

IX

STATE INTERFERENCE

[1887]

I DESIRE, in this paper, to give an explanation and justification of extreme prejudice against State interference, and I wish to begin with a statement from history of the effect upon the individual of various forms of the State.

It appears, from the best evidence we possess, according to the most reasonable interpretation which has been given to it, that the internal organization of society owes its cohesion and intensity to the necessity of meeting pressure from without. A band of persons, bound by ties of neighborhood or kin, clung together in order to maintain their common interests against a similar band of their neighbors. The social bond and the common interest were at war with individual interests. They exerted coercive power to crush individualism, to produce uniformity, to proscribe dissent, to make private judgment a social offense, and to exercise drill and discipline.

In the Roman State the internal discipline gave victory in contests with neighbors. Each member of the Roman community was carried up by the success of the body of which he was a member to the position of a world-conqueror. Then the Roman community split up into factions to quarrel for the spoils of the world, until the only escape from chronic civil war and anarchy was a one-man power, which, however, proved only a mode of disintegration and decay, not a cure for it. It has often

been remarked with astonishment how lightly men and women of rank at Rome in the first century of our era held their lives. They seem to have been ready to open their veins at a moment's notice, and to quit life upon trivial occasion. If we can realize what life must have been in such a State we can, perhaps, understand this. The Emperor was the State. He was a mortal who had been freed from all care for the rights of others, and his own passions had all been set free. Any man or woman in the civilized world was at the mercy of his caprices. Anyone who was great enough to attract his attention, especially by the possession of anything which mortals covet, held his life at the utmost peril. Since the Empire was the world, there was no escape save to get out of the world. Many seemed to hold escape cheap at that price.

At first under the Empire the obscure people were safe. They probably had little to complain of, and found the Empire gay and beneficent; but it gradually and steadily absorbed every rank and interest into its pitiless organization. At last industry and commerce as well as all civil and social duties took the form of State functions. The ideal which some of our modern social philosophers are preaching was realized. The State was an ethical person, in the strictest sense of the word, when it was one man and when every duty and interest of life was construed towards him. All relations were regulated according to the ethics of the time, which is, of course, all that ethical regulation ever can amount to. Every duty of life took the form and name of an "obsequium"; that is, of a function in the State organism.

Now the most important relation of the citizen to the State is that of a soldier, and the next is that of a taxpayer, and when the former loses importance the latter

becomes the chief. Accordingly the obsequia of the citizens in the later centuries were regulated in such a way that the citizen might contribute most to the fiscus. He was not only made part of a machine, but it was a tax-paying machine, and all his hopes, rights, interests, and human capabilities were merged in this purpose of his existence. Slavery, as we ordinarily understand the term, died out, but it gave way to a servitude of each to all, when each was locked tight in an immense and artificial organization of society. Such must ever be the effect of merging industry in the State. Every attempt of the Roman handicraftsmen to better themselves was a breach of the peace; disobedience was rebellion; resistance was treason; running away was desertion.

Here, then, we have a long history, in which the State power first served the national interest in contest with outside powers, and then itself became a burden and drew all the life out of the subject population.

In the Middle Ages a society which had been resolved into its simple elements had to re-form. The feudal form was imposed upon it by the conditions and elements of the case. It was as impossible for a man to stand alone as it had been on the hunting or pastoral stage of life or on the lower organizations of civilization. There was once more necessity to yield personal liberty in order to get protection against plunder from others, and in order to obtain this protection it was necessary to get into a group and to conform to its organization. Here again the same difficulty soon presented itself. Protection against outside aggression was won, but the protecting power itself became a plunderer.

This oppression brought about guild and other organizations for mutual defense. Sometimes these organizations themselves won civil power; sometimes they were

under some political sovereign, but possessed its sanction. The system which grew up was one of complete regulation and control. The guilds were regulated in every function and right. The masters, journeymen, and apprentices were regulated in their relations and in all their rights and duties. The work of supplying a certain community with any of the necessities of life was regarded as a privilege and was monopolized by a certain number. The mediæval system, however, did not allow this monopoly to be exploited at the expense of consumers, according to the good will of the holders of it. The sovereign interfered constantly, and at all points, wherever its intervention was asked for. It fixed prices, but it also fixed wages, regulated kinds and prices of raw materials, prescribed the relation of one trade to another, forbade touting, advertising, rivalry; regulated buying and selling by merchants; protected consumers by inspection; limited importations, but might force production and force sales.

