

## CHAPTER IV

### ABUSES OF CIVIL POWER

“So I returned and considered all the oppressions that are done under the sun; and beheld the tears of such as were oppressed, . . . and on the side of their oppressors there was power.”

BOOK OF ECCLESIASTES.

It having been seen what the State ought to do, and what is quite as important, that it ought not to do anything else, it should not be difficult at any time to determine whether it is in any way abusing its power. There are three ways in which the State can abuse its power; first, by neglecting to use it for a proper purpose; second, by using it in an improper manner although for a proper purpose; and third, by using it or permitting it to be used for an improper purpose. Abuses of the first kind are exceedingly rare, the tendency being to over-use of power. How often is it said that there ought to be a law, for this or for that, when the trouble really is that there already is too much law for this and for that. Abuses of the second class consist

in the use of irrational methods in the attempted discharge of legitimate functions. An abuse of the third class occurs whenever civil power is used for any purpose other than that of performing one or more of such functions.

Of the first kind of abuse no example will be given, for reason already suggested, that there is hardly any matter or interest susceptible to governmental interference that has not been made the subject of some sort of prohibitive, regulative or stimulative legislation.

Abuses of the second class are to be seen in attempts made to perform governmental functions by methods involving infringement of natural rights. For instance, the State abuses its power whenever, although for the purpose of maintaining public order, it suppresses free expression of individual opinion, however unpopular or incorrect it may be, lest it cause disturbance of the peace by opponents of such opinion. No man can be prevented from thinking his own thoughts, and whether they be right or wrong is not to be determined by majority rule. Whatever a man may think or say, he is not justly subject to interference by any other man or by the State, so long as he infringes no natural right of any man. Those

who deny the existence of natural rights may indeed seem to disclaim any right to express or even to have an opinion, but there can of course be no valid disclaimer of that which is inherent and inalienable. It is not any expression of opinion but forcible opposition to its expression that should be prohibited by the State, in the exercise not only of its Peace-preserving but also of its Right-preserving function. Freedom of speech and of the press is essential to enjoyment of the right to liberty, without which there can be no equitable public order.

A most irrational and unjust method of attempting to perform a legitimate function, that of securing the right to life, is to be seen in what is called capital punishment. It has been seen that the only legitimate purpose of any penalty imposed by the State is to provide greater security against the offence for which it is imposed. Security against repetition of the offence by any particular offender can be provided by his incarceration, nor has it ever been demonstrated that other possible offenders are to be deterred more by fear of the death penalty than by the more imminent and readily conceivable probability of imprisonment.

It is not easy for man to conceive of his own, personal mortality, or fully to realise that he is indeed himself ever to die even the death that he knows must sooner or later come to all; much less can any apprehension of a contingency rarely happening even to those incurring liability to it be so lively as to exert a controlling influence over his conduct in time of temptation. It is, moreover, at least an open question whether any deterrent influence the penalty may have in general is not more than counterbalanced by its inevitable tendency to weaken popular sense of and regard for the sanctity of human life.

But even if its effects were known to be preponderatingly deterrent, infliction of the death penalty would nevertheless be unjust not only for the reason that the punishment rarely falls so heavily on the offender as upon his unfortunate but innocent relatives and friends whom the State has no right to punish, but also for the further reason that the State has no right in cold blood to take the life of any human being whatever his offence, since it can not justly do that which no one of its members has any right to do. No man can justly take the life of another except in defence against actual or impending aggression; and

if no man has a right to take the life of another simply because the latter has taken human life, no more has any number of men, any mob or the State. The advocate of capital punishment necessarily assumes that he has a right not only himself to take life otherwise than in self-defence, but also to compel others to aid him in so doing. The death penalty is in fact demanded not so much to secure human life as to appease human resentment.

A too common and still growing abuse is that of permitting persons charged with crime, but entitled to the presumption of innocence, to be treated by agents of the State not merely as if presumed to be guilty, but even as if already convicted, and judicially sentenced to indignities put upon them. To say nothing of the injustice of such practice, its demoralising influence and tendency to weaken public confidence in the rectitude of government should be enough to condemn it.

