

“Government”

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This word is used to designate the aggregate of the powers to which the exercise of effective sovereignty belongs in each state. The union under one central authority of all the component elements of nations is what alone constitutes and makes them political bodies, that is to say, bodies capable of life, of volition and collective action; and there is not a single nation which would not fall into dissolution if the government called to direct it should disappear or cease to obtain the submission which it requires in order to be obeyed.

—Though all governments have in reality the same tasks to perform, they are far from existing under the same form. There are as many political institutions, as many communities in which the sovereign authority lives and acts under conditions markedly diverse, as there are states. Hence governments are divided into different species or kinds; but, as a modern writer (Dufau, *la République et la Monarchie*; introduction, p. 18) justly remarks, "we have still to find a correct classification of the forms of government and discuss the name proper to each."

—We are indebted to the Greeks for the most ancient classification of governments. According to their publicists there were three forms of the state and of government: monarchy, or the reign of a single man; aristocracy, or the reign of the great and wealthy; democracy, or the reign of the aggregate of free men: forms, the corruption of which produced, respectively, tyranny, oligarchy, and demagoguery or ochlocracy (mob rule). Since each of these forms, whenever it prevails alone, is not slow in bringing on abuses and evils of an increasing gravity, some writers have advised a combination of them, but without being able to indicate definitely the means of effecting this combination nor the means of preserving it from all destructive change.

—The ancients were led to adopt the classification which they did, by the idea which they formed of sovereignty. Slavery, which weighed upon a part of the population by preventing them from rising to an understanding of the rights which flow from the nature of man, concealed from them the origin and the essence of this sovereignty. In their eyes sovereignty had its origin in force alone. It belonged altogether to the state, that is to say, to those who being masters in the state alone had the government of it. Outside their ranks were none but subordinates, subjects, held to obey laws framed without their co-operation. Under the empire of such ideas it was natural that distinctions between forms of government should all rest upon a single fact, the numerical proportion existing between governments and the governed.

—In modern times, owing to more exact ideas of law and sovereignty, the truth has been more nearly approached, and the definition given by Montesquieu of the nature of the three kinds of government, if it does not embrace the whole truth, embraces a great part of it. "There are," says Montesquieu, "three kinds of government: the republican, the monarchic and the despotic. The republican is that in which the people in a body, or only a part of the people, exercise sovereign power; the monarchic is that in which a single man governs, but according to fixed and established laws; while in the despotic one man, without law or rule, controls everything by his will and caprice." Since the time of Montesquieu many other classifications have been made and new names used, but the work has advanced but little, and doubt and confusion exist in men's minds, which can not but react harmfully upon the correctness of political ideas.

—The forms of government are so numerous and variable that it is very difficult indeed to consider all the differences which exist between them; in this matter, we must content ourselves with discovering the real source of the forms of government and ascertaining what is fundamental in them. The observation of facts gives the following result. In principle, sovereignty resides and can reside only in the aggregate of the individuals united into one same political body; but as it is impossible for the population to exercise this sovereignty by themselves and continually, they are forced to establish governments to which all that part of sovereignty is given which they can not reserve to themselves. On the other hand, under whatever title and to whatever extent governments are invested with sovereign power they never possess it completely. Among every people, in the absence of recognized political rights, feelings and will are met with, whose supremacy is maintained, and which impose on the action of the government impassable limits. Thus, there exists between peoples and governments at all places and times a division of the exercise of sovereignty, which, however unequal it may be, and whatever the provisions of the law concerning it, can not result in leaving either peoples or governments without some part of this exercise.

—There are many states in which the division of the exercise of sovereignty between the people and the government is a constitutional and legal reality. Such states are those in which there exist only the public powers which are subject to election, or powers whose decisions in order to become executory must have the formal consent of the governed or some portion of the governed. In other states the division of sovereignty is less perceptible, but such division, however, exists, and there never was a government which had not to take into consideration the will of the people, and never a government which could not assert its own.

—Take the most completely autocratic states: there are some in which the monarch has apparently all power over men and things. Religious beliefs, written laws, traditions of the past, nothing which subjects the intelligence, has been omitted in order to consecrate his person, sanctify his authority and free it from all restraint. What is the result? In such states the omnipotence of the master is in reality but a deceptive fiction. Before and around him are living forces which impose more or less narrow limits to his will. Neither the powerful nobles, nor the ministers of religion, nor the soldiery, nor the people, are disposed to endure everything from him. There are beliefs, interests, rules, customs, which they do not allow him to offend, and when he forgets this, insurrections, which frequently dethrone or put him to death, teach such rulers that their sovereignty has limits, and that above it there is another sovereignty which occasionally awakes, refusing to be annihilated. And so there is the case of republics, in which the magistrates, simple executors of the will of those who chose them, seem devoid of all personal initiative. The government here preserves by the force of things the real exercise of a certain part of effective sovereignty. There are matters on which citizens as a body could not deliberate without compromising secrecy; there are others which come unexpectedly and require immediate decision, and it is necessary that the government should act, even if its action should involve the future. The time, of course, will come when account must be given of the motives which impelled it, but the fact will nevertheless remain that a sovereign act was performed which in a good number of cases will infallibly react on the destiny of the state. Such is the case in all political communities. There are no states in which the exercise of sovereign power is not divided in different proportions between the people and their government, and from the inequality of these proportions arise the differences which separate the forms of government most profoundly.

