

CHAPTER V.

FREEDOM OF CONTRACT.—NATURAL COMPETITION.—
PERSONS NATURAL AND ARTIFICIAL.—CORPORATE
PRIVILEGE.—TRUSTS.—CIVIC CORRUPTION.

But since security of the right to labor depends not only upon access to land, but also upon enjoyment of the right of property and upon freedom of contract, inquiry should not be limited to land laws, but should be also directed to all laws in any way relating to or affecting that right or that freedom, whether directly or indirectly.

It will at once be seen that existing land laws violate the right of property in that they deprive men of the natural and only certain opportunity for acquiring property, namely, free access to land. It is also clear that prevailing methods of taxation and raising the public revenue are unjust interferences with that right, for man has a natural right to possess and enjoy the full benefit resulting from his industry and economy, and there is no justice or wisdom in subjecting him through taxation to a penalty proportioned to his thrift. Those methods

at the same time interfere with the freedom and impair the right of contract, for man has a natural right to manufacture, buy and sell without let or hindrance, and to compel him to pay a license or tax for exercising the right is an unwarrantable interference with his freedom of contract. These violations of labor rights will, however, as already shown, disappear upon the adoption of a correct system of taxation and land tenure.

But since the right of contract depends also upon the unrestricted freedom to contract with any and all persons, at all times and in all places for the buying, selling or exchanging of whatever may rightfully be the subject of barter, any and all laws directly or indirectly restraining, or unnaturally stimulating or encouraging the manufacture or sale of commodities, making it easier for some than for others to engage or continue in any industrial pursuit, or changing in any way the relations which naturally exist among the members of a community so as to affect the natural inclinations, tendencies and abilities of men to produce and exchange, are unwarranted and injurious interferences with the freedom of contract and should be abolished unless absolutely necessary to the preservation of the peace.

No fallacy has been productive of greater in-

jury than the popular one that it may be the proper business of the State to promote or encourage private enterprises by legislation in that behalf. Sometimes it is attempted through subsidies, but more often and very generally at present by granting to individuals certain immunities or privileges which, although nominally free to all, can not in the nature of things be enjoyed by all. The result is that persons already enjoying the superior good fortune of being in a position to avail themselves of the favor of the State, are by such favor enabled to enjoy still greater advantages over the less fortunate, and the relations which naturally exist among men, and which constitute the natural field for industry and the natural market for the exchange of labor and its products are disturbed to the advantage of some and the injury of others. In the absence of any interference by the State other than that necessary to the preservation of the peace, men would engage in callings according to their respective tastes and abilities, some in one and some in another industry, some on their own account and some for wages, some alone and others in associations known as partnerships, but all alike subject to natural obligations, limitations and laws. Different persons might engage in the same branch or kind of business, competing with each other in

their efforts to succeed and endeavoring to please their customers and employes upon whose patronage and good will their success would depend. Those offering the highest inducements would be the most successful, while those not meeting with satisfactory success could, when land was free and enterprise no longer hindered by inequitable taxation, readily find some other occupation better suited to their ability. Such would be the natural condition of labor and of trade, the price of labor and of commodities being controlled by a natural law, that of natural competition.

By natural competition is meant simply the common, universal and commendable endeavor of natural persons to realize each the largest rightful return from the application of his personal efforts to natural opportunities, those efforts including whatever service may minister to the rational desires of man. Differences in taste and natural ability will result in the distribution of personal efforts among the varied pursuits necessary to the gratification of those desires as well as in varied degrees of success, but so long as each individual enjoys natural opportunities and has to compete with only natural persons no one can justly complain of another's success since each enjoys all his natural rights and no one has the unjust ad-

vantage of privilege. Such competition, however, can not exist under prevailing laws, nor would the adoption of a just system of taxation and land tenure alone wholly restore it. As long as the State continues to create and protect those artificial persons called corporations, so long will natural persons be deprived of the benefits of natural competition because compelled to compete with persons unnaturally and excessively strong and powerful.

