

GOVERNMENT.

CHAPTER I.

THE STATE DISTINGUISHED FROM SOCIETY.—ITS ORGANIZATION NOT THE RESULT OF “SOCIAL CONTRACT,” BUT OF COMPULSION WARRANTED ONLY BY NECESSITY.—ITS FUNCTIONS CLASSIFIED.

Responsibility of the citizen for popular government depends not more upon the casting of a ballot than upon his influence in forming public opinion. Whether that influence shall be for just or unjust government will depend not more upon his integrity of purpose than upon his conception of the nature and functions of the State.

It is the purpose of the following pages to discover, if possible, the true and sufficient *raison d'être* of government, by what just warrant or authority, if any, it is established and maintained,

what its legitimate functions are, and how and to what extent a knowledge of those functions may aid in advancing political reform and in solving industrial, social and so-called government problems.

What is civil government? Under whatever form it may appear it always makes itself manifest through the exercise of human power organized for and directed to the control of conduct. Power is its essential element, but good government consists in the just and efficient maintenance and use of civil power.

Born into government and ever surrounded by its all-pervading influence, man is prone to regard its power as no less natural than the forces of inanimate nature, and to make use of it as he does of them for any and all purposes to whose accomplishment it may seem adapted; or he confounds the State with society, not realizing that while the latter is a natural organism subject to the universal law of evolution, the former is an artificial mechanism constructed by man for the accomplishment of definite ends. Government, the State, is often spoken of as "society in its corporate capacity," but it is in no proper sense identical with society, nor is its action ever the action of society. The State indeed comprises the same individuals as those composing society; it is a body corporate, organized

by certain members of society who compel the rest to co-operate with them for the maintenance of the organization; all are compelled to become shareholders and to submit to assessments; those, as it were, controlling a majority of the stock, choose directors who control the affairs of the concern. But the action of the governing board is never the unanimous, voluntary action of all the members of society, nor of the State, who have never un-animously agreed to be governed in the least by the will of a majority, and many of whom submit only because compelled. This compulsory organization to whose maintenance each and all are forced to contribute, must, if entitled to support, have for its legitimate end some purpose justly warranting its compulsory establishment rather than any and every purpose to which the power it acquires may be directed.

What is this legitimate purpose of government, its primary object, that end which is so necessary that all persons may be justly compelled to unite and co-operate for its accomplishment? As affecting any one man the strongest possible government would be that of all other men combining to use their power for his control, while the weakest government would be that of some other one man who should alone control him. Two persons

at least are necessary to government, one to govern and one to be governed.

Beginning, then, with the simplest possible government, that which one man having the power might exercise over another, when would the use of that power by the one to control the conduct of the other be justly warranted? The mere fact that one had the power to control the other could not give him the right, otherwise a slight change in the physical condition of either or in the circumstances surrounding them might give to him that had been the weaker the power, and so with it the right to control the other. Might cannot make right. No argument is needed to convince the just mind that of two men alone upon the earth one would have no right to attempt to control or interfere with the conduct of the other, except in self-defense; that is, in protecting himself in the enjoyment of some natural right. The mere fact that one deemed the conduct of the other morally wrong could give the former no right to forcibly prevent or interfere with it, since the latter might no less honestly and perhaps with equal reason believe his conduct to be right, and in case of difference the stronger would prevail, leaving the wrong triumphant as often as the right; and, moreover, the latter might in any case well say to the former, "If God and nature

give me the liberty to conduct myself as I please, what right have you to prevent me so long as I do not interfere with you?" Self-defense has been called the first law of nature, and indeed it is the only natural law authorizing one man or many men to forcibly restrain another.

If, then, of two men one would have no right to coerce the other except in self-defense, when would any two of three men have a right to coerce or control the third? If when there were only the first and second, the latter had no right to coerce the former, what greater right would he have simply on account of the presence of the third? So long as the first interfered with no right of either the second or the third they would neither of them have any right to coerce him, and if neither had such right they could not both together have it, for twice no right would be no right still. Let the number of men be increased to tens, hundreds or thousands, and still so long as the first interfered with no right of any one of them no one of them would have any right to coerce him or control his conduct, and so long as no one of them had such right they could not all together have it. A million times zero is zero still. The right, then, of any man or of any number of men to interfere with or control the conduct of other men depends upon and

consists in the right of self-defense alone and may be exercised by one over many as justly as by them over him.

