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The *Économistes* and the Genesis of the State: A Physiocratic Reinterpretation of the Social Contract

When discussing contractualism, several names immediately come to mind: the Dutchman Hugo Grotius, the Englishmen Thomas Hobbes and John Locke from the seventeenth century, the Genevan Jean-Jacques Rousseau from the eighteenth century, and the Germans Immanuel Kant, Johann Gottlieb Fichte, and Georg Wilhelm Friedrich Hegel from the nineteenth century. Including the physiocrats, a school of thought that emerged in France in 1757 after a meeting between François Quesnay and the Marquis de Mirabeau, father of the famous revolutionary, among the above might seem unusual and somewhat absurd. However, those known as the Economists also developed a theory of the social contract, discussing the origins of society and the state based on it.

Far from being solely economists in the literal sense, the physiocrats – whose leading figures, besides Quesnay and Mirabeau, included Pierre Paul Le Mercier de La Rivière, Pierre-Samuel Du Pont de Nemours,¹ Guillaume-François Le Trosne,² and Abbé Nicolas Baudeau – were also concerned with the state, its legal foundations, its political and administrative organisation, the natural and positive norms that regulate it, and the means of defending it against the threats it faces. Inspired by a particular conception of the state, the physiocrats developed and theorised a genuine political, legal, and administrative doctrine to rationalise and improve it.³ To understand the

¹ For a recent publication that traces aspects of this thinker's political and legal thought, see: A. Mergey, A. Skornicki, *The Age of Du Pont de Nemours: Politics, Law and Physiocracy in the Ancien Régime to the American Republic*, Liverpool 2025.

² A recent work has been devoted to this member of the physiocratic school. See: A. Mergey, M. Pertué, J.-P. Pollin, *Guillaume-François Le Trosne (1728–1780). Itinéraire d'une figure intellectuelle orléanaise au siècle des Lumières*, Paris 2023.

³ Over the past twenty years or so, several researchers have published numerous works that have made it possible to rediscover this little-known facet of the physiocrats. Among the principle works on the subject are: A. Mergey, *L'État des physiocrates: autorité et décentralisation*, Aix-en-Provence 2010; A. Skornicki, *L'économiste, la cour et la patrie*, Paris 2011; T. Carvalho, *La physiocratie dans l'Europe des Lumières. Circulation et réception d'un modèle de réforme de l'ordre juridique et social*, Paris 2021; and E. de Barros, *Le régime mixte chez Condillac et Mably: l'histoire contre le despotisme légal des économistes*, Thesis, Law, Sorbonne Paris-Nord University, Paris 2021. In view of the journal in which my text here

following pages fully, it is necessary to recall that the physiocratic doctrine derives its uniqueness and coherence from a central postulate. It is believed that there is a natural order, made up of a set of physical and moral laws. The world is seen as a universal order in which the creator God takes His place, who is the origin of everything, has organised everything, and governs everything through general and unchanging laws. This philosophy led the physiocrats to try to base the natural social order – the foundation of their entire system – on an essential harmony between the physical and moral worlds.⁴ It is ultimately rooted in an ancient tradition, once embodied by thinkers such as Malebranche⁵ and Leibniz.⁶

Order, laws, and consequently, natural rights: these principles govern the world and shape the emergence of social order, arising from a mechanistic explanation of the universe and adopting a deductive approach. Quesnay and his disciples claim to have made a discovery akin to the laws of physics within these immutable, immanent rules, indifferently described as divine or natural laws, which regulate human societies.⁷ There is thus a natural order for governing men in society, which necessarily guarantees the temporal happiness to which all men are called during their time on

appears, it should be noted that the physiocrats maintained close relations with Poland and took a particular interest in that country. In addition to the aforementioned work by Thérèse Carvalho, see, among recent publications: B. Herencia, T. Carvalho, "When Russia, Prussia and Austria partitioned Poland," *Reflexscience*, September 2023, <https://reflexscience.univ-gustave-eiffel.fr/en/read/articles/when-russia-prussia-and-austria-partitioned-poland> [accessed: 12.11.2025]; *idem*, "Lemercier de la Rivière, sur la Pologne," *La Revue Rousseau* 2023, no. 1, pp. 177–190; Jean-Jacques Rousseau, *Gabriel Bonnot de Mably, Paul Pierre Lemercier de la Rivière, Michel Wielhorski. Les Lumières au chevet de la Pologne. Les projets de Rousseau, Mably et Lemercier de la Rivière à la veille du premier partage (1772), with observations by Wielhorski and other contributors from the Bar Confederation*, eds. B. Herencia, T. Carvalho, Geneva 2024.

⁴ F. Quesnay, "Le droit naturel" [in:] *Physiocratie, ou constitution naturelle du gouvernement le plus avantageux au genre humain*, part 1, collection published by P.-S. Du Pont de Nemours, Leiden and Paris 1767–1768, p. 32.

⁵ The connection between the physiocratic system and Malebranche's philosophy is clear, as evidenced, for example, by references to his *Traité de la morale* (1684) in the prefaces to the Marquis de Mirabeau's *Philosophie rurale* and to Le Mercier de La Rivière's *L'ordre naturel et essentiel des sociétés politiques*. The influence on Quesnay is even older. As early as 1747, in his *Essai physique sur l'économie animale* (in: *Œuvres économiques complètes et autres textes*, vol. 1, eds. C. Théré, L. Charles, J.-C. Perrot, Paris 2005, p. 13), the author explicitly mentions the philosopher and sees him as "the archetype or model of our ideas." On this point, see: A. Kubota, "Quesnay, disciple of Malebranche" [in:] *François Quesnay et la physiocratie*, vol. 1, ed. INED, Paris 1958, pp. 169–196; C. Larrère, "Malebranche revisité: l'économie naturelle des physiocrates," *Dix-huitième siècle* 1994, no. 26, pp. 117–138.

⁶ The German philosopher defends the idea of a pre-established universal harmony between all beings created by God. Although the physiocrats do not mention him directly, his influence is all the more likely given that he enjoyed particular esteem among the contributors to *the Encyclopédie*, of which Quesnay was a member between 1756 and 1758.

⁷ All these concepts have been the subject of numerous studies; see, for example: P.-H. Goutte, "Évidence, ordre naturel et science économique dans l'œuvre de Quesnay" [in:] *Ordre, nature, propriété*, ed. G. Klotz, Lyon 1985, pp. 119–178; C. Larrère, *L'invention de l'économie au XVIII^e siècle: du droit naturel à la physiocratie*, Paris 1992; *eadem*, "Droit naturel et physiocratie," *Archives de philosophie du droit* 1992, vol. 37, pp. 69–88; M. Lutfalla, "L'évidence, fondement nécessaire et suffisant de l'ordre naturel chez Quesnay et Morelly," *Revue d'histoire économique et sociale* 1963, vol. 41, no. 2, pp. 213–249.

earth. Everything is regulated spontaneously, according to the order inscribed in nature. Once established, these higher laws are not subject to debate. Du Pont de Nemours, therefore, offers a definition of what a physiocrat is:

Whoever believes that the laws of the physical order provide the foundation for those of the moral order, and even furnish a sanction for the latter; whoever regards justice as destined to be the legislator of the world, as consonant with the rightly understood interest of all and of each individual, as binding men together in a chain of reciprocal rights and duties, as enjoining respect for the freedom of all forms of labour and for the preservation of all rights of property – such a person is, in that very respect, an economist, and will always be regarded and cherished as such by those to whom that name was first given.⁸

At the beginning of the collection titled *Physiocratie, ou constitution naturelle du gouvernement le plus avantageux au genre humain* (1767–1768), which compiles the main articles that Quesnay published in the columns of the *Journal de l'agriculture, du commerce et des finances*, is the following aphorism composed by Quesnay himself: *Ex natura, jus, ordo et leges; ex homine, arbitrarium, regimen et coercitio*, meaning “From nature come law, order and legislation; from man, arbitrariness, regulation and coercion.” This succinctly captures the physiocratic philosophy, in which natural order is regarded as a set of moral and physical laws that govern the world by the will of the creator God, and constitute an eternal and universal code, the provisions of which are engraved in the conscience of each individual.

This code of natural laws then exerts a significant influence on positive order, notably by defining the various stages that lead to the constitution of the state and the form of government it must take. More specifically, this pre-existing natural order, with its laws and rights, means that everything is regulated, planned, and ordered by a “chain of conclusions,”⁹ leading to the creation of the state based on the conclusion of a social contract. Suppose the unchanging and immutable laws of the natural order can be regarded as “the clauses of a contract between heaven and earth, between divinity and humanity.”¹⁰ In that case, the conventional element is once again necessary

⁸ P.-S. Du Pont de Nemours, “Avertissement, contenant la table raisonnée des matières traitées dans les volumes de l’année précédente,” *Éphémérides du citoyen* 1770, vol. 1, pp. 42–43: «Quiconque pense que l’on trouve dans les lois de l’ordre physique la base de celles de l’ordre moral, et même une sanction pour ces dernières, quiconque regarde la justice comme devant être la législatrice du monde, comme conforme à l’intérêt bien entendu de tous et de chacun, comme unissant les hommes par une chaîne de droits et de devoirs réciproques, comme ordonnant le respect pour la liberté de tous les travaux et la conservation de tous les droits de propriété, est *économiste* en cela, et sera toujours considéré et chéri comme tel par ceux auxquels on a d’abord donné ce nom». All translations, unless specified otherwise, are by the author.

⁹ N. Baudeau, “Lettre à M. Beardé de L’Abbaye sur sa critique prétendue de la science économique (20 août 1770),” *Éphémérides du citoyen* 1770, vol. 7, p. 86.

¹⁰ P.-P. Le Mercier de La Rivière, *L’ordre naturel et essentiel des sociétés politiques* [1767], Paris 2001, II.24, p. 194.

when establishing the state. Suggested,¹¹ discussed,¹² somewhat detailed,¹³ but never fully explained or explored in depth, the social contract theory remains a fundamental element of the physiocrats' political argument.

Therefore, following a line of thought that is reminiscent in some respects of that of Samuel Pufendorf, our authors posit the existence of two social pacts as the foundation of political organisation: on the one hand, a pact of association (*pactum associationis*), concluded among people, initiates the emergence of the state (I); on the other hand, a pact of subjection (*pactum subjectionis*) completes its formation by establishing a sovereign political authority¹⁴ (II).

I. The Beginnings of the State: The *pactum associationis*

Society does not originate from a contract in the physiocratic model. Its emergence occurs at a specific point in evolution, governed by the laws of natural order, without any human intervention (A). Only once society has materialised through the establishment of land ownership, do people rely on the conventional element to fully protect their newly secured natural rights (B).

A. Society, a Reality Independent of the Conventional Element

Like all political theories, physiocratic doctrine seeks to explain the phenomenon of life in society. Based on the principles of natural order, physiocrats reject any notion of *pactum societatis* and distinguish between two types of society that are, in fact, the same: "natural society" (1) and political society (2).

¹¹ G. Weulersse, *Le mouvement physiocratique en France (de 1756 à 1770)*, vol. 2, Paris 1910, p. 37.

¹² F. Atger, *Essai sur l'histoire des doctrines du contrat social*, Thesis, Political and Economic Sciences, Nîmes 1906, p. 306 ff.

