

2.2 — Liberalism and the State

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Ryan Safner

Assistant Professor of Economics

✉ safner@hood.edu

🔗 [ryansafner/publicS22](https://github.com/ryansafner/publicS22)

🌐 publicS22.classes.ryansafner.com



Recap: The Hobbesian Dilemma



- **Nash equilibrium:** everyone *defects!*
- **Socially optimal equilibrium:** everyone *cooperates*
- Hobbes' insight: **no individual has an incentive to cooperate when everyone defects!**

	Player 2	
	Cooperate	Defect
Player 1	Cooperate	d b a
	Defect	c a d c

$a > b > c > d$

The Hobbesian Solution



- **The State is our commitment device**
- Citizens (in principle) sign a **social contract**, i.e. a "**constitution**" that deliberately restricts their liberties
- In each of our interests to give up some liberties that restrict the liberties of others (e.g. theft, violence)
- In exchange, we empower **the State as our agent** to punish those of us that fail to uphold the social contract



Locke's Theory of the State of Nature



John Locke

1632-1704

"[W]e must consider, what state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, **within the bounds of the law of nature**...But though this be a state of liberty, yet **it is not a state of license**...**The state of nature has a law of nature to govern it**, which obliges every one: and **reason, which is that law**, teaches all mankind...**no one ought to harm another in his life, health, liberty, or possessions**..." (Ch. II).

Locke, John, 1689, *Second Treatise on Government*

Locke's Theory of the State of Nature



John Locke

1632-1704

"And that **all men may be restrained from invading others rights,** and from doing hurt to one another, and the law of nature be observed...**the execution of the law of nature is, in that state, put into every man's hands**...every man hath a right to punish the offender, and be executioner of the law of nature" (Ch. II).

Locke, John, 1689, *Second Treatise on Government*

Locke's Theory of the Origin of Government



John Locke

1632-1704

"Why will he part with his freedom? ... Though **in the state of nature he hath such a right, yet the enjoyment of it is very uncertain, and constantly exposed to the invasion of others...**the enjoyment of the property he has in this state is very unsafe very unsecure...**[He] is willing to join in society with others...for the mutual preservation of their lives, liberties, and estates,** which I call by the general name, **property.**" (Ch. IX).

Locke, John, 1689, *Second Treatise on Government*

Recall: Locke's Theory of Property



John Locke

1632-1704

"Though **the earth**, and all inferior creatures, **be common to all men**, yet **every man has a property in his own person**: this no body has any right to but himself. **The labour of his body, and the work of his hands, we may say, are properly his**. Whatsoever then he removes out of the state that nature hath provided, and left it in, **he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property**...that **excludes the common right of other men**: for this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, **at least where there is enough, and as good, left in common for others**," (Ch. V).

Locke's Theory of the Origin of Government



John Locke

1632-1704

"The great and chief end, therefore, of men's uniting into commonwealths, and putting themselves under government, is the preservation of their property." (Ch. IX).

- Three great "inconveniences" of the state of nature:
 1. We lack rules that set common standards for all
 2. We lack an impartial third party to judge disputes
 3. We may be unable to enforce the law of nature on our own

Locke, John, 1689, *Second Treatise on Government*

Consent?



John Locke

1632-1704

“No body doubts but an express consent, of any man entering into any society, makes him a perfect member of that society, a subject of that government. The difficulty is, what ought to be looked upon as a tacit consent, and how far it binds, i.e. how far any one shall be looked on to have consented, and thereby submitted to any government, where he has made no expressions of it at all. And to this I say, that every man, that hath any possessions, or enjoyment, of any part of the dominions of any government, doth thereby give his tacit consent, and is as far forth obliged to obedience to the laws of that government, during such enjoyment,” (S.119).





87 Years Later...

Declaration of Independence



Thomas Jefferson

1743-1826

We hold these truths to be **self-evident**, that **all men are created equal**, that they are endowed by their Creator with **certain unalienable Rights**, that among these are Life, Liberty and the pursuit of Happiness.

July 4, 1776 [Declaration of Independence](#)

Declaration of Independence



Thomas Jefferson

1743-1826

That **to secure these rights, Governments are instituted among Men**, deriving their just powers **from the consent of the governed**, That whenever any Form of Government becomes destructive of these ends, **it is the Right of the People to alter or to abolish it**, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, **as to them shall seem most likely to effect their Safety and Happiness**

July 4, 1776 *[Declaration of Independence](#)*

Philadelphia, 1787



The Story So Far



We need to **create a State to constrain individuals** from interfering against one another...



