

11. There has never been a free nation that did not have in its natural constitution seeds of liberty as old as itself, nor has any nation, by writing constitutional laws, ever succeeded in developing rights other than those in its natural constitution.

12. No mere assembly of men can form a nation, and the very attempt exceeds in folly the most absurd and extravagant things that all the Bedlams of the world might put forth.

To prove this proposition in detail, after what I said, would, it seems to me, be lacking in respect to the knowledgeable and paying too much honour to the ignorant.

13. I have spoken of one basic characteristic of true legislators. Another very remarkable feature, on which it would be easy to write a book, is that they are never what are called scholars: they do not write, they act on instinct and impulse more than on reasoning, and they have no other means of acting than a certain moral force that bends men's wills like grain before the wind. . . .

The Constitution of 1795, like its predecessors, was made for *man*. But there is no such thing as *man* in the world. In my lifetime I have seen Frenchmen, Italians, Russians, etc.; thanks to Montesquieu, I even know that *one can be Persian*. But as for *man*, I declare that I have never in my life met him; if he exists, he is unknown to me. . . .

What is a constitution? Is it not merely the solution of the following problem? *Given the population, the mores, the religion, the geographic situation, the political circumstances, the wealth, the good and the bad qualities of a particular nation, to find the laws that suit it.*

Now the Constitution of 1795, which treats only of man, does not grapple with this problem at all.

Thus every imaginable reason combines to prove that this work does not possess the divine seal. It is only a *school composition*.

Consequently, already at this moment, how many signs of decay!

51. Constant, *Ancient and Modern Liberty Compared*

Swiss by birth, Henri Benjamin Constant de Rebecque (1767–1830) was one of the most influential writers and political figures in France during

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the immediate postrevolutionary period. His education and early political views were shaped by travel to Belgium, England, Germany, and Scotland. After serving in the court of the Duke of Brunswick for some years, he moved to Paris in 1795, drawn there by his attraction to Mme de Staël, daughter of the former French minister Necker, and an important writer and thinker in her own right. Constant's most fundamental ideas took shape during the next ten years, which he spent in intimate association with Mme de Staël. Moderate republicans under the Directory, both soon showed their opposition to Napoleon, who expelled Constant from the Tribunate in 1802, and forced Mme de Staël into exile in 1803.

Constant devoted the next few years to a treatise on politics in which French liberalism took form as a reflection upon the purposes of government in modern society, the experience of the French Revolution, and the nature of Napoleonic dictatorship. Though this manuscript was never published in its entirety, Constant mined it for the arguments of his many subsequent writings, including the work on *The Spirit of Conquest and Usurpation* (1814) from which the following selection is taken. During the Restoration, Constant became one of the most active advocates of liberal constitutional principles in French politics.

On the Kind of Liberty Offered to Men at the End of the Last Century

The liberty offered to men at the end of the last century was modeled on that of the ancient republics. Now many of the circumstances . . . causing the warlike disposition of the ancients also fostered their capacity for a kind of liberty no longer possible for us.

This liberty consisted more in active participation in the collective exercise of power than in peaceful enjoyment of individual independence. Indeed, to assure such participation, it was even necessary for the citizens to sacrifice the better part of this independence. But this sacrifice is absurd to demand, and impossible to obtain, in the epoch humanity has now reached.

The small size of the ancient republics ensured that each citizen enjoyed a great personal importance in politics. Exercise of the rights of citizenship constituted the occupation, even the amusement, of all. The whole people participated in the making of laws, pronounced judgments, and decided on war and peace. The individual's participation in the national sovereignty was not, as it is now, an abstract supposition; the will of each citizen had a real influence; the exercise of that will was a vivid and repeated pleasure.

As a result, the ancients were willing to sacrifice their private independence to preserve their political importance and their share in the administration of the state.

This sacrifice was necessary. In order that a people enjoy political rights to the fullest extent—in order that each citizen possess his share in the sovereignty—it is necessary to have institutions that maintain equality, prevent the growth of fortunes, prohibit distinctions, oppose the influence of wealth, talent and even virtue. And these institutions limit individual liberty and compromise individual security.

