

THE NATURAL LAW OF JUSTICE

THE subject of this investigation affords us an opportunity of reviewing the recorded thought of the ages which found fulfillment in Henry George's book, *Progress and Poverty*. No other work we can think of, save the Bible, can boast the circulation that this book enjoys. It has been translated into several languages, and millions of people in the Old and in the New World not only know the name of its author but have met and discussed the problems which George set out to solve. They are so ancient that there is scarcely a chronicle of a people's growth and development that does not show how injustice arose and what evils befell the people under the aegis of the State. No matter where we look in the ancient histories, we find the same tale told in almost the same terms, the same complaints, the same demands arising from peoples as far apart as old China and ancient Egypt. The bitter lamentations of the Indian slave were no different from the cries for justice that arose from the despoiled of

Solon's day. Again, they were uttered by the wretches of Rome who fell victims to the curse symbolized by the debt pillar.

But these conditions were not peculiar to the ancient peoples. The heavy hand of the land monopolist was not stayed by the disappearance of the pre-Christian empires. After Rome fell there were many lands that continued to suffer the same injustices with little hope of reform. Where the State was firmly established, the spoliation of the producers was carried on by the parasites. However, the long history of economic woe in the established principalities of the ancient world was at no time so inhuman in its character as it is today. But we shall see, as we review the past, that the pagans of Europe, the worshippers of Wotan, had as deep a sense of economic justice as any of the religious cults of the ancient world.

When the word of the gospel of Christianity made its way to the west, a new hope seemed to come to men and, indeed, for a long period forms of economic justice were upheld by statutes devised both in pagan States and in Christian realms. This seems like a contradiction in terms; but, as we develop our subject, we shall find there is no contradiction: it is an historical fact that some form of economic justice was the basis of the oldest settlements of a community. Research demonstrates not only the endurance of the primary laws but also of the memory of them in the people themselves. The popular notion that Christianity blossomed out into the world from a plant that was never known before is an absurd one. The greatest writers on the beginnings of Christianity have acknowledged that its roots were embedded deep in pagan soil. Indeed, so great a champion as Lord Acton himself shows in his

essays that Plato and Socrates were heralds of the coming order.

Before we proceed with the discussion of our subject, permit me to give you a reason why I wish you to regard these lectures as essential study in all your endeavors to bring order and harmony back to mankind. I know of no work that so readily and easily enables man to devote his time to the fundamental questions which distress us as does *Progress and Poverty*. It is unique in this respect: it lays before us the wide fields of universal culture. The depth and breadth of knowledge it proffers are greater than those found in any other secular work. It supplies the essential that most of the philosophers overlooked or had never thought about. *Progress and Poverty* is primarily an economic work, but the presentment of the case is philosophic, historical, cultural, and spiritual. The very comprehensiveness of George's gospel contains the essential knowledge a man should have if he would know his relationship to the universe. Here for the first time he can learn the reason for his material distress. This is not to say that it cannot be learned in the books of Isaiah, Micah, and Haggai. Nor do I presume to suggest that Jesus of Nazareth was wanting in any respect in the counsel He gave to the men of Galilee and for which He suffered at the hands of Pilate. No intelligent reader of Henry George's work can miss those glowing passages which show clearly that he knew his Bible and New Testament. Indeed, the character of the writing and the imagery of the work reflect the understanding and joy that George must have felt in reading the Prophets and the sayings of Jesus.

It is in quite another respect that the work is unique. It presents the problems that beset man every day

and, at the same time, shows what is the remedy for his distresses and how he himself can reform the old abuses and evils of the political State and bring about an era of economic justice in which men may live in peace and unity. This work is the gospel of the Brotherhood of Man just as the work of Jesus is the gospel of the Fatherhood of God.

In recording the similarities of the beginnings of communities, it is advisable at first to understand clearly what we mean by the term justice. Far too often it is taken for granted by economists that people are so familiar with this word that it is unnecessary to define it. And yet the study of justice inspired the greatest minds of the classical period and those also of the early Middle Ages. Today it is sadly neglected by our economists and philosophers; and politicians use the term so frequently that one wonders if they know what it means. It seems to be the pivotal point in their demands for the inauguration of a new world based upon this fundamental.