The Story So Far



We need to **create a State to constrain individuals** from interfering against one another...but **we also need to constrain the State**



The State



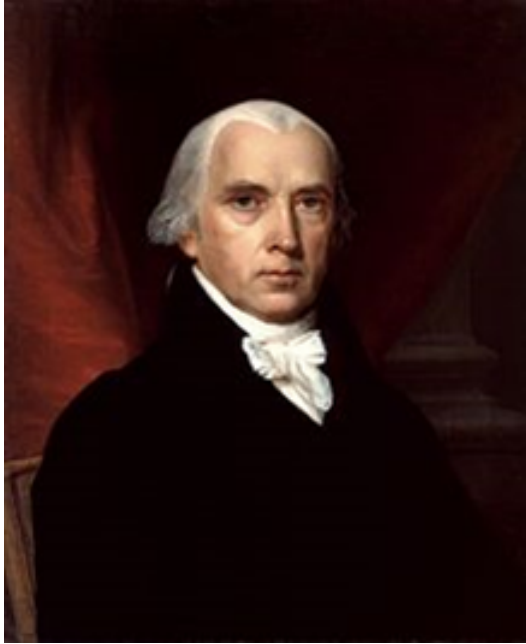
Max Weber

1864-1920

“Ultimately, one can define the modern state sociologically only in terms of the specific means peculiar to it, as to every political association — namely, the use of physical force...”

“**[A] state is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory**...Specifically, at the present time, the right to use physical force is ascribed to other institutions or to individuals only to the extent to which the state permits it. The state is considered the sole source of the ‘right’ to use violence. Hence, ‘politics’ for us means striving to share power or striving to influence the distribution of power, either among states or among groups within a state.”

Madison's Paradox I



James Madison

1751-1836

“If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself,” (Federalist 51).

1788, *The Federalist Papers*

Madison's Paradox II



- **Madison's Paradox:** a State strong enough to protect rights is strong enough to violate them at its discretion

Madison's Paradox III



James Madison

1751-1836

"It is in vain to say that enlighten statesmen will be able to adjust these clashing interests, and render them all subservient to the public good. **Enlightened statesmen will not always be at the helm,**" (Federalist 10).

"[E]xperience has taught mankind **the necessity of auxiliary precautions,**" (Federalist 51).