To illustrate some of the inevitable results of granting corporate power, conceive of a country in which such power had never been granted where there are hundreds of individuals and firms engaged in some particular branch of industry employing thousands of workmen, the amount of capital invested by each ranging from hundreds to thousands of dollars. Some of the larger concerns will not unnaturally endeavor undersell and drive out the smaller, but the great number of competitors with their varied and conflicting interests defeat such attempt, and all succeed in making a living profit. No one firm can afford to sink the money necessary to drive out the rest without great risk of weakening itself and becoming a prey to similar attacks from others, and so, left to natural conditions and relations, the stronger are compelled to submit to the spirited competition of the

weaker. Individuals may indeed combine, forming a gigantic partnership with much capital and the intention to undersell and drive out the rest, but such an undertaking is, under natural conditions, too full of uncertainty and danger, capital is timid; a large number of partners each having a voice in the management of the business can seldom work together harmoniously for any great length of time; there is lack of the oneness of design and unity of action necessary to success; the interruptions, changes and delays arising from deaths in the firm and from other causes become more frequent as the number of its members increases; these considerations, and above all the liability of each member for all the debts and obligations of the firm, tend to deter the strong and protect the weak from such piratical enterprises.

Let the State, however, permit and enable these enterprising individuals to invest as much of their own capital as they may choose to risk, together with whatever they can induce others to invest, in a venture wherein they shall be legally liable each only for the amount he invests, no matter how deeply the concern may become indebted to others, each man's interest in the business being represented by certificates of stock which can be shifted from hand to hand without interfering with the

steady, uninterrupted prosecution of the business, the management of which is entrusted to agents whose employment and salaries depend upon their making the enterprise pay, and these favored individuals relieved of nature's wise limitations to the gratification of human greed, not as natural persons but as an artificial person, with vastly larger capital than could be accumulated or wielded by natural persons, are enabled to undersell their less powerful competitors and can afford to sink money in driving one after another from the field until at last, by virtue of the aid of civil power, they have a complete monopoly of the business. The corporation may seem to have lost money; it pays no dividends and its stock is below par; outsiders who have been induced to purchase are willing to sell their shares and the insiders, the promoters of the scheme, with feigned reluctance buy them at a discount, well knowing that every share is really worth more than par, since by reason of the acquired monopoly and power to fix prices without fear of competition the concern will pay the largest dividends.

The above is but an imperfect illustration of what has taken place and is still going on in every town in the United States. Small capitalists have been and are being compelled to abandon all at-

tempts to use and manage their capital in the employment of labor and the prosecution of individual or partnership enterprises, their only opportunity being to invest it in corporate enterprises with fair prospect of an early "freeze out." The majority of men are by this, the unwarranted action of the State, deprived of natural opportunities for making use of their capital and forced to compete with capital vastly aggregated by reason of privilege and controlled by artificial persons too powerful to be successfully withstood. And what is the natural, inevitable effect upon labor and wages? Before the corporation was created the hundreds of competing manufacturers in the community afforded a natural market for labor in that particular line of industry. If one engaged at such labor were dissatisfied with or discharged by his employer he could generally find another at slightly reduced if not equal or better wages. The large number of employers, their varied circumstances and tastes, some preferring small profits and happy, hopeful workmen to large profits and underpaid, discontented laborers, would prevent successful combination to arbitrarily fix the rate of wages, which would be left to the adjustment of natural conditions of supply and demand. But with the establishment and success of the corpora-

tion, there comes a change; there is now but one employer, the superintendent of the monopoly; laborers must work for him or quit that line of industry, and must accept such wages as he decides to offer; they may seek some other community in which to ply their craft or trade, but will find that the corporation has preceded them, controlled it may be by the same specially favored and protected capitalists from whom they have fled, or combining with them in the effort to reduce wages to the lowest possible rate. There is no longer any market for that branch of labor. There is practically but one buyer. There is no freedom of contract. The laborer must accept what the combined corporations offer and when they offer it, or starve. He acts under a compulsion arising not from natural conditions but enforced by the strong, stupid hand of government in violation of every principle upon which its power can be justly evoked, a hand stretched forth to secure no right, to perform no public service, to promote no worthy end, but simply to aid those already the best able to help themselves in doing that which they could not otherwise do, to the incalculable injury of other men.

It may be urged that dissatisfied workmen can seek some other occupation or branch of industry, to which it is to be answered first, that the State

has no right to make it necessary for them to do so, and, secondly, that all occupations and branches of industry are being seized and monopolized in the same way, and the great majority of employers driven into the overcrowded ranks of those seeking employment. Well merited public indignation has of late been directed to gigantic trusts and their arbitrary control of the output and prices of various commodities. These so-called trusts are but the natural and inevitable result of corporate power and privilege without which they could not exist, and the most injurious, iniquitous and demoralizing of them all is the labor trust which has existed longer than any other and will continue as long as private corporations are permitted to exist.