The old masters of philosophy considered definition an essential part of discussion, and most of them spared no pains to explain clearly the meaning of the terms they used. Roger Bacon said: "The mixture of those things by speech which are by nature divided is the mother of all error." Roger Bacon was the great Franciscan mathematician of the thirteenth century who wrote what Whewell called the *Encyclopedia and Organum* of that time. The philosophers of the nineteenth century claimed this work to be the basis of our science. No one who reads *Progress and Poverty* can be in doubt for a moment as to the truth of Bacon's statement on the necessity for definition.

It is essential in our inquiry, therefore, that we

couple the tracing of the economic basis of early communities with a clear understanding of what we mean by this term justice, and it is necessary for us to inquire whether the early laws of land settlement were just.

We turn first, then, to the history of village communities and try to understand how they were constituted. A British Indian magistrate in the middle of the last century undertook a study of the ancient systems, and his work stands today as a monument in the annals of Christian jurisprudence. Sir Henry Maine tells us in *Ancient Law*:

The Village Community is known to be of immense antiquity. In whatever direction research has been pushed into Indian history, general or local, it has always found the Community in existence at the farthest point of its progress. . . . Conquests and revolutions seem to have swept over it without disturbing or displacing it, and the most beneficent systems of government in India have always been those which have recognised it as the basis of administration.

Maine does not hesitate to identify law, as it should be understood, with the economic basis upon which the community thrived before the State was thought of as a political form of government.

In his *History of India* Mountstuart Elphinstone tells us:

The popular notion is that the Village landholders are all descended from one or more individuals who settled the village; and that the only exceptions are formed by persons who have derived their rights by purchase or otherwise from members of the original stock. The supposition is confirmed by the fact that, to this day, there

are only single families of landholders in small villages and not many in large ones; but each has branched out into so many members that it is not uncommon for the whole agricultural labour to be done by the landholders, without the aid either of tenants or of labourers. . . .

Now mark that, for it is very significant. He then goes on to say:

. . . The rights of the landholders are theirs collectively and, though they almost always have a more or less perfect partition of them, they never have an entire separation. A landholder, for instance, can sell or mortgage his rights; but he must first have the consent of the Village, and the purchaser steps exactly into his place and takes up all his obligations. If a family becomes extinct, its share returns to the common stock.

This primitive sense of economic justice, which precludes the possibility of there arising in the community one who would batten upon the labor of others by owning the land, is, however, not peculiarly Indian; it is world wide. For the records given to us by the investigators of the nineteenth century show that all communities began their economic existence in this way, and only the coming of the political State violated the principles upon which the community established itself. Here is the distinct difference between a people governed only by economic law and one dominated by political law. But the difference goes deeper than this, for we learn from Maine that these village communities have no written laws, and Letourneau, in *Property: Its Origin and Development*, says:

. . . They obey traditional customs, which no one dreams of resisting. The council of elders has usually no need to give orders. "It merely declares what has always

been"; that suffices. Owing to the enormous length of time that the system has lasted, the impression it has made is almost ineffaceable.

It is clear that, when we are upon an historical quest of this order, it is necessary for us to understand that a system existed not only in India but wherever a village community was established that was without statute law and the political machinery for enforcing it.

To my mind there is no greater fallacy in the minds of the people than the one held by the superficial lawyer who really believes that mankind is incapable of looking after itself and that a police force is necessary for keeping it in order. One has only to spend a few moments in reflection upon what exists today under government by force to realize that our modern States are divided into two entirely separate sets of people: the one economic—the producers of wealth; the other political, parasitic—the non-producers who batten upon the produce of labor. As Franz Oppenheimer showed conclusively in his remarkable studies on *The State*: the function of the political means is to exploit the economic means.

Can we wonder that in ancient Rome the juriconsults, in their studies of jurisprudence, always harked back to what Maine has called "a state of perfect law"? In our sublime ignorance, for which of course the present political chaos is responsible, we may laugh at the notion that conditions of beneficence prevailed in the far, far past. But it is just as well to remember that many of the greatest thinkers of the world were devoted to this quest and that it was the absorbing subject of the historical school, which undoubtedly held sway in many lands down to the middle of the last

century. Once our minds are free of the fogs of positive law (that is, lawyers' law) and we are receptive to ideas that our systems of education do not countenance, then we should be prepared to enter upon a course which leads to the most fascinating study modern man may enjoy.