There is perhaps no greater misuse of civil power than that involved in the prevailing system of land tenure, which, by causing land to be held as by right of property, not only denies the natural right of man to the earth but at the same time tends to vitiate the right of property. The latter right, consisting as it does in the relation

which a man naturally sustains to the product of his labour, is nugatory and barren without natural opportunity for labour. Denied freedom to enjoy his right to land, a man is deprived of the enjoyment not only of that right but also of his right to property, because compelled to depend upon unnatural conditions, upon the will and consent of other men, for whatever limited opportunity to produce it they may see fit to allow him. The right of property, which the State has seemed more solicitous to magnify, exalt and extend than correctly to define, natural and sacred as it is, can not be more so than is the right to land, which the State ignores and virtually denies by confounding it with the right of property, forgetting that the wild fruit a man eats by right of property is gathered only by virtue of his right to land.

The property right or relation is one of exclusive ownership and control and carries with it the right even to destroy the particular property owned. It arises from the effort of man and obtains only between him and the result of his effort, the concrete exchangeable product of his labour, that is, his property, or wealth. Other things may be in a sense his own, but not in the property sense. A footprint may be his but not in the same sense

as the shoe that made it. The position or place that he temporarily and perhaps wrongfully occupies in a crowd is his as distinguished from the position of others therein. The land that he cultivates or otherwise improves is his in the sense that he rather than some one else occupies and uses it, but it is not and can not be his in the same sense as the crop that he raises or the house that he builds upon it. Whether a man has a right to actual property or not depends upon whether he has produced and saved any, the right of property being as it were inchoate, and not vesting until there is a labour-product between which and its producer the relation may exist.

The right to land, on the other hand, waits not on the action or will of any man, but is a constituent element of that natural freedom which is the inalienable birthright of every human being. If any man were to have other than his natural right to land, he would of necessity have to acquire it from some other man or men; but they have only their natural right, which being inalienable can be neither transferred to nor acquired by any man.

The existing system of land tenure not only fails to secure equal enjoyment of the right to land, but

deprives an ever increasing majority of all enjoyment of that right. Held as by right of property, the land sooner or later passes into the exclusive possession and so-called ownership of a more or less limited number of men who are by the State empowered and virtually obliged to exact from other men a price for being on earth. That any man should be indebted to another for occupancy or use of the earth, would never occur to them as members of Society merely, there being nothing in the nature of things, no human relation, to suggest any such obligation. And yet the State decrees that whatever earthly opportunities a landless man would enjoy he must purchase from some other man or men, as if they were, as they legally are, the only ones having any right on earth. Nor can any so-called owner of land be legally compelled to sell or even to lease any part of it however much he may hold, for he holds it as by right of property and may use it or not as he pleases, and might even destroy it if he could. It is a dear price that is paid for any advantages such a system may have over even no system at all; a price, however, that is not paid by those who enjoy the advantages. Under it, as already seen, most men are deprived of all natural op-



portunities for self-support; not only of the opportunity to employ themselves, but also of the natural market for sale of their labour, which they needs must sell if they are to live, but which no man is compelled to buy. It would be hard to conceive of a system more subversive of human rights or more incompatible with an equitable order.

A kindred abuse is to be seen in the usual method of performing services that require monopolistic use of public highways. Such services have been seen to be public, or governmental in their nature, and ought therefore to be performed by the State itself, to the end that they be conducted solely in the interest of the public, and in such manner as not to interfere with private interests or the enjoyment of natural rights. Farmed out as they very generally are to public-service corporations, they can not in the nature of things be rendered with an eye single to the public interest, for their performance becomes a divided duty involving the service of two masters, the stockholder and the State, whose interests are by no means identical. Moreover, the prestige and power that come from connection with the public-service corporation will inevita-

bly and not unnaturally be utilised by its members to their advantage over their unprivileged competitors in private business, as well as over the public in matters of civic interest. The political boss about whom there is so much innocent prattle, and who when deposed gives place to another, is generally the political choice of the public-service and other powerful corporations, holding his place by virtue of their more or less hidden but no less influential support.

