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Books by JOSÉ ORTEGA Y GASSET

THE REVOLT OF THE MASSES

THE MODERN THEME

INVERTEBRATE SPAIN

TOWARD A PHILOSOPHY OF HISTORY

CONCORD AND LIBERTY

*also*

THE MISSION OF THE UNIVERSITY

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*Concord  
AND  
Liberty*

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### INTRODUCTION

#### GREAT BOOKS ARE NO WINDFALL

PROFESSOR ROSTOVTEFF'S great book on the social and economic history of the Roman Empire<sup>1</sup> made an unwanted stir in the small circles of those alive to historical problems. And it did so for good reasons. The history of Rome, by virtue of its content and of the comprehensiveness of our knowledge of it, may well be called a model history. But for us this exemplary history ended where Mommsen left it, with Julius Caesar. What comes after, the Empire, remained little more than a legend. Yet those centuries, in the course of which the Occident was latinized, in which it took over and evolved, once and for all, fundamental ways of feeling and thinking, witness the entrance on the historical scene of what is to be Europe. The history of the Empire, unlike that of the Republic and of Greece, is not a predecessor of European history; it marks its first stage.

But Rostovtzeff's work has not only been acclaimed by scholars—the pitiable shadows scholars are in these days; his book also contrives to be of undeniable actuality, provided actuality is taken at more than its surface meaning. Nor is it by chance that the remote centuries of imperial Rome are stirring again in our time, and that a subject chosen by the curious intelligence of a historian shows striking analogies to the present state of the world. Great books are no windfall. Rather the opposite: Mommsen, who was a historian of herculean power, came to a halt on the threshold of the Empire because his political experiences and those of his time ended there. Nineteenth-century understanding did not reach beyond the Republic, beyond Rome in the ascendant, Rome with her faith in herself and her gods

<sup>1</sup> M. I. Rostovtzeff, *The Social and Economic History of the Roman Empire*, Oxford, Clarendon Press, 1941.

unshaken, living by a "deep-rooted concord" and by what was felt to be "freedom."

But it was through the vanishing of "concord" and "liberty"—two things at once ethereal and most substantial—that the form of life called Roman Empire came into being. The two terms are taken from Cicero, who uses them to express the anxiety with which he watched the changing aspect of life about him. This aspect coincides in some of its essential features with the turn our own existence has been taking during the last thirty years. A new historical scenery, profoundly different from that which hitherto has served as background for the adult life of the Western nations, is coming into view. And suddenly illuminated by the light of the new historical day, those remote centuries of imperial Rome stand out in bold relief before the eye of the historian. No, Rostovtzeff's work has not happened to coincide with actual developments; it has been inspired by them.

*Concordia, libertas!* I know of no attempt to ascertain the authentic meaning Cicero connected with the two words—that is, the meaning he experienced when he wrote or said them. Thus an exegesis of the two terms may provide an appropriate basis for the present investigation.

#### DICTIONARY AND CIRCUMSTANCE

Nobody will make bold to maintain that the meaning of a word can be gathered from dictionaries. A dictionary furnishes, at best, a general scheme in which the manifold actual significations a word admits of may be inserted. But the real meaning of a word appears when the word is uttered and functions in the human activity called speech. Hence we must know who says it to whom, when and where. Which indicates that meaning, like all things human, depends on circumstance. In the operation of speaking—that is, communicating through words—what we call language forms only one, if a relatively stable, constituent which must be supplemented by the vital setting.

For an illustration let us consider what a lot of different things the word "black" may suggest—so many, in fact, that the mind remains blank for mere *embarras de choix*. Even to think of a color is not absolutely necessary, as there are also black moods. But when the guest says "black," the hostess knows that he takes no cream in his coffee. What the word fails to say, circumstance mutely adds. Language is a text that calls for illustrations. The illustrations are furnished by the lived and living reality out of which a man speaks, a reality essentially unstable and fleeting, emerging and vanishing never to return. The real meaning of a word is not in the dictionary; it is in the instant. After twenty-five centuries of mental training to grasp reality *sub specie aeterni*, we must make a new start and develop an intellectual technique for detecting it *sub specie instantis*.

#### CONCORDIA

##### REASON AND VICISSITUDE

It was in the midst of a civil war that Cicero wrote his book *De Republica* (On the State). Nor did he for one moment mistake the ominous difference between the political crises that had been shaking Rome for twenty years and the numerous conflicts his country had passed through before. This was not one of those struggles that may occur in any normal course of political life when the social body, thrown out of balance through its own growth, briefly readjusts itself. One of Cicero's purposes in writing his treatise was precisely to set forth a great idea which he had learned, though he does not say so, from Polybius, that most penetrating of ancient historians, or philosophers of history if one so prefers.

Polybius came into touch with Rome when she was about to expand her reign over the whole basin of the Mediterranean, thus for the first time joining the Orient with the Occident. A political power of such nature surpassed all previous historical experiences of mankind. With a perspicacity perhaps unique in

the length and breadth of historical thinking, Polybius, the great Greek from Megalopolis, was fully aware of the destiny in store for this commonwealth and of the peculiar structure of its state. In his *History* we read at the end of the second fragment of Book VI:

Lykurgus, then, foreseeing by a process of reasoning whence and how events naturally happen, constructed his constitution untaught by adversity. But the Romans, while they have arrived at the same final result as regards their form of government, have not reached it by any process of reasoning but by the discipline of vicissitudes. And always choosing the best by the light of experience gained in disaster, they have reached the same result as Lykurgus, that is to say, the best of all existing constitutions.

Reason and vicissitude—no minor theme indeed for a meditation on our time, to confront these two formidable historical powers and let them argue their cases against each other. At bottom they are but two forms of reason: the one pure reason which “starts from concepts, proceeds by concepts and terminates in concepts”—thus Plato defines dialectics—the other historical reason which arises fulminantly from the nature of things.

The quoted passage from Polybius shines through at various places in Cicero's lucubrations on the state. Thus in *De Republica* II, 33, where he says that “after the establishment of the Republic the people, freed from the domination of the kings, claimed a somewhat greater measure of right” and then proceeds: “This claim may have meant a lack of reason; but the very nature of public questions frequently overpowers reason—*vicit ipsa rerum publicarum natura saepe rationem.*”

Cicero was as clearly aware of this interplay of reason and experience as he was of the other point implied in Polybius' sentence: that vicissitudes or political struggles are not necessarily negative events, indicative of social disease, but on the contrary may help to bring forth a better state. “When there is

mutual fear, man fearing man and class fearing class—*ordo ordinem*—then, because no one is confident of his own strength, a sort of bargain is made between the common people and the mighty; this results in that mixed form of government which Scipio has been recommending”<sup>2</sup>—namely, the combination of monarchy, aristocracy, and democracy. The passage could not be more nineteenth century, since it literally speaks of class struggle and the constitutional pact.

Far from extolling internal peace or regarding public life as a matter of suave urbanity, Cicero held *dissensiones civiles* to be the very condition on which the welfare of the state is based and from which it derives. If the events he witnessed terrified him, we may therefore be sure that it was not simply because they were fraught with strife and conflict. Unfortunately the beginning of Book VI of *De Republica* in which Cicero must have advanced his concept of civil dissension has particularly suffered from time and weather. The scattered fragments allow us to conjecture that in his analysis Cicero referred to the revolutions of the city as being caused by civil discord. This gap we now propose to fill with a construction of our own—an attempt to understand Cicero's mind by evoking his circumstances.

