

If we look back to the riots and tumults which at various times have happened in England, we shall find, that they did not proceed from the want of government, but that government was itself the generating cause; instead of consolidating society, it divided it; it deprived it of its natural cohesion, and engendered discontents and disorders, which otherwise would not have existed. In those associations which men promiscuously form for the purpose of trade or of any concern, in which government is totally out of the question, and in which they act merely on the principles of society, we see how naturally the various parts unite; this shows, by comparison, that governments, so far from always being the cause or means of order, are often the destruction of it. The riots of 1780 had no other source than the remains of those prejudices which the government itself had encouraged.

—Thomas Paine, 1791.

FURTHER CONSIDERATIONS

Before the American and French revolutions the vast majority of people in civilized countries were peasants. Regretting that "many of his subjects were still without personal liberty . . . attached to the soil, and, so to say, confounded with it," Louis XVI, of France, testified to this lowly condition in 1779. He wished to do away with every vestige of feudalism, but was restrained by respect for the laws of property, which he held to be the groundwork of order and justice.

A great change in productive power has occurred since then. Inventive genius has provided the modern world with the means of so enormously increasing its productions that all may now be supplied with the necessaries and comforts of life and also with a considerable quantity of its luxuries. Failure to achieve this very desirable result is palpable evidence of bad management somewhere.

Productive power is so great that prominent officials seriously propose the destruction of some portion of maturing crops. Potentially the civilized world is enormously rich. Vast sums are expended merely to inform us that goods in any quantity will be furnished if desired. Meanwhile "effective demand" is inadequate, for while the people thus produce wealth, or stand ready to do so, this fact does not give them power to buy a like amount. There is ability to produce more than can be sold. Part of the purchasing power that normally is associated with production disappears. If, then, we are able to produce and distribute wealth in almost fabulous quantities, but fail to do so, is it possible to render any verdict save "bad management"?

It appears reasonable to suppose that the bad management thus indicated is connected with

the disappearance of purchasing power. It may be well, then, to make a short examination of productive process to determine the validity of this supposition. Such examination should be comparatively easy, because the productive process involves no unknown quantity. It is not mysterious, like biology. Even to experts the latter is often vague. For thirty-five years, at any rate, Mendell's contribution was not understood.

Economic facts and relations, on the contrary, are essentially obvious. Men erect buildings, but could not do so if they did not know how. If they know how there is no mystery. The same is true of nearly all other forms of production. In these circumstances a solution is due.

The prevalent lack of understanding of these simple economic matters may be due to lack of ability on the part of investigators. When, however, stars many light-years distant are measured, as are particles so small that no microscope may reveal their presence, incompetence may hardly be charged.

It is first noted, then, that each act in the processes of production and distribution of wealth is executed by individual agency, or by groups of individuals, on the one hand, or, on

the other, by public or governmental agency (national, state or municipal). In one or the other, or partly in each, of these fields, is to be found legitimate explanation of any lack of satisfactory outcome.

In the field of individual effort we find a constant search for improved methods. To this end education and experiment, in fact all human talent and energy, are placed under requisition. So intense has been the endeavor in this direction that many communities have found it advisable to limit the labor of children and women by law. In fact, no reason for questioning the energy of the people is apparent. If doubt was entertained, it must have been dissipated by the constancy, devotion and sacrifice displayed by all combatants during the world war. No nation had occasion to complain of its rank and file.

A search for the indicated bad management in the production and distribution of wealth leads, therefore, to the only remaining field of investigation, namely, the public or governmental establishment. Here we are promptly met by the assertion that wealth cannot be produced by legislation. From the same source we also hear that tariffs, patents, copyrights, etc., stimulate production. At any rate, legis-

lation can check or restrain production and distribution. It not only can but does.