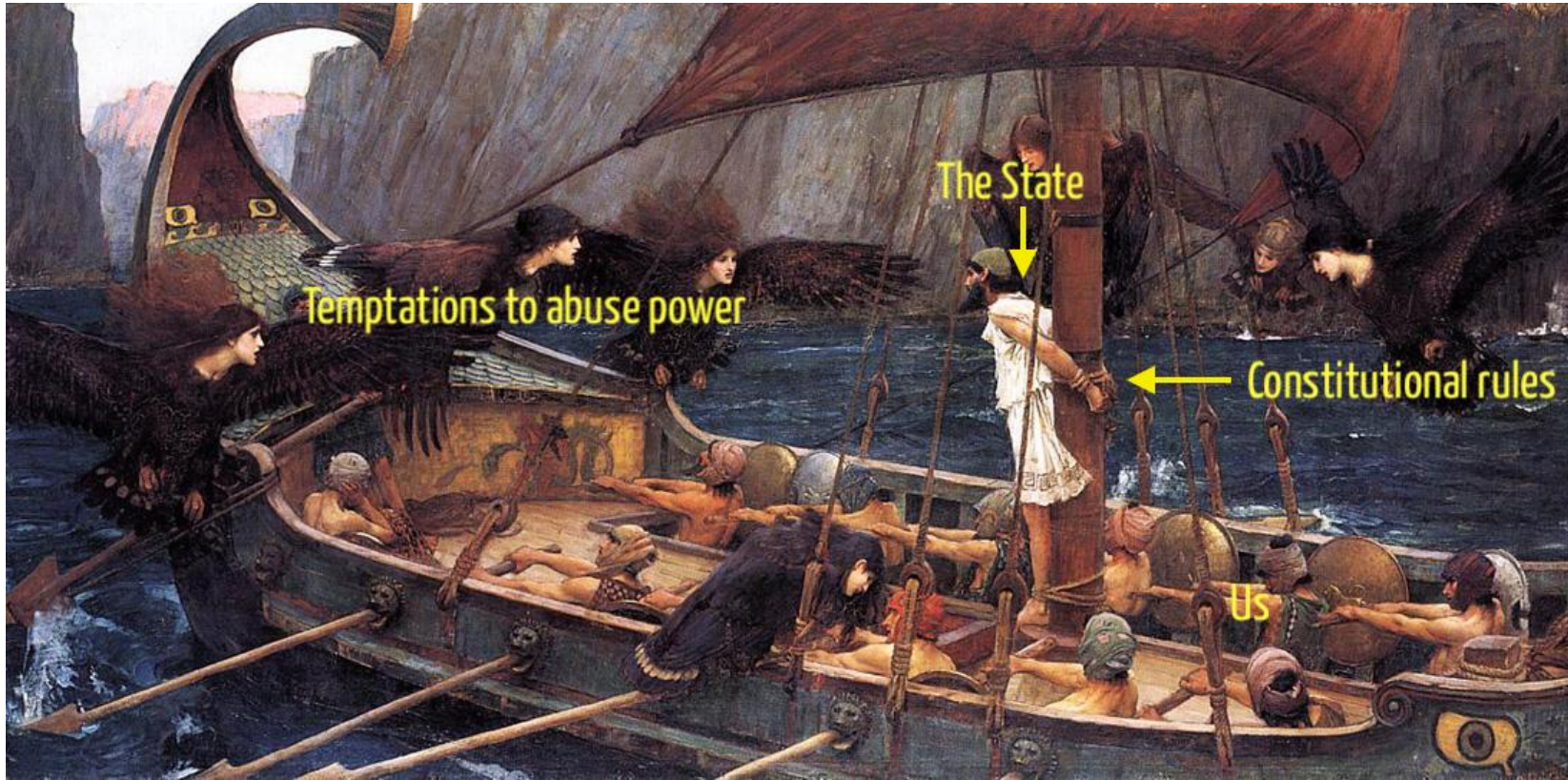
1788, *The Federalist Papers*

Credible Commitment



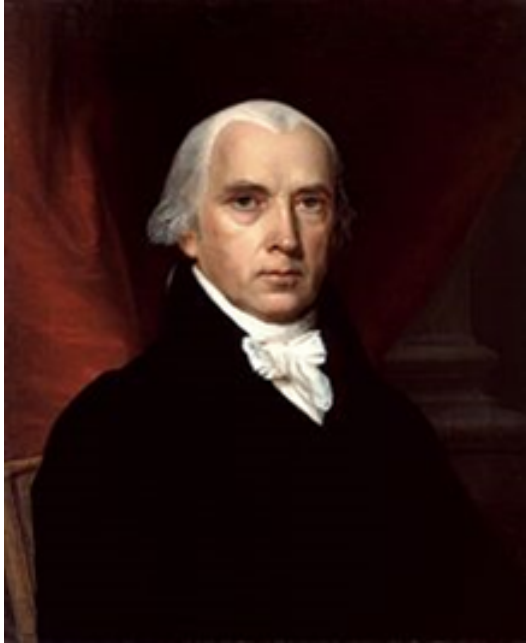
Odysseus and the Sirens by John William Waterhouse, Scene from Homer's *The Odyssey*

Credible Commitment



Odysseus and the Sirens by John William Waterhouse, Scene from Homer's *The Odyssey*

The Origin of Factions: Property?



James Madison

1751-1836

"The diversity in the faculties of men, from which the rights of property originate...is an insuperable obstacle to a uniformity of interests. **The protection of these faculties is the first object of government.** From the protection of different and unequal faculties of acquiring property, **the possession of different degrees and kinds of property immediately results...ensues a division of society into different interests and parties,"** (Federalist 10).

1788, *The Federalist Papers*

The Danger of Factions...and Democracy



James Madison

1751-1836

"Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are, and must be, themselves the judges; and the most numerous party, or, in other words, the most powerful faction must be expected to prevail." (Federalist 10).

1788, [*The Federalist Papers*](#)

The Danger of Factions...and Democracy



James Madison

1751-1836

"A pure democracy...can admit of **no cure for the mischiefs of faction...there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual.** Hence it is that such **democracies have ever been spectacles of turbulence and contention;** have ever been found **incompatible with personal security or the rights of property;** and **have in general been as short in their lives as they have been violent in their deaths,"** (Federalist 10).