#### STRATA OF DISCORD

Intestine strife, Cicero had read in Aristotle, arises when the members of a society disagree about public matters—a somewhat hackneyed statement. However, have we not just seen that discord may also give the impulse for further development and perfection of the state? On the other hand, a society obviously relies for its existence upon common consent in certain ultimate matters. Such unanimity Cicero calls *concordia*, and he defines it as “the best bond of permanent union in any commonwealth.”<sup>3</sup> How does the one tally with the other? Quite

<sup>2</sup> *De Republica* III, 13.

<sup>3</sup> *Ibid.*, II, 42.

easily, if we picture the body of opinions from which the life of a nation draws its sustenance as made up of various layers. Divergencies in surface layers produce beneficent conflicts because the ensuing struggles move upon the firm ground of deeper concord. Questioning certain things but not questioning all, minor divergencies serve but to confirm and consolidate the underlying unanimity of the collective existence.

But if dissent affects the basic layers of common belief on which the solidarity of the social body lastly rests, then the state becomes a house divided, society dis-sociates, splitting up into two societies—that is, two groups with fundamentally divergent beliefs. As there is no room for two societies within one social space, radical dissension necessarily terminates in the annihilation of the society in which it befalls.

And such precisely was the turn events were taking in the lifetime of Cicero's generation. What he beheld was not merely a struggle, if an uncommonly violent one, *within* the human setting that from time immemorial had been the Roman commonwealth, but the total destruction of that community. The state of mind accompanying such a situation has little to do with the motives underlying surface disagreements. These the citizen fights out with zest, nay with gusto. His adversary is not his deadly foe; friendship endures beneath hostility. "A contest between friends, not a quarrel between enemies, is called a disagreement—*benivolentium concertatio, non lis inimicorum iurgium dicitur.*"<sup>4</sup> Above the contending parties there persist in full validity certain common circumstances to which they both can resort. These are dogmas about life and the universe, moral norms, legal principles, rules regulating the very forms of the struggle. Thus both sides feel that in their fight they are securely held and equally protected by one familiar world. While they fight, state and society stand firm around them.

But when all this has crumbled, when the state lies in ruins, when laws, norms, ideas have gone down with it, when parties

<sup>4</sup> *Ibid.*, IV, 8.

find no common ground on which to meet—then a man may feel that he witnesses "the decay and dissolution of the whole universe—*si omnis hic mundus intereat et concidat.*"<sup>5</sup> And are not we now staggering under the impact of this same experience?

#### CONCORD AND BELIEF

Cicero was not the first to mourn the loss of concord. The idea of concord as the groundwork of society had been hackneyed since Aristotle. One of his disciples, Dicaearchus, wrote a treatise on concord which has not come down to us. And in the fourth century B.C. some Greek states, Heraclea for instance, kept magistrates with the name of *ephoros tes homonoias*, inspector of unanimity. Many a time have I mused over this suggestive title, and though I detest holding office, this I should have been eager to attend to.

Like all educated Romans—indeed like ourselves two thousand years later—Cicero was content to express whatever he saw or suffered in terms of Greek philosophy. The discrepancy between the coined terms—which he used and which we are using—and the realities they refer to is not harmful once it is noticed; only care must be taken always to close the gap between the two lest we complain about one thing while it is another that irks us. "My love," writes Heine, "I have a toothache in my heart." Thus Cicero saw his world becoming a shambles and he cried out: "Concord is lacking"—as people might have cried out one hundred, two hundred, three hundred years before him. But the discord of his time was profoundly different from that of previous ages; it seemed, and it was, irreparable. Cicero felt and sensed the crisis, and in using the word *concordia* or its opposite *dissensio* he knew full well that it was something else he wanted to express. Meanwhile he used the hoary vocables with new connotations and mental reservations—as when we tell ourselves: "Indeed, this is not what I

<sup>5</sup> *Ibid.*, III, 23.

mean, but I can understand myself." And do we not all in writing and talking find out in the end that none but we understand ourselves?

To move on his own in the intellectual medium was not given to Cicero. Where Greek thinking ended, his thinking ended, too. And as regards the question of concord, Aristotle had not quite succeeded in bagging the hare. In the *Nicomachean Ethics* he says that "of political concord we may only speak if the citizens agree in matters concerning the state—that is, if in this respect they pursue the same ends." This may sound convincing enough; yet Aristotle is right only in so far as he lets the hare escape. To begin with, his definition does not furnish a yardstick by which to gauge the degree of agreement or disagreement. Opinion on certain political points may remain split after unanimity has been attained on others of more importance. Discord, like concord, can assume fundamental and ultimate character only if the point in question is itself of fundamental and ultimate import in the life of the state. But an issue of such weight cannot be raised by a mere political incident. With his first example, Aristotle—himself unaware of it—puts us on the right track. "For instance," he writes, "when all citizens agree that magistrates must be elected." Ah yes, this is a matter of great moment. How momentous, indeed, will at once be revealed when we give it its general and rightful name, calling it agreement as to who shall rule. "The function of ruling and obeying is the decisive one in every society. As long as no unanimity obtains about this, everything else, down to the private life of each individual, will drag along in a clumsy and confused fashion."<sup>6</sup>

Thus *concord in its pure and radical form implies a firm and common belief regarding the exercise of supreme power*. Belief—in my terminology this word is pregnant with a whole powerful and precise theory, of which, however, I can here treat only briefly. A belief must be distinguished from an accepted idea, a scientific truth, for instance. Ideas are open to discussion; they

<sup>6</sup> Cf. the author's book *The Revolt of the Masses*, New York, W. W. Norton and Co., 1932, p. 152.

convince by virtue of reason; whereas a belief can neither be challenged nor, strictly speaking, defended. While we hold a belief, it constitutes the very reality in which we live and move and have our being.

A belief in the strict sense of my terminology is unlikely to occur as belief of individuals or particular groups. Since it is not a mere opinion, an idea, a theory, it will normally be of a collective nature. People are inclined to believe in company and not of their own accord. A belief functions when established in a social environment by virtue of its "collective validity"—that is, regardless of the adherence of individual persons or groups. When we find that a conviction depends for its influence in the community upon the willingness of people to fight and die for it, we may be sure that this conviction is in the process either of establishing itself or of ceasing to exist as an actually operative belief. Such conviction may be an inspiring idea which exalts the life of its followers; but it does not create concord. On the contrary, convictions of a group are prone to foment revolution.

This is a matter not to be trifled with. Concord, that kind of concord which forms the foundation of stable society, presupposes that the community holds a firm and common, unquestionable and practically unquestioned, belief as to the exercise of supreme power. And that is tremendous. For a society without such a belief has little chance of obtaining stability. Ideas, even great ones, may be improvised; not so beliefs. Beliefs, to be sure, begin as ideas. But in the process of slowly pervading the minds of the multitude they lose the character of ideas and establish themselves as "unquestionable realities."

A belief, moreover, in a matter so intricate and stirring as the problem of rule cannot exist of itself. It must derive from more fundamental beliefs concerning human life and the reality of the universe. Here we come upon the second weak point in the Aristotelian definition of concord. Political unanimity implies more than an agreement on politics. However secondary political questions by themselves may be, they can be resolved only

if agreement prevails in nonpolitical matters, agreement which, in the last instance, concerns the reality of the world.