If, then, we observe the process by which human needs are supplied and the conditions limiting such process, as well as the governmental relation to it, we should be able to learn whether government performs its proper functions or becomes a trespasser through failure to do so. Food may be accepted as the first of such industrial products. It is secured from the air, the water and the land (that is, from nature) by human toil. All products are thus secured from nature, or from natural resources, that in economic parlance is called "Land." Land, therefore, means nature, in its entirety, as it exists independently of human exertion.

It is next to be noted that, as industrial products may be appropriated by theft, it is necessary that the individuals comprising a community form a defensive organization. In early times, as related by Sir Henry Maine, it included the descendants of a common ancestor, forming a primitive "family".*

*"Ancient society was not a collection of individuals, but an aggregation of families. The family was the unit of society. An aggregation of families was a house. An aggregation of houses made a tribe. An aggregation of tribes made a commonwealth". (Ancient Law, 124).

This defensive organization was sometimes strengthened by adoption or conquest, and as all members participated it was public in character. It is the original police power, and may be accepted as the public's first contribution to productive process. Surely protection of this process and its results is of prime importance, and in its prosecution safety is to be found only in association with one's fellows. In fact, defense of the group was so important that individuals, as such, were largely if not entirely neglected. Their actions were so completely controlled in the interest of group safety that it has been said that barbarians were legalized to a degree that modern men cannot realize and would not tolerate.

This group ideal dominated human society for centuries, but after about 350 B. C. the individual received increasing attention. This led to a more definite realization of the truth that individual rights can be maintained only by securing exclusive possession of a given place. Consequently private property in land became more fully accepted. This economic relationship is now so plain that no one thinks of erecting a substantial structure before being made secure in the possession of the ground upon which it may rest, and public

authority only is competent to establish and maintain such security. Here we have another necessary participation by the public in productive process.

When by virtue of the exercise of the police power peace and orderly possession of property are thus in some degree attained, trade expands. Trade of course is essential to extensive industrial development. In fact, it is the completion of the productive process whereby goods reach consumers, and it requires a path, or a continuous strip of land, or a water route, over which goods may be carried. Air carriage is here ignored, but if developed extensively it will require legal control of routes. These matters were vague and shadowy in early times, but it is now easy to appreciate what those shadows indicated.

Individuals cannot meet this situation, for, among other difficulties, one is likely to wish to locate the path where another desires to grow wheat. Again we must resort to public authority, and rest all such paths on an exercise of sovereign power.

Clearly, then, mutual defense, or the police power; property in land, or exclusive possession; and the highway, or right-of-way, are necessary to civilization, and can be established

and maintained by public authority only. The three powers thus indicated are the primary powers of government. If in any degree they are placed in private possession grantees necessarily hold power to levy tribute unless the grant is fully guarded in the public interest. For instance, the private armies that have disturbed China and the robber barons of middle Europe exercised the police power and made of it something other than a defensive agency.

Such use of the police power is now illegal in civilized states, but title to the more valuable lands has gradually passed into the hands of a relatively few. Land holding has become not only an agency for security of possession, which is its legitimate purpose, but also a lever for extracting tribute in the form of ground rent.

Modern American highways, too, that were established for popular convenience, have been turned over to railway lords, who have over-capitalized and sold them in the form of stocks and bonds. Surely it is as plain as anything can be that the police power, the holding of land and the right-of-way or path of trade are all necessary public functions. They originate, as industrial instruments, in the exercise of

sovereign power. No other agency is competent to institute and maintain them.

If, then, we can assert that police power, land holding and highways are public or political matters, it follows that legal adjustment of these to the advantage of some must burden others. Such disposition is, of course, a blunt invasion of the equal political status that is the necessary condition of a genuinely democratic society. There are other matters needing attention, but those mentioned are so definitely primary in civilized society, and so entirely public in character, that there should be no dispute about them.