1788, *The Federalist Papers*

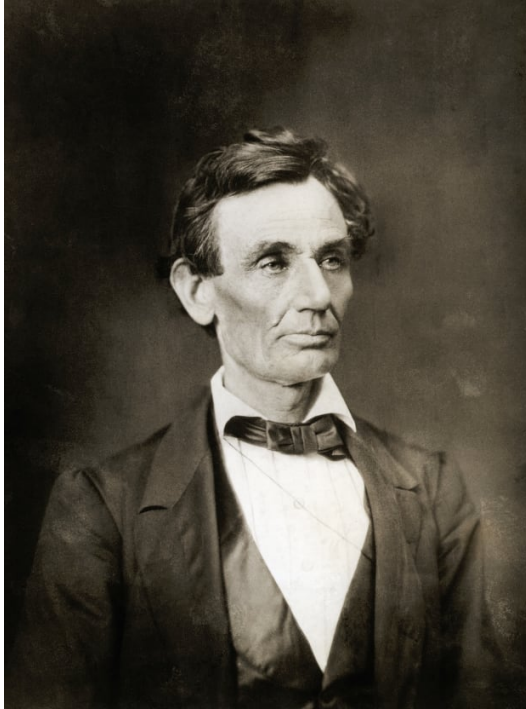
Beyond the Reach of Majorities



"The very purpose of a Bill of Rights was to **withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities** and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other **fundamental rights may not be submitted to vote**; they depend on the outcome of no elections."

West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943)

Example: Kansas-Nebraska Act 1854



What Democracy Is



Democracy



- **Democracy** or **majoritarianism**: rule by majority vote
- **Pure democracy is unable to handle disagreement, or protect individual rights**
- Democracy *may be necessary*, but is *not sufficient* for good governance



Constitutions Constrain Majorities to Protect Individuals



- **Constitutional rules** define the **domain of allowed collective decisions** and the **rules or procedures** for doing so
 - Importantly, restrict what majorities are allowed to determine
- Their practical function is **to protect minorities from the majority**
 - “The individual is the smallest minority”



Constitutional Rules vs. Political Rules



We must **agree at a constitutional level** so
that **we can disagree on political outcomes**

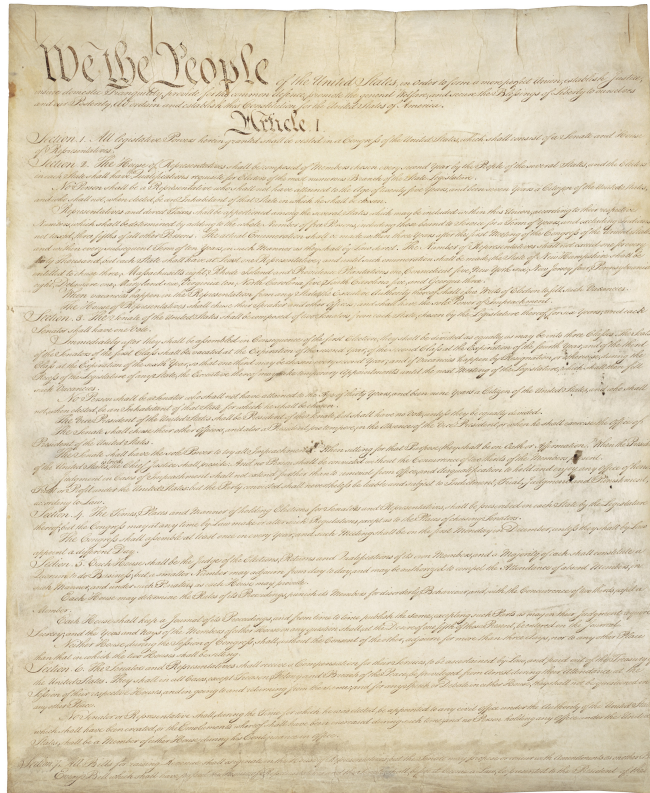
Liberal Democracy, or Constitutional Republics



- No country in the world is a *pure* democracy
- Largely either a
 1. **dictatorship** or a
 2. **constitutional republic** (“**liberal democracy**”)
- Constitutions must balance the will of the majority (**democracy**) with the rights and autonomy of the individual (**liberalism**), hence: **liberal democracy**



Compare



“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the government for a redress of grievances”