—The first and most considerable distinction arising from the difference of the proportions of sovereign actions which the government holds, is that which makes the governments republican

or monarchic. Wherever nations retain sovereign action in the largest measure, they remain representative, they choose the depositories of public authority themselves, and there is not a single person who does not hold the mission which he performs from the will itself of the whole or a part of the people. On the contrary, where nations do not retain so much sovereign action they are not representative, and their government exists of itself. In such a government there is a personal power elevated above all, and not emanating from the suffrages of those whom it governs. Birth invests successive titularies with this power according to an order established by the laws and declared immutable—Such are the two great constitutive forms under the one or other of which are ranged all possible governments. In fact, there is no government which is not a republic or a monarchy, that is to say, which does not emanate altogether from an election or which does not admit of hereditary royalty.

—After the fundamental distinction which divides governments into two clearly distinct categories, come all the distinctions which arise from the difference of the sums of effective power the exercise of which they possess. These distinctions are numerous and not less marked in republics than in monarchies. In fact, the different kinds of republican governments have nothing in common except the principle upon which they are based. But in everything relating to the change of persons composing the government, and the degree of independence which these persons enjoy in the administration of the state, no two have ever been exactly alike. There have been some formed of simple councils, changed several times in a year and obliged to consult their constituents before rendering the least new decision. On the other hand, we have seen cases where a chief elected for life disposed freely of employments and was able to impress on public affairs a character depending in a great degree on his personal will. And between these two extreme forms there is a large number of intermediate ones.

—In like manner, notwithstanding the hereditary character of the king, the monarchic form lends itself to numberless modifications. While there are states in which the prince possesses absolute power, there are others in which, subject to the law, he decides nothing of himself, and in which he performs no act of authority without the direct concurrence and control of the nation, represented by legislative assemblies whose members it has chosen.

—One point to be remarked is the absence of terms for classifying the different republican governments. On the contrary, numerous terms make it possible to classify different monarchic governments, and, though they have not all the desirable precision, these terms have the merit of being in harmony with the reality of facts. Thus, when it is said of these governments that they are autocratic, absolute, despotic, limited, constitutional, representative, parliamentary, words are used to which a real sense is attached, words which denote differences of form between these governments, due to the unequal apportionment of the parts of sovereignty, the exercise of which belongs to hereditary chiefs of the state.

—Certain writers, following in this the example of antiquity, divide governments into aristocratic and democratic. The greatness or smallness of the number of persons in possession of the right to share in managing the affairs of the state is never an insignificant fact. Nothing has a more active influence than this on the decisions of the ruling powers, and especially on the distribution of offices and on the advantages attached to public life. But if it is well to note the fact, it should not be forgotten that governments, so far as they are aristocratic or democratic, merely reflect the nations to which they belong; and this in reality does not affect their form in their really characteristic part, the degree of independence and the discretion reserved to the powers of which they are the assemblage.

—Besides governments which direct the different states, there are others whose authority extends over a number of states, distinct, but connected by pacts of alliance or federal union. These have no other prerogatives than those which the governments of the several states have yielded in their favor, and there may be very considerable differences between the amounts of directing authority which they wield—Whence comes the diversity of forms of government? To answer this question has been and is the object of the labors of science. The study of facts justifies the following statement: The differentiating cause of the forms of government is the difference in the situations of the states themselves. Extent, configuration, geographical position of states, the number, origin, traditions, industrial and commercial interests of the populations which they include, all vary—there is nothing similar among them, and if there are some that contain but few germs of decomposition, there are others, on the contrary, which conceal many of energetic and persistent vitality. This does not permit the governments to accomplish their tasks under the same conditions of existence and action. The less homogeneous the elements collected in the same social body, the more the powers called to maintain union demand independence and stability, and the greater the share of these they obtain.

—It would be impossible for a state to exist unless the populations which it includes retained less influence on its destiny in proportion as they themselves are incapable of agreement. In every state there is a measure of participation, either in creating the public powers or administering collective affairs which for these populations limit the power of the elements of discord to whose influence they are subject; and when this measure is exceeded, conflicts more and more productive of violence and irritation break out and lead to intestine strife. Such has been the course of affairs at all times and in all places. The degree of political sociability of populations ranged under the same central authority has decided the amount of sovereignty of which the populations have retained the regular and continuous exercise. Great where the populations owing to natural affinities form a very compact whole, this amount has always been small or nothing where the populations did not accommodate themselves to the same laws or the same administration; and to governments have fallen all that portion which they could not manage without damage to the maintenance of internal peace. This is a necessity imposed on every state under pain of anarchy and destruction.