Each of the European nations lived for centuries in a state of unity because they all believed blindly—all belief is blind—that kings ruled “by the grace of God.” To hold such a belief they clearly had to believe in the existence of God. Which meant that they felt they lived not by themselves, alone with their man-made ideas, but in the ceaseless presence of an absolute entity—God—with which they had to reckon. This indeed is belief: to reckon with an inescapable presence. And this is reality: that which must be reckoned with, whether we like it or not. When the peoples of Europe lost the belief, the kings lost the grace, and they were swept away by the gusts of revolution.

Our time stands in need of a new revelation. A revelation obtains whenever man comes into touch with a reality distinct from himself. It does not matter what this reality is made of, provided man feels it to be absolute reality and not his idea, not presumptive or imaginary reality. Man needs a new revelation. For he will be lost in the arbitrary and boundless fancies of his mind if he is not able to contrast them with something truly and inescapably real. Reality is the only mentor and master of man. Without its inexorable and solemn presence it is idle to hope for culture, civil welfare, or even—and that is the most dreadful—authenticity in personal life.

When this reality, the one and only power that checks and disciplines man from within, vanishes because belief in it is slackening, the social domain falls prey to passions. The ensuing vacuum is filled by the gas of emotion. Everyone proclaims what best suits his interest, his whims, his intellectual manias. To escape the void and the perplexities of his own soul, a man will rush to join any party standard that is being carried through the streets. With society gone there remain only parties.

Cicero knew full well that the classes that could be drawn upon for political office in Rome in his time believed in neither the institutions nor the gods of Rome. Regarding the last he

needed to consult nobody. He, a priest, had no faith himself. In his book *De Natura Deorum* (Concerning the Nature of the Gods)—the most amazing work ever written by a priest—he scans the whole universe in search of his lost gods.

#### AUSPICES, OR RELIGION AND NEGLIGENCE

Nonetheless, Cicero made a last attempt to rouse the conscience of his countrymen; he wrote his book on the state upon which we are here commenting. Evoking the shadow of the greatest of all Romans, Scipio Aemilianus, who in his turn evokes the still more venerable shadow of the other Scipio, the elder Africanus, he sets forth, in what may be called a phantasmagoric foreshortening of the history of Rome, the sublime architecture of those institutions which had brought about the triumph of the city without equal. In this review of the events that through the centuries had been shaping the Roman constitution, Cicero leads up to a point where he declares that all achievements thus attained are secondary in comparison with the initial feat of Romulus, who established “those two excellent foundations of our commonwealth, the auspices and the senate.”<sup>7</sup> Nothing else and in this order. The senate was the central institution of Rome, on whose right to rule no doubt had ever been cast up to the great civil war in which Cicero wrote. What surprises us is to hear the auspices mentioned as something even more important than the senate, as the core of the core of Roman history.

Like it or no, we are the grandsons or great-grandsons of M. Homais; and we cannot help being slightly amused by the sight of Roman magistrates consulting the auspices and concerning themselves, in unmitigated earnest, about the flight, appetite, and song of birds. Yet our contempt is but a form of stupidity. In fact, the utter ingenuousness of those rites only serves to disclose the more clearly the source whence they draw their inspiration. In consulting auspices, man recognizes that

<sup>7</sup> *De Republica* II, 10.

he is not alone, that around him somewhere are absolute realities more potent than he with which he must reckon. Instead of plunging forthright into such actions as his mind may suggest, he ought to pause and submit his project to the judgment of the gods. Whether such judgment reveals itself in the flight of birds or in the reflections of the prudent is of lesser concern; what matters is that man is taking into account something that transcends him. To live not wantonly but warily—wary of a transcendental reality—is the strict meaning of the Latin word *religiosus*, and indeed the essential meaning of all religion. What a man believes, and what he therefore regards as unquestionable reality, constitutes his religion. *Religio* does not derive from *religare*, to bind—that is, man to God. The adjective, as is often the case, has preserved the original meaning of the noun, and *religiosus* stands for scrupulous, not trifling, conscientious. The opposite of religion thus would be negligence, carelessness, indifference, laxity. Over against *re-ligo* we have *nec-lego*; *religens* (*religiosus*) is contrasted with *neglegens*.<sup>8</sup>

In Cicero's opinion the auspices, because they embodied the firm and common belief about the universe on which Roman concord rested, had to be regarded as one of the main factors in bringing about the great centuries of the Republic. So close was the connection between auspices and state that *auspicium* came to be synonymous with *imperium*, rule. To be under the auspices of someone meant to be at his order. And vice versa, the word *augurium* (etymon to the French *mal-heur*, *bon-heur*), which originally denoted only increase, growth, enterprise, and from which derive *auctoritas* and *augustus*, came to be mixed up with *auspicium* and to designate presage, omen. A fusion took place between the concepts of state and of belief. In politics, there are epochs of religion and epochs of negligence, of care and of carelessness, of probity and of frivolity.

What then happens in a society—and what in particular happened in Rome—after the loss of a firm and common belief in matters of leadership? Society automatically requires the execu-

<sup>8</sup> Aulus Gellius, *Noctium atticarum libri* XX IV, 9.

tive function. Lacking a true solution to the problem of ruling, a makeshift has to be resorted to.

Cicero had a project of a sort in which he himself did not place much confidence; he advanced it in his book on the state. This project of Cicero's was soon to be realized, without mention of Cicero, to be sure, by Augustus who killed Cicero. The project was—the Roman Empire, a makeshift, the most illustrious makeshift in history.

## LIBERTAS

### UTOPIAN SOCIETY

Cicero knew that what he witnessed was the death agony not only of Roman unity but also of Roman liberty. In his books and letters of the last epoch the word *libertas*, like an obstinate phantom shrouded in mournful nostalgia, looms up on every page. It is his farewell salute to a whole way of life, not his personal life alone but the life of his country as well. This subjective, emotional, and ultimate meaning which the word *libertas* held for him, the meaning, therefore, which he wanted to express by it, we are now anxious to grasp.

First of all we must try to forget whatever the nineteenth century used to connect with the word. Cicero's *libertas* must not be confounded with the liberty or the liberties of liberalism. To begin with, the claim of liberalism to have first discovered and propagated freedom seems hardly justified. The truth is that freedom has been the normal condition of life throughout European; in contrast to Oriental, history. Whoever has been concerned in a somewhat serious fashion with the past of the Western world must have found ample evidence of this. If the reader wants proofs, he need not go to any scholarly exertion; it will do to read a lucid, short, and representative book like Guizot's *Histoire de la civilisation Européenne*, a course of lectures delivered in 1820 when the author was still quite young. Guizot could not draw upon more recent investigations, mainly

of the last fifty years, which have shown that such events in European history as bear illiberal or antiliberal features can be explained either as adventitious social phenomena, which could not be helped and were soon set right, or as residues of the Roman Empire, which it naturally took a long time to eliminate—serfdom for instance.

Another questionable point in the doctrine of modern liberalism seems to me its belief that society is a good thing that works with the neat precision of a Swiss watch. We are now paying with grim sufferings for this mistake of our forebears and for the complacency with which they gloried in a noble and irresponsible liberalism. Nor will public life throughout the world be in any better way until it has dawned upon us that society is not a nice thing, that it is a terrible thing. Representing, no doubt, the indispensable condition for man's being truly man, society is at the same time his veriest hell. I do not know if there is a hell beyond the confines of this world; but I do know that there is one right among us: society. It captivates us with the delights it offers, only to torture us all the more cruelly.