Thus what we call civil liberty was unknown among most ancient peoples. All the Greek republics, if we except Athens, subjected the individual to an almost unlimited social jurisdiction. The beautiful centuries of Rome were characterized by the same subjection. The citizen made himself a kind of slave of the nation to which he belonged; he abandoned himself wholly to the decisions of the sovereign, of the legislator; he recognized the right of the latter to watch over all his actions and to constrain his will. But he himself was, in turn, this legislator and this sovereign; he felt with pride all the value of his vote in a nation so small that each citizen was a power; and the knowledge of his own worth was for him an ample recompense.

Modern states are completely different: their size, far greater than that of the ancient republics, ensures that the mass of the inhabitants, whatever form of government they adopt, have no active role in government. At the most, they participate in the exercise of sovereignty only through representation, that is, in a fictive manner.

The advantage that liberty, as the ancients conceived it, brought to the people was to be counted among the number of those who governed: a real advantage, a pleasure both flattering and real. The advantage which modern liberty procures for the people is to be represented, and to participate in this representation through its choice. It is doubtless an advantage, since it is a guarantee; but the immediate pleasure is less vivid: it includes none of the satisfactions of power; it is a pleasure of reflection, while that of the ancients was a pleasure of action. Clearly the former is less attractive; one could hardly demand of men as many sacrifices to obtain and preserve it.

At the same time, these sacrifices would be much more painful. The progress of civilization, the commercial tendencies of the age, the communication between peoples, have infinitely multiplied and diversified the means of private happiness. In order to be happy, men need only to be left in complete independence in regard to everything relating to their occupations, their undertakings, their sphere of activity, their fantasies.

The ancients found more satisfaction in their public existence, and less in their private existence; consequently, when they sacrificed individual liberty for political liberty, they sacrificed less to obtain more. Almost all

the satisfaction of modern peoples occurs in their private existence: the immense majority, ever excluded from power, necessarily shows but a fleeting interest in its public existence. By imitating the ancients, the moderns would thus sacrifice more to obtain less.

Social links are now more complicated, more extended than before; even classes which appear to be enemies are linked to one another by imperceptible yet indissoluble bonds. Property is more closely identified with human existence: any disruption it undergoes is more distressing.

We have lost in imagination what we have gained in knowledge; we are thus incapable of a lasting enthusiasm. The ancients lived in the youth of moral life; we are in its maturity, perhaps its old age; we always drag with us some sort of inhibition, born of experience, which defeats enthusiasm. The first condition of enthusiasm is not to observe oneself too closely. We are so fearful of being duped, and above all of appearing to be, that we watch ourselves constantly, even in our most violent experiences. The ancients had an absolute conviction about everything; there is scarcely nothing about which we have more than a feeble and irresolute conviction, the inadequacy of which we try vainly to ignore.

The word illusion is found in no ancient language, for the word was created only when the thing no longer existed.

Legislators must abandon any attempt to overturn customary habits, or to act forcefully against opinion. No more Lycurguses, no more Numas.

It would be easier today to turn an enslaved people into Spartans than to create Spartans through liberty. Formerly, wherever there was liberty, people could bear privation; now, wherever there is privation, there must be slavery for people to resign themselves to it.

In modern times, the people most attached to its liberty is also the people most attached to what it enjoys; it prizes its liberty above all else, because it is wise enough to see that it is the guarantee of its enjoyments.

On the Modern Imitators of the Ancient Republics

These truths were completely disregarded by the men who, at the end of the last century, believed themselves to be charged with the regeneration of the human race. I do not want to blame their intentions: their movement was noble, their goal generous. Which of us did not feel his heart beat with hope at the beginning of the course they seemed to open up? Woe to the person, even now, who does not feel the need to declare that to recognize these errors is not to abandon the principles that the friends of humanity have professed down through the ages. But these men took as their guides writers who never suspected that two thousand years might have wrought some changes in the dispositions and needs of people.

Perhaps in time I will examine the theory of the

writers, and I will demonstrate what is false and inapplicable in it. It will be seen, I think, that the subtle metaphysics of the *Social Contract* are, in our time, suitable only for furnishing weapons and pretexts for every kind of tyranny (whether it be that of one, many, or all), for oppression legally established, or exercised by the rule of the mob.*

Another philosopher, less eloquent than Rousseau but no less austere in his principles and even more exaggerated in their execution, had an almost equal influence on the reformers of France: the abbé de Mably. He can be regarded as the representative of that numerous class of demagogues, well- or ill-intentioned, who, from the height of the tribune, in the clubs and in the pamphlets, spoke of the sovereign nation so that the citizens were more completely subjected, and of the free people so that the individual was more completely enslaved.