Amendment I to the United States Constitution, August 22 1789

Compare

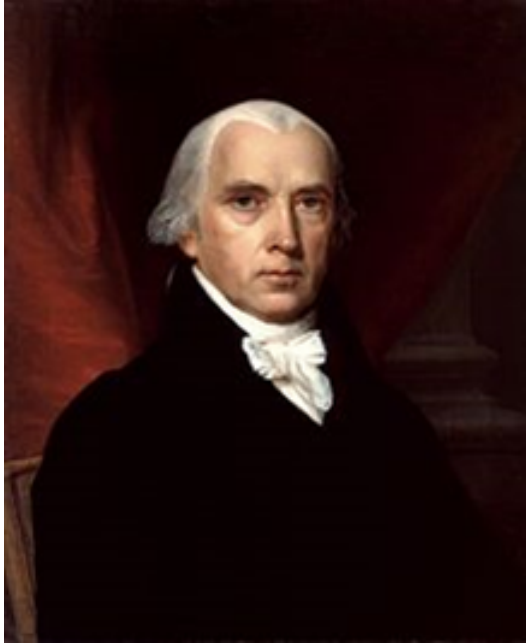


“10. No one is to be disquieted because of his opinions, even religious, *provided their manifestation does not disturb the public order established by law*”

“11. Free communication of ideas and opinions is one of the most precious of the rights of man. Consequently, every citizen may speak, write, and print *freely subject to responsibility for the abuse of such liberty in the cases determined by law*”

Declaration of the Rights of Man and of the Citizen, August 26 1789

Madison's Filtration and the Extended Republic



James Madison

1751-1836

- An "**extended republic**" that is large enough will create enough diverse factions so that no factions will be able to capture a majority
- **Filtration**: elected officials ought to pick higher elected officials rather than direct election
 - e.g. Senate (pre-1913), electoral college for President



What is Liberalism?

Ancient Politics and Romance



- Ancient writers (Greeks, Romans, etc) focus on politics as the highest purpose of social life
- Envisioning the good society and promoting **“the good of the polity”**
- Guardian class or philosopher-kings charged with maintaining justice for the polity
- Often religious, theological, moral element

Ancient Politics and Romance



Plato

c.428-c.348 B.C.

Plato, The Republic

"[T]he law is ... **contriving to produce this condition in the city as a whole, harmonizing the citizens together through persuasion or compulsion**, and making them share with each other the benefit they can confer on the community. It produces such men in the city, **not in order to allow them to turn in whatever direction each one wants**, but **to make use of them to bind the city together**," (Book VII)

Liberty of the Ancients



- No private individual sphere of life
 - The collective is entitled to everything, including regulating social mores
- Citizens are privileged (& burdened) with responsibility of collective affairs
 - Usually a restricted class, relying on others (including slaves) to do their work
 - Spend all their time deliberating in the assembly
- Politics as soulcraft, perfectability of human society



The Liberty of the Ancients



Benjamin Constant

1767-1830

“Thus among the ancients the individual, almost always sovereign in public affairs, was a slave in all his private relations. As a citizen, he decided on peace and war; as a private individual, he was constrained, watched and repressed in all his movements; as a member of the collective body, he interrogated, dismissed, condemned, beggared, exiled, or sentenced to death his magistrates and superiors; as a subject of the collective body he could himself be deprived of his status, stripped of his privileges, banished, put to death, by the discretionary will of the whole to which he belonged.”

The Liberty of the Moderns



“Among the moderns, on the contrary, the individual, independent in his private life, even in the freest of states, sovereign only in appearance. His sovereignty is restricted and almost always suspended. If, at fixed and rare intervals, in which he is again surrounded by precautions and obstacles, he exercises his sovereignty, it is always only to renounce it.”

Constant, Benjamin, 1819, "The Liberty of the Ancients Compared with that of the Moderns"

Benjamin Constant

1767-1830

The Liberty of the Moderns



Benjamin Constant

1767-1830

“[W]e can no longer enjoy the liberty of the ancients, which consisted in an active and constant participation in collective power. Our freedom must consist of peaceful enjoyment and private independence...the progress of civilization, the commercial tendency of the age, the communication amongst peoples, have infinitely multiplied and varied the means of personal happiness”

Constant, Benjamin, 1819, "The Liberty of the Ancients Compared with that of the Moderns"

The Liberty of the Moderns



Benjamin Constant

1767-1830

“First ask yourselves...what a citizen of the United States of America understand by the word ‘liberty’. For each of them it is the right to be subjected only to the laws, and be neither arrested, detained, put to death or maltreated in any way by the arbitrary will of one or more individuals. It is the right of everyone to express their opinion, choose a profession and practice it, to dispose of property...to come and go without permission, and without having to account for their motives or undertakings. It is everyone’s right to associate with other individuals...”

