1947

The Political Philosophy of Orestes A. Brownson

Lawrence John Roemer

Loyola University Chicago

Recommended Citation
http://ecommons.luc.edu/luc_diss/11

This Dissertation is brought to you for free and open access by the Theses and Dissertations at Loyola eCommons. It has been accepted for inclusion in Dissertations by an authorized administrator of Loyola eCommons. For more information, please contact ecommons@luc.edu.

This work is licensed under a Creative Commons Attribution-Noncommercial-No Derivative Works 3.0 License.
Copyright © 1947 Lawrence John Roemer
THE POLITICAL PHILOSOPHY OF ORESTES A. BROWNSON

By
Lawrence John Roemer

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE OF DOCTOR OF
PHILOSOPHY IN LOYOLA UNIVERSITY

June
1947
VITA

Lawrence John Roemer was born in Wilmette, Illinois, October 22, 1916.

He was graduated from St. George High School, Evanston, Illinois, June, 1935. He attended De Paul University, St. Viator College, Bourbonnais, Illinois, and Loras College, Dubuque, Iowa.

The Bachelor of Arts degree was conferred by Loras College, June, 1939. The Master of Arts degree in philosophy was conferred by Loyola University, June, 1941. The thesis submitted for the Master of Arts requirement was entitled "Brownson as a Critic of Kant."
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>CHAPTER</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>I INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>II THE RIGHTS OF THE INDIVIDUAL</td>
<td>1</td>
</tr>
<tr>
<td>III BROWNSON'S CONCEPTION OF LAW</td>
<td>32</td>
</tr>
<tr>
<td>IV THE ORIGIN OF GOVERNMENT IN CONTRACT</td>
<td>59</td>
</tr>
<tr>
<td>V THE DEMOCRATIC THEORY</td>
<td>80</td>
</tr>
<tr>
<td>VI THE NATURE AND ORIGIN OF POLITICAL AUTHORITY</td>
<td>106</td>
</tr>
<tr>
<td>VII THE NATURE OF THE STATE</td>
<td>129</td>
</tr>
<tr>
<td>VIII THE UNION OF STATES</td>
<td>156</td>
</tr>
<tr>
<td>IX THE AMERICAN REPUBLIC</td>
<td>175</td>
</tr>
<tr>
<td>X CONCLUSION</td>
<td>202</td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
<td>228</td>
</tr>
</tbody>
</table>
CHAPTER I

The scope and aim of our investigation is the presentation of an organized or systematic view of Brownson's political philosophy. This includes particularly the argumentation whereby Brownson supports his conclusions. This task requires one to sift the pertinent material from the multitude of articles on political topics penned by this prolific writer from 1838 to 1875.

Orestes Brownson was a professional reviewer. As such he touched upon every important issue of his day. In his commentaries he strove to analyze his subjects carefully, to delve into the basic principles involved. So it is that in his observations on contemporary political problems, he frequently transcended immediate issues to enter the realm of philosophy.

Since Brownson's discussions were prompted by current issues, it is difficult to comprehend and to evaluate his political philosophy without noting specifically the problems

---

1 His writings fill twenty large volumes which have been collected and arranged by his son. Henry P. Brownson, The Works of Orestes A. Brownson, Detroit, 1882-1887. Citations hereafter are to the volume and page of these works.
that prompted it. However, detailed biographical information is not pertinent to the topic treated, and is furthermore unnecessary because of comparatively recent biographies which are readily accessible. Therefore it seems advisable to indicate briefly the salient features of his life and times, selecting only information that is helpful, and even necessary, for an understanding of Brownson's position.

2 Doran Whalen (Sister Rose Gertrude Whalen, C.S.C.), Granite for God's House, New York, 1941; Arthur M. Schlesinger, Jr., Orestes A. Brownson: A Pilgrim's Progress, Boston, 1939; Theodore Maynard, Orestes Brownson—Yankee, Radical, Catholic New York, 1943. It is helpful to know that these biographies are based largely upon a three volume life of Brownson by his son, Henry F. Brownson, who reprints most of the important letters sent and received by his father. Orestes A. Brownson's Early Life, Middle Life, Later Life, Detroit, 1898-1900. It omits letters which are purely personal, such as Brownson's quarrels with his family and his indulgence in intoxicating beverages in his old age. Schlesinger's work is perhaps the most helpful, although his treatment of the period immediately prior to Brownson's death appears slightly misleading. The work of Whalen is confessedly pro-Brownson, to such a degree that it is inaccurate, as is indicated clearly by Wilfred Parsons, S.J., "Brownson, Hecker, and Hewitt," Catholic World, (1941), CLIHI, 396-408. Maynard adds information concerning Brownson as a Catholic omitted by Schlesinger, and with considerable flourish indicates defects in Whalen's study.
Orestes A. Brownson was born in Stockbridge, Vermont, on September 16, 1803. His parents were Sylvester and Relief Metcalf Brownson. Sylvester died shortly after the birth of Orestes and his twin, Daphne Augusta. The boy was one of six children. When he was six years old his mother, unable to continue the support of her family, placed Orestes with an aged couple in the town of Royalton where he was reared.

The people with whom he lived were New England Congregationalists. Brownson says that they treated him with great kindness and affection. However, he led a rather isolated existence:

Properly speaking I had no childhood . . . . Brought up with old people, and debarred from all the sports, plays, and amusements of children, I had the manners, the tone, and tastes of an old man before I was a boy. A sad misfortune.

Because of his environment Brownson was free to devote a great part of his time to reading, an accomplishment he achieved at an early age. He read whatever was available,

---

3 The brief account of Brownson's life given in this chapter is based, for the most part, on Brownson's autobiography, The Convert, V, 1-200.
4 They did not attend the services of this congregation because its meeting place was too far from their residence. V, 7.
5 V, 4.
although this was comparatively little. He was interested particularly in the Scriptures and especially in the Passion. Thus he says that his reading was confined "... principally to the Scriptures, all of which I had read before I was eight, and a great part of which I knew by heart before I was fourteen years old."

He recounts an incident at the age of nine which gives us an insight into the temperament which characterized both his youth and maturity. He tells us that he was permitted to accompany a much older boy to the square at Toyalton -

... to witness a muster, or general training of a brigade or militia. On returning home, I was asked what I had seen to interest me. I answered that I had seen two old men talking on religion. In fact, I was so much interested in their discussion that I quite forgot the soldiers, though I came of a military family, and almost forgot to eat my card of gingerbread. The discussion, I remember, was on free-will and election, and I actually took part in it, stoutly maintaining free-will against Edwards, who confounds volition with judgement....

This incident indicates that Brownson possessed a rather

---

6 "Our family library consisted of a Protestant version of the Scriptures, a London edition; Watt's Psalms and Divine Songs, and The Franklin Primer, to which were subsequently added Edward's History of Redemption; Davies's Sermons; a History of the Indian Wars by Dr. Sanders ..., a mutilated copy of Philip Quarle, ... and during the war of 1812 with Great Britain, a weekly newspaper, published in Windsor by Alden Spooner." V, 4-5.
7 V, 5.
8 V, 5.
unusual aptitude for becoming involved in arguments. He mentions also that he possessed this inclination in common with a fiery temper: "I had an irritable temper, and was subject to violent outbreaks of passion, but I tried hard to control myself. ... and, till I was man grown, I do not believe I ever suffered the sun to go down upon my wrath." The incident indicates further the primacy which matters pertaining to religion and controversy occupied in the life of Brownson. In fact anything as mundane as a card of gingerbread remained of secondary importance throughout his life.

As has been noted, Brownson refers to his lack of childhood companionship as a sad misfortune. While it undoubtedly was such in the sense that it deprived him of something, it also encouraged his tendency to meditate upon scriptural passages, and especially upon the accounts of the Passion. And while his solitude was due in part to circumstances over which he had no control, it was also partially voluntary. Thus he says:

9 V, 6. It seems that Brownson gave way to his temper rather frequently, but especially in the heat of an argument. Cf., for example, the following in which Schlesinger, 153, describes Brownson's visits to Brook Farm: "The starry optimism of the dwellers frequently stirred him to debate where, argument failing, he sought to overawe by sheer physical massiveness, raising his voice, pounding on the table, and giving way to anger when his opponents failed to grasp his point."

10 Maynard, 282-283, notes that Brownson was distressed financially at rather frequent intervals. He attributes this not to Brownson's lack of shrewdness in managing finances, but to the fact that they were not sufficiently important to receive a great deal of his time and attention.
Sometimes I seemed to hold long familiar conversations with him [Christ] and was deeply pained when anything occurred to interrupt them. Sometimes, also, I seemed to hold a spiritual intercourse with the Blessed Mary, and with the holy angel Gabriel, who had announced to her that she was to be the mother of the Redeemer. I was rarely less alone than when alone. . . . I preferred to be alone, for then I could taste the sweets of silent meditation, and feel that I was in the presence of Jesus and Mary, and the holy angels; yet I had not been baptized, and had very little instruction except such as I had obtained from reading the Holy Scriptures.

While Brownson had no particular instruction in religion he frequently attended the meetings of the various sects which were held in the vicinity. These included the Methodists, Baptists, Universalists and Christians. He could discover no difference in their respective doctrines, but he preferred the Methodist preachers because they

... appeared to have the stronger lungs; they preached in a louder tone, and when they preached the people shouted more. I thought them the best, because they made the most noise, and gave the most vivid pictures of hell-fire, and the tortures of the damned.

All I learned, however, from either was, that I must be born again or go to hell, get religion or be damned. The more I listened to them, the more I feared hell, and the less I loved God.

At the age of fourteen he left his guardians. His mother took him, along with the rest of the family, to Ballston Spa, in New York. He earned his livelihood by working in a printer's
office. He also attended an academy in the vicinity, but only for a very brief period. His stay at the academy marked the beginning and end of his formal education. During this period he retained his interest in religion, but he was exposed to many conflicting theories. He encountered atheists, Universalists, deists. He mind became confused. The more he trusted his reason, the further it led him from religion. Yet he felt the need of religion. He was in a position which necessitated a choice between reason and religion. At the age of nineteen he decided in favor of religion. He says that he was passing a Presbyterian meeting house on a pleasant September day, entered it, and was deeply affected by the services. The following Sunday he was baptized and received as a member of the congregation.

His life as a Presbyterian was not very agreeable. After attending his first meeting on the day after his baptism, he realized he had made a mistake. The account of his "Presbyterian-

---

13 The exact extent of Brownson's formal education is unknown. Schlesinger, 7, mentions that "... he briefly attended a neighboring academy, probably until his earnings ran out... Brownson says he was attending school at the age of nineteen, but does not indicate his age at enrollment. V, 10. Maynard, 12, n. 13, gives a reasonable explanation: "... After Orestes had exhausted his savings, he worked as a printer, and then, having earned enough, resumed his studies." The only thing certain in regard to Brownson's formal education is that it was brief.
14 V, 9.
15 V, 10.
ian Experience" in The Convert describes the particular congregation he joined. It also describes his own repugnance towards Presbyterianism in its doctrines. His position was a painful one. He endured his torments for two years. During this time he analyzed his position. He had abandoned reason for an authoritative teacher. In Presbyterianism he found no authority. It directed him to the Bible, asking him to read it with a prayerful mind. Thus it disclaimed all responsibility as an authoritative teacher. Brownson immediately detected an unfairness in this attitude:

But while the Church refused to take the responsibility of telling me what doctrine I must believe, while she sent me to the bible and private judgment, she yet claimed authority

16 Schlesinger, 10-11, notes that his description on this point is exaggerated. He objects, for example, when Brownson says that the members of the Congregation were bound to watch over one another with fraternal affection. Brownson says that "I was not long in discovering that this meant that we were each to be a spy upon the others, and to rebuke, admonish, or report them to the Session. My whole life became constrained. I dared not trust myself in the presence of a church member, to a single spontaneous emotion. I dared not speak in my natural tone of voice, and if I smiled, I expected to be reported." V, 12.

17 The description of his own state of mind may be, and undoubtedly is, accurate, even though it is exaggerated in regard to the particular congregation he joined. It has been noted that Brownson joined the congregation on the spur of the moment. Consequently he was unaware of his incompatibility with Presbyterianism. Furthermore, he was in an extremely disturbed state of mind drawn between rationality or reason and religion. Taking all these factors into consideration one may easily believe that Brownson was rather nervous about the entire situation and consequently speaks the truth when he says that his whole life was constrained.
to condemn and excommunicate me as a heretic if I departed from the standard of doctrine contained in her confession.

Having become more keenly aware of his position, Brownson realized very vividly that he had made a mistake in abandoning his reason. For if he denied it, or looked upon it as unworthy of his confidence, he would be as though he were without it. Consequently he would be no better than an ox or an ass. Therefore he would be qualified no better than an ox or an ass to determine whether God exists or has made a revelation. Furthermore, an ass could not receive a revelation even on the supposition that God exists and has made one. So he decided that to revoke reason as he had done was a "cowardly act, the act of an intellectual desperado."

Hereafter he would trust his reason. He would never again abandon it. He would not believe anything which contradicted it. Brownson made this decision at the age

18 V, 13. Brownson continues the same trend of thought. "This I regarded as unfair treatment. It subjected me to all the disadvantages of authority without any of its advantages. The church demanded that I should treat her as a true mother, while she was free to treat me only as a stepson, or even as a stranger. Be one thing or another, said I; either assume the authority and responsibility of teaching and directing me, or leave me with the responsibility and my freedom. If you have authority from God, avow it, and exercise it. I am all submission. I will hold what you say, and do what you bid. If you have not, then say so, and forbear to call me to an account for differing from you, or disregarding your teachings. Either bind me or loose me. Do not mock me with a freedom which is no freedom, or with an authority which is illusory." V, 13-14.

19 V, 18.
of twenty one. He says of it that it marks the beginning of his intellectual life.

After severing connections with Presbyterianism Brownson also left New York in order to teach at Detroit. Sometime after arriving there he became a victim of malaria. He was so seriously ill that he was not expected to recover. He was confined to his room during the latter part of 1824 and the early part of the following year. During his illness he turned his attention toward Universalism. After his recovery he returned to Vermont. He applied for and received a letter of fellowship as a preacher, and was formally ordained an Evangelist during the summer of 1826.

Following his ordination Brownson returned to New York. He lived and preached successively in Fort Anne, Whitehall, Lightfield, Ithaca, Geneva and Auburn. This period of his career is

---

20 V, 19.
21 Brownson does not mention these facts in The Convert; he refers to them briefly in XV, 284-285.
22 Brownson became interested in Universalism through his mother's sister who gave him some literature on the subject when he was about fifteen. He had read some of it before he was a Presbyterian. While it aroused his interest it did not convince him. But, after rejecting Presbyterianism, Brownson says "... I was necessarily forced back on the point whence it had taken me up, when I believed, so far as I believed anything, the doctrine of Universalism." V, 26. Thus it was quite natural for him to study Universalism more intensely after rejecting Presbyterianism. V, 20-28.
23 V, 30.
24 V, 31.
important for two reasons: In 1827 he married Sally Healy. It also marks the beginning of his career as a writer. He wrote articles for The Gospel Advocate and Impartial Investigator, and became its editor in 1828. Brownson describes his connection with the magazine:

I had written a good deal for the periodical while at Ithaca, had charge of it during the absence of its editor, and had acquired through its pages considerable reputation as a writer. ... I conducted it for a year, but with more credit to my free, bold and crude thinking, than to my piety or orthodoxy even as a Universalist.

Brownson soon became dissatisfied with Universalism. It was unreasonable. Somewhat untactfully for a minister he expressed his doubts openly, not only in regard to Universalism but in regard to Christianity. He and Universalism were incompatible. His own brief description is again cited as indicative of the temperament characteristic of Brownson.

But with these doubts hanging over me, it was clear that I could not, as an honest man, present myself before the public as a Christian minister. It is true I did not write or preach differently from what I thought and felt....

But, although I was beginning to acquire a prominent position in the denomination, I felt that I out to leave it. I could not consent to profess what I did not honestly believe....

I wanted the truth, would labor for it, harder than most men perhaps, but never to stop with its mere apprehension or barren contemplation. My disposition was practical rather than speculative.
This somewhat detailed exposition of his early life indicates Brownson as a man who was impulsive, as evidenced by his sudden entrance into Presbyterianism. Once in a position he examined it very carefully. Thus he developed a power of analysis—of stripping an issue of anything extrinsic. In Presbyterianism he wanted an authoritative teacher; he did not find it. Anything else was merely embellishment. Brownson was interested in one issue at one time: i.e., in concentrating upon one side of it to the exclusion of everything not explicitly ad rem.

As a writer and a lecturer he was, as indicated, bold and free; he was also crude in the sense that he lacked subtlety or polish. He had a fiery temper. He was imprudent in his utterances, having little regard for the consequences ensuing from what he said. He loved truth. He wanted to convey it to others, to defend it against any and all comers. As a man writing boldly and writing to defend his stands he was presented with innumerable occasions for developing his talents as a controversialist.

This brusque, independent individual continued his search for truth after abandoning Universalism. He became attached to many movements for reform, such as that of Robert Dale Owen. He preached and wrote as an independent minister, became a Unitarian minister, and was associated with the transcendentalists. His account of these experiences is given in his Convert, and is also stated in some detail in the biographies already cited.
In his search for truth he read what may be referred to conveniently as the ordinary works on religious and philosophical questions in which he was interested. Being reared among Protestants, and not having encountered the works of the scholastics, he read, among others, the works of Locke, Reid, Berkely, Hume and Godwin. Quite naturally he was influenced by the men he read. Some of the philosophers famous in the day were French. With the help of a dictionary Brownson was able to read the works of Pierre Leroux and Victor Cousin, both of whom confessedly influenced him a great deal. While Brownson was by no means an accomplished linguist, he was able to acquire a knowledge of several other languages, including German, Spanish and Italian. The most prominent of the Germans, Kant, and later the Italian, Gioberti, also influenced Brownson.

Now it has been noted that these men influenced Brownson. The way in which they influenced him indicates, as exactly as that is possible, the nature of the man whose political philoso-

---

27 V, 124. The work of John Riedl traces the influence of these men on Brownson in a cursory manner. "The Life and Philosophy of Orestes Brownson," doctoral dissertation, Marquette University, 1930.

28 V, 125-130; I, 215.

29 Even prior to his conversion Brownson appreciated the fact that Kant and Catholicism are incompatible. While he labored to refute him, Kant exerted considerable influence over Brownson. I, 130-313. Cf., Lawrence Roemer, "Brownson as a Critic of Kant," Masters Thesis, Loyola University, 1941.
phy is to be investigated, as well as the terms in which his thought is expressed.

It seems that Brownson accepted, for example, the view of Leroux and Gioberti, in much the same way that he accepted Presbyterianism. He was always desperate for truth. He accepted very eagerly whatever these men said that seemed to him to be reasonable. Having accepted it, he would analyze his position carefully. Usually he found that something they said was true, at least in some sense, and something was false. The truth must be retained and the error rejected.

Having investigated these men, absorbed what they said, Brownson adopted their terminology. He says, for example, that the formula of Gioberti, Ens Creat Existentias, is true confessedly not as Gioberti holds it, but as Brownson holds it. He said the same thing in regard to Leroux’s doctrine of communion— that man lives by communing with his fellow man. What both of these men said is false, according to Brownson, but it is not false if properly understood. Nothing is more true than the fact that God created all things, and nothing is more true than the fact that God created man so that he needs the society of his fellow man in order to develop his capacities.

30 The extent to which he accepted these men is still a disputed question. Sidney Laemers, America’s Foremost Philosopher, Washington, 1931, 17-30.

31 Brownson became familiar with Gioberti subsequently to his conversion to Catholicism. Brownson says that he hesitates to refer his readers to Gioberti who is erroneous in many respects. Yet he admits Gioberti assisted him in clarifying his own views. L. 241; Laemers, 16, 40.
Having accepted such views eagerly, and having been accustomed to analyzing them rather zealously he accepted their terminology and retained it. Thus the Brownson who is writing, lecturing and attempting social reforms of one kind and another, is a man who has accepted truth from a great many sources, expressing it in somewhat unusual terms.

In the course of his career Brownson founded a magazine of his own in order to be unhampered in his expression by editorial restrictions. This magazine he called the *Boston Quarterly Review*. He used it as an organ for expressing whatever he thought ought to be said and also for supporting the Democratic party, which he thought would secure necessary reforms. He expressed his thoughts boldly, vigorously, clearly. His views attracted considerable attention. The Democrats rewarded his efforts by giving him a political position. He came to be regarded as a leader in the Democratic party.

In 1938 Brownson was a Democrat in the sense that he was a member of that party, which he supported in his *Quarterly Review*. He was also a democrat in the sense that he accepted as true the popular conception of democracy, which in his estimation meant to "... assert equality as a natural right, and to assume ... that the introduction and maintenance of equality between man and man is desirable, and essential to the moral, intellectual,
and physical well-being of mankind on earth."

Having accepted the democratic principle of equality as a good theory, Brownson also had the courage to try to secure its practical realization. Thus he says that "I had had the incredible folly of treating the equality asserted as if it meant something, as if it could be made a reality, instead of a miserable sham." For that reason he published in his review an essay on the laboring classes. It appeared in 1840, during the presidential campaign of that year. In it he argued that it is nothing short of an absurdity to prate piously of equal rights unless the rights as well as the rights of men are equal. So he advocated, among other things, the destruction of great business corporations, the modern credit system, and urged also the modification of the factory system and suggested that the denial of the right to inherit property would tend to equalize men's rights.

33 V, 114.
34 V, 117.
35 Boston Quarterly Review, July, 1940. This essay is not reprinted in his collected works.
36 "If, then, you will have democracy, if you insist on the democratic form, have the courage to go further, and the good sense to adopt the measures necessary to prevent your universal suffrage and eligibility from being a mere sham ... you must establish and maintain the substantial equality of conditions, so that not merely the rights but the rights of men shall be equal." V, 103.
37 On the basis of that essay, Schlesinger, 100, compares him with Marx and says that "Brownson was his nearest forerunner in America."
Brownson gained much notoriety by his publication and subsequent defense of his "Essay on the Laboring Classes." When he published it he was connected with the Democratic party, and it was as a leader of that party that his views were received. The opposing party therefore reprinted the essay and circulated it as widely as possible to indicate that these were the views of his party.

The appearance of Brownson's "Essay on the Laboring Classes" and the election of 1840, mark the end of his career as a politician, and the beginning of his career as a political philosopher. Because he published his essay, the Democratic party lost faith in him; because the "... people sold their birthright for a barrel of cider," Brownson lost faith in popular democracy:

The famous election of that year wrought a much greater revolution in us than in the government .... We for one confess - and we care not who knows it - that what we saw during the presidential election of 1840 shook, nay, gave to the winds all our remaining confidence in the popular democratic doctrines.

Since Brownson received a practical demonstration of the fact that he must revise his views, he began to re-examine his

---

38 V, 103. "His essay ... was received as a pronouncement from a leading Democrat. The administration forces, dismayed to find Brownson disrobing in public, had to repudiate him, and to make clear that he was in no way speaking for the party." Schlesinger, 101.

39 "... the Whigs reprinted his article and distributed it by the hundreds of thousands to show that it was the President and his party really held." Maynard, 92. He remarks in the same place that Schlesinger has written the best criticism of this aspect of Brownson. Schlesinger, 89-111.

40 XV, 259.
his position. He contended both at this time and later that his reasoning was sound. However radical his conclusions seemed, they were not only consistent with, but the only ones derivable from, the premises given to him by his countrymen.

Having found no fault with his reasoning, Brownson began to re-examine his premises. He became keenly aware of the fact that he must have a philosophical foundation in order to take an intelligible stand in his comments on current events. Consequently he investigated more carefully questions concerning the origin and ground of government. It is at this time that the influence of Plato is discernible.

Rather remarkable is the fact that Brownson discovered that he lacked an element without which he could not speak intelligibly of authority and liberty - this was an infallible authority to determine whether or not freedom is real freedom and not license, and authority is not despotism. Thus Brownson defended, prior to his conversion and without a knowledge of the writings of Catholic philosophers and theologians, the view that government cannot be sustained without infallible authority.

41 Cf., for example, the following: "People, though adopting the democratic principle, told me I went too far, but I knew I was logical." XVIII, 224. "But I can hardly read the essay over without being myself shocked, and wondering at my temerity in publishing it ... place me where I stood then ... and I would today repeat and endorse every paragraph and every word I then wrote." V, 104.

42 This point is treated explicitly in Chapter II, 15-19.
Since his political views were based upon what may be referred to as a unique synthesis of ideas gathered from the various sources mentioned, Brownson's political position is merely a concrete illustration of the inconsistency of his general position— that he accepted and defended infallible authority without investigating the claims of the only institution which claimed to be infallible. Brownson was the first to recognize this inconsistency. Yet, he tells us in his autobiography that if he investigated this institution and if it required him to reject the doctrines which brought him thus far, and which he knew to be true, he would have no reason for seeking admission to the church. With some hesitation, therefore, he sought an interview with the Bishop of Boston. Describing his decision to seek such an interview, he says:

It was, no doubt, unpleasant to take such a step, but to be eternally damned would, after all, be a great deal unpleasant. Accordingly, with fear and trembling, and yet with firmness of purpose, in the last week of May, 1844, I sought an interview with the late Right Reverend Benedict Joseph Fenwick . . . and in the following week, visited him again, avowed my wish to become a Catholic, and begged him to be so kind as to introduce me to some one who would take the trouble to instruct me, and prepare me for reception, if found worthy, into the communion of the church. He immediately introduced me to his coadjutor, who has succeeded him, the Right Reverend John Bernard Fitzpatrick.

Brownson's description of his interviews with Bishop
Fitzpatrick represent his most tactful writing. There was no meeting of minds. The doctrines Brownson held must be waived; "... but, if I rejected or waived it, what reason had I for regarding the church as authoritative ... or for recognizing any authority in the Bishop himself to teach me?"

Thus Brownson writes that it was two or three months before there was any indication that they would ever come to an understanding. He could not indicate his difficulty, ... lest the Catholic Bishop himself should deprive me of all reason for becoming a Catholic, and send me back into the world utterly naked and destitute. I had made up my mind that the church was my last plank of safety, that it was communion with the church or death. I must be a Catholic, and yet could not and would not be one blindly. I had gone it blind once, and had lost all, and would not do so again. My trouble was great and the Bishop could not relieve me, for I dared not disclose to him its source. However, Brownson notes that he and the Bishop soon came to a good understanding, without discussing at all the merits of his own views. He was baptized and confirmed on Sunday, October 20, 1844.

As a Catholic Brownson continued his career as a reviewer. He founded Brownson's Quarterly Review. With the approbation of his bishop, he continued to write on religious and philosophical matters, usually on the occasion of reviewing a book that dealt with such matters.

44 V, 165.
45 V, 166.
Politically, his views did not change a great deal. Brownson did not try to prove that a good Catholic could also be a good American citizen. He stated boldly and simply that no one can be a good American citizen unless he is a Catholic. He maintained from the start that Catholicity is necessary for the republic, and that it cannot exist without it. Thus an article in his review for October, 1845, is entitled, "Catholicity Necessary to Sustain Popular Liberty."

This brief survey of what Brownson did immediately after his conversion is given to indicate that there was no complete and radical break in the trend of his thought subsequent to his conversion. Yet, as has been indicated, Brownson was compelled to adopt an entirely new approach to these subjects. Thus one might say that it was by request that Brownson procured another dictionary and began, at the age of about forty one, to study the works of St. Thomas and St. Augustine. Consequently he shifted also the ground and the terms in which his new arguments were formulated. Therefore those subscribers who had been following the trend of his thought could see no connection whatsoever between the Brownson who wrote before and the Brownson who wrote immediately after his conversion. It was not until some years later that he returned to his own doctrine of

46 X, 1-16.
At the time Brownson was converted, he was at the peak of his popularity. His essay on the laboring classes had been circulated by the hundreds of thousands. He appealed to the kind of audience that the Catholic journals at that time did not reach. The continuation of his Review was therefore desirable. "The bishop told him that he should not hide his light under a bushel, upon which Van Wyck Brook's comment is, 'as well urge a bull not to pretend to be a lamb'."

The following paragraphs indicate effectively Brownson's attitude immediately after his conversion:

We have no occasion to stop to defend ourselves or our church . . . . The false charges against Catholics can do us no harm, unless we suffer them to frighten us and induce us to stop and repel them . . . .

We must attack the enemy's camp, and arraign Protestantism herself. She, not the church, is the question; she, not the church must be put on the defensive . . . . We must drag her from her covert, force her into the light, and compel her to stand and make her defence.

Our duty calls us to act on the offensive, to expose the sorceress, to show what it is that has bewitched our brethren and holds them spellbound. Protestantism is strong only when she is suffered to attack and keep Catholics on their defence. Attacked herself, she is as tow at the touch of fire.

Being somewhat belligerent about his position, Brownson suffered no one to insult the Faith. Anyone attacking the

47 Haynard, 160-162, discusses the influence Brownson might have had if he had been allowed to continue to present his arguments in his own terms.
48 Haynard, 152.
49 XIX, 141-142.
Church in a vulgar or derogatory manner did so, in the presence of Brownson, at the risk of incurring bodily harm. His son cites an instance, also referred to by Maynard, in which a man called Hoover insulted the Church: "Brownson simply took hold of him by the coat collar and the seat of his trousers and tossed him over the stove."

Brownson, as is evident, took his religion seriously. He and his review made an impression. The review itself attracted considerable attention. Not only did it enjoy rather wide circulation in the United States but it was also reprinted in England. As a Catholic reviewer Brownson was seldom critical of persons. He invariably endeavored to praise the person while criticizing the product of his pen. Somewhat naively, Brownson was unable to understand why such an attitude should make him the target of antipathy.

Devoting his efforts to detecting errors in the works of others, and subsequently defending his judgments, Brownson continued to develop his talents as a controversialist. He abhorred inconsistency. Finding it in the work of another he

---

50 Maynard, 155.
51 "In 1853, indeed, interest in Brownson was great enough to compel an English edition." Schlesinger, 198.
52 For example, Brownson felt obliged to point out the errors in a work of a very dear friend, George Bancroft. The historian was unable to understand that a harsh review of his work did not mean that Brownson wanted to sever personal relationship. Brownson, in atonement, dedicated his American Republic to his "old friend, George Bancroft." XVIII, 1.
expressed his resentment graphically - almost cruelly.

This means, of course, that while Brownson invariably silenced an opponent, he did not thereby gain acceptance for his own viewpoint. It means that few people would be willing to argue a point with him. Rather than cite testimonials to that effect, of which there are many, it is perhaps more effective to cite an instance of Brownson's glee in encountering one whose avowed purpose was to carry on a series of arguments with him. After commenting that Protestantism is an unintellectual religion, and that Protestants have made a sorry figure of reasoning on religious questions, Brownson writes:

It is, therefore, refreshing to meet even one Protestant who shows some signs of intellectual life, who has the courage to make some show of argument, and who, perhaps, has understanding enough of the matters on which he writes to be capable of being refuted. We had well-nigh despaired of ever meeting such a one, and now that he presents himself we greet him cordially and cherish him as a friend. We hope his courage will not fail him at the first onset, and that he will not as soon as he receives the first blow, like our ordinary adversaries, disappear, to be seen or heard of no more for ever. Seriously, it gives us pleasure to meet a Protestant who has a beard on his face, and who has the strength to give and take sturdy blows. We are tired of combating mere boys or mere simulacra, or shadows as unsubstantial as the ghosts of superstition.

While Brownson's writings may be characterized as direct, hard hitting, blunt, forceful, it is not true that he is entirely impersonal. It is not at all unusual to find him disrobing in

53 X, 329.
public. In the midst of an argument it is rather ordinary for him to introduce purely personal matters. For example, in discussing the enfranchisement of women, Brownson says that "Even her tongue is a weapon that is more effectual than a man's fist, as Lucretia Mott, the Quakeress preacher, proved to us personally some years ago at the tea-table of one of her nieces."

The Brownson described thus far has been a man who is bold, rough, independent and somewhat ruthless as a controversialist. His temperament and profession were not the kind conducive to congenial personal relationships. As a layman writing a Catholic review, Brownson's position necessitated personal contact with members of the hierarchy. Quite obviously, difficulties developed; they may be described briefly as personal rather than doctrinal. For example, Brownson wrote an essay on "Archbishop Hughes on Slavery." The archbishop had opposed Brownson's attitude on the question. In defending himself Brownson adopted a procedure typical in his reviews. He is mystified by the language of the archbishop, for his words indicate that he has undoubtedly incurred excommunication. Brownson, however, refuses to believe that the illustrious prelate has really meant to separate himself from the Church. "All the presumptions are that, both as a Catholic and a man, he agrees with the church...." Consequently he concludes that "We can accept

54 XVIII, 404.
56 XVII, 204.
no such interpretation of his language, and even if we were un­able to explain it away, we would still insist that he did not and could not mean it, and should wait with our confidence in him unimpaired till he should see proper to favor us or the public with his own explanation."

This is cited as an instance of the logic-chopping which, while in this and many other instances was confessedly irrefu­table, did not help Brownson's position. Whether through the in­fluence of Archbishop Hughes or some one else in an authoritative position whom he offended in a similar way, Brownson's Review was delated to Rome for examination. Somewhat gleefully, Brown­son announces, in an article entitled "The Church not a Des­potism," that Rome, while somewhat puzzled by certain things, could find nothing contrary to faith in what he said.

Some time later, however, Brownson apologized very humbly for his general attitude:

I must myself confess, to my shame and deep sorrow that for four or five years, ending in 1864, I listened with too much respect to those liberal or liberalizing Catholics .... My faith was firm, and my confidence in the church unshaken, but I yielded to what seemed at the moment a wise and desirable policy.

During this period of his life Brownson's political views altered radically. Almost to the outbreak of the civil war, he

57 XVII, 204-205.
58 XX, 215-248.
59 VIII, 220-221. His son adds a note saying that this was the most humble passage his father ever wrote.
had taken the position of Calhoun in commenting upon practical problems. In the period immediately preceding the civil war, Brownson found himself defending the Union. In order to maintain his position consistently he was obliged to investigate more carefully the nature of the Union. The results of his investigations are embodied in his work entitled The American Republic.

Brownson's book was motivated primarily by patriotism. He believed sincerely that American republicanism preserves certain inherent characteristics which represent the reason why America has secured for the individual the greatest liberty man has ever known. Brownson endeavored to transcend immediate issues and to expose its essential elements. In doing so he believed he was contributing to the welfare of the republic.

During this same period, ill health, along with other factors such as harsh and imprudent attacks upon individuals and institutions and his support of Fremont for president necessitated the discontinuance of his review in 1864. From that time until 1872, when his wife died, he wrote for Catholic 

60 In his Review of January, 1844, Brownson is lavish in his praise of Calhoun. Somewhat naively, he closes his discussion by avowing that "... we have introduced Mr. Calhoun into our pages, without reference to the fact that he is now before the American people as a prominent candidate for the presidency."
61 XVIII, 1-222.
62 Brownson disclaimed any congenital dislike for the Irish or the Jesuits, though his remarks were unduly harsh.
63 These articles were unsigned. They are included in the collection of his son.
periodicals, particularly the Catholic World.