But although each man has a right to defend himself against wrong from others, no man has the right to compel another to aid in such defense, for the latter may in the exercise of his own right of self-defense consult his own interest and safety and decline to render such aid. The idea is not uncommon, because the State compels all to co-operate for the protection of each and all, that there is some natural obligation binding the community to protect the rights of individuals, that society is naturally responsible for the welfare and safety of its members. There is no such natural obligation or responsibility. Any number of men may if they choose voluntarily unite for the purpose of protecting themselves from wrong, but they have no right to compel others to aid in the accomplishment of such purpose, nor would such association constitute civil government which consists in the compulsory organization of the entire community into what is termed the State. The desire of never so great a majority to protect themselves and those naturally dependent upon them from wrong by individuals would never of itself warrant such compulsory organization, since the individuals of a

peaceable and well-intentioned minority might prefer to make each his own unaided, independent defense rather than incur the responsibility and danger of aiding in the defense of others.

There must then be some other object than the protection of individuals from the fraud or intentional violence of others to justly warrant that interference with personal liberty and restraint of the free exercise of the right of self-defense necessary to the institution and maintenance of civil government and the State. Attempt has been made to justify such interference and restraint by the fiction of a "social contract," whereby it is assumed that society has surrendered certain natural rights in exchange for the advantages of government, a conceit too fanciful for serious consideration. If such a contract were conceivable, it would have to be constantly renewed, for it could have no binding force upon men born after it was made and not voluntary parties to it.

In order to discover what necessity there is for this compulsory organization, what constitutes the primary object of civil government justly warranting the maintenance of the State and the exercise of its power, conceive of a community having no such organization, no form of government, the members of which depend each upon himself and

the voluntary assistance of others for whatever protection may be necessary to the enjoyment of natural rights. In such a community whenever a difference should arise between individuals its settlement would be left to the parties personally interested. If any induced by sympathy, hire or other motive, should lend their aid to either side in the controversy, their action would be voluntary and not under the compulsion or direction of the State; nor, as already seen, would the mere fact that one or more were suffering wrong at the hands of others warrant even the largest majority in compelling the smallest minority to aid in preventing such wrong.

It would, however, sooner or later become apparent that the unrestrained exercise of the right of self-defense by individuals was incompatible with the enjoyment of life and happiness, of natural rights, by any of the community. Even those so peaceably disposed and well-intentioned as never to have a personal difference, so averse to strife as to suffer wrong rather than create disturbance, would soon find their peace destroyed and their property and lives endangered by the contention of strangers. Disputes between individuals would so multiply, continue and extend, involving families, friends, neighbors and neighborhoods in the result-

ing strife, that tumult and riot would overwhelm even those that had no personal enemies, and whom no one desired or intended to harm, molest or disturb. No man could leave his home or place of business with any assurance that his family or property would escape the accidental violence and injury resulting from feuds in which he had no personal interest. Nor could individuals, however able to defend themselves from the fraud or violence of other individuals, successfully contend against the blind and furious violence of contending factions. The individual right of self-defense would be inadequate to the protection of property and life against its own unrestrained, unregulated exercise.

Then would a majority in power if not in number organize, not for the purpose of protecting individuals from the intentional fraud or violence of other individuals, but to prevent that disturbance and destruction of the public peace and order inevitably arising from the free and unlimited exercise of the right of self-defense by individuals. The right to organize for such purpose would depend, not upon the number of those undertaking to do so, but upon the necessity for such action. The largest majority might oppose any form of, or any attempt at government, preferring to live in anarchy, and yet the smallest minority would be justified in

maintaining the public peace and order, if they were able to do so, for they would be acting merely in self-defense. A majority would be essential only in order to insure the necessary power.

The preservation of the peace being the object of the organization, it would forbid whatever tended to disturb the peace, including all such exercise of the right of self-defense as had that tendency. The warrant for such interference with the right of self-defense is founded on the very right itself. Although the individual has the right to protect himself, his family and property, he has no right in so doing to injure or disturb his innocent neighbors; they, by virtue of their right of self-defense, may justly prevent his so injuring or disturbing them, and to that end may command and compel him and all persons to keep the peace and to forgo the exercise of the right of self-defense, if necessary, to the preservation of the peace.

