

THE ORTHOCRATIC STATE

CHAPTER I

INTRODUCTION

OF all the useful arts that of government alone, although so long and universally practised, is yet without its kindred science. Practice of the other arts has in each instance led to the discovery and systematic arrangement of the principles, to development of the science, upon which correct practice depends. Not so with government. The "Politics" of Aristotle is a work quite as scientific as any most modern treatise on government.

Different reasons may be assigned for the slow progress of the art of government toward the scientific stage. One obstacle has been the persistent opposition of the governing classes to even the discussion of new political theories, lest their adoption might interfere with existing privileges; but this attitude of the privileged classes will

hardly account for the continued acceptance of unscientific theories by political writers of undoubted ability, sincerity and courage. These all agree in holding with Aristotle that justice is the end of political science, and then like him attempt to develop the science from hypotheses as fanciful as was that of the vortices from which the early astronomers sought to construct their science.

It is, of course, impossible to develop a true, scientific theory of government from a false hypothesis regarding a matter so fundamentally vital as the nature of the State and the seat or source of its authority to govern. Aristotle supposed the State to be "one of the works of nature," and held that the supreme power should be exercised by men of pre-eminent and heroic virtue, "if such be found." A somewhat similar misconception of the State has been that of those who have regarded it as a department or bureau, as it were, of an all-embracing theocratic government, and as existing and governing by divine authority. When it came to be realised that government, including the formation of the State as well as the maintenance and exercise of its power, is made up of activities as human as any in which mankind engages and as subject as any to the human will,

it was sought to account for existence of the State by supposing it to have been in some way established by and according to the will of man, and in order to preserve the idea of justice, the establishment was assumed to have been by general agreement or common consent of all men.

The hypothesis of a social compact was stated by Hobbes in his "Leviathan" as follows:

"A commonwealth is said to be instituted when a multitude of men do agree and covenant, every one with every one, that to whatever man or assembly of men shall be given by the major part the right to present the person of them all, that is to say, to be their representative; every one, as well he that voted for it as he that voted against it, shall authorise all the actions and judgments of that man or assembly of men in the same manner as if they were his own, to the end to live peaceably amongst themselves and be protected against other men.

"From this institution of a commonwealth are derived all the rights and faculties of him or them on whom sovereign power is conferred by the consent of the people assembled."

Locke, writing but a few years after Hobbes, stated the hypothesis as follows:

“Whosoever, therefore, out of a state of nature unite into a community, must be understood to give up all the power necessary to the ends for which they unite into society to the majority of the community, unless they expressly agreed on any number greater than the majority. And this is done by barely agreeing to unite into one political society, which is all the compact that is or needs be between the individuals that enter into or make up a commonwealth. And thus that which begins and actually constitutes any political society is nothing but the consent of any number of freemen, capable of majority, to unite and incorporate into such society. And thus that, and that only, which did or could give beginning to any lawful government in the world.”

He also held that a man's tacit consent to an established government was to be inferred from the mere fact of his being within its dominions.

Rousseau nearly a century after Locke wrote as follows:

“If therefore we take from the social contract everything that is not essential to it, we shall find it reduced to the following terms: ‘We, the contracting parties, do jointly and severally submit our persons and abilities to the supreme direction

of the general will of all; and in a collective body receive each member into that body as an indivisible part of the whole.' ”

He held further that, although the clauses of the contract may perhaps never have been formally promulgated, they are yet universally the same, and everywhere tacitly acknowledged and received.

The statement in the preamble to the Declaration of Independence to the effect that governments derive their just powers “from the consent of the governed,” has been regarded by some as recognising the social contract, but it is not probable that Jefferson meant to assert anything more than that the governed should always have a voice in the government. He had in mind the imposition upon the American people of laws passed by a parliament in which they had no representation.

Writers of the present day, in attempting to account for authority of the State, seldom if ever resort to the fiction of a social contract. Recognising the absurdity of assuming that each member of society gives his individual consent to organisation of the State, they assume it to have been organised by the people, but by the people

acting in some other than their individual capacity and by some right, if any, other than individual, natural right.

One able and learned author, writing on "The Nature of the State," states his conclusions as follows:

"It therefore appears that the origin of the State must be conceived as an act of the People rather than of individuals. The existence of a common or 'General Will' must be predicated, and the creation of the State held to be due to its volition." . . .

"The existence of the State is rationally justified because the result of the exercise of its authority is in all cases, as a matter of fact, to preserve freedom rather than to destroy it." . . .

"There is no onus upon the State to justify its existence as an infringement upon a predicated natural freedom of the individual."

It is not readily to be seen how a practical science of government can be developed from this latest hypothesis, that of a "predicated" General Will. Government can be nothing more nor less than human power humanly organised for the control of human conduct. The very organisation of that power, the act of instituting the State,

is merely human conduct, which in its last analysis is always either right or wrong, just or unjust, as between man and man. No man can justify his voluntary acts by any appeal to the general will. That will can never be more than the concurring wills of all the people. Whenever it calls for forcible control of any of the people, it is clear that their wills are not in accord with the general, and that they have only to outnumber their opponents to have a general will of their own. For all the practical purposes of government, including that of establishing the State, the general will can manifest itself only as the will of a majority in numbers or power, and whether it be just or not must depend upon the wills of the individuals composing such majority.

Authority for establishment and maintenance of the compulsory State has been challenged by individual wills as sincere as any composing the general will, and their challenge is not to be answered by any hypothesis regarding the just warrant for such establishment. It may not be clear to them that "the result of the exercise of its (the State's) authority is in all cases, as a matter of fact, to preserve freedom rather than to destroy it." The struggle through all the ages has

been to preserve freedom from encroachments which could not have been maintained but for the State, and to-day there are many staunch believers in the authority of the State who nevertheless apprehend the danger of an unjust and tyrannical extension of its power over the industrial activities and private affairs of its members.

The people are fast waking to a sense of their "sovereign power," and, like the sovereigns of all time, are not unlikely to experiment with it. Notwithstanding any and all need of legislative reform, of which there may indeed be much, it might nevertheless be well for all legislation to cease for a time, provided the people would meanwhile try to learn by what right they legislate; to get a clear understanding of what the State really is; of the just and only warrant for its existence or for exercise of its power; of what it may justly do, and of what it ought to let alone. Nor is the acquirement of such an understanding by any means so difficult as might appear from reading laboured treatises on government. As was said by Aristotle, "The multitude even though they know nothing of the political science and hold no magistracy, still can form a good practical judgment upon government in general, and even a better

one than those in office who can not see their own defects and errors.”

In the chapters following, attempt is made not only to account for the well-warranted existence of the State, but also to point out the source and mark the limits of its authority, not from any hypothesis, but on grounds as plain, rational and substantial as any upon which human conduct can possibly be justified.