The very name "society" as denoting groups of men who live together is equivocal and utopian. According to the customary definition, societies exist thanks to man's sociable or social nature—a definition worthy of Molière's *Bachelierus*. If it is, nonetheless, accepted, on the ground that without a dose of sociability human coexistence is obviously unthinkable, any sociology must at least make all haste to state with equal emphasis, and *to accord equal weight to*, the fact that man is also unsociable and bristling with antisocial impulses. Both social and antisocial forces are at work wherever men are living together. In view of this, does it not mean garbling the facts and barring, from the outset, the way to a true understanding of the eternal tragedy that is human coexistence, when such a reality is simply called "society"? Why omit in the name the antisocial component? By simply inserting it we shall become aware that no society has ever been a "society." Men, to be

sure, live together, but their living together cannot truly be called a society. It merely is an attempt or an effort toward becoming one, if it is not an outright wasting away of earlier relatively accomplished forms of social organization. Society, by its own nature, provides the place for social and antisocial doings alike, crime occurring as normally as love of one's neighbor. Major criminal elements may at best be kept at bay temporarily. But even so they only lie concealed in the underworld of the social body ready at any moment to break loose *de profundis*.

Let it not even be said, therefore, that society means the triumph of the social over the antisocial forces. Such triumph has never come to pass. What in fact prevails is an unceasing fight between the two forces, and the ups and downs characteristic of all struggle. When speaking of a satisfactory condition or a good period in the evolution of this or that society, we must keep in mind that such qualification is relative. Nothing social has ever been good in the sense in which a picture, an idea, a character, or an action is good. So reconciled to this fact have people come to be that they will call a policy excellent if it happens not to be the very worst; just as Socrates in prison was delighted when the shackles were removed from his ankles. While we should therefore think that every precaution and vigilance are needed to let social ways and forces prevail over antisocial tendencies, liberalism proclaimed the principle of *laissez faire*, and liberal politicians were careful to interfere as little as possible.

Society does not work miraculously by itself like a healthy organism. If it works—and so it does; not always, but in most cases—it certainly works not miraculously or spontaneously, as liberalism would have it, but lamentably, owing to the fact that the best parts of the positively social elements let themselves be consumed in the sad pursuit of imposing order upon the antisocial remainder of the so-called society. This pursuit—horrible for many reasons, but indispensable—thanks to which human coexistence turns into *something like* a society, is called

rule, and its apparatus is the state. In his book *De legibus* Cicero enunciates solemnly that "without government existence is impossible for a household, a city, a people, the human race, physical nature and the universe itself."<sup>9</sup> But government and consequently the state, in the last instance, spell violence, mitigated in prosperous times, formidable in times of crisis.

Liberalism has never been quite capable of grasping the significance of the fierce nature of the state, that congenital prerequisite of society. Hegel, at the opposite pole, deified the state in an absurd mysticism. Why not comply with the prime duty of intelligence and accept things as they are without additions or subtractions? Let us admit that societies cannot exist without government and state authority; that government implies force (and other things, more objectionable but which it would take too long to enumerate); and that for this reason "participation in government is fundamentally degrading," as Auguste Comte, whose political theory was authoritarian, said in an amazing sentence which, dropped casually at an inconspicuous place, has escaped notice. A weird thing indeed this reality we call society, in which the socially most valuable elements are obliged to devote themselves to a degrading task and to prove, by accepting this obligation, their superior sense of responsibility. The recognition of this fundamental fact will have to stand at the beginning of any future sociology. Our inherited ideas about society obviously serve us no longer. We must get rid of them and look again with new eyes, bright and untender, at the things themselves.

With all this *ex abrupto* I know I have been far from saying what ought to be said on liberalism. Liberalism has passed away without ever receiving a proper obituary; and yet its doctrines, as will appear in the course of this investigation, contain more than one strong point. But our purpose here is different, and we must return to it.

<sup>9</sup> *De legibus* III, 1.

#### LIBERTAS AND LIBERTIES

Roman liberty is an indivisible whole, existing in the singular, as it were, whereas in liberalism liberty appears broken up into a plurality of liberties which, outgrowing all historical dimensions, assume the character of theological entities. This conception that a man is politically free if he can act according to his own will in certain definite dimensions of life is open to discussion. There is, in principle, no single liberty man cannot forgo and yet feel as free as ever.

The best instance of what I wish to indicate may be found in a rather undramatic freedom which was, however, chronologically the first to be emphasized by liberalism at the end of the eighteenth century, which furnished the pattern for subsequent liberties, and which gave the impulse for setting down the liberal doctrine. For it is a fact, and we must not garble facts, that liberalism began with advocating free trade.

Around 1800 the European economy had reached a point where capitalism felt capable of maximum expansion. Capitalism is the economy of production and as such admits of a virtually unlimited production, which in its turn calls for a market that is also unlimited. Such a practically infinite market lay before those nations that were the first to develop great industries. So long as they could count on an indefinitely growing market, the producers did not seriously get into each other's way. Hence no inconvenience arose from their operating with perfect freedom. But after a few decades the situation had changed.

In my opinion, the progressive reduction of economic liberty is not so much due to the restrictions that labor has compelled the state to impose upon producers as to the intrinsic, spontaneous evolution of capitalism itself, which has built up industries (including the new forms of agriculture) in certain quarters of the globe that before had been only markets. The market has thus ceased to be unlimited. Its total volume is still expanding; but as production grows faster it presses upon the market, and

thus producers, being faced with a relatively shrinking market capacity, cannot help interfering with each other. Economic freedom becomes impossible—impossible not because of the other fellow's hostile intentions, but because of the material conditions inherent in the situation itself.

In fine, the situation is the same as in urban traffic. Even in times of most unmitigated tyranny European man was free to move through the streets as he pleased, at least before curfew. Modern city administrations have deprived him of this freedom. An official with a magic whistle and hieratic gestures now controls his movements at street corners. The reader would not smile quite so indulgently if he knew a little about the history of human traffic rules—the anxieties and struggles they caused—and if I had time to draw for him a map of the rigidly defined paths along which an African Bantu of a certain age, sex, and rank is, up to this very day, allowed to travel between the fourteen huts of his native village.

My thesis is this: that there is no single concrete liberty which circumstances may not some day make impossible; but the abolition of a liberty for material reasons does not give us a sense of being curtailed in our free condition. Some of the liberties that the nineteenth century set such store by may quietly be forgone in the course of time, while dimensions of life in which we are still unfree may enter the zone of freedom. Human freedom—and we speak of political freedom only—is not dependent on the materialization of any one form of freedom. Liberal constitutions themselves implicitly admit this in providing for possible suspension of all liberties under special—that is, transitional—circumstances. But circumstances that are accidental in certain periods can be the rule in others.

#### KINGS, THE ROCK OF LAW, AND A FEW MANIAS

To Cicero as to any Roman, the word *libertas* in its political sense conveyed one very precise, if exclusively negative, meaning: that of "public life without kings." For various reasons we

find ourselves at a loss to understand a Roman's innate aversion to royalty. Europe has lived for the best part of her history under the rule of crowned heads. She is indebted to them for a few hours of happiness; and when she decided to discard them, she went about it without ire, as though removing to the attic an obsolete piece of furniture. Even France though she hated other things, a lot of things—the French Revolution was the heyday of resentment—even France can scarcely be said to have hated her benign Louis XVI.

Rome, however, preserved her dislike of kings surprisingly intact throughout the centuries. Strictly speaking, she never lost it down to her last hour, and this recoiling from royalty is one of the most constant components of the extraordinary form of government that was the Empire.

