

The idea of popular sovereignty

BY CORTEZ A. M. EWING

Despite the fact that there is in America no visible alternative to democracy, this form of government is subjected to a tremendous storm of criticism. Already this animadversion has assumed the conceit and the integrity of "higher criticism." It charges that democracy has never had a really sound and substantial basis, that it never has, nor never will, work without concomitant chaos, and that the plutocracy of the United States has practically purged the American democracy of its theoretical function in the sphere of popular government. Sugar-coated legislation has oftentimes effected popular acquiescence in untoward alterations of democratic precedents. Norman Angell gloats over the admission of a prominent American capitalist that the people must have their circuses, but that thereafter the persistent plutocratic leaders are left unrestrained in their efforts at securing special privileges and profits. Many of the critics have not taken the trouble to acquaint themselves with the fundamental philosophic tenets of democracy. With that information, they fabricate many and interesting theses concerning the failure of the system to operate for the common good. Without particularly holding a brief for democracy, I believe that these political surgeons should know intimately the nature of the organism that they seek to destroy. Mere lack of cordiality for a particular institution is scarcely an adequate reason for seeking its abolishment. The true reformist is he who presents a practical alternative. Is there justification for attacking the theoretical basis of democracy? Does the doctrine of popular sovereignty represent a rational explanation of fundamental political inherencies of the human individual.

The phenomenon of American democracy cannot be understood and interpreted without a full knowledge of the rudiments of the Seventeenth and Eighteenth century social compact theories. These theorists—Hooker, Hobbes, Sydney, Locke, Harrington, Vattel, Grotius, Pufendorf, Milton, Montesquieu and Rousseau—for one purpose or another, sought to formulate a rational development of the national state. Utilitarianism was as yet unborn, and not even anticipated. Truths sprung inevitably from the fulness of

God's wisdom or from the eternal verities of his express will—natural law. Therefore, these men delved into the fundamentals of political organization and constructed theses on the most probable development of pre-historic man into organized political society. Seeking different ends, they travelled different routes. Hobbes glorified monarchy; Locke, Hooker, Milton and Sydney defended Parliament; and Rousseau raised common man to the dignity of a human being. That the latter achieved his purpose by creating man in the image of an animal does not detract from the importance of his contribution. For thereafter, man stood up, clothed with a new and enduring dignity. Theretofore, man had been humble, exceedingly humble, for he was regarded as important only because he might, by near faultless behavior, qualify for the Augustinian City of God.

In his *Leviathan* (1651), Thomas Hobbes describes his conception of the state of nature. For his own particular purposes, Hobbes visualized the state of nature as a dangerous society, featured by the continuous struggle of one against all and all against one (*bellum omnium contra omnes*). This persistent bellicosity resulted naturally from the unlimited discretion of individuals. Without accepted rules of behavior, every man sat as the judge of his own actions. Might constituted right, not in an ethical sense, but in the capacity to enforce will. Moreover, Hobbes regarded man as selfish, quarrelsome, mean, nasty, covetous, and unprincipled generally. Inhabited by individuals of this sort, the state of nature was far from an ideal place to live. And thus, political society, and especially authority as expressed in a governmental sovereignty, represented the sole effective means by which the intransigence and the inherent natural selfishness of man could be successfully controlled. With this viewpoint, it is not strange that Hobbes defended absolute monarchy. However, his belief in the utter ignobility of man may well have been embraced because of his desire to create a philosophic system in support of his beloved absolutism. Indubitably, there exists a wide chasm between the Hobbes appreciation for human nature and that which exists

in the *Grundlagen* of American democracy; yet his was an important service to the development of the democratic ideal. By popularization of the state-of-nature speculation, he contributed a methodology to later theorists. It is not to be understood that Hobbes was the first to philosophize upon the probable existence of a pre-social state, for the idea was in existence, though in a very vague and ill-defined form, prior to the Christian era. Moreover, Althusius, Grotius and others used it extensively to explain the inception of political society. None, it must be admitted, had ascribed to it the importance that Hobbes did in his *Leviathan*.