Mrs. Brownson, realizing that her husband was too independent to submit cheerfully to editorial revisions and restrictions (especially those of one who was formerly his devoted follower, Isaac Hecker of the Catholic World) requested on her death bed that her husband revive his Review. In order to gratify her wish, as well as to prove to the public that he was, and had always been, devoted to the Church, Brownson's Review appeared again in January of 1873. In October of 1875 ill health again required him to cease its publication. In his valedictory Brownson says that it is only with considerable pain that he can grasp a pen. He makes his final profession of faith and expresses gratitude to those who supported him during the thirty one years he had appeared before them as a Catholic reviewer. He indicates also that he will continue to labor for the Church despite the discontinuance of his Review.

Appropriately, perhaps, Brownson argued to the last. In his final controversy, Brownson's son was unable to see the force of his father's logic. After retiring to his room, Brownson replied to a knock on his door: "If that's you, Francis, I'm too tired to make it any plainer tonight." He died on April 17, 1876. He is buried in a crypt, in the center aisle of the University Chapel at Notre Dame.

64 XX, 436-438.
65 Maynard, 423.
His son, Henry F. Brownson, describes his father as very generous and warm hearted, observing that he was not a "self-seeking, cold hearted, calculating man who looks at every thing with a view solely to his own satisfaction or emolument, naturally cultivates the attractive, pleasant exterior or manners which will constitute to the gaining of his purpose, and wins the reputation of amiability and good nature." This then, is Brownson the man.

Now we will proceed with a study of his political philosophy. The exposition begins with a discussion of the rights of the individual. Brownson also makes right the basis of law, whence it is necessary to present his conception of law. Affirming rights of both the individual and society, Brownson is required to establish principles whereby it is possible to determine the respective limits of each. Thus he endeavors to solve the problem of individual liberty in relation to public authority, which is, after all, the fundamental problem of political philosophy. Following the exposition of his solution of the problem, there is an attempt to evaluate Brownson.

66 Brownson, *Early Life*, 481.
CHAPTER II
THE RIGHTS OF THE INDIVIDUAL

In one of his first political essays Brownson tells us that the idea of individual liberty is so ingrained in the minds of the American people, for whom he was writing, that it is unnecessary to prove philosophically that the individual has rights which the state may not violate. These rights have been enumerated more or less completely by the people in the formation of the government. While being keenly aware of their rights, the American people are rather ignorant of the principles which legitimate them. Consequently his essay is a kind of exhortation. The people are told what they must hold theoretically in regard to government and freedom in order to justify and preserve their rights.

The first requisite for the preservation of rights is the clear recognition of the fact that the state is not the ultimate sovereign. Its sovereignty is derived and therefore limited. This again requires explanation rather than formal proof. For Brownson says that "Sovereignty is that which is highest, ultimate; which has not only the physical force to make itself obeyed, but the moral right to command whatever it

1 XV, 1-34. (Written in 1838)
2 XV, 8.
pleases." Thus if the state is held to be sovereign, then it may command whatever it pleases and there is no appeal from its laws. He shows very well that it makes little difference whether sovereignty in this sense is vested in a king, aristocracy, emperor, or the majority of the people. If the state is supreme there is despotism and no individual liberty. Therefore the American people cannot hold an undervived sovereignty of the state; they must maintain that its authority is derived from, and limited by, something higher than the state.

Since the state is not the ultimate sovereign, its commands do not make right and wrong. Every person feels that he has a right to do that which is just regardless of what the state commands. That is, he feels that the state itself has the right to do only that which is just. Justice, in other words, is not dependent upon the state; it is above the state, superior to it, not derived from the state. Consequently Brownson says that the enactments of the state "... are not in and of themselves laws, and cannot be laws, unless they receive the signature of absolute justice. If that signature be withheld they are null and void from the beginning."

Justice, therefore, is the ultimate sovereign. It is "... the sovereign of sovereigns, the king of kings, lord of lords, the supreme law of the people, and of the individual."
As such it is one law imposing obligations upon both the individual and the state. Therefore the individual is free only because the law of justice forbids the state to enact laws preventing the individual from doing what is right and just. Under this law, however, the individual cannot do whatever he pleases. He has no right, for example, to do what is wrong or unjust. In other words, the law of justice gives to the individual freedom, but not license.

Thus the freedom or right of the individual in regard to the state consists in his ability to do that which is just and right. This is the essence of his freedom; it is all the freedom that the individual has or can have:

The highest conception of liberty is that which leaves every man free to do whatever is just to do .... Freedom to do that which is unjust according to the laws of God, or, - which is the same thing, - the law of nature, is license, not liberty, and is as much opposed to liberty as lust is to love. 7

In virtue of the fact that justice is one law, binding both the individual and the state and defining the respective rights and duties of each, it is clear that there can be no conflict between individual liberty and public authority in a state founded upon justice. That is, being one law, justice is ever equal to itself. Consequently its command to the individual cannot conflict with its command to the state.

7 XV, 19.
At this time, however, Brownson devotes very little consideration to the practical problem arising from the interpretation of this law. He is perhaps unaware of the problem arising from the fact that the individual conception of what is just and necessary might be different from that of the state. Thus he disposes of it by saying that the law of justice is God's law, written and discoverable in the universe. The only authoritative expounder of its decrees is human reason. In most instances it is the reason of individuals; in very few cases it is the reason of the people collectively or the state. Thus he would seem to hold at this time that the individual may arrest the action of the state when it commands anything incompatible with his own peculiar sense of justice.

Brownson first attempts a more philosophical presentation of his views five years later. His theory at this time is based to some extent upon Plato. It is at this time that the contribution of Leroux is also evident, as will be seen in the exposition of the theory. Brownson was aware of the fact that, since his articles were being published in a popular magazine, his readers would be a little confused by the combination. Thus

8 XV, 18.
9 (1843); XV, 296 ff.
10 "My politics are, to no inconsiderable extent, founded on the Platonic doctrine of ideas, and to all who are not acquainted with that doctrine, I must seem to be talking nonsense, when, in fact, I am talking very tolerable sense." XV, 364.
he commented:

I pray my readers to be as indulgent as possible to this answer, and not too hastily pronounce it a fine specimen of transcendental nonsense. However unmeaning it may be to them, it has meaning to me, and I know very well what I mean by it: but what phraseology will suffice to communicate my meaning to their minds, I own, I am at some loss to determine.

His discussion here assumes that God's will in regard to man is discernible in the natural order He has created. Consequently in order to discover what rights God has given to man it is necessary to investigate his nature with a view to determining what is necessary for its preservation. That is, the investigation is necessary to the extent that it furnishes a basis for the conclusion that man has natural rights which the state must respect.

Since he was under the influence of Plato at the time, Brownson tells us that man's nature may be considered either as concretized in the individual or as existing ideally in the "Divine mind, nous, or logos." As it exists in the divine mind his nature signifies the human kind, race or genus. It is referred to by the term humanity.

In affirming that humanity has an ideal existence in the divine mind, Brownson means that its existence is real in the highest sense of the term, that is, as a substance. Since

11 Democratic Review, (July, 1843), XV, 364.
12 XV, 357.
humanity has a substantial existence, it is an activity; an activity, however, is likewise a substance. In other words every active force is a substance and every substance is an active force. Thus Brownson says that humanity is an activity and nothing but an activity.

Since the nature of humanity is that of a distinctive, active, causal force, God must preserve it as such in order to govern it; that is, since humanity's nature is commensurate with its power to act, its activity cannot be destroyed without destroying man's being. Thus if God were to suppress the causal power of humanity, He would destroy His creature rather than govern it.

Now the preservation of this active force is the preservation of humanity's freedom, because freedom consists in the power to act, to do, to cause. Thus Brownson says that "I am active only in that action which has its cause and origin in me. If I perform it only through necessity, I perform it not at all, but it is performed by that force which necessitates me."

---

13 XV, 359. Brownson, of course, confessedly refers to the "vis activa of Leibnitz." XV, 358.

14 In this view of freedom Brownson believes that he avoids any dispute in regard to man's freedom: "Men have asked, is my will free? Am I free? Nonsense. This is not the question, but, am I, am I at all. For I am only so far forth as I am free." XV, 359.

15 XV, 359.
This means, in other words, that a thing is only inasmuch as it is active. In the case of humanity, the activities resulting from its unique and distinctive being is what is meant by its freedom. Thus freedom is coextensive with the power to act. And since an active force is a substance, and conversely a substance is an active force, freedom is likewise commensurate with being. Hence Brownson says that "... absolute slavery, slavery extending to the whole being, were absolute death, total extinction of being. So long and so far as I exist at all, so long and so far I am free." It is therefore clear that God must preserve the freedom of humanity in his government.

Since humanity is a generative principle or an active power, its activity results in the production of individual men and women. It is embodied and manifested therein as the cause is manifested in its effects. In other words, just as the activity of an individual results in individual actions, so also does the activity of humanity result in individual men and women. Humanity is therefore related to the individual as the individual is related to his acts. On the basis of this analogy the nature of humanity is more clearly definable.

We see that since the individual is the cause of his acts, he is distinct from them as the cause is distinct from its effect. For the same reason, however, he is not entirely

16 XV, 359.
17 XV, 365.
separable from his acts; there is a sense in which the individual lives in his acts, but the sum total of his actions do not constitute the individual. Likewise, therefore, there is a sense in which humanity is inseparable from individual men and women. Nevertheless humanity must be distinct from individuals also, just as the cause is distinct from the effect. Thus humanity is not merely the sum total of human beings.

In order to see the bearing of this analysis upon the rights of individuals, it is necessary to review briefly the status of the question. His discussion is based on the proposition that the Divine will must prevail in human affairs. His will in regard to a particular thing is discoverable in the nature He gave it. Now the nature of humanity is to act. To preserve its nature intact, humanity must be free to act. To the extent to which this freedom is restricted, humanity is not preserved intact, but destroyed. Its acts are individual men and women. Since government must preserve intact the nature of that which is governed, it is evident in the first place that humanity must be free to actualize itself in individuals.

Further, a single action of an individual does not exhaust his activity. Each individual act represents a certain phase of the individual. In other words, the active force of an indivi-

18 "But, as the acts of humanity, generically considered, are individual men and women, it follows that freedom for it to fulfill its destiny, is freedom to obey the command to 'multiply and peplenish the earth'." XV, 367.
dual is not manifested once and for all in a single action. According to Brownson, "The greater the number and variety of his acts, the more fully will his being be represented, or actualized ... And just in proportion as you hinder the individuals activity do you cut him off from manifesting himself, and, therefore, from fulfilling his destiny." Consequently humanity fulfills its destiny to the extent that it manifests itself in individuals. Hence he says that "The highest good of humanity must be to fulfill its destiny, that is to actualize itself in the greatest number and variety possible of individual men and women." Therefore any restriction of this activity is contrary to the will of God as He expressed it in constituting human nature.

Further, the preservation of this freedom in the race necessitates the freedom of the individual. For in being born an individual merely begins to represent the act of humanity, just as the individual merely begins to act by the fact that he is born. Therefore the work of humanity does not consist in the mere production of individuals. For each individual, as we have seen, represents a distinct aspect or phase of humanity, just as individual acts represent distinct aspects of the individual. As the individual grows and develops his potentialities he

19 XV, 367.
20 XV, 367.
represents, therefore, distinct and peculiar aspects of humanity.

Now we have seen already that humanity must be free to actualize itself in individuals. Therefore the individual must be free to develop his capacities to the best of his ability; that is, he must be free to work out his own destiny as an individual. To interfere with that freedom in any individual is to prevent humanity from actualizing the distinct phase of itself which was supposed to be actualized in the development of that individual. Consequently Brownson concludes that the race is free only on the condition that the individual is free. And since he has shown that government must preserve the freedom of the race, it must likewise preserve the freedom of the individual.

To say that man is free is not sufficient, however. To show what is involved in that statement it is necessary to discover what is necessary for him to develop and actualize his capacities. It is at this point that Brownson generates a

21 "But an individual is an individual, only so far as he represents humanity, under a distinct and peculiar aspect, represented by no other. His destiny is to represent this distinct and peculiar phasis of human nature." XV, 369.

22 "Hence, if by our social arrangements, we prevent this individual from preserving, and so to speak, acting out his individuality, we not only prevent him from fulfilling his own individual destiny, but humanity herself from actualizing that aspect of her being which it was the mission of the individual, in his life, to actualize." XV, 369.
rather unusual intellectual child. As we have seen, one of its parents is Plato. It now becomes evident that the other is Leroux.

He has concluded that each individual man must be free to develop his capacities to the utmost of his ability in order to actualize distinct aspects of the individual or the race. But since man is dependent he can develop himself only to the extent that he has the cooperation of something other than himself. In Brownson's language, this development is accomplished through communion with his fellow man, with nature and with God. He cannot actualize his capacities except in this way. They are the conditions upon which he is free to develop himself. Since government must preserve his freedom, it must preserve likewise that which is essential to it.

Inasmuch as man develops his capacities through his fellow man, it is evident that government must preserve his right to commune as much as possible with his fellow man. Briefly, it should encourage education because thereby the individual communes with the great minds of the race. On the other hand, the division of society into castes or classes should be abolished because it tends to restrict his freedom of comming with his fellow man.

His communion with nature is signified by the term property.

23 XV, 371.
24 XV, 371.
Negatively, the state cannot determine what his profession will be, nor abrogate his right to own property. From a positive standpoint, conditions should be such that the fruits of his labor will be sufficient to provide for himself as the head of a household. In modern terms he has a right to a living wage:

The right to labor, that is, to such an organization of industry, as shall enable every man to obtain his living and discharge his duties as a husband and a father, by means of his labor, is every man's inalienable right, if any specific right may be so termed.

Finally, the state must guarantee man's freedom to worship God according to the dictates of his conscience. According to Brownson this means that the church must be entirely independent of the state - it must be absolutely exempt from all civil control.

The rights enumerated thus far are termed natural rights because they are consequent upon his nature. And since men have the same human nature, the rights he has because of his nature are equal. The full and free exercise of his natural right is what is meant by man's freedom.

Granted that man has rights which the state may not violate, it is necessary for him to determine when a given enactment has violated his rights. That is, he must determine when he may resist lawfully, or rebel against, the authority of the state. Secondly, conceding man's freedom of worship, his right of conscience, there is the question of what is to be done when his

26 XIV: 341
27 XV: 385
conscience is subversive to the authority of the state. These problems are practical, and very real, and therefore must be solved. In the solution one must not secure individual rights at the expense of authority, nor secure authority at the expense of these rights. The problem, whether arising in connection with the rights of rebellion or of conscience, is the same problem. It is stated in general terms before particular instances are discussed.

It has been noted that the law of justice is the ultimate sovereign. It is superior to the state and binds the people collectively as well as individually. It is agreed that any enactments which violate this law are null and void from the start.

On this basis, Brownson presents his problem in the form of a question: "Has this Higher than the people, this sovereign of sovereigns, any outward, visible embodiment? In other words, has he on earth a regular, formal, authorized interpreter of his will?" Evidently one must answer either a definite affirmative or negative, or else try to prove that the question itself is misleading and therefore unanswerable in such a simple fashion. In either case serious difficulties are encountered, as Brownson himself discovered in his attempt to answer the question.

28 XV, 350.
On the supposition that there is no authorized interpreter of the divine will, it is up to the people, whether individually or collectively, to determine what is and what is not the divine will. If each individual has the right to decide for himself whether a given enactment violates God's will, Brownson argues, there is no escape from anarchy. He writes:

In so doing, you then raise the individual above government, and authorize him to sit, in his own right, in judgment on government, which is incompatible with government, subordination, or social order. This would be extreme individualism, which cannot coexist with government; because all government demands social cooperation, subordination, and subjection.

On the other hand it is evident that the people collectively or the state, cannot be the judge of God's will in relation to individual enactments. For if they represent the divine will in human affairs, there is no appeal from their decision. Practically, this asserts the absolute sovereignty of the state, thus leaving no room for the rights of the individual. For if they are authorized interpreters of the divine will it is of no importance, as Brownson says, "... whether you say the people are sovereign in their own right, or merely by divine appointment, if you make their sovereignty complete, and permit the subject no appeal from their decision."

Another alternative is to make the Church the authorized

29 XV, 350.
30 XV, 352.
interpreter of the divine will. On this basis it would be the supreme court, from whose decision there could be no appeal. The state would be subordinate to the Church. Thus the rights of the individual would be secured against the state because he could appeal to an authority higher than the state.

Brownson points out, however, that people generally distrust the Church. They object to a theory of a supreme church on the ground that such a theory merely shifts power. And since the Church can be as despotic as the state, there is no advantage to be derived merely by transferring power from the one to the other. Brownson maintains that such an objection is valid, with one possible exception:

If we believed the Church to be a divine institution, the real body of our Lord, the ground and pillar of the truth, the house of God, in which God's Spirit resides, and therefore, that it is by divine authority that it exists and acts, should we distrust it, believe it capable of tyrannizing?

Although not a Catholic at the time, Brownson remarks that he does not share the prevailing hostility and distrust of the Church. He says he believes it to be the kind of institution it claims to be.

Nevertheless, since his countrymen reject the Church, something else must be substituted in its place. For the assertion of individual rights is rather feeble and futile unless there is a power above the state which can proclaim infallible when these

31 XV, 349.
rights have been violated. In other words, God is sovereign; His will must be obeyed. But Brownson argues that "... if there be no established medium through which his word speaks, no authorized interpreter of his will, having the right to speak to us in the name of the sovereign, and to enforce our obedience, we are practically as if we had no sovereign, and actually living in a state of anarchy."

Since the Church is rejected, the only recourse is to substitute for it the rather foggy thing called public conscience. This he describes as the sense of right expressed in what we recognize as the highest and most sacred among us. "And this, by whatever name it goes, is our Church, our divine institution. This it is, whether it be called the pulpit, the press, the lyceum." He observes at the same time that this substitute has all of the disadvantages but none of the advantages of the reject:

The only difference there is or can be between the view we condemn, and the view we as a people accept, is the difference between a formal, regularly constituted church, able to trace its descent from the apostles, and to show that it speaks by divine authority, and an informal church, intangible, and at best only partially able to demonstrate its legitimacy.... We have then in the case of enthroning public sentiment, all that we find objectionable in the supremacy of the Church, without any of the advantages.
Thus, in his first attempt to formulate a theory of government, Brownson came to the conclusion that an infallible organization is necessary to speak in the name of God. It is only on this basis that the will of God can be ascertained infallibly, and thus it is the only basis which secures both the rights of the individual and the authority of the state. Further, this conclusion was arrived at before Brownson has come into contact with the works of Catholic theologians and philosophers.

His thought on the subject is brought out again when he discusses "the glorious right of rebellion and revolution." In general terms the right to rebel signifies the right of the people to overthrow a government which has become oppressive.

Maynard argues that "Brownson, by going to the Founding Fathers and the American Constitution, obtained, while still a Protestant, a good deal more Catholic thought than he was conscious of at the time.... They [the founding fathers] derived their ideas from Locke, who derived from Hooker, who had derived from St. Thomas Aquinas." 352, n. 102. He adds also that Jefferson read Filmer, who presented the doctrine of Bellarmine for the purpose of refuting it. Thus Brownson reputedly arrived at some knowledge of Catholic political philosophy in this circuitous fashion. This may be true, of course, but it would be somewhat difficult to show that Brownson derived from Jefferson (who derived from Filmer, who wrote to refute Bellarmine) his view that an infallible authority is necessary to guarantee individual liberty—or his view, stated in Chapter IV below, that the philosophy of these founding fathers is deficient. The extent to which the founding fathers were influenced by the Scholasticians is discussed rather well by Sylvester J. McNamara, *American Democracy and Catholic Doctrine*, New York, No date.
and to institute a new government which will secure to them a greater measure of freedom.

Brownson argues that if the right to rebel is really a right at all it, like all human rights, must be derived from something. Quite obviously it cannot be derived from the state, for it is the right to overthrow the state. It cannot be a right inherent in the people collectively, for taken in this way they are the state. If it is a right inherent in the individual, then each individual has the right to arrest the action of the government whenever he deems it advisable to do so. But this is incompatible with the very notion of the state. If such a rule were adopted practically, the state could not exist.

Nevertheless, the right to rebel must be asserted against a government which violates man's natural rights. But the only way in which it may be asserted without denying the authority proper to the state is to go outside of the state to that which is higher than it. This is, as we have seen, the will of God. The will of God must be represented by an organization above and beyond the state. He argues that there is and can be no organization, other than the Roman Catholic Church, which represents the will of God on earth. Therefore it is the only institution superior to the state. Therefore the right to rebel against

36 XV, 395-398.
37 XV, 399.
the state can be derived from this organization alone. It is therefore evident that it alone can determine when it is lawful to resist the state. In order to clarify his point, Brownson adds the following:

But suppose, as in Protestant countries, the church has been perverted to a function of the state, or that it has itself become corrupt and oppressive, as we contend was and is the case with the Catholic Church, and that there is no element of reform in the state on which you can seize to sanction your movement, what then will you do in order to get rid of bad government? Nothing; for in such a case nothing could be done. 38

Brownson adopts the same line of argument after his conversion. He hold that it is impossible, on Protestant principles, to present a theory of government which will guarantee the rights of the individual as well as the authority of the state. He says that

The principle of private judgment adopted by Protestants in religious matters, it is well known, has destroyed for them the church as an authoritative body, and put an end to everything like ecclesiastical authority; transferred to civil matters it would equally put an end to the state, and abolish all civil authority, and establish the reign of anarchy or license. 39

The reason for this is clear. Without the Catholic church as the infallible interpreter of the law of God, the right to decide when a civil enactment is contrary to the law of God must be lodged in either the individual or the state. If it is lodged in the individual, he has the right to resist the action
of government. Such a course of action, if practically adopted, would result in anarchy. On the other hand, if the state is authorized to interpret the law of God there is no appeal from its decision. There is nothing higher than to state to which the individual may appeal. Such a course of action, adopted practically, would result in despotism. Thus Brownson says that "Here is a sad dilemma for our unecatholic countrymen, which admirably demonstrates the unsuitableness of Protestant principles for practical life." In his estimation men cannot solve this problem; they must recognize the solution which God has given.

The same sort of a discussion occurs in connection with the freedom of worship, which is one of the natural, inalienable rights of man. This right is referred to also as the right of conscience. This right is the most fundamental, for it is the source and foundation of all other rights. Since it is included in the natural rights it is equal in all individuals. Therefore the state must respect this right equally in all individuals. It has no right to prefer the conscience of one individual to that of another. For the state to suppress or to trample upon the conscience of an individual is, as we have seen, absolutism. If it may trample upon the convictions of any one group, whether that group by Catholic or Protestant, it may trample

40 XVII, 8.
41 XIII, 139.
also upon the convictions of any other group. To avoid state absolutism it is consequently necessary to preserve intact the right of conscience.

However, Brownson says that the "... notion of the unbounded license of conscience no man in his sober senses can undertake to defend." He observes that some individuals and groups hold rather queer convictions. Some of these are incompatible obviously, with the very existence of the state. It is incontestable that the practical adoption of the unbounded license of conscience is anarchy. On the other hand it is equally certain that the state cannot extinguish the conscience of the individual. To assert that it is authorized to do so is to deny that the right of conscience is a natural right which the state must respect. This is despotism or state absolutism.

Brownson states the problem and its solution rather forcefully when he says:

Here, then, we are exposed to two powerful and dangerous tendencies, rushing, on the one hand,

---

42 VI, 552-553.
43 Brownson mentions, for example, that "... the conscience of the Anabaptists required them to run naked through the streets, and that of the early Quakers required them, especially the women, to go naked into the religious assemblies and prophesy ... There was, too, Matthias, the famous New York prophet, whose queer conscience commanded him to claim his neighbor's property and his neighbor's wife as his own. Was the liberty of conscience to be allowed?" VI, 553.
44 In addition to factors such as those enumerated in n.43, Brownson mentions also that it would be convenient to develop a conscientious objection to the payment of taxes, and to similar obligations. VI, 553.
into social despotism, and on the other, into anarchy. What, in this state of things, do we need in order to escape them? We need, it is evident, a power alike independent of the state and of the individual, to step, as it were, in between them and harmonize them, — a power strong enough to restrain the state when it would become despotic, and the individual when he would become disloyal or rebellious. Without such a power we cannot save our republic, and have that security for individual and social liberty it was instituted to protect and vindicate. With only the state and the individual we have, and can have, only antagonism. The two elements are, and will be pitted one against the other, each struggling for the mastery. They cannot be made to move without collision one with the other, unless there is between them a mediating term. . . . That term, power, or constituent element, is religion, and I need not add, the Christian religion . . . . There is no other power conceivable that can mediate between the state and the individual, and prevent either from invading the province of the other. All history, all experience proves that the contrivances of statesmen, the playing off of interest, the division of powers, and the nicely adjusted checks and balances so much relied on by constitution-mongers, are, and must be inefficient without the presence and energetic support of religion. 45

These examples, advocated during different periods of his life, are sufficient to show that there is a certain similarity and consistency in Brownson's views on the rights of the individual. He decides once and for all that the only intelligible conception of freedom is that it consists in the power to do that which is just. Hence freedom is not only based upon authority but consists in obedience to authority. The search for the basis of man's freedom, therefore, is identically the

45 XII, 13.
search for that which is ultimately sovereign.

The ultimate sovereign is God. He is the source of man's rights. His will is written in man's nature and discoverable therein by his reason. He can discover, at least, that the state does not own man completely, and that man consequently has rights which he holds independently of the state.

Whatever may be said of man's ability to read aright the law of God written in nature, Brownson maintains that religion is essential to guarantee practically that these rights will be preserved intact. Man has no guarantee that the state will not violate his rights unless he can appeal to something above the state. But in making the appeal he must be certain that he really appeals to the Will of God. Hence there must be an infallible representative of the Divine Will to which he can make his appeal. This is Brownson's contention before as well as after his conversion to the Catholic Church.

The most fundamental of man's natural rights is, as we have seen, the right of conscience; that is, true liberty of conscience as opposed to license. Then too, he has a natural right to propagate the race in the manner designed by God. He has the right to hold property also. These rights, and all that is implied necessarily therein, are not held from the state. Consequently they are not under the jurisdiction of the state, but of the church.

Brownson applied this theory in commenting upon numerous practical affairs as was his task as a professional reviewer.
In several places in his review he condemns a Maine liquor law
because it is contrary to the natural law. Brownson says that
a man has a right to as much food and drink, "even of that thin
and washerly thing called lager beer" as he can procure honestly.
He admits that the state may punish one who is inebriated if he
disturbs or endangers the rights of others. It may therefore
punish the abuse of a right. But it cannot prevent the abuse of
a right by declaring the right itself to be an abuse. In so
doing the state declares itself a teacher or morals, and thereby
encroaches upon the domain of the Church. Thus a law preventing
the use of alcoholic beverages is null and void because it
violates a natural right.

In other instances he shows that marriage pertains primarily
to the spiritual order. He argues therefore that the rights
and duties arising from that state are under the jurisdiction of
the spiritual authority. Therefore when the state lays down the
conditions under which the marriage contract may be made or dis­
solved, it does so in violation of God's law. For the Church,
not the state, has jurisdiction over the spiritual order. In
assuming such jurisdiction, the state exceeds its powers.

46 XIII, 339 ff.; X, 542.
47 XIII, 339.
48 XIII, 340-343.
49 He discusses other questions such as the respective rights of
the state, the Church and parents in regard to education of
children in various sections of his Review. Cf., i.e., XI, 401
-403; XII, 498; XIII, 403; XV, 23. He holds that it is the pro­
vince of the statesman and the theologian to determine these
matters practically; it is consequently unnecessary to pre­
sent a detailed exposition of his view of these matters.
It has been noted previously that there is a similarity and consistency in Brownson's views on the rights of the individual which he advocated during different periods of his life. While this is true in regard to his conclusions and the way in which he applied them, it is not true of the arguments which support them. In the course of his philosophical inquiries he dropped, for the most part, the Platonism which characterized his earlier essays. However, he retained Leroux's doctrine of communion and made it the basis of his later views. This is clear from the exposition of his doctrine which follows.

In his more mature view, Brownson again established the thesis that man has rights against the state. His exposition, again, is based upon a consideration of man's nature. This time, however, man is considered as a concrete individual. As such he is first of all a creature. Consequently he is a dependent being. He exists at all only inasmuch as he participates in or imitates, the being of God. In Brownson's language, man must commune with God. He communes with God, or is related

50 Brownson considers this doctrine of communion to be extremely important. It is applied in nearly every phase of his philosophy. As is evident, he derived this doctrine from Leroux. Although he defended what he held to be true in the theory throughout his life, he says that "I did not and could not follow him [Leroux] in all his applications of the great principle he had helped me to grasp and understand. He sought to apply it in an un-Christian sense; I saw, or thought I saw, in it a means of placing myself more in harmony with the common beliefs of Christendom, without violence to my reason." V, 130.
to Him, in three ways: through religion, society and nature. That is, man lives and acts and in doing so he imitates, in a feeble way, God. He lives and develops his capacities through nature, for he could not sustain his existence even momentarily without it. He develops through society because he is born into and lives in a social group, and through religion because without it he could not return to God, his final cause. Each one of these is, therefore, a medium whereby man participates in the divine life.

The most important medium of man's communion with God is religion. God has not only created man, but through the Incarnation has given him the means whereby he can return to Him and thus fulfill the purpose of his existence. And inasmuch as God Himself has given him these means, man does not derive his right to them from the state. Hence it can neither confer nor abrogate man's right to practice his religion. The right to practice his religion, known also as the right of conscience, is therefore the first and most important right which the individual holds independently of the state.

Secondly, man sustains himself in existence and thereby participates in the divine life by using the natural forces

---

52 "The right of conscience is exemption from all merely human authority - a right to be held by all civil society as sacred and inviolable; and is the first and impassable barrier to the power of the state. The state cannot pass it without violence, without the most outrageous tyranny." XIII, 139, 22; Cf. also VI, 122.
created for that purpose. In this sense he communes with God through nature. Quite obviously the nature which sustains man's life, the air he breathes and the food he eats, are not made by society. They are made by God for man. Consequently man's right to them is held independently of society. This right is termed the right to property.

Thirdly, it is unquestionably true that society contributes to the development of man's life, and therefore that man communes with God through it. First of all the family, which is a society, is responsible for man's existence. He is born into it and lives with it. The family is consequently necessary to his growth and development. But even the family is not completely responsible for the existence of an individual, for the parents are generators, not creators. Neither is the family completely responsible for sustaining his existence. Therefore the individual has rights which are held independently of the family.

Man is also dependent upon society as a mature individual. Cut off from all communication with his fellow man, he could not attain to his full stature as a man. By living in society he can actualize and develop potentialities of his nature to an extent.

---

53 "But the state does not create the right to property, and its chief right as its chief duty in regard to it, is to protect the proprietor in the free and full enjoyment of his property. The right to hold property is prior to civil society, and is one of those rights called the natural rights of man, which civil society is instituted to protect." XII, 361.
extent impossible without it. Because society is responsible for the existence of certain phases of the individual's life, it is to that extent owner of them. Consequently it has rights over him. Therefore it can impose duties over as much of the individual's life as it has brought into existence.

Thus man's threefold communion with God gives rise to three institutions: religion, society and property. Man's right to practice religion and to own property are held independently of society. These rights and all that is implied in their preservation are guaranteed by God who has given them to man. Society is not responsible for their existence; it does not own them. It has no right to abrogate them. Society must protect them equally and in every individual because human nature is present equally in every individual.

While the nature of each man is equal, concrete individuals are unequal. They occupy different positions in society. For example, some are lawyers, others doctors, politicians and laborers. Some men have a comparatively large amount of property; others have less. In other words, the actual possessions acquired by the concrete individual as a member of society are

54 "Man does not depend exclusively on society, for it is not his only medium of communion with God, and therefore its rights to him is neither absolute nor unlimited; but still he depends on it, lives in it, and cannot enter into any compact, league, or alliance that society does not authorize, or at least permit. These rights of society override his rights to himself...." XVIII, 34.
unequal. Rights which he acquires in this way are referred to as vested or civil rights because the individual holds and acquires them as a member of civil society.

Now society must protect these vested rights, for if it does not do so the natural rights themselves will be endangered. This statement requires illustration rather than formal proof. If, for example, a man is elected to Congress, society must guarantee his right to be a congressman. If a man legally acquires a piece of property, society must protect his right to hold it in order to protect his natural right to property. If he marries, society must protect his right to be married to that particular person.

Quite obviously, the natural law does not give to the individual the right to this particular piece of property or that, or to have this particular individual for a wife rather than some other person. Likewise, man has no natural right to be a congressman. Thus these particular rights vested in concrete individuals are not precisely natural rights, and they are unequal. Still it is clear that if society does not protect the rights vested in individuals who are members of society, the natural rights themselves would be endangered.

Thus far Brownson has based his argument for individual rights on two distinct grounds. The mature view just presented,
when compared with his earlier analysis of human nature, indicates the extent to which Brownson has divested himself of his Platonism. In the first argument presented Brownson has said that "Man is an idea; his destiny is to actualize himself in individuals; the conditions of this actualization are expressed in one word, communion, - communion with his kind, with nature, and with God; and the conditions of this communion are expressed also in one word, Freedom."

Later he argues simply that man is a dependent being. The nature God has given him requires for its preservation communion with God through religion, society and property. The rights of the individual in regard to religion and to property exist independently of the state. The state is not responsible for their existence; it does not own them. Since these rights are held independently of the state, the individual may arrest the action of the state which deprives him of those rights.

It has been noted also that the most serious difficulty encountered in regard to natural rights is a judicial one. Brownson will not countenance the theory that asserts as a principle that the power to judge the validity of a state law is, or can be lodged in the individual. His reason is that if this principle is adopted and acted upon it would tend inevitably to anarchy. On the other hand, the power of judging the conformity or non-conformity of an enactment to the law of God cannot be

57 XV, 363.
lodged in the state. This asserts in principle the supremacy of the state, thereby permitting the individual no appeal from its decisions. Consequently he argues that there must be a judicial power above the individual and above the state and independent of both, which is capable of determining infallibly whether or not an enactment of the state is contrary to the law of God. In the absence of such a power, or in the failure to recognize it, society must fluctuate between anarchy and absolutism. Thus the practical recognition and guarantee of individual rights is due to Christianity.