The roots of so fervid an antimonarchism are multiple. The strongest is doubtless marked by that nation's strange passion for the law. We readily understand that a nation may be fascinated by power, wealth, pleasure, even science, as was Athens. But that a people should set its heart on law of all things seems odd, at least to us—though perhaps only because we fail to comprehend the true meaning of law. How can we, born into a time that has minced law with the extrajuridical chopper of justice and that holds that law is law because it is just, whereas for the Roman the law was just because it was the law.

Law is born from despair of human nature. Out of mutual distrust of their own humanity people are careful to interpose between each other for the purposes of commerce and intercourse something deliberately inhuman: the law. The great Livy, a man who had succeeded better than any other in the time of Augustus in preserving pure and intact the old Roman spirit—perhaps because he sat apart and made no noise—the great Livy says that "the law is deaf and inexorable, unrelenting and remorseless even toward venial offenses."<sup>10</sup> An admirable definition of the law, indeed. According to it, the law is as firm as rock, of the nature of stone rather than of human

<sup>10</sup> Liv. II, 3.

flesh. Before it, all men are equal. Whatever differences of rank, obligation, and class the law may establish, any and all derive from law itself. No man, however privileged by the law, is distinguished from any other in his relation to the precepts of law; whereas in a monarchy the subject lives under the law, but the monarch is merged with it, and a personal will may take the place of legal ordinances—a state of affairs which to a people with an extremely acute sense of law must seem entirely unendurable.

This negative sense of *libertas* as "life without kings" necessarily connotes a positive supplement which is "public life according to the traditional institutions of Republican Rome." This is the second and more concrete meaning that Cicero associates with the term. Thus Cicero felt free when he was ruled by magistracies, according to such laws as Rome's past had established up to his time. But these laws did not grant any of the liberties proclaimed by European liberalism, nor indeed any other liberties of that kind. *The political constitution of Rome was never "liberal."* And yet Cicero felt free under it; and when he saw it vanish he crouched in his villa at Tusculum like a badly wounded dog in his kennel, and there was no end of mournful howls for *libertas, libertas*.

Here we have reached the point where we can discern the difference between Roman *libertas* and that conception of freedom which has been the perennial principle of European political inspiration, nineteenth-century liberalism being only one of its expressions. In view of the fact that man can no more escape political rule than he can escape the weight of his body and the hunger of his stomach, he may adopt one of two fundamentally different attitudes, asking either "Who shall rule?" or, no matter who rules, "How far will I let myself be ruled?" The first question asks about the bearer of public power, the second about its limit.

European man, up to the present day, has been incessantly and keenly alive to the latter. He did not care so much

who ruled—king, parliament, the people—but he wished to control the limits of this rule. These limitations or liberties have varied in various times. In feudalism they went under the names of privileges and immunities. European man never allowed public power to invade the entire realm of his personal life. The law itself was expected to delineate the private precinct where its sway ended.

Hence the word *privilege* which to a Roman would have sounded like a contradiction in terms. *Privilegium*, as a matter of fact, meant the opposite from what we understand by it; it meant "law against particular individuals." And in this sense it so horrified Cicero that he declared: "Our ancestors desired that no laws against particular individuals should be proposed; for that is what a privilege comes to. For nothing would be more unjust than such a law, when the very word law implies a decree or command that is binding upon all."<sup>11</sup>

In the Roman conception public power has no limits; it is total. A human being cannot be conceived of apart from the community to which he belongs. Man is man only as a member of a city. The city comes first. It is not a sum of individuals but a legally organized body with its own collective structure. The individual can exist and act politically only through public organs: *curia, tribus, centuria*. Directly and by himself, he can do nothing.

Such a conception of the individual and the state is in keeping with the general Roman conception of human life and the universe. A Roman regarded living not as a purely interhuman affair. Living meant living together with the gods who were, above all, gods of the community. An individual could not address the gods directly; Rome knew no "freedom of worship." The city had her magistrates, one of whom was in charge of communicating with the gods through long established rituals.

Nor could an individual harangue the people, a right connected with certain magistracies. Hence no "freedom of speech."

<sup>11</sup> *De legibus* III, 19.

For a private person to address himself directly to the populace was one of the most revolutionary and criminal acts a Roman could think of.

Cicero, it is true, laments the loss of *libera oratio*, and Tiberius treats himself to declaring in the senate, in the early part of his reign, that "in a free state speech and thought must be free."<sup>12</sup> But let us not make a mistake; what Cicero and Tiberius refer to is not the same as our freedom of speech; it is the freedom of speech of magistrates and senators, that is, an attribute of rule as such, not a liberty of individuals.

An analysis of the sturdy institution that was the Roman family would likewise disclose an absolute lack of private liberty. Indeed, such a precinct of privacy, guarded and secured against public interference, would have appeared to the Quirites as a sort of Indian reservation.

#### LIFE IN FREEDOM AND LIFE AS ADAPTATION

Between these two different styles of freedom, the Roman and the European, it would be absurd to decree arbitrarily that it is ours that is right. Let us rather recognize that people are free—in the political sense—when they live under institutions they prefer, no matter what those institutions are. In that case, our "liberal" constitutions would guarantee liberty not because they are "liberal" but because they are the form of government that most appeals to the political taste of the Western world. Our problem thus boils down to the question: What does it mean that people prefer such and such institutions?

It does not mean—as my reader, like myself, may at first think—that Cicero felt at ease under his time-honored institutions simply because they were old and he had got reconciled to them through habit and tradition. Cicero was a conservative but he was no traditionalist. He knew that the institutions he summarized under the title *libertas* had not been immutable figures in Roman history; that after slowly evolving as circum-

<sup>12</sup> Suetonius 28.

stances demanded, they had, once established, undergone constant change, emerging eventually with a physiognomy entirely different from the original. Furthermore, Cicero dedicated his own book *On the State*—written between 54 and 52, a time of relative and apparent political peace—to the purpose of preparing the ground for a grave constitutional reform, which he himself found it very hard to adopt, but which he hoped might guarantee survival of a torso of Republican institutions.

Generally speaking, mere permanence of institutions over a long stretch of time does not suffice to produce a feeling of ease and freedom. Proof of this, on an enormous scale, is given by the Roman Empire which lasted five centuries—as long as the Republic—without ever becoming truly familiar to the Romans themselves. Rome lived through her Empire in a chronic state of perplexity, never knowing today what this Empire, as a political institution, would look like tomorrow. Those who became accustomed to the Empire were the conquered peoples who came to believe in Rome's eternity—*Roma aeterna*—and allowed the reality, or rather the idea, of the Empire to linger on as late as the eighteenth century.

It is therefore permissible to say that the liking of a nation for certain institutions is an independent phenomenon which cannot be explained by habit. For further elucidation of this irreducible phenomenon, the following remarks may be made.

A state always and essentially exerts pressure upon the individuals who constitute it. Proceeding by means of domination and rule, it cannot help making itself felt as coercion. As man is born into, and exists in, a "physical world" composed of solid bodies which obstruct his freedom of motion, so he is born into, and inexorably exists in, a "social world" composed of anonymous pressures, which are exerted upon him in the form of uses, customs, valid norms, etc. The state is but one, if the strongest, among such social pressures. The limitation of our free will which the state unquestionably implies is of the same order as that imposed upon our muscles by the hardness of bodies, and therefore must be recognized as an inalienable part

of the make-up of man. A society is not a man-made institution, as eighteenth-century philosophers thought, but a condition in which man finds himself irremediably and without any hope of true escape. Here we have come upon what I think must be regarded as the first principle of sociology. But for our present purpose it is unnecessary to dwell upon its importance.