As Hobbes had sought to develop a political philosophy in defense of the Stuart dogma of absolutism, John Locke, his most eminent immediate successor, motivated by an entirely different purpose, attempted to rationalize the Puritan Revolution and the idea of Parliamentary supremacy. Though not original—he having drawn materially from the works of Hooker, Milton, Sydney and Harrington—Locke showed manifest ability as a synthesizer of preceding liberal theories. He, too, postulated a state of nature; yet, different from Hobbes, he contended that life in this primitive society was not, on the whole, necessarily unbearable nor extremely hazardous to personal safety. In fact, Locke conceived no impelling reasons for the erection of the political state except for more adequate protection to property and for a greater uniformity in the administration of justice. Generally, however, man was fairly well behaved and considerate of the rights of others. Besides, there were certain accepted rules (natural law), that operated in the state of nature. But, since each inhabitant acted as judge, in so far as he was personally concerned, in the interpretation of these common rules of behavior, there existed, on account of the multiplicity of judges, a general lack of uniformity of justice. Therefore, to escape the irksomeness and the petty speculations of this unorganized society, the inhabitants mutually agreed, in the social compact, to surrender certain of their natural rights to the community, especially those regarding the protection and possession of property. Unlike the Hobbesian thesis, the political authority remained under the loose control of the community. Hobbes had argued that the original social compact selected a ruler who exercised the entire authority of the state. This ruler was not a party to the contract and, therefore, for practical purposes, still existent in the state of nature, the ruler, in his complete powers could wreak his will against any member of the citizenry, and without responsibility. Those who opposed him,

and were killed in that disobedience, were deemed by Hobbes to have committed suicide. For, if a subject refused to obey the command of the sovereign, he was deemed to revert to the state of nature and the sovereign, because of that fact, could employ any means of coercion that he desired.

Locke maintained that the state, and not the king, retained the whole authority created and pooled by the social contract. Hence, under his interpretation, the legislature (Parliament), as directly representative of the whole body of citizens, expressed the will of the community through the enactment of general laws. Thus, when there arose a dispute between the legislature and the executive, the former was supreme. Furthermore, regardless of any assumed independence, the executive was subject to and restrained by the laws. If the king violated the contract, he could be deposed, and those who dethroned him were not revolutionists. They were merely law enforcement officers. Thus, James II was lawfully deposed when he persisted in disregarding the will of the *de jure* sovereign. In his painfully precise and rationalistic manner, Locke went far in developing the idea of popular sovereignty. Mere man was clothed with a new governmental dignity, for, collectively, the people constituted the "masters of the legislature." However, it is not likely that Locke regarded man as particularly able or intelligent. For argumentative purposes, the "people" were quite expedient. And, since he sought a handy and popular basis for his thesis on the supremacy of Parliament, he used the innocent unsuspecting citizenry for that purpose. However, it is interesting to note that Locke stopped after attributing sovereignty to the people. As with most of the popular sovereignty theorists, his postulation of ultimate authority in the people is far from convincing. How would an alteration of the governmental system be effected? Since the sovereign is ulterior to government, would a change in governmental organization constitute revolution? What standards of measurement could be applied to the common will of the people in order to differentiate between will and mere casual opinion? Answers to these questions are not to be discovered in Locke's *Two Treatises of Government*. His chief contribution to the idea of popular sovereignty lies in his assumption of its ultimate, if not immediate existence, and especially in his able synthesis of the Parliamentary defenders' arguments. Finally, it must be realized that the Puritan-Roundhead-Whig triumph over the doctrine of unlimited royal prerogative furnished a contemporary currency for the Lockean proposition.