The abbé de Mably,† like Rousseau and so many others, mistook au-

*I am far from counting myself among the detractors of Rousseau, who are very numerous at present. A crowd of minor writers, whose fleeting success consists of casting doubt on courageous truths, compete to tarnish his glory; all the more reason to be circumspect in blaming him. He was the first to popularize the sentiment of our rights: generous hearts and independent spirits awoke at his voice; but he was incapable of defining with precision what he felt so forcefully. Many chapters of the *Social Contract* are worthy of the scholastic writers of the fifteenth century. What is meant by rights which one enjoys all the more because one alienates them more completely? What sort of liberty is it, by virtue of which one is the more free because each individual does more completely that which is contrary to his own will? The supporters of despotism can take great comfort from the principles of Rousseau. I know one who, believing with Rousseau that unlimited authority resides in the whole society, supposed it transferred to the representative of that society, to a man whom he defined as the personification of its being, the individualization of its union. Just as Rousseau had said that the social body could harm neither the totality of its members, nor any one of them in particular, this man says that the possessor of power, the man constituting society cannot harm society because he would faithfully experience any harm he might do, inasmuch as he was society itself. Just as Rousseau says that the individual cannot resist society, because he has alienated all of his rights to it without reservation, this man claims that the authority of the possessor of power is absolute, because no member of society can resist the whole union; that the possessor of power cannot be held responsible, because no individual can demand a reckoning of the being of which he forms part, since the latter can answer him only by making him return to the order he never should have left. So that we should fear nothing from tyranny, he adds: "Now this is why his authority (that of the possessor of power) was not arbitrary: he was no longer a man, he was a people." What a marvelous guarantee is this change of wording! Is it not strange that this whole class of writers reproach Rousseau for losing himself in abstractions? When they speak to us of society individualized, of the sovereign who is no longer a man but a people, are they thereby avoiding abstractions? [Author's note.]

†Mably's work, *Of Legislation or the Principles of Law* is the most complete code of despotism imaginable. Combine these three principles: (1) legislative authority is unlimited: it must extend to everything, and everything must bend before it; (2) individual freedom is a bane: if you cannot destroy it, then restrain it as far as possible; (3) property is an evil: if you cannot abolish it, weaken its influence by all means. You will have, by this combination, the constitutions of Constantinople and Robespierre combined. [Author's note.]

thority for liberty and approved of any means of extending the action of authority over that recalcitrant part of human existence whose independence he deplored. Throughout his works he expresses regret that the law deals only with actions: he would have liked to extend it to thought, to the most fleeting impressions, so that it hunted man without respite, leaving him no sanctuary in which he could escape from its power. Hardly had he found a harsh measure among any people than he thought he had made a discovery and proposed it as a model; he hated individual liberty as a personal enemy; and whenever he found a nation that had been deprived of it (even if it had no political liberty) he could not help but admire it. He became ecstatic over the Egyptians, because, he said, everything among them was prescribed by law: from their diversions to their needs, everything yielded to the empire of the legislator; every moment of the day was taken up by some duty; even love was subject to these hallowed interventions; and the law, by turns, opened and closed the marriage bed.

Sparta, which combined republican forms with the same enslavement of the individual, aroused an even livelier enthusiasm in the mind of this philosopher. To him, this monastery for warriors seemed to be the ideal of a free republic; he had a profound contempt for Athens, and he would willingly have said of this first nation of Greece what a great lord and academician said of the Academy: *What appalling despotism! Everyone there does just as he wishes.*

When the tide of events had brought to the head of the state, during the French Revolution, men who had adopted philosophy as a prejudice and democracy as a fanaticism, these men were seized by a limitless admiration for Rousseau, Mably, and all the writers of the same school.

The subtleties of the first, the austerity of the second, his intolerance, his hatred of all human passions and his eagerness to subjugate them, his exaggerated principles of the competence of the law, the difference between what he recommended and what existed, his denunciations of wealth and even of property, all these things must have charmed men who were inflamed by a recent victory, and who, as conquerors of a power that was called the law, were more than pleased to extend this power over all matters. They found a precious authority in writers disinterested in the question and condemning the monarchy, who long before the overthrow of the throne had drawn up axiomatically all the maxims necessary to organize the most absolute despotism under the name of a republic.