The supreme court so far supports this view as to hold that the police power cannot be made the basis of a private property right. This is sound because the police power is a sovereign power. The same reason holds good as to any expression of sovereignty. Administration of this power may be delegated to private parties in relation to some matters, especially landed property, but no part of sovereignty can be surrendered if justice to all is our purpose, for if any part of sovereignty may be surrendered all of it may be, as was asserted by Webster in the Dartmouth College case. By the same reasoning it is clear that

sovereignty cannot be made the subject of "contract", for again, if we can part with any form of it by contract we can part with all of it.

Sovereignty is the supreme mastery, dominion or power of the whole people acting unitedly. It presupposes organization, and such organization, of course, acts according to its major impulse. It may establish and maintain justice, or it may levy tribute and impose tyrannical regulations. But it is the only power that by any possibility can secure freedom to individuals, protect their rights, maintain public authority and guarantee justice in public administration. Still, it is not omnipotent. One of its limitations is indicated by the impossibility of coercing a large and determined minority respecting matters with which it has no proper concern; as, for instance, religious belief and forms of worship.

It is properly concerned with public matters only. From this field it cannot be divorced by the people themselves, by contract or otherwise, because sovereignty is an essential feature of organized society, and nothing in the known universe can be separated from its essential characteristics and still exist.

Thus in the exercise of the police power we delegate authority to officials and theoreticians.

cally hold them to account. We also delegate authority to railway corporations, but do not, as we should, hold them to account for the value of the rights-of-way that have been placed in their possession. Instead we permit them to capitalize these public rights and sell them on the market. Still less have we guarded the sovereign power expressed by land holding. Here as elsewhere it is proper to delegate the administration of sovereign power, but it is the height of absurdity to permit the value of that power to become the source of private wealth.

This is true because the tenure of land is definitely a public thing. So-called land owners are in truth "land-holders", and so they were originally known. Attempts to change land holders into land owners are in derogation of the original meaning of "tenure of land" that was like "tenure of office". Similarly the English king was "the king of the English", but became "the king of England". In the first instance he was the leader of the English; in the second he was boss of the realm. Consider the power of a tribal chief, as compared with his power if he holds title to the tribal lands. Scotland's clans can explain the matter without going beyond their own history.

If, then, we wish to maintain an aristocratic society, nothing needs to be done. Forces calculated to secure and maintain that result are in operation. But if we wish to maintain a democratic society, devoted to equal rights, under equal laws, we would do well to give this matter serious attention before Mommsen's prophecy shall be fulfilled. He said (History of Rome, iv. 492):

"All the arrant sins that capital has been guilty of against nature and civilization in the modern world, remain as far inferior to the abominations of the ancient capitalist-states as the free man, be he ever so poor, remains superior to the slave; and not until the dragon seed of North America ripens, will the world have again similar fruits to reap."

Elsewhere Mommsen says that the ancient world reduced men to the level of beasts of burden by law—and then he blames capital. He shows the fault to be in the law, which, indeed, is obvious. He digs up the facts, and then, like some others, seems not to know what to do with them.

Theoretically the public has not neglected its duties respecting the police power. In practice, however, events occur that are reminiscent of the supposedly defunct star chamber. A policeman's wife gave unconscious testi-

mony in this matter by saying, "Why, without the third degree they couldn't make them talk."

With regard to rights-of-way we seem to intend a democratic development. This is shown by our public utility commissions, that easily may be made serviceable in dealing with transportation.

In the matter of land holding, however, with its inevitable relation to taxation*, we have all but completely deserted democratic responsibility. Here the sin of omission is conspicuous.

The result of such administration is just what reasonably should be anticipated: Trouble develops in connection with the police power; still more in connection with rights-of-way; but the great disturbance springs from failure properly to guard the great economic force inherent in land titles.

*The necessary association of Taxation and Private Property in Land is of the utmost importance: Wealth is produced by human effort, called "Labor", applied to natural resources, called "Land". Part of this product goes to Land in the form of "Rent". The remainder of the product is the direct reward of industry, and is properly called "Wages". Rent often appears as Dividends, Royalties, etc., but, at bottom, is payment for access to desirable land. Wages often appears as Fees, Commissions, Salaries, etc., but always as reward for human service. Now, all payments, including public revenue, must come from either Rent or Wages, or of course from both. All of the Parliaments, Congresses and Courts on earth cannot

When the state thus fails to maintain the common right evil consequences follow, and in attempts to cure such evils the state often invades private rights, thus becoming guilty of a sin of commission.