Surely the notion that there must have been better conditions for the mass of people than those prevailing today is worth cultivating, because when the outlook is blackest, man in his frenzy may turn to desperate actions and make things worse than they are. If a hope be implanted in his mind that it rests with him and his fellows to make the salutary changes that are required and revert to a just economic system, then he will act with sense and understanding. Moreover, it is no senseless delusion to indulge the idea that the great thinkers of the world were really seers—men of sublime wisdom—and that they were the true mentors and guardians of man's legitimate desires and spiritual aspirations, and not mere leaders of specialized thought, those superficial, self-seeking instructors who grovel at the base of Pompey's statue or offer oblations to Mammon, the god of ill-gotten gains.

Imagine how low we have fallen in intellectual attainment when the wisdom of China, India, and Greece is superseded by the schools whose chief function seems to be to fit a boy to make a living! Under this new system the products of our educational establishments fail in the elementary tests required by the first draft law. To give you an example of what is thought by a truly great educator, let me quote from Sir Richard Livingstone's little book, *The Future in Education*. Livingstone, who is President of Corpus Christi College, Oxford University, says:

Why are we an uneducated nation and how can we become an educated one? We have compulsory education, magnificent schools, an impressive array of teachers, and an enormous educational budget. Yet most of the passengers in a railway carriage will be reading the *Daily Mirror*; and the *News of the World* has a circulation of between three and four millions. The advertisements, cheap newspapers and films of a country are the best index of what appeals to its masses. What view would posterity form of our civilisation from these manifestations of its taste and intelligence? Contrast with our cinema the drama which the whole Athenian people watched in the bright March weather millennia ago. What fraction of our masses would sit through a performance of the *Trilogy* or the *Philoctetes*?

Such being the condition in the English-speaking countries, how can one expect our leaders of thought to direct the minds of the distressed millions to a way of abolishing the evils of the political State and to help man regain the economic paradise that was once his? There must be a revival of interest in the search for justice begun by Socrates. Youth must learn whether or not it has natural rights, and whether it must look to the State for the means of its well-being. Natural rights and natural law complement each other. They are inseparable and inalienable. No matter how powerful the political State may be, it cannot rob man of his natural right. It may, and does, obstruct his desire to use it for his benefit. It may place measures upon the statute book which thwart and set in abeyance his right to himself and the product of his toil. But nevertheless slaves were men although Aristotle called them "human implements"; and the State failed signally in its iniquity even in the case of the shackled slave, for it could not divest him of his thought. Justice, therefore,

demands the restitution of natural rights and, in making this demand, calls for the re-establishment of that economic freedom which is inherently man's under natural law.

Let us devote a little time to the inquiries that have been made into the term justice and its meaning. According to the *Institutes of Justinian*, the Roman jurist laid it down that "He is just who gives to each what belongs to him." I imagine it would have been a simple matter in ancient days to render judgment under this definition of justice. But today with all our legal parchments, titles to land, and government paper, it would be well-nigh impossible in what we call a court of law to render judgment in such a way that a Roman juriconsult would accept it, for he had a better sense of what is, and what is not, property in the true economic sense of the term than any of our case-law judges. However, there is a definition which is more to our purpose, and I must accept responsibility for putting it into a composite form. It is made up of the sayings of Socrates, as found in Plato's *Republic*, when the inquiry into what is justice was instituted that great day after the festival at the Piraeus. These are the words of Socrates put together from his sayings in the Dialogue:

Justice is the institution of a natural order in which a man can produce food, buildings, and clothing for himself, removing not a neighbour's landmark (a slice of our neighbour's land), practising one thing only, the thing to which his nature is best adapted, doing his own business, not being a busybody, not taking what is another's, nor being deprived of what is his own, having what is his own, and belongs to him, interfering not with another, so that he may set in order his own inner life, and be his own master, his own law, and at peace with himself.

Here we see at once where we stand in relation to this grave question. Were this definition used in the market place today I verily believe that the person who gave it tongue would be arrested for sedition. Anyway, how few lawyers would agree with it! Nevertheless, in the classics there is abundant support of the findings of Socrates. Chrysippus who, we are told by Diogenes Laertius, excelled in logic, the theory of knowledge, ethics, and physics, said:

You cannot find any other beginning of justice than that from Zeus and from common nature; for from this source all such must have its beginning, if we are to take any ground on boons and evils.