¹³ L. Cheinisse, *Les idées politiques des physiocrates*, Paris 1914, p. 37 ff.; M.-C. Laval-Reviglio, "Les conceptions politiques des physiocrates," *Revue française de science politique* 1987, no. 2, p. 184 ff.

¹⁴ Although the parallel with Pufendorf's theory of the double contract is drawn by M.-C. Laval-Reviglio ("Les conceptions politiques des physiocrates," *Revue française de science politique* 1987, no. 2, p. 185), it is nevertheless important to recognise the considerable distance between the German thinker's conception and that of the physiocrats. In reality, S. Pufendorf (*Le droit de la nature et des gens ou système général des principes les plus importants de la morale, de la jurisprudence et de la politique* [1672], transl. from Latin by J. Barbeyrac, vol. 2, Amsterdam 1706, VII.2, § 7–8, p. 205 ff.) distinguishes three stages in his mechanism leading to the ideal society. A first contract of association is concluded between those who wish to form a civil society; in a second stage, a decree is passed by the new associates to decide on the choice of regime to be adopted; finally, a second contract, known as the contract of subjection, allows the sovereign to be designated and seals the obedience of the associates to the latter. On Pufendorf's social contract, see: S. Goyard-Fabre, *L'interminable querelle du contrat social*, Ottawa 1983, p. 183 ff.; J. Terrel, *Les théories du pacte social: droit naturel, souveraineté et contrat de Bodin à Rousseau*, Paris 2001, p. 309 ff.

1. "Natural Society"

Following a long-standing tradition, the physiocrats examine man's natural condition before the rise of political society. Man thus lived in a "primitive state,"¹⁵ a kind of state of nature without any political power over him. However, the choice of words is essential. In a highly symbolic way, our authors prefer the term "natural society"¹⁶ over "state of nature," which social contract theorists often use. This choice is not stylistic but aims to distinguish between these two states. In the state of nature, man appears in a wild or pre-social condition. Conversely, in natural society, man is considered, according to the Aristotelian model, to be a social being by nature. Since society's origin dates back to the beginning of the world, man is inherently born into society, a universal society governed by natural laws.¹⁷ Therefore, even if he exists in a state lacking proper social structures, man already belongs to a "nascent society"¹⁸ that, being "natural," necessarily predates political society. Although societies differ *in nature*, man is intrinsically a social being.

Also, unlike Hobbes' state of nature, this simple state of "primitive association"¹⁹ is a state of peace that cannot experience conflict.²⁰ It is a "happy" state,²¹ characterised by goodwill and mutual assistance.²² Closer to the ideas advanced by Pufendorf and Locke, the physiocrats viewed the state of nature as one governed by law, meaning that, although existing in a simple multitude, humans were subject to a "natural social order" [«ordre naturel social»], an "order of essential justice" [«ordre de justice essentielle»] that they were obliged to respect. In other words, even at this stage of human and social development, "primitive laws prior to any civil establishment" [«lois primitives antérieures à tout établissement civil»]²³ apply, which are the work of a legislator who is none other than God. Men are then guided by reason and evidence,

¹⁵ P.-S. Du Pont de Nemours, *De l'origine et des progrès d'une science nouvelle*, London and Paris 1768, p. 17.

¹⁶ P.-S. Du Pont de Nemours, "Discours de l'éditeur" [in:] *Physiocratie...*, p. xiv.

¹⁷ G.-F. Le Trosne, *De l'ordre social*, Paris 1777, p. 14, note 1.

¹⁸ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, II.16, p. 131.

¹⁹ P.-S. Du Pont de Nemours, "Discours de l'éditeur..." p. xvi.

²⁰ On this point, Abbé Baudeau ("De l'origine et de la nécessité des hérédités foncières," *Éphémérides du citoyen* 1767, vol. 2, pp. 68–69) openly distances himself from Hobbes, whom he classifies as a "systematic writer" [«écrivains à systèmes»] guilty of propagating "a false and dangerous philosophy" [«une fausse et dangereuse philosophie»].

²¹ P.-S. Du Pont de Nemours, "Discours de l'éditeur..." p. xxxv.

²² *Ibid.*, p. xvii. The "justice" in question is defined by Quesnay as "a natural and sovereign rule, recognised by the light of reason, which clearly determines what belongs to oneself or to another" [«une règle naturelle et souveraine, reconnue par les lumières de la raison, qui détermine évidemment ce qui appartient à soi-même, ou à un autre»]. This definition is taken up in particular by Baudeau ("Vrais principes du droit naturel," *Éphémérides du citoyen* 1767, vol. 3, p. 132), who deduces from it that "injustice is therefore the usurpation of another's right of property" [«l'injustice est donc l'usurpation sur le droit de propriété d'autrui»].

²³ G.-F. Le Trosne, *Discours sur l'état actuel de la magistrature, et sur les causes de sa décadence*, Paris 1764, p. 60, note 2.

which will reveal to them the fundamental maxims of natural law, preventing them, in particular, from entering into a state of general and continual war.²⁴

This natural justice – objective natural order – imposes duties upon them, the first of which, incumbent on man living in a natural state, is to provide for his subsistence.²⁵ To achieve this, he enjoys various rights arising from human nature itself.²⁶ This natural right is defined by Quesnay not as the unlimited right of all to everything, but rather as “the right that man has to the things proper to his enjoyment” [*le droit que l’homme a aux choses propres à sa jouissance*],²⁷ which in reality is limited to what he can obtain through his work within the boundaries set by natural justice.²⁸ Man then feels within himself the desire to acquire and preserve; he has an impulse, an intuitive understanding of his primary rights²⁹ – subjective natural rights. Natural law “resides within us,” as Abbé Baudeau would say.³⁰

Thus, every man is the owner of his person and his bodily faculties and has the freedom to use them to pursue objects that fulfil his needs.³¹ Man turns to hunting, fishing, and gathering wild and spontaneous fruits: at this stage, the goods that men can enjoy are limited to those that nature produces spontaneously. Then, moving beyond the stage of constant searching, humans learn to preserve the goods they have found or the products gained through their labour or luck, always aiming to satisfy their needs either through immediate use or exchange. They then acquire movable property.³² In a perspective reminiscent of that advocated by Locke, man then holds from nature itself the ownership of his person and the items obtained through his labour.³³

²⁴ As Le Trosne writes, every man possesses these laws within himself; they are “written in the depths of his heart, they manifest themselves to his understanding [...] and all stem from the great principle of mutual love” [«écrites au fond de son cœur, elles se manifestent à son entendement [...] et découlent toutes du grand principe de l’amour mutuel»] (*ibid.*).

²⁵ N. Baudeau, “Vrais principes du droit naturel...,” pp. 118–119; V.R. Marquis de Mirabeau, “Septième lettre de M.B. à M. et la première sur la restauration de l’ordre légal (du 21 septembre 1767),” *Éphémérides du citoyen* 1768, vol. 3, p. 21.

²⁶ N. Baudeau, “Vrais principes du droit naturel...,” p. 123.

²⁷ F. Quesnay, “Le droit naturel...,” p. 1; N. Baudeau, “Réponse à la lettre d’un Américain sur l’esclavage des nègres,” *Éphémérides du citoyen*, 3 October 1766, vol. 6, p. 149: “To enjoy is the first right” [«Jouir est le premier droit»].

²⁸ P.-S. Du Pont de Nemours, “Commentaire du Contrat social de Rousseau,” published by J.A. Perkins in “Rousseau jugé par Du Pont de Nemours,” *Annales de la société Jean-Jacques Rousseau* 1972–1977, vol. 39, p. 188.

²⁹ P.-P. Le Mercier de La Rivière, *L’ordre naturel...*, III.44, pp. 441–442.

³⁰ N. Baudeau, “Vrais principes du droit naturel...,” p. 117.

³¹ *Ibid.*, p. 123.

³² P.-P. Le Mercier de La Rivière, *L’ordre naturel...*, I.2, p. 24.

³³ The English author justified property by arguing that man is the owner of his person, and therefore of his labour, and consequently of the things he obtains through his labour. In other words, property is given an exclusively economic basis: labour. Locke’s terms are taken up in the physiocratic model: property derives from physical labour, but the whole fits into a providentialist framework in which reason discovers the order established by God in accordance with nature.

More generally, the obligation to subsist implies, in return, the right to enjoy the products of nature at each level of human evolution. These essential, absolute rights, derived from the earliest notions of justice, are valid for all men. From this arises the second obligation, common and reciprocal, to respect the property rights of others. Without this reciprocity, there could be no guaranteed rights for anyone, nor any possibility of fulfilling the duty of self-preservation. In other words, men cannot claim their rights without recognising the extent of their duties, accepting that these duties are rooted in their own interests, and without realising that they must be even more precious to them because they are vital to preserving their rights.³⁴ To summarise this argument, the physiocrats invoke the following axiom: "No rights without duties, and no duties without rights."³⁵

Despite the absence of political institutions, social life exists in this "first state of humanity,"³⁶ made possible by the principle of general benevolence derived from natural law. We thus observe the gradual formation of communities led by "the fathers of families, who were the first kings,"³⁷ these families being simply the expression of a developing society. From then onwards, with the emergence of these family groups, guarantees were established, production increased, and natural law extended, with everyone benefiting to the extent of their cooperation. Contrary to Rousseau's conception, the primitive state of the physiocrats was not one in which man was reduced to the rank of a beast.³⁸ Furthermore, natural law is not shared by humans and animals, for natural law prescribes only duties "towards humanity" for humans.³⁹ It therefore applies solely to beings endowed with reason, which excludes animals and plants from its scope. The law of nature is "the law of man to man" [«la loi de l'homme à l'homme»].⁴⁰

Although physiocrats see this "natural, universal and tacit society" [«société naturelle, universelle et tacite»]⁴¹ as a state of peace, they are aware of its limitations "before any society, any convention" [«avant toute société, toute convention»].⁴² These limitations are of two kinds. First, this natural society exists as long as only a few people live off the spontaneous produce of the earth. However, humans soon realise that these resources are insufficient for all the pleasures they seek and are too scarce to support

³⁴ P.-S. Du Pont de Nemours, *De l'origine et des progrès...*, pp. 18–19.

³⁵ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, I.2, p. 28.

³⁶ P.-S. Du Pont de Nemours, "Discours de l'éditeur..." p. xxxix.

³⁷ G.-F. Le Trosne, *Discours sur l'état actuel...*, p. 60, note 2. See: O. Perru, "Les physiocrates: 'La communauté est-elle de droit naturel?'" *Revue philosophique de Louvain* 1997, no. 4, p. 627.

³⁸ P.-S. Du Pont de Nemours, "Commentaire du Contrat..." p. 183: "Rousseau never had a clear idea of the state of nature. [...] He imagined man in this state to be isolated and living by the laws of monkeys. But this is not the natural state of man. Man is born and lives naturally in a family [...]" [«Rousseau n'a jamais eu d'idée bien nette de l'état de nature. [...] Il a supposé dans cet état l'homme isolé et courant les lois à la manière des singes. Mais ceci n'est point l'état de nature de l'homme. L'homme naît et vit naturellement en famille [...]»].

³⁹ N. Baudeau, "Réponse à la lettre d'un Américain..." p. 168.

⁴⁰ *Ibid.*, p. 173.

⁴¹ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, I.3, p. 32, III.44, p. 443.