To illustrate: States gave lands to railway companies, besides giving them rights-of-way. Officers of these companies arranged with officers of warehouse companies to give special rates for storage and transportation of grain, and thus came to control much of the grain coming from the great agricultural states. Their manipulation of rates and markets led to a political movement to defend agriculture from the exactions of this combination. This movement influenced the constitutional convention of Illinois in 1870 to decree legal regu-

avoid this "Fact". A tax taken from Wages adds to cost. A tax taken from Rent does not add to cost. Rent is collected whether or not part of it is taken in taxes. Rent taken in taxes reduces the portion remaining with land holders but does not increase total Rent: Provided (mark the provision) that the tax is laid, in proportion to value, on all land in the tax district to which value attaches. The portion of Rent remaining with land holders determines the capital value of Land, and this value should be the basis on which the tax is laid. Taxes on products must be added to production cost, and in the degree that Wages purchase these products such revenue becomes a tax on Wages. This, of course, reduces the tax taken from Rent, leaving more of Rent with land holders. The value of land is thereby increased, which causes an ever-increasing speculation in it. The important fact, then, is that however

lation of warehouses, and from this the case of *Munn vs. Illinois* came before the supreme court of the United States.

The court could not fail to recognize the evil condition caused by the combination. To correct this it was necessary either sharply to call the railway companies to account, as administrators of public trusts, or to invade private property rights by public regulation as decreed by the new Illinois constitution. The court chose the latter expedient.

It seems safe to assert, then, that the public must participate in productive process by exercising the police power, instituting land holding, the value of which is always affected by the taxing power, and by providing for

taxes are laid, the value of land is thereby affected. Consequently any consideration of land holding, disassociated from taxation; or any consideration of taxation, disassociated from land holding, is partial and cannot possibly reveal economic and political truth.

If, for instance, we consider usual returns on investments to be five per cent, a parcel of land renting for \$630 per year, and taxed at two per cent, would be worth \$9,000. Two per cent of this is \$180, and five per cent is \$450. If it were taxed at five per cent, it would be worth \$6,300, because five per cent is \$315. For the same reason a tax of ten per cent would give the land a value of \$4,200, and a tax of fifty-eight per cent would give it a value of \$1,000. Divide the gross rent by the sum of the tax rate and the interest rate. The quotient is one per cent of the capital value. Speculative value is of course avoided.

highways. It is also asserted that the common interest in these matters has not been properly safeguarded.

Naturally these inadequately guarded public powers have been used to extract tribute from consumers through excessive charges. Such artificial increase of cost curtails the market and demand for products declines. At the same time there appears an improved market for securities that represent the value of the granted public powers. This condition induces speculative attempts to participate in such gains.

It also compels improper levies upon products of industry to secure public revenue that should be derived from the legal privilege of holding land. Another increase of prices to consumers necessarily follows such tax levies, but the artificial and unjust condition thus induced manifestly cannot be made permanent. We therefore periodically enjoy an economic catastrophe like that which recently widely advertised the New York stock exchange, and this is followed by an indefinite period of "hard times".

If part of produced wealth is thus taken, in the form of ground rent and right-of-way tolls, and these are greatly augmented by specula-

tion, while the cost of government is largely saddled upon production, the remainder will constitute an inadequate purchasing power, because all products cannot be purchased by part of products. The whole is still greater than any part, despite pseudo-statecraft and legal legerdemain. In the described conditions power to produce cannot be met by equal power to buy, and this is precisely the existing situation. Taxation thus imposed is merely a modern adaptation of the ancient practice of farming the revenue.