Though Montesquieu was probably more influential in the development of the doctrine of American democracy, his contribution did not include an ennoblement of the common man. Like his predecessors, Montesquieu dallied with the state of nature. Indeed, at this period, it was highly fashionable to employ that line of reasoning. Anyone who was derelict enough to omit it could scarcely lay claim to serious thinking, and no philosopher would have dared to omit the all-important state of nature from his discussions. To ignore it, would have, in itself, been regarded as sufficient evidence of the intellectual mendacity of the speculator. Montesquieu bowed to the current demands on respectable philosophy, but did little more than obey the letter of the law. He gave very little attention to it. His was not an interest in such ethereal phenomena. At heart a pragmatist, he reminds us somewhat of Machiavelli, and especially in his contention that the facts of the political situation should determine the nature and form of the government that obtained. But, to Montesquieu, man, in the state of nature, was a weak, cowardly, and cringing animal, who spent his life running from real and apparent dangers. Only in the erection of the state by means of the social contract did this weakling achieve a security that produced poise, confidence and courage.

Democracy based upon popular sovereignty was, to Montesquieu, possible only when the body politic possessed an adequate public virtue to protect the common welfare. This attitude presumed, of course, an high grade intelligence on the part of the common, or uncommon, man, and was, he thought, possible only in a district of small geographic compass. Homogeneity of population, then, became of primary importance in the successful functioning of democracy.

Many critics regard Jean Jacques Rousseau as the apostle of individual liberty which, of course, is quite true. However, his greatest contribution to political theory was in the definition of sovereignty. Reversing the logic of Hobbes, he created a sovereignty as complete as that described in the *Leviathan*. The only difference lay in the situs of that comprehensive and unlimited authority. In the social contract, each member of the pre-political society contracted with every other member to surrender certain individual rights, including all those rights necessary to a full and complete protection of the whole body politic. But, argued Rousseau, that political state is not the highest form of social development. In its inception, and for countless generations thereafter, the state of nature

constituted a perfect habitation for man. Therein, in a daze of heavenly bliss, glorious man lived in perfect contentment. It was the blessed state of non-interference. Life was an end within itself. Hunger was easily dissipated, and private property, and love and respect for the same, had not yet degraded man. That this perfect life did not persist was not the fault of the system, but of the few rascals who came to exploit their innocent and naïve neighbors. The political state, then, was brought into being to restrain these immoral few. And in order to restrain them more effectively, and without fail, complete sovereignty was vested in the whole number of inhabitants. Thus, each man was not only a citizen of the state with definite responsibilities to the government, but he was also a part of the sovereign. Man being naturally noble, the state would of necessity be noble, for it was only the totality of the power; intelligence, and virtue of the individual citizens. And, because of this fact, there would be no reason to believe that the sovereign would rule in an arbitrary and capricious manner. On that point, he improved upon the system of Hobbes. He postulated the inner restraint that has come to identify the theory of the modern humanitarians.

The founders and firebrands of the rising young American democracy in the dying decades of the Eighteenth century were unreservedly Rousseauists. Thomas Jefferson, Thomas Paine, John Taylor, Patrick Henry, James Madison and many others were not mere neophytes in the ritual of democratic dogma. Their's was a conviction that forgot the possibility of error. They accepted the evangel as an incontrovertible jot of evidence that, in the grand unfolding of the system of the world, the day of the common man had arrived. If he had been denied his true station, it was to be regarded as nothing more than a *fait accompli*. Ignorance and apathy were no longer legitimate excuse for depriving him of his natural duty as an individual unit in the collective sovereign. And Jefferson was so confident of the inherent humanity and competence of the average man that he eulogized him at every opportunity. A plowman, he remarked, is as competent to decide upon important political questions as a philosopher. This general confidence in the political capacity of the common man, blossoming faultlessly in the philosophy of Rousseau, and reinvigorated by the Jacksonians of the Twenties and Thirties, remains today the prevailing *raison d'être* of the American democracy, and it will be a distant day, indeed, before that myth loses its poignancy in the collective mind of the United States.