⁴² N. Baudeau, "Vrais principes du droit naturel..." p. 127.

raising numerous offspring. Therefore, this state is not sustainable and is far from “the best possible state of humanity” [«du meilleur état possible de l’humanité»].⁴³ Second, once personal freedom appears, it can be challenged; attempts to seize different property types are common and may lead to looting, fighting, and reprisals. Without adopting Hobbes’ pessimism, which states that man is evil by nature, physiocrats do not believe human nature is free from harmful tendencies. While humans are gifted with intelligence, they are also proud of their dignity and faculties, leading them to believe they are self-sufficient.⁴⁴ They can act unjustly, violently, and under the influence of passions, which causes them to want more than their fair share. They seek to assert themselves, infringe on others’ freedom and property, and strive for their own well-being at others’ expense. In a way, they wish to dominate the physical order. This suggests that humans must learn the rules of the natural order, which must be protected from the passions of others, who are driven by greed.

Therefore, the “natural social order” is insufficient for man as he is. He lacks a crucial condition for his tranquillity and longevity: the security that only the “civil social order”⁴⁵ can provide. Consequently, to safeguard the natural order, organise the defence of natural human rights, and prevent attempts at abuse, nature has established “an order that is clearly more advantageous to the human race, namely the state of *society*” [«un ordre évidemment plus avantageux au genre humain, c’est l’état de *société*»].⁴⁶

2. The Emergence of Land Ownership, the Birth of Political Society

Driven by the constant need to provide for his ever-increasing needs, man seeks to multiply the production of what he considers most suitable for his consumption. Man then becomes a farmer and, little by little, thanks to this work of cultivation, “*land ownership* begins to emerge, gradually” [«commence à naître, par degrés, *la propriété foncière*»].⁴⁷ As man moves away from a nomadic lifestyle, settles in a more confined dwelling, and adopts a piece of land to cultivate, his ideas expand, his desires grow, the art of multiplying and varying pleasures is formed and perfected more and more, and all this thanks to the gifts that nature lavishes on him.

Work, especially working the land, seems to be the fulfilment of a duty imposed by nature to sustain oneself and exercise the natural rights of men. It is thus the origin of the gradual emergence of land ownership, which continues, expands, and brings happiness to humanity. As both a source of value and the origin of property, land serves, as seen by Locke, as the driving force that enables a transition to a different state. Indeed, the necessity of work, and especially the development of land ownership as a consequence, marks “an essential step towards the most perfect civilisation, towards the state most favourable to humanity” [«un pas très important vers la civilisation

⁴³ P.-S. Du Pont de Nemours, “Discours de l’éditeur...,” p. xxxv.

⁴⁴ F. Quesnay, “Le droit naturel...,” p. 16 ff.

⁴⁵ G.-F. Le Trosne, *De l’ordre social...*, p. 89.

⁴⁶ N. Baudeau, “Vrais principes du droit naturel...,” p. 134.

⁴⁷ *Ibid.*, p. 130.

la plus parfaite, vers l'état le plus favorable à l'humanité».⁴⁸ Natural society then transforms itself, almost imperceptibly under the gaze of God, "the sovereign master" who oversees this evolution,⁴⁹ into political society.⁵⁰ This emerging social order is thus a more complex form of the natural order, which itself stems from the physical order. In practical terms, property therefore appears as "the basis and principal bond of society" [«la base et le lien principal de la société»].⁵¹

Humans' natural sociability greatly facilitates this evolution. Contrary to the views of Hobbes and Rousseau but aligned with, for example, those of Aristotle, Grotius, Pufendorf, and Locke, economic philosophers see God as the primary source of sociability⁵² since He made man a social being and determined that "man is obviously created to be *social* and to gather with his fellow men" [«l'homme évidemment créé social à se réunir avec ses semblables»].⁵³ Therefore, every individual has a desire for society, a natural inclination towards it, since man "is born in the very bosom of society" [«est né dans le sein même de la société»].⁵⁴ Moreover, if God has endowed the earth with inexhaustible fertility, He has also given man the strength and industry necessary to multiply goods through his labour. He has given him the intelligence to discover the means of cooperation he must employ to extend the earth's fertility and thereby turn it towards producing goods suited to his needs.⁵⁵ The science of cultivation is therefore the result of facts, experiences, and observations made possible by man's use of reason.

Fundamentally, men's obvious rights and pressing interests "have determined their union in society and established the principal laws of this association" [«ont déterminé leur réunion en société et fixé les lois principales de cette association»].⁵⁶ Society is not a human creation, but the primitive, constant, and necessary work of nature and the natural outcome of the needs to which it subjects him.⁵⁷ Natural and fundamental laws⁵⁸ dictate an essential outcome – the gathering of men into society – with these

⁴⁸ N. Baudeau, "De l'origine et de la nécessité..." p. 83; P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, I.3, p. 31; G.-F. Le Trosne, *De l'ordre social...*, p. 45.

⁴⁹ N. Baudeau, "Vrais principes du droit naturel..." pp. 131, 134.

⁵⁰ P.-S. Du Pont de Nemours, "Discours de l'éditeur..." p. xxxvi: "The state of simple association is no longer suitable for men; regular societies must be established; political bodies must be formed" [«L'état de simple association ne convient plus aux hommes; il faut instituer des sociétés régulières; il faut former des corps politiques»].

⁵¹ V.R. Marquis de Mirabeau, "Introduction" to *Mémoire sur les États provinciaux*, Paris 1758, pp. 22, 27; P.-S. Du Pont de Nemours, "Critique raisonnée des Lettres à un ami sur les avantages de la liberté du commerce des grains et le danger des prohibitions," *Éphémérides du citoyen* 1769, vol. 5, p. 197.

⁵² G.-F. Le Trosne, *De l'ordre social...*, p. 237.

⁵³ N. Baudeau, "Vrais principes du droit naturel..." p. 134; P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, I.1, p. 15 ff.

⁵⁴ G.-F. Le Trosne, *Discours sur l'état actuel...*, p. 60, note 2; *idem*, *De l'ordre social...*, p. 14, note 1.

⁵⁵ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, I.1, pp. 15–16.

⁵⁶ P.-S. Du Pont de Nemours, "Critique raisonnée du *Traité des droits du génie, dans lequel on examine si la connaissance de la vérité est avantageuse aux hommes et possible au philosophe*," *Éphémérides du citoyen* 1769, vol. 11, p. 123.

⁵⁷ N. Baudeau, "Vrais principes du droit naturel..." p. 134.

⁵⁸ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, III.44, p. 441.

men being compelled to associate by an “irresistible force” [«force irrésistible»].⁵⁹ What could be more normal, given that man “is born with a right to society” [«naît avec un droit à la société»]?⁶⁰

This demonstration shows that reliance on the *pactum societatis* makes no sense in physiocratic reasoning: the social contract cannot be the foundational act of society. Since humans inherently possess sociability, it does not need to be artificially created through contracts; it is an ontological aspect of humanity. Society is not formed through a voluntary act or a contract among people in a state of nature; it cannot be an artificial construct of human will, as it is the inevitable outcome of a primitive law that compels humans to associate for their own interests. The physiocrats openly mock defenders of the social contract, whom they see as supporters of a “new philosophy [...] [which] disputes the existence of natural law” [«nouvelle philosophie [...] [qui] dispute à la loi naturelle son existence»]⁶¹ and who, therefore, are “far from the truth” [«à côté de la vérité»].⁶² Rousseau’s *Contrat social*, which Du Pont de Nemours studied and commented upon extensively, is hence a target of sarcasm by the physiocratic movement.⁶³ Ultimately, society’s state is not for humans “a state of choice and convention, [...] it is a necessary, primitive state instituted by nature” [«un état de choix et de convention, [...] c’est un état nécessaire, primitif et institué par la nature»].⁶⁴

Nevertheless, while the conditions for the emergence of society divide the followers of the *pactum societatis* and the physiocrats, the reasons for its creation bring them closer together. In both cases, the main goal is to combat human passions and establish security for people and their property.⁶⁵ More specifically, in the minds of the physiocrats, the gathering of men in society is driven by the need to expand, ensure, and maximise the exercise of the natural rights recognised to men, to secure the benefits of labour, property, and freedoms, and to prevent oppression, attacks, and usurpations. In any case, it is the emergence of political society that necessitates the establishment of the means to secure natural rights, and for this, men must resort to the social contract.⁶⁶ It is the state of society that leads to the formation of a social contract among men, not the other way round.

It should also be emphasised that joining a society does not lead to the partial or total alienation of human rights. For the physiocrats, this idea is absurd. Indeed, contrary to Lockean philosophy, man does not sacrifice part of his natural freedom in the social state. On the contrary, it is to expand the use of all rights conferred by nature, to guarantee their exercise, and to increase their benefits, that men have promised

⁵⁹ V.R. Marquis de Mirabeau, *Les Économiques*, Part 2, Paris 1769, p. 197.

⁶⁰ V.R. Marquis de Mirabeau, “Septième lettre...,” p. 53.

⁶¹ G.-F. Le Trosne, *Discours sur l’état actuel...*, pp. 15–16.

⁶² P.-S. Du Pont de Nemours, “Critique raisonnée du *Traité des droits du génie...*,” p. 123.

⁶³ G.-F. Le Trosne, *Discours sur l’état actuel...*, p. 59, note 2 and p. 63, note 2; P.-S. Du Pont de Nemours, “Critique raisonnée du *Traité des droits du génie...*,” p. 123.

⁶⁴ G.-F. Le Trosne, *Discours sur l’état actuel...*, p. 60, note 2.

⁶⁵ P.-S. Du Pont de Nemours, “Objections et réponses sur le commerce des grains et des farines,” *Éphémérides du citoyen* 1769, vol. 1, p. 115.

⁶⁶ P.-P. Le Mercier de La Rivière, *L’ordre naturel...*, I.3, p. 32.

each other mutual protection. No individual can develop independently; furthermore, since they can only live in society, they can only gain by entering it. If they take on new duties, these correspond to the advantages they find in political society, which are all contained in their personal freedom and their possession of movable and immovable property.⁶⁷

Furthermore, the emergence of land ownership and the spread of people across the earth led to this multitude being divided into different “specific societies.”⁶⁸ The social order then gave rise to the national order.⁶⁹ Here again, the consolidation and refinement of culture gradually led to a new “physical and indispensable” division⁷⁰ among the people who made up society. Two social classes then formed: the first, known as the productive class, comprised those who worked the land, that is, farmers and agricultural entrepreneurs; the second, known as the owner class, consisted of those who made the essential expenditures to enable this agricultural work, namely the landowners.⁷¹

From this point onwards, contractual relationships were established between these two classes: one to continue and improve land cultivation, and the other, the landowners, with each party sharing a portion of the costs incurred and, consequently, a share of the harvest proportional to their labour and expenditure.⁷² Breaking with the prevailing theories of the time, notably defended by Morelly and Mably, the physiocrats did not see it as appropriate to revise the distribution of property or to question the principle of land ownership by a ruling class. An ancient Aristotelian refrain holds that inequality of conditions “necessarily results from the disparity of strength, intelligence and talent established between men by nature” [«résulte nécessairement de la disparité de force, d’intelligence et de talent, établie entre les hommes par la nature»].⁷³ This is an irrefutable fact arising from the rules of the natural order; therefore, not all men can claim land ownership: equality is essentially “chimerical and unnatural” [«chimérique et contre nature»].⁷⁴

“A necessary and infallible consequence of the physical order” [«Suite nécessaire et infallible de l’ordre physique»],⁷⁵ thus one excluding any voluntary action on the part of man, political society, appears as “a chain of rights and duties resulting from one

⁶⁷ Among these new rights granted to men living in society are, for example, the right to freely use one’s intellectual and physical faculties, the right to enter into contracts, the right to buy and sell, the right to make donations, to make a will, to marry, and to come and go as one pleases.