Here was plainly a complete system, which had a rational motive and a logical method. The object was to keep all the organs of society in their accepted relations to each other and to preserve all in activity in the measure of the social needs. The plan failed entirely. It was an impossible undertaking, even on the narrow arena of a mediæval city. The ordinances of an authority which stood ready to interfere at any time and in any way were necessarily inconsistent and contradictory. Its effect upon those who could not get into the system — that is, upon the vagabondage of the period — has never, so far as I know, been studied carefully, although that is the place to look for its most distinct social effect. The most interesting fact about it, however, is that the privilege of one age became the bondage of the next and that

the organization which had grown up for the mutual defense of the artisans lost its original purpose and became a barrier to the rise of the artisan class. The organization was a fetter on individual enterprise and success.

The fact should not be overlooked here that, if we are to have the mediæval system of regulation revived, we want it altogether. That system was not, in intention, unjust. According to its light it aimed at the welfare of all. It was not its motive to give privileges, but a system of partial interference is sure to be a system of favoritism and injustice. It is a system of charters to some to plunder others. A mediæval sovereign would never interfere with railroads on behalf of shippers and stop there. He would fix the interest on bonds and other fixed charges. He would, upon appeal, regulate the wages of employees. He would fix the price of coal and other supplies. He would never admit that he was the guardian of one interest more than another, and he would interfere over and over again as often as stockholders, bondholders, employees, shippers, etc., could persuade him that they had a grievance. He would do mischief over and over again, but he would not do intentional injustice.

After the mediæval system broke up and the great modern States formed, the royal power became the representative and champion of national interests in modern Europe, and it established itself in approximately absolute power by the fact that the interest of the nations to maintain themselves in the rivalry of States seemed the paramount interest. Within a few months we have seen modern Germany discard every other interest in order to respond to the supposed necessity of military defense. Not very long ago, in our Civil War, we refused to take account of anything else until the military task was accomplished.

In all these cases the fact appears that the interest of the individual and the social interest have been at war with each other, while, again, the interests of the individual in and through the society of which he is a member are inseparable from those of the society. Such are the two aspects of the relation of the unit and the whole which go to make the life of the race. The individual has an interest to develop all the personal elements there are in him. He wants to live himself out. He does not want to be planed down to a type or pattern. It is the interest of society that all the original powers it contains should be brought out to their full value. But the social movement is coercive and uniformitarian. Organization and discipline are essential to effective common action, and they crush out individual enterprise and personal variety. There is only one kind of cooperation which escapes this evil, and that is cooperation which is voluntary and automatic, under common impulses and natural laws. State control, however, is always necessary for national action in the family of nations and to prevent plunder by others, and men have never yet succeeded in getting it without falling under the necessity of submitting to plunder at home from those on whom they rely for defense abroad.

Now, at the height of our civilization and with the best light that we can bring to bear on our social relations, the problem is: Can we get from the State security for individuals to pursue happiness in and under it, and yet not have the State itself become a new burden and hindrance only a little better than the evil which it wards off?

It is only in the most recent times, and in such measure as the exigencies of external defense have been diminished by the partial abandonment of motives of plunder and conquest, that there has been a chance for individualism

to grow. In the latest times the struggle for a relaxation of political bonds on behalf of individual liberty has taken the form of breaking the royal power and forcing the king to take his hands off. Liberty has hardly yet come to be popularly understood as anything else but republicanism or anti-royalty.

The United States, starting on a new continent, with full chance to select the old-world traditions which they would adopt, have become the representatives and champions in modern times of all the principles of individualism and personal liberty. We have had no neighbors to fear. We have had no necessity for stringent State discipline. Each one of us has been able to pursue happiness in his own way, unhindered by the demands of a State which would have worn out our energies by expenditure simply in order to maintain the State. The State has existed of itself. The one great exception, the Civil War, only illustrates the point more completely *per contra*. The old Jeffersonian party rose to power and held it, because it conformed to the genius of the country and bore along the true destinies of a nation situated as this one was. It is the glory of the United States, and its calling in history, that it shows what the power of personal liberty is — what self-reliance, energy, enterprise, hard sense men can develop when they have room and liberty and when they are emancipated from the burden of traditions and faiths which are nothing but the accumulated follies and blunders of a hundred generations of "statesmen."

It is, therefore, the highest product of political institutions so far that they have come to a point where, under favorable circumstances, individualism is, under their protection, to some extent possible. If political institutions can give security for the pursuit of happiness by each individual, according to his own notion of it, in

his own way, and by his own means, they have reached their perfection. This fact, however, has two aspects. If no man can be held to serve another man's happiness, it follows that no man can call on another to serve his happiness. The different views of individualism depend on which of these aspects is under observation. What seems to be desired now is a combination of liberty for all with an obligation of each to all. That is one of the forms in which we are seeking a social philosopher's stone.