In the enumeration of man's right as an individual and as a member of society, no mention has been made of man's right to participate in the administration of government. In other words, Brownson's enumeration of rights has not included the right to vote. The reason for this is the fact that the right to vote is in a sense the right to participate in the exercise of authority. It implies the right to govern, and more particularly, the right to legislate. Before discussing it in terms of suffrage, Brownson endeavors to determine the ultimate source of legislative power. It is therefore necessary to turn to Brownson's exposition of law, which is presented in the following chapter.
CHAPTER III
BROWNSON'S CONCEPTION OF LAW

In the preceding chapter Brownson has maintained that society is not completely responsible for the existence of an individual. It does not own him completely. Consequently its rights over the individual are not complete and ultimate. Brownson adopts a similar approach to his discussion of law. He discusses law in terms of rights and ownership. In order to present his thought accurately it is necessary to adopt his own approach to the subject.

One of the most familiar and fundamental conceptions of an individual, according to Brownson, is that of having a right to whatever belongs to him. He goes on to say that whatever belongs to a person is his because he owns it. Furthermore, he owns

---

1 Brownson undoubtedly assumes this point of departure at least partially because of his audience. While his readers included many professional philosophers, he does not, for the most part, write exclusively for these. Consequently in treating a philosophical subject in an essay intended for public consumption, he tries to begin with those ideas which are most easily understandable and most readily acceptable to ordinarily educated persons. From these he proceeds to matters more difficult, both from the standpoint of comprehension and acceptability.

In applying this view to the point at issue, it must be noted that Brownson believes that people are much more keenly aware of their rights than of their obligation to obey law. He says that "We are deafened and wearied half to death with the ceaseless babble about the rights of man...." XIV, 343. Yet he approaches the discussion of law from the standpoint of right to render the discussion more familiar.
anything to the extent that he is responsible for its existence. Now an individual is responsible for the existence of a thing to the extent that he is its maker. The most fundamental notion of right is therefore the right of the maker to his product.

Continuing his argument, Brownson points out that ownership or the right to one's product is the source of obligations as well as rights. This is evident because whatever a person owns is owed to him. He has it as his due. On any other supposition right itself is unintelligible and entirely devoid of meaning.

The precise point Brownson attempts to establish by this analysis becomes clearly evident when his argument is reversed: He holds that because there is a maker there is ownership; because of ownership there is right. Right is therefore consequent upon ownership and coextensive with it.

Now it is important to note that it is because of ownership that something is owed; for if there were no owners it would be impossible to owe or to be obligated to anyone. And because ownership is in this way the source and origin of duty or obligation, the right identified with it likewise gives being to duties.

From this viewpoint, therefore, Brownson says that right defines duties and imposes obligations binding upon others.

---

2 XII, 300.
3 XIV, 330.
To define duties and to impose obligations binding upon others is, however, the distinct and peculiar function of a legislator. And in view of the fact that right does define the duties and obligations of others in the manner already indicated, it is therefore legislative in character. Thus Brownson concludes that the question of right is a question of law. Consequently the term right may be used legitimately in the sense of jus.

Having cleared the ground, Brownson's own procedure is clear. It is necessary to determine the ultimate maker of all things, for He is their owner. Ownership, furthermore, is the source of right, which in turn is legislative in character because it defines duties and imposes obligations. Consequently the source and origin of legislative power is determined in determining the ultimate maker of all things.

According to Brownson God alone is a maker in the strictest sense of the term. The reason, of course, is that in making all things He used no previously existing material. He is therefore completely and solely responsible for the existence of creatures He owns them completely. Consequently His right in regard to creatures is complete and ultimate: It imposes and defines their duties. In terms of law this means that God is the ultimate

---

4 "The question of right came up in an article on "Rights and Duties", XIV, 290-316, only in the sense of jus, in the sense in which right is legislative, makes the law, and imposes and defines duty. The question or right we showed to be a question of law, because man's right is law for all but himself, and imposes and defines their duty to him...." XIV, 330.
source of authority over man's free will. The authority is His in virtue of His creative act which gives being to man a creature distinct from God.

A brief examination of the view presented thus far indicates that Brownson has been interested in law only to the extent that it concerns man. He has endeavored to show clearly why God has dominion over man. The easiest way to do so, in his estimation, is to show that God owns man.

Having thus confined his discussion of law to man, Brownson says that it is an act of authority over free will. Having showed that God has dominion over man, he says that God is the

5 "Our duty to obey God is the correlative of his right to command us, and his right to command us is in his right of property in us, and his right of property in us is in his having created us. All dominion rests on ownership, and all real ownership on creation. We found, then, God's sovereignty of the universe on his creative act, by which he has produced it from nothing." XIV, 299-300.

In regard to the reason why Brownson puts his argument in this particular form, he comments as follows: "No doubt a correct answer may be found to the question, Why are we bound to obey God? in the current teachings of the schools; but we have not met one in so clear, precise, and definite a form that we can easily use it in our controversies without our modern deniers of the obligation to worship God, and of moral accountability. We think, however, that a very simple answer may be given, not chargeable with novelty, or of being original with us, - though seldom stated in the precise shape in which we present it, - and which will meet our wants." XIV, 299. This, of course, substantiates the reason already given for his point of departure. Cf. n. 1.
source of authority over man's free will.

It is not a sufficient explanation for the basis of law, however, to state simply that it originates in God. For although One and Simple in Himself, He is conceived by finite minds under many aspects. Such a mode of conception follows as a consequence of the limited intellectual power of the creature.

The creature, for example, thinks of God as intelligent and possessed of a free will. Because of this mode of conceiving God it is necessary to determine further the basis of law by assigning it to either one or both of these attributes.

On this question Brownson unhesitatingly declares that the ultimate ground of law is God's will. He does not, however, attempt to defend the view that law is the product of will to the entire exclusion of intellect. He maintains rather that

6 XIV, 303. Brownson says also that he is aware of the fact that the term law "... is frequently used in a wider sense than that in which we here use it. It is frequently applied to inanimate and irrational nature. Thus men speak of the laws of matter, of motion, of plants, of animals; they speak also of intrinsic laws, and laws of instinct; but in all these instances the word is used in an analogical or metaphysical, not in its true and proper sense." XIV, 303. This treatment of law is, of course, vastly different from that of St. Thomas, I-II, q. 90, a. 1, x., wherein is found the familiar "lex quaedam regula est." However, in answer to the first objection in the same article, St. Thomas notes that law "dicitur dupliciter esse in aliquo..." The second of these includes "... quaelibet inclinatio proveniens ex aliqua lege potest diei lex non essentialiter, sed quasi participativa et hoc modo inclinatio ipsa membrorum ad concupiscendum lex membrorum vocatur."

7 XIV, 304.
although both faculties are necessary, will plays the dominant role. In order to understand the respective functions of intellect and will in the promulgation of a law, it is necessary to note that it is possible to view law from two distinct aspects.

In the first place law may be considered from the standpoint of its contents and purpose. That is, it may be viewed for the precise purpose of ascertaining what it is that is commanded and also the purpose to be achieved by the command. From this viewpoint, Brownson readily concedes that law is clearly an act of the intellect; for only an intellect is capable of grasping the relationship between means and ends, and therefore it alone is capable of formulating a plan or a rule of action.

According to Brownson, however, this conception of law is deficient. He argues that a mere plan as such does not bind the will. In other words, however reasonable a plan may be, however good its purpose, it is not thereby an act of authority over free will. Thus a plan requires the addition of another factor in order to transform it into law.

---
8 XIV, 333. Cf. also XIV, 305, and the following, "If we consider law as to its contents, or in answer to the question why the sovereign chooses to enact it, it is no doubt actus intellectus, but in that sense it is only improperly called law." XIV, 347.

9 XIV, 305.
In the second place, therefore, law must be considered with a view to ascertaining the characteristic which determines a law as such; that is, as binding upon the will. In other words it is necessary to determine what it is that gives law its formal character as law.

From this viewpoint law must have its origin in the will, for will is the moving power. Only the will can command, and without it a legislator commanding or imposing a rule, there is no law. Consequently law derives its character as a binding force from will and not from the intellect. Since this is the formal element which determines a law as such, it is clear that the divine will is for Brownson the source of law. Brownson summarizes his view of the question as follows:

Law is not actus rationis, but actus imperii, therefore an act of will, for will, not reason, is the imperative faculty. Reason enlightens will, but will commands reason. Reason is declarative, not legislative, does not found the law, but declares what the law is. It tells us what is good, what is bad, what is desirable, what is undesirable, but does not bind us to seek the one or avoid the other. Law is the voice of authority, and derives its binding force as law from Him who commands, not from what is commanded. To know whether it is law or not, we ask not, What is said? but, Who speaks? God speaks - is the ultimate reason for all obedience; for who may say unto him, What doest thou?, or, Why commandest thou thus? law undoubtedly is reasonable, but it is law not because it is reasonable, but because it is the expressed will of the sovereign, of him who has the right to impose his own will as law.
In discussing law with a view to determining its ultimate source in either the will or intellect, Brownson is not at all interested in attempting to settle the question in terms of the respective functions of these faculties considered in themselves. He is much more interested in the question from the standpoint of the practical difficulties encountered in adopting either of these views. Thus he pursues the same question still further in terms of the consequences involved in adopting either the primacy of the will or intellect in regard to law. For he says that "It is only by means of placing obligation solely in the fact that God wills it, that we know how to carry on the war against the peculiar errors of our times."

Brownson contends that if reason in the sense of intellect is legislative in character it is impossible to show that God legislates freely. The argument whereby he supports this conclusion is very brief:

If, to get law in an obligatory sense in which it is law for the will, we go further, and assert reason not merely as declarative, but as strictly legislative, we then lose all free legislation, for reason is necessarily, not free. By placing the obligation as well as the rectitude of the law in reason, we place it in the eternal and necessary essence of God, and then God is no longer a free legislator, for in his essence he is necessary being. The law, then, is of necessity, and God has no freedom in governing the world.
In this argument Brownson says that God's reason is identified with His essence. Consequently it possesses all of the attributes of that essence. Therefore God's reason is eternal, immutable, necessary being. Since reason is necessary, the laws originating therein are necessary laws.

Now in saying that God's essence is necessary, Brownson means that He exists necessarily. He does not mean that God is under compulsion. But again, creatures cannot, because of their limitations, express all they know about God in one concept. The conceptions of God as eternal and immutable essence, for example, is not the conception of God as free. The conception of something flowing from His eternal and immutable essence is not the conception of something produced by His free act. In order to grasp this aspect of God it is necessary again to speak of Him in terms of intellect and will.

Brownson readily concedes that both intellect and will are necessary for a free act. Without intellect there could be no will, for it is only because the intellect presents objects to

13 At this point one might object that God's will is likewise identified with His essence and is therefore necessary being. Thus it would follow also that laws originating therein are likewise necessary. While Brownson neither proposes the objection nor answers it explicitly, it occurs rather obviously. That it is not an objection for Brownson is brought out in the course of the discussion.
it that the will can function. Nevertheless he holds that the intellect is determined by its object. The evidence of truth compels its assent.

He refers to the will, however, as the monarch of the mind. Its assent is not compelled by an external object. It is not determined to adhere to any one of the objects presented to it. Consequently will is the ultimate ground of freedom: "The reason presents the end and the motive for seeking it, and the

14 Cf., for example, IX, 240; III, 124; X, 156.
15 Now it is clear that the truth or falsity of Brownson's view depends upon the truth or falsity of his view that intellect is necessary, not free. It is impossible, of course, in a work such as this to treat such a subject exhaustively. This would require a thesis of considerable length, such as the study of Sidney Raemers, America's Foremost Philosopher, (already referred to), who wrote the work for the purpose of explaining what Brownson meant by his theory of knowledge.

The scope and importance of the problem concerning the nature and respective functions of intellect and will in a free act, as well as the factors entering into its solution, are indicated clearly by Anton-Hermann Chroust, "Hugo Grotius and the Scholastic Natural Law Tradition," New Scholasticism, (April, 1943), XVII, No. 2, 101-133.

Brownson himself has no formal discussion of the problem. If he appreciates it as a problem he attempts to avoid it by saying the important consideration is the fact that man knows and wills by means of faculties. He does not consider intellect and will separately in order to discover what they are in themselves and how they are related. Cf. I, 105-115, 230; XIV, 194; VI, 33; IX, 240-241; II, 33 ff.
will chooses or rejects it, determines to gain or not to gain it.

Brownson's view of the respective functions of intellect and will in a free act is consequently a very simple one. The intellect seeks knowledge at the command of the will. Having been thus commanded, the intellect in turn enlightens the will. But since the will is superior to the intellect, it is under no obligation to accept any particular object presented to it. Thus the final decision in regard to the object to be adhered to is made by the will. It is consequently the ultimate source of the free act.

On the basis of this view of intellect and will, it is clear that God's intellect cannot be the source of law. For if it were, law would be conceived as existing prior to the command of God's will. And if it is prior to the command of His will, it cannot come into existence as a result of His free act, because His will must be viewed as the ultimate source of His freedom.

16 X, 156. Cf. also the following: "Reason enlightens will, but will commands reason." XIV, 303. Further, "But though the soul operates simultaneously in all of its operations as intellect and will, the will is the commanding faculty, the monarch of the mind, as it has sometimes been called, and it is in some sense as its servant, not as its master, that the intellect operates. The motive power of all intellectual life is the will, love, the love of the good .... It is the spring and motive, or rather mobile, of all our actions, and must therefore hold the first place in our philosophy, whether we speak of the subject or of the object." I, 352-353.
Thus if the divine intellect were the source of law, God would have no choice in the promulgation of the laws whereby He governs His creatures. In fact He would not be free to command or not to command the existence of creatures, for His will would be limited by laws existing prior to the command of His will. Thus Brownson concludes that if law were grounded in intellect "... no sovereign will would be requisite to constitute it law. Its obligation would be in what it commands, not in him who commands, which no Catholic theologian, and none but an infidel or liberal Christian can admit."

17 XIV, 347. Brownson adds that St. Thomas treats law from an entirely different viewpoint. His concluding statement, however, involves a large question, on which Brownson has spoken hastily. St. Thomas explicitly makes law a thing of reason in S. Th., I-II, q. 90, a. 1, c, and certainly seems to exclude will as such. He makes the relation of will to law its regulation by the reason. Ibid., ad 3o: "... voluntas de his quae imperantur, ad hoc quod legis rationem habeat, oportet quod sit aliqua ratione regulata: et hoc modo intelligitur, quod voluntas principis [as quoted in the objection] habet vigorem legis ..." Cf. also q. 93, a. 1, c: "... ratio divinae sapientiae moventis omnia ad debitum finem obtinet rationem legis." Obviously, this is a difficult question, and I am only trying to show the radical difference between Brownson and St. Thomas. The metaphysical difference is perhaps made clearcut in S. Th., I, q. 16, a.4. There, St. Thomas says "Primo est ratio entis, secundo ratio veri, tertio ratio boni..." This unequivocal priority of being and true over good is one with which Brownson was not in sympathy. His constant tendency was to platonize. Moreover, he did not make the necessary distinction between the speculative and practical reason, even in God. However this is not an explanation of St. Thomas' doctrine, but an attempt to indicate that he and Brownson are on divergent lines of thought.
Such a view is, however, clearly incompatible with the Christian conception of God, for God is free. He is above all law. His will cannot be conceived as being restricted by law. He is under no compulsion in regard to creatures or to the laws whereby He governs them. Both are produced from nothing by a free act of God. In order to conceive of God as a free legislator it is therefore necessary to conclude that God's will is the ultimate source and foundation of law in the sense in which law imposes an obligation.

Thus far Brownson has shown that legislative power is derived from ownership and is coextensive with it. Further, he has shown that God is sole and exclusive owner of creatures because He alone is responsible for their existence. Since he takes this position it is clear that Brownson must hold that legislative power is vested solely and exclusively in God. On this point he is very explicit:

God is sole legislator. He is not merely supreme legislator with subordinate legislators under him, each a proper legislator within a given sphere, but sole and universal legislator, not in the sense of eminent legislator only, as he is the eminent cause of all that is done by second causes, but in the sense of direct legislator, so that all legality, all the binding force of law, all law as law, emanates directly from his will. 18

In this case Brownson's meaning is quite clear. He says 18 XIV, 332.
simply that creatures do not participate or share God's legislative authority as they do His causal power. This means that God communicates His causal power to creatures but He does not communicate to them His authority as a legislator. Consequently there are second causes but no second legislators.

This view of Brownson is in harmony with and is necessitated by the general doctrine presented thus far. First of all he has shown that right is legislative in character. Right, in turn, is based upon ownership. And since God is solely and completely responsible for the existence of creatures, He owns all that they are and can acquire. Because he owns them in toto, no part is left over for anyone else to own. Consequently no one else has any right to any part of the creature or of his activity. And since God alone has right, it follows that He alone is legislator.

Now it is clear that because Brownson denies legislative authority to creatures he must also deny that they have rights. Consequently they cannot be owners. While this is clearly Brownson's doctrine it is equally evident that he does not deny

19 "We can owe only on condition that we are, to the extent of our indebtedness, not our own, and can owe only him whose we are. We owe God because we are his, and all we are and have, because all we are and have is his, since he is its author and giver. We cannot owe beyond all we are and have, this is, beyond our whole being, and if we owe the whole to God, it is clear that we can owe no one else." V, 272.
the reality of second causes, for he has just said that God is the eminent cause of all that is done by second causes.

It is hardly necessary to point out in detail that these views of Brownson seem to be mutually incompatible. For in conceding that a creature is a cause, Brownson must obviously concede that he is responsible for the existence of things, for this is the function of a cause. Since the creature is to some extent responsible for the existence of things, he must be, to that extent, owner. Consequently he must also have right and with it legislative power. Since such a conclusion is incompatible with Brownson's view of God as sole and exclusive legislator, he is obliged to show how he can maintain consistently that creatures are real second causes but not real legislators.

Now in order to understand Brownson's view it is obviously necessary to understand precisely what he means when he says that creatures are second causes. His meaning is discernible by comparing and contrasting the activity of second causes with that of the first cause. In doing so it will be shown why God's

20 Cf. also the following: "But either creatures are second causes or they are not. If not, they are merely phenomenal, and we must be Pantheists, for the essence of Pantheism is in denying second causes. If creatures are second causes, then, as they have confessedly their type or exemplar in God, they must in the order of second causes copy or imitate the divine creative act." I, 376.
activity gives Him right while that of creatures does not.

In the first place the creative activity of God presents itself under two aspects. According to Brownson one of these is "... the procession by way of creation, not emanation, of existences from God, as their first or efficient cause, and the other their return, without being absorbed into God, ... to him as their final cause or last end." The procession of creatures from God is referred to as the initial order of creation or its first cycle. Their return to Him is referred to as the second cycle or the teleological order.

Now the activity in the initial order, and to some extent in the teleological order, is distinctively God's. Creatures do not and cannot participate or share in the act by which God has produced them from nothing: "To assert such participation would place us in the order of the first cause, give us at least a share in the work of creation, and thus assert, if not pantheism, polytheism."

God has willed not only that creatures exist, but also that they return to Him as final cause. God has created them, but He has created them for Himself alone. The plan according to which creatures proceed from God and return to Him is also distinctively God's. He is sole creator, acting for an end; as

21 XIV, 206.
22 III, 363; XIV, 206.
23 XIV, 313.
such he alone designates the end and imposes the obligation or the law according to which His creatures must act in order to attain their end. Thus far the creature has no voice, no will, no activity.

In Brownson's estimation, therefore, the activity of the creature is confined to the teleological order. As causes their activity is productive, but it is productive only in relation to their end. This means that while the divine plan does not and cannot give the creature any share in the act whereby he is created and obliged to return to God, it does include the existence of man as a second cause whose own activity is required for the attainment of the end God has willed him to attain.

The position and the activity of the creature is thus more clearly defined. God has imposed upon His creatures the obligation to return to Him. Further, each creature must tend toward God or return to Him according to his nature. This is the only conceivable way in which he can tend toward God because the nature of the creature is the only center of his activity. From a different viewpoint this means that God directs all things to their end in accordance with the nature He has given them. That is, having given a nature to a creature, He governs it accordingly. Since man's nature is rational, God governs him accord-

24 III, 74.
25 XIV, 206, 312; III, 74.
God imposes upon man the obligation to return to Him; since his nature is rational, the return to God must be rational.

In terms of the teleological order, this means that man's activity is confined to the second cycle of creation. It is the sole sphere of his activity. His return to God must be intelligent; but man has a faculty which is superior even to his intellect, and is more truly the source of his own activity. This is his free will. Consequently man is obliged to tend toward God by his free, voluntary act. Thus Brownson says that the second cycle of creation "... is the sole sphere of man's activity, and it consists in voluntary obedience to the law of God...."

Brownson does not, therefore, deny the activity of second causes. He concedes to them the highest activity compatible with their position as creatures who owe everything to God:

The activity of second causes is none the less activity because confined to the second cycle, or return to God as the end for which they were made. Undoubtedly all activity is, in a certain sense, productive, otherwise it would not be activity; but the activity of second causes produces only in the order of the end, and in man is termed virtue, which is the product of duty discharged, and therefore is included in the return to God. This return to God is in man more than an instinctive, more even than an intelligent return; it is a free, voluntary return, in which the end is not only apprehended, but freely willed. There is no higher conceivable activity of second causes than this, none which approaches nearer the similitude of the divine activity. Man is never more truly or distinctively man, and never performs an act more properly his own, than when performing an act of obedience, or discharging a duty.

26 III, 75.
27 XIV, 313.
Now it is clear that Brownson's doctrine, while denying absolute ownership, does not deny ownership to creatures in every sense of the term. For he has asserted that God has given to the creature a nature which is the source of his activities. But it is clear that whatever God gives, He has the right to give, for He is absolute owner. Consequently whatever He has as a fact given to creatures is really their own. He merely denies that such ownership originates in the creature and affirms that its source is God who wills him to have it.

On this basis, however, it is clearly impossible for the creature to own anything, even his own existence, absolutely. For if the creature were absolute owner, he could do with himself whatever pleased his fancy. Thus his activity would not be subject to God's law.

This is impossible, however, for God Himself cannot dispense the creature from the obligations arising from his position as God's subject. For God's dominion over the creature is founded on His creative act. He is absolute owner of man by the fact that He is his maker or creator. For the same reason man owes everything to God. Therefore he is obliged to render to God the tribute of his being. Thus God's dominion over man remains as long as His creative act persists. And since man is and must remain a creature, he is, and must remain, subject
It is clear, therefore, that man's ownership of all things, including himself, is and must remain ownership subject to God's will. Consequently his ownership is never absolute. This, however, is not ownership in the strictest sense of the term. For anyone who owns a thing absolutely has the right to do what he pleases with his own. Consequently man's ownership, or that of any creature, is more accurately described by the term stewardship.

Now in view of the fact that creatures are owners as stewards or trustees of God, it is clear that they have rights in the same way, for right is consequent upon ownership and coextensive with it. Thus it is convenient to speak of the rights and duties of creatures to themselves and to each other in the same way that they are spoken of as owners. But since the creature has rights only as a steward of God, it is clear that his rights must be respected only in that way. That is, the creature is not and cannot be the ultimate recipient of that which is due to him. For if he were, he would own his rights

28 Cf. above, n. 5, wherein Brownson says that God's sovereignty is founded on His creative act. In V, 271, Brownson shows that God cannot dispense us from the obligation to worship Him, which "includes all our obligations," without annihilating His own essence.
in his own name rather than as God’s steward.

This means that creatures have rights and duties to themselves and to others, but their rights and duties are binding because of God’s law. For as absolute owner God does not demand direct and immediate payment of all that is owed to Him. He has, in His goodness, transferred part of that debt to His creatures and made it payable to themselves on His order.

For example, in willing the existence and preservation of men, God wills them to have and to preserve that existence. Consequently each individual has not only a right to his existence as God’s gift, but also the obligation to respect it in himself and in others. For if God had not willed the obligation to respect the rights He has given, the rights themselves would be meaningless. Because the creature does not have in and of himself the right to his existence, he cannot in his own name bind himself and others to respect it. Consequently it is

30 "I am aware that moralists are accustomed to divide our duties into three classes - duties to ourselves, duties to our neighbor, and duties to God, and that some persons suppose that each class stands on its own ground, independent each of the others, so that we might deny our duties to God, and still assert duties to ourselves or duties to our neighbor. But this is, as you perceive, a grave error. The division of our duties into the three classes just mentioned is convenient and perfectly proper, when the question is not as to the ultimate ground of duty, and it is only proposed to treat our specific duties simply in relation to their immediate objects; but when we are treating of the principle of duty itself, the ultimate ground of all obligation, it is not admissible; for then all duties resolve themselves into duties to God...." V, 273.

31 XIV, 301.
clear that the rights and duties of creatures to themselves and to others derive their binding force directly from God's will.

This means simply that in the event a creature is deprived, for example, of his life, to which he has a right as God's gift, he suffers a loss of something God has given to him. The one who deprives him of the right sins, or commits a moral evil because he has broken God's law which binds his will to respect the lives of others. Brownson says "The evil is to the sufferer the moral wrong is to God, whose property is injured, and whose law is broken."

Thus far Brownson has maintained that the sole purpose of the creature is to return to God. His return must be made in accordance with his nature, for that is his only source of activity. Since man is a creature endowed with a free will, he must tend toward God by his own free, voluntary act. He does this by freely willing to obey God's law.

It is impossible, however, for man to conform his own will to God's unless he has some knowledge of what it is that God has commanded. Consequently, since God's plan requires man to obey His law, it also requires him to have some knowledge of it. Without such knowledge obedience would be impossible.

As a matter of fact God has made it possible for man to discover the law according to which he is governed. In the first

32 XIV, 336-339.
33 XIV, 337.
place He has made a revelation to man. The positive commands embodied therein are referred to as the supernatural law.

Secondly, God's command is embodied in the universe He has created, and it is discoverable therein by the light of the reason natural to man. Brownson does not prove this statement by any elaborate argumentation. He says simply that since God has willed the existence and preservation of the natural order it is evident that "... when we have ascertained that this or that is necessary to its preservation, we may know without further inquiry that God commands it." It is termed natural because it is promulgated through natural reason.

While the term natural law is a convenient one, it cannot be used in any sense which implies that there is a law which the natural order itself imposes or originates. For nature, or the natural order, is a creature. As such it has no right or ownership absolutely, or in its own name, independently of God. Therefore it has no authority whatsoever to impose obligations.

Consequently in speaking of the natural law one must be careful to refrain from using the term in a sense which implies that nature is a secondary or intermediate legislator. Thus Brownson says that "The law of nature is, we grant, true law, but it derives its character of law directly from the will of

34 XIV, 385.
35 XIV, 306.
God, not from nature as second cause."

Brownson describes accurately the sense in which he uses the term natural law when he says:

We do not deny the obligation of the law of nature, but we do not call it law precisely because without fulfilling it we cannot fulfill the purpose of our existence, nor the law of nature precisely because it is impressed upon nature, innate, intrinsic, and operative in all natural actions, but because it is the law of God, the will of our sovereign, commanding us to observe the order of nature, and forbidding us to depart from it.

This means that the natural order must be preserved because God has willed its existence and preservation. Whatever is necessary to the existence and preservation of the natural order is, ipso facto, willed by God. The source of the obligation to obey nature, to preserve its existence, is not in nature itself, but in its Author. In this sense the natural law is in no sense distinct from God's law, or from His direct and immediate command. It is called natural only because it is promulgated not supernaturally, but through the reason natural to man.

Before proceeding with the discussion it is necessary to examine the position Brownson has taken thus far. The chapter is, in a sense, an outline of what Brownson intends to say specifically about the state. A summary is presented with a view to determining why Brownson has taken the position he has.

36 XIV, 332.
37 XIV, 312.
and what it means to him as a political philosopher.

He has held that God is the sole and exclusive legislator of the universe. He derives His right to legislate because He is its maker, and therefore owner with absolute right. There are no intermediate legislators having authority to impose obligations in their own name, because there are no intermediate creators. There are none who have the kind of ownership that is consequent upon creation. The natural law is the command of God, promulgated through nature or natural reason, which obliges man to preserve the natural order created by God. Anything necessary to its preservation is by that fact authorized or commanded by God.

On this basis it is clear that Brownson must show that society is in the natural order whose existence and preservation is obligatory because God commands it. In this way, the obligation to preserve the existence of society is an obligation imposed by God. Obedience is consequently a duty, a moral virtue; disobedience is a sin, a violation of God's command. Thus Brownson's position requires him to defend the view that the authority of society is derived from the natural law.

An analysis of his view of right presented above indicates that it is merely a continuation of his exposition of individual rights presented in the preceding chapter, wherein he has shown that the right of the state must be derived - it cannot be absolute. If its authority is absolute, underived, there is no place for the rights of the individual.
In the present chapter he has merely applied that same view to the individual rather than the state. For he has said that the individual has no native, inherent, underived right. The rights of the individual must be derived from God — as much so as those of the state.

He has endeavored to show, somewhat circuitously perhaps, that God alone possesses right in the absolute and unqualified sense of the term. Consequently all other rights must be not absolute, but derived — and from God alone. Thus it is false to hold that the right of the state is underived and absolute. On the same ground it is equally false to hold that the right of the individual is underived and absolute.

Further, to say that God gives man rights is not to deny that man has such rights. They do not lose their reality by the fact that God gives them to man. Since man derives his rights from God, who wills him to have them, anyone depriving a man of such rights violates God's law. Thus if man's rights are considered as gifts from God, their preservation is more certain than if they are considered as his own.

Brownson's discussions of right include, in a sense, the simple statement that he will not present his conception of the state until he has shown that there cannot be in it any absolutes which may collide. Again, in the preceding chapter he has shown that the possession of a right carries with it the right to define, to judge, to determine its limits. Affirmed of the state, such right involves absolutism. Affirmed of the indivi-
dual, it is nothing more than the extension of the Protestant principle of private judgment in the political order. It is anarchy.

Having stated the conditions under which he will discuss the problem of individual liberty versus public authority, Brownson endeavors to prove the proposition that the authority of the state must be derived from God through the natural law. In doing so Brownson must show that society is natural and that its preservation is consequently commanded by God. Thus his solution of the problem of the respective rights of the individual and the state must begin with his discussion of the origin of society and its authority.
CHAPTER IV

THE ORIGIN OF GOVERNMENT IN CONTRACT

When he deals with certain questions, the analyst of Brownson's thought sometime's feels that there is much justice in James Russell Lowell's fine lines:

The worst of it is, that his logic's so strong,
That of two sides he commonly chooses the wrong;
If there is only one, why he'll split it in two,
And first pummel this half, then that, black and blue.

One such question is the origin of government. Brownson wrote a good deal on it. But he wrote as a reviewer, and as a Catholic reviewer. Consequently he not only dissects and criticizes other men's views but complicates his dissection and criticism by his zeal for retaining truths he may find in them. As Arthur Schlesinger says - not altogether unfairly - Brownson "... usually decided that each side of a question has its truth, and his inclination was to build a complete answer by heaping the truths together."

Whether or not Brownson's theory of government is a mere

1 "A Fable for Critics", cited by Schlesinger, 278.
2 Schlesinger, 287. Brownson's own attitude is illustrated in the following: "We regard it as the mark of an ill-natured, a narrow minded, or carping critic to read a book simply to find in it something that he can pounce upon, and hold up to public execration as unsound in morals or incorrect in theology .... The great aim of the generous and noble-minded Catholic critic is to recognize what there is in his author that is true and good, worthy of commendation, and to pass lightly over small or incidental errors, for our great work is not so much to avoid error as to bring out and appropriate truth." XX, 293-294.
congeries of truths, the fact is that his theory of the origin of government must be constructed partially from his criticisms of other men, and other possible theories. Prior to his conversion, when he was unfamiliar with the scholastics, Brownson recognized four possible theories or grounds for the origin of government and of authority. Some time later he expanded his list to include eight such theories.

In each of these lists appear theories which endeavor to account for the origin of authority on a purely human basis. They appear under the common name of the social contract. Now the social contract for Brownson has two principle variants: the authority of society is derived from a contract entered into by sovereign individuals; the authority of society inheres in the people collectively who possess authority as a unit. The first of these Brownson regards as more properly the social contract, and we shall present it in this chapter. The second he prefers to call the democratic theory, and we shall present it in the

3 In his first essays on the origin and ground of government Brownson finds that government may originate in: 1. The express appointment of God; 2. The spontaneous development of human nature; 3. The authority of the father in the family; 4. The social compact formed by the people in convention assembled. XV, 310. In his American Republic Brownson expands his list to eight. Government originates: 1. In the right of the father to govern his child; 2. In a convention or compact; 3. In the people collectively; 4. In the spontaneous development of nature; 5. In the express appointment of God; 6. Further its authority may be derived from God through the pope; 7. through the people; 8. through the natural law. XVIII, 18-19.
chapter which follows.

That "government is and must be authority exercised over subjects" was for Brownson axiomatically. Therefore he had little use for the term self-government. Since government without a clear cut distinction of governor and governed was for him an impossibility, he looked on self-government as a misleading, even a pernicious misnomer. Names have more power than we commonly think. A failure to distinguish in so called self-government between governor and governed may lead to a loss of authority: "The influence of names is greater than is commonly imagined. A misnomer involves usually an error as to the thing. If we call our government self-government, and contend for it

4 In his first discussion of the theory that the authority of government may originate in the people, Brownson observed that the term people may be used either distributively or collectively. Thus he criticized one theory which has distinct phases or aspects. In his American Republic he retained the same idea, but for the sake of clarity he treats these variations in distinct places under the headings: the origin of government in convention (XVIII, 27-40) and the origin of authority in society or people collectively which he calls the democratic theory. XVIII, 41. In his criticism of the contract theory he mentions that it has been advocated by Hobbes, Locke and Rousseau. XVIII, 41-42.

5 XV, 413; XVIII, 16.

6 He maintains that the masses are free from all subtlety, taking words in their most obvious sense, paying little or no attention to the refinements of philosophers. Thus a people will interpret the term self-government to mean that they are under no government as a people, and consequently under no restraint except that which they impose upon themselves. XV, 306-307.
under that name, we shall of necessity run in our theories, and in our practice, into no-governmentism."

We can put Brownson most simply thus: self-government is tolerable if the self does not destroy the government. It could destroy it if the distinction between governor and governed is lost. Now let us see what Brownson thought of the theory in which individuals establish authority over themselves.

He makes the theory older than that of the author of the Social Contract. In fact he goes back to Hobbes who "... is among the earliest and most distinguished of the advocates of this theory." Its purpose is to account for the origin of authority on a purely human basis. It endeavors to accomplish its purpose by showing that authority to govern arises in a convention or an agreement, either between the people and their rulers or between the people themselves to appoint rulers. Thus rulers have authority because the people give it to them. People agree

---

7 XV, 305.
8 XVIII, 28. Brownson's exposition of the social contract theory does not represent in detail the complete view of any one of its exponents. This objection might be a serious one if Brownson intended to refute any one of these philosophers. This is not his purpose. He criticizes here a theory which tries to account for the origin of authority on a purely human basis. He does not criticize it as held precisely by this or that individual. He tries to make his refutation complete by showing that such a theory is false regardless of its possible interpretations.
to be governed; they enter into a contract and this contract is the basis of the authority to govern. On this basis it is obvious that no government is just which does not have the consent of the governed. For the people are the only source of authority, and if a government does not have the consent of the people it can have no authority — it is therefore unjust.