The famous passage from Hesiod which has been used as a text for many of the poets is as follows:

The better path is to go by on the other side towards justice; for justice beats outrage when she comes at length to the end of the race. But only when he has suffered, does the fool learn this. For oath keeps pace with wrong judgments. There is a noise when justice is being dragged in the way where those who devour bribes and give sentence with crooked judgments take her . . . they who give straight judgments to strangers and to the men of the land, and go not aside from what is just, their city flourishes, and the people prosper in it . . . neither famine nor disaster ever haunt men who do true justice; but light-heartedly they tend the fields which are all their care.

Then Pindar says: "Will he make justice his high tower, or fortify himself with crooked deceit?" When we turn to Plutarch and read the story of the reforms of Lycurgus and Solon, we find a conception of justice in removing evils that is far too rare with us today. I wish it were possible for everyone interested in this

subject to read the two *Essays on Liberty* which Lord Acton gave to the people of Bridgnorth when he represented that constituency in Parliament. Lord Acton was perhaps the most accomplished scholar of his day. His close association with Gladstone and all the leading thinkers of the time gave him singular opportunities for acquainting himself with the best thought of his period. He was Regius Professor of Modern History in the University of Cambridge.

The two essays that I refer to—"Freedom in Antiquity" and "Freedom in Christianity"—can be read in a couple of hours, and they contain sufficient information to convince any skeptic that the lines upon which I proceed in these lectures are based on the conclusions of the world's greatest thinkers.

Acton sums up the findings of the years of his labor and research in the following words:

. . . There is hardly a truth in politics or in the system of the rights of man that was not grasped by the wisest of the Gentiles and the Jews, or that they did not declare with a refinement of thought and a nobleness of expression that later writers could never surpass.

One more familiar quotation on this theme from *De Mundo* by Aristotle:

God, then, as the old story has it, holding the beginning and the end and the middle of all things that exist, proceeding by a straight path in the course of nature, brings them to accomplishment; and with Him ever follows justice, the avenger of all that falls short of the divine law—justice, in whom may he that is to be happy be from the first a blessed and happy partaker.

We should now gather from these various sayings and definitions of the Greeks the notion that justice is

from the beginning and is not a mere legal term as it is understood by men today. Justice is indeed so closely interlinked with the conception of natural law that it is impossible to dissociate the two. My own definition of it is: "Justice is the law of Providence inherent in nature." It comes from the Creator; indeed, creation itself is unthinkable without it. It determines the natural right of man to use the source of his well-being. Those who scorn the idea of natural law or natural right do not realize when they do so that, at the same time, they deny justice. Many are guilty of this through ignorance, but how many in repudiating natural law and justice do so for the sole purpose of legalizing ill-gotten gains?

It is for us, then, in promulgating the gospel laid down by Henry George in *Progress and Poverty*, to turn our minds as he desired towards the seeking of a perfect law—that which was the quest of the Roman juriconsults. George knew some of the works of Sir Henry Maine. He refers to his *Early History of Institutions*, but I doubt whether he had read *Ancient Law*. Yet, it is extraordinary to think of the wide reading of George which forms the solid foundation of his imperishable work. Surely the least we can do is to make an attempt to go over the ground he has covered and to equip ourselves with a broader knowledge of the sources that were indispensable to him in creating his masterpiece. The cultural appeal that he makes to us is to my mind one of the finest modern literature contains. I interpret it as a call to men to prepare for the shaping of a just system. A pacific revolution must be an intellectual one. George knew better than any man of his time that the kingdom will never be taken by force. Therefore, the campaign to regain natural rights

must be a spiritual one. This means that those who give mere lip service to George have no heart for the struggle.

And here let me say a word about the danger of over-emphasizing the material gain to be achieved by untaxing wealth and taking the rent for the use of the community. This is what I call the machinery of the reform, and I can very well imagine that, if it were accomplished, men might soon forget what was done and relapse once more and become again helots of the State. Something is required before and during the period of applying the remedy to give men a firmer grasp of the essentials of this great matter. If I might say so, we must not forget the spirit of man when we appeal to his stomach. It is all very well for us to say that our purpose is to give men the opportunity to produce their food, fuel, clothing, and shelter without hindrance; but if we take a glance at what is happening and has happened all through the ages, we shall see that some of the greatest rogues on earth have had far more necessaries than they could ever use. Necessaries in themselves have never yet nourished the spirit of man. Indeed, all the records point to this extraordinary fact—that the greatest spirits in all lands have been those who required the least means of subsistence. This in no way precludes the desire to abolish poverty, and I agree that poverty in the millions works sad havoc with the spirit, that it is undoubtedly responsible for the ignorance and waywardness that hold us all in this slough of despair. Do not forget that all through the work George emphasizes the necessity of desiring through his reform to reach a higher plane of culture and refinement. This in the past has been somewhat slighted, and

too much has been made of the material change to be hoped for under a system of untaxed wealth.