There is no good reason why all services requiring monopolistic operation or use of railroads, telegraph and telephone lines, and plants for general distribution of water, light, heat and power, including the transportation of passengers and freight and the transmission of intelligence, should not be conducted by the State directly, and with as little discrimination or favouritism as ordinarily obtains among travellers along a country road. The individual, natural persons employed in the governmental conduct of such services would have but one set of interests to serve, and but one employer, the State.

Nor will there be any such actual addition as may be supposed to the responsibilities and activities of the State when it shall itself in a di-

rectly administrative and rational manner discharge public functions whose necessarily unsatisfactory performance by corporations it now wastes so much time and effort in futile attempts to regulate. There is no right way of doing wrong, no saving of time or toil in the endeavour to reach by devious ways a goal to which there is a direct and open road, nor does the State lessen so much as it complicates its responsibilities by seeking to avoid them. Its highways are in their nature public and their monopolistic use for private gain is as unreasonable and unjust and quite as incompatible with an equitable public order as it would be for the State to assume control and operation of enterprises of a private nature. The distinction between what is social and what is individual, between things, functions and values that are public and those that are private, exists in their very nature and can not be ignored without disturbance of the natural order, an unjust and injurious interference with that equal enjoyment of natural rights which the State is in duty bound to secure. All public services will eventually be rendered by the State without charge, their cost being paid out of the values which they add to land.

The State abuses its power whenever in making provision for a legal-tender currency it adopts an unstable measure of values, as well as when it authorises private persons natural or artificial to perform the public service and governmental function of providing the legalised circulating medium of exchange. Such currency should be so constituted and controlled as to afford the public an unvarying measure of values as well as an equitably available medium for the exchange of commodities and services. It should not be such as to become itself the subject of barter, but should serve only to facilitate barter through the economic device of a sale.

A sale differs from barter in that it consists in the exchange of some commodity or service, not for some other, but for money, some medium of exchange generally receivable in payment for all subjects of barter, the sale being as it were a half-completed barter of which the money is evidence, and which is completed when some other commodity or service is finally received for and in place of the money. When the money, the medium of exchange, is itself a commodity, gold or silver for instance, its value fluctuates as do the values of other commodities, and so fails to re-

main a fixed, stable measure of value. Whoever holds it or has it owing to him for any considerable time will be either a gainer or loser thereby, for its value although apparently fixed by its being the legalised and generally accepted measure of values, becomes in reality greater or less than that with which he parted for it.

Whenever the promissory notes of private persons natural or artificial are given any advantages of circulation over those of people in general, the persons so privileged are not only given that advantage but are thereby enabled to exert an undue influence over the legalised medium of exchange. The currency authorised by the State should be as free from private monopoly and control as the public highways. It is indeed itself a public highway for the passing to and fro of values in exchange; as commodities are transported from seller to buyer by means of the railway, so are their values transmitted from buyer to seller by means of the currency.

Reference has already been made to the raising of public revenues by methods so irrational as to constitute most evident abuses of civil power. It would be difficult to specify in what respect ordinary methods of taxation can be re-

garded as rational or just. They are unjust in that they cause the burdens of taxation, of which indeed there should be none, to be borne for the greater part by those who are not only the least able to bear them, but who derive the least if any benefit from expenditures of the public revenue. It has yet to be shown that the majority of mankind are economically benefitted by existing government. But for the legalised system of land tenure, the perhaps dull-witted but able-bodied tramp might well maintain himself in possession of a cabin-patch of ground sufficient for his self-support, and that without injury to any man.

Taxes upon wealth or upon the means or methods of producing it, including tariff and excise taxes, are needless and unjust interferences with and hindrances to industry; great as is their total amount it is perhaps not greater than the loss which they occasion to the production of wealth. They tend to destroy the natural market and so to defeat the object for which they are collected, the maintenance of an equitable public order. They are, moreover, in much the greater part, paid by those who are also obliged to pay the tribute of earth-rent to private persons privileged to appropriate it.