Our reformers thus wanted to exercise the public force as their guides had taught them it had been exercised in the free states of antiquity; they believed that everything should yield again before the collective authority, and that all restrictions on individual rights would be compensated by participation in the social power. They tried to subject the French to a multitude of despotic laws, which grievously wounded them in all that was most

precious to them; they proposed, to a people grown old in its enjoyments, the sacrifice of all that it enjoyed; they made into a duty what ought to have been voluntary; they even surrounded celebrations of liberty with constraint. They were astonished to find that the memory of many centuries did not immediately disappear before the decrees of a day. The law, being the expression of the general will, had in their eyes to overcome every other power, even that of memory and time. The slow and gradual effect of childhood experiences, the direction the imagination had received from a long succession of years, seemed to them to be acts of revolt. To habits they gave the name of ill-will. One would have thought that this ill will was a magic power which, by some kind of miracle, constantly forced the people to do the opposite of what they really willed. They attributed the misfortunes of the conflict to the fact that there was opposition, as if authority was always permitted to make changes that provoked such opposition, as if the difficulties that the changes encountered were not themselves the verdict upon their authors.

However, all these efforts constantly collapsed under the weight of their own extravagance. The smallest saint, in the most obscure hamlet, successfully resisted the whole national authority ranged in battle against him. The social power injured individual independence in every way, without destroying the need for it; the nation did not find an ideal part in an abstract sovereignty worth all that it was suffering. In vain were repeated to it the words of Rousseau: "The laws of liberty are a thousand times more austere than the yoke of tyrants is harsh." The result was that the nation did not want these austere laws; and since it knew of the yoke of tyrants only by hearsay, it believed that it preferred the yoke of tyrants.

On the Means Used to Give the Liberty of the Ancients to the Moderns

The errors of men who exercise power, by whatever title, can hardly be as innocent as those of individuals. Force is always behind these errors, ready to devote its terrible resources to them.

The partisans of ancient liberty became furious over the fact that the moderns did not want to be free according to their method. They redoubled their harassments, the people redoubled its resistance, and crimes succeeded errors.

"To have a tyranny," says Machiavelli, "it is necessary to change everything." It can also be said that to change everything, it is necessary to have a tyranny. Our legislators understood this, and they proclaimed that despotism was indispensable for the establishment of liberty.

There are axioms which seem clear because they are short. Clever men

throw them to the crowd like fodder; fools take them up, because they save them the trouble of reflection, and they repeat them in order to give themselves an air of understanding them. Propositions whose absurdity astonishes us are thus lodged in a thousand heads and repeated by a thousand mouths, and one is continually reduced to demonstrating the obvious.

The axiom we just cited is of this number; for ten years it resounded from French tribunals: but what does it mean? Liberty is invaluable only because it brings soundness to our minds, strength to our characters, and elevation to our souls. But do not these benefits require that liberty exist? If, to introduce it, you have recourse to despotism, what do you establish?—empty forms. The substance will always escape you.

What needs to be said to a nation in order to imbue it with the advantages of liberty? You were oppressed by a privileged minority; the majority were sacrificed to the ambition of a few; unequal laws upheld the strong against the weak; all that you enjoyed was precarious, and arbitrariness threatened to take it from you at every moment; you contributed nothing to the making of laws, nor to the election of your magistrates; all these abuses will disappear, all your rights will be restored to you.

But those who claim to establish liberty by despotism, what can they say? No privilege will weigh on the citizens, but every day accused men will be struck down without being heard; virtue will be the first or the only distinction, but the greatest persecutors and most violent men will form a patriciate of tyranny, maintained by terror; the laws will protect property, but expropriation will be the lot of suspected individuals or classes; the people will elect its magistrates, but if it does not elect them in the manner prescribed in advance, its choices will be declared null; opinions will be free, but any opinion contradicting not only the general system but the slightest temporary measure will be punished as treason.

Such was the language, such was the practice, of the reformers of France for many years.

They won apparent victories, but these victories were contrary to the spirit of the institutions they wished to establish; and, since they did not persuade the defeated, they did not reassure the victorious. To form men for liberty, they surrounded them with the spectacle of torture. They brought back in yet more exaggerated form the attacks against thinking that the authority they destroyed had permitted itself, and the enslavement of thought became the distinctive mark of the new authority. They railed against tyrannical governments, and then organized the most tyrannical of all.