Further, since the purpose of the theory is to account for the origin of government on the conventional basis, it must suppose that civil society is not as old as men. It must suppose, prior to the formation of civil society, a combination of circumstances necessitating a convention to institute government. Otherwise there would be no need for a theory to account for the origin of government. The situation in which men found themselves prior to a convention authorizing government is referred to as the state of nature.

In general terms, the state of nature is one of continual warfare. Each man has equal rights and each tries to appropriate everything. "The strong oppress the weak; the cunning circumvent the simple." There is no law but the will of the strongest. At length, weary of perpetual warfare, men decide to form civil society. They surrender their own natural freedom in order to secure the benefits of society. Without such a

9 XV, 311.
10 XVIII, 27; XV, 310.
11 XV, 311.
a surrender of rights, society has no legitimate authority.

Locke states rather accurately the position Brownson intends to criticize:

Man being, as has been said, by nature all free, equal, and independent, no one can be put out of this estate and subjected to the political power of another, without his own consent. The only way whereby anyone divests himself of his natural liberty and puts on the bonds of civil society is by agreeing with other men to join and unite into a community, for their comfortable, safe, and peaceable living one amongst the other... This any number of men may do, because it injures not the freedom of the rest: they are left as they were in the state of nature. When any number of men have so consented to make one community or government, they are thereby presently incorporated and make one body politic, wherein the majority have a right to act and conclude the rest.

Having stated the theory, Brownson proceeds to criticize it. He is concerned first of all with the state of nature which must exist, on the supposition of the theory, prior to the formation of government. He observes that philosophers have arrived at a state of nature by mentally separating man from his existence in society.

Now Brownson argues that in making such an abstraction it should be at least complete. In other words, if one will insist upon removing mentally an individual from society, he must be careful not to remove a man already civilized, imbued with the habits, manners, customs and knowledge of society, to some re-

13 XVIII, 30.
mote island. In order to be consistent with its purpose the theory must suppose that society is not natural, but purely artificial. There cannot be even the slightest trace of society in such a state of nature; for if there were, it would be unnecessary to institute society. The theory would account for the development or perfection of an existing society and not, as it professes to do, for the origin or institution of government. Furthermore, man himself can have no natural urge, no innate tendency for society; if he had, society would be natural and man would be a social animal and consequently society would be as old as man. Therefore it would be unnecessary to account for its origin in convention.

Brownson argues that in terms of an abstraction consistent with the purpose of the theory, the people in the state of nature could not institute government. In the first place, if the primitive state of man is natural to him, then civil society must be "supernatural, preternatural, or subnatural."

Man is, however, limited by the nature which he has; it is inseparable from him. It is his only source of activity. Consequently he can neither divest himself of it, nor by his own unaided efforts give himself a nature other than the one he has. Thus Brownson says that "If his primitive state was his natural state, and if the political state is supernatural, preternatural,

14 XVIII, 31.
15 XVIII, 30.
or subnatural, how passed he alone, by his own unaided powers, from the former to the latter.

Furthermore, "In the alleged state of nature, as the philosophers describe it, there is no germ of civilization, and the transition to civil society would not be a development, but a complete rupture with the past, and an entire new creation."

In other words, it has been noted that there is not, and cannot be, present in the state of nature, a germ of social organization - not a root that could be nurtured or developed. But man is a dependent being and not a creator. He is not strictly a creator even in the intellectual order; he cannot create an idea any more than he could create a universe. Consequently it would be extremely difficult to conceive of civil society.

Even supposing that some individual, unusually gifted, would conceive of civil society, it would be impossible for him to execute his conception. It is difficult to introduce reforms among people already imbued with the notions of authority and obedience. To modify already existing institutions and to adapt them to meet changing circumstances is a task that requires a great deal of time, skill and ingenuity. But the

16 XVIII, 30.
17 XVIII, 33.
18 In Brownson's terms, man's activity is confined to the teleological order or the second cycle of creation; his causality, while real, is productive only for the attainment of an end. Consequently he does not originate; he can develop, explicate, combine, but there is no sense in which he can create.
people in the state of nature have no habits of obedience, no
habit of commanding one another. Consequently the introduction
of government is at least a much greater achievement than the
most radical modification of an existing institution. Conse­
quently Brownson concludes that:

When it is with the greatest difficulty that
necessary reforms are introduced in old and
highly civilized nations, and when it can seldom
be done at all without terrible political and
social convulsions, how can we suppose men with­
out society, and knowing nothing of it, can
deliberately, and, as it were, with 'malee
aforethought' found society? To suppose it,
would be to suppose that men in a state of nature
... are infinitely superior to the men formed under
the most advanced civilization. 19

Brownson observes also that the advocates of the state of
nature assume, unconsciously, that the people living in it have
the habits and traditions of a people already civilized. Conse­
sequently the advocates of the theory beg the question because
they assume the existence of civil society as the condition upon
which it can be instituted. He clarifies this point in the
illustrations which follow.

Brownson maintains that it is obviously impossible to esta­
blish an ideal government such as that proposed by the various
authors in their Utopias. He contends that they "... remain
Utopias not solely because intrinsically absurd, though so in

19 XVIII, 33.
20 Brownson mentions, of course, The Utopia, or The Land of No-
where, by Thomas More, published in 1516.
fact, but chiefly because they are innovations, have no support in experience, and require for their realization the modes of thought, habits, manners, character, life, which only their introduction and realization can supply."

Likewise, the introduction of civilization is an innovation. It has no support in experience. It requires for its realization the things which only civilization can supply. Unless it is assumed that the people of the state of nature have the habits of a civilized people, it would be much more difficult to introduce a civil order de novo than a Utopia in a civilized state. Since the latter is impossible, so also is the former. Thus the advocates of the theory must beg the question; failing to do so they suppose a combination of circumstances from which it is impossible to institute government. In either case the theory fails to accomplish its purpose.

By the same fallacy the advocates of the theory assume unconsciously that government is essential to progress. For if progress were possible without it, there would be no need for the people of the state of nature to institute government. Without government people are therefore unprogressive. Consequently in picturing the people as capable of instituting government the advocates of the theory picture them as a progressive people - therefore as a people already in possession of one of the

21 XVIII, 33.
elements essential to progress, namely, government.

Thus far Brownson's objections to the contract theory have been aimed at the state of nature which preceded civil society. If the state of nature is not prior to society, then society is as old as man. Consequently there is no need for a theory to account for the institution of civil society. Therefore a state of nature prior to civil society must be asserted.

The state of nature is arrived at by mentally removing man from civil society. In order to be consistent with the purpose of the theory, the abstraction must be complete - no root, no germ, no natural inclination for society can remain. If any of these factors are present in the inhabitants of the state of nature, the theory can account only for the development or perfection of an already existing society. Thus it would not account for the institution of civil society.

On the other hand, if all traces of society are removed from the state of nature, man would have to be a creator in order to institute civil society. First of all he would have to discover a means whereby he could change his original nature. Secondly, he would be required to create the idea of civil society. If he could get the idea, he could not execute it.

Consequently Brownson concludes that the advocates of the
theory either beg the question or else picture a combination of circumstances which render impossible the institution of civil society. This point was illustrated with reference to the Utopias and to the fundamental assumption that government is an indispensible condition of progress. And since the theory must either beg the question or present a state of nature from which it is impossible to derive civil society, it must be rejected.

Brownson continues his objections to the contract theory on still another ground. Even supposing the state of nature and granting a convention to institute government, it is still impossible to account for the authority of government. His objections are based upon the view stated in the beginning of the chapter, that government is authority exercised over subjects.

Now in the state of nature there is no sovereign, no civil authority, because a convention is called for the purpose of establishing a government with authority. In other words, individuals presumably institute a government to which they are subject, which has the right to command and to exercise authority over them. But Brownson argues that individuals cannot create a sovereign, because the creator is, obviously, not subject in relation to the creature. Consequently, if government is created by individuals, individuals are sovereign and the government thus established is subject to them as creature to
creator. Government is then the agent of the creature.

That government must be conceived as the agent of the individual is also indicated by the manner in which government reputedly originates. The individuals who meet in convention are sovereign, and therefore free, with equal rights. Each must be sovereign in relation to the other because there is no authority above the individual to which he is subjected. In establishing a sovereign, the individual agrees to surrender some of his own sovereignty to a governor; in doing so, the governor has the right to govern because of the voluntary consent of the individual.

Now Brownson argues that the individual is obliged, on the supposition of the theory, to surrender all of his sovereignty, a part of it, or none of it, to the government. It is evident that if the first alternative is taken there is no basis for individual freedom. For if he surrenders all to society, he has no rights left. He is consequently a complete slave of society with no rights of his own which he may plead against it; he is no longer an integer, but a fraction of a whole with nothing

23 "In the state of nature, there is no sovereign; the convention is called for the purpose of creating the sovereign. But is sovereignty a thing to be created? The sovereign is over and above the individuals to be governed; that to which they owe allegiance; which has the right to command them. Can these individuals create it? Can the creator be subject to the creature; owe allegiance to it; be loyal to it? Obviously, then, if there be in the state a sovereign power at all, it is not created by those who are to be subjected to it." XV, 314.
except that which society chooses to give to him. In that case, as Brownson observes, "However unjust or oppressive the acts of the state, he has not only no redress, but not even the right to complain."

Supposing the last alternative, the individual retains his sovereignty but merely delegates instead of surrenders his rights to society. Yet if he retains his complete sovereignty, then it follows that as sovereign he may revoke at his convenience the powers delegated to his agent, and government would have no authority over him. Brownson observes that this is a very convenient theory for some, because "The disaffected, the criminal, the thief the government would send to prison, or the murderer it would hang, would be very likely to revoke his consent, and refuse to permit his agent to punish him." Thus it is a perversion of language as well as of common sense, to conceive of government as a mere agent of the individual with no authority except that which is given to it by the individual.

The other alternative is reputedly a *via media* between the extremes, but practically it is reduced to either one or the other of the extremes. If the individual surrenders a portion of his rights and retains some, who is to decide where the line is drawn? If the interpretation is left to the individual he

24 XV, 315.
25 XV, 316; XVIII, 37.
ean, obviously, interpret his rights to the extent that it virtually denies all authority over himself. If the government defines the rights of the individual, determines their boundaries, the individual has, practically speaking, no appeal from the decision of the government. On the supposition that the state has the sole authority to define the rights of the individual, there is no guarantee against absolutism. Thus Brownson says that "If then, we found government in compact, we either leave the individual his natural freedom, and then we have no government; or we subject the individual to the state, and then no individual liberty. Either consequence should lead us to reject the theory."  

Further, since the authority of government is derived from a compact, it is evident that its authority extends only to the contracting parties. For in the state of nature all men have equal rights. Consequently no one has the authority to govern another, for the supposition is that authority to govern originates in a contract. Therefore it follows that government has authority only over those whose consent has been given.  

Now it is apparent at once that few people actually consent to be governed. While voting may be construed as an act of assent very few people, especially in Brownson's day, could vote.

26 XV, 316.  
27 XVIII, 38.
Women and children, for example, were excluded. Government therefore has no rights over them, for they have entered into no compact and therefore the terms of a compact cannot bind them. Furthermore, Brownson notes also that Jefferson maintained (and he was logical in doing so) that the contract must be renewed by each generation. This means that an existing government would of necessity expire with the expiration of each generation. Consequently, an existing government has no legitimate authority unless it has the free, formal, explicit consent of each individual it governs.

In other words, Brownson denies that consent to an existing government may be tacitly given by continued residence in a territory. He argues that residence may be a matter of necessity. Likewise, the silence of individuals, or their lack of opposition to an existing government, may be a matter of necessity rather than formal approval. Since each individual is presumably free and equal, "... by what right can individuals form an agreement to which I must consent or else migrate to some strange land?"

A summary of the second series of arguments shows that the

28 Cf. Jefferson, Writings, (Memorial Edition), Washington, 1905, III, 459: "No society can make a perpetual constitution, or even a perpetual law."
29 XVIII, 35.
30 XVIII, 35.
origin of government in contract is incompatible with the idea of government as authority exercised over subjects. The theory is criticized on the basis of the consequences flowing from the adoption of such a theory. If individuals instituted government it would be the agent of individuals. Consequently it would not be an authority above them. This is illustrated in the manner in which individuals reputedly institute government. They must surrender either all or none of their rights. A via media is inadmissible because it is resolved practically into either of the extremes. Thus the theory if adopted would lead logically to anarchy or absolutism.

Furthermore, on the supposition that each individual has the right to complete freedom, equality, independence, government could extend, rightfully, only to the contracting individuals. This means that government cannot be extended to women and children, for they are deemed incapable of entering into such a contract. It means also that each individual of each succeeding generation must renew the contract; for no group of individuals have the right to negotiate a contract to which other individuals, with precisely the same rights, must either assent or move to a foreign land. In terms of the social contract theory, such power cannot be legitimate — it is not authority or the right to govern. Thus government in the sense of authority exercised over subjects cannot be derived from a contract of sovereign individuals.

Finally, Brownson objects to the social contract theory of
society and government on the ground that a society resulting from a voluntary association of individuals is merely an aggregation; it can be held together by nothing stronger than the will of individuals to associate. Consequently there is nothing to prevent any number of individuals, whether the group be large or small, from withdrawing from the association and setting up a state of their own.

This conclusion follows because the individual, according to the theory, is sovereign in virtue of his mankind. Since he is a man regardless of time or place, the individual is sovereign at any time and at any place. Consequently any three or more individuals may at any time or place call a convention and institute a government of their own, thus bidding defiance to the officers, tax-collectors and agents authorized by other and similar conventions. On what grounds is such a right denied? Certainly not because a convention of one hundred is stronger than that of merely three individuals. This would identify right and might, thereby legitimating every act of might, however oppressive it may be. In other words, however absurd it may seem, there is no authority in a state grounded on the contract theory which could prevent any three individuals from seceding, calling a convention and instituting government.

In order to maintain itself, it is quite evident that gov-

31 XV, 411-413.
ernment must have the right to exercise authority over all who are within a given area. Its jurisdiction must extend, not only to those who choose to acknowledge it, who assent or consent, but to those who are in a territory.

If government has such authority, it cannot be derived from a contract, voluntarily entered into by individuals who are sovereign in virtue of their manhood which they retain irregardless of time and place. If it does not have jurisdiction over a territory, government could not maintain itself because any number of sovereign individuals would be authorized, at any time or place, to call a convention and institute government. In order to avoid such an absurdity the conception that government has no power except that which it derives from the voluntary consent of individuals, must be rejected.

This final objection to the contract theory of government is in a sense similar to those previously stated. It rejects the theory because the consequences flowing from its adoption are incompatible with the conception of government as authority exercised over subjects.

It is, however, different from the other objections, inasmuch as it introduces a new element into the conception of government - that its authority must be territorial. Further, territory has not been introduced as an incidental element of government. It has been viewed as something essential, inasmuch as government cannot exist as authority over subjects unless its
authority extends to all within a territory.

In simple and positive terms, Brownson's theory will emerge the more clearly if we now sum up the grounds on which he objects to the social contract theory.

The Social Contract Theory is untenable:

A. because society is natural to man, whereas the social contract theory postulates
1. a man who is a social being only subsequently to his own free decision to become a social being. Therefore it postulates
2. an unreal state of nature
3. a history for man prior to the formation of society
4. a society which is totally artificial, a production de novo rather than a development;

B. because man, being naturally social, is governed naturally, whereas the social contract theory postulates
1. government as purely contractual; therefore,
2. any three individuals may convene and contract to form government;
3. the contract binds only the contracting parties;
4. under the contract the individual must surrender,
   a. all of his rights - despotism
   b. none of his rights - anarchy

So much, then, for the theory which looks to men taken individually for the origin of authority and government. There
is another sense of "the people" as the origin and ground of government and its authority. We have already mentioned it. We must now turn to what Brownson calls the "demoeratie theory." Can the people, as a collective whole, be the source of a valid and morally binding government?
CHAPTER V
THE DEMOCRATIC THEORY

Democratic theories and democratic principles have for Americans a sacred character. Brownson was no exception. Of the "principles of democracy" he himself says: "They were given me by the public sentiment of my country. I had taken them in with my mother's milk, and had never thought of inquiring whether they were tenable or not."

Brownson had a too sincerely inquisitive mind to let his principles rest in this unexamined state. He inquired what people meant when they prated so piously of majority rule, of universal suffrage and eligibility, of democracy as asserting and maintaining equality as a natural right - which means "I am as good as you, if not a whit better."

He inquired also whether the people would have the good sense to adopt the measures necessary to prevent universal suffrage and eligibility from being a mere hoax. He says that at one time he "... had had the incredible folly of treating the equality asserted as if it meant something, as if it could be made a reality, instead of a miserable sham."

Both inquiries were answered in his "Essay on the Laboring

1 V, 114.
2 V, 103-114; X, 33.
3 V, 117.
Classes." He proclaimed, somewhat bluntly, that if people want equality, they must be prepared to remove heads protruding above the common level. For this Brownson says that "I was denounced in the press, from the pulpit and the rostrum. My friends shook their heads, and were very sorry that I had been so imprudent; ... The doctrines of my essay were received by my countrymen with one universal scream of horror."

Brownson had discovered that political equality means social equality; his countrymen were not ready to adopt the measures necessary to secure it. Having received a practical demonstration of the fact that theory and reality did not conform, he re-examined his position. He contended, both at this time and later, that his reasoning was sound. His countrymen had said two and two - he had merely added four.

Having found no fault with his reasoning, Brownson began to examine his premises. He defines democracy as the sovereignty of the people. Taken negatively, it may mean the denial of "... the king, the nobility, or the right of any one man, or any set of men, caste, or class, to rule over the people." Taken positively

5 V, 103.
6 Cf., e.g., the following: "People, though adopting the democratic principle, told me I went too far, but I knew I was logical." XVIII, 224. Also, "But I can hardly read the essay over without being myself shocked, and wondering at my temer- ity in publishing it .... place me where I stood then ... and I would today repeat and endorse every paragraph and every word I then wrote." V, 104.
7 XV, 408.
it means the assertion "... of the absolute right of the people to govern, or their native, inherent, underived sovereignty."  

In the same place he notes also that the term may be used also to designate the end of government - that it is to be administered for the good of the whole people. Brownson concedes that he is a democrat in this latter sense of the term, but in no other.

In discussing the democratic theory, the term is used in its positive sense to designate a doctrine that the people collectively or the political community, is the source and origin of the authority to govern. The objections to the theory are stated from two viewpoints. It will be shown, very briefly, that the theory itself is erroneous; more important for Brownson is the fact that, despite its error, there is a tendency to adopt it. Consequently the tendency itself must be exposed as erroneous.

In asserting that the people originate authority, it is evident that the first requisite is to determine what is meant by the term - not to define it, for that has already been done - but to limit the extension of the term. For obviously in speaking of a people the term does not include all of the inhabitants of the globe. Rather, it refers to a people, to the inhabitants of a more or less definite portion of the globe. This is evidently what is meant by the people who institute government.

8 XV, 409.
9 XVIII, 42; XV, 409.
The first problem which arises, therefore, is to determine whether or not the people who reputedly institute government inhabit a clearly defined territory. The problem is a very important one. If the territory in question is undefined, it is evidently impossible to define the people who are to institute government.

Even on the supposition that an undefined people, inhabiting an undefined territory, could institute government, the government thus established would have no authority over a definite territory. Its authority would be consequently popular only, and not territorial. This, of course, is to return to the contrast theory which has been rejected already.

On the other hand, if the term people signifies the inhabitants of a territory that is clearly defined, the difficulties are equally serious. Then the problem is to determine by whom, and on what authority, territory is marked out and defined. The organized people cannot determine it, for the theory presumably accounts for the origin of the organized people. Thus to say that the people themselves fix their own territorial boundaries is to say that the people act as people before they exist as such. For the same reason government cannot mark out a defin-

10 XVIII, 43. The problem is a problem only with reference to a theory which accounts for the origin or institution of government, and is consequently not a problem in relation to nations which are already established under a government.

11 XVIII, 42; XV, 410.
ite territory; for there is no government until authorized by a people, and no people until a territory has been defined.

It is therefore necessary to go outside population in order to discover what constitutes a people as such. Without that factor the people are not sovereign because they are not even a people. With that factor they are not sovereign because it is that which gives being to population as a people. Therefore a people is dependent upon it as a cause is dependent upon its effect. Consequently that factor, whatever it is, is more ultimate than the people. On either ground it is certain that people alone are not the source of authority.

Furthermore, supposing a definite territory and therefore a people, it is still impossible to account for the authority of government. It cannot be accounted for on the basis of a unanimous consent of individuals, for that again is the theory that has been rejected in the preceding chapter. It cannot be asserted that the majority has the right to authorize government and enact laws, because it then becomes necessary to determine wherein the majority derives its right to govern. Obviously, it does not have right because it is a majority and therefore strongest. For this reason Brownson says, "... would identify right and might, and legitimate every government able to maintain itself. Every act of power, however oppressive, on this ground would be

12 XVIII, 42; XV, 411.
Therefore the right of the majority to govern must be grounded upon something more ultimate than its might. The only alternatives possible are that it is some­how based upon nature or is authorized by government. However, neither of these alternatives are admissible.

The nature of one man is equal to that of any other. Consequently no two men have an inherent natural right to govern a third. If the theory were asserted within such a limited sphere, it would tend to many absurdities. If no three individuals have the natural right to govern any two, why should the will of the hundred prevail over that of ninety nine? The right of the major­ity cannot be a natural right.

It is intelligible, however, to base the rule of the major­ity upon civil regulation. The political body adopts it as the most practical rule possible to secure the good of the governed. In this sense, however, the majority of the people does not in­stitute or originate the authority of government. It supposes an authority already existing which authorizes majority rule.

Thus the fundamental objection to a theory which states that a people is the source of its own authority is that it must argue in a vicious circle. For a conception of a people, or a community, must be that of a people united in some way, as by

13 XV, 339.
14 XV, 339.
15 XV, 321.
the occupation of a definite territory. But this is precisely
the conception of the people as a nation and therefore already
invested with authority.

Now Brownson has maintained consistently that few people,
if any, would maintain theoretically that the people as a unit,
a nation, or a society, is the source of its own authority. The
reason for this is that the theory, as he has stated it, asserts
despotism, absolutism, or as he prefers to call it, Caesarism
or Socialism. The fact that few people would maintain such
theories openly is evinced sufficiently well by the reception
given his own essay on the laboring classes.

The fact that the democratic theory as he has defined it
involves despotism, is not difficult to establish. He has said
that government is authority exercised over subjects. Consider-
ing it strictly, and from the viewpoint in which it is authority,
it's authority is unlimited. For in relation to that which res-
trains or limits its authority in any way, government is obvious-
ly not the authority, but the subject. Therefore government, so
far forth as it is government and nothing else, is that which is
sovereign. The search for the origin of authority is therefore

Further, the right of the sovereign to command admits of no

16 XV, 439-441; XVIII, 575-576.
17 XV, 414.
limitations whatsoever, for inasmuch as a sovereign is limited he is not sovereign, but subject. Since he has the right to command, his subjects have the duty to obey. Therefore his command is the basis of all rights and duties, as has been indicated in the chapter on law. Thus it is that man has no rights in the sense that he can plead them against the sovereign. For if he had, the sovereign would be subject in relation to those rights.

Further, it has been noted that man's freedom cannot consist in freedom from law - which according to Brownson is the conception prevailing in America. Rather, man's freedom consists in obedience to the law of the sovereign - freedom from all restraint, whether of conscience or anything else, is license and incompatible with government.

Therefore, if the people are sovereign, and if man's freedom consists in obedience to the sovereign, it follows that man's freedom consists in obedience to the will of the people. In case

18 XVIII, 266; XV, 414. "Now, if the people are, in their own native might and right, the primary and fundamental sovereignty, then, they have the inherent right to command, and, whatever they command, is law; therefore right; and therefore, binding in foro conscientiae." XV, 415.

19 Cf., e.g., the following: "... we put it to our young friends in sober earnest too, whether with them freedom is something positive; or whether they are in the habit of regarding it as merely negative? Do they not look upon liberty merely as freedom from certain restraints or obstacles rather than as positive ability possessed by those who are free? " XV, 272.
the term people is interpreted democratically, this means that the individual does not have the moral right to resist the will of the majority:

The sovereignty, which is asserted for the people, must, then, be transferred to the ruling majority. If the people are sovereign, then the majority are sovereign; and if sovereign, the majority have the absolute right to govern. If the majority have the absolute right to govern, it is the absolute duty of the minority to obey. Who who chance to be in the minority are then completely disfranchised. We are wholly at the mercy of the majority. We hold our property, our wives and children, and our lives even, at its sovereign will and pleasure. It may do by us and ours as it pleases. If it takes it into its head to make a new and arbitrary division of property, however unjust it may seem, we shall not only be impotent to resist, but we shall not have the right of the wretched to complain. Conscience will be no shield. The authority of the absolute sovereign extends to spiritual matters, as well as to temporal. The creed the majority is pleased to impose, the minority must in all meekness and submission receive; and the form of religious worship the majority is good enough to prescribe, the minority must make it a matter of conscience to observe. Whatever has been done under the most absolute monarchy or the most lawless aristocracy, may be reenacted under a pure democracy, and what is worse, legitimately too, if it be once laid down in principle that the majority has the absolute right to govern.

But this is to disrobe democracy - it is democracy in its pristine purity. No one will accept it in its nakedness. Brownson concedes this: "We cheerfully admit that there are probably

21 XV, 5. Brownson wrote this in 1838 two years before the publication of his essay on the laboring classes during the election of 1840. This indicates that his view of democracy has remained substantially the same. His continual berating of democracy after the publication of his essay is therefore a change of emphasis; or rather a change in what it was necessary to emphasize in order to combat evil. Thus the essay and the election crystallized ideas formerly presented vaguely.
few men in the country who would, in general thesis, maintain it as we have stated."

Brownson's thesis, stated most simply, is that there is a tendency toward absolutism, existing both here and in Europe, and especially in Young Italy and Young Germany, which has not as yet been actualized. He speaks of seeds of dissolution which are sown and germinated, but have not as yet attained fruition. He says that even in his own day:

Not a few of the European democrats recognize in the earth, in heaven, or in hell, no power superior to the people, and say not only people-king, but people-God .... The people not only found the state, but also the church .... Yet this theory is the dominant theory of the age, and is in all civilized nations advancing with apparently irresistible force.

His thesis is, further, that the tendency toward absolutism or socialism or humanitarian or caesaristic democracy is latent in democratic theories and principles, and is promulgated, although not avowedly so, in the promulgation of democratic principles.

21 XV, 439.
22 X, 85.
23 XV, 440-441.
24 XVIII, 42.
25 Brownson's meaning of these terms is clear from the context; they signify the sovereignty of society, the collective people, the state.
His reasons as to why the theory cannot be avowed openly are plausible. In order to gain acceptance for a theory, it must be presented under the aspect of the good and the true. Falsehood as such is never embraced by the intellect, nor does the will accept anything under the aspect of evil. Consequently he says that "Socialism commends itself to the intellect of its adherents only in the respect that it is true, and to their hearts only in the respect that it is good." Therefore, for Brownson the democratic theory is so extremely dangerous because it is combined with what is good. In accepting what is good and true about it, people unwittingly accept the evil along with it. As a Catholic reviewer, he felt obliged to expose this tendency because he believed that if it were unchecked it could result only in absolutism.

The democratic tendency or theory is echoed in the dominant sentiment of the day. It is expressed in the slogans adopted by the press, and by the politicians who speak of the sovereign people, of government of the people and by the people. The people are told that democracy recognizes the equality of man, which "... is not displeasing when applied to those above us, but is very disgusting, unreasonable, unnatural, when applied to those below us." Being equal, all men must participate

26 X, 532.
27 V, 113.
equally in the administration of government. Thus democracy must secure to everyone the right to vote and to be voted for — and it must encourage reforms necessary to secure universal suffrage and eligibility.

Brownson's contention is that if these slogans are accepted and acted upon by the masses who invariably fail to say, dis-tincto, it is only a matter or time before some form of absolutism is accepted. In contending for political equality, for example, Brownson says that one must demand, in order to be con-sistent, social equality. Theoretically, the vote of the poor man is equal to that of his more wealthy neighbor. Practically, however, the vote of an individual counts for nothing unless he casts his ballot for either of two parties.

To organize and to control a party requires a great deal of both skill and money. Those who have neither the skill nor the money to exert influence in shaping the policies of a party are therefore not the political equals of those who are so endowed:

"Now pretend that you and I are equal, when you can influence a thousand votes, while I can hardly control my own, unless I have the spirit of a martyr." This according to Brownson is "... the great and stubborn fact, which knocks in the head all your fine-spun democratic theorizing."

28 V, 114.
29 V, 103.
30 XV, 423.
The point is, of course, that democratic principles encourage reforms necessary to secure political equality. Having secured the privilege of voting and being voted for, it has by no means secured genuine political equality. Thus the causes which led the reform thus far have not spent themselves; they must of necessity remain in all their force to carry the reform still further. In other words, reforms are not inaugurated to stop with a sham - agitation for equality fostered by democracy cannot stop logically at the ballot box. It must extend to society itself in order to accomplish ant good that it has set out to accomplish.

Since the tendency of the age is toward political, and therefore social, equality, it can stop at nothing short of its ultimate goal: complete social equality. If there is property in society, it may be distributed unequally; therefore logic demands the elimination of property. Since individuals exist, they are unequal; their continued existence is a barrier to the social equality demanded by the logic of the age. Therefore, eliminate the individual - make him not an individual, but a part of society. This is the goal of the age; whether he knows it or not, this is the aim of the humanitarian democrat:

31 Schlesinger adds, "His flinty intelligence saw how tragically the favorite liberal remedies fell short. Universal suffrage is little better than a mockery where the voters are not socially equal. No matter what party you support, no matter what men you elect, property is always the basis of governmental action." 107-108.
Yesterday he agitated for the abolition of slavery, to-day he agitates for negro suffrage, negro equality, and announces that when he has secured that he will agitate for female suffrage and the equality of sexes, forgetting or ignorant that the relation of equality subsists only between individuals of the same sex; .... Having obliterated all distinction of sex in politics, in social, industrial, and domestic arrangements, he must go further still, and agitate for the total abolition of property. But since property, if recognized at all, will be unequally acquired and distributed, he must go further still, and agitate for the total abolition of property, as an injustice, a grievous wrong, a theft .... It is unjust that one should have what another wants, or even more than another.... Nor can our humanitarian stop there. Individuals are, and as long as there are individuals, will be unequal: some are handsomer and some are uglier, some wiser or sillier, more or less gifted, stronger or weaker, taller or shorter, stouter or thinner than others, and therefore some have natural advantages which others have not. There is inequality, therefore injustice, which can be remedied only by the abolition of all individualities, and the reduction of all individuals to the race, or humanity, in general.

Commenting upon the political upheavals in Europe in 1848-1849, Brownson says that the reforms sought are basically social, not merely political: "Young Italy is socialist; so is Young Germany; and it was its socialist character that gave to the movement of Ronge and his associates its significance and its moderate success." Even in 1849 Brownson held that the reform movement of the age can find no logical resting place short of absolutism:

32 XVIII, 185-186.
33 X, 85.
Onee concede that even political equality is a good, an object worth seeking, you must concede that social equality is also a good; and social equality is necessarily the annihilation of religion, government, property, and the family. The same principles which would justify the Moderate Republicans of France in dethroning a king would justify M. Proudhon in making war on property, declaring every rich man a robber, and seeking to exterminate the bourgeoisie, as these have already exterminated the nobility. There is no stopping-place between legitimacy - whether monarchical or republican legitimacy - and the most ultra socialism. One in the career of political reform, - we say political, not administrative, reform, - we are pledged to pursue it to its last results.

While social reform culminates necessarily in the annihilation of religion, government, property and family, its success is not attained by stating such things explicitly. People would recoil from the conclusions on the ground that they are radical and destructive. Consequently with the exception of a few who are regarded as idle dreamers, the socialistie theory is not drawn to its logical consequences.

Socialism is therefore presented under its aspect of good. It is developed, not merely as harmonious with Christianity, but as more Christian than organized Christianity itself. It proclaims the great truth that God has created all men free and

34 X, 85. Brownson does not say explicitly that Italy and Germany will be totalitarian states. He says that social reforms, and he mentions those in Italy and Germany particularly, will culminate in absolutism, if unarrested. In XIV, 471, he suggests that the Catholicity of France would save it from absolutism.

35 X, 83.
equal. Consequently He gave equal rights to all men. He was no discriminator of persons, so obviously He did not intend possession by the few while the many are dispossessed of the good things He has created. The mal-distribution of God's creation is therefore an evil which should be remedied. Consequently socialism urges the removal of evil. In doing so it plants itself upon an apparently solid Christian foundation.

Since socialism is presented as a truth of Christianity and in its garb, Brownson says that:

We cannot deny it without seeming to them to be warring against the best interests of society, and also against the gospel of our Lord.... How adroitly too, it appeals to the people's envy and hatred of their superiors, and to their love of the world, without shocking their orthodoxy or wounding their piety. Surely Satan has here, in Socialism, done his best, almost outdone himself....

The evils pointed out by socialists are real evils. Socialism emphasizes the evil; it presents a remedy which is at once simple, understandable, appealing to men's passions while not seemingly at variance with orthodox convictions. This aspect of it gives socialism its driving force and renders it acceptable. In presenting its case socialism dwells exclusively upon physical evils. It thereby excludes moral evil. Thus it goes along with the spirit of the age, which is worldly, and whose conception of evil is restricted to physical evil. Likewise in

36 X, 94.
emphasizing that good should be sought, it refers to physical or
temporal good. The assumption that man's good lies in the temp­oral order alone is the root evil.

Furthermore, socialism states axiomatically that in order
to avoid evil and attain to the good, men must organize and
cooperate. Being attainable through organization rather than
isolated individual action, it follows that "... the social
organization must be such as to avert equal evil from all, and
to secure to each an equal share of temporal goods."

The reasoning of socialism is therefore based upon an ambi­
uous conception of good and evil. Its advocates proceed on the
assumption that there is no good other than a material good and
no evil other than physical evil. However, in retaining the
familiar terms, good and evil, those who have inherent convic­
tions of moral good and evil will be deceived more easily. Fail­
ing to perceive the real purpose of the reformers, they accept
pious platitudes. The package is pleasing and acceptable be­
cause it is wrapped in terms which are pleasing and acceptable.