The abuses to which attention has so far been directed consist in the use of improper means or methods for accomplishing legitimate ends, in attempts to secure natural rights through their infringement. It remains to notice abuses of the third class, those which consist in the use of civil power, not for such ends, not in attempting to discharge governmental functions, but for purposes wholly unwarranted by any most extended authority of government and absolutely foreign to all of its functions.

In considering abuses of this class it should be remembered that, no matter how desirable the end in view, if it is not necessary to maintenance of an equitable public order, to the discharge of some one or more of the four only legitimate functions of government, attempt to accomplish that end through the exercise of civil power tends to destroy that order. With the best of motives, but with no very lively sense of the moral obligation devolving upon the State as trustee of the power it forcibly assumes to exercise, the mistake is often made of using it in unnecessarily vain attempts not only to promote morality and social progress at home, but even to advance civilisation abroad.

That the State cannot justly undertake to enforce any code of morals appears clearly from the self-evident proposition that no man has any right to use force in the attempt to make another moral, and that still less has any man a right to compel others to aid him in any such attempt, so long as the immorality involves infringement of no natural right. If a man's immorality or wickedness does not interfere with any other human being's freedom to be moral or good, his merely immoral conduct is not subject to forcible control by any other man or by the State. Whenever the immoral conduct involves an aggression, the infringement of a natural right, as it often does, it is of course amenable to self-defensive control by those whom it injures and hence by the State, but it is the aggression rather than the immorality with which the State has to deal, and with that for purposes of peace and order only and not of morality. Under just government, men must, as men, have the freedom to do, according to their respective abilities, if but peaceably, whatever things they have the right, as between man and man, to do as members of Society; and as citizens they can justly do only such other things as they find it self-defensively necessary and



therefore right for them to do, but lack ability to accomplish without the aid of government. To attempt more than this, tends to destroy that freedom, and to set man as a citizen against man as man, an antagonism to which the evils of government are largely due. The only way in which the State can really promote morality is to be itself moral, that is, by permitting no immoral, unjust use of its power.

The most that the State can do for civilisation and social progress is to mind its own business. With the promotion of civilisation abroad it can have no proper concern, while the progress of its own people can be really promoted only by securing them in the free and equal enjoyment of natural opportunities for progress. For the State to undertake more than this is to be itself retrogressive, immoral and unjust, and to retard rather than promote the progress of mankind.

How irrational, for instance, and even criminally insane, how purposeless and impertinent, and how entirely evil in its effects, is the pitiful absurdity of punishing a man for failing to succeed in the attempt to take his own life. It is no part of any function of government to protect a sane man against himself, or to punish the in-

sane. Much better would it be for the State to see that it is never itself in any way responsible for the despair that drives to suicide.

A favourite abuse of civil power is that of using it for the supposed promotion of industry. There are legitimate activities of the State which are essentially promotive of industry, as are nearly all those constituting its Public-serving function; they are governmental, however, not because they promote industry, but for the reason that they are necessary to an equitable public order and can not be carried on without civil authority. No matter how much of aid or encouragement to industry it may seem to promise, any exercise of civil power not necessary to that order is *prima facie* an abuse of that power, and will be found to involve inequitable interferences with enjoyment of natural opportunities for industry.

Such an abuse is to be seen in the maintenance of protective tariffs, for they belong to no function of government; not to the first, since they are not essential to peace, but rather tend to disturb it; not to the second, for they protect no man from the aggression of another, but infringe upon the right of all men to a natural market; not to the third, for their maintenance is not nec-

essary to an equitable public order, but tends rather to inequitable disorder; and not to the fourth, for they are not essential to the integrity of the State, but invite hostility to it. They are not only unnecessary to the discharge of any governmental function and therefore a prima facie abuse of civil power, but they are, moreover, a positively injurious interference by government itself with that freedom of contract and exchange which it is in duty bound to maintain.