⁶⁸ P.-P. Le Mercier de La Rivière, *L’ordre naturel...*, I.3, p. 30.

⁶⁹ F. Quesnay, “Le droit naturel...”, p. 27.

⁷⁰ G.-F. Le Trosne, *De l’ordre social...*, p. 46.

⁷¹ P.-P. Le Mercier de La Rivière, *L’intérêt général de l’État, ou la liberté du commerce des blés, démontrée conforme au droit naturel; au droit public de la France; aux lois fondamentales du royaume; à l’intérêt commun du souverain et de ses sujets dans tous les temps*, Amsterdam and Paris 1770, p. 47.

⁷² P.-S. Du Pont de Nemours, *De l’origine et des progrès...*, p. 21.

⁷³ V.R. Marquis de Mirabeau, “Septième lettre...”, p. 51. While failing to recognise natural equality, the physiocrats did, however, accept legal equality.

⁷⁴ P.-P. Le Mercier de La Rivière, *L’ordre naturel...*, II.16, p. 129.

⁷⁵ N. Baudeau, “Critique raisonnée de l’Essai sur l’Histoire du droit naturel,” *Éphémérides du citoyen* 1767, vol. 2, p. 145.

another, a union of forces, faculties, and means, whose ultimate goal is the harvesting and distribution of sustenance" [«un enchaînement de droits et de devoirs résultants les uns des autres, une réunion de forces, de facultés, de moyens, qui a pour dernier terme la récolte et la distribution des subsistances»].⁷⁶ However, while the fruits of society have multiplied, humans are more numerous and therefore less united. As a result, the same fears that arose during the stage of natural society resurface: the risks of usurpation, theft, and illegal appropriation of possessions by bandits are likely to increase. The same doubts about human behaviour reappear. Although they know the principles of "absolute justice" [«juste absolu»],⁷⁷ they are likely to violate them at any moment. It is therefore necessary to come together to defend against shock and invasion when territories, fertilised by labour and the use of personal wealth, become desirable to other tribes of men. To this end, recourse to a pact is essential.

B. The Use of Pacts: A First Attempt to Protect Human Beings

To protect themselves from wrongdoing and the evils they must fear from one another, but also to enjoy all their rights, men form a *pactum associationis* (1) which, despite its effects, quickly reveals its limitations (2).

1. The Formation of the Pact

Determined to attain the happiness promised by the natural order, men decide to unite and form a "confederation."⁷⁸ "Men," says the jurist Le Trosne, "[...] cannot do without each other, [...] they are in a state of mutual dependence ordained by Providence to strengthen the bonds of society" [«Les hommes, says the jurist Le Trosne, [...] ne peuvent se passer les uns des autres, [...] ils sont dans une dépendance mutuelle ordonnée par la Providence pour resserrer les liens de la société»].⁷⁹ A synallagmatic contract – referred to by our authors interchangeably as a "social pact,"⁸⁰ "convention,"⁸¹ "mutual convention,"⁸² "civil association,"⁸³ or "association contract"⁸⁴ – which resembles an oath, is then concluded, either formally or tacitly,⁸⁵ among members of society who place themselves under each other's protection.⁸⁶ It is expressed as follows: "The social

⁷⁶ G.-F. Le Trosne, *De l'ordre social...*, pp. 86–87.

⁷⁷ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, I.2, p. 23.

⁷⁸ P.-S. Du Pont de Nemours, "Critique raisonnée du *Traité des droits du génie...*," p. 116.

⁷⁹ G.-F. Le Trosne, "Lettre sur l'exclusion des vaisseaux étrangers pour la voiture de nos grains," *Gazette d'agriculture, du commerce et de finance*, 2 March 1765, p. 143.

⁸⁰ N. Baudeau, "Vrais principes du droit naturel..." p. 135.

⁸¹ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, I.3, p. 32.

⁸² N. Baudeau, "Critique raisonnée de *L'ordre naturel et essentiel des sociétés politiques*," *Éphémérides du citoyen* 1767, vol. 11, p. 170.

⁸³ G.-F. Le Trosne, *Lettres à un ami sur les avantages de la liberté du commerce des grains et le danger des prohibitions*, Amsterdam and Paris 1768, p. 56.

⁸⁴ V.R. Marquis de Mirabeau, "Septième lettre..." p. 23.

⁸⁵ P.-S. Du Pont de Nemours, "Objections et réponses..." p. 116.

⁸⁶ F. Quesnay, "Le droit naturel..." pp. 26–27; P.-S. Du Pont de Nemours, "Objections et réponses..." p. 116.

pact says: *each of us promises not only not to use our strength to usurp the rights of any of us, but on the contrary, to use that very strength to defend the rights of each of us against usurpers*” [«Le pacte social dit: *chacun de nous promet, non seulement de ne pas employer ses forces pour usurper les droits d'aucun de nous; mais au contraire, d'employer ces mêmes forces pour défendre ces droits de chacun, contre les usurpateurs*»].⁸⁷ The pact thus unites all wills and forces to preserve property and freedoms and contribute to the most significant possible increase in all enjoyments for everyone and each individual, without causing harm or prejudice to one another. In its terms, this *pactum* alliance is absolute and unreserved, thus creating an actual “body of the nation,”⁸⁸ also called the “body of the State,”⁸⁹ although this agreement does not establish the State.

We must be careful not to interpret the conclusion of this pact as a mere expression of human voluntarism. This agreement stems from the immutable and irrefutable laws of the natural order. All men are driven by evidence and necessity to enter into this commitment.⁹⁰ Just as the constitution of political society is established under the gaze of the “supreme author of nature” [«l’auteur suprême de la nature»], the pact formation occurs because the “laws of primitive justice [are] constitutive of all association” [«lois de la justice primitive [sont] constitutives de toute association»].⁹¹

This pact imposes a new duty upon man. After the obligation to ensure his own survival, he has now taken on the responsibility to defend the rights – specifically personal freedom and personal property, both movable and immovable⁹² – of those who have entered “into the civil confederation” [«dans la confédération civile»].⁹³ However, in return, just as he previously enjoyed the right to benefit from the fruits of nature within natural society, he must now be protected by his fellow contractors if his freedom or property is infringed.⁹⁴ If rights are the pleasures of men, duties are the conditions that maintain and sustain those rights. While the obligation to respect others, their property, and their rights was already established in natural society, it now assumes a new, more binding dimension after the formation of a pact. The duty to preserve these three types of property is, essentially, a reflection of the fundamental order of societies, which is, let us not forget, “the perfect harmony of social institutions without which [human] happiness and [population] growth could not occur” [«l’accord

⁸⁷ N. Baudeau, “Vrais principes du droit naturel...,” p. 135 [emphasis added].

⁸⁸ V.R. Marquis de Mirabeau, “Onzième lettre de M.B. à M. et la cinquième sur la restauration de l’ordre légal,” *Éphémérides du citoyen* 1768, vol. 8, p. 22.

⁸⁹ *Ibid.*, p. 79.

⁹⁰ N. Baudeau, “Vrais principes du droit naturel...,” pp. 145–146. In contrast, Pufendorf recognises that men have the freedom not to consent to this agreement. In this case, they remain outside society but retain their natural freedom and must provide for their own preservation; see: S. Goyard-Fabre, *Pufendorf et le droit naturel*, Paris 1994, p. 171. However, in the physiocratic model, individuals born into political society may renounce all the advantages offered by the social state and thus return to their primitive right.

⁹¹ G.-F. Le Trosne, *De l’ordre social...*, p. 111.

⁹² *Ibid.*, pp. 157–158.

⁹³ *Ibid.*, p. 16.

⁹⁴ *Ibid.*, p. 16, note 2.

parfait des institutions sociales sans lesquelles [le] bonheur et [la] multiplication [des hommes] ne pourraient avoir lieu».⁹⁵ The social contract, by ensuring property protection, thus fulfils a purely economic function.

The union pact does not create society; it merely completes its construction. Nor does it establish a sovereign prince. On this specific point, the physiocrats differ from most social contract theorists, notably Grotius and Locke, who see the goal of the association contract as not only establishing society but also creating a particular body with sovereignty. Indeed, if Grotius and Locke see society's purpose as providing public security and maintaining order, it is because they equate "society" with "state." Grotius's contract theory combines association with subjection: the social pact that establishes society also immediately implies creating a special authority that will exercise sovereignty and to which subjects must submit. In other words, sovereignty exists from the moment of civil association.⁹⁶ For Locke, the contract guiding the formation of society – and thus the state – is teleologically determined. It is justified solely by the aims of the new society, namely the common good and security for all. To prevent conflicts caused by an increasing population, men first unite to protect each other before establishing a sovereign to oversee this task. In practical terms, moving from the "state of nature" to a state of society involves the creation of a legislative body, which, through its appointed magistrates, holds executive power and judicial authority.⁹⁷

Society, which emerges independently of any human will, is not concerned with the physiocratic pact of association. Consequently, the Economists implicitly distinguish, as Pufendorf suggests, between the concepts of "society" and "State."⁹⁸ While the existence of human beings, land ownership, and labour necessarily presupposes a political society within the natural order, it does not necessarily imply the existence of a state.⁹⁹ In other words, while physiocrats regard property and labour merely as

⁹⁵ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, I.4, pp. 37, 40.

⁹⁶ J. Terrel, *Les théories du pacte social...*, p. 120 ff.

⁹⁷ J. Tully, *Locke, droit naturel et propriété*, Paris 1992, p. 224 ff.

⁹⁸ According to K. Sojka-Zielinska ("L'individu face à l'État dans la pensée politique et juridique des Lumières en Europe centrale" [in:] *L'Europe centrale. Réalité, mythe, enjeu [XVII^{ème}–XX^{ème} siècles]*, ed. G. Beauprêtre, Varsovie 1991, p. 187), "German natural law theorists [...] provided arguments for a definitive separation of the concepts of *society* and *state* based on a theoretical distinction between *societas civilis cum imperio* and *societas civilis sine imperio*. While in French political thought, and also in English doctrine at the time of the Revolution, the concept of *civil society* became synonymous with the political organisation of society, i.e. the state, in German-speaking countries this equivalence gave way, among liberal philosophers and reformers, to a juxtaposition of these two categories" ["«les jusnaturalistes allemands [...] fournirent des arguments pour une séparation définitive des notions de *société* et d'*État* fondée sur une distinction théorique entre la *societas civilis cum imperio* et la *societas civilis sine imperio*. Tandis que dans la pensée politique française, et également dans la doctrine anglaise de l'époque de la Révolution, la notion de *société civile* devenait synonyme d'organisation politique de la société, c'est-à-dire de l'État, dans les pays allemands cette adéquation cédait la place, chez les philosophes et réformateurs du courant libéral, à une juxtaposition de ces deux catégories»].

