

THE SOVEREIGNTY OF FREE MEN.

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A free man, a free country, liberty, and equality are terms of constant use among us. They are employed as watch-words as soon as any social questions come into discussion. It is right that they should be so used. They ought to contain the broadest convictions and most positive faiths of the nation, and so they ought to be available for the decision of questions of detail.

In order, however, that they may be so employed successfully and correctly it is essential that the terms should be correctly defined, and that their popular use should conform to correct definitions. No doubt it is generally believed that the terms are easily understood, and present no difficulty. Probably the popular notion is, that liberty means doing as one has a mind to, and that it is a metaphysical or sentimental good. A little observation shows that there is no such thing in this world as doing as one has a mind to. There is no man, from the tramp up to the president, the pope, or the czar, who can do as he has a mind to. There never has been any man, from the primitive barbarian up to a Humboldt or a Darwin, who could do as he had a mind to. The "Bohemian" who determines to realize some sort of liberty of this kind accomplishes his purpose only by sacrificing most of the rights and turning his back on most of the duties of a civilized man, while filching as much as he can of the advantages of living in a civilized state. Moreover, liberty is not a metaphysical or sentimental thing at all. It is positive, practical, and actual. It is produced and maintained by law and institutions, and is, therefore, concrete and historical. Sometimes we speak distinctively of civil history; but if there be any liberty other than civil liberty—that is, liberty under law—it is a mere fiction of the schoolmen, which they may be left to discuss.

Even as I write, however, I find in a leading review the following definition of liberty: "Civil liberty is the result of the restraint exercised by the sovereign people on the more powerful individuals and classes of the community, preventing them from availing themselves of the excess of their power to the detriment of the other classes." This definition lays the foundation for the result which it is apparently desired to reach, that "a government by the people can in no case become a paternal government, since its law-makers are its mandatories and servants carrying out its will, and not its fathers or its masters." Here we have the most mischievous fallacy under the general topic which I am discussing distinctly formulated. In the definition of liberty it will be noticed that liberty is construed as the act of the sovereign people against

somebody who must, of course, be differentiated from the sovereign people. Whenever "people" is used in this sense for anything less than the total population, man, woman, child and baby, and whenever the great dogmas which contain the word "people" are construed under the limited definition of "people," there is always fallacy.

History is only a tiresome repetition of one story. Persons and classes have sought to win possession of the power of the state in order to live luxuriously out of the earnings of others. Autocracies, aristocracies, theocracies, and all other organizations for holding political power, have exhibited only the same line of action. It is the extreme of political error to say that if political power is only taken away from generals, nobles, priests, millionaires, and scholars, and given to artisans and peasants, these latter may be trusted to do only right and justice, and never to abuse the power; that they will repress all excess in others and commit none themselves. They will commit abuse if they can and dare, just as others have done. The reason for the excesses of the old governing classes lies in the vices and passions of human nature—cupidity, lust, vindictiveness, ambition, and vanity. These vices are confined to no nation, class or age. They appear in the church, the academy, the workshop and the hovel, as well as in the army or the palace. They have appeared in autocracies, aristocracies, democracies, and ochlocracies, all alike. The only thing which has ever restrained these vices of human nature in those who had political power is law sustained by impersonal institutions. If political power be given to the masses who have not hitherto had it, nothing will stop them from abusing it but laws and institutions. To say that a popular government cannot be paternal is to give it a charter that it can do no wrong. The trouble is that a democratic government is in greater danger than any other of becoming paternal, for it is sure of itself, and ready to undertake anything, and its power is excessive and pitiless against dissentients.

What history shows is, that rights are safe only when guaranteed against all arbitrary power, and all class and personal interest. Around an autocrat there has grown up an oligarchy of priests and soldiers. In time a class of nobles has been developed, who have broken into the oligarchy and made an aristocracy. Later the *demos*, rising into independent development, has assumed power and made a democracy. Then the mob of a capital city has overwhelmed the democracy in an ochlocracy. Then the "idol of the people," or the military "savior of society," or both in one, has made himself autocrat, and the same old vicious round has recommenced. Where

in all this is liberty? There has been no liberty at all, save where a state has known how to break out, once for all, from this delusive round; to set barriers to selfishness, cupidity, envy and lust, in *all* classes, from highest to lowest, by laws and institutions; and to create great organs of civil life which can eliminate, as far as possible, arbitrary and personal elements from the adjustment of interests and the definition of rights. Liberty is an affair of laws and institutions which bring rights and duties into equilibrium. It is not at all an affair of selecting the proper class to rule.

The notion of a free state is entirely modern. It has been developed with the development of the middle class, and with the growth of a commercial and industrial civilization. Horror at human slavery is not a century old as a common sentiment in a civilized state. The idea of the "free man," as we understand it, is the product of a revolt against mediæval and feudal ideas; and our notion of equality, when it is true and practical, can be explained only by that revolt. It was in England that the modern idea found birth. It has been strengthened by the industrial and commercial development of that country. It has been inherited by all the English-speaking nations, who have made liberty real because they have inherited it, not as a notion but as a body of institutions. It has been borrowed and imitated by the military and police states of the European continent so fast as they have felt the influence of the expanding industrial civilization; but they have realized it only imperfectly, because they have no body of local institutions or traditions, and it remains for them as yet too much a matter of "declarations" and pronouncements.

The notion of civil liberty which we have inherited is that of a *status created for the individual by laws and institutions, the effect of which is that each man is guaranteed the use of all his own powers exclusively for his own welfare*. It is not at all a matter of elections, or universal suffrage or democracy. All institutions are to be tested by the degree to which they guarantee liberty. It is not to be admitted for a moment that liberty is a means to social ends, and that it may be impaired for major considerations. Any one who so argues has lost the bearing and relation of all the facts and factors in a free state. A human being has a life to live, a career to run. He is a center of powers to work, and of capacities to suffer. What his powers may be—whether they can carry him far or not; what his chances may be, whether wide or restricted; what his fortune may be, whether to suffer much or little—are questions of his personal destiny which he must work out and endure as he can; but for all that concerns the bearing of the society and its institutions upon that man, and upon the sum of happi-

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