

CHAPTER III.

THE FUNCTIONS OF GOVERNMENT A GUIDE TO LEGISLATIVE REFORM; CONSIDERATIONS OF SYMPATHY, MORALITY AND RELIGION. — THE COMPOSITE RIGHT TO LABOR.

If the foregoing theory of government be correct, the question naturally arises as to whether it can be reduced to practice, and, if so, how?

If an opportunity were afforded for establishing government in a community that had previously lived in a state of nature without any of the restraints of municipal law, it might not be difficult to adopt a code of laws founded on correct principles. There is no such community, however. As men were from necessity forced to build houses long before there was a science of architecture, so have they from the first been compelled to establish and maintain governments often with little knowledge of the principles upon which they should be con-

ducted. But while unsatisfactory houses may be abandoned for new ones, governments have to be remodeled; they must be preserved and made to perform their primary function of keeping the peace while the work of remodeling goes on.

Existing laws and legalized customs must be examined with a view to discovering first, what legitimate function of government, if any, they are respectively intended to serve, and secondly, whether they are calculated to accomplish the purpose for which they were intended. Any law or custom not necessary to the discharge of some such function should be repealed or abolished, while necessary laws should be so framed and enforced as to effect their legitimate purpose only, the merely incidental effect of carelessly framed or cunningly devised laws being often productive of greater evil than any for whose removal they may be sincerely or ostensibly enacted. And if there be any natural right the equal enjoyment of which, by all persons is not practically secured by the government, no matter whether by reason of its failure to recognize the existence of such right or of its practical recognition of the validity of so-called vested rights that are but fictitious claims incompatible with such enjoyment, inquiry should be made whether it is to be secured by the repeal of

existing laws, the enactment of other laws, or by both such repeal and enactment.

The limits of this essay preclude any comprehensive systematic examination of existing laws which will be noticed only so far as may be necessary in illustrating the application of correct principles to the work of political reform, and in suggesting a rational, if not scientific method of solving certain so-called problems of government.

The first question to be asked regarding any reform proposed to be effected through legislation, is whether its object be one for whose accomplishment civil power may be legitimately used; whether the government be responsible for the existence or non-existence of whatever is sought to be abolished or produced by its action. Considerations of sympathy, morality or religion are never alone and of themselves a sufficient warrant for the action of government, although they may serve to call attention to the abuse of its power. For instance, if in examining existing or proposed Sunday laws it should be found that their sole object was to compel observance of and respect for Sunday as a religious duty, they would be wholly unwarranted, for no matter how sacred the day may be regarded by some men, no matter how holy it may indeed be, no man has a natural right nor any

right to compel another to observe it, nor have all other men any right to enforce its observance as a religious duty by any man. If, however, it be necessary to the health and happiness of man that he have an opportunity to rest from his accustomed labor one day in seven, such opportunity is a natural right, and if the aid of government be necessary to secure its enjoyment, then it becomes the duty of the State to do so in the discharge of its third, or right-preserving function. It is clear, moreover, that laws looking merely to the accomplishment of that end would not prohibit any conduct except such as prevented man from spending the day in rest and recreation. The State has no right to dictate in what manner a man shall rest, nor has it any right to forbid his working on Sunday if he wishes to do so; it has discharged its duty when it secures to him absolute freedom to work, to play or to rest, as he may prefer, provided he thereby interferes with the freedom of no other man.

The same course of reasoning applies to all laws having for their object the enforcement of purely religious or moral duties. Because blasphemy, lying, drunkenness, fornication or theft are violations of religious obligation or are morally wrong, is no sufficient reason why the State

should prohibit them. Unless their prevention be necessary to the securing of some natural right or to the preservation of the public peace and order, it is a misuse of civil power to use it for such purpose. Nor is it to be believed that the cause of morality or worthy religion would suffer from the restricting of the exercise of civil power to legitimate ends. Although almighty wisdom and power might have compelled all men to be moral and religious, every man has been given the liberty to go to perdition if he chooses to do so, and no other man has any right natural or acquired to prevent him, much less to compel other men to pay taxes in aid of such prevention. Time has been when zealous rulers have compelled whole communities to profess some particular faith or to participate in some religious ceremony, thousands of pagans, for instance, becoming nominal Christians in one day at the command of a victorious emperor. Such conduct was tyrannical, as is every attempt of the State to interfere with religious convictions or with the want of them.