⁹⁹ G. Gurvitch, *L'idée du droit social. Notion et système du droit social. Histoire doctrinale depuis le XVII^{ème} siècle jusqu'à la fin du XIX^{ème} siècle*, Paris 1931, pp. 245–246: "The originality of the physiocrats [...] consists in basing society on *common social law* and asserting that it directly serves the general

markers for the transition from the natural to the societal stage, thinkers such as Grotius and Locke view them as key indicators of the shift from a stateless society to a state society.

Any sovereignty still remains absent at the end of this first pact, which, as an essential prerequisite, nonetheless lays the foundation of a building whose construction will only be fully completed with the conclusion of a second pact. In Pufendorf's own words, the *pactum associationis* in reality only "the beginnings and the outline of a State" [«les commencements et l'ébauche d'un État»].¹⁰⁰

2. The Effects and Limitations of the Pact

Men have only "confederated" themselves, bound by a social pact, to work more freely and effectively through mutual assistance and better protect the safety of persons and property ownership through mutual aid. This social pact relates to previously established obligations. Once property security is assured, people can fully dedicate themselves to their cultivation work to further develop a nation's wealth.

However, this accumulation of wealth quickly becomes, despite itself, the first obstacle to the union pact, as it demands constant supervision by each contracting party. In fact, according to the terms of the pact, the latter must both oversee their own possessions and those of others, while continuing to cultivate the land. The fragility of the pact becomes evident since the moment each individual is obliged to defend their neighbour, there is a risk of disorder, confusion, and unrest.

To reduce the adverse effects on the production of universal security, which would be exercised by all confederates, one group of the co-contractors is entrusted solely with this role of maintaining order and protecting property as outlined in the pact. Meanwhile, the other group focuses entirely on cultivation.¹⁰¹ Indeed, the social body cannot always remain assembled to defend its members and fulfil their guarantees. Therefore, it must relinquish this duty by surrendering the corresponding right to others. These individuals, charged with securing the entire nation, are called "available" [«disponibles»]¹⁰² because they receive a token of gratitude from the farmers for their duty, a share of their "available" produce, a share not needed for survival. The responsibilities of such individuals are twofold: first, to maintain peace within society by protecting people from each other's greed; second, to provide security for society against invasions and external attacks. This distinction among citizens seems to have led to the creation of a public authority, whose powers of surveillance and defence

interest, whereas the pupils of Leibniz and Wolf (Nettelblatt, Schlözer, etc.) considered society to be distinct from the state, solely as an embodiment of particular interests, based on the particularistic social law of limited groups" [«L'originalité des physiocrates [...] consiste à fonder la société sur le *droit social commun*, et à affirmer qu'elle sert directement par elle-même l'intérêt général, tandis que les élèves de Leibniz et Wolf (Nettelblatt, Schlözer, etc.) considéraient la société distincte de l'État, uniquement comme une incarnation d'intérêts particuliers, fondée sur le droit social particulariste des groupes limités»].

¹⁰⁰ S. Pufendorf, *Le droit de la nature...*, VII.2 § 7, p. 205.

¹⁰¹ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, I.3, p. 31.

¹⁰² N. Baudeau, "Vrais principes du droit naturel...", p. 137.

contributed to the emergence of a particular type of revenue, which served as a precursor to taxation.

However, this mode of operation quickly revealed its limitations. Since the union was between equals, there was, at this stage, neither domination nor subjugation: the association of multiple individual wills did not give rise to any coercive power, and therefore did not yet constitute a government. For this reason, the association remains precarious because, in the absence of legal constraints and jurisdictional authority, any greedy individual driven by passions can always breach their commitments in bad faith because of the imperfection of the human species.¹⁰³ With fundamental human rights at risk of being flouted or ignored, such an association is constantly under threat and cannot, on its own, endure for long. However, all this is part of a process predetermined by the Creator. Every society must pass through different stages that will lead to the establishment of the state.

The natural state of a society that comes together is to wish to govern itself; [...] such is the condition of every nascent society. The entire body of the nation acts as magistrate, and the law requires no strong arm [...]. This state in its infancy, concerned only with its immediate needs, has little to fear; it is not yet worth the trouble of invasion. To multiply the kinds of goods, one must multiply the laws and provide for security. Desire awakens; each person seeks to acquire for himself and relinquishes his share in the public magistracy. The law must then be upheld by force; a tutelary and commanding power becomes necessary to shield a laborious and flourishing society from invasion [...].¹⁰⁴

Comprehensive surveillance has become indispensable, and it carefully examines everywhere where there are usurpations and dangers, both inside and outside.

Thus, economics gives rise to politics: these two domains are deeply interconnected and depend on each other. A prosperous nation cannot endure without a sovereign political authority capable of protecting it. The rise of the state is imminent. As Du Pont de Nemours notes:

A public authority must be established – tutelary and sovereign – which, in some measure resembling that of the Creator of the world, is present everywhere and at all times: to watch over all, to guarantee and defend every form of property, and to repel every usurpation.¹⁰⁵

¹⁰³ N. Baudeau, "Critique raisonnée de l'ordre naturel...", p. 180.

¹⁰⁴ V.R. Marquis de Mirabeau, *Philosophie rurale, ou économie générale et politique de l'agriculture*, Amsterdam 1763, p. 157: «L'état naturel d'une société qui se réunit est de vouloir se gouverner elle-même; [...] c'est l'état de toute société naissante. Le corps entier de la nation est magistrat, et la loi n'a pas besoin de main forte [...]. Cet *État naissant* et occupé de ses besoins, craint aussi peu de chose, il ne vaut pas encore la peine d'être envahi. Pour multiplier les genres de biens, il faut multiplier les lois et pourvoir à la sûreté. Le désir s'éveille, chacun cherche à acquérir pour soi, et dépose sa portion de magistrature publique. Il faut prêter main forte à la loi, il faut une puissance tutélaire et imposante pour garantir d'invasion la société laborieuse et florissante [...].»

¹⁰⁵ P.-S. Du Pont de Nemours, "Discours de l'éditeur...", p. XI: «Il faut établir une autorité publique, tutélaire et souveraine, qui, semblable en quelque façon à celle du Créateur du monde, soit présente partout et en tout temps, afin de veiller pour tous, afin de garantir et de défendre toutes les propriétés, afin de repousser toutes les usurpations».

“Property, security, and freedom: this, then, is the entire social order” [«Propriété, sûreté, liberté, voilà donc l'ordre social dans tout son entier»], writes Le Mercier de La Rivière.¹⁰⁶ However, for security to truly become a reality and for this order to find its final form in the state, the institution of a sovereign prince, through a second social pact, proves essential.

II. The Completion of the State: The *pactum subjectionis*

Suppose the natural development of society and the essential association of individuals form the initial step towards establishing political authority. In that case, forming a pact of submission creating a sovereign prince, without whom society cannot endure, represents the culmination of the physiocratic argument. Before analysing the effects of this second pact (**B**), it is necessary to consider the question of the institution of sovereign political power (**A**).

A. The Establishment of a Sovereign Guardian Authority

The purpose of the pact of subjection is to establish a prince above men, who is placed at the head of a theocratic regime (**1**) and who alone holds sovereign power, thus completing the formation of the state (**2**).

1. A “Guardian Authority”

The *pactum associationis* has revealed its limitations. The union of men proves insufficient to uphold natural norms. Faced with a rising number of men and wealth, which makes everyone's rights less secure than in earlier times, it becomes necessary to establish a separate sovereign authority. This authority must be armed with power greater than that of all individuals in society to restore order that is beginning to decline and to safeguard civil liberties and property rights¹⁰⁷ better. To create this political power, it is essential to once again turn to the contractual element.

A second pact is then formed between the subjects, establishing a “guardian authority” to which the reins of power are entrusted.¹⁰⁸ The stipulations of what Mirabeau calls the “civil contract”¹⁰⁹ can be summarised as follows:

*We acknowledge you as our sovereign head and administrator of justice, so that you may protect us and our possessions; and we shall all contribute to establishing you in power, in such a manner that neither the extent of your authority nor the exercise of your duty shall encounter any opponent whom you are unable to overawe.*¹¹⁰

¹⁰⁶ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, III.44, p. 448.

¹⁰⁷ *Ibid.*, I.3, pp. 32–33, II.17, p. 137.

¹⁰⁸ *Ibid.*, II.14, p. 111.

¹⁰⁹ V.R. Marquis de Mirabeau, “Dixième lettre de M.B. à M. et la quatrième sur la restauration de l'ordre légal (du 24 novembre 1767),” *Éphémérides du citoyen* 1768, vol. 6, p. 61.

¹¹⁰ *Ibid.*: «Nous vous reconnaissons pour souverain chef et administrateur de la justice, afin que vous nous gardiez nous et nos biens; et nous contribuerons tous à vous établir en puissance, de manière que l'étendue

As an obvious consequence of the natural order, the political order and its corollary, positive laws, finally come into existence. Through the establishment of this supreme power, the slow evolution that has led men to necessarily pass from the status of individuals living under the natural social order to that of individuals living under a political social order is ultimately realised. In other words, “society” is definitely formed when men are united under the authority of a sovereign power. Le Mercier summarises this gradual transformation as follows:

The union of wills in order to bring about the union of particular forces; the union of particular forces to form a common force, a public force; the placing of this public force in the hands of a chief, through whose agency it may command and secure obedience – such is the manner in which tutelary authority is established.¹¹¹

Described as a “secondary institution” [«établissement secondaire»]¹¹² and a “sacred minister of the public interest” [«ministre sacré de l’intérêt public»],¹¹³ “the tutelary authority” sits at the top of the pyramid of powers, above the co-contractors who, until recently, exercised or even attempted to exercise political power. Rather than referring to political authority, the physiocrats describe it as “guardian” [«tutélaire»]. Mirabeau defines it as “the power established within society to ensure the observance and enforcement of the law of the natural order – that tutelary and preservative law of all our rights” [«la puissance établie dans la société pour faire observer et exécuter la loi de l’ordre naturel, loi tutrice et conservatrice de tous nos droits»].¹¹⁴ The adjective attributed to this authority is not insignificant, and the definition highlights the importance of natural laws in shaping political power. While the word “tutélaire” (tutelary) evokes the idea of protection, it also carries strong divine connotations. The choice of terms clearly emphasises the link between the prince established by men and the God who created the earthly realm.

Like certain social contract theorists such as Grotius and Pufendorf, the physiocrats never ignore the facts of Creation.¹¹⁵ While for the thinkers mentioned above, political power derives both from God as creator in a mediated way and from humans as

de votre droit et l’exercice de votre devoir ne trouvent aucun contradicteur auquel vous ne puissiez en imposer» [emphasis in original].

¹¹¹ P.-P. Le Mercier de La Rivière, *L’ordre naturel...*, II.14, p. 111: «La réunion des volontés pour opérer celle des forces particulières; la réunion des forces particulières pour former une force commune, une force publique; le dépôt de cette force publique dans la main d’un chef, par le ministère duquel elle puisse commander et se faire obéir; voilà comment s’établit l’autorité tutélaire».

¹¹² G.-F. Le Trosne, *Discours sur l’état actuel...*, p. 60, note 2.

¹¹³ P.-S. Du Pont de Nemours, “Discours de l’éditeur...”, pp. xliii–xliv.

