the common cause as

a gratuitous contribution, the loss of which will be less harmful to others than his payment burdensome to him.” Driven by a self-interest detached from the common good, the individual defects. When such an individual enjoys “the rights of a citizen without being willing to fulfill the duties of a subject,” they perpetrate an injustice against the community (*SC*, 175). We have societies replete with particular wills and free riders.

Censorship, useful for maintaining morals but never reforming them, operates in accordance with freedom only for those people lucky enough to be citizens of the well-constituted regime. Moral reform is possible for few peoples and only under the most exacting of conditions. For all other nations, censorship will always exist, but it will remain difficult to utilize and limited in effect. Otherwise, Rousseau’s recommendations are really suggestions that nations can only hope to approximate. A return to Melzer’s critique of Rousseau’s “narrow and skeptical” view of political possibilities, suggests that we might need to look elsewhere for practicable answers. If Rousseau is incorrect about the radical, asocial nature of human beings, we are still left with the seemingly ineluctable problem of corruption and reform. If he is correct about the nature of human beings, the potential for moral reform is still nigh insurmountable. In the end, we may understand Rousseau’s project as one that wishes to portray the goals of society as lofty and beautiful; offering a sublime image that may invigorate us to rise to Rousseau’s challenge.

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