The government most favorable to morality and to religion pure and undefiled is that which secures to every man the enjoyment of the fullest liberty compatible with the public peace and order, where every man is free to exert whatever in-

fluence he can, by precept and by example, individually and by voluntary association in religious or other organizations, for the enlightenment and improvement of himself and of his fellow men. There can be little doubt that the attempts of government to promote morality and religion by arbitrary enactments have greatly retarded progress in that direction. Freedom of thought, freedom of speech and freedom of action in regard to all subjects and questions are rights the enjoyment of which a just government is bound to secure to every citizen, to Jew and to Gentile, to Christian and to Pagan, to Catholic and Protestant, to believer and infidel. The infidel has no more right to coerce the believer in matters of faith than in others, and no more right has the believer to coerce the infidel; nor can government have any right to do what no one of the individuals composing it would have the right to do.

Nor is the State any more by right a charitable or alms-giving institution than it is a religious one. Sympathy is a noble impulse which man should have the liberty to obey, but no man can be rightfully compelled to obey another's impulse, however worthy.

Any number of men may make voluntary united effort for the relief of suffering of any kind,

but they cannot rightfully compel others not responsible for such suffering to contribute to its relief. Laws for the relief of the destitute poor must if warranted have some other foundation than sympathy, some other warrant than any real or supposed moral obligation binding the individual to relieve poverty for whose existence he is in no way responsible; that warrant, if any, must consist in the fact that such laws are necessary to the discharge of some one or more of the four functions of government. Nor can it be doubted that such warrant exists. In the discharge of its second, or peace-preserving, function the State must provide against peace-disturbing, law-defying hunger. Too many starving men would even endanger the government itself, rendering it powerless to discharge its first, or self-preserving function.

There is a growing impression, moreover, that existing governments are bound to provide for the destitute not more by reason of the primary and direct obligation to discharge legitimate functions than because of an indirect and secondary obligation arising from the neglect to efficiently discharge those functions; in short, that government is responsible for much of the poverty that exists, and should therefore relieve it. If such impression be well founded, it is clear that the efforts of the State

should be directed to the discovery and removal of what may be termed governmental causes of poverty rather than to compensatory legislation falsely called charitable. It is possible that, if government efficiently performed all its legitimate functions, secured to all its citizens the full enjoyment of all their natural rights, there would be no more poverty than would meet with prompt and ungrudging relief at the hands of those whose hearts are naturally moved to sympathy with suffering. Then, indeed, might it be more blessed to give than to receive. Under existing conditions, however, encouraged and maintained by the State, poverty is so great as to paralyze charity and stifle the generous impulses from which it naturally springs. Inevitable poverty is no disgrace to the poor, but that, if any there be, caused by stupid, unjust laws is a disgrace and just menace to the government producing it.

If attention be directed to legislation in the interest of labor, the question at once arises as to what legitimate function of government there is warranting action in that behalf. Idle men are, of course, a dangerous element in a community; they are not unlikely to disturb the peace, and a sufficient number of them might even seriously endanger the stability of the government itself; and

the State, in the discharge of its peace-preserving, as well as of its self-preserving function, may, doubtless, when necessary, provide employment for those unable to find it.

There is, however, a somewhat prevalent impression that the government is under some natural obligation to provide profitable employment for all its citizens, or that every one has a right to demand employment of the State. In view of this and of the persistent and constantly increasing demand for legislation in behalf of labor, it is important to decide what, if any, the so-called rights of labor are.