The fact that state means pressure must be taken into account before we can begin to look for the distinguishing features between free and unfree public life. Political freedom cannot be defined as absence of pressure; for that situation does not exist. The decisive point lies in the fashion in which pressure is brought to bear. Are we not at any moment subject to the pressure of the atmosphere? Yet when this pressure affects us in a certain way, it imparts a glorious sense of "free movement." And the leather strap that, girding our loins, fosters a carriage of springy ease will, tied around our wrists, make us cry out to heaven that we are manacled.

The pressure of state becomes manifest in the form of "institutions." With this remark we have definitely cornered our problem. Man is not free to elude the permanent pressure of the collective body upon his person. But certain nations in certain epochs succeeded in giving that coercion institutional forms of which they fully approved; *they shaped the state after their vital preferences*. This is what we call "life in freedom."

But there are other times when, for multiple reasons, the possibility of preferring one institution to another vanishes even for those fortunate nations, and institutions impose themselves as by inexorable mechanical necessity. Nobody wants them; but there is no margin left for free option. Such a state of affairs has nothing to do with "tyranny." In comparison with the situation we are here trying to delineate, tyranny is a rather superficial phenomenon, a political anecdote springing up ephemerally in epochs of free life and presupposing a state of freedom, as can be observed in the Greek tyrannies before Alexander. In

our case, it is not only that the pressure of state as such assumes a character of duress, but that the concrete institutions, in so far as they are effective and no mere slogan, descend upon the social body to the frank disgust of everyone, including those who seemingly enforce them, yet, in truth, are themselves merely the visible organs of an invisible historical mechanism.

In such times human life does not flow freely and easily through institutional channels built *with its approval* and made to measure for it. There is no eager and at bottom always cheerful effort on the part of life to accommodate the rigidity of the state to its own tastes, as expressed in the form of so-called ideals or so-called conventions. Life is converted into the opposite of all this, into spiritless *adaptation of each individual existence to the iron mold of the state*. This is what we call "life as adaptation."

It is not that in epochs such as these people like to adapt themselves, that such is their preference, but that public life ceases to be a question of liking; that there is no choice. In a strange automatic way the state assumes an attitude of unmitigated exaction toward the individual, accepting no conditions, no reservations, no objections, not even collaboration, nothing short of pure and simple surrender. Collaboration is possible only in secondary fields, not in the most exalted function of state, in ruling. Adaptation being the integral form of life, there is no way of escaping it. After Caesar has triumphed, Cato may commit suicide in Utica; but with his suicide he performs only the most desperate form of adaptation.

In the foregoing we have advanced a theorem. Theorems are imaginary figures with contours of geometrical neatness. But reality never exactly coincides with theorems. And yet there is no other manner of understanding reality than to fit, as best we can, its perpetually shifting shapes into such prefabricated molds as our imagination produces. Theorems allow us to take our bearings in the chaos of reality. They may even supply the

means to determine the discrepancy between reality and the cobweb of our ideas. Thinking is an ironical operation. It enables us to ascertain the "pure truth." But it also reveals that facts never quite conform; for facts are the impure truth.

Were we now to examine by the light of our theorem the entire political history of Rome with all the wealth of its contradictions and meanderings, the reader, I hope, would not find our theorem guilty of undue exaggeration. But I must confine myself to indicating with a few swift strokes the general outline of the historical process that ended in the Empire.

The expulsion of the kings is the opening scene of Rome's life in liberty. It bears all the features characteristic of this form of political existence. Cicero, in accordance with legend, holds the abuses and usurpations of the kings responsible for the Republican revolution. Revolutions are prone to be explained this way; it is the explanation of politicians, not of historians, an explanation handy for meetings and editorials. Yet it would seem characteristic of revolution, in contrast with revolt, that a revolution abolishes uses, not abuses. Old uses in which people had lived at ease begin one day to seem unbearable. That is what happened in Rome.

The kings represented the predominance of the Etruscan element. Under their sway, the civilization of Latium progressed. Rome was built, her name being Etruscan. The population increased and prospered. The Greek cities on Sicily, in Campania, and on the heel and toe of Italy sent from afar vague waves of cultural inspiration: minute images of gods; rites; tales of martial adventure; political dreams. A new life, yet crude but brimming with sturdy appetites and inspiring projects, burst forth from the archaic Latin roots with all the vigor of spring.

Is it felt as a public exigency to eliminate the kings? How urgent was it to put an end to monarchism? Obviously not to the degree of an inevitable necessity. On the contrary: that abolition of monarchic government should be felt as a necessity already represented a creative act, a fervid urge spontaneously

sprung up in the minds. Thus the grudge against kings was not primary, not the cause, but secondary, the effect of something that had previously stirred in the souls. The impulse to revolution came from a new and fascinating vision of state organization. The state was to be ruled not by a personal will but by an anonymous imperative in the shaping of which all citizens were, more or less, to collaborate and which was to speak through the organ of the law. The ruler thus would cease to rule on his own account and after his own taste. Renouncing his personality, he would become an automaton dispensing law. "It can truly be said that the magistrate is a speaking law, and the law a silent magistrate."<sup>13</sup> This idea spontaneously springing from the innermost Roman imagination—as spring from imagination poetic images to which this idea is, after all, akin—grew into an "ideal" and began to exert its irresistible suction on the will. For ideals exert suction on the mind. The simple presence of such an idea was sufficient to let the existence of kings seem unendurable.

Here we have an illustration of the way in which any change—revolutionary or evolutionary—is brought about in epochs of political freedom. All events come to pass in liberty—that is, spontaneously springing from deep-rooted inspiration. Hence the strange reversal of the seemingly natural chronological order between the solution and the need it meets. For it so happens that the solution, the ideal, comes first, and that it creates, if not the need itself, awareness of it. In other words, such a need is not absolute and inevitable. That is precisely why people are *pleased* to pretend that it is a necessity; and only because of this does it then become a necessity. Danton expressed this *priority of the ideal* when he said in the Convention (August 13, 1793): "The revolution lived in people's souls at least twenty years before it came to be proclaimed."

In periods of life as adaptation, things look entirely different. In such times political exigencies present themselves with an

<sup>13</sup> *De legibus* III, 1.

absolute and inescapable character; and they do, not because we think of them so—what with all their frightfulness one would as lief disregard them altogether—but precisely because they allow of no true solution. For let us be clear about this: what people are ready to call wholeheartedly a solution is sure to be nothing if not the “ideal” one. Anything short of this is called, and strictly speaking is, no solution but a remedy, a mere device that is accepted because it cannot be helped. The Roman Empire provides the most gigantic instance, in time and space, of an irremediable remedy.

We thus may state that public life assumes the luminous aspect of freedom if the following conditions are fulfilled: (1) that the collectivity is not confronted with pressing internal problems, anarchy for instance; (2) that in political changes the solution, at least in its general outline, precedes the problems and is instrumental in bringing them about, or in other words, that the collective mind is actuated by genuine “ideals of public life”; (3) that every member of the society feels that he participates in one way or another in the function of ruling and thus plays an active part in the state.