The reflex influence which American institutions have had on European institutions is well known. We have had to take as well as give. When the United States put upon their necks the yoke of a navigation and colonial system which they had just revolted against, they showed how little possible it is, after all, for men to rise above the current notions of their time, even when geographical and economic circumstances favor their emancipation. We have been borrowing old-world fashions and traditions all through our history, instead of standing firmly by the political and social philosophy of which we are the standard-bearers.

So long as a nation has not lost faith in itself it is possible for it to remodel its institutions to any extent. If it gives way to sentimentalism, or sensibility, or political mysticism, or adopts an affectation of radicalism, or any other *ism*, or molds its institutions so as to round out to a more complete fulfillment somebody's theory of the universe, it may fall into an era of revolution and political insecurity which will break off the continuity of its national life and make orderly and secure progress impossible. Now that the royal power is limited, and that the old military and police States are in the way of transition to jural States, we are promised a new advance to democracy. What is the disposition of the new State

as regards the scope of its power? It unquestionably manifests a disposition to keep and use the whole arsenal of its predecessors. The great engine of political abuse has always been political mysticism. Formerly we were told of the divine origin of the State and the divine authority of rulers. The mystical contents of "sovereignty" have always provided an inexhaustible source of dogma and inference for any extension of State power. The new democracy having inherited the power so long used against it, now shows every disposition to use that power as ruthlessly as any other governing organ ever has used it.

We are told that the State is an ethical person. This is the latest form of political mysticism. Now, it is true that the State is an ethical person in just the same sense as a business firm, a joint stock corporation, or a debating society. It is not a physical person, but it may be a metaphysical or legal person, and as such it has an entity and is an independent subject of rights and duties. Like the other ethical persons, however, the State is just good for what it can do to serve the interests of man, and no more. Such is far from being the meaning and utility of the dogma that the State is an ethical person. The dogma is needed as a source from which can be spun out again contents of phrases and deductions previously stowed away in it. It is only the most modern form of dogmatism devised to sacrifice the man to the institution which is not good for anything except so far as it can serve the man.

One of the newest names for the coming power is the "omnicracy." Mankind has been trying for some thousands of years to find the right -ocracy. None of those which have yet been tried have proved satisfactory. We want a new name on which to pin new hopes, for mankind "never is, but always to be blessed." Omnicracy

has this much sense in it, that no one of the great dogmas of the modern political creed is true if it is affirmed of anything less than the whole population, man, woman, child, and baby. When the propositions are enunciated in this sense they are philosophically grand and true. For instance, all the propositions about the "people" are grand and true if we mean by the people every soul in the community, with all the interests and powers which give them an aggregate will and power, with capacity to suffer or to work; but then, also, the propositions remain grand abstractions beyond the realm of practical utility. On the other hand, those propositions cannot be made practically available unless they are affirmed of some limited section of the population, for instance, a majority of the males over twenty-one; but then they are no longer true in philosophy or in fact.

Consequently, when the old-fashioned theories of State interference are applied to the new democratic State, they turn out to be simply a device for setting separate interests in a struggle against each other inside the society. It is plain on the face of all the great questions which are offered to us as political questions to-day, that they are simply struggles of interests for larger shares of the product of industry. One mode of dealing with this distribution would be to leave it to free contract under the play of natural laws. If we do not do this, and if the State interferes with the distribution, how can we stop short of the mediæval plan of reiterated and endless interference, with constant diminution of the total product to be divided?

We have seen above what the tyranny was in the decay of the Roman Empire, when each was in servitude to all; but there is one form of that tyranny which may be still worse. That tyranny will be realized when the same

system of servitudes is established in a democratic state; when a man's neighbors are his masters; when the "ethical power of public opinion" bears down upon him at all hours and as to all matters; when his place is assigned to him and he is held in it, not by an emperor or his satellites, who cannot be everywhere all the time, but by the other members of the "village community" who can.