¹¹⁴ V.R. Marquis de Mirabeau, *Leçons économiques*, Amsterdam 1770, p. 141 [emphasis added]. As for Le Mercier de La Rivière (*L’ordre naturel...*, II.20, p. 163), he defines it as “the administration of a social and physical force instituted in society and by society, to ensure property and freedom among men, in accordance with the natural and essential laws of societies” [«l’administration d’une force sociale et physique instituée dans la société et par la société, pour assurer parmi les hommes la propriété et la liberté, conformément aux lois naturelles et essentielles des sociétés»].

¹¹⁵ R. Sève, *Leibniz et l’École moderne du droit naturel*, Paris 1989, p. 46 ff. On Pufendorf in particular, see J.H. Burns, *Histoire de la pensée politique moderne (1450–1700)*, Paris 1997, pp. 521–522.

founders of political societies directly, the physiocrats solemnly affirm that behind the social pact lies the will of the supreme author of nature, and only His will. Any conscious voluntarism is, therefore, denied to humans. Human constructive will finds it impossible to contradict the requirements of the order of Creation in building or establishing social and political order. This divine foundation appears to the physiocrats as a safeguard against arbitrariness, and therefore against the fragility of human-made pacts. In other words, their social contract includes human conventions but is guaranteed by divine law. Furthermore, Mirabeau responds unequivocally when asked who establishes the prince: "God himself, nature and the law" [«Dieu lui-même, la nature et la loi»].¹¹⁶

Consequently, contrary to the scholastic theory developed by Saint Thomas Aquinas in the mid-thirteenth century,¹¹⁷ the prince does not appear as an authority representing the people. Although they contributed to his establishment as prince, they did not grant him the power to command, as God conferred this power directly. He is not the nation's representative but God's on earth. "The sovereign," says Mirabeau, "is not an officer of the state, a representative of the sovereignty residing in the general national consent, whose power is expressed in solemn conventions or in a tacit contract, a guarantor of the nation, in short" [«Le souverain, says Mirabeau, n'est point un officier de l'État, un mandataire de la souveraineté résidente dans le consentement général national, dont le pouvoir est exprimé dans des conventions solennelles ou dans un contrat tacite, un gagiste de la nation enfin»].¹¹⁸ Similarly, we must not be mistaken when Le Trosne argues that "authority [...] is established by the founder of human society for the happiness of mankind" [«l'autorité [...] est établie par l'instituteur de la société humaine pour le bonheur des hommes»].¹¹⁹ This is not a questioning or denial of the contractual basis of political power. It simply develops the idea that God is present at the various stages leading to the establishment of the prince and that He guides the co-contractors in their endeavour to build authority. Through men – whether they be simple subjects or princes – it is God Himself who acts. The physiocrats undoubtedly draw on the expressions *omnis potestas a Deo* [All power is from God] and *nulla est potestas nisi a Deo* [There is no power except from God].¹²⁰ The prince is therefore God's representative within human society and has a duty to enforce the principles that God has established. The result of all this is that even before the form of government is decided, the theocratic nature of the regime is fully emphasised: "All perfect government is reduced to theocracy, and theocracy

¹¹⁶ V.R. Marquis de Mirabeau, *La science ou les droits et les devoirs de l'homme*, Lausanne 1774, p. 122.

¹¹⁷ M. Villey, *La formation de la pensée juridique moderne*, Paris 2003, p. 149 ff.

¹¹⁸ V.R. Marquis de Mirabeau, *Supplément à la Théorie de l'impôt*, La Haye 1776, pp. 149–150.

¹¹⁹ G.-F. Le Trosne, *Les effets de l'impôt indirect, prouvés par les deux exemples de la gabelle et du tabac*, [n.p.] 1770, p. 335.

¹²⁰ G.-F. Le Trosne, *Recueil de plusieurs morceaux économiques, principalement sur la concurrence des étrangers dans le transport de nos grains*, Amsterdam and Paris 1768, p. 58; P.-S. Du Pont de Nemours, "Lettre au sujet du cabotage des grains," *Journal de l'agriculture, du commerce et des finances* 1766, vol. 6, part 1, pp. 197–198.

constitutes natural law" [«Tout gouvernement parfait se réduit à la théocratie, et la théocratie constitue le droit naturel»].¹²¹

This clearly demonstrates one of the key features of the contractualist thesis, which regards civil power as a human institution and emphasises the divine nature of authority. This power is protective yet also sovereign, thus completing the formation of the state.

2. A Sovereign Authority

The concluded contract is a pact of "submission" [«soumission»]¹²² or subjection, meaning that the security of enjoying the things that men own obliges them "to submit to the protective authority of another man voluntarily" [«à se soumettre volontairement à l'autorité tutélaire d'un autre homme»].¹²³ In other words, this contract binds both the rulers and the ruled to one another.

Here again, we observe the balance of reciprocal duties and rights as expressed in the previously mentioned axiom: "No rights without duties, and no duties without rights" [«Point de droits sans devoirs, et point de devoirs sans droits»]. While the guardian authority is recognised as having "the right to prohibit, summon and command" [«le droit de prohiber, de convoquer, d'ordonner»],¹²⁴ it commits itself to ensuring the common good, public safety, and the protection of others' property. As for the prince's subjects, although they have the right to enjoy the fruits of their labour, they also bear the duty to swear allegiance and obedience to the prince.¹²⁵ However, men do not forfeit any of their rights by pledging allegiance; their natural freedom remains intact, as they voluntarily accept their submission to the authority of political power. "It is obvious that this interest," writes Du Pont de Nemours, "is, for all citizens and each of them individually, the security of enjoying the things they own. It is evident that the desire to mutually safeguard their property was the only reason different families formed a political bond and established a government" [«Il est évident que cet intérêt, affirme Dupont, est pour tous les citoyens et pour chacun d'entre eux, la sûreté de la jouissance des choses dont ils sont propriétaires. Il est évident que l'envie de s'assurer réciproquement la possession de leurs propriétés a pu seule engager différentes familles à établir entre elles un lien politique, à constituer un gouvernement»].¹²⁶

A pact of submission, this second contract is primarily a political contract that establishes sovereignty and, consequently, the State. It is reaffirmed between individuals who had already united through the first pact and is not an agreement between these same men and a "supreme authority" [«autorité suprême»]. In other words, this pact *establishes* a sovereign political authority. "Sovereign power," writes

¹²¹ V.R. Marquis de Mirabeau, *Philosophie rurale...*, p. 298. See: Y. Citton, *Portrait de l'économiste en physiocratie: critique littéraire de l'économie politique*, Paris 2001, pp. 189–190.

¹²² N. Baudeau, "De l'origine et de la nécessité..." p. 83.

¹²³ P.-S. Du Pont de Nemours, "Lettre au sujet du cabotage..." p. 198.

¹²⁴ N. Baudeau, "De l'origine et de la nécessité..." p. 83.

¹²⁵ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, 1.3, p. 33.

¹²⁶ P.-S. Du Pont de Nemours, "Lettre au sujet du cabotage..." p. 198.

Abbé Baudeau, "is [...] necessarily *created*" [«La puissance *souveraine*, writes l'abbé Baudeau, est [...] nécessairement *créée*»] by this agreement.¹²⁷ The abbot continues: "We say deliberately *created*, because it is obvious that it did not exist, and that it is neither the result nor the assembly of the *properties* and *forces* placed in trust, as is commonly said" [«Nous disons exprès *créée*, car il est évident qu'elle n'existait pas, et qu'elle n'est ni le résultat, ni l'assemblage des *propriétés* et des *forces* mises en dépôt, comme on a coutume de le dire»].¹²⁸

At first glance, such a pact is somewhat reminiscent of Hobbes' conception. Suppose the political pact truly involves reciprocal commitments. In that case, it exists only among the members of the multitude, each declaring that they relinquish the right and power to govern themselves in favour of the individual or body entrusted with sovereign authority. However, this reciprocal contract of obedience, which binds subjects to each other and to the sovereign, cannot bind the sovereign in any way, since the latter did not participate in the contract. In terms of the sovereign, the political pact is, therefore, a unilateral act that presumes everyone assigns the most absolute power to his/her hand.¹²⁹ By contrast, in the physiocratic model, although men establish political authority and do not partake in the conclusion of the agreement, they cannot evade the application of this balance of reciprocal rights and duties that governs the fundamental order of political societies. On the other hand, the similarities with Pufendorf's contract theory are apparent, since the German author's persistent concern is also to demonstrate that the prince and his subjects are bound by a reciprocal promise that is essential, because without it, there can be no legitimacy of authority or genuine obligation. Likewise, as in Pufendorf's work, the pact of submission establishes the sovereign prince and completes the formation of the state.

Indeed, it should be emphasised that although political authority is established by the pact of subjection made exclusively among subjects, its *imperium* and omnipotence – its sovereignty – are not bestowed upon it by the people. The physiocrats diverge from both the theory of the contractual origin of political power and the thesis of the popular foundation of power, which, embodied in the old argument of *lex regia*, states that all power originates from God but through the people.¹³⁰ Their social contract does not include any delegation of sovereignty by the people, and their theocratic view of power fundamentally denies any community intervention. Although created by the people, the guardian authority only holds its "sovereign power" [«puissance

¹²⁷ N. Baudeau, "Vrais principes du droit naturel...", p. 139.

¹²⁸ *Ibid.*, pp. 139–140.

¹²⁹ T. Hobbes, *De Cive ou les fondements de la politique* (1642), transl. by S. Sorbière, Paris 1981, Ch. 6 § 20, p. 163.

¹³⁰ See: H. Morel, "La place de la *lex regia* dans l'histoire des idées politiques" [in:] *Mélanges Henri Morel*, Aix-en-Provence 1989, pp. 380–390. For a recent work, see: F. Waquet, *Le transfert légal de l'empire. La lex regia entre pratique politique et modèle théorique*, Thesis, Law, University of Paris-Panthéon-Assas, Paris 2023.

souveraine»]¹³¹ through the intermediary of the Creator, making it appear as the sole possessor of that power. By assigning the task of enforcing justice to political authority, men recognise its de facto sovereignty, for the power holding the authority and right to administer justice is the true sovereign. Therefore, this sovereignty “consists in public force, which results from the general confederation formed to ensure the reign of justice” [«consiste dans la force publique, qui résulte de la confédération générale formée pour assurer le règne de la justice»].¹³² This leads to a conception of the state as a political organisation with “sovereign power,” aligning with Jean Bodin’s thinking.

Property again takes centre stage, this time in the formation of the state, since the pact of subjection was established at the instigation of landowners,¹³³ the dominant class par excellence in the political organisation advocated by the physiocrats. Consequently, according to Mirabeau, the state appears to be “on the one hand, the force resulting from the union of properties, and on the other, the conservative force of properties, and the domain constituting this force” [«d’une part la force résultante de la réunion des propriétés, et de l’autre la force conservatrice des propriétés, et le domaine constitutif de cette force»].¹³⁴ A few years later, Mirabeau himself would once again emphasise the decisive role played by the landowning class in organising the State: “The *State* is nothing more than a certain district of landowners who recognise a single, unified authority, and who agree to make common cause in all cases” [«L’État n’est autre chose qu’une certaine circonscription de propriétés foncières, qui reconnaissent une seule et même autorité tutélaire, et qui consentent à faire dans tous les cas cause commune»].¹³⁵ The common interest is what binds landowners to the sovereign prince. It is in the interest of landowners to invest in agriculture to increase their income, and it is in the interest of the sovereign to provide adequate and constant protection to his subjects to recover, in turn, revenue from the wealth extracted from the soil. Although the proprietors and the sovereign prince contribute to the formation of the state, our authors nevertheless do not fail to include the farmers among its constituent elements.