Why should the State provide labor any more than property, the product of labor? Why provide labor more than rest from labor? Why regulate the hours of labor more than those of sleep? No man has a natural right to demand employment from another, nor has any man, or any majority of men, a right to compel one man to employ another. If the State be under any obligation to individuals by which it is bound to furnish them employment, that obligation, must, like that of providing for the poor, be secondary in its nature, and arise from the neglect to efficiently discharge some one or more of its legitimate functions, and solution of the labor problem in so far as the State is

concerned, demands careful inquiry as to whether there be any such neglect.

Labor being necessary and natural to the support of life the right to life carries with it of necessity the right to labor, and any classification of natural rights may at first seem incomplete if it fails to specify the right to labor. Analysis will show, however, that what is called the right to labor is composite, being made up of and from the rights of liberty, property and contract, and that wherever these rights are efficiently and fully secured there will the enjoyment of natural opportunities for labor be unimpaired. If government be at fault in respect to labor, it must be by reason of the failure to preserve certain natural relations or conditions which would be and are natural rights independently of any relation they may sustain to labor, for the reason that every man may justly defend himself in their enjoyment whether for purposes of labor or otherwise, but which because of their relation to labor and for convenience of investigation may be called labor rights. Whether government discharges its duty to labor depends upon whether it secures to all persons the equal enjoyment of these so-called labor rights.

What are these rights, those natural conditions upon the existence of which full and complete enjoyment of labor and its legitimate result depends?

In the first place, labor must of necessity be applied to land, the only source from which life sustaining products of labor can be drawn, and the laborer must ever have a place in and upon which to be and to labor, so that occupancy and use of land is a labor right, one, however, to the enjoyment of which man is entitled, as already seen, by virtue of his right to liberty. Secondly, in order that his labor may not be in vain he must control and enjoy its product, so that the right of property is itself a labor right. Thirdly, any man may find it convenient, advantageous and even necessary to the complete enjoyment of his labor to exchange a part or all of its product for that of some other man's labor; or they may both desire to exchange labor for labor, or one may be willing to give and another to take an agreed price for specified labor, so that the right of contract is also labor a right the full enjoyment of which depends upon the liberty to buy, sell or exchange wherever and whenever the contracting parties may choose, whatever they may have a right to buy, sell or exchange, be it labor or property, the product of labor.

These, then, are the natural, reasonable and necessary conditions the enjoyment of which government, in the performance of its right-preserving

function, must secure to every citizen, in order to discharge its duty in respect to labor:

FIRST.—Freedom of access to land, for although a man may sell his labor to another, he cannot part with the natural right to labor for himself directly upon the earth, since it may become necessary to so labor in order to preserve life, no one desiring to purchase his labor or being willing or able to pay for it enough to support life.

SECOND.—The control and enjoyment of the product of his labor, or security of property.

THIRD.—The freedom to exchange his labor for the property or labor that others may be willing to give in exchange for it, or the liberty of contract, including the natural market for the buying and selling of labor and property, free from any restrictions as to persons or places and from any interference with or limitation of price or commodity except that arising from natural competition; that is, the exercise of the same right and the enjoyment of the same opportunities by other men, no one of them having any privilege or any monopoly, except such as may exist by reason of differences in the natural ability of individuals.

If the government secures these rights, that is, the enjoyment of natural opportunities for the occupancy and use of land, of the right to prop-

erty, and of freedom of contract, all of which it is bound to do in the discharge of its right-preserving function, then there can be no legitimate ground for legislation in relation to labor further than may be necessary to the preservation of the peace and public order. If, on the other hand, natural opportunities for the occupancy and use of land are not preserved and held equally open to the enjoyment of all persons, or if security of property or the complete freedom of contract be not fully maintained, then as a result the composite right to labor is not secure, and it devolves upon the State in the discharge of its right-preserving function to adopt measures adequate to the preservation of all the conditions necessary to its complete enjoyment.