So long as the struggle for individual liberty took the form of a demand that the king or the privileged classes should take their hands off, it was popular and was believed to carry with it the cause of justice and civilization. Now that the governmental machine is brought within everyone's reach, the seduction of power is just as masterful over a democratic faction as ever it was over king or barons. No governing organ has yet abstained from any function because it acknowledged itself ignorant or incompetent. The new powers in the State show no disposition to do it. Nevertheless, the activity of the State, under the new democratic system, shows itself every year more at the mercy of clamorous factions, and legislators find themselves constantly under greater pressure to act, not by their deliberate judgment of what is expedient, but in such a way as to quell clamor, although against their judgment of public interests. It is rapidly becoming the chief art of the legislator to devise measures which shall sound as if they satisfied clamor while they only cheat it.

There are two things which are often treated as if they were identical, which are as far apart as any two things in the field of political philosophy can be: (1) That everyone should be left to do as he likes, so far as possible, without any other social restraints than such as are unavoidable for the peace and order of society.

(2) That "the people" should be allowed to carry out their will without any restraint from constitutional institutions. The former means that each should have his own way with his own interests; the latter, that any faction which for the time is uppermost should have its own way with all the rest.

One result of all the new State interference is that the State is being superseded in vast domains of its proper work. While it is reaching out on one side to fields of socialistic enterprise, interfering in the interests of parties in the industrial organism, assuming knowledge of economic laws which nobody possesses, taking ground as to dogmatic notions of justice which are absurd, and acting because it does not know what to do, it is losing its power to give peace, order, and security. The extra-legal power and authority of leaders over voluntary organizations of men throughout a community who are banded together in order to press their interests at the expense of other interests, and who go to the utmost verge of the criminal law, if they do not claim immunity from it, while obeying an authority which acts in secret and without responsibility, is a phenomenon which shows the inadequacy of the existing State to guarantee rights and give security. The boycott and the plan of campaign are certainly not industrial instrumentalities, and it is not yet quite certain whether they are violent and criminal instrumentalities, by which some men coerce other men in matters of material interests. If we turn our minds to the victims of these devices, we see that they do not find in the modern State that security for their interests under the competition of life which it is the first and unquestioned duty of the State to provide. The boycotted man is deprived of the peaceful enjoyment of rights which the laws and institutions of his

country allow him, and he has no redress. The State has forbidden all private war on the ground that it will give a remedy for wrongs, and that private redress would disturb the peaceful prosecution of their own interests by other members of the community who are not parties to the quarrel; but we have seen an industrial war paralyze a whole section for weeks, and it was treated almost as a right of the parties that they might fight it out, no matter at what cost to bystanders. We have seen representative bodies of various voluntary associations meet and organize by the side of the regular constitutional organs of the State, in order to deliberate on proposed measures and to transmit to the authorized representatives of the people their approval or disapproval of the propositions, and it scarcely caused a comment. The plutocracy invented the lobby, but the democracy here also seems determined to better the instruction. There are various opinions as to what the revolution is which is upon us, and as to what it is which is about to perish. I do not see anything else which is in as great peril as representative institutions or the constitutional State.

I therefore maintain that it is at the present time a matter of patriotism and civic duty to resist the extension of State interference. It is one of the proudest results of political growth that we have reached the point where individualism is possible. Nothing could better show the merit and value of the institutions which we have inherited than the fact that we can afford to play with all these socialistic and semi-socialistic absurdities. They have no great importance until the question arises: Will a generation which can be led away into this sort of frivolity be able to transmit intact institutions which were made only by men of sterling thought and power, and which can be maintained only by men of the same

type? I am familiar with the irritation and impatience with which remonstrances on this matter are received. Those who know just how the world ought to be reconstructed are, of course, angry when they are pushed aside as busybodies. A group of people who assail the legislature with a plan for regulating their neighbor's mode of living are enraged at the "dogma" of non-interference. The publicist who has been struck by some of the superficial roughnesses in the collision of interests which must occur in any time of great industrial activity, and who has therefore determined to waive the objections to State interference, if he can see it brought to bear on his pet reform, will object to absolute principles. For my part, I have never seen that public or private principles were good for anything except when there seemed to be a motive for breaking them. Anyone who has studied a question as to which the solution is yet wanting may despair of the power of free contract to solve it. I have examined a great many cases of proposed interference with free contract, and the only alternative to free contract which I can find is "heads I win, tails you lose" in favor of one party or the other. I am familiar with the criticisms which some writers claim to make upon individualism, but the worst individualism I can find in history is that of the Jacobins, and I believe that it is logically sound that the anti-social vices should be most developed whenever the attempt is made to put socialistic theories in practice. The only question at this point is: Which may we better trust, the play of free social forces or legislative and administrative interference? This question is as pertinent for those who expect to win by interference as for others, for whenever we try to get paternalized we only succeed in getting policed.