Ultimately, the state essentially resides only in them,¹³⁶ with the sovereign prince as its head. Landowners and farmers all have a direct connection to the nation’s soil, and every year they contribute to the renewal of the land’s net product, which, in the eyes of the physiocrats, is the only wealth available in a nation. A political connection then arises between the different families of citizens who constitute the state.

The will of men, guided by the supreme author of nature, thus creates a new moral reality: the legal entity composed of the state, whose distinctive attribute is sovereignty. Once again, physiocratic views align with those of Pufendorf, who expresses a new conception of the state’s personality – that it is not a legal fiction but a specific and

¹³¹ N. Baudeau, “Vrais principes du droit naturel...,” p. 139.

¹³² G.-F. Le Trosne, *De l’ordre social...*, pp. 122–123.

¹³³ P.-S. Du Pont de Nemours, *De l’origine et des progrès...*, p. 55.

¹³⁴ V.R. Marquis de Mirabeau, “Introduction” to *Mémoire...*, p. 27.

¹³⁵ V.R. Marquis de Mirabeau, *Les Économiques...*, p. 364.

¹³⁶ V.R. Marquis de Mirabeau, *Lettres sur le commerce des grains*, Amsterdam and Paris 1768, p. 258.

autonomous moral reality, a composite person, distinct from the persons of the subjects. Such a person has its own life, its own tasks, and its own specific attributes. The state possesses its own will and its own characteristic power – sovereignty.

The establishment of a sovereign prince completes the constitution of the state, a political entity separate from society but essential to its existence and the realisation of its aims. In fact, physiocratic demonstrations reflect the absolutist ideas developed in France from the sixteenth century onwards and are simply a reflection of the theory put forward by Bodin or Charles Loyseau, for whom “sovereignty is the form that gives being to the State” [«la souveraineté est la forme qui donne l'être à l'État»].¹³⁷

B. The Effects of the Pact on the Prince and the People

The pact of submission defines the sovereign's mission to protect the natural and essential rights recognised as pertaining to the co-contracting parties (1). Similarly, it has various consequences for the people (2).

1. Definition of the Sovereign's Mission: Security

“No property without liberty; no liberty without security” [«Point de propriété sans liberté; point de liberté sans sûreté»].¹³⁸ This axiom underscores the crucial role assigned to the guardian authority. The primary issue with natural rights is that their limits and application are uncertain. Therefore, political power must serve as the means to enforce them. The prince must ensure that citizens' natural rights are not usurped or violated by potential threats from within or outside the kingdom.¹³⁹ To achieve this, he has the right to summon as many confederate forces as necessary to repel enemy attacks and the obligation to command them for this purpose, hence the right to direct their use. “This is sovereignty, these are all its attributes, these are all the principles of government” [«Voilà la souveraineté, voilà tous ses attributs, voilà tous les principes de gouvernement»].¹⁴⁰

Man has three essential and natural rights: property, which includes all its branches – personal, movable, and immovable; the liberty that stems from it and tends to merge with it; and security. These rights form the fundamental principles of the natural order of societies,¹⁴¹ and respect for them is linked to the “absolute right” [«juste absolu»].¹⁴² This reflects a conception of individual rights as subjective rights of every human being, absolute and inviolable, emerging from natural society and established by the

¹³⁷ C. Loyseau, *Traité des seigneuries*, Paris 1608, II.5, p. 25.

¹³⁸ P.-S. Du Pont de Nemours, *De l'origine et des progrès...*, pp. 28, 75.

¹³⁹ G.-F. Le Trosne, *De l'ordre social...*, pp. 88, 137.

¹⁴⁰ N. Baudeau, “Critique raisonnée des *Principes de tout gouvernement, ou examen des causes de la splendeur ou de la faiblesse de tout État, considéré en lui-même et indépendamment des mœurs*,” *Éphémérides du citoyen* 1767, vol. 4, p. 135.

¹⁴¹ P.-P. Le Mercier de La Rivière, *L'ordre naturel...*, I.2, I.3, I.5.

¹⁴² *Ibid.*, I.2, p. 23. He defines absolute justice as an order of duties and rights that are physically necessary and therefore absolute.

universal order.¹⁴³ Among these essential rights, property is the most significant, and by virtue of his authority, the sovereign must fully protect it. As the primary natural right of man, it is the origin of society, affirms the supremacy of the landowning class, and underpins physiocratic doctrine from both economic and political perspectives. Consequently, property demands the full attention of the protective authority:

It is to protect it from external attacks that the sovereign maintains military forces; it is to repress internally anything that could harm it that he administers justice throughout his empire and establishes courts and magistrates everywhere, charged in his name with rendering to each what belongs to him; it is to defend it against the variety of opinions, against the uncertainty and arbitrariness of human judgement, that civil laws are established, which constantly define the rights of each individual and authorise them to claim those rights [...]. Everything, therefore, refers to property.¹⁴⁴

However, for property to endure without hindrance, it necessarily requires the support of a superior political force that guarantees a state of peace and continuous justice. "Land ownership would never exist," says Baudeau, "[...] without the force and protective authority that guarantees its possessions, the fruits of its labour, and the freedom to enjoy them" ["«La propriété foncière n'existerait jamais, says Baudeau, [...] sans la force et l'autorité tutélaire qui lui garantit ses possessions, les fruits de son travail, et la liberté d'en jouir»"].¹⁴⁵

The existence of sovereign authority facilitates the peaceful development and utilisation of natural resources derived from land. "*Security of property*," says Quesnay, "*is society's essential foundation of economic order. Without certainty of property, the land would remain uncultivated*" ["«La sûreté de la propriété, says Quesnay, est le fondement essentiel de l'ordre économique de la société. Sans la certitude de la propriété, le territoire resterait inculte»"].¹⁴⁶ There would be no landowners or farmers if those who bear the expenses were not assured of retaining the land.¹⁴⁷ The government must, therefore, be organised so that society enjoys an abundance of everyday goods produced by both agriculture and industry, along with the greatest possible freedom – that is, a freedom that has no limits other than those imposed by the very nature

¹⁴³ For an illustration of the influence of physiocratic concepts on the subjective rights of the individual in Poland, see the aforementioned article by K. Sojka-Zielinska, "L'individu face à l'État..." p. 190.

¹⁴⁴ G.-F. Le Trosne, *Lettres à un ami sur les avantages...*, pp. 100–101: «C'est pour la protéger contre les attaques du dehors, que le souverain entretient les forces militaires; c'est pour réprimer au-dedans tout ce qui pourrait la blesser, qu'il fait administrer la justice dans toutes les parties de son Empire, et qu'il établit de toutes parts des tribunaux et des magistrats chargés en son nom de faire rendre à chacun ce qui lui appartient; c'est pour la défendre contre la variété des opinions, contre l'incertitude et l'arbitraire du jugement des hommes, que sont établies les lois civiles, qui fixent constamment les droits de chacun, et l'autorisent à les réclamer [...]. Tout se réfère donc à la propriété [...]».

¹⁴⁵ N. Baudeau, "De l'origine et de la nécessité..." p. 91.

¹⁴⁶ F. Quesnay, "Maximes générales du gouvernement économique d'un royaume agricole. Maxime IV" [in:] *Physiocratie...*, p. 108 [emphasis added].

¹⁴⁷ F. Quesnay, "Analyse de la formule arithmétique du *Tableau économique de la distribution des dépenses annuelles d'une nation agricole*" [in:] *Physiocratie...*, p. 73.

of things and without which society could not survive. In other words, the entire economic system depends on the state's sovereign power. Any failure on its part could destabilise the whole economic balance of the nation. In short, "all government is instituted [...] to maintain peace and unity among the members of the political body, to ensure that each individual enjoys full possession of what belongs to him, and the free exercise of his faculties. Its function is reduced to inviolably ensuring the ownership of property, freedom in the use of men and wealth, and freedom of trade. It consists more of protection than action" [«tout gouvernement est institué [...] pour maintenir la paix et l'union entre les membres réunis du corps politique, pour assurer à chacun la jouissance pleine et entière de ce qui lui appartient, et le libre exercice de ses facultés. Sa fonction se réduit à assurer inviolablement la propriété des biens, la liberté dans l'emploi des hommes et des richesses, et la liberté des échanges et consiste beaucoup plus en protection qu'en action»].¹⁴⁸ Security naturally aids in consolidating society. In order to act and impose authority on anyone who refuses to acknowledge the natural rights of every individual, the sovereign prince has the power to use positive laws, which "must be nothing more than necessary conclusions of the law constituting the social pact" [«ne doivent être que des conclusions nécessaires de la loi constitutive du pacte social»].¹⁴⁹ The prince's legislative arsenal must, therefore, be fully aligned with natural laws. Employing these laws will enable him to enforce natural laws, decide on disputed rights according to the law, and legitimately collect taxes, all in exchange for his duty of supervision and protection.¹⁵⁰

It follows from all this that the authority established by the confederates should in no way be seen as an oppressive power but, rather, as a safeguard, protection, and source of peace, work, and abundance. In fact, it merely acts as an intermediary, since it essentially expresses the primitive and natural laws: it is simply their armed wing. "Security of property is the whole social pact in three words: the summary of all natural laws, and the sole seed of true positive laws" [«Sûreté des propriétés, voilà tout le pacte social en trois mots: l'abrégé de toutes les lois naturelles, et le germe unique des vraies lois positives»].¹⁵¹ However, this *pactum subjectionis* not only concerns the protective authority, but also the people.

2. The Effects of the Pact on the People

The *pactum subjectionis* establishes the social organisation of the physiocratic state by creating a new social class. Moreover, the question arises about the people's right to resist if the sovereign breaches the social pact.

¹⁴⁸ G.-F. Le Trosne, *Recueil de plusieurs morceaux économiques...*, p. 58.

¹⁴⁹ N. Baudeau, "Réponse à la lettre d'un Américain...", p. 160.

¹⁵⁰ N. Baudeau, *Première introduction à la philosophie économique, ou analyse des États policés*, Paris 1771, p. 55.

¹⁵¹ N. Baudeau, "Vrais principes du droit naturel...", p. 144.

The Establishment of a New Social Class

The gradual transformation of society and its security enables a new social class that can only develop “in a *peaceful* society where *order* prevails, under the supervision and protection of a protective authority” [«dans une société *paisible* où règne l'*ordre*, sous l'inspection et la garde d'une autorité protectrice»].¹⁵² Known as the “sterile class” [«classe stérile»], it includes “supporters of all other arts” [«suppôts des autres arts quelconques»],¹⁵³ that is, men engaged in sterile arts. It consists of four social categories: manufacturers and craft workers, carters, traders, traffickers and merchants, and finally, staff and ordinary workers. Although recognised as producers of useful goods, such arts are considered unproductive or unprofitable. Through their activity, these men increase the market value, meaning the selling price, of the raw materials they process from the soil, but they only add value; they do not create wealth. This class is therefore sterile, since although it consumes wealth, it does not generate any new wealth in return. Only agriculture and related activities, such as fishing, mining, and forestry, generate wealth.