Now if man's good lies in the temporal order, there is no

37 "Analyze these reforms and the principles and motives which
lead to them, which induce the people in our days to
struggle for them, and you will find at the bottom of them
all the assumption, that our good lies in the natural
order...." X, 95.
38 X, 95.
need for a two-fold organization to secure man's good. Consequently the Church must be rejected. Yet Christianity cannot be rejected openly:

The Christian symbol needs a new and more Catholic interpretation, adapted to our state in universal progress. Where the old interpretation uses the words God, Church, and heaven, you must understand humanity, society, and earth; .... But while you put the human and earthly sense upon the Catholic words, be careful and retain the words themselves. 39

In thus retaining familiar terms, people will not perceive so readily that their familiar ideas have vanished. Consequently the opposition of Christians will be neither immediate nor violent. Nevertheless, in retaining the term charity, while changing its meaning so that it signifies philanthropy, charity is no less effectually destroyed; if religion is used to signify a religion of humanity, religion is destroyed. The destruction is rendered all the more effectual because it goes on under the pretense of preserving them.

In thus presenting Brownson's analysis of the socialist tendency of his age, it is clear that he was not combatting absolute or caesaristic democracy as a reality which had attained already its fruition in America. His avowed purpose is to draw from the democratic principle of equality its ultra-socialistic conclusion. He maintains that the delusive democratic doctrine

39 X, 93.
of equality fosters unrest, agitation for reform, first for polit
ical equality. Political equality requires social equality as a condition for its practical realization. This in turn is not realized completely until the individual loses his identity in the race. Having disrobed democracy, Brownson hoped that his country-men would disavow its destructive tendencies.

It is abundantly clear also that in protesting against a tendency toward caesarist or absolute democracy, Brownson is not protesting against the simple idea that people should have a

41 Cf. the following: "As a protest against an absolute or Caesarist democracy, a democracy which deifies the people - (or a chance majority of them) - if such really existed outside his imagination - Brownson's political writings undoubtedly did real service." Maynard, 403. Cf. also Maynard, 181 and the following: "Brownson . . . destroyed an enemy who was hardly more than a figment of his imagination . . . he triumphantly disproves what no sensible man ever doubted." 345.

One wonders at the outset what real service Brownson might have rendered by combatting an imaginary opponent. One wonders also whether Mr. Maynard ever heard of Hitler, who, as Mr. Erik R. V. Kuehnelt-Leddihn points out, was a Fuhrer. "He marches ahead but is, theoretically at least, an 'equal.' As a modernized tribunis plebis he is not only the product of political but also of social democracy." "A Critique of Democracy," The New Scholasticism, (July, 1946), XX, 229, n. 49.
voice in the administration of government. He is protesting against a theory which holds that the people are sovereign, and against a tendency to adopt such a theory. He has defined the people as the collective people, the political community, the state, the nation. Consequently he objects to any theory or form which leaves the popular will supreme, subject to no authority, bound by no higher law. Whether the authority of the nation is exercised by one, by few, by many, is of no consequence to his argument. He says that the democratic principle of the supremacy of the people "... is not confined to a popularly constituted government, but is accepted and acted on by most modern governments, especially by the Sardinian, the Prussian, the Russian, and we fear also the Austrian...."

Because of his opposition to democratic principles, Brownson also condemned the tendency toward accepting them in America. He believed that the adoption of popular democracy is a step toward political atheism, or the denial of any law above,

42 "I am not arguing against a republic, or a government largely popular in its constitution and administration ...." XVIII, 226. "I repeat, I am not warring against the political constitution of my country, nor am I seeking in any respect to change it; ..." XVIII, 226.
43 XVIII, 226.
44 XVIII, 226.
and binding the conscience of, the will of the people as a nation. In presenting his argument for this conclusion, Brownson observes that the legislators are elected by popular vote. In order to secure votes one must be popular; he is required to please at least the majority of his constituents.

Brownson contends that the easiest way to please the people is to flatter them, to defer to them, to take the law from them. To flatter them, the candidate for office must appeal to the wisdom and virtue of the people, telling them also that they are sovereign. As a subject the candidate avows his intention to ascertain, and to bow to, the will of his sovereign. Having been imbued with the idea that they are sovereign, that their will must be obeyed, the people repeat to the legislator, "... remember your accountability to the people."

It is rather a grievous offense for a candidate to oppose popular opinion. The penalty for the crime is removal from office. Consequently there is, according to Brownson, an insidious circle inherent in the nature of the democratic form. Appeals, both in terms of the people to the legislator, and the

---

45 He opposed it as a radical departure from the inherent nature of our political constitution, which he believed to be a constitutional republic rather than a democracy. Cf. Chapter IX below.
46 XV, 438.
47 XV, 440.
legislator to the people, are, and must be, primarily popular. It is nearly impossible to get outside of the circle of popularity and appeal to justice, truth, right, as a basis for legislative action: "If you repeat always to your statesmen 'remember your accountability to the people,' you must expect them to ask always, not, what is right? but, what is popular?"

For this reason Brownson says that "In practice, democracy will assume but one meaning - a meaning which has passed into the axiom, 'The majority must rule;' which again is always practically translate, 'The majority have a right to rule.'" In this way the will of the people, popular opinion, is the criterion which determines whether or not a legislator should support a measure. Consequently he seldom, if ever, supports or opposes a measure because it is right or just. Such factors cannot enter into an argument, because it is assumed that the majority have the right to rule.

This, for Brownson, evinces the fact that the people collectively, as a political people, are adopting political atheism. For truth, justice, right, the moral law above the will of the people is not recognized and appealed to either by the legislator who prates of his obedience to the will of his majesty who put him in office, or by the people who, having been told

48 XV, 40.
49 XV, 40.
that they are sovereign, demand only that the legislator remain
subservient to their will and to no other.

Thus Brownson contends that democracy does not beget just
habits of mind. It is not, as a system, conducive to the develop-
ment of the virtues necessary to sustain its existence. On the
contrary he says that:

It creates a multitude of demagogues, pretending a
world of love for the dear people, lauding the people’s
virtues, magnifying their sovereignty, and with mock
humility, professing their readiness ever to bow to
the will of the majority. It tends to make public men
lax in their morals, hypocritical in their conduct;
and it paves the way for gross bribery and corruption.
It generates a habit of appealing on nearly all
occasions, from truth and justice, wisdom and virtue,
to the force of numbers, and virtually sinks the man
in the brute. It destroys manliness of character,
independence of thought and action, and makes one
weak, vacillating, - a time-server and a coward. It
perverts inquiry from its legitimate objects, and
asks, when it concerns a candidate for office, not,
who is the most honest, the most capable? but, who
will command the most votes? and, when it concerns
a measure of policy, not what is just? what is for
the public good? but, what can the majority be induced
to support? Now, as men, as friends to good morals, we
cannot assent to a doctrine which not only has this
tendency, but which declares this tendency legitimate.51

Having adopted public opinion as a criterion for the mor-
ality of statesmen, Brownson believes that it is only a matter
of time before it is adopted, almost universally, as an ethical
standard for individual action. If the phrase, everyone wants
it, will justify the action of a legislator, why is it wrong for the individual to justify his action by the phrase, everyone does it?

Popular democracy tends to create an atmosphere in which even the individual is required to guide his activity by public opinion. What the people will do, say, or think about what he does becomes a criterion of what may or may not be done. The standard of morality, popular opinion, is material rather than spiritual. Consistently with that criterion of morality, material well-being is the sign of respectability. There is a universal struggle to acquire riches as a means of equality. Not a few are induced to live beyond their means to make a show of wealth which they have not, in order to be equal.

The tendency toward popular democracy is, then, a tendency toward political atheism. It involves a materialistic standard of morality. It tends to recognize, practically, no right above the popular will. This, then, is Brownson's conclusion:

No man can attentively study our political history and analyze with some care our popular institutions, but must perceive and admit that our state contains the seeds of its own dissolution, and seeds which have already begun to germinate. Unless the tendency we have thus far obeyed can be arrested, and a stronger and more conservative principle be brought

52 XV, 440-441.
53 "As a rule, men live for their families, especially for their wives and daughters, whom they would see live as well, be as well educated, and as well dressed as the wives and daughters of the better-to-do, whom democracy teaches them to regard as equals." XVIII, 235.
in to our relief, all hopes of a successful issue must be abandoned. 54

Stated briefly and simply, the democratic theory of government and authority asserts the absolute, unqualified sovereignty of the people collectively. In its nakedness it is repugnant; Brownson has therefore endeavored to show that The Democracy, clad in the apparently appealing garb of political equality and the right of the majority to rule, conceals the despotism. Phrases like majority rule and political equality evoke an emotional response and consequently are not subjected to rational analysis by the multitude.

As a Catholic reviewer, Brownson could not approve of the tendency of statesmen to accept popular opinion, with the consequent rejection of the moral law, as the standard of right.

Of the "democratic politician" who professes to defer to nothing other than popular opinion, Brownson said:

No man has so much confidence in the people; no man has so deep, so ardent a love for the hard-handed and sun-burnt-faced many; none so ready and willing to defer to the wishes, the opinions, the instincts, the will of the masses. He has no interest, no opinion, no will of his own; he is one of the people, and knows only one thing, to serve the people by merging his feelings, wishes, interests, and convictions to theirs. Find a man who so professes, and you find one you may set down to be Satan attempting to disguise himself as an angel of light. 55

54 XV, 441.
55 XV, 346.
Rejecting the spiritual, there is no alternative but to substitute the material. On a materialistic basis, good and evil can mean only one thing: material possession or a lack of them. Reforms to secure equal good for equal individuals, fostered by the democratic doctrine of equality, may attempt, on this basis, to secure the good expressed by the term political equality. For Brownson, individuals, unequal socially, are not transformed into equal political powers by the mere possession of a ballot. Consequently a genuine reform for political equality finds no logical resting place at the ballot box. Its resting place is a society in which the individual is a fraction rather than an integer.

Brownson has now disposed of the most important of the erroneous theories of government and authority. Authority has been attached to the people. Viewed thusly, government is fixed to a pendulum which has swung away from individualism, in the social contract theory, toward the despotism of democracy. In Brownson's theory it rests in the center of the extremes.
CHAPTER VI
THE NATURE AND ORIGIN OF POLITICAL AUTHORITY

Brownson presents his doctrine of the nature and location of political authority before proceeding to a discussion of its origin. He sets forth his view rather clearly, although somewhat circuitously, in his American Republic, where he pursues his discussion of authority in terms of its historical origin. He proceeds by stating the patriarchal theory of government. He says that it endeavors to account for political authority by tracing its development in the evolution of the family into the tribe and nation. It may be viewed either as an attempt to determine the origin of government as an historical fact or as a theory which accounts for the moral rightness of civil government.

In his criticism of the theory Brownson concedes that it is a true explanation of government if the question is confined solely to its historical origin. For the family, Adam and Eve, is the first society. As it grows the family expands into a tribe and finally into a nation. Thus Brownson says that the transition from the family to the tribe is "...

1 XVIII, 18-26.
2 XVIII, 19.
3 XVIII, 19.
natural and easy, as also from the tribe into the nation." Just as all society is derived from the family so also is government. It has been noted already that government exists whenever society exists. Consequently it is obvious that government begins with the family.

Having thus accepted the patriarchal theory as stating a truth which is more or less obvious, Brownson proceeds to criticize it as an attempt to account for the authority of government. In order to present his criticism accurately, it is necessary to state briefly Brownson's position before advancing the line of argument which which he justifies it.

Brownson maintains that a society invested with political authority is radically distinct as an entity from the family. Consequently it cannot be developed from the family by a process of direct growth or simple evolution. He tells us that if there is nothing but mere growth and expansion, the family develops into a barbarous tribe or nation. Thus he says that "With barbarians the authority of the patriarch is developed simply by way of explication; in civilized states it is developed by way of transformation." Repeating substantially the same opinion

---

4 XVIII, 19.
5 This view coincides with an earlier opinion: "I do not regard the family as the germ of the state. It contains elements which are not in the state, and wants elements without which the state could neither be constituted nor preserved. Both, in my view, are primary institutions, and neither is secondary; certainly neither is derivable from the other." XV, 325.
Brownson says that the direct development of the family results not in a civilized state, "... but gives us barbarism or what is called oriental despotism."

Brownson's interpretation of the terms barbarism and despotism are indicated in his criticism of the patriarchal theory as an attempt to account for the authority of government. In commenting upon the development of parental authority, Brownson observes first of all that the authority of the family is vested in the father who is its natural head. Being in possession of authority in his family the father may as a fact continue to exercise it with the growth and expansion of his family. Thus he may become chief of a tribe or king of a nation.

Now Brownson argues that the mere fact that a father continues to exercise authority in becoming chief or king, is not in itself sufficient to render that authority legitimate. This is obvious because rights consequent upon fatherhood are legitimate only within the limited sphere of immediate parental relationship. Because he may govern his own children, it does not follow that a parent has the right to govern anyone else, or any children of others. Therefore if the father retains his authority to govern in the expanded family, something other than the mere fact itself is required obviously to legitimate it.

---

6 XVIII, 25.
7 XVIII, 26.
8 XVIII, 26.
Consequently it may be concluded at the outset that political authority cannot be deduced or evolved from parental authority.

Thus Brownson argues that the patriarch has no inherent right to govern in virtue of the fact that he is a patriarch. His conclusion does not depend upon the way in which patriarchal authority is exercised. For if he has no right to govern others, the patriarch has no authority to govern them leniently or affectionately. In order to legitimate his government it is therefore necessary to go outside of the family itself.

Having dismissed the patriarchal theory as a basis of the moral rightness of civil government, Brownson proceeds to analyse the political system based upon patriarchal authority with a view to determining its essential element. His view has been indicated to some extent for he has maintained that the distinctive characteristics of authority in regard to the family is the fact that it inheres in the father as a natural right. Transferred to the state, this means that the ruler possesses political authority as his own personal right. Possessing authority as a personal right, the ruler may exercise it accordingly. Thus its exercise depends upon the pleasure of the person possessing it. It is therefore arbitrary. Thus the way in which the ruler exercises his authority is accidental; his

9 XVIII, 20.
10 XVIII, 20.
government may or may not be tempered with affection. Consequently the essential characteristic of a patriarchal government is the fact that authority inheres in the individual as a personal right, thus giving him the opportunity to exercise it arbitrarily.

In other words, Brownson's argument is based upon the fact that authority is exercised in the same way that it exists. To the extent that authority exists as the right of an individual, he may use his own authority according to his own pleasure. This is despotism. In view of the fact that the patriarchal system is based upon the principle that political authority may inhere in an individual as his personal right or privilege, Brownson maintains that it is despotic in principle.

Now Brownson refers to any government based upon the conception of authority as a personal right as a barbaric government. In using the term to designate a certain type of political organization Brownson denies that its radical meaning is "foreign, wild, fierce" as Webster indicates. He argues that foreign cannot be its primitive meaning because the Greeks did not refer to every foreigner as a barbarian. Furthermore, some of the nations which they designated by the term were rather cultured and refined, having made considerable progress in science and in art. Consequently the terms wild and fierce can-

11 XVIII, 21.
12 XVIII, 21.
not signify the essence of barbarism. Since the primary meaning of the term is at least dubious it may be conjectured, according to Brownson, that the Greeks used the term in a political sense to "... designate a social order in which the state was not developed, and in which the nation was personal, not territorial, and authority was held as a private right." Having used the term barbarian or barbarous to signify a political order that is patriarchal in character, thus using them synonymously, Brownson says that the essence of barbarism consists in the fact that authority is privately owned.

Brownson argues further that barbarism and civilization are opposed to one another. Therefore the essential characteristic of the civil order is the direct opposite of the barbaric order. Thus the essence of the civil order is the fact that political authority is a public trust instead of a right privately owned. This is signified very appropriately by the term res publica, which means, in regard to authority, that it is public rather than private.

Now in order to make authority a public affair, it is not sufficient to say that it is invested in the population as a

13 XVIII, 21.
14 "All tribes and nations in which the patriarchal system remains, or is developed without transformation, are barbaric... In civilized nations the patriarchal authority is transformed into that of the city or state, that is, of the republic; but in all barbarous nations it retains its private and personal character." XVIII, 22.
whole rather than in one individual. In the nature of things no man has the authority to govern another as a natural right. Consequently no group of men, merely because they are men, however great their number may be, have in and of themselves the authority to govern any other man. The reason for this is that all men are naturally equal. Consequently to give any one man authority over another by reason of his nature, is to assert the natural inequality of men. Therefore if authority is the right of a population merely because they are persons, authority is still personal. It cannot be converted into a public trust merely by referring it to a whole population as persons or private individuals, "... for what is private, particular in its nature, is not and cannot be general."

There is no recourse, therefore, but to go outside of people as population in order to discover the characteristic which makes it possible to conceive of authority as a public trust rather than a private right. This factor, Brownson says, is territory. It was introduced as an essential characteristic of authority in the political order of Greece and Rome. In Rome full political rights were possessed only by those who occupied "... the sacred

15 XVIII, 135, 24. Thus Brownson says that "... when democrats assert that the elective franchise is a natural right of man, or that it is held by virtue of the fact that the elector is a man, they assert the fundamental principle of barbarism and despotism." XVIII, 24.

16 XVIII, 20.
territory of the city which has been surveyed and marked by the god Terminus." Thus its political order was organized on a territorial, rather than on a purely personal, basis. Political rights pertained not to the population as people, but to persons belonging to a clearly defined territory. Territory is thus introduced as the factor which determines who has political authority. Thus in Rome the state and its authority is no longer personal. It is based upon territory. According to Brownson the introduction of the territorial element marks the passage from "... the economical order to the political, from the barbarie to the civil constitution of society, or from barbarism to civilization."

In other words, Brownson argues that if there is no common or public territory, then there is and can be only that which is personal and therefore private. Consequently if there is authority in a system that has no res publica, it must be on a personal and therefore private basis. It is not rendered less personal by increasing the number of persons. If authority is personal, it cannot be public. In order to make it public, it must be based upon a res publica, a common wealth. Therefore political authority repesented by the state must have a territorial basis.

17 XVIII, 20.
18 XVIII, 22-26.
19 XVIII, 21.
Territory and population are therefore mutually dependent in Brownson's theory of political authority. Without territory there could be no res publica, and consequently no republic. Without a state or a people there could be no public to inhabit it. Thus territory is an essential element of political authority because it defines the republic in which authority inheres. Thus Brownson says:

The state is territorial, not personal, and is constituted by public, not by private wealth, and is always res publica or commonwealth, in distinction from despotism or monarchy in its oriental sense, which is founded on private wealth, or which assumes that the authority to govern, or sovereignty, is the private estate of the sovereign. All power is a domain, but there is no domain without a dominus or lord. In oriental monarchies the dominus is the monarch; in republics it is the public or people fixed to the soil or territory, that is, the people in their territorial and not in their personal or genealogical relation.

Being thus organized on a territorial basis, the state and its authority is in its very nature a public thing, for political authority exists only in the republic. Existing only in this way its activity is limited accordingly. From a negative viewpoint this means that the authority of the state cannot be exercised as the private right of an individual or group because it does not inhere in them in this way. Thus the barbaric or despotie element of the state is eliminated. Positively, it

20 XVIII, 21.
means that the authority of the state, by whomsoever exercised, must be exercised in the name of the republic and for its welfare. Thus the ruler may act only as a representative or an agent of the state because it is only in this capacity that he possesses authority. Consequently in lodging authority only in the republic and therefore viewing it as public, Brownson believes that he is constituting it on a principle which obliges the state to exercise its authority only for the public welfare.

In presenting his view of the nature and location of political authority Brownson has used the terms barbarism and despotism to signify a political system in which the nation, and its authority, is personal. He has used the term republic to signify the civil order or the state whose political order is based upon a res publica, which is territory. Thus its authority is public rather than private. Summarizing his meaning of these terms Brownson says:

Monarchy and Republic are terms often vaguely and loosely used. All governments that have at

21 Brownson does not believe, of course, that states which are republican in principle never abuse their authority. He says, for example, that Rome was in theory, although not always in practice, a republic: "However arbitrary or despotic some of the caesars may have been and certainly were in practice, in principle they were elective, and held their power from the political community .... The sovereignty vested in the political community, never in the person of the emperor. The emperor represented the state, but never was himself the state." XIII, 110.
their head a king or emperor are usually called, by even respectable writers, monarchies, and those that have not are usually called republics, whether democratic like ancient Athens, aristocratic like Venice prior to her suppression by General Bonaparte, or representative like the United States. But this distinction is not philosophical or exact. All governments, properly speaking, in which the sovereignty is held to vest in the people or political community, and the king or emperor holds from the community or represents the majesty of the state, are republican, as was imperial Rome or imperial France; all governments, on the other hand, in which the sovereignty vests not in the political community, but in the individual and is held as a personal right, or as a private estate, are in principle monarchical. This is, in reality, the radical distinction between republicanism and monarchy, and between civilization and barbarism, and it is so the terms should be understood.

Before proceeding with the discussion it is necessary to indicate briefly the position Brownson has taken as a consequence of his criticism of the patriarchal theory of government. He has shown that the conception of government as a private right involves despotism. The despotic or barbaric element of government is eliminated with the introduction of territory, commonly held, as the basis of government. In basing political authority upon territory, it may exist only in a res publica, or a people fixed to a territory. Existing only in a republic authority may be exercised only in the name, and for the welfare of the republic possessing it. Thus Brownson has indicated

22 XIII, 110.
where political authority must be lodged and how it must be exercised.

Furthermore, in rejecting the patriarchal theory as an attempt to account for the moral rightness of government, Brownson has eliminated entirely the possibility of accounting for authority on a purely human basis. For he has shown already that the authority of government is not something which may be instituted by the people, wither as individuals or as a political community. If the people as individuals institute its authority, government can be nothing more than the creature of the individual. Having been created by individuals it cannot exercise authority over them, for the creature has no authority over his creator.

On the other hand, government cannot be derived from the people as a community. For if the political community were the source of its own authority, it would be The Sovereign. This is despotism, socialism, caesaristic or humanitarian democracy.

Thus the position of Brownson in regard to the origin of authority is more clearly defined. Having demonstrated the impossibility of legitimating government on a purely human basis, Brownson maintains that it is necessary to reject, plainly and unequivocally, the authority of civil government, or else admit that its authority is derived from God. Thus anyone conceding the existence and the legitimacy of civil government can deny the existence of God only at the expense of logical consistency. On this point Brownson himself was consistent for he says that:
"When I believed in no God I believed in no government.... When I renounced my atheism I derived all power from God, the source of all law and of all justice."

It is evident, therefore, that Brownson must hold that political authority is derived from God. Having shown already that it must inhere in a republic, Brownson's theory must include the view that the ruler derives authority from God through the people. In adopting this position Brownson believes he is accepting the traditional view of Catholic theologians, including both Suarez and St. Thomas. He believes, however, that his own formulation of the theory is more accurate because it is more complete, for his own theory includes the explanation that the people derive authority through the natural law. Consequently he amends the theory to read: "The right of government to govern, or political authority, is derived by the collective people or society, from God through the law of nature. Rulers hold from God through the people or nation, and the people or nation hold from God through the natural law."

Now it is in the light of this theory that Brownson endeavors to solve the fundamental problem of political philosophy, the reconciliation of public authority and individual liberty, thus avoiding both anarchy and despotism. In order to understand

24 XVIII, 72.
what is involved in his theory it is necessary to recall briefly that the natural law is law in the strict and proper sense of the term. It is imposed upon the rational creature by God. What is authorized under it is therefore obligatory, just as much so as that which is authorized by the revealed law. It is called natural because it is promulgated through the reason natural to man. It is distinct, but not separated from the supernatural. Thus the natural and the revealed law are distinct parts of one and the same divine law.

In view of the fact that the state derives authority through the natural law, which is an expression of God's will, individuals are obliged to obey its enactments. In obeying them the individual obeys God who has authorized it to legislate. Consequently civil allegiance is a moral virtue. Thus it is clear that the state has authority, and that its authority must be obeyed.

Since the people hold authority from God, they hold it as they do all other things He has given them, as a trust, which is forfeited by its abuse. Since the authority vested in the people is not their own, they cannot do with it whatever they

25 "... the state is guarantied against sedition, insurrection, rebellion, revolution, by the elevation of the civic virtues to the rank of religious virtues, and making loyalty a matter of conscience." XVIII, 69.
please. Therefore any enactments contrary to God's law, under which the people are authorized as legislators, are ipso facto null and void. Furthermore, since the ruler holds authority from God through the people he is accountable to the people as well as to God for the use made of his authority.

On this basis the freedom - not the license - of the individual is secured. For freedom, it has been noted, consists not in being free from law, but in obedience to God's commands. The individual is free to do that which is right, and he has the right to do that which is not forbidden. In disobeying God's law the individual is neither right nor free. Such action is license, not liberty.

The state, being authorized by God, has the right to legislate. Having the right to legislate, it cannot be right for the individual to resist any enactments not contrary to the law of God. If laws are contrary to God's law, they are not authorized by Him. Therefore they are not obligatory. Consequently the individual is free, and has the right to resist them, for the individual is always free to obey God.

In this theory authority and liberty are therefore united harmoniously. Individual rights are secured without resorting to extreme individualism or anarchy. The authority of the state is secured without asserting openly or by implication, social-

26 Brownson holds that this is the traditional doctrine of Catholic theologians. XVIII, 65.
ism or despotism.

While the theoretical solution of the problem of authority and liberty is thus solved rather simply - inasmuch as God's will, which is never in contradiction with itself, is the source of both authority and liberty - its practical application is somewhat more difficult. For it is obvious that there may be, and frequently is, a conflict between the liberty of the individual and public authority. Therefore it is necessary to indicate briefly the basis on which the practical problem of authority and liberty may be solved.

It has already been noted that Brownson maintains that the problem may be solved only by the practical recognition of the supremacy of God and His law. If His law is not supreme, and recognized as such, then there is no moral law, no moral right or wrong. Being unable to demand obedience on moral grounds, the state has nothing to appeal to except its might. The individual, being unable to protect his freedom on moral grounds, must resort likewise to might. In other words, the failure to recognize God's law emancipates both the individual and the state from all moral obligation. Consequently it is inevitable that both will appeal or resort to might. Thus it is likewise inevitable that: "Today it [society] is torn by a revolution in favor of socialism; to-morrow it will be torn by another in favor of individualism, and without affecting any real progress by either
revolution." Thus the problem of authority and liberty cannot
be solved with the practical recognition of God's supremacy.

Furthermore, the mere recognition of God's law, and the
appeal to it by both the individual and the state, is not suffi-
cient to settle practically the controversy between authority
and liberty. It may be assumed that God's law is the criterion
of right and wrong for both the individual and the state, thus
defining the limits of the state's authority and the rights of
the individual. Yet who is to define God's law if a practical
conflict arises? If the political philosopher will concede
nothing more than God's law, individuals, and the state, he is
no closer to a solution of his problem than if he denied God's
law and God entirely. If the authority to define the limita-
tion of the state's power is lodged in the individual he would
be in a position to justify any act of disobedience by appealing
to his interpretation of God's law particularly when enactments
seemed inconvenient to him. Similarly if the state is the judge
of its own cause, it may justify every act of tyranny. Socialism,
for example, professes to be Christian, and it is in the name
of Christianity that it contends for equality and the subse-
quent abolition of property.

In this way Brownson endeavors to show that if political

27 XVIII, 46.
28 XVI, 69-70; XIII, 492-494.
authority is based either upon a total rejection of God's law, or upon God's law privately interpreted, it is not based upon truth. Its foundation is false. There is not the remotest possibility of solving the problem of authority and liberty since the truth, in the light of which it must be solved, is lacking. Since a solution is impossible it is necessary to assert principles which, if adopted, lead either to anarchy or absolutism, revolution or passive obedience.

In order to solve the problem of authority and liberty it is consequently necessary to recognize the truth that God is not only supreme lawgiver, but also that He has constituted a church capable of determining infallibly what He has commanded. This is the truth. It is only by building upon it that individuals and society can progress. This is the message Brownson endeavored to convey to his public. The following is typical of his attitude:

Since the government derives its authority from God, and is amenable to his law, evidently it can be tried only under that law, and before a court which has authority to declare it, and to pronounce judgement accordingly.

But what shall be done in case there be no such court of competent jurisdiction? We reject the supposition. Almighty God could never give a law without instituting a court to declare it, and to judge its infractions. We, as Catholics, know what and where that court is, and therefore cannot be embarrassed by the question. If there are nations who have no such court, or who refuse to recognize the one Almighty God has established, that is their affair, not ours, and they, not we, are responsible for the embarrassments to which they are subjected. They, undoubtedly, are obliged either to assert passive obedience and non-resistance, or to deny the legitimacy of any
government by asserting the right of revolution; that is, they have no alternative but anarchy or despotism, as their history proves. But this is not our fault. We are not aware that we are obliged to exclude God and his church from our politics in order to accommodate ourselves to those who blaspheme the one and revile the other. We are not aware that we are obliged to renounce our reason, and reject the lessons of experience, because if we admit them, they prove that Almighty God has made his church essential to the maintenance of civil authority on the one hand, and of civil liberty on the other, - because they prove that the state can succeed no better than the individual without religion.

This position of Brownson follows as a consequence of his view that the natural and the supernatural order, the natural and the revealed law, are distinct parts of one whole. Forming a unit, the natural and the supernatural are not separated; both are parts of God's plan. It is therefore false to conceive of them as separated and unrelated. A theory of political authority based upon the supposition that the state is or can be separated from spiritual authority is based upon a falsehood. It must fail.

While it is false to conceive of the state as entirely separated from the church, it is equally false not to distinguish between them. For the channel through which the state derives its authority from God is the natural law, which is distinct from the revealed law. The state does not therefore

29 XVI, 70.
derive its authority through the church or the ecclesiastical authorities. It follows that since the state and church derive their authority from God through distinct channels and exist in distinct orders, neither can absorb the other. They are and must remain distinct as external governing bodies.

In order to complete and to summarize Brownson's views on the nature and origin of authority, it is necessary to note that he has criticised and rejected in part, seven contrary theories before formulating his own. His criticism of each theory is voluminous and somewhat repetitious, and not at all essential to the comprehension of his own theory. The brief statement of each theory which follows indicates that his reasons for rejecting it have already been incorporated in the chapter.

I. The patriarchal theory is rejected as an attempt to account for the moral rightness of government. It is essentially despotic because authority is considered a private right. In

30 "Yet, though derived from God only through the people, civil authority still holds from God, and derives its right from him through another channel than the church or spiritual society, and therefore, has a right, a sacredness, which the church herself gives not, and must recognize and respect." XVIII, 65-66.

31 Brownson's view of the ideal relationship between the church and state is indicated in Chapter IX wherein he maintains that the American republic is a concrete illustration of the ideal relationship.

32 XVIII, 18-74.
order to transform authority into a public trust territory must be introduced as a constituent element of political authority. Thus the state and its authority is a res publica.

II. The social contract theory must be rejected because government is the creature of the individual. As such it can have no authority over the individual, who is its creator.

III. The democratic theory must be rejected because it goes to the opposite extreme. The practical adoption of the theory would result in despotism or absolutism. It has an element of truth inasmuch as it invests authority in the people collectively or the community.

IV. There is a theory which states that government is a development of nature. If the theory holds that it is nature in the sense of a spontaneous development independently of God's will the theory is wrong. It is the natural law, which is an expression of God's will that accounts for the moral rightness of government.

V. The next theory which is criticised maintains that rulers hold their authority directly from God and not through the nation. This is the doctrine of the divine right of kings. The sole redeeming feature in the theory is that it derives

33 XVIII, 18-26.
34 XVIII, 26-40.
35 XVIII, 40-47.
36 XVIII, 47-54.
power from God. But "... it consecrates tyranny, and makes God the accomplice of the tyrant." In other words, it asserts the unlimited power of the ruler which is despotism.

VI. Another theory of the origin of authority states that political authority comes from God through the pope. This theory must be rejected because the state derives its authority from the natural law which is distinct from the revealed law.

VII. The traditional doctrine of Catholic theologians asserts that rulers derive authority from God through the people. This view is sound and must be adopted without reservation. However, it does not state explicitly that authority comes from God through the natural law.

VIII. "The right of government to govern, or political authority, is derived by the collective people or society, from God through the law of nature. Rulers hold from God through the people or nation, and the people or nation hold from God through the natural law." When the implications of this theory are unfolded, it is discovered that it contains all of the truths and none of the errors of the previous theories. It asserts, neither openly or by implication, anarchy or despotism. Thus it solves the fundamental problem of political philosophy, the reconciliation of authority and liberty.

37 XVIII, 54-58.
38 XVIII, 58-61.
39 XVIII, 61-72.
40 XVIII, 72-74.
It solves the problem not only theoretically, but also practically. In viewing the natural and revealed laws as distinct but not separate parts of one divine law, the state can never be separated from the church, which is the representative of God on earth capable of declaring infallibly God's law. On any other basis, such as a denial of either God's law or His church it is impossible to reconcile public authority with individual liberty.

Having thus disposed of the question of the nature and origin of authority, Brownson turns his attention to the state in which that authority resides. He has already limited the state in terms of its function, for the extremes to be avoided in its activity are anarchy and absolutism. In doing so Brownson obviously places a limitation upon the nature which he may attribute to it, for the nature of anything is the source of its activity. He cannot on the one hand attribute to it a nature whose parts are held together so loosely that it is in constant danger of disintegration, for he has affirmed the necessity of its continued existence as an organization having the authority to govern. Otherwise there would be anarchy. Again, he cannot give it a nature whose parts form a unit so completely that the existence of the individual, as a being with rights of his own, is endangered. Thus the boundaries within which Brownson must pursue his discussion of the state are already clearly defined.
CHAPTER VII

THE NATURE OF THE STATE

Brownson's exposition of the nature of the state rests upon various philosophical foundations. Unfortunately he has no formal treatise on the state in which he presents in an orderly fashion his view of the constituent elements of the state. It is consequently necessary to impose an order upon Brownson's view of the state, and perhaps correct certain terminological inaccuracies.

In order to select a starting point which will serve to unify Brownson's doctrine, it is necessary to commence with his statement of the elements which constitute a state. He says that: "Sovereignty, under God inheres in the organic people,

---

1 For example, when he was a Platonist Brownson's theories were based largely upon his interpretation of the Platonic theory of ideas; later he based his views partially upon Leroux's doctrine of communion.

2 Inasmuch as Brownson wrote so voluminously on political problems this may seem at first sight to be a statement that is slightly exaggerated. In the first place, however, many of Brownson's views are expressed in rather brief articles, some of which were composed hastily to meet a publisher's deadline. In his American Republic Brownson does profess to organize doctrines previously expressed briefly and hurriedly. Still a glance at its table of contents indicates the fact that not one of its fifteen chapters is devoted explicitly to a discussion of the state. He has many chapters on government. In these he discusses the state. These discussions are extremely confusing because Brownson's position demands a sharp distinction between state and government. In the light of his doctrine which follows there is no excuse whatsoever for Brownson to use these terms interchangeably.
or in the people as the republic; and every organic people fixed to the soil, and politically independent of every other people, is a sovereign people, and, in the modern sense, an independent sovereign nation."