Such neglect of the legitimate sources of public revenue gives to private parties both opportunity and authority to collect taxes that properly belong to the state from those who must use land if they would not die, and who cannot lead a civilized life without directly or indirectly using the paths of commerce and travel.

The supposition, then, that bad management by government explains the disappearance of part of the purchasing power normally accompanying the production of wealth seems to be sound.

The evils that flow from this artificial reduction of purchasing power give rise to many preposterous proposals by way of remedies.

No doubt most of them are inspired by the best of motives, but it may be asserted with certainty that most of them are reactionary, and if applied would do as much harm as do the errors they seek to correct.

Again, as productive enterprise becomes difficult because of decreased demand for goods, men find themselves unemployed by private business, and press for public employment. They rapidly become less conscientious respecting the means adopted to secure appointment, and bribery, stuffed payrolls and other forms of rascality invade the civil service. Corrupt contracts soon appear and find support from those who hope to be employed in their execution. Even courts of justice are involved, while social and sometimes religious influence is requisitioned in the interest of public loot. This is the dry rot that brings disaster to otherwise happy and prosperous states. Such corrupt politics grow out of restricted and hampered productive process, and if we would escape from this absurd and wholly unnecessary political and economic morass we must rescue production and distribution from private monopoly. This will almost automatically afford clean politics and reduce crime to a minimum.

Still more important is the fact that as never before national defense depends upon productive capacity. The nation that can best support its firing line with the various requirements of military activities is best able to defend itself. Whatever hinders production definitely impairs national defense.

Apparently, then, the confused political and economic condition of the civilized world, as revealed by current literature, is entirely unnecessary and utterly preposterous in view of its enormous productive power. For instance, what may be said in defense of Britain's expenditure of nearly, if not quite, two billion dollars as doles to the unemployed? Was there no unused land in that country where these people could produce food for themselves, swap part of it for other goods, and thereby save their self-respect and the two billion at the same time? What percentage of the arable land of Britain is devoted to production?

Offensive criticism of Great Britain is not intended. Anyhow, since the preceding paragraph was written conditions have developed in the United States that make the British case look conservative. The latest report informs us that over 22 million people are receiving Federal assistance. And we have almost a conti-

ment at our disposal. Besides, we have not heard that the British plowed under cotton and corn or uprooted fruit trees, nor did they bury pigs. Nor did they pay farmers rent to keep their lands out of cultivation. Comment, surely, would be additional foolishness.

In any event, a real need of the present time is a clear recognition of the fact that the great achievements of the modern world have resulted from a partial elimination of feudal privileges, whereby individual freedom and enterprise have been permitted in some degree to develop normally. This process of elimination should be completed. Contemplating our society more than fifty years ago, Emerson said in effect that when the straps and bandages of feudalism were broken asunder it was believed that a new art, a new genius, a new life, would appear, but for some reason America seems not to fulfill her promise. That reason is simply that the straps and bandages of feudalism were not broken. They were loosened, very greatly loosened, if you will, but they were not broken.

This condition cannot continue. Either we shall go forward to a fuller freedom, or we shall retreat once more into the bondage of feudalism, and the retreat, if such shall be our

choice, will take us along the road suggested by Mommsen. If history tells any story it is that aristocratic society, of whatever sort, being partial, and therefore unjust, necessarily develops discordant elements, and, thus weakened, declines or is over run; and that imperfect democratic societies develop confusion, thereby inviting a return to aristocracy to secure order.

Democracy, or genuine popular government, tolerates no such hesitating or partial fealty; but to a people who will secure the value of public power to the state, and the untaxed value of products to their producers, it unreservedly promises the highest material development, the freest spiritual condition, and permanence. It is the one society that can endure, and that only because it is just.

With the plain "crude" facts thus staring him in the face, no intelligent man can fairly deny that political and economic difficulties now disturbing all civilized peoples are attributable to bad management of public affairs, and consequent governmental invasion of private affairs; nor can it be denied that such management is synonymous with perverted law.