The object of a protective tariff is to render prosecution of the favoured industry more profitable than it would be without protection, which is accomplished by forcing consumers to pay more than they otherwise would for its products. This evident injustice to them is supposed to be in some way offset or atoned for through the alleged payment of higher wages than could otherwise be paid to employés of the protected industry. It is clear, however, that no such uncertain, haphazard balancing of opposing tendencies can result in doing justice or in giving equal advantage to all the people. A tariff can not increase the wealth of any portion of a people, except at the expense of some other portion, for it cannot increase the sum total of the wealth of the whole

people. With respect to foreign trade, a State must of necessity be in one of three situations. Its people may themselves consume all the wealth they produce, and so have no surplus for export; they may have a surplus, for the whole of which they find a ready market abroad; or they may find such a market for only a part of their surplus. In the first case, having no exports, they can have no imports against which to protect anybody. In the second place, their exports are exchanged more or less directly for desired imports which they thereby obtain at a less cost, or expenditure of wealth, than would be incurred by their protected production at home. Nor is there anything that protection can do to relieve the situation in the third case. That part of the surplus which finds a market abroad is there exchanged for imports costing less than they would if produced at home, or they would not be imported. With regard to any remaining surplus, to things for which there is no market at home or abroad, it is evident that their production must sooner or later give place to that of things for which there is a demand; but there can be no protection necessary or all-around helpful to making the industrial change, since it contemplates the

production of things of which there is a scarcity, and of which there are no competing importations against which there can be any possible need of protection. Whenever any portion of the people, be they capitalists or wage-workers, are benefited by a protective tariff or by any other privilege, it must of necessity be to the corresponding injury of other capitalists and labourers. The State should not interfere with the natural returns to labour and capital, with either wages or interest, and would have no occasion to do so but for abuses of its power tending to destroy the natural market, in which alone can be determined what is a just wage for labour, a fair interest on capital, or a reasonable price for any commodity or service.

A kindred abuse obtains in the grant of subsidies. They are not necessary to the discharge of any function of government, and whatever of advantage they bring to those privileged to receive them is at the expense and to the disadvantage of the unprivileged. Assistance that the State renders to anybody and not to all, must be to the detriment of somewhat less than all, less by the number of those assisted. If there be any undertakings necessary to peace and public order

but exceeding the compass of unsubsidised private enterprise, they constitute public services and should be carried on by the State for the equal benefit of all.

The grant of so-called patent rights is another civil abuse and patent wrong. Rights are not and cannot be granted. They exist in the nature of things or not at all, and are not transferable. Property itself may indeed be transferred even as it may be abandoned or destroyed, but in any case it is the specific thing, the concrete property alone that is parted with and not the owner's abstract and only right of property, which merely ceases to obtain with respect to the particular property transferred. When, through exercise of the right of contract, property passes from grantor to grantee, it becomes the latter's by virtue of his own right of property, the grantor no more parting with the right by which he held the property than with the hand in which he held it. Natural rights, and there can be no other, are not the subject of barter; it is through their exercise that barter is carried on, that contracts and grants are made. All that the State can do with respect to rights is either to secure or to interfere with the enjoyment of rights which belong to mankind as

members of Society, and by virtue of which they establish the State. It can create no rights, and can grant no man any right without first taking it from some other man, and that it cannot really do, since rights are inalienable. Any right the State undertakes to grant is in reality a wrong, an interference with the enjoyment of rights.

The so-called owner of a patented device may for reasons of his own not only neglect to introduce it into use but also forbid anybody else to use it, thereby denying the people all benefit of that which any one of them might himself have devised and used but for the State's interference. No man can justly be deprived of the freedom to make use of any method or mode of applying a principle that he might himself have discovered or invented and so have utilised but for prohibition of the State. The inventor of the first rude implement whatever it may have been had no right forcibly to prevent any other man from making or using a similar one; and so of any invention or improvement, its use is never a property right. It is the concrete product and not the manner of producing it that constitutes property. If a mere device, scheme, or mode of contrivance were indeed property, the State should maintain

the owner in permanent control and enjoyment of it as in case of other property, and could not justly limit proprietorship of it to any number of years.