Brownson's conception of the state as an organism is derived from his interpretation of the Platonic theory of ideas. This theory has been treated in a previous chapter on the "Rights of the Individual." In order to understand how it supports the conclusion that the state is an organism, it must be recalled briefly that humanity is an idea. It exists in the divine mind as a simple, indivisible, generative principle. Its activity results in the production of individual men and women. It is to the individual "... what the principle of vitality or vital force is to the human body."

Now according to Brownson the vital force of the individual is its unifying principle; it makes the members of his body parts of one whole. For example, the eyes and ears of the human body are related as members of one body because they derive their vitality from the simple, vital force which pervades the entire body and makes it one. Similarly, individuals derive their vitality from one and the same vital force. This is humanity. Since it is one and simple, it pervades all individuals equally.

3 XVIII, 100.
4 XV, 372.
5 XV, 372-374.
Therefore it unites individuals as members of an organism; it makes them parts of one body. Thus Brownson says that society is not merely an association of individuals, but a "Living Organism."

The development of this analogy gives us a true picture of the nature of society. Since it is an organism, it follows that society has different members. It follows also that each individual, considered as a member of the organism, has a specific function, just as the function of the eye is to see and the ear to hear. However, Brownson points out, "What is essential to the life and growth of the whole is, that each member be preserved in his sound and healthy state, so as to be able to perform, without obstruction, his special function." In other words, the welfare of the body as a whole depends upon the welfare of its members. Just as the human organism suffers if the function of the eye is obstructed, so also does the social organism suffer if the function of an individual is obstructed.

6 "This [humanity] is essentially one and identical in all men, and is to the great body of individual men and women, under the relation I now consider it, what the principle of vitality, or vital force, is to the human body. It is the one vital force active in all, the life-current that flows through all individuals, making them all members of one living body. It is to establish this fact, that I have insisted on the Platonic doctrine of ideas, and attempted to demonstrate man's existence as an idea or as the genus, to speak the language of science." XV, 372.
7 XV, 372.
8 XV, 372.
This means, therefore, that man's welfare and that of society are intimately interwoven. Society is in a sense the completion of man because it fills up a need that is rooted in his nature. The reason for this is that man's nature is at once individual and social. The humanity which constitutes him an individual is the same humanity that unites him to others as a member of an organism. Consequently he cannot exist without deriving life from the organism of which he is a member, any more than the eye could exist apart from the body.

Thus far Brownson has said nothing explicitly about the state. He has given us a conception of individuals who cannot

8 Brownson never modified his conception of society as an organism, although he did modify his Platonism, as is evident from the following, written in 1867: "We confess that we are not able to make out from Plato a complete, coherent, and self-consistent doctrine of ideas." II, 289. His later view is grounded on Leroux's doctrine of communion, which has been stated in a preceding chapter. Presenting his view in terms of this doctrine, Brownson holds that man is a dependent being and cannot exist without God. He depends upon him directly through religion, and indirectly through nature and society. Without society he can neither be born nor sustained in existence. Therefore society is necessary to man and consequently as "... indestructible as human nature itself." V, 131. This is another instance in which Brownson maintains one conclusion consistently but supports it on different grounds.
exist apart from society. Since the individual cannot exist apart from it, his relationship to society is that of a member who cannot exist if it is cut off from the body to which it belongs. His procedure is clear, however, inasmuch as he has already established the fact that government is necessary to society. He has shown that the family, which is the smallest society from the numerical standpoint, cannot exist without government because it would fail for lack of unity. Consequently government is introduced as the factor which renders effective man's existence as a member of an organism.

In other words, government is necessary to society just as society is necessary to man. Being essential and indispensable to society, which in turn is necessary for man, government must exist as the condition upon which man expresses or actualizes his nature. Thus Brownson says, "Extinguish government and you extinguish society; extinguish society and you extinguish man."

Now government exists in both the family and in the republic or a people fixed to a territory. Parental authority, however, is confined within the narrow limits of an immediate family. Being legitimate only within a family, it ceases to be legitimate with the natural growth and expansion of the family.

9 XVIII, 14.
10 XVIII, 15.
11 XVII, 10.
Consequently the government of the parent or the patriarch must be replaced or transformed into that of the state in order to be legitimate. The family grows and expands naturally into a larger society, but the father can have no natural right to govern a society larger than his immediate family. Consequently authority in such a society must be based upon something other than the conjugal relationship. It has been indicated already that the basis of this authority must be something common, a res publica, or a territory commonly held.

Being an organism, the state is required to secure the good of the individuals constituting it as the condition of securing its own welfare. It has been noted previously that the welfare of the whole depends upon the welfare of its parts. Now the individual is at once an individual and a member of society. Therefore in order to secure the good of the individual the state must permit him to fulfill his function both as an individual and as a member of society.

Since government is necessary for society, which in turn is necessary for man, there is no intimation in Brownson of the view that government is a necessary evil, or that it is rendered necessary by man's fall. Its function is positive rather than

12 XIII, 110.
13 Brownson maintains consistently that the recognition of the fact that the individual is an integer as well as a part of society is due to Christianity. The following is typical of what he holds: "The doctrine of individual freedom before the state is due to the Christian religion, which asserts the dignity and worth of every human soul, the accountability to God of each man for himself...." XVIII, 45.
negative. It is the condition upon which man may develop and perfect his natural capacities. Consequently it is a good for man, second only to religion. In Brownson's words:

It is needed to render effective the solidarity of the individuals of a nation, and to render an organism, not a mere organization - to combine men in one living body, and to strengthen all with the strength of each, and each with the strength of all - to develop, strengthen, and sustain individual liberty, and to utilize and direct it to the promotion of the common weal - to be a social providence, imitating in its order and degree the action of the divine providence itself, and, while it provides for the common good of all, to protect each, the lowest and meanest, with the whole force and majesty of society. It is the minister of wrath to wrong-doers, indeed, but its nature is beneficient, and its action defines and protects the right of property, creates and maintains a medium in which religion can exert her supernatural energy, promotes learning, fosters science and art, advances civilization, and contributes as a powerful means to the fulfillment by man of the divine purpose of his existence. Next after religion, it is man's greatest good; and even religion without it can do only a small portion of her work. They wrong it who call it a necessary evil; it is a great good, and, instead of being distrusted, hated, or resisted, except in its abuses, it should be loved, respected, obeyed, and, if need be, defended at the cost of all earthly goods, and even of life itself.

Thus far Brownson has said that the state fulfills a need existing in man's nature and that it is consequently a good. He has said also that its authority inheres in the people as a whole and is consequently the attribute of the whole organism rather than of any individual.

14 XVIII, 15.
At this time, however, Brownson introduces doctrines which are not precisely ordinary, at least not with respect to the manner in which he expresses them. The first of these doctrines is introduced to explain why or how people come to be organized into particular states. That is, he endeavors to indicate the basic factors which unify a people and give it a distinctive existence as a people.

Adopting his usual procedure, Brownson begins by criticizing contrary theories before presenting his own view. He begins by denying that a written document, ordinarily referred to as a constitution, is the basic or fundamental factor which organizes people into a state. A written constitution, being the act of a community or a people, obviously presupposes the existence of individuals already organized in some way. Since it presupposes an organized people, a constitution cannot be the sole organizing factor of a people. In other words, on the supposition that a written constitution is the fundamental factor which unifies a people or gives being to them, it would be possible to conceive of a state as a purely artificial production. The nation would be similar to "... a temperance society or debating club, a simple voluntary association which men are free to join or not as they please." Thus Brownson rejects entirely the view that states

15 As is evident Brownson is again criticizing the contract theory, that people can get together voluntarily, draw up a written constitution and thus bring a state into existence. This theory has been treated in some detail in a previous chapter.
16 XVIII, 75.
come into existence or can be formed suddenly, created de novo, by the formulation of a written constitution.

In opposition to the contract theory of Rousseau, Brownson says that states come into existence by a process or growth or development, rather than a production. That which constitutes or gives being to a people is its own internal organization, represented in the habits, the manners, the customs, the living traditions which grow and develop as a people grow and develop. It is this internal organization which gives the state its vitality, 

"... that which controls or governs its action, and determines its destiny."

Now the habits, manners, traditions, customs of a people that come into existence by a process of growth or development represent, for Brownson, an internal unifying factor which precedes, and is more fundamental, than its written constitution. He speaks of the sum of these factors in terms of an organic, or unwritten, constitution, or in terms of its unwritten or living law.

The point that Brownson endeavors to convey, in terms which appear somewhat confusing, is the fact that an individual government must be adapted to, and be an expression of, the fundamental and distinctive habits and traditions of a people. It can-

17 XVIII, 80.
18 XIII, 44-46.
19 XIX, 358-360. Brownson also refers to these factors as the Providential Constitution.
not be created artificially and imposed from without. "It must be born and developed with the nation .... Constitutions of states are not things that can be made to order, and imposed by authority, regardless of the habits, manners, customs, and traditions of the people who are to live under them."  

This means that if, for example, a monarch is included in the fundamental, internal organization of a people, it is the sheerest folly to remove the monarch and attempt to impose another form which has no basis in the traditions of a people. 

The French people adopted constitution after constitution of the most approved pattern, and amid bonfires, beating of drums, sound of trumpets, roar of musketry, and thunder of artillery, swore, no doubt, sincerely as well as enthusiastically, to observe them, but all to no effect; for they had no authority for the nation, no hold on its affection, and formed no element of its life. 

Brownson believes, therefore, that the fundamental and primary organization of a people determines the particular form of government which is most suitable for that people. He could never bring himself to consider seriously the question as to whether or not one form of government is inherently better than another. "The constitution of government must grow out of the constitution of the state, and accord with the genius, the

20 XIII, 44.  
21 XVIII, 81.  
22 Cf. Summa Theol. 1-2, q. 95, a. 4, c., in which St. Thomas enumerates the various forms of government and indicates briefly the merits of each, and the merits of a combination.
character, the habits, customs, and wants of the people, or it will not work well, or tend to secure the legitimate ends of
23 government."

In other words, Brownson holds that a people develops a unity or organization which is distinctively their own. Anything rooted in that organization as an integral element, cannot be uprooted without destroying the people. Consequently a government imposed from without tends to eliminate or destroy a radical element of that organization. Such a government seldom, if ever, has a hold on the people and is consequently seldom a good government. It must be maintained by force because it is not the expression of a living organism.

Brownson also attempts to answer the question as to why or how people become organized on a territorial basis and thus begin to exist as states, and why some survive and others are extinguished. His answer, whether philosophical or not, is that the providence of God is the only ultimate explanation. God in His providence has permitted states to be extinguished, and some of them by violence. Why He has done so "... is no question for the statesman; it is the secret of Providence. Failure in this world is not always a proof of wrong; nor success, of right. The good is sometimes overborne, and the bad sometimes triumphs; but it is consoling, and even just, to believe that the good oftener

23 XVIII, 97.
triumphs over the bad."

Likewise, God in His providence is ultimately responsible for the existence of a particular people, state, or nation. Consequently Brownson also refers to the organic or unwritten constitution which gives being to a state as its providential constitution. In order to discover what he means by it, it is necessary to discover what he means by providence and thus determine the respective roles of providence and human agency in the formation of the state.

Providence, for Brownson, means the action by which God sustains, cooperates with, and directs His creatures: "Providence is as necessary as creation, or rather, providence is only continuous creation, the creative act not suspended or discontinued, or not passing over from the creature and returning to God." He distinguishes between God's providence and God's natural law: "The law of nature is not the order or rule of the divine action in nature which is rightfully called providence...."

The necessity for the divine action in nature called providence is to be found in the nature of the creature. He is a second cause, a substantial existence, but nevertheless dependent; consequently God must concur, cooperate with, and direct every action of every creature. Having given man a nature which

24 XVIII, 107.
25 XVIII, 74-75.
26 XVIII, 67-68.
27 XVIII, 72.
is free, God must direct him, but he "... must leave his freedom intact .... How this can be done, we do not undertake to say."

Applying this doctrine to the state, Brownson says that men cannot produce a state de novo. A germinal organization must be given them to start with. This germinal organization which men cannot produce is present in families, in families united into tribe. It develops in the migrations of families and in colonies through wars, conquests, rebellions, amalgamation of conquered and conqueror. In a word, the development of a nation presupposes a germinal organization which may be developed.

Now Brownson maintains that it is by reason of circumstances such as those mentioned that nations begin to exist. These circumstances are providential in his estimation, but not therefore fatalistic. The germ which is given to a people by reason of these events is not, properly speaking, made; it is rather a generation. Granted such a germinal organization, men may develop it. They may develop distinctive habits, customs, and instinctive unity as a people, but they cannot by their own voluntary efforts bring into existence or produce the germinal organization they

28 III, 365.
29 XVIII, 77.
30 In tracing the development of Rome, for example, he says that the "Roman people, had they chosen, could have given a different direction to the developments of their constitution. There was Providence in the course of events, but no fatalism." XVIII, 89.
have to begin with. This is the work of providence.

As an indication of what Brownson means by the providential constitution with respect to human liberty in its formation the following brief passages are cited:

...constitutions are generated, or developed, not created de novo, or made all at once. But nothing is more sure than that a nation can alter its constitution by its own deliberate and voluntary action, and many nations have done so, and sometimes for the better as well as the worse.

Providence is always present in the affairs of nations, but not to work miracles to counteract the natural effects of the ignorance, ineptness, shortsightedness, narrow views, public stupidity, and imbecility of rulers, because they are irreproachable and saintly in their private characters and relations.

The doctrine presented thus far means that Brownson has established the fact that the state is an organic people fixed to a territory. On the basis of his analysis of man's nature, he has shown that man is related to society as an organ is

31 As is evident, Brownson derived this doctrine from Joseph De Maistre, (Anon. trans.), Essay on the Generative Principle of Political Constitutions, Boston, 1847. Brownson's review of this essay indicates that he accepted it rather enthusiastically at first. This first discussion is characterized by extremely confusing terminological imexactitudes. While he accepts the terms of the doctrine, such as providential and generated constitutions in his later works, they appear to have an entirely different meaning. He refers to the doctrine rather frequently, e.g., XVII, 494-500, and XVIII, 74-92 where he says that the doctrine is not true as held by that "illustrious Count."

32 XVIII, 75.
33 XVIII, 91.
related to the body from which it draws life. Society requires authority, which in turn exists only in people related territorially. The possession of both territory and living traditions are unifying factors of the state which precede the adoption of its written constitution. Thus the state is an organic people fixed to a territory.

The consequences which Brownson draws from this position are, if nothing else, at least somewhat startling. Brownson argues that if political authority is an attribute of the people as a whole, it cannot be prior to, but must be consequent upon, the existence of an organism. Unfortunately, Brownson states the conclusion derived from this position rather abruptly and without sufficient warning, for he says in no uncertain terms that "A nation de facto is a nation de jure, and when we have ascertained the fact, we have ascertained the right. There is no right in the case separate from the fact."

It is rather unfortunate that Brownson’s arguments are stated somewhat vehemently and abruptly on any side of a question because it is rather easy to select certain passages, such as that above, and prove that Brownson was an advocate of the doctrine that might makes right. It is also easy to select passages from Brownson to prove that he was an anarchist. Brownson himself notes this, and rather frequently, when he

34 XVIII, 105.
says that "We are not infrequently accused of being one-sided, narrow-minded, and disposed always to push the principles we may have happened to adopt to extremes. Nothing is more untrue." And again,

... if we oppose false liberty, or license presented under the name of liberty, we are charged with being enemies of true freedom; if we assert authority, however legitimate or necessary, then we are despots or advocates of despotism. The press opens its cry against us, and the age votes us mediaeval dreamers, behind the times, relics of the past, with our eyes on the backside of our heads, and the truth is drowned in the floods of indignation or ridicule poured out against us.

Since Brownson was notoriously imprudent and extreme it is necessary to present his doctrine more prudently, without thereby presenting it less accurately, or with a view to suppressing his doctrine for the purpose of vindicating it.

In view of the fact that Brownson maintains that political sovereignty vests in the political community, or the state, or the people as an organism, he distinguishes sharply between the state and the government commissioned under it: "The government, as distinguished from the state or nation, has only a delegated authority, governs only by a commission from the nation. The revocation of the commission vacates its title and extinguishes its right."

In other words, the people, being sovereign, may commission

35 X, 532-533.
36 III, 338.
37 XVIII, 108.
this government or that; they may entrust authority to a king or an aristocracy, or to a combination. The distinction between the sovereign people and the government is that between the sovereign and his agent. This means that no ruler, whether he be king or emperor, holds his authority as he does a piece of property. The people may, for a good and sufficient reason, dismiss their agent, whether he be called king or emperor, without depriving him of any indefeasable right, as they would do if they deprived him of property. "The right of a nation to change its form of government, and its magistrates or representatives, by whatever name called, is incontestable."

This, according to Brownson, is nothing more than the logical application of the doctrine that sovereignty vests in the people, and that rulers are consequently justiciable by the people as well as by God for the use made of authority. Although sovereignty is delegated to rulers, sovereignty itself is in the people and persists in them. The powers delegated to government "... are still the powers of the sovereign delegating them, and may be modified, altered, or revoked, as the sovereign judges proper."

38 XVIII, 92.
39 XVIII, 92-94.
40 XVIII, 99.
41 XVIII, 99.
42 XVIII, 99.
Applying this doctrine still further, Brownson holds that an existing government may be destroyed entirely without thereby destroying the state or the sovereignty of the people. If the people survive the destruction of their government, "... the sovereign remains in the plentitude of his rights, as competent 43 to restore government as he was originally to institute it."

It may happen further that a particular ruler or a particular government may be overthrown, not by the people acting as sovereign, but by a mob. Subsequently a new ruler may acquire his position by an act that is manifestly unjust. In such a case Brownson contends that the people still maintain the right to legalize, or to legitimate, the title of the new ruler. The fact that the people will to retain a ruler is in itself sufficient to give him legitimate authority. His right as a ruler is not derived from any right prior to the will of the people, for "He holds his power, as the emperor of the French professes to hold his, by the grace of God and the national will - the only title by which a king or emperor can legitimately hold power."

It is clear therefore, that Brownson's doctrine does not mean that a government de facto is a government de jure. One who acquires title by violence may be the ruler de facto, but he

43 XVIII, 93.
44 Brownson refers to conditions in France in 1848 and subsequently to Napoleon's suppression of the legislative assembly in 1851. XVIII, 93.
45 XVIII, 93.
does not rule de jure unless the people he rules will to retain him as ruler. If he maintains power by mere force he is a tyrant, a usurper without authority.

According to Brownson a clear cut case of a government that is de facto imposed upon the people without being de jure is England's dominion in India. Its dominion is de facto, but it is without right and consequently tyrannical. It is government without legitimate authority to govern and therefore barbaric and despotic in principle. England may succeed in maintaining it, according to Brownson, but if it does it will "... wreak a vengeance on the unhappy Hindoos that will establish her character for cruelty and barbarity down to the end of the world."

With the distinction between state and government clearly in mind it is impossible to maintain that Brownson holds that every government able to preserve itself by force is a de jure government. It is consequently necessary to examine his assertion that every nation de facto is a nation de jure on the basis of this distinction.

In asserting that a nation de facto is a nation de jure, Brownson was endeavoring to discover the basis on which the state derives authority from God. He rejects the view that a state, in order to be legitimate, must have come into existence rightfully. His reason for rejecting this view is made on the

46 XVI, 538-544.
47 XVI, 545.
ground that it would be impossible to justify, or to assert the
rightful existence of, a single civilized state:

A hundred or more lost nationalities went
to form the Roman empire, and who can tell
us how many layers of crushed nationalities,
superimposed one upon another, serve for the
foundation of the present French, English,
Russian, Austrian, or Spanish nationality.
What other title to independence and sovereignty,
than the fact, can you plead in behalf of any
European nation? Every one has absorbed
and extinguished - no one can say how many
nationalities, that once had as good a right
to be as it has, or can have. 48

This argument is typical of Brownson. He says that if a
nation must be founded rightfully in order to be just, accept
the principle and apply it regardless of the consequences: "...I
have never in my life been able to persuade myself that a prin­
ciple, really sound and true, will not bear pushing to its last
logical consequences." He continues that if a principle cannot
be applied, it is proof that it is untrue and cannot be adopted.
Obviously, as has been indicated, he maintains that the principle
that a nation must be founded rightfully in order to possess
legitimate authority cannot be a criterion for determining its
legitimacy.

Rejecting this view as untenable, Brownson accepts the con­
sequences of the doctrine that authority inheres in the state as
an attribute of the whole organism. As such it is necessarily
consequent upon, and not prior to, the existence of the organism.

48 XVIII, 107.
49 XVIII, 224.
Therefore it begins with the existence of the organism and is extinguished with its death: "There is no right behind the fact needed to legalize the fact, or to put the nation that is in fact a nation in possession of full national rights."  

The doctrine that a nation, not a government, de facto is a nation de jure, taken in connection with his view on the origin of authority, serves to unify and to render more definite Brownson's view of the state. He has maintained that authority comes from God through the natural law. It inheres in the state as an organism for the good of the whole. The state is constituted or given existence by the possession of a territory and by a distinctive internal organization of its own. Thus the authority of the state inheres in the state itself. A written enactment is consequently not constitutive; it is the product of, or is written by, a people already existing as a people.  

Since Brownson maintains that a nation de facto is a nation de jure, he maintains that the existence of a nation is simply a question of historical fact. The functions of a sovereign are easily discernible, as easily as any other historical fact. Briefly, the distinctive characteristic of sovereignty is the exercise of complete authority, which is the management of both internal and external, foreign and domestic affairs.

50 XVIII, 107.
51 These conditions are expanded in the following chapter wherein they are applied to a particular situation.
Since Brownson maintains that the existence of a nation is a simple question of historical fact, he is merely applying his doctrine that its authority remains and persists in the organic constitution. With respect to India, for example, the historical fact is evident. The internal organizations have not been broken. Consequently there remains the right to resist invaders, who are of necessity tyrants. On the other hand, a people whose distinctive organizations have been broken, who have been absorbed, assimilated, conquered, are no longer de facto a people. As scattered remnants they have no longer the right to institute and exercise complete political authority.

His thought is indicated clearly with respect to colonies existing under the jurisdiction of their mother country. Such colonies are not sovereign de facto. They may exercise some of the functions of a sovereign such as the control of domestic affairs. Such authority is legitimate; it is authorized through the political sovereign. If the authority of the mother country over its colonies is such that it is tyrannical, oppressive, too great to be endured, it may be resisted even by force. This may be, but seldom is, the case.

Yet a people dependent upon legitimate political authority may never revolt against it merely to secure complete political authority or sovereignty for themselves. To maintain the contrary

52 XVIII, 106.
that is, that individuals, groups, colonies, are inherently sovereign and have the right to be sovereign, is to babble the nonsense of Rousseau. It would, if adopted in principle, put an end to all legitimacy:

Myself and two others might otherwise unite, and declare ourselves a sovereign state, and secede from the city, the state, and the Union, and scornfully refuse to recognize your magistrates, your laws, your police, your conscription, and your tax-bills. This would be democracy run mad, and too absurd to be asserted even by the Evening Post or the New York Tribune.

At this time it becomes necessary to state clearly that which has been implied all along in Brownson's discussion of the state. He is endeavoring to establish principles which he will endeavor to apply primarily to the concrete situation in which the Anglo-American colonies found themselves at the termination of the revolutionary war. By way of concluding the discussion of these principles, they will be reviewed briefly. Since they will be applied to a concrete situation in the following chapters, the summary is given in terms of a concrete problem, and how the position taken thus far is necessitated by the problem confronting Brownson. In order to accomplish this purpose it is necessary, at least momentarily, to break away from Brownson's own exposition.

He has maintained that a people always begin their existence with a germinal organization which is given to it. This

53 XVII, 570.
organization grows with the people; it develops with them. It becomes a part of the living, breathing people themselves. This organization is represented in the living habits, traditions and institutions of a people. This living, growing organization is a unifying factor which is more important than written enactments.

If such a people are in possession of a territory, and they are politically dependent, they are not sovereign. They hold authority dependently upon the sovereign who has authorized their existence. Such authority is legitimate; it is right. Consequently it cannot be right to revolt against it merely in order to obtain complete authority.

If it were accepted as a matter of principle that such a people could revolt for the purpose of securing complete authority for themselves, one would accept, consciously so or not, the principle that people are in themselves sovereign. Being sovereign they have a right to unite voluntarily, to ordain government, to revolt in order to secure complete authority. Thus Brownson maintains that if there could be a right to complete authority prior to the fact, one would be in the absurd position of maintaining that it is right for a colony to resist the rightful enactments of the mother country.

On the other hand, if such a colony does revolt de facto it thereby severs the channel through which it derived legitimate authority. Since it has been cut off from the source of its authority, (1) it must be left without authority, or (2)
its authority must be derived from some other source. (3) The source can be none other than that indicated by Brownson in the exposition of his own doctrine.

(1) Authority exists only in the state. The colony is a transplanted dependent group, deriving authority legitimately through the mother country. If by a wrongful act they sever that channel, it is impossible for them to convene as isolated individuals and re-institute, by a convention, a legitimate government. They cannot, in other words, make their government a rightful government by surrendering rights, agreeing to be governed, or consenting voluntarily; in a word, their government cannot be legitimated in terms of Rousseau's social contract. Thus, if the channel through which legitimate authority is derived is severed, and if the state must come into existence rightfully, there is no possible way for Brownson to introduce legitimacy into any government of Europe, and more importantly, into the government of the United States.

(2) Having severed the channel from which they derived authority, Brownson endeavors to discover a new channel through which authority may be derived. It cannot come from God through separate individuals, because individuals, again are equal. God has given to man no dominion over man. Further, authority obviously could not be derived through the written enactments existing in virtue of the authority of Britain. With the termination of the authority through which the written documents were authorized, they were no longer law. Thus individuals as
as such and any previously existing written documents are eliminated of necessity for Brownson as a means whereby, or as channels through which, any new enactments might be legitimated.

(3) Brownson solves the problem, of course, on the basis of his conception of authority as derived from God through the law of nature. It is given to the nation when it exists as such. It inheres in the people as an organism, fixed to a territory. The people are constituted a people by the presence of living institutions and traditions which are prior to, and able to survive the destruction of, written documents. Thus with the termination of the war, authority, under God, inhered - not certainly in Americans as individuals - somewhere in the living organizations which persisted despite the termination of the authority of their written documents.

This summary of Brownson's view, made in terms of a concrete problem, indicates two things. First it indicates the reason for Brownson's doctrine that a nation de facto is a nation de jure. Second, it indicates that the problem confronting Brownson in the following chapters is not at all concerned with a justification of the Revolutionary War. Furthermore, it cannot be a problem concerning the forms of government to be adopted, for he has maintained that the question of forms of government is an idle one.

He has maintained that the most important characteristics of a state are precisely those which cannot be written down. Further, it is important to maintain institutions which have a
hold on the people, which grow and develop with them. It is important to maintain intact the fundamental organization - the inherent, internal organization of the nation, and to keep the government in conformity with it so that it may be invigorated by the life blood of the nation itself. For this reason Brownson endeavors to present the basic nature of the organism he calls the American Republic.
CHAPTER VIII
THE UNION OF STATES

It has been noted in a previous chapter that after the election of 1840, Brownson's theory and the reality confronting him refused to harmonize. The infallible people had betrayed their birthright for a barrel of cider. Being thus rudely awakened, Brownson was driven to an examination of the principles upon which he had based his views.

A somewhat similar situation confronted Brownson during the period preceding the civil war. His comments upon practical affairs were based upon the principle that the Union is a confederacy of independent states or nations. He notes later that "This view is simple, and is easily taken in, and we confess we held and defended it down almost to the breaking out of the rebellion." As secession threatened he found himself on the side of the Union. Here again was a situation in which his theory and the concrete reality confronting him refused to harmonize.

His procedure was similar to that followed in 1840. First of all he tested his theory for consistency. He had reasoned

1 XVII, 500. His exposition and defense of state rights is contained principally in XVI. He followed, as is evident, the doctrine of Calhoun on this point. His connection with Calhoun is indicated very well in Schlesinger, 114-124.
that if the states were in the beginning sovereign and independent, then the relationship between state and union is that of the sovereign to his agent. He had supplied the fact that they were sovereign when they began their existence as states. The conclusion is inescapable. Finding no flaw in his reasoning, or that of Calhoun to which it is similar, his only alternative was to examine the fact which he had taken in and assumed to be true.

Now the terms in which Brownson's investigation must be conducted have been indicated in the concluding remarks of the preceding chapter. He has maintained that the formation of a nation or a people with a distinctive internal organization or constitution of its own is a process of growth and development rather than a production. On the basis of his theory, a people are constituted by the development of distinctive habits, customs, living traditions and institutions - not by the production of a written document. Consequently he is obliged to investigate the formative period of the nation, for this period reveals its radical and distinctive elements.

In addition to this view Brownson has maintained that the government of the people must be rooted in these elements. It must retain them. If it does so it is enlivened by the life blood of the nation itself. If it tends to eliminate anything radical, it can be maintained only by physical force. Consequently the conclusion of the investigation reveals Brownson's conception of the organic constitution to which the existing
government must conform in order to maintain the American Republic.

The immediate results of Brownson’s investigation, to the surprise of no one, reveals the fact that he had been wrong in assuming without a thorough investigation that the states were originally sovereign. In terms of vindicating either North or South, his arguments leading to that conclusion are unimportant. They are, however, indispensable for a comprehension of Brownson’s interpretation of an existing reality. It is for this reason that it is necessary to begin with his presentation of the argument for an original nation.

Since it is Brownson’s avowed purpose to discuss the organic constitution, which cannot be embodied completely in written documents, his case for union cannot rest entirely upon an interpretation of a document such as the Articles of Confederation. He concedes that those who formulated these documents looked upon the union as a compact between sovereign states. But he also remarks that these men, for the most part, looked upon the state itself as a compact entered into by sovereign individuals, as is evident in the statement that government derives its legitimacy from the consent of the governed.

Brownson argues that the mere fact that some individuals

2 XVII, 486.
of the period viewed society in terms applicable only to a temperance society does not mean that the society called the state is really that kind of organization. It is not a simple, voluntary association despite the fact that these men thought so. Likewise, the fact that some men thought they were forming a simple contract between sovereign states does not imply that their thoughts on the matter were in conformity with reality. The real intention of those in authority has something to do with the matter, but it is not the court of last resort beyond which there is no appeal. Consequently the crux of the issue is the reality itself rather than previous interpretations of it.

Thus there are in a sense two courts in which the case for an original union of states may be tried. One of these is obviously the written documents, such as the Declaration of Independence, the Articles of Confederation and the Constitution as amended by the convention of 1787. However, to the extent that these documents embody the philosophy of those who framed them, such as the view that government derives its just powers from the consent of the governed, they include opinions or interpretations of an existing situation. Since Brownson has questioned the philosophical basis of such opinion, he is led to question the opinions and interpretations of the founding fathers. Thus

3 XVII, 575, 484.
their opinions represent a court in which the case may be tried, but it does not represent the supreme court from whose decision there is no appeal. The other court, the supreme court, is the existing situation itself independently of previous interpretations.

Brownson states the case in commenting upon the philosophical judgment of the founding fathers.

Men may have a good understanding of facts and yet fail utterly, and become grossly absurd, when they attempt to construct theories for their explanation. The question for us is, not what theories our fathers held with regard to the seat of the sovereign power, but where it was actually lodged as a matter of fact, for the fact overrides all theories on the subject.

Brownson's view is of course based upon the doctrine presented in the preceding chapter, that a nation de facto is a nation de jure. A nation derives authority from God by the fact that it exists and maintains itself. If an organized people institute civil government and exercise within and without the functions consequent upon a nation, they are by that very fact invested with authority. The rightfulness, or lack of it, by which a nation comes into existence is not the criterion for determining whether or not it has authority.

This means first of all that Brownson is not required to justify the revolution by which the colonies acquired a status as a nation. The United States has legitimate authority regard-

4 XVII, 575. Cf. also XVIII, 125.
less of whether or not the revolution was justified. It means secondly that since sovereignty is a fact and not a right prior to the fact, there is no a priori ground on which it is possible to determine whether sovereignty existed in the states or in the union.

This means that Brownson must discount arguments designed to show an antecedent rightfulness of each state to sovereignty. There is no right prior to the fact of sovereignty. It means, too, that he must throw out of court arguments designed to show that each state thought it was sovereign and had the right to be sovereign. The men who thought this way also thought that society itself was composed of individuals who are sovereign in their own right. Accepting the theory that the state itself derives legitimate authority because sovereign individuals surrender rights to it, it was natural for them to speak of a union of states in terms of rights surrendered by sovereign states.

Brownson's basis for asserting an original union of states is thus clearly defined:

The historical fact determines who is the sovereign, who are the sovereign people, where, in a sovereign

5 Cf., for example, the following: "Whether they were justified or not in throwing off the authority of the British crown was a momentous question for them, but is none for us...." XVII, 483. Referring to the same revolution he says, "We do not understand how any revolution can be effected by legal authority." XVII, 491.

6 "There is no reason a priori, that we know of, why the original British sovereignty could not have inured to the states severally. There was no positive law in force, or legal principle prohibiting it." XVII, 568.
nation, the sovereignty is lodged, and through what channels it is exercised; because the existence and constitution of the national sovereignty is an historical fact, anterior to all written constitutions and to all positive legislative enactments. What might have been, what is desirable, should have been, are political and ethical questions, — very interesting, very important, no doubt, but of no moment in determining what is.  

The facts which Brownson presents briefly are the following.

The original unit of organization was the colony. Further,

... the colonies were mutually separate and independent political corporations, or, if you prefer, political communities before the Union existed, and, unless in the British people, did in no sense constitute one political community. We do not pretend, and do not recollect, that we ever have pretended, that, distinguished from their unity under the British crown and parliament, they were always one political people .... They were originally separate and mutually independent political communities.  

Another fact: The people acting through colonial organizations waged a war for independence. With the termination of the war, the sovereignty of Britain with reference to the colonies was terminated. The Crown was no longer the sovereign as a fact and consequently was not rightfully sovereign. But sovereignty did not lapse. It passed to those who won independence as a fact and as a matter of fact exercised it:

Sovereignty never lapses, is never in abeyance, and the moment it ceases in one people it is renewed in another. The British sovereignty ceased in the colonies with independence, and the American took its place. Did the sovereignty, which before independence was in Great Britain, pass from Great Britain to the states severally,

7 XVII, 568.
8 XVII, 573.
or to the states united? It might have passed to them severally, but did it? There is no question of law or antecedent right in the case, but a simple question of fact, and the fact is determined by determining who it was that assumed it, exercised it, and has continued to exercise it.