In order, however, that the command to keep the peace may be the more promptly and certainly obeyed, and that no injustice may be done to any by its enforcement, it becomes necessary that such as in obedience to it refrain from exercising the right, shall be provided with as sure and ample protection as they might provide for themselves by its exercise; and since it is impossible to know how

complete a defense anyone might make for himself but for the interference of government, it devolves upon those commanding the peace to provide the fullest possible defense and protection in every case in which the individual is forbidden to provide it for himself. Hence arises the obligation of the government to secure to individuals the enjoyment of natural rights, of life, liberty and the pursuit of happiness, not from any natural obligation of society to the individual, nor from any natural right of the individual to demand such security from society, but because the organization known as the State, in order to preserve the peace, deprives the individual of the free exercise of his natural right to protect himself, and thereby obligates itself to protect him.

In order, moreover, that it may succeed in its attempt to preserve the peace and secure natural rights the State must undertake and carry on all such enterprises, if any, as are necessary to that end, but by reason of their nature or extent exceed the compass of unaided individual ability or private effort.

And further, to insure the accomplishment of its primary object, the preservation of the peace, and the efficient discharge of obligations incident thereto, namely, to secure natural rights and carry on

such necessary enterprises as can not be conducted without its aid, it becomes necessary for the State to compel all persons to contribute to its support, which, as already seen, it could not justly do, if its primary and only object were the protection of individual rights. It undertakes such protection and the carrying on of public enterprises simply because necessary to effect its primary object of maintaining the public peace and order. It cannot, however, be sure, as it must and ought to be, of accomplishing all these ends at all times and under all circumstances, unless it has supreme power. It must of necessity be at all times stronger than any and all powers with which it may have to contend. To insure this supremacy it must compel the recognition, support and co-operation of all persons within its jurisdiction. It cannot be too strong, for it is impossible to foretell what demands may be made upon its power. If any were permitted to stand aloof and independent, the government would be that much the weaker, so much the less able to compel prompt obedience to its commands.

Thus does each individual member of society become a member of the body corporate known as the State, not as the result of any natural law nor by reason of the voluntary agreement of all, but under compulsion of those promoting the organi-

zation, in which, however, each member has equal rights and for the administration of whose affairs each is to the extent of his influence equally responsible.

From the foregoing hasty outline may be gathered the basic facts and fundamental principles from which a science of government may eventually be developed. There is no such science as yet, for while the other useful arts have for the most part advanced to the scientific stage, that of government still lingers in the experimental. The reason is that in the other arts discovery and invention have been encouraged and stimulated by the prospect of profit and honor, while obloquy and death have been the reward of such as presumed to suggest a change in government, however desirable, or even to criticise the existing order. But although there be no science of government there is no good reason why the scientific method now so universally followed in other investigations should not, if possible, be applied to the study of government, nor why regard should not be had to axioms as well as maxims, to principle as well as precedent, in attempting to solve its so-called problems, many of which will prove simple indeed when the nature, reason and legitimate purposes of the State and

the obligations and limitations of civil power are clearly and correctly understood.

The evils, if any there be, for which government is responsible arise in every instance from its sins of omission or of commission, from its neglecting to do something that it ought to do, or from its doing something that it ought not to do. When once it is clearly understood what government ought to do, just what its legitimate functions are, it will be easy to decide what it ought not to do, for its action should be limited strictly to the discharge of its legitimate functions, any other use being an abuse of its power.

From what has been shown it will be seen that civil power may be legitimately used for any one or more of the following purposes only:

FIRST.—For the preservation of the government itself and the maintenance of its supremacy and sovereign power, which may be termed the self-preserving function of government.

SECOND.—For the preservation of the peace and public order, which may be termed its peace-preserving function.

THIRD.—For securing to each and every person within its jurisdiction the equal enjoyment of natural, inalienable rights, which may be termed its right-preserving function.

FOURTH.—For the accomplishment of such undertakings and the performing of such services, if any there be, as are necessary to the preservation of the peace or the security of natural rights but, by reason of their nature or extent, can not be carried on by private individual or partnership enterprise without the aid of government, which may be termed its public-serving function.

The exercise of civil power should be limited strictly to performing these four functions, and government may abuse its power by failing to fully and efficiently discharge some one or more of them, or by using it for some other purpose or by lending it for any purpose.