These three conditions were fulfilled in the history of Rome from the expulsion of the kings until 50 B.C. The precision of the date has, of course, merely symbolic significance; however, 50 B.C. is the year in which Cicero's laments at the loss of liberty began. Can this decisive and irrevocable change in Roman public life be regarded as a mere contingency which might have been avoided, or are we to believe that there will, for every “free” society, come a moment in its history when mechanical adaptation is the sole form of life left to it? Moreover, supposing experience shows that the latter invariably happened in the past, does that mean that any future society will suffer the same fate? Bodily diseases were thought incurable until new treatments brought them under control. Is some kind of medicine of collective life, a therapeutics of society, completely out of the question? This much is clear: if anything of the sort is possible it will be a matter of research, not of politics.

#### HISTORY IN THE ASCENDANT

The political history of Rome, her growth and elastic expansion from the crude village of the seven hills to the marble city that the emperors built, has an ascending rhythm of such perfection as is peculiar not to history but to music only. This summation lends to Roman history the dignity of a paradigm and makes it “classical” in the fullest sense of the word. Greece, said Mommsen, is the prototype of human progress, Rome of national. The first may be questioned—human endeavor transcends art and science—the second not. Compared with the history of Rome, the political histories of Asia and Africa—even that of Greece, though for different reasons—have a certain infrahuman, plantlike aspect; they are suffered rather than inspired. Those nations did not *make* their own history in epic fight against fate and chance. But Rome's political destiny down to Julius Caesar springs from the Romans as the jet from the fountain.

After the expulsion of the kings, the Republic preserved the simple structure of the monarchic state: a council of elders made up of the chiefs of the old families (*gentes*) and a magistrate appointed by election, who was in charge of the executive function, command of the army, and enforcement of the law; his original name is likely to have been *praetor*. So plain a form of state sufficed for a germinant nation. But as the collective body grew more numerous and more diversified, social groups or classes developed. Generation after generation, the old families had gone on accumulating the triple treasure that permits establishment of an aristocracy: nobility, wealth, proficiency. A “nobleman,” we remember, is a man who is “known” (*notus*)—that is, known before he has done anything himself, not for his own merit but for the deeds of his forebears which are present in every man's mind as soon as his family name is mentioned. In the same way wealth and proficiency are accumulated by inheritance—particularly in early times—and belong to families rather than to individuals. The three together secure to their

owners social preponderance over what we may call the Unknown Citizen and what in Rome was the *plebs*—a word of doubtful origin but somehow conveying a notion of multitude. The plebeian population soon increased considerably, and it was their growing number from which they first derived their social power. That is why in Greece these two groups were called “the few” and “the many”—most felicitous names which should never be abandoned.

It is admirable how the Roman Republic, step by step, fits the growing complexity of society with new institutions, splitting up the supreme power and delegating it to a multiplicity of interlinked powers or *potestates*. The praetor cedes the supreme power over the city and the army to two new magistrates: the *consules* whose conjoint or twin action precludes the tyranny of one man. The *praetores* continue being entrusted with the execution of private law. The *ediles* take care of the city. The *quaestores* are in charge of the management of the revenue.

Any important change in the social structure of a community entails a public exigency which, if it is authentic, raises a question of state. For the state is the social agency that is concerned with the management of what is necessary, indispensable. It is exciting indeed to watch how to each of such changes the political inventive power of the Romans answers with a new institution as precise, concrete, ingenious, and original as the work of a master engineer. Any one of these institutions, which are neither abstract humbug nor an expression of vague reformatory urges, comes so unfailingly at the right moment, starts functioning with such ease, and fits so naturally into the existing politico-juridical organism that it is like the chiming in of the flute or the horn in the singing pattern of a symphony.

Or in another metaphor: the state envelops the social body as smoothly and elastically as the skin covers the living body. The skin also presses tightly to the body, but it adjusts itself to every bend and swelling of the muscles so that we feel perfectly

free in it. Indeed, there is no better expression for the feeling of freedom than to say that we are as much at ease as in our own skin. Let us note the paradox herein contained; a pressure exercised against me is felt as mine, as forming a part of myself. What in our abstract theorem we have named “life in liberty” may now more graphically be called “the state as skin.” In epochs of “life as adaptation” the state is not felt as a skin but as an orthopedic apparatus.

An institution that is the conclusive answer to a political problem is utterly unlikely to emerge from a situation in which there is no choice and measures have to be adopted mechanically for want of any alternatives. Political imagination must have been free to consider various solutions and to select among them the one that best fits the circumstances as well as the general idea of life operative in the collective mind.

So little imposed by necessity were those institutions with which the Romans met their public conflicts that to us, when we see them emerge in the history of that nation, they always come as a surprise, expedient and unforeseeable, the discovery of genius. They are not inspirations derived from abstract reasonings—like all those patterns of constitutions which European philosophers since the seventeenth century have never tired of concocting, and which make such tiresome reading—but inspirations evolved by circumstance from the depths of unswerving beliefs such as constitute the soul of a nation while a nation possesses a soul.

#### THE TRIBUNATE OF THE PEOPLE OR A SUBLIME IRRATIONALITY

A good illustration of the foregoing is furnished by the tribunate of the people. Let us try to visualize the situation. The commonalty, through their steadily increasing number and their share in the wars of the city, had become a social factor of some moment. The new distribution of social weight called for redistribution of public power. The state had to be adapted to the new muscle of the social body that was the common peo-

ple. Or, without euphemistic allegories, the people had to be given their share in government.

But the plebeians were—and were to remain for a long time—the healthy populace of a society in its prime, not the insolent, unruly masses of later historical stages. They believed with living faith in the same picture of the universe and of life in which the patricians believed. They believed in Rome and her destiny with which they felt united for better and for worse. They believed in the proficiency of the ruling class who had fought their battles year after year and won wealth, land, and glory for the commonwealth. Nonetheless, and not less resolutely for that—with the Romans of the great times all is vigor and purpose—they wanted to participate in government. Yet as they knew that they were ignorant of state affairs—diplomacy, strategy, law, administration—it was clear to them that their part in government could not be of a directing, positive character. The patricians, on the other hand, a hard and fearless lot who were engrossed in making their own Rome, had no mind to let the Republic be governed by whoever happened to come along.

Hence long and obstinate struggles; struggles, no revolution. For underground, the contestants were welded together by profound concord based on common beliefs and on an imperceptible common aspiration to grow into one people. That is the reason why the plebeians chose, as their supreme weapon, that mildest possible device the noble tale of which used to move us so deeply in the days of our childhood. They left the city as a body with their leaders at their head and occupied first the Sacred Mount and then the Aventine Hill. In those times cities grew on hills. To occupy a hill was the symbol for founding a new city in face of the old. Revolutionary masses who fight not for definite, concrete reforms but for the overthrow of the state and a new magical structure to rise on its ruins would have done the opposite. Instead of threatening to found a new city, they would have seized the old and killed or expelled the aristocrats. The hour was to come when Roman commoners would enter the bloody, disgusting zone of revolu-

tion. For the time being they were content to threaten secession. The patricians gave in.

And what was the outcome? Fichte said, with reference to Napoleon, that the secret of great policy simply consists in “actualizing that which is.” The leader of the multitude entered the government under the name of the tribune of the people; that is, he became a magistrate with the character of representative of the plebeians—not of the city as such.