Perhaps it would be well for our teachers and students to procure a copy of *Ancient Law* by Sir Henry Maine. It is in the Everyman series and can be carried about in the pocket without much trouble. Let me point out one or two things you will enjoy in this work. Maine gives many excellent illustrations of how far we have traveled from the old conceptions of natural law, and he says:

. . . The Roman juriconsults of the Antonine era lay down that "*omnes homines natura aequales sunt*," but in their eyes this is a strictly juridical axiom. They intend to affirm that, under the hypothetical Law of Nature, and in so far as positive law approximates to it, the arbitrary distinctions which the Roman Civil Law maintained between classes of persons cease to have a legal existence. The rule was one of considerable importance to the Roman practitioner, who required to be reminded that, wherever Roman jurisprudence was assumed to conform itself exactly to the code of Nature, there was no difference in the contemplation of the Roman tribunals between citizen and foreigner, between freeman and slave, between Agnate and Cognate. . . .

In another place Maine reminds us:

. . . Of the Statute Law it is only necessary to say that it was scanty during the republic, but became very voluminous under the empire.

Remark that—under the empire!

In the youth and infancy of a nation it is a rare thing for the legislature to be called into action for the general reform of private law. The cry of the people is not for change in the laws, which are usually valued above their

real worth, but solely for their pure, complete, and easy administration. . . .

This reminds us of the periods in English history when there was no demand for legislation to mitigate abuse and establish its cause but for a return to the law and custom of the land. Such was the cry at the time of Edward the Confessor, at the time of Richard II, and many times down to a hundred years ago.

From the past we can learn why we suffer economic evil today and, whereas men look to some haven in the future where they may find economic blessedness, I assert that it can never be reached unless we understand the past and convince ourselves that there is no promised land for mankind that is not firmly established on the natural law of justice.

In conclusion I would call your attention again to the chief points I wish you to carry away from this lecture. The first one is that all ancient communities were economic and not political. By this I mean the land from which they drew their sustenance was held communally; private ownership of land was unknown. But as Sir Henry Maine and Mountstuart Elphinstone, who have studied the Indian systems on the spot, point out to us: the land user held his separate piece of land for the production of what he required. The products were not distributed communally, and there was no feature of Socialism in the system. This must be kept fixed in the mind because in the lectures to come I hope to show you how for long, long centuries, both in the ancient empires and in the countries of Christendom, this system was carried on until the land was taken by force from the people and they were reduced to peonage.

The second point is that we must rid our minds of the legal idea of justice if we wish to understand that

justice itself can be economic only and in the past has been sufficient to safeguard the happiness of the people without resorting to legislative enactments and government by force. Justice is from the beginning. That means, according to the classical writers and Roman juriconsults, it is prior to the appearance of the political State. If we do not clearly understand justice in the sense of natural law—that is, economic justice—how shall we be able to determine whether the purpose we have in promulgating the gospel of Henry George is right and that it is just to take rent for the use of the community? No one has attempted with any degree of success to controvert the axiom that the value of land is created by the community. That being so, we do not hesitate to take it for the use of the community as it is just for us so to do.

And I would impress upon you this extraordinary fact: we are dealing with a problem that has engaged the greatest minds of the civilizations. The world's deepest thinkers in all the countries which have borne records gave their ripest days to the study of it and have left to us a precious literature which contains in the clearest terms warnings of the disasters that will overtake us if we transgress the laws of nature.

In the next lecture we shall examine some of the awful penalties that were to be visited upon those who violated economic law. The curse fell upon Egypt, it fell upon Israel; it laid Greece waste and, as Pliny says, it ruined Italy. It brought the empires of the past crumbling to the earth, and now Christendom itself is threatened. While there is time, let us reflect and learn from history the fate that is in store for us.