Brownson maintains that the obvious fact of the matter is that people acting through colonial organizations waged the successful war for independence. It is further obvious that the colonial organizations did not merge to the extent that they lost their identity as distinct organizations; but it is equally obvious that they were not separated to the extent that they did not act jointly.

At this point it must be noted that Brownson nowhere attempts to explain why the colonies acted jointly. There is no intimation in his doctrine that the colonies united because of a mutual love for one another, or with the avowed intention of forming one nation. Nor is there an attempt made to discover why the people were distributed into colonies which acted jointly: "How they became so united and so divided is of no consequence in determining what was or is the real constitution of the American people." Whatever reasons may be alleged to explain it, the fact remains that people distributed into colonial organizations acting jointly through these organizations waged a successful war.

Having maintained that sovereignty was wrested from Britain

8 XVIII, 111.
9 XVII, 485.
by the joint action of people existing in distinct political corporations, Brownson must endeavor to defend the thesis that it was exercised in the same way that it was secured. In his estimation a sovereign nation is one which maintains, within and without, the functions consequent upon every civilized nation.

Brownson is obliged to show first of all that with the termination of the war political authority remained in, and continued to be exercised by, distinct political corporations. Secondly, he his obliged to show that these political corporations continued to act jointly. No one of these distinct communities exercised and continued to exercise *de facto* the functions consequent upon a civilized nation. Consequently they were never independent nations *de facto*, and therefore not *de jure*.

Brownson argues that after independence the states continued to exercise the functions formerly performed by them as colonies. There was therefore a continuity of function from colony to successfully rebelled colony or state. The people who rebelled through distinct organizations continued to act through distinct communities after the rebellion. Consequently it is certain that "... the political people of the United States have never existed as a consolidated mass, without organization or distribution into separate and mutually dependent states,"
It is equally certain that the individual state has never proved its ability to maintain civil government as a sovereign nation by fulfilling within and without the functions consequent upon such a nation. The functions which it has failed to exercise as a fact are those which concern its relationship to foreign powers, such as the negotiation of treaties and the right to declare war. Thus, "...bating a few irregularities not to be counted,..." individual states have never existed and maintained themselves as individual nations fulfilling all of the functions consequent upon sovereignty.

Brownson argues therefore that there is a continuity of function from Crown to individual-states-acting-jointly. In terms of a federal government, which at this point represents whatever alliance existed among the states, this means that the federal government performed the functions formerly reserved to the crown. Thus the function by reason of which the colony itself lacked complete political authority, which is the distinctive characteristic of a sovereign nation, is also lacking in the successfully rebelled colony or the state considered

10 XVII, 565.
11 XVIII, 109.
12 XVI, 566; XVIII, 109.
13 XVI, 485. The few irregularities probably refer to those instances in which some states attempted to negotiate treaties.
Consistently with his theory of the organic constitution, which maintains that the formation of a state is a process of growth and development, Brownson does not and cannot maintain that a nation emerged from the struggle for independence with institutions fully formed and developed. Consequently he does not and cannot maintain that there was a clearly defined line of demarcation between federal and state governments as early as 1776. For this reason irregularities existing during that period, or a confusion as to the precise function of each organization, are to be discounted, for these lines of demarcation are part of the development and formation of the nation. Thus he describes the period immediately following 1776 as a transitional period during which the nation was struggling for possession of the faculties whereby it could maintain its existence.

In its struggle to maintain itself, the people, acting through colonial organizations, adopted the Articles of Confederation. The congress under it failed. It was acknowledged as a failure. The very fact of failure proves that the Articles of

14 XVII, 566-572. Cf, eg., the following: "The political rights of the states hold from or continue the political rights of the colonies while the Union inherits and continues the political rights or sovereignty held by the British Crown, prior to Independence." XVII, 566.
15 XVII, 493; XVIII, 113.
Confederation were not in harmony with the needs and wants of the people. If they had met and had continued to meet the circumstances which confronted the people, there would have been no need to reject them. Their failure is consequently conclusive proof of the fact that the central government authorized under them was too weak.

In terms of Brownson's organic constitution, the doctrine presented thus far means that the Union began with the distribution of people into distinct colonies under the Crown. While dependent upon the Crown the people began to act jointly through colonial organizations. The instinct or habit of acting jointly in this way was strengthened by the struggle for independence. Circumstances necessitated concerted action for success.

The instinct for concerted action which the people had developed, while present at the termination of the conflict, was not clearly recognized by the people themselves. Thus they formed a central government without taking into consideration the instinct for joint action which had already been formed. It was doomed to failure because it was not constructed in accordance with the needs and customs of the people who had to live under it. The fact that it was not in accord with the

16 "The Articles of Confederation, it is well known, proved a failure, did not meet the wants of the country, and precisely because they left the central government too weak." XVII, 487; XVIII, 113.
with the needs and wants of the people is proved by the fact that it failed.

Powers were more clearly defined under the institutions adopted subsequently. Individual states retained jurisdiction over particular interests, the general government over general affairs. Being incomplete, neither government performed the functions of a sovereign by itself. Consequently both governments are necessary for complete authority which is the distinctive characteristic of a nation. The fact that such an arrangement is in harmony with the basic structure and needs of the people is proved by its success.

Thus Brownson contends that it was a people acting jointly through colonial organizations who waged and won the war for independence. It was a people acting jointly through state organizations who proved themselves capable of performing within and without the functions consequent upon a civilized nation. Both particular communities and communities acting jointly are integral parts of the American Republic. Thus states are sovereign in union or joint action but not in separation.

17 The following brief passage is cited to illustrate Brownson's argument on this point. "... if the English colonies, now the United States, had separately declared and won their independence, they would unquestionably have become separately independent states, each invested by the law of nature with all the rights and powers of a sovereign nation. But they did not do this. They declared and won their independence jointly, and have since existed and exercised sovereignty only as states united, or the United States, that is, states sovereign in their union, but not in their separation. This is of itself decisive of the whole question. XVIII, 110."
Brownson is somewhat vague in regard to the point at which sovereignty lapsed in Britain and became a fact in the United States:

Independence was declared in 1776, but it was not a fact till 1782, when the preliminary treaty acknowledging it was signed at Paris. Till then the United States were not an independent nation; they were only a people struggling to become an independent nation. Prior to that preliminary treaty, neither the Union nor the states severally were sovereign. The articles were agreed on in Congress in 1777, but they were not ratified by all the states till May, 1781, and in 1782 the movement was commenced in the legislature of New York for their amendment. Till the organization under the constitution ordained by the people of the United States in 1787, and which went into operation in 1789, the United States had in reality only a provisional government, and it was not till then that the national government was definitely organized, and the line of demarcation between the general government and the particular state governments was fixed.

Before proceeding with Brownson's exposition of the union of states it is necessary to note that he attempts to gain additional support for his case by an interpretation of historical documents. Of his rather ingenious comments in this regard the following is typical. He says that the framers of the original articles of confederation called it "confederation, but only because they had not attained to full consciousness of themselves; and that they really meant union, not confederation, is evident from their adopting, as the official style of the nation or new power, united, not confed-
erate states." 19

A part of this statement is tenable inasmuch as the people who were required to meet rather pressing problems immediately after the war did not recognize clearly the extent of the joint action required to win the war and to maintain themselves. Thus the statement that the people had not attained to full consciousness of their institutions is tenable. Yet when Brownson adds that "They really meant union" and not confederation, he is clearly making a statement for which he can have no factual evidence. One would begin to suspect that Brownson had no insight into the minds of these men and consequently had no way of determining what they really meant or did not mean.

Brownson's position with regard to an interpretation of these documents is indicated in the following:

There can be little doubt that the strongest nationalists in 1787, if they had been asked where was our political sovereignty prior to the adoption of the federal constitution, would have answered, in the states, or the people of the states, severally; and would have maintained, if pressed, that the national sovereignty they asserted was created by the surrender of a certain portion of the rights of the states to the general government. The possibility of such surrender nobody questioned, and nobody saw anything absurd in the assertion at once of the sovereignty of the Union and of the states severally.... Even in the preamble to the declaration of independence, by the congress of 1776, we find the assertion that "government derives its just powers from the consent of the governed." Holding this doctrine, the statesmen of 1787 could concede without difficulty

19 XVIII, 116.
that the states, or the people of the states severally, were sovereign prior to the adoption of the federal constitution, and yet deny them to be sovereign afterwards .... To concede the original sovereignty of the states severally, and then to deny the right of secession, is simply to outrage common sense.

With this view of the philosophy prevailing at the time, Brownson says it is necessary and important to take such a factor into consideration in interpreting these historical documents. It is clear that the convention of 1787 recognized the fact that states had been acting jointly or in cooperation with one another, for one of its purposes was "to provide for a more perfect union." Brownson argues therefore that if there had been no union or joint action whatsoever, "... it would not and would not have spoken of providing for a more perfect union."

In view of the fact that Brownson maintains that a convention does not institute or constitute society he maintains that the words "to provide for a more perfect union" should be interpreted to mean that the convention of 1787 recognized the fact that there were states, that these states had been acting jointly or in union with one another, and that it was necessary to provide a government which would express more perfectly the joint action which had always been present.

Brownson's case for an original union, however, is based

20 XVII, 561-563.
21 XVIII, 120.
primarily on the assertion that it was states acting jointly who declared independence and fought for it. It was states acting jointly who exercised and maintained that complete authority which is the distinctive characteristic of a sovereign.

In terms of Brownson's organic constitution this means that the fundamental germinal organization present in America was a unity in diversity - states and a union of states. This is the original organic constitution of the American Republic.

With the recognition of independence and the subsequent illegality of existing documents, this fundamental organization of the people remained. Consequently sovereignty passed to the states in union. Being invested with authority the organized people were authorized to enact legal documents. Being the act of a political sovereign, these documents are binding. They are the legitimate enactments of a sovereign.

Thus far the basis on which Brownson expands his meaning of the constitution, both organic and written, has been established. Brownson's conception of its merits is a lofty one. Before proceeding with his exposition, it is necessary to discover the respective roles assigned to providence, and the statesmen whose philosophy he has berated in the formation of both the written and organic constitution.

First of all the elements from which the organic union of

22 XVIII, 113.
states developed - that is, the presence of colonies acting jointly - is not the product of human wisdom, foresight or deliberation. The organism called the union of states is providential, "... as much the work of Providence as the existence in the human body of the living solidarity of its members."

Brownson does not hesitate to say that this Union is the best possible system for the American people. Although it is the best it is not mandatory therefore that it should be supported:

When we place the obligation to support our institutions on the notion we may have that they are the best, we give them only an intellectual basis, and can enlist only the intellect in their behalf; but when we demand obedience to them on the ground that they are the law, we base them on morality, and place them under the protection of religion. We demand then obedience as a duty, not merely as a sound judgment, and make loyalty not merely a sentiment, but a virtue.

Although it may not appear such, Brownson's praise of the statesmen of 1787 is genuine. Their genius is to be found in the fact that they were, for the most part, guided by reality instead of their own speculations. They had the good sense to adopt existing institutions. To the extent that they were guided by reality they wrote well:

The merit of the statesmen of 1787 is that they did not destroy or deface the work of Providence, but accepted it, and organized the government in harmony with the real order, the real elements given them. They

23 XVIII, 127.
24 XV, 558.
suffered themselves in all their positive substantial work to be governed by reality, not by theories and speculations. In this they proved themselves statesmen, and their work survives.

For a more thorough comprehension of Brownson's stand on these points it is now advisable to investigate his exposition in the American Republic. In it he maintains that the American Republic is the best practical solution of the problems confronting the political philosopher, not only with reference to the reconciliation of liberty and authority, but also to the problem of the relationship between church and state.
Brownson's exposition of the nature of the American Republic is for him the most important part of his political philosophy. There is no complete authority except in the union of states. Consequently the American Republic is an organism whose immediate members are states. Thus individuals are members of the organism only inasmuch as they are members of states.

Since the people constituted a nation by the union of states are by that fact sovereign, they are authorized to institute government or to modify the existing government. It is their privilege as sovereign. In America the distinctive organ for the exercise of authority is the convention.

It is quite obvious however, that for Brownson a convention called at random, appealing to the people as a consolidated mass irrespective of state organization, does not represent supreme political authority. He has just shown that the political people exist only as distributed into distinct but inseparable units. They have authority to ordain and institute government only as assembled through states in union with other states.

1 XVIII, 116.
For Brownson, therefore, the traditional phrase "We the people of the United States" is very expressive. It places authority exactly where it is located: in the people of states united. The phrase "in convention jointly assembled" is also expressive because it indicates the distinctive organ through which the sovereign speaks and commissions the agencies whereby he exercises complete authority.

The convention is really the fundamental government of the country because it is the immediate organ of the sovereign. Thus the government of the country, as its sovereignty, is one and indivisible. The sovereign exercises his functions through two mediums, a general government and particular state governments.

This division of powers is according to Brownson distinctively American. It is found nowhere else in the world and is similar to no previously existing form of government. It is this distinctive feature which is the glory of the American system. Thus it must be investigated more carefully.

First of all, the division of power is not between a national and a state government. This is to imply that one is the sovereign government while the other is subject, which is inadmissible because sovereignty passed to the states united. If one alone were sovereign, it would be the sole, complete government of the country. Therefore the governments are coordinate. The respective spheres of each are defined. They are

2 XVIII, 189.
both dependent upon the sovereign who instituted them, but not upon each other. Consequently each is supreme within its own sphere. The basis of division is more properly between a general government controlling all matters of common interest and a particular government having jurisdiction over the particular relations of individuals. One must be careful to understand exactly what is meant by general and particular welfare:

The private welfare of each is, no doubt, for the welfare of all, but not therefore is it the "general welfare," for what is private, particular in its nature, is not and cannot be general. To understand by general welfare that which is for the individual welfare of all or the greater number would be to claim for the general government all the powers of government, and to deny that very division of powers which is the crowning merit of the American system. The general welfare, by the very force of the words themselves, means the common as distinguishable from the private or individual welfare.

Understood in this way it is clear that the American system does not have its basis in a system of checks and balances which obstruct the exercise of power in order to guard against its abuses. There is a division of power itself rather than mutually antagonistic powers. There is no attempt to make forces collide, but there is an attempt to make them operate in different spheres in order to prevent collision. This provides for the exercise of power while at the same time it very obviously provides an effective check against the abuse of power or its excessive

3 XVIII, 131.
4 XVIII, 135.
centralization. The general government cannot oppress the private rights of individuals because they are withdrawn from its jurisdiction. In regard to these the states themselves govern supremely.

Furthermore, the particular state government cannot oppress the individual because the same division of power is carried on into the heart of the state itself. In some states, more than others, the division is carried on by means of counties, town corporations, cities and similar institutions, each of which is entrusted with the jurisdiction of affairs that are purely local. There is therefore little danger of excessive centralization of power within the state itself.

Understood in this way, the American system is unique. It has no exact prototype in any previously existing system. Referring to the English system of checks and balances he says:

The principle of the British constitution is not the division of the powers of government, but the antagonism of estates, or rather of interests, trusting to the obstructive influence of that antagonism to preserve the government from pure centralism. Hence the study of the British statesman is to merge diverse and antagonistic parties and interests so as to gain the ability to act, which he can do only by intrigue, cajolery, bribery in one form or another, and corruption of every sort.

Commenting upon what he believes to be its opposite, French imperialism, he says:

5 XVIII, 139.
6 XVIII, 130.
The emperor confessedly holds his power by the grace of God and the will of the nation, which is a clear acknowledgement that the sovereignty vests in the French people as the French state; but the imperial constitution, which is the constitution of the government, not of the state, studies, while acknowledging the sovereignty of the people, to render it nugatory, by transferring it, under various subtle disguises, to the government, and practically to the emperor as chief of government.

Brownson's purpose in introducing both the English and the French systems is to show that they represent extremes. The English system as he represents it guards against the abuse of power by obstructing its exercise on the basis of mutually antagonistic interests. He remarks that if these checks and balances were perfect, there would be no exercise of power whatsoever. Practically, however, it is not perfect. At one time certain interests combine to get the upper hand, while after a time possession is secured by other interests. Imperialism, on the other hand, tends to an excessive concentration of power.

The American system is represented as combining the best features of both and is consequently superior to either. It preserves unity without concentrating power. It provides for the exercise of power without setting up antagonistic interests to obstruct it.

A further examination of this distinctively American system discloses the fact that "It is not a constitutional monarchy

7 XVIII, 128.
8 XVIII, 128-130.
not a constitutional aristocracy, but, perhaps, may be defined, with sufficient accuracy, a constitutional democracy, although the terms are to us a little incongruous. We would, if the thing were possible, exclude the word democracy altogether, as unnecessary and apt to mislead."

However Brownson remarks in the same place that it is apparently "... too late to get rid of the term." Consequently he takes the position that if people will insist upon adopting the term, he may as well tell them what their system means in terms of democracy. It is not, however, without a snort of scorn for the term itself that he makes this concession.

Brownson says that the only democracy compatible with American institutions is what he calls territorial democracy. It is this conception of territorial democracy based upon the theory of an original union that gives him some claim to originality as a political philosopher. It is consequently necessary to investigate it carefully, because it is for him the most important part of his analysis of the American Republic.

---

9 XVII, 484.
10 Brownson himself does not claim originality in regard to this doctrine. He says that he derived it from hints and suggestions in the work of John C. Hurd, The Law of Freedom and Bondage in the United States, XVIII, 3. His son, Henry F. Brownson, claims that it is original with Orestes. Maynard, 345, seems to share that opinion. Whatever else may be said, it is certain that Hurd does not present the view as Brownson does. Brownson's constitutional theory, based as it was upon Leroux, Plato, De Maistre, et al, represents a synthesis that is definitely his own.
Brownson states simply that American or territorial democracy means that the right to participate in the exercise of authority is derived from the territory:

The great body of freemen have the elective franchise, but no one has it save in his state, his county, his town, his ward, his precinct. Out of the election district in which he is domiciled, a citizen of the United States has no more right to vote than has the citizen or subject of a foreign state. 11

This statement merely means that the right to vote is not a personal right. Since it is not personal, it is not nomadic. Since a person cannot wander about, voting whenever and wherever he pleases, the political power which is represented by the vote cannot come from him as a person. It must be confined to or based upon a place or a territory.

The doctrine that the right to vote is derived from territory is merely the particular application of a doctrine that has been established in Brownson's view on the origin of authority. In his analysis of the civil as opposed to the barbaric order, he has indicated that the state must be a res publica. Otherwise its authority is, and can be, only personal - a private right or privilege. Being personal it is therefore arbitrary, despotic in principle, and therefore illegitimate. It implies that man has dominion over man, which is inadmissible because all men are naturally equal.

Since the right to vote is the right to exercise political

11 XVIII, 152.
authority, it is erroneous, strictly speaking, to refer to it as a right, for political authority is, and can be, only a public trust. Being a trust, the extension of suffrage cannot be advocated on the ground that it is a natural right of men, or that it is the right of every person because he is a person. It inheres in the res publica as an organism to be exercised for the welfare of the whole. Consequently the society called the state may extend or restrict suffrage in order to secure its own welfare. In the case of the American Republic, the organic people enacted written constitutions determining who may vote and the conditions upon which he may vote. Since these constitutions were enacted by an organic independent people who had the right to enact them, they are law.

The constitution, however, provides for its own amendment. Such amendments are of course legal if they are amended in the manner prescribed by the constitution. The political people determined by the constitution may extend or restrict suffrage if in their judgment it is for the best interests of society to do so.

In Brownson's estimation it would be illogical on the part of the American people to refuse, for example, to extend suffrage to negroes or to impose restrictions in terms of wealth.\textsuperscript{13}

\textsuperscript{12} XVIII, 193.
\textsuperscript{13} XVIII, 191-194.
the American Republic has in its radical constitution no elements of royalty, hereditary nobility, racial discrimination, or class distinction in terms of wealth. In addition, property has enough advantage in itself without making it a basis for voting.

He did not, however, advocate the indiscriminate extension of suffrage. Negroes, for example, should first prove themselves capable of maintaining themselves as free men before being entrusted with the ballot. He opposed, and one might add rather vehemently, the extension of suffrage to women on the ground that it would be to no one's advantage to permit them to enter the political arena:

The very fact that woman is the weaker vessel ... renders her less morally independent, less frank, open and straightforward, and in a contest with man, compels her to resort to art, artifice, intrigue, in which alone she can equal or surpass him. Her accession to the political body could, therefore, only introduce an additional element of political and moral corruption.

Besides that, man does not separate his own interests from those of women; consequently she cannot claim the privilege of voting on the ground that it is necessary to protect her own interests: "He always includes in his private interest that of some woman; and if he cheats, robs, steals, swindles, gives or takes bribes, it is almost always for the sake of his Eve, or at least for the sake of his family."

This brief survey of Brownson's view of suffrage indicates

14 XVIII, 402.
15 XVIII, 403.
that he was not opposed to the simple idea that the people should have a voice in the government. He maintains, however, that this voice in government must find expression only in and through the constitution. This constitution, it has been noted, is based upon distinct but inseparable units. The presence of these units rendered practical a system in which the power of government is decentralized without checks and balances to obstruct the exercise of power. In order to retain intact this desirable arrangement, Brownson contends that democracy must be continued on its territorial basis. Each state must continue to be attached to its own distinct territory, and to exercise authority over the affairs pertaining to it.

Opposed to the conception of authority as attached to and inseparable from territory is the conception that it is attached to persons. Such authority is essentially despotic. It gives power to govern without the right to govern. Its despotism is manifested either in individualism, or in humanitarianism or socialism. Brownson believed that both of these trends were manifesting themselves in the political currents of the day.

While, theoretically, the trend toward personal or individualistic democracy, ending ultimately in anarchy, is as dangerous as humanitarian democracy, Brownson believed that the danger

16 XVIII, 178.
17 XVIII, 178.
18 XVIII, 178.
of an individualistic trend had been checked effectively by the civil war. There is no further danger that the union will be broken by the undue assumption of authority by the individual states: "The danger to American democracy from that quarter is forever removed, and democracy a la Rousseau has received a terrible defeat throughout the world, though as yet it is far from being aware of it."

Brownson believed that the danger from the other quarter was much more imminent. With the termination of the war he wrote that the Union victory would be interpreted as a victory for reformers fighting for social equality. Thus the movement for social reform would be stimulated temporarily at least throughout the world. The pendulum would swing away from individualism and toward the other extreme.

Regarding its immediate effects in the United States he writes that the Union victory will result in a tendency toward humanitarianism or consolidation, both within individual states and among the states themselves. He notes however that "The

19 XVIII, 184.
20 Writing in 1857 he tells us that in the event of a war between north and south, all other issues would be forgotten: "... the party opposed to slavery extension will then, in spite of all that can be said, be an abolition party, and the cry will be 'freedom to the slave'.... The south can not afford to provoke such a conflict, for in it the moral sense of the civilized world would be with the north, which would be cheered as the champion of freedom." XVII, 65.
21 XVIII, 186.
constitution, in the distribution of the powers of government, provides the states severally with ample means to protect their individuality against the centralizing tendency of the general government, however strong it may be."

He writes further, that along with the tendency to centralize power in the general government is the tendency to centralize it in the hands of the executive. States, he believed, would always retain their identity. But during the civil war it was necessary to confer almost dictatorial powers upon the president - powers he was unwilling to relinquish with the termination of the war: "The danger that the general government will usurp the rights of the states is far less than the danger that the executive will usurp all the powers of congress and the judiciary. Continuing, he says that "Congress clothed the president with dictatorial powers for war purposes only, but the executive forgets this."

It has been indicated in the discussion of the democratic theory that this centralizing tendency is inevitable, according to Brownson, if the proposition is defended, in simple unequivocal terms, that the people must rule, that they have the natural right to vote, that their opinion must be consulted on every issue. Such appeals are and can be made only to the people as a mass of individuals in which case they are no more

22 XVIII, 186.
23 XVIII, 189.
sovereign than the people of a foreign state. Furthermore, the opinion to which appeals are made is, in Brownson's estimation, seldom anything but a compound of ignorance, prejudice, passion, caprice, and interest, constantly varying, condemning a Socrates one day to drink hemlock, and the next erecting a temple to his memory. This direct appeal to the people in their capacity as individuals is vicious. Representatives ask not, what is just, what is right, but what will my constituents say? Opinion is thus the ultimate criterion of right. This is political atheism.

In Brownson's estimation a society based upon the conception that people have the right to rule is based upon the falsehood that dominion over man is attached to man. The pendulum of such a society must swing from individualism to socialism, egoism to humanitarianism, anarchy to caesarism. American society cannot be attached to such a pendulum.

It is in opposition to this conception of authority that Brownson proposes his theory of territorial democracy. The people who are the political people are determined by the constitution, which is a law above the people because it is enacted by a sovereign. The constitution determines further the extent to which, and the conditions under which, the political people may function. Under that constitution authority is confined to a definite place. People acting through the constitution of the

24 XV, 204.
place are sovereign in it; they perform the functions of a sovereign by controlling domestic affairs. Any one not domiciled in it has no more authority in it than the resident of a foreign state. It is the people of distinct places acting jointly under the constitution who are the sovereign people. Thus territorial democracy is the only democracy compatible with both the organic and written constitutions of the American Republic.

Brownson admits that a conception of a people who are one and many is a difficult one. He admits that the conception of a territory which is one but nevertheless distinct is a difficult conception. It is a conception of a society that resembles, more closely than any other society, the Trinity. In these passages Brownson takes a very lofty view of the American Republic:

God is the author and type of all created things: and all creatures, each in its order, imitates or copies the divine being, who is intrinsically Father, Son, and Holy Ghost .... In the Holy Trinity is the principle and prototype of all society, and what is called the solidarity of the race is only the outward expression, or copy in the external order, of what theologians term the circuminsession of the three divine persons in the Godhead.

Now, human society, when it copies the divine essence and nature either in the distinction of persons alone, or in the unity alone, is sophistical, and wants the principle of all life and reality.

The English system which is based on antagonistic elements, on opposites, ... copies the divine model in its distinctions alone, which, considered alone, are opposites and contraries. It denies, if Englishmen could see it, the unity of God. The French, or imperial system ... denies the distinctions in the model, and copies only its unity, which is the supreme sophism called pantheism. The English system tends to pure individualism; the French to pure
socialism or despotism, each endeavoring to suppress an element of the one living and in-dissoluble TRUTH.

Brownson points out, of course, that the unity in diversity of the American system resembles more closely the model or prototype of society than either of the other systems. It is the original, inherent unity in diversity that rendered practical the division of power that is the distinctive feature of American republicanism:

The special merit of the American system is not in its democracy alone, as too many at home and abroad imagine; but along with its democracy in the division of powers of government between a general government and particular state governments, which are not antagonistic governments, for they act on different matters, and neither is or can be subordinated to the other.

At this point one begins to wonder why Brownson has neglected throughout his discussion of the merits of American republicanism to introduce the religious factor. He has maintained that individual liberty and public authority cannot meet harmoniously without the presence of infallible authority to define their respective spheres. As a matter of fact, Brownson devotes a very small portion of his work to a discussion of the relationship between church and state in America.

The reason for this is the fact that Brownson endeavors to show that the American Republic is based upon principles which

25 XVIII, 203-204.
26 XVIII, 205.
27 Less than 22 of 222 pages are devoted in the American Republic to a discussion of the place of the church in the American system.
are catholic, universal. It recognizes the supremacy of the spiritual order which is all that Brownson would ask of any state. He has maintained that the church and state are distinct; they derive authority through different channels. As external corporations they are distinct, each having its own function. Being distinct, they should not be intermingled, the one with the other.

Brownson does not attempt to establish the fact that the founding fathers were favorable or unfavorable to Catholicity. It has been indicated already that the private opinions of the founding fathers are of no consequence whatsoever in determining what is and what is not. What they thought of the matter is a question that may be interesting, important to many people, but not so to Brownson.

He says that de facto many religious sects and denominations of one sort or another were present at the birth of the nation. As a matter of fact, however, none of these sects "... have been able to get their peculiarities incorporated into its constitutions or its laws." Whatever reasons may be alleged to explain the fact, nothing that is narrow, sectarian, bigoted, has been incorporated into the constitution. The nation neither adopted nor recognized the merits of one religion as opposed to another. If any attempt were made now to establish a sect as the religion of the nation, it would only "... array all the other

28 XVIII, 216
29 XVIII, 212.
sects as well as the church herself against the government."

Another fact is that the state professes to be founded on, and to recognize, rights which are above it, anterior to it; these are called the "rights of man," among which are the traditional "life, liberty, and the pursuit of happiness." These rights however, are grounded on the spiritual order. They are derived from God, as are all other rights. In recognizing, for all practical purposes, that these rights are above it, held independently of it, the state "... acknowledges in reality, if not in form, as its basis, as its very foundation, not only the independence, but the supremacy of the spiritual order."

Brownson is endeavoring to show that the nation does not feel itself free to destroy this religion or that, to impose this or that sectarian view as obligatory. There is rather a practical recognition of the fact that it is obliged to respect and to protect equally the religious convictions of its citizens. Thus it protects Catholics in the exercise of their religion. It protects their property from violence just as it does that of any sect. It recognizes and protects the right of the church to form and to direct the conscience of her subjects, to speak freely and to exert whatever influence she is able to exert.

The relations between the church and state in America are

29 XVIII, 217.
30 XVIII, 231.
31 XVIII, 216.
nearly normal in the estimation of Brownson. The fact that they are normal is evinced by the lack of treaties and concordats, which are needed only where there is an attempt on the part of the state to interfere with the church. He concedes that such concordats are necessary in other states, and if they were broken it could be interpreted to mean that the state could do whatever it pleased with the church, her property and the religious convictions of her citizens. The very fact that there are concordats shows that all is not well and that concessions must be exacted to remedy an evil. Such treaties are unnecessary in the United States because the conditions necessary for the church to exert her influence are already adopted in the constitution of the nation.

This arrangement, while practical nowhere else, is in itself better than any other conceivable arrangement for the church. If she is the official religion of a state, political and ecclesiastical affairs tend to be inextricably interwoven. Ecclesiastical appointments sometimes necessitate state clearance before becoming effective. Subsequently to appointment, clerics must devote considerable time to purely political affairs, thus rendering less effective their spiritual endeavors. Purely civil acts are sometimes attributed to the church as part of her policy. Existing and flourishing in a monarchy, she is viewed as favoring monarchial as opposed to republican forms. Being involved in political affairs she is to an extent dependent upon political powers in order to operate. To the extent that she is thus
dependent, the state may and often does use her to promote its own ends.

It is in opposition to this confusion that the American system depicted by Brownson stands out in clear contrast. The principles necessary for the church to exert her influence are adopted not by treaties or concordats, or by a mixture of civil and ecclesiastical powers, but in the constitution itself. There is no mutual antagonism or distrust requiring concordats to establish spheres of church and state. Thus Brownson says:

Where there is nothing in the state hostile to the church, where she is free to act according to her own constitution and laws, and exercise her own discipline on her own spiritual subjects, civil enactments in her favor or against the sects may embarrass or impede her operations, but cannot aid her, for she can advance no further than she wins the hearts and convinces the understanding. A spiritual work can, in the nature of things, be effected only by spiritual means.

The relations between the church and state are not normal in any other nation in the world because the American Republic is the only modern, civilized state that is grounded in reality in the recognition of the fact that there are rights which it as a state cannot touch. It is, in a word, the only state which is so constituted that the state may trust the church and the church is free to work without the interference of the state.

32 XIII, 127-146.
33 XVIII, 217.
Such being the case, no sensible Catholic can imagine that the church needs any physical force against the sects.... What are called religious establishments are needed only where either the state is barbarous or the religion is sectarian. Where the state, in its intrinsic constitution, is in accordance with catholic principles, as is in the United States, the church has all she needs or can receive.

At this point Brownson's conception of church and state in America are more clearly defined. There is no separation in the sense that the state is above the church and feels free to do with her whatever pleases its fancy. They are separate as external governing bodies, which is good because an attempt to establish here by law would

... only weaken her as against the sects, place her in a false light, partially justify their hostility to her, render effective their declamations against her, mix her up unnecessarily with political changes, interests, and passions, and distract the attention of her ministers from their proper work as churchmen, and impose on them the duties of politicians and statesmen.

Also at this point it is necessary to introduce his conception of the union of church and state. He says that although the church and state are separate as external governing bodies, they are "... united in the interior principles from which each derives its vitality and force. Their union is in the intrinsic unity of principle, and in the fact that, though moving in different spheres, each obeys one and the same divine law."

34 XVIII, 216.
35 XVIII, 216.
36 XVIII, 217.
This means that the American Republic is grounded in the real order in a concrete recognition of rights which are above it, superior to it, which represents a law which it cannot violate. These rights are based upon God's law. Since it is the purpose of the state to protect them, God's law is already embodied in the state itself. It is adopted in its constitution. Thus the church and the state are united by the fact that both recognize and obey one and the same law of God.

On this basis Brownson maintains that the atmosphere of American republicanism is conducive to the spread of Catholicity. In imitating as it does in its own feeble way the Trinity itself, it conforms to the prototype of all society. It is thus based on the real order; it is not sectarian, copying its model only in its unity or diversity. It is catholic, universal. For the simple reason that they are sects, protestant denominations are out of joint with that which is universal. According to Brownson, they have "a...half avowed conviction" that they must unite, that they cannot sustain themselves in such an atmosphere. Thus "They hold conventions of delegates; they ... form 'unions,' 'alliances,' and 'associations;' but, unhappily for their success, the catholic church does not originate in convention .... confederated sects are something very different from a church inherently one and catholic."

37 XVIII, 215.
Since American republicanism is thus catholic, universal, the sects maintaining themselves in it are not on a basis of equality with the Church. She is naturally superior to them, and a contest between them, especially in America, is not a contest between equals:

In the United States false religions are legally as free as the true religion; but all false religions being one-sided, sophistical, un-catho­lic, are opposed by the prin­ciples of the state, which tend, by their silent but effective workings, to eliminate them.

Before concluding the discussion it is necessary to restate Brownson's position. He has endeavored to show that American republicanism represents a good solution to the problem of individual liberty in relation to public authority. Because it does so it also solves the problem of the normal relationship between the church and state. In still other terms, he means that it is because the state has recognized and preserved the rights of God it has, and can have, no quarrel with the church.

In order to clarify his thought, it is necessary to approach it from a slightly different viewpoint. It is necessary to re­peat briefly his conception of individual rights as God's rights, and the natural law as God's command to respect the natural order. The natural order includes both the rights of the individual and the rights of society. Society is necessary and natural for man and man is naturally social; both hold rights

38 XVIII, 212.
from God. The first aspect of this thought is that the individual has rights which he holds independently of society. In the event it recognizes individual rights above it, superior to it, which it cannot violate, the state is obeying God's command to preserve the natural order which includes such rights. It is in reality, although not in form, obeying God's moral law. As long as it continues to obey it the church can have no quarrel with the state.