The structure of physiocratic society is now complete. From this point, the organicist view of traditional society, based on the tripartite division of clergy, nobility, and commoners, is replaced by a different division, this time founded on social classes.¹⁵⁴ The sterile class is thus added to the two existing classes. The most significant class, the property-owning class, is engaged in the “social art” and is responsible for authority, administration, education, and protection. Besides landowners who invest funds to prepare land for cultivation, the newly established sovereign and his representatives are known as the “available men” [«hommes disponibles»]. At first glance, finding the sovereign within a social class may seem unusual, as he should represent an authority separate from and superior to society. However, since property underpins society, the prince is considered part of society as the primary owner or co-owner. Finally, the last social category includes men engaged in productive labour, particularly the agricultural production of foodstuffs necessary for everyone's subsistence. This category mainly comprises two groups: on one hand, chief cultivators or farmers, and on the other, labourers or farmhands.¹⁵⁵

The Question of the Right to Resistance

As envisioned by the physiocrats, the pact of submission obliges the sovereign to wield his power solely for the common good and in the state's interest. Therefore, the sovereign, guided by the laws of evidence, does not have the right to violate the rights

¹⁵² *Ibid.*, p. 141.

¹⁵³ N. Baudeau, “Réponse à la lettre d'un Américain...,” p. 158.

¹⁵⁴ For a linguistic study of the word “class” among the physiocrats, see: M.-F. Piguet-Rivet, *Classe: histoire du mot et genèse du concept, des physiocrates aux historiens de la Restauration*, Lyon 1996, p. 37 ff. In France, social classes are a relatively recent development, as shown by the aforementioned article. For nearly eight centuries, the social structure of France was based on the system of estates: the clergy, the nobility, and the Third Estate the latter representing 97% of the population.

¹⁵⁵ N. Baudeau, *Première introduction...*, p. 110 ff.

of his citizens under penalty of breaching the contract and, more broadly, the natural laws that regulate the organisation of the state.

However, if the prince undertakes a legislative action that is against the common good, such as enacting a law that only mildly punishes theft or murder, should the people see this breach of the pact as a rupture of the agreement and consequently be released from their duty to obey the sovereign? Does such a scenario, whereby the protective authority becomes a tyrannical government,¹⁵⁶ give the people the right to resist? Considering the extreme case of Pufendorf's contract theory, we might be inclined to answer yes. However, studying the writings of the physiocrats leads us to the opposite view.

According to the Economists' principles, there is no freedom without government and no government without obedience. In other words, even if imperfect, every law is a temporary measure that citizens must accept. By obeying laws the flaws of which are known to men themselves, they uphold the unchangeable order of the Creator and submit to the realm of evidence [l'empire de l'évidence]. Positive regulations are evidently essential, and obedience to the laws of the State, regardless of what they are, is an undeniable and absolute duty: "Social duty, respect for order, the right of the sovereign," says Mirabeau, "make this precise and painful obedience a law for me" [«Le devoir social, le respect de l'ordre, le droit du souverain, dit Mirabeau, me font une loi de cette obéissance exacte et pénible»].¹⁵⁷ If the prince is the outcome of the social contract, it should not be forgotten that his power to legislate and command is granted directly by God. Therefore, despite the contractual element and given that the power rooted in divine and natural laws is the foundation of state sovereignty, it appears a complex matter for the people to disobey measures which, although tyrannical, principally originate from a theocratic authority.¹⁵⁸

Contrary to Lockean and Rousseauist views, such an attitude of submission aligns fully with the absolutist tradition, which reminds us that "the king can do no wrong" [«le roi ne peut mal faire»]. Suppose he undertakes a legislative action that conflicts with the state's interests or is simply inappropriate. In that case, it is mainly because he is poorly advised or forced into the decision unexpectedly. The king can, therefore, only err against his will. Furthermore, for a revolt to be justified, it requires perfect knowledge of the laws that have been violated – in this case, the laws of the natural order. However, even though physiocrats argue that the people as a whole should be educated about the principles governing the natural and essential order of political

¹⁵⁶ F. Quesnay, "Le droit naturel..." p. 30: «Là où les lois et la puissance tutélaire n'assurent point la propriété et la liberté, il n'y a ni gouvernement, ni sociétés profitables, il n'y a que domination et anarchie sous les apparences d'un gouvernement; les lois positives et la domination y protègent et assurent les usurpations des forts, et anéantissent la propriété et la liberté des faibles» ["Where the laws and the tutelary power do not secure property and liberty, there is neither government nor beneficial society; there is only domination and anarchy under the semblance of government. There, positive laws and domination protect and entrench the usurpations of the strong, while extinguishing the property and liberty of the weak"].

¹⁵⁷ V.R. Marquis de Mirabeau, *La science ou les droits...*, p. 159.

¹⁵⁸ G.-F. Le Trosne, *De l'ordre social...*, p. 24.

societies, they nevertheless harbour serious doubts about their capacity to understand all the subtleties.¹⁵⁹ The people must be obedient and avoid resistance, as Le Trosne explains:

It is always despite itself that it [the authority] errs; this is because it does not always perceive the order to which its legal will must constantly conform. *The subjects must therefore pity it and submit to it, for preserving societies requires this obedience*, but what rights would the subjects have to reproach the authority for deviating from the *order*? They have not known it any better until now.¹⁶⁰

Nonetheless, the statements made by Le Mercier de La Rivière in 1767 and Du Pont de Nemours the following year could invalidate the previous arguments. “Men,” writes Le Mercier de La Rivière, “convinced that their positive laws are bad, may well be forced to observe them for a time. Still, *such an unnatural submission cannot be lasting*. It would be impossible not to be subject to daily deviations by those who believe the laws are unjust towards them” [«Des hommes, dit Le Mercier de La Rivière, qui seraient persuadés que leurs lois positives sont de mauvaises lois, pourraient bien être contraints pendant un temps à les observer; mais *une telle soumission, qui est contre nature, ne pourrait être durable*, et il serait impossible qu’elle ne fût pas sujette à des écarts journaliers de la part de ceux qui croiraient les lois injustes à leur égard»].¹⁶¹ Du Pont de Nemours asserts that “if the orders of sovereigns were contrary to the laws of social order, if they forbade respect for property, if they commanded the burning of crops, if they prescribed the sacrifice of small children, *these would be senseless acts that would be binding on no one*” [«si les ordonnances des souverains étaient contradictoires aux lois de l’ordre social, si elles défendaient de respecter la propriété, si elles commandaient de brûler les moissons, si elles prescrivaient le sacrifice des petits enfants; *ce seraient des actes insensés qui ne seraient obligatoires pour personne*»].¹⁶² However, six years later, the same Du Pont makes a radically different statement that tends to relativise his previous remarks and those of Le Mercier de La Rivière: “The *right of resistance to society*, which would be that of civil war, must not and *cannot be granted by society to anyone under any pretext whatsoever*” [«Le *droit de résistance à la société*, qui serait celui de la guerre civile, ne doit ni *ne peut être accordé* par la société à qui que ce soit et sous quelque prétexte que ce soit»].¹⁶³

¹⁵⁹ On the idea of a people characterised by obedience and ignorance in physiocratic discourse, see: M.-F. Piguet, “Le peuple est-il divisible en classes chez les physiocrates?,” *Revue française d’histoire du livre* 1990, no. 66–67, p. 181 ff.

¹⁶⁰ G.-F. Le Trosne, *Les effets de l’impôt indirect, prouvés par les deux exemples de la gabelle et du tabac*, [n.p.] 1770, pp. 335–336: «C’est toujours malgré elle qu’elle [l’autorité] se trompe; c’est qu’elle n’aperçoit pas toujours cet ordre auquel sa volonté légale ne doit cesser de se conformer. *Les sujets alors doivent la plaindre et se soumettre, la conservation des sociétés exige cette obéissance*: mais de quels droits les sujets reprocheraient-ils à l’autorité de s’être écartée de l’ordre? Ils ne l’ont pas connu davantage jusqu’ici» [emphasis added].

¹⁶¹ P.-P. Le Mercier de La Rivière, *L’ordre naturel...*, II.12, p. 92 [emphasis added].

¹⁶² P.-S. Du Pont de Nemours, *De l’origine et des progrès...*, p. 30 [emphasis added].

¹⁶³ P.-S. Du Pont de Nemours, “Extrait et critique du livre intitulé *De la constitution d’Angleterre*. Examen des avantages et des défauts de cette constitution. Idée d’une constitution qui pourrait

In reality, it is important not to misunderstand the meaning of our authors' writings. In 1767–1768, following the example of Saint Paul and Saint Augustine, they acknowledge the right to flee tyranny exercised by an arbitrary government or to refuse to obey it actively; however, they do not advocate fighting it through sedition. If resistance becomes necessary, it should be passive and not manifest itself as violent revolt against the ruling authority. Furthermore, from the legalistic perspective of the hierarchy of norms supported by the physiocrats, condemning the right to active resistance against authority is perfectly logical, since magistrates educated in the laws of the natural order will be specifically responsible for uncovering unjust laws by ensuring that the king's normative acts fully comply with fundamental natural laws.¹⁶⁴

The physiocrats' State undoubtedly has a contractual basis. However, the various stages that led to its emergence are the product of the laws of the natural order or, more simply, of God. Nevertheless, this state cannot take just any form. According to the physiocrats, only one type of political regime fully conforms to the principles of the higher order: legal despotism, a kind of regenerated monarchy headed by a prince guided by the principles of evidence.

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¹⁶⁴ See: A. Mergey, "Conseiller le prince dans l'idéal physiocratique: le rôle de la magistrature" [in:] *Éducation des citoyens et éducation des gouvernants*, Aix-en-Provence 2020, pp. 171–181.

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Summary

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The *Économistes* and the Genesis of the State: A Physiocratic Reinterpretation of the Social Contract

The physiocrats were not merely economists. Deeply concerned with political, legal, and administrative questions, they, like their predecessors, reflected on the origin of society and the state. In doing so, they developed a theory of the social contract based on clearly defined premises, which led them to conceive of two distinct types of pacts: on the one hand, individuals enter into a *pactum associationis* to fully protect their newly acquired natural rights following the emergence of land ownership; on the other hand, they conclude a pact of submission that establishes a sovereign prince, without whom society cannot endure.

Keywords: physiocrats, social contract, *pactum associationis*, *pactum subjectionis*, property.

Streszczenie

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„*Économistes*” i geneza państwa – fizjokratyczna reinterpretacja umowy społecznej

Fizjokraci nie byli jedynie ekonomistami. Głęboko zainteresowani kwestiami politycznymi, prawnymi i administracyjnymi, podobnie jak ich poprzednicy, zastanawiali się nad pochodzeniem społeczeństwa i państwa. W ten sposób opracowali teorię umowy społecznej opartą na jasno określonych przesłankach, która doprowadziła ich do sformułowania dwóch odrębnych rodzajów paktów. Z jednej strony jednostki zawierają *pactum associationis*, aby w pełni chronić swoje nowo nabyte prawa naturalne po wprowadzeniu własności ziemi. Z drugiej strony zawierają *pactum subjectionis*, co prowadzi do ustanowienia suwerennego księcia, bez którego społeczeństwo nie mogłoby przetrwać.

Słowa kluczowe: fizjokraci, umowa społeczna, *pactum associationis*, *pactum subjectionis*, własność.