If it could be shown that a discovery or invention of substantial benefit to all the people was wholly due to the purposeful effort of any individual, the State might seem warranted in making him suitable return for his service to the public. The advantages of the invention would then be immediately shared by all the people in common rather than monopolised to the emolument of those privileged to exploit it, among whom the inventor is not always to be found.

Reference has already been made to the artificial persons known as corporations. Their creation by the State being unnecessary to the discharge of any of its functions is *prima facie* an abuse of its power. Their use has become so prevalent, however, not only in the performance of public services but also in the conduct of private business of almost every sort, that the abuse calls for more than passing notice. Resort to the privilege of incorporation for purposes of industrial combination has indeed become so customary and familiar as to induce a tendency



of the public mind to confound the governmental act of incorporation with the natural right of co-operation, and to regard any criticism of the corporation as evidence of hostility to combination in general. Such criticism has been likened to the one-time hostility of labourers to labour-saving machinery. The comparison is faulty for the reason that corporations have a different effect upon industrial and social conditions from any produced by machinery, and is especially inapt in that the machine is the legitimate child of labour, whereas the corporation is the irregular offspring of civil power.

Industrial combinations that can be formed and maintained without special favour of the State may indeed be as beneficial as labour-saving machines. Any governmental restriction imposed upon unprivileged partnerships and business associations would be as irrational as any antagonism to the introduction of machinery. Co-operation voluntary and unprivileged is simply an exercise of the natural right of contract. It requires neither aid nor permission of the State, and is properly no more subject to governmental interference or supervision than any simplest form of individual enterprise. Any

man has an undoubted right to enter into agreement with any number of other men whereby they undertake for a stipulated wage to assist him in the prosecution of any legitimate business. He and they have no less right to make a different agreement according to which they combine to carry on the same or any other business for their joint or common benefit. The State has properly no more concern with the latter contract than with the former, its legitimate function in regard to either being merely to provide for peaceable and equitable adjustment of any differences arising therefrom, which it does not especially or primarily for the sake of parties to the difference, but for the sake of an equitable public order.

Natural combinations, those that can be formed without authority or aid of the State, are subject to beneficent limitations of natural law in regard both to the number of individuals who will combine as well as to the length of time they will continue to act together, and consequently also in regard to the amount of capital they can command and the influence they will be able to exert. There is nothing in reason or experience to warrant apprehension that any body of men

will merely by reason of such combination ever become so great or powerful as to monopolise any considerable industry. Any approach that a natural combination may make toward such monopoly will be due to some sort of privilege enjoyed by it rather than to its collective character. The more intelligent and trustworthy men become the more readily will they unite and co-operate with one another for common purposes, with a tendency no doubt to larger and larger combinations, but this natural and therefore beneficent tendency should not be confounded with the present abnormal drift toward utter displacement of natural associations by artificial combinations made possible by the grant of corporate privilege, the loan of civil power.

The corporation is a politico-economic device whereby natural persons desiring to co-operate for one purpose or another are by favour of the State more or less relieved from limitations which nature wisely imposes upon natural associations, and the collective body which they are so enabled to form becomes an artificial person having attributes and powers not enjoyed by natural persons or associations, being unnatural and peculiar to the body politic, the State, from which they are

derived. The corporation was originally devised for the purpose of clothing individuals with civil authority to perform some apparently public service which did not seem to have been adequately provided for in the ordinary machinery of government. Services so performed having been in reality sometimes public and at other times private, the privilege of incorporation has more or less gradually come to be granted for the prosecution of undertakings of nearly every character and finally to be had for the asking; so that charters or articles of incorporation, being now nominally free to all, are sometimes thought to be no longer privileges. It is evident, however, that the incorporated company has advantages over the mere partnership, for otherwise the former would not have become as it has the rule and the latter the increasingly rare exception in almost every line of business. That such advantages are privileges has been unanimously held by the Supreme Court of the United States in affirming constitutionality of the Federal Corporation Tax law, the Court saying: "The tax is laid upon the privileges which exist in conducting business with the advantages which inhere in the corporate capacity of those taxed, and which are