It has been seen that under certain circumstances the laborer may have a right to demand that the State shall provide him with remunerative employment, that is, when government has by its unwarranted action interfered with some of his labor rights, but it has yet to be seen that the capitalist ever has any just ground for asking the State to do aught to render his capital more remunerative, or to provide opportunities for its investment. It can not be denied that corporations are formed in the interest of capital for the purpose of increasing its power. The power of capital is, however,

but the power of individuals who will, not unnaturally, use it for the still further increase of their power and for the control of other men. The way in which they use it, crushing the competing enterprise of individual capital and destroying the labor market together with all freedom of contract for the sale of labor or its products, has been already faintly illustrated. When analyzed an ordinary private corporation is seen to be a combination of individuals who, having been so much more successful or fortunate than their fellows as to possess or control greater wealth and to that extent be better able to contend in the struggle for more, have received from the government as a special favor still greater power of competition which they may legally use, not simply to their own advancement but to the positive injury of others, and in such a way as to be relieved of any possible inconvenience that might arise from those natural sympathies and compunctions which sometimes restrain natural persons from using their power to the injury of others.

But it is not alone through the exercise of their power to monopolize the use of capital and to tyrannize over labor that corporations are detrimental to individuals and the State. They have a most predominant and corrupting power over the

action of city councils, of State legislatures and of Congress, while courts and executive officers can not fail to be more or less subject to their baneful influence. Public affairs, municipal, state and national, are to-day controlled not by the natural persons constituting the State, but by the artificial persons created by it.

One of the most injurious results of granting corporate power is the practical destruction of real freedom of the press. The journalist no longer expresses his honestly conceived opinions, but is compelled to write at the dictation of those whom the State enables to monopolize the metropolitan newspaper and even to say what news shall be published and what not. Intelligent public opinion is impossible without an independent press, which is impossible without the independent editor.

Stock gambling, withdrawing so much of the energy and capital of the country from useful investment to be squandered in speculations productive only of financial insecurity and general distaste for legitimate pursuits, is another wholly evil result of corporations. There is hardly a feature of corporate influence that is not hostile to society in general. The State has at all times found difficulty enough in compelling the obedience of natural persons. What reason is there for presuming that the vastly more powerful but no less ambitious

artificial persons of its own unwarranted creation will be any more easily controlled?

It must be admitted that the grant of corporate power for the prosecution of ordinary business pursuits is foreign to any legitimate function of government, and a flagrant abuse of its power. The excuse generally offered for incorporating private companies is that the public interest demands the prosecution of many enterprises too great for unaided individual effort and capital. It is well to guard against too ready concession that any proposed enterprise is so necessary to the public welfare as to warrant its promotion by the government, but when so necessary it becomes, as already seen, the proper business of the government itself, and should not be farmed out to private persons, either natural or artificial.

Private corporations are an unnecessary, unmitigated and inexcusable evil whose removal is demanded in the interest of labor, of property, of liberty and of good government. No more of them should be formed, while those already in existence should be shown no favors but treated with a rigorous justice in view of their natural tendency and unnatural power to monopolize the opportunities for and the products of industry, and to corrupt and control the government. Such as have

been formed for the prosecution of ordinary business enterprises should receive every encouragement to dissolve into natural persons, while undertakings too great for unaided individual or partnership management and yet necessary to the common good, for instance, railroads, telegraphs and other natural monopolies, should gradually pass under the control of the State.

The only serious objection to government control of such necessary monopolies is that it would greatly increase the number of public servants and the power of government patronage. Like objection might be made, however, to any and all public servants and patronage with which it would be well to dispense altogether if the necessary government could be maintained without them. The State has, however, certain plain duties to perform; there is a direct and rational method of performing them, nor will they ever be efficiently and equitably discharged in any other way. There are necessary burdens, inevitable evils incident to the exercise of civil power, but they cannot be lessened by the abuse of that power nor by shirking any of the responsibilities of its exercise. There can be no more danger in the State's controlling the power and patronage incident to the management of any great enterprise than there is in per-

mitting a private corporation to control them. When governments shall learn that there is nothing which they can rightfully grant or barter away; when they shall have no interests to consult except the common public weal, nor any persons to deal with except natural ones, the evils to be apprehended from the control of public patronage will be greatly diminished; and it might be well even then on general principles to provide that no public servant or office holder shall vote during the term of his service, a prohibition in which there would be no hardship, since no man is compelled to accept official position. Certain it is that the evils to be reasonably apprehended from government ownership and control of the limited number of necessary enterprises exceeding the compass of unaided private effort and capital could not compare with those already suffered by reason of the almost complete substitution of artificial for natural persons in the use and control of productive capital, and even of the government itself.