From the standpoint of pure reason, to entrust *part* of the community, or a party as such, with ruling power over the *whole* community must appear unwise and irrational. Moreover, this magistrate, who was no magistrate proper and did not enjoy the honors connected with office, ruled in a highly efficient way and yet without ruling, properly speaking. The tribune could not submit a bill; he could only prevent—and fulfillingly prevent—that a bill be passed. His main contribution to government was the veto. Like the basilisk, which paralyzed whatever living being came before its eyes, the tribune could with one gesture suspend action of any other magistrate including the consuls. He could freeze the entire state machinery. Thus his ruling power consisted in preventing abuse of power; what he exercised was a curb on power, a counterpower.

For that purpose he was endowed with a privilege, more effective than all honors: his person was sacred, inviolable, taboo. Whoever touched a tribune was a dead man.

The institution of the tribunate, which rationalistic theories of state law esteem an absurdity, was the prodigious implement of state that insured for centuries the solidarity between the senate and the people, between patricians and plebeians. Assuming the year 471 B.C. to be the approximate date of its establishment, we may observe that for three centuries and a half the tribunate kept Rome from sliding down the *montagne Russe* of revolution. And who knows whether Roman concord might not have lasted much longer, had Rome continued to live enclosed in herself and true to her own spirit. But her unequalled triumph over the world around her laid her open, *intellectually unde-*

fended, to foreign influences of perilous potency. We must not forget that Tiberius Gracchus, the first Roman revolutionary, kept in his household a Graeculus called Blossius, a rationalistic philosopher of barren ways, an intellectual spider, spinning the web of unprofitable utopias.

The strong Rome of the creative centuries was Rome of the S.P.Q.R.—*Senatus Populusque Romanus*. That robust caste of men who had not enough imagination to be hypocrites, and who took reality at its face value, ever recognized the fact that every city is made up of two quasi cities and that national unity is the unity of at least two elements: the rich and the poor, the illustrious and the nameless, the creative (or *poietikos*) and the vulgar, *senatus populusque*—each of which is endowed with its own rights. I will resist the temptation of analyzing these two names, particularly *populus*, a word bodeful and pregnant like the cloud wherein the thunder travels. Let me merely state that the primitive meaning of *populari* was “to lay waste,” “to depopulate.” But be that as it may, the duality of senate and people hinged upon the tribunate through which the plebeians exerted their growing influence on government, as more and more able men arose from their ranks.

Moreover, when five centuries later the Roman Republic had vanished and nothing remained of all its time-honored magistracies but the ignominy into which they had fallen, when a dozen ferocious civil wars had wiped out all vestiges of liberty, and the heavy flood of murder had left *forum* and *curia* covered with clots of purple blood, and the universal anguish sent the survivors looking for a man who might, with absolute power, rebuild some sort of state and revive government—there was but one political institution left that could give legal support to that man’s seizure of power: the tribunate of the people. Of the venerable galley Rome, run upon the rocks in total shipwreck, the figurehead alone, that “absurd” institution of the tribunate, was left floating above the waves. “Augustus,” we read in Tacitus,<sup>14</sup> “revived the name of the highest office [the

<sup>14</sup> *Annales* III, 56.

tribunitian power] so that he need not assume the name of king or dictator and yet might bear a title that left no doubt as to his pre-eminence over all other powers.”

#### THEORY OF COMPLEMENTS IN COLLECTIVE LIFE

We have thought it necessary, instead of dealing simply in the abstract with what we called inspired or preferred institutions, to give an account of the general character of at least one such institution. But the office of the dictator would have answered our purpose as well. It is another example of that Roman realism which made no bones about admitting that in societies normalcy is only too abnormal. Everyday affairs were appropriately taken care of by the powers of the consuls and the praetors; but it was also incumbent upon the law to provide without squeamishness as to means for emergencies arising from external threat or internal frenzy. To such emergencies the dictatorship was the answer. However, Roman legal symbolism required that the dictator be elected in the darkness of night.

I have preferred the tribunate for our main example because the character of this institution accentuates the problem to which I wish to dedicate this last section.

What we have said regarding the tribunate may be summarized as follows: (1) The tribunate bestows executive—and not only advisory—power upon a magistrate who represents the interests and aspirations of only part of the community. Moreover, the tribune is endowed with the right of veto, an extremely easy and convenient vehicle of political action. In view of this, abstract reasoning inevitably comes to the conclusion that such an institution is impossible because it cannot fail to lead to a chronic deadlock of the governmental machine and thus to pave the way for *coups d'états* or revolutions in order to remove the obstacle. (2) The fact is that this institution enjoyed a long and glorious existence.

Why, then, is it that our “pure reason” should be thus mistaken? Very simply because it treats as an isolate—abs-tract—

object a thing that never does or can occur isolated. An institution as it functions *in reality* is not circumscribed by the form laid down for it in the law. It functions interlocked with others. Moreover—and here things begin to look interesting—the aggregate of all of them, the state, works in indissoluble concert with all other social activities that are distinct from the state—distinct but inseparable. Collective life is a system of functions which presuppose, limit, and support one another. The reality of an institution cannot be reduced to its legal form proper. Origins and ends of an institution lie in other social forces by which it is maintained and regulated.

Evidence of this is to be found in the institution of the tribunate. The tribune was the representative in government of the interests of the commoners. But these commoners were not any abstract masses. They were Roman plebeians to whom for many centuries the destiny of Rome mattered as much as their own interests; whose firm religious and secular beliefs set up within each individual the curbs of discipline and obedience; and who looked with spontaneous respect upon the nobility, proficiency, and wealth of their aristocracy. This is a fact—duplicated, by the way, in England only a generation ago—that cannot be discovered by pure thinking but must be narrated by history. Once this fact is known, the tribunate, which to rationalistic theories appears absurd and incomprehensible, turns out to be a most natural and intelligible thing. What remains opaque to “pure reason” becomes lucid to narrative or “historical reason.”

The tribunate of the people was the legal instrument through which the commonalty brought to bear upon government their disagreements with the senate. Such a thing could be done without grave upheavals because the people’s dissent did not exclude their wholehearted loyalty to the senate itself and the entire life of Rome. Thus the institution worked owing to something apart from it and from the state; it worked by virtue of a complement obtaining somewhere in the ultralegal depths of society. Once more we find the law leaning upon customs. Horace’s sentence *leges sine moribus vanae*—“laws without customs

are vain”—may be regarded as one of the main principles of sociology, provided the vague form of the wording is interpreted by means of a theory of the extralegal complements required by each law.

Here we begin to understand that each authentic institution is untransferable. Supposing we wanted to lift it out of its native soil, where should we cut it? Where begin and where end those political entities which language, owing to its magical power of creating phantoms, puts before us as independent and self-sustaining objects, calling them by the definite names of “tribunate of the people,” “parliament,” “freedom of the press”? None of these institutions terminates in a clear-cut line. They all reach back into the particular collective life where they originated and whence they receive their indispensable supplements, their strength and their control. He who wishes to transplant an institution from one people to another must bring along with it that people in its verity and reality.

Laws of foreign nations may serve as incitement and even as guidance—Rome not infrequently took her bearings from the juridical conceptions of Greece—but in the last instance every nation must invent for itself. Imitation of alien political institutions betrays a pathological state of society. A people cannot take its institutions from the manifest surface of foreign nations; it must discover them in its own innermost being if it wants to lead a life in freedom. Freedom cannot be achieved by proclaiming a few random liberties. Life in liberty presupposes a perfect continuity of circulation throughout the collective body, from the heart of its common beliefs to the skin which is the state, and back from the skin to the bowels of faith.