not enjoyed by private persons or individuals. These advantages are obvious and have led to the formation of such companies in nearly all branches of trade. The continuity of the business without interruption by death or dissolution; the transfer of property interests by the disposition of shares of stock; the advantages of business controlled and managed by corporate directors; the general absence of individual liability; these and other things inhere in the advantages of business thus conducted, which do not exist when the same business is conducted by private individuals or partnerships. It is this distinctive privilege which is the subject of taxation, and not the mere buying or selling or handling of goods, which may be the same, whether done by corporations or individuals."

It is clear that the advantages of incorporation cannot be enjoyed by all, but only by those who already have an advantage over their less successful fellow men, in that they have capital to invest; that they are privileges beyond the reach of those who have only their labour to depend upon, and so tend to widen the economic distance between the labourer and the capitalist. Nor is it the labourer alone whom they put to an un-

natural disadvantage. There are many possessors of capital who do not find it practicable or do not care to avail themselves of the privilege of incorporation, but who would be glad to engage in business as natural persons, opportunity to do which the State should secure to them instead of depriving them of it, as it does by forcing them to compete if at all with abnormally powerful persons of its own meddlesome creation. Such possessors of capital cannot themselves employ it, but must, not from fault of their own or from any natural cause or process of evolution but at the arbitrary behest of the State, let it remain idle and unproductive or risk it on the ability and honesty of strangers, in stock speculation. In all the fields of industrial activity, natural persons and associations, the only ones having any right to compete in the production and accumulation of wealth, are being supplanted by artificial ones which have not even the right to be, for the reason that rights are of necessity always natural.

Nature produces inequalities enough in the common struggle for human existence, and it would seem that if there is to be any interference by the State it should be in behalf of the weaker

rather than the stronger. On the contrary, however, it is the latter who are authorised and enabled to merge themselves and their interests in that artificial personality, the corporation, which inoculated with the virus of privilege enters the competitive field immune from ordinary vicissitudes, relieved from the infirmities of disease, death and conscience, and sooner or later outdistances its unprivileged competitors by lengths that could never be attained by natural persons or associations one over another. It is sometimes said, as in extenuation of the destruction of individual enterprise by corporate monopoly, that it is natural for big fish to swallow little ones, which may be true, but it is to be remembered that they do not become big or devour their kind through the power of government instituted and maintained by themselves in the name of justice.

The State abuses its power in so far as it neglects to provide for the free, equal, active and most effective expression possible of the individual opinion and preference of its members in regard to all matters of government, by women as well as by men, by poor as well as by rich, and by the illiterate as well as by the learned; for the

sake of peace and order they are all alike required to forego individual exercises of the right of self-defence, and are hence all alike entitled to share in whatever collective, orderly exercise thereof is substituted therefor. The casting of a ballot is merely civilised exercise of the natural right of self-defence. Not to have the ballot is to be governed by those who have it. To be governed by others than ourselves is to enjoy the civil liberty allowed to slaves. It would be clearly unjust for the poor however great their majority to deny the rich an equal voice in government, and for women to exclude men from participation therein would be as irrational as it is for men to exclude women. Nor are the learned much more likely than the illiterate to correct abuses in government. The most highly educated are often the staunchest defenders of privilege. No government by a self-selected class, however fit to govern they may have deemed themselves, has ever been so nearly perfect as to warrant excluding from its councils anybody interested in its administration. Any man however unlearned can understand government so long as it minds its own business. It is only when the State exercises its power beyond



right that the learning which transcends common sense becomes necessary to what is deemed a proper understanding of statecraft.

It is an abuse of civil power to permit any exercise of it to pass beyond direct control of the people. Their will as indicated by their suffrages must from the nature of things be carried out by agents through what is called representative government, but the more direct the responsibility of its agents, the more truly representative will be the government which the State maintains. Like any other agents, public servants should be at all times subject to discharge by their principals, the people; otherwise they would become for the time virtually principals, and might execute their own rather than the people's will. However independent of each other different branches of the government may be, they should never any of them be independent of the people.