Liberty of the Moderns



- A **plurality** of goals: individual can go about her life for her own purposes unmolested
- Public institutions **protect the individual sphere of private life**
- Individual freedoms of speech, conscience, choice, religion, property, privacy
- Protection from arbitrary arrest or harassment by the collective



Liberty of the Moderns



- Politics as a series of **rules** that allow autonomous individuals, with their own ends, to get along together



The Danger of Applying Ancient Liberty Today



Benjamin Constant

1767-1830

“[Those that make the mistake the two] according to the maxims of ancient liberty, demands that the citizens should be entirely subjected in order for the nation to be sovereign, and that the individual should be enslaved for the people to be free.”

“[They] had mistaken, just as the ancients did, the authority of the social body for liberty...everything was subjected to the empire of the legislator. Every moment of the day was filled by some duty...They believed that everything should give way before the collective will, and that all restrictions on individual rights would be amply compensated by participation in social power.

The Danger of Applying Ancient Liberty Today



Benjamin Constant

1767-1830

“[L]et us ask the authorities to keep within their limits. Let them confine themselves to being just. We shall assume the responsibility of being happy for ourselves.”

Constant, Benjamin, 1819, "The Liberty of the Ancients Compared with that of the Moderns"

The Essence of Liberalism



- Primacy of protecting individual rights
 1. rule of law
 2. pluralism & toleration
 3. appreciation of commerce
- How does this map to today's political ideologies?





Extras

Consent?



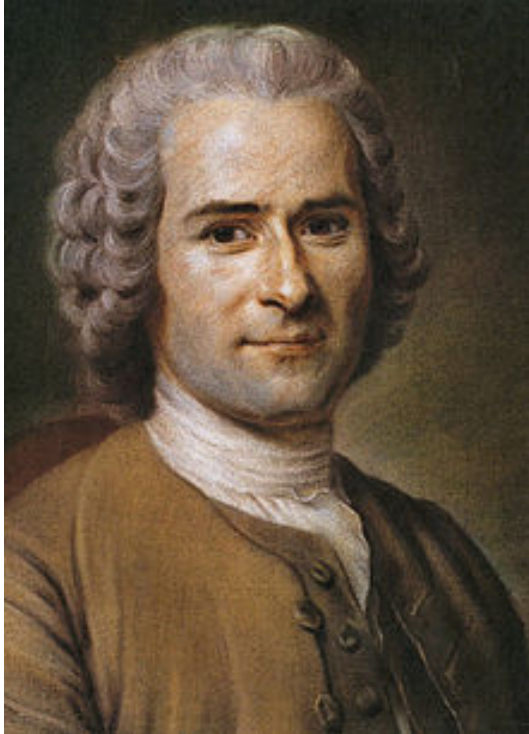
David Hume

1711-1776

“But...where he thinks (as all mankind do who are born under established governments) that by his birth he owes allegiance to a certain prince or certain form of government; it would be absurd to infer a consent or choice, which he expressly, in this case, renounces and disclaims.”

“Can we seriously say, that a poor peasant or artizan has a free choice to leave his country, when he knows no foreign language or manners, and lives from day to day, by the small wages which he acquires?...We may as well assert, that a man, by remaining in a vessel, freely consents to the dominion of the master; though he was carried on board while asleep, and must leap into the ocean, and perish, the moment he leaves her.”

The Social Compact, Once Again



Jean-Jacques Rousseau

1712-1778

“There is but one law which, from its nature, needs unanimous consent. This is the social compact; for civil association is the most voluntary of all acts...Apart from this primitive contract, the vote of the majority always binds all the rest. This follows from the contract itself. But it is asked how can a man be both free and subject to wills not his own. How are the opponents at once free and subject to laws they have not agreed to?”

“I retort that the question is wrongly put. The citizen gives his consent to all laws, including those which are passed in spite of his opposition, and even those which punish him when he dares to break any of them,” (Book IV, Ch. 2, “Voting”),