They postponed liberty, they said, until factions had subsided, but factions subside only when liberty is no longer postponed. Violent measures, adopted as a dictatorship in anticipation of the birth of public spirit, pre-

vent it from being born. A vicious circle takes hold; the age envisaged is certainly beyond attainment, because the methods chosen to attain it prevent its appearance. Force renders force ever more necessary; anger is fed by anger; laws are forged like weapons; codes become declarations of war; and the blind friends of liberty, who have believed it possible to impose it through despotism, arouse all free souls against them and find support only among the vilest flatterers of power.

In the first rank of the enemies that our demagogues had to combat were the classes that had profited from the social organization which had been destroyed, those whose privileges, improper though they may have been, had nevertheless served as means of leisure, improvement and knowledge. A great independence of fortune is a guarantee against many kinds of baseness and vice. The certainty of seeing oneself respected is a preventive against that restless and stormy vanity which everywhere perceives insult or supposes scorn—an implacable passion, which avenges itself for the pain it experiences by the evil it does. The usage of pleasing forms and the habit of ingenious distinctions gives a delicate susceptibility to the soul, a quick flexibility to the mind.

These precious qualities should have been put to good use; the chivalric spirit should have been hedged in by barriers that it could not overleap, but left a noble momentum in the course that nature makes common to all. The Greeks spared captives who could recite verses of Euripides. The least knowledge, the least germ of thought, the least gentle sentiment, the least elegant form, ought to be carefully protected—they are so many elements indispensable to social happiness. It is necessary to save them from the storm, necessary both in the interests of justice and of liberty, for all these things lead to liberty by more or less direct routes.

Our fanatical reformers confused epochs in order to rekindle and foster hatreds. Just as some went back to the Franks and the Goths to sanction oppressive distinctions, they did so to find pretexts for oppression in an opposite sense. Vanity had sought its claims to honor in the archives and the chronicles; a more bitter and vindictive vanity drew out acts of accusation. The accusers wished neither to take the times into account, nor to make subtle distinctions, nor to reassure apprehensions, nor to pardon fleeting pretensions, nor to let vain protests die out, or puerile threats evaporate. . . . To the distinctions they wished to abolish they added a new one, persecution; and by carrying out that abolition with unjust severity they sustained the hope that these distinctions would reappear with justice itself.

In all the violent struggles, interests followed in the steps of exalted opinions, just as birds of prey follow armies ready to do battle. Hatred, vengeance, greed, ingratitude shamelessly parodied the noblest examples,

because their imitation had been ineptly encouraged. The treacherous friend, the faithless debtor, the obscure informer, the corrupt judge, found their defense written in advance in the accepted language. Patriotism became the trite excuse for all wrongdoing. Great sacrifices, acts of devotion, victories won over natural inclinations by the austere republicanism of antiquity, served as pretexts for the unbridled fury of egotistical passions. Because unyielding but just fathers had formerly condemned their unworthy sons, their modern imitators delivered their innocent enemies to the executioner. The most obscure life, the quietest existence, the most unknown name, offered no protection. Inactivity appeared a crime, domestic affections a neglect of the *patrie*, happiness a suspect desire. The mob, corrupted both by danger and by example, repeated with trembling the slogan that was commanded, and terrified itself with the sound of its own voice. Each individual added to the number, and took fright at the number he had helped increase. Thus there spread over France that inexplicable delirium that we call the Reign of Terror. Who can be surprised that the people turned away from a goal toward which they were being led by a route such as this?

Not only do extremes meet, but they succeed one another. One exaggeration always produces the contrary exaggeration. Once certain ideas become associated with certain words, even when it has been demonstrated that this association is improper, their repetition long continues to recall the same ideas. In the name of liberty we have been given prisons, scaffolds, innumerable harassments; this name, the signal for a thousand odious and tyrannical measures, had to awaken hatred and fear.

But is it right to conclude that the moderns are disposed to resign themselves to despotism? What was the cause of their obstinate resistance to what was offered to them as liberty? It was their firm determination to sacrifice neither their peace, nor their habits, nor the satisfactions that they enjoyed. Now, if despotism is the most irreconcilable enemy of all peace and enjoyment, does it not follow that in believing that they loathe liberty, the moderns merely loathed despotism?