A kindred abuse is to be seen whenever the people of one day or generation attempt through constitutional or other prohibitions in any way to hamper themselves or their successors in the exercise of civil power. The true relation of constitutional provisions to legislative enactments is

not unlike that which rules of parliamentary procedure adopted by a deliberative body sustain to the resolutions and acts of such body. As a general rule, subject to modification under exceptional circumstances, as in case of a federation like that of the United States of America, a constitution should prescribe the manner rather than the matter or limits of legislation, and in any case should be itself readily amendable. Constitutional prohibitions are quite as likely to retard as to promote that progress toward rational government which should at all times be feasible through statutory enactment unhampered by any restrictions other than those imposed by requirements of an equitable public order. What need of charter or bill of rights have a people who have no political superior, who are free to govern themselves and whose agents are ever subject to the popular will, or with what wisdom shall they tie their own hands as against themselves?

It is also an abuse of civil power for the State to require questions of merely local concern, generally of expediency rather than of absolute right, to be submitted for determination to persons outside of the locality concerned. As the individual should be free to order his private conduct in his

own way so long as he interferes with no natural right of another, and as the family in the management of its affairs should be free from interference by others of the neighbourhood, so should the people of each political subdivision of the State, of a city or county for instance, be free to order their city or county affairs in their own way, provided they thereby infringe no natural right and cause no disturbance of the public order. There may be many different ways in which a county might perform some particular service devolving upon it. If each of a number of such ways has to be tried by as many or more different counties of the State at the same time, it will take at least as many years to try them all and experimentally to determine which is best. If, on the other hand, each county were free to act independently of the others and to try whatever methods it would, they might all be tried and question as to which was the best determined in a single year. This principle underlies the doctrine of home rule or local option, as it also does any rational theory of State rights as against federal authority.

It is another abuse of its power for the State to exclude from its territory any well-intentioned

person voluntarily seeking to make his home therein. No man can justly be prevented by another from locating wherever on earth he will, provided he does not thereby interfere with the rightful location of any other, nor can the State justly do what it would be unjust for any one of its individual members to do. It has little more right to prevent a man's peaceable coming into its territory than to forbid his being born therein; if it seems to be crowded it is probably because somebody is taking up too much room. Seeming necessity for the exclusion of would-be immigrants will disappear upon the adoption of a just system of land tenure, unjust systems being among the principal causes of emigration. Love of country is generally strong in hearts out of which it has not been crushed by tyranny, the exercise of power beyond right.

It would seem soon enough to inquire into the object of a man's coming when his conduct indicates an evil purpose. That he does not believe in government is hardly sufficient reason for excluding him. His experience may have been such as to induce a disbelief which the State would do well not to confirm, and he may nevertheless prove a better citizen than he would if he

believed too much in government, or in too much of it. When one considers "all the oppressions that are done under the sun," and that they could not persist without the support or connivance of civil power, he will hardly wonder that men sometimes lose faith in government.

It will be observed that the foregoing conclusions are not so much mere opinions as they are the logical, inevitable result of reasoning from the self-evident proposition that the only just warrant or authority for any exercise of civil power is the natural, individual right of self-defence; and that it devolves upon those who reject that proposition and yet believe in government, to show by what other right than that of self-defence any man, any number of men, or any State, can forcibly control the conduct of any man.

It is only through correction of the abuses of civil power that civic progress is to be made. That progress must of necessity be more or less gradual and sometimes exasperatingly slow, but every step in the right direction makes the next one easier. True reform in government is to be effected not through the enactment of more law but by the amendment or repeal of superabundant existing law. Laws involving abuses of the

second class, the use of irrational methods in the endeavour to accomplish legitimate ends, must be amended by substituting rational methods; while those constituting abuses of the third class, the use of civil power for illegitimate purposes, must be repealed. After such amendment and repeal, there may be as little of necessity as there now is of room for what is called constructive legislation.