If, on the other hand, the state assumes jurisdiction over the conscience of the individual, it thereby disobeys God's moral law. The church as the divinely appointed custodian of that law must, in such an event, quarrel with the state. Ecclesiastical authorities must intervene, by turning politicians, by extracting concordats, or in some other way, in order to secure the rights which individuals hold from God.

Such intervention is for Brownson abnormal rather than normal. Normally the church and the state are distinct. One cannot absorb the other. The church does not replace the state, render it unnecessary, superfluous. Nor is the contrary true. Each has a distinct function. The church and state must be distinct but not separated. Separation means that the church has no place in the state. It means the complete independence of the state - absolutism.

Thus Brownson advocates neither a mixture nor a separation of church and state. The ideal is an intrinsic union of church and state based upon a mutual recognition and respect of God's
command to preserve the rights He has given to individuals, along with their distinction as external governing bodies. Such distinction is practicable nowhere else in the world because nowhere else is there a state which obliges itself, in its own inherent constitution, to obey God's natural law. For that reason the church is obliged elsewhere to become involved in political affairs, because without such intervention her right to exert her influence within the state would not be recognized. But this is necessary only when the state is so barbarously constituted that she must supervise its administration "... in order to infuse some intelligence into civil matters, and to preserve her own rightful freedom and independence."

Thus Brownson holds that the church and state in America are intrinsically united. Whether the founding fathers were aware of it or not, the constitution enacted is conducive to the spread of Catholicism. It does not restrict, conflict with, or hamper in any way, the spiritual mission of the church.

This brief summary, based upon Brownson's conception of law as the command of God to preserve the natural order, has been confined to the obligation of the state to preserve the natural order with respect to individuals. Since the natural

39 XVIII, 218. Brownson believes that the only reason there were rights and duties in feudalism was because the church infused intelligence into civil matters. Such rights were due not to the feudal constitution of society, but to the church. XVIII, 218.
order includes society, the same command of God obliges the individual to sustain society.

Applied specifically to America, this means that allegiance is a moral obligation. Loyalty is a duty; duty discharged is a virtue. The preservation of this society may be, and in Brownson's estimation is, for the best interests of all concerned. Yet Brownson is never more violent in his denunciation of democratic tendencies than in his denunciation of the "stupid journalists and pothouse politicians" who urge allegiance on the ground that the American Republic is the best. They may prate, on the fourth of July, of the philosophical genius of the founding fathers, of the burning decks of the Bon Homme Richard and the dark and dreary days of Valley Forge, of democracy as the finest form of government. This is not Brownson's vintage of patriotism. What is best, what is desireable, is no reason for allegiance. The obligation to sustain the republic is based upon God's command to preserve the natural order. Failure to fulfill the obligation to sustain it is a failure to obey God's law, which commands the preservation of society.

Brownson asks of Catholics, not only that they remember their obligations as citizens, but also that they study the American constitution in the light of their own theology. Their theology enables them to comprehend the difficult "unity in

40 XVIII, 16-17; 69.
"diversity" which is the glory of American republicanism.

On the basis of the conception that American republicanism embodies the elements necessary for the solution of the problem of individual liberty in relation to public authority, it is thereby in possession of the elements necessary to solve practically the problem of the relationship between the church and the state. It is well qualified to solve that problem. The following passage represents the essence of what Brownson has endeavored to say:

The religious mission of the United States is not then to establish the church by external law, or to protect her by legal disabilities, pains, and penalties against the sects, however un­catholic they may be; but to maintain Catholic freedom, neither absorbing the state in the church nor the church in the state, but leaving each to move freely, according to its own nature, in the sphere assigned it in the eternal order of things.

The effects of this mission of our country fully realized, would be to harmonize church and state, religion and politics, not by absorbing either in the other, or by obliterating the natural distinction between them, but by conforming both to the real or divine order, which is supreme and immutable. It places the two powers in their normal relation, which has hitherto never been done, because hitherto there has never been a state normally constituted....

Whether the American people will prove faithful to their mission, and realize their destiny, or not, is known only to Him from whom nothing is hidden. Providence is free and leaves always

41 "Catholics are better fitted by their religion to comprehend the real character of the American constitution than any other class of Americans, the moment they study it in the light of their own theology." XVIII, 192.
a space for human free will. The American people can fail, and will fail, if they neglect the appointed means and conditions of success.

42 XVIII, 217-219. Brownson concludes this passage optimistically, saying there is nothing in the past history of the country to indicate that it will fail. Some ten years later, however, he indicates his disappointment in the interest of Catholics in political affairs, saying that those who are politicians apparently forget about such factors as honesty, almost as much so as their Protestant brethren. He is disappointed also in their lack of interest in the constitution, which they are well qualified to understand, saying that they know as little about it as Protestants. Even then he is a little optimistic that Catholics will eventually raise the moral standards of parties instead of lowering themselves to party levels. These views appear in October, 1874, October, 1875. XVIII, 562-598. His last article concludes: "Let them [Catholics] study to understand and perform the duties, as well as to understand and claim the rights of American citizens, and all may yet go well." XVIII, 598.
CHAPTER X
CONCLUSION

The exposition of Brownson's political philosophy begins with a discussion of the rights of the individual. On the basis of his doctrine of communion, Brownson shows that man may sustain his existence and attain to his end by communing with God through religion, property and society. The individual does not derive from society the right to practice his religion and to sustain his existence by using the natural forces God has created for that purpose.

While admitting the possibility of proving philosophically the proposition that the individual has rights which the state may not violate, Brownson shows also that without the Catholic religion the individual has no practical guarantee that his rights will be preserved. Without the Church the power to determine whether or not a right has been violated must be lodged in either the individual or the state. Neither alternative is acceptable. The practical adoption of the principle that the individual possesses complete judicial power involves anarchy; if such power is attributed to the state there is no guarantee against absolutism.

Continuing his exposition, Brownson endeavors to show that right is consequent upon ownership and coextensive with it. The maker of a thing is its owner. God has made all things with
out using any previously existing material. Therefore His ownership is complete. Because it is complete, all things are owed to Him alone. From this viewpoint Brownson maintains that God is the sole and exclusive legislator, for He alone determines the obligations of creatures and states the conditions upon which He will receive payment of that which is due to Him.

God's laws are written in the universe He has created. Since He has created the natural order, it is evident that God wills its preservation. In terms of God as sole and exclusive owner, this means that creatures pay their debt to God at least partially by respecting the things He has given to them.

The state is included in the natural order whose preservation is commanded by God. Brownson begins his proof of this proposition with a refutation of contrary theories. The most important of these is the theory which endeavors to account for the origin of society and its authority on a purely human basis. It presents itself under two aspects: one of these, called the social contract theory, attempts to account for the origin of society in the people considered distributively; the other, the democratic theory, attempts to account for the origin of authority in the people considered collectively.

Brownson rejects the contract theory because it falsely assumes that man is a social animal only subsequently to his free decision to become one. Therefore it postulates an unreal state of nature. Society must be totally artificial, a production de novo. Furthermore the theory supposes that govern-
ment is purely contractual; consequently any three individuals may convene and contract to authorize a government. Moreover, the contract could bind only the contracting parties. Under the contract the individual must surrender either all or none of his rights. A *via media* is impossible. This means either despotism or anarchy. Because of these and other absurdities involved in it, the theory must be rejected.

The democratic theory asserts that the people collectively have the right to rule. Their sovereignty is inherent and undervived. Stated simply, it is repugnant, for it leaves no freedom for the individual. Consequently a formal refutation of the theory is unnecessary. Brownson therefore endeavors to show that while the theory is not promulgated openly, absolutism is involved in the equalitarian frenzy of the age. Movements toward political and therefore social equality assume that man's good is in the temporal order. They can culminate logically only in absolutism.

Having rejected the most important of the erroneous theories of the origin of society and its authority, Brownson begins the statement of his own views with a criticism of the patriarchal theory of the state. He maintains that the state is radically different from the family and is not developed from it by a process of mere growth or evolution in time. Authority in the family is vested in the father who is its natural head whereas the authority of the state must be a public trust rather than a personal right. The state must be a commonwealth or a
res publica. It must be based upon a territory commonly held. Since the state is essentially a commonwealth, its authority inheres in the people collectively. It is derived from God through the law of nature, which is God's command to preserve natural order. In view of the fact that God's command, which is never in contradiction with itself, is the source of both the rights of the individual and the authority of the state, a conflict between individual liberty and public authority is impossible. The practical solution of the problem requires a recognition of the authority of the Church.

Brownson views the state as an organism. Man is at once an entity and a member of society. From this latter viewpoint he may be considered as a part of society. Society, being necessary for man's welfare, is a great good.

Brownson's conception of the state thus far is that of an organic people attached to a definite territory. It includes also the idea that common habits and traditions represent the basic unifying factors of such a people. Brownson speaks of these factors in terms of the unwritten or providential constitution of the state.

On the basis of his unwritten constitution Brownson distinguishes sharply between the state itself and the ministers authorized to exercise its authority. A people attached to a territory and independent of every other people is by that fact a nation de jure. It derives authority from God through the law of nature. Its authority inheres in the organism; it possesses
authority as long as its organic constitution remains intact. Thus a nation may survive the destruction of a particular government.

While Brownson maintains that a nation *de facto* is a nation *de jure*, he does not hold that every government able to maintain itself is legitimate. A government is legitimate only if it is authorized by the nation, which may dismiss its rulers or change its form of government whenever such action is for the public welfare.

Brownson is not interested in ascertaining the merits of one form of government as opposed to another. He maintains that no one form is inherently superior to another. His primary concern is to retain any form that is in harmony with the habits and traditions of a people.

Brownson applies these principles particularly to the United States. He is obliged to show that the states were not severally sovereign nations at the termination of the revolutionary war, for if they were, they would retain the right to resume their original status as sovereign nations. He argues for an original union on the ground that the colonies acted jointly while still under the dominion of Britain; they made a joint declaration of independence; it was through their joint action that they wrested sovereignty from Britain. With the termination of the war the successfully rebelled colonies continued to act jointly in order to succeed in performing all of the functions consequent upon an independent nation. Thus the people who have
wrested sovereignty and who have maintained their political independence of other nations are a people distributed into distinct states acting jointly.

The fundamental organ through which the nation expresses its will is the convention. The people assembled in this way have authorized a general government whose power is restricted to matters pertaining to the general welfare. The powers of the particular state government are restricted to particular interests.

This division of power, based upon distinct territorial units within the nation itself, is distinctively American; it is found nowhere else in the world. Its merit lies in the fact that it provides for the exercise of power while guarding effectively against its excessive centralization. This arrangement must be preserved, not only because of its intrinsic merits but because it is in harmony with the unwritten constitution of the nation. Both states and states acting jointly are and have been essential parts of the nation.

The constitutional republicanism of the United States represents the best practical solution of the problem of individual liberty in relation to public authority. The nation has pledged itself to preserve the rights which God has given to individuals. Thus there has been a practical recognition of the supremacy of God's law. The state is consciously aware of the fact that there is a domain upon which it is forbidden to trespass.
In pledging itself to observe the rights of individuals the state has embodied God's law in its constitution. This law represents an internal bond or union between the church and state which is better for the church than any other conceivable arrangement. The atmosphere of American republicanism is particularly conducive to the spread of Catholicity. Catholics are obliged as citizens to preserve the American Republic. The obligation is based upon God's command to preserve the natural order. Their active and intelligent interest in political affairs is necessary to sustain the republic. With their cooperation the American Republic will solve not only the problem of individual liberty in relation to public authority, but also the problem of perfecting the harmonious relationship already existing between the Church and state.

This brief statement of Brownson's position indicates first of all that he is not a consistent Thomist. One of the first indications of that fact is to be found in Brownson's discussion of law wherein he takes the position that it is primarily an act of the will, whereas St. Thomas indicates clearly that law is an act of reason. Brownson, moreover, does

---

1 While we shall attempt to compare and to contrast briefly the position of Brownson with that of St. Thomas, who is selected as a prominent representative of the great Christian tradition, no attempt is made to explain or to present a detailed exposition of Thomistic political philosophy.

2 S.Th., 1-2, q.90, a.1, c; and ad 3um and a.4, c.
not indicate clearly the metaphysical basis for his views as does St. Thomas.

Brownson refuses to discuss the merits of one form of government as opposed to another. He maintains that no one form is inherently superior to another and that the question cannot be discussed apart from a concrete situation. St. Thomas, on the other hand, appears to adopt the view that a monarchy is the best form of government. Brownson, furthermore, states explicitly that a particular nation, the American Republic, has devised the best practical solution of the problem of individual liberty in relation to public authority, whereas the analysis of St. Thomas is never confined to a particular civil order.

Brownson's emphasis upon a clearly defined territory as a basis for political authority is also a departure from the tradition. While St. Thomas discusses the importance of a suitable locality he does not do so with a view to showing that it is necessary for authority. The same may be said of Brownson's

---

3 S. Th., 1, q.16, a.4, s. Also, as Gilson points out, the intellect is for St. Thomas superior to the will (E. Gilson, The Philosophy of St. Thomas Aquinas, St. Louis, 1937, 295-297) whereas Brownson has maintained that the will is superior to the intellect.

4 He does so unequivocally in De Reg., Bk. 1, ch. 2. The question is also discussed in S. Th., 1-2, q.95, a.4, c., wherein the merit of each form is discussed and the conclusion seems to be that the ideal is a combination of the best features of each. St. Thomas also says that a free and intelligent people may flourish under a democracy. Ibid., q.97, a.1, c.

5 De Reg., Bl.2, chs. 1,2,3,4.
attempt to determine the fundamental factors which unify a people. On this point he emphasizes particularly the common habits and customs which develop with a people. These are for the most part unwritten but nevertheless important as unifying factors.

Brownson's doctrine of the ideal relationship between church and state is in some respects a departure from traditional doctrine. Both Brownson and St. Thomas agree that the church is superior to the state. Brownson's doctrine of the union of church and state existing in the American republic is a departure from the traditional conception of that relationship.

While Brownson's doctrine is clearly different from that of St. Thomas in the instances cited, it is rather difficult to determine whether or not other views of Brownson are traditional. Brownson states explicitly that political authority is vested in the people considered as a community. The most that can be said safely is that this appears to be the doctrine of St. Thomas.

Brownson's doctrine that a nation de facto is a nation de jure is not so much a departure from the tradition as a prima facie view would indicate. If he held the view that any government able to maintain itself is legitimate, his doctrine would be absurd. One phase of it, that the nation derives authority

6 De Reg., Bk.1, ch. 14.
7 S.Th., 1-2, q.105, a.1, c.; Ibid., q.90, a.3, ad. 2\textsuperscript{um}. 
from God through the natural law seems to be consistent with tradition as represented by St. Thomas, who also accepts the view that the authority of society is natural. The other phase of the same doctrine includes the view that whenever a political community finds itself subject to no other political power, regardless of the circumstances leading to such a situation, the community is authorized under the natural law to institute and maintain a government of its own. This part of the doctrine is certainly not traditional. Distinct nations in the modern sense of the term did not exist at the time of St. Thomas. Consequently it seems reasonable to conclude that St. Thomas does not discuss explicitly questions concerning the conditions under which a political community has the right to complete political self-determination. Brownson furthermore makes a sharp distinction between a nation with a spirit of its own and the government authorized by the nation, whereas I cannot find this distinction in St. Thomas. It seems impossible to find any similarity between Brownson and St. Thomas on this point.

Other doctrines presented by Brownson are traditional. He takes the position that the individual has rights which the state may not violate. St. Thomas also states clearly that in matters pertaining to his bodily welfare, such as nourishment

8 De Reg., Bk. 1, ch. 1; S.Th., 2-2, q.104, a.1, c.
and generation, as well as in matters pertaining to the internal movements of his will, the individual is subject only to God.

Brownson, in some respects, also accepts the doctrine of St. Thomas on law. Both agree that the individual is bound in conscience to obey legitimate enactments, while those that are unjust or contravene in any way the law of God are null and void from the beginning.

For Brownson as well as St. Thomas the purpose of authority is to direct, not to coerce. The authority of the state must be used to promote the public welfare rather than the private interests of the ruler. There is no indication in either that authority is a necessary evil.

There is also a substantial agreement on the doctrine that man is naturally social. This, of course, is clearly the doctrine of St. Thomas. Further, both agree that while man is an entity he may be considered also as a part of society. Brownson also concurs in the view of St. Thomas that the state is specifically different from the family.

9 S.Th., 2-2, q.104, a.5, c.
10 S.Th., 1-2, q.96, a.4, c. The exposition of St. Thomas in regard to the criteria for determining whether or not a given enactment is to be obeyed, is much more satisfactory than that of Brownson.
11 De Reg., Bk. 1, ch.1.
12 De Reg., Bk I, ch. 1.
13 S.Th., 1-2, q.90, a.3, ad. 3 unm; cf. also 2-2, q.97, a.10, ad. 2 unm.
14 S.Th., 2-2, q.97, a.11, c.
As indicated already, Brownson adopts the view of St. Thomas that man, being insufficient for himself, requires society to supply the goods he cannot acquire without cooperation. St. Thomas states further that men form groups for the purpose of living well together. He continues that "... a good life is a virtuous life. Therefore a virtuous life is the end for which men form groups." This end is for both Brownson and St. Thomas ordained to the supernatural end of the individual; society is merely one of the means which enables man to attain to his end. And finally, for both, the state is not directly concerned with the supernatural end of man.

In attempting to evaluate Brownson's work, his position is examined first of all from the viewpoint of consistency. As is evident, Brownson has shifted positions frequently. Prior to the election of 1840 he was not so keenly aware of the harmful tendencies of popular rule and consequently did not berate democracy to the extent that he did thereafter. There was a

---

15 De Reg., Bk 1, ch. 14.
16 De Reg., Bk. 1, ch. 1; cf. also the following: "Therefore it is not the ultimate end of an assembled multitude to live virtuously, but through virtuous living to attain to the possession of God." Ibid., ch. 14. For Brownson society creates a medium in which religion may exert her supernatural energy and it also "... contributes as a powerful means to the fulfillment by man of the divine purpose in his existence." XVIII, 15.
17 De Reg., Bk. 1, ch. 14.
radical change in his views around 1861 when he developed his theory of an original union of states.

Brownson's early view of the state was based largely upon his interpretation of the Platonic theory of ideas. While he abandoned it later, after his conversion in 1844 when he became familiar with the writings of Catholic theologians, he retained a tendency to Platonize. Immediately after his conversion Brownson abandoned the doctrine of communio which had led him to the Church, but about ten years later he began again to write in terms of this doctrine.

While he has maintained consistently the view that Catholicity is necessary to sustain any state, but particularly those whose administration is largely popular, his view of the union of church and state is first stated in his American Republic. Although Brownson said that this work represents the final and definitive statement of his views, this point is developed in greater detail in his later essays, particularly throughout volume thirteen of his Works. Although his first essays on the origin and ground of government include an explicit statement of the doctrine that a clearly defined territory is an essential element of the state, it is in his American Republic that he first speaks of territorial democracy. It is in the same work that he first maintains that the essential characteristic of barbarism is the conception of power as a personal privilege, whereas in the civil order it is a public trust.
The inconsistencies stated thus far indicate Brownson's intellectual honesty and his merit, rather than his deficiency as a thinker. He has no love for a theory because it is his own intellectual child. He confesses his readiness to accept truth wherever he finds it, regardless of consequences to personal prestige or temporal well being. His own justification for shifting positions is adequate: "Doubtless we have changed our opinions on many subjects, for we do not happen to be of the number whom experience cannot profit or events enlighten." "But it is no crime to grow wiser with years and to profit by experience or the grace of God."

Of particular importance in attempting to evaluate Brownson is the fact that he has attempted to present systematically and coherently his best thoughts on political philosophy in his American Republic. In fact Brownson observes that this work represents his best as well as his final and definitive views on the subject. Taking him at his word, critics of Brownson's political position seldom go beyond this work.

18 XVII, 583.
19 Essays and Reviews Chiefly on Theology, Politics and Socialism, New York, 1852, IX.
20 Note, for example, the following: "Taking Henry Brownson's summary of The American Republic as the basis of discussion at this point..." Maynard, 343. In all probability Maynard refers to Literary, Scientific and Political Views of Orestes A. Brownson, selected from his works by Henry F. Brownson, New York, 1893, 164-202. Also, "The present paper confines itself to an analysis of The American Republic since this work alone is remembered and because Brownson himself prefaced the volume with the statement that it was the final and definitive exposition of his views." Cook and Leavelle, 77.
Unfortunately Brownson is deficient as a critic of Brownson. His exposition in *The American Republic* is not his best. To support this evaluation it is necessary to recall that Brownson was primarily a reviewer and a controversialist. The fact that he was a national figure, respected and sometimes revered, was due to his ability as a reviewer. His method was to analyze an issue and to strip it of embellishments; in the estimation of Lowell, already cited, this meant to beat first this half, then that, black and blue.

The rough, independent reviewer professes in *The American Republic* to quarrel with no one. Consequently the Brownson who is a national figure because of his activity in a restricted sphere is conspicuous by his absence in *The American Republic*. There is nothing in Brownson's habits or temperament to qualify him to write calmly and systematically as he professes to write in *The American Republic*.

Furthermore, the reader is well aware of the fact that Brownson's only systematic treatise is characterized by terminological inaccuracies. He does not indicate clearly and consistently the sharp distinctions between state, government, written and unwritten constitutions, required by his system. It is true that anyone familiar with Brownson's essays is capable of judging his meaning within a given context, but the lack of consistent terminology in his only systematic exposition is inexcusable.
His terminological inaccuracy is also evident in his exposition of the "providential constitution." He became familiar with it through De Maistre. In his first review he accepted the theory whole heartedly. Later he became more critical. He used the term providente to signify the act whereby God sustains the existence of His creatures and directs them to their end. His primary purpose seems to be, in his later views, to convey the idea that the people as a nation depend upon God for their origin and continued existence to the same extent that individuals depend upon Him. While his purpose is good it is somewhat confusing to present such a doctrine in terms of a "providential constitution," particularly when he also uses the term to signify the customs and traditions which unify a people.

Because his systematic exposition is confusing in the important instances cited, the writer would treat The American Republic as nothing more than a summary of Brownson's views, convenient for those already familiar with them, but very liable to mislead those who approach it with the understanding that it
represents Brownson at his best. 21 The adoption of this attitude on the part of his enthusiasts would be a great step toward securing a firm foundation for a revival of interest in Brownson.

From the viewpoint of internal consistency, it must be conceded that Brownson's principles, at any particular period of his life, are in no sense mutually contradictory. Illustrating that point, it must be recalled that Brownson endeavors to present a solution of the problem of individual liberty in relation to public authority. In the first part of his solution, Brownson maintains that God is the complete owner of all things because He has created them. Consequently all things are owed to Him alone. This means that the individual is not an absolute

21 Maynard, 340, for example, says that it is a pity the book has been neglected "... as usually happens to anything a Catholic writes." Yet he maintains Brownson was "... too prone to arrange his facts to support an a priori argument." 344. He adds that Brownson spent a large part of his book proving what no sensible man ever doubted. 345. This latter statement is pure and simple rhetoric because comparatively little of that work is devoted to a discussion of democracy. Further, Maynard maintains that Brownson's various thesis are disconnected logically; it is unfortunate that he attempted to connect the latter part of the work with the first. 349. Now if The American Republic is judged guilty on all of these important points common sense as well as consistency would seem to demand a clear-cut recognition of the fact that it is not the best of Brownson. The expression of a contrary opinion seems slightly absurd.
owner. He owns the things God has given to him, and his rights to them are real because of God's command. Thus the rights of the individual are guaranteed by the divine command.

The same doctrine means that God as sole and complete owner possesses the right to define what is owed. In terms of law this means that God alone has the right to legislate or to impose obligations. He has imposed the obligation to preserve the natural order, which includes society. Authority is natural to society and therefore God's command to preserve the natural order is the source of the state's authority. Since human legislators have no authority in their own name, they must exercise it as stewards of Him from whom all authority is derived. Thus a society abusing power forfeits its right to legislate.

Since the Church is the divinely appointed custodian of God's law, it has the right to determine whether or not the rights of the individual or the state are violated. Thus the rights of the individual and the authority of the state are guaranteed by the representative of God.

This position is, with some exceptions, tenable. So far as it is possible to determine, there is nothing philosophically unsound in the doctrine that the maker has a right to his product.

22 Cf., e.g., the following: "As effects follow their cause, so it is just and right that the results of labor should belong to him who has labored." Pope Leo XIII, Rerum Novarum, 8. Official translation in Joseph Husslein, The Christian Social Manifesto, New York, 1923.
On this basis it is possible to bring out clearly and in a rather simple and striking way the view that the individual must render to His creator the tribute of his being. It is only because it is God's will that a person is obliged to support the state and to obey its legitimate enactments. Thus there is a clearly defined moral obligation of loyalty. Rulers, on the other hand, are made aware of the fact that they have no personal authority. They possess authority only as a trust and are consequently obliged to use it to promote the public welfare.

Inasmuch as Brownson's exposition is presented in familiar and acceptable terms, understandable even to those who are not trained philosophers, his approach is commendable. Inasmuch as he has not entered the realm of metaphysics in presenting his conception of law, his discussion is deficient. A Thomist would hardly embrace the doctrine that will is the basis of law.

Brownson's position on the origin of authority from God through the natural law is sound. His refutation of contrary theories is particularly good. His criticism of the social contract theory is irrefutable. He proves his point in arguments that are at once conclusive and easy to follow.

The other phase of his doctrine in regard to rights in relation to law includes the view that the state must permit the Church full freedom to exert her influence; in the case of a conflict the state must yield to the superior authority. Nor is this all! Catholicity is necessary to sustain the state.
In asserting that position boldly and in defending it ably, particularly at a time when it was customary to assert timidly that allegiance to the pope did not conflict with loyalty to America, Brownson has made a contribution that is difficult to overestimate. His truculence, perhaps imprudent at the time, certainly succeeded in conveying to many the idea that Catholics are not required to apologize for their Catholicism.

Brownson's ability to detect and to expose error is not confined to instances in which he examines a particular author. The Brownson writing on democratic and socializing principles has demonstrated his ability to perceive the dominant tendency of his age. Believing that the tendency toward totalitarianism requires refutation, he has channelized his energy, directing it toward the root-evil: the implication that material well-being is an end in itself which cannot be attained without cooperation. This granted, the equalitarian frenzy of the age, Brownson argues, finds its logical resting place only in the abolition of individuals as such.

The fact that Brownson has waged war consistently against the tendency to adopt popular opinion as a criterion of morality on the ground that it is atheistic and therefore emphasizes the material rather than the spiritual is to his credit. He believed sincerely that such a tendency existed and that as a Catholic reviewer he was obliged to expose the danger involved in its acceptance. Aware of his responsibility, perhaps extremely so,
he could not be induced to give up his cause for such trivialities as popularity and wealth. For this he must be admired. Brownson's analysis and exposition of democratic theories and tendencies represents him at his best.

Brownson's rejection of theories attempting to account for authority on a purely human basis leaves the reader in a position that requires him either to accept the view that authority comes from God or to deny that the state has the right to govern. Brownson succeeds in proving that it is illogical to accept the legitimacy of civil government while denying its divine origin.

Brownson's doctrine on authority, as we have seen, includes the view that it must be based upon territory. Brownson is undoubtedly correct in insisting upon the fact that the modern civilized state is inconceivable without a fixed territory and that attachment to territory is in itself a civilizing factor. The same doctrine also reiterates the view, which is well worth emphasizing, that authority exists and must be exercised for the public welfare. Whether territory is essential to authority and is the factor that distinguishes civil-

23 Maynard's opinion is exactly the opposite. He observes that Brownson in his incessant girding against democracy was wasting his energy: "Once again he triumphantly disproves what no sensible man ever doubted." 345. If Brownson warred with an imaginary enemy throughout his life, one wonders why Maynard thought him worthy of so much attention.
zation from barbarism is a debatable question.

There is in Brownson a clear recognition of the fact that a people develops distinctive habits and traditions as a nation and that these are important unifying factors. Written constitutions and governments must be adapted to the nation. Governments cannot be introduced from without regardless of the customs of people to be governed. Americans, for example, would not be prepared to accept a monarch; but it is equally obvious that a republican form of government would not work as well everywhere else as it has here.

Brownson's doctrines from this point are developed with particular reference to American republicanism. The first of these is the view that any organized people in possession of a territory who find themselves subject to no other political power are by that fact authorized to institute and maintain civil government. If the nation maintains itself and its government fulfills its functions, it is by that fact legitimate. It retains its right to govern as long as it retains its unity as a nation. A government imposed from without through conquest is illegitimate; the nation has a right to resist such a government and to attempt to resume its own original status. A part of a nation cannot wage war merely to secure complete political self-determination; war is justified only in the event of outrageous tyranny.

This doctrine may be described best as an honest attempt
to justify the power of the American Republic. Brownson is correct in denying that a nation must come into existence rightfully in order to be legitimate, for as he points out, it would be impossible to justify the power of any civilized nation on this basis. Although he was extremely patriotic, he did not endeavor to prove that England had forfeited her right to govern because of an abuse of power so serious that it justified a declaration of war; and here Brownson is to be commended both for his honesty and consistency in applying his principles. On the basis of Brownson's doctrine it is unquestionable that England had the right to rule her colonies. It was wrong to resist her enactments as long as there was no serious abuse of power. Furthermore Brownson could not accept, as a principle universally applicable, the right to revolt merely to secure complete political power. It is clear, therefore, that Brownson's doctrine that any organized people subject to no political power other than their own have the right to institute and maintain government is the only basis on which he could justify the authority of the United States. Brownson's justification for the authority of the United States is probably as sound as any other.

There is nothing objectionable in his view that a nation has a right to resist a government imposed through conquest as long as it retains its unity as a nation. The same may be said of his view that it is impossible to accept in principle the
doctrine that a part of a nation has a right to rebel merely to secure complete political power.

Brownson's exposition of the distinctive characteristic of American republicanism in terms of a division of power based upon distinct territorial units is clear and convincing. There is a commendable insistence upon the doctrine that America is a constitutional republic rather than a democracy reflecting popular whims. At least it is unquestionable that states were never intended to be mere administrative units of a supreme national government, and that America was not intended to be a "democracy" as Brownson understood the term.

It is impossible to quarrel with Brownson's view that a legislator must do more than express the will of the majority of his constituents. It can be morally wrong for those in authority to bow to the will of the majority. Brownson, however, overstates his case when he says that popular opinion is usually a compound of ignorance, passion, prejudice and caprice ever varying, condemning a Socrates one day to drink hemlock and erecting a temple to his memory the next.

The culmination of Brownson's thought is his doctrine of the union of Church and state in America. There is certainly no indication in Brownson that the state is separate from and superior to the Church. There is an explicit statement that the American solution to the problem of the relationship between Church and state, while the best for America, is impracticable
anywhere else in the world.

It is almost impossible to disagree with the thesis that there can be no conflict between the Church and state as long as the nation adheres to its pledge to protect the rights of individuals and not only permits but protects the right of the Church to exert her influence. An arrangement which would allow churchmen to devote all of their energy to spiritual matters is distinctly advantageous to the Church. While Brownson confesses that the relationship between Church and state in America is not as yet ideal, he maintains, and rightly so, that American republicanism furnishes a basis for a more perfect solution of the problem.

The argumentation whereby he supports his conclusion is sound. The Church as the custodian of the divine law is obliged to oppose any political power which violates that law. Consequently an harmonious relationship is possible whenever and wherever the state observes the natural moral law. America has succeeded in preserving for the individual the largest liberty he has ever known; it seldom trespasses upon the rights God has given to him. Therefore there is seldom a conflict between Church and state in America. Thus the elements whereby the rights of the individual are preserved, in this case territorial democracy or constitutional republicanism based upon a division of power in terms of distinct territorial units, must be preserved in order to secure a harmonious relationship between the Church and the state.
Brownson's final thesis is not without interest. He maintains that the active and intelligent interest of Catholics in political problems is essential to the preservation of the republic. With Catholic support, the American Republic may succeed in perfecting the harmonious relationship already existing between the Church and state in America and thereby present the best practical solution of the greatest problem of the age. It is regrettable that Brownson has not succeeded in arousing more interest in this thesis.

The conclusion of the exposition of Brownson's political philosophy is simple. As a philosopher, attempting to present an organized and systematic treatise on political philosophy, Brownson is deficient. As a reviewer and controversialist, he writes with power and precision. It is in his discussion of particular problems that the reader of Brownson observes a logical mind in action. The Brownson writing on the social contract theory, or the tendency toward totalitarianism, or Catholicity as essential to the maintenance of the American Republic, is an eminently worthwhile Brownson. These essays and those in which Brownson presents his views on American republicanism and the union of Church and state in America are an enduring monument to his genius. Only therein can the student grasp an appreciation of the force and value of Orestes Brownson.
Primary Sources

Brownson's writings constitute the primary source of information for this study. Most of these have been collected and edited by his son, Henry F. Brownson, The Works of Orestes A. Brownson, Detroit, 1882-1887, 20 volumes. The most important work omitted in this collection is his "Essay on the Laboring Classes," Boston Quarterly Review, (July, 1840.) His books, reprinted in the Works, have been published separately in larger type. These are:

Charles Elwood: or the Infidel Converted, Boston, 1840.

Essays and Reviews, Chiefly on Theology, Politics and Socialism, New York, 1852.


The Convert: or Leaves from My Experience, New York, 1857.


Conversations on Liberalism and the Church, New York, 1870.

Also included in the Works, but published separately, are some essays collected and arranged by Henry F. Brownson, Literary, Scientific, and Political Views of Orestes A. Brownson, New York, 1893.

David Battle, ed., Germs of Composition and Criticism, Huntington, Indiana, 1923.

**Secondary Sources**

Henry F. Brownson, *Orestes A. Brownson's Early Life: From 1803 to 1844*, Detroit, 1898; *Orestes A. Brownson's Middle Life: from 1845 to 1855*, Detroit, 1899; *Orestes A. Brownson's Latter Life: from 1855 to 1876*, Detroit, 1900.


Joseph P. Donovan, C.M., "Why a Brownson Revival?," *Acolyte*, (March 12, 1927).


Arthur M. Schlesigner, Jr., *Orestes A. Brownson: A Pilgrim's Progress*, Boston, 1939.


St. Thomas Aquinas, *De Regimine Principum*


Doran Whalen, "Brownson, the Newman of America," Ave Maria, (May 29, 1937), XLII, 673.

Doran Whalen, "An Important Name Missing," Ave Maria, (May 29, 1937), XLV, 673.

Doran Whalen, Granite for God's House, New York, 1941.
The dissertation submitted by Lawrence John Roemer has been read and approved by four members of the Department of Philosophy.

The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the Degree of Doctor of Philosophy.

13 June 47
Date

Signature of Adviser