—As to the circumstances which react on the form of governments by rendering populations more or less social, they are all those which have the sad privilege of sowing dissension and hatred in the bosom of states. Differences of origin, of language, and nationality, quarrels between established religions, rivalries between social classes, jealousies and struggles between local interests: these circumstances and many others less important, mingle and combine, strengthen or weaken each other; and their total action, by determining to what point the wishes of the governed are or are not reconcilable, determines in the last resort the mode of existence and the amount of sovereignty which each government requires to preserve the state it governs from dissolution and ruin.

—Among the circumstances which contribute to vary governmental constitutions there is one which has always attracted more attention than others: territorial extension. This circumstance Montesquieu declares to be altogether of decisive importance. "The natural peculiarity of small states is to be governed as republics, that of medium size to be subjected to a monarch, that of great empires to be governed by a despot." What is true in this regard is, that the power of the causes of discord and ruin which they contain is almost always in proportion to the size of the states. Ordinarily the greatest enclose not only states which are foreign to each other, but nations between which exist enmities, the deeper because there are among them some which arms alone have been able to force into an association which deprived them of their former independence. Generally also it is in the largest states that the antagonism of different religious

beliefs, and the differences of climate and geographical situations maintain in the bosom of populations hatreds and rivalries of the most intense character; and such is frequently the unsociability of the elements entering into their composition that they would separate if the power intrusted with maintaining political unity were not fixed in the hands of an absolute sovereign. There are nations which do not possess so much sovereign action as they might exercise without peril to public peace; there are none which could retain it beyond the measure fixed by the energy of the motives of dissension, to whose influence they are subject, because in such a case the anarchy which originates on account of inefficient central authority extends its ravages gradually, and ends by bringing the state to ruin.

—Anarchy is death to all political associations. By destroying in the bosom of a state the power destined to unite all its forces under a single management, it dissolves and deprives it of the means of resisting the attacks of its neighbors. Hence the necessity of escaping the destructive effects of anarchy has at all epochs decided in every state in the world the organization of the government. Wherever a change in the personnel of the government by election lets loose storms of passion destructive in their violence, the political community has been able to preserve itself only on condition that it seek repose under the monarchic form; on the contrary, where the same change in the personnel of the government merely caused agitation without disorganization, the community retaining a more complete exercise of sovereignty, continued to live under a republican form.

—The need of union and internal security has influenced not only the division of states into monarchies and republics, but also the modifications which more or less affect political constitutions of the same sort and bearing the same name. In republics as well as in monarchies, the number and real force of the elements of trouble and division, whose force must be restrained, have influenced the partition of sovereign action between the governing and the governed; and in fact there have never been two states in which this partition was regulated in precisely similar proportions. It follows from this that political liberty can not flourish everywhere in the same degree, and that, as Montesquieu thought, there are states condemned to exist only on condition of accepting the evils produced by an entire absence of liberty. This is certainly a real misfortune for these states; but, it is proper to remark that this misfortune is, for those who suffer it, but one fruit of the iniquities in which one party among them has shared. Brute force created and maintains the empires weighed down by the despotism of the prince. One of these empires extended its conquests over territories belonging to neighboring nations; it has subdued and retains under its rule people who regret their former autonomy, and instead of fellow-citizens it finds in the vanquished enemies, almost always disposed to rend the ties of an association which they detest. This is what chiefly makes states—whose greatness rests only on a union, under the same government, of races distinct by origin, language and historical antecedents—the seat of absolutism. War exists within them, and nothing less than a continual state of siege is requisite to prevent it from breaking out. Their unity is too artificial not to succumb, if the authority which forms its only bond is not free from all control and restraint. This authority has struggles and combats to endure, and, like military command, it can admit neither limit nor division. In this way nations are punished which abuse their power; they oppress and are oppressed; the servitude which they impose on others turns against them, and they can not escape it without a decrease of the territorial greatness which they acquired unjustly.

—We have seen on what foundations governments rest, in what the differences consist which appear in their structure, and from what sources these differences really come. It remains now to show what the natural attributes of governments are, and within what limits the task devolved on them should be restricted.

—The true rule is, that governments should do only what members of the community, either singly or collectively, are unable to do of themselves, or unable to do sufficiently well, without the cooperation of public authority. But where shall we find the line of demarcation between things pertaining directly and specifically to governments and things which pertain to them only partially or not at all? After a close examination the question will not be found so simple as it might appear, and in practice it has received a variety of solutions. It is easy, nevertheless, to designate the functions which in all states belong of strict necessity to governments. They are those functions whose fulfillment is essential at all times to the maintenance of independence and national unity. Execution of the laws, negotiations or treaties with foreign countries, the levy and employment of military forces, collection and application of the product of taxes intended to provide for expenses of public utility, all these acts belong to the special domain of the governmental power; and when members of the community unite in regulating them, it is in proportion as they participate in the exercise of effective sovereignty, and form an integral and working part of the government.

—There are other parts of sovereign action, which, without being concentrated in the hands of government, demand its continual cooperation. Such is the administration of justice. There are states in which the people themselves designate the judges who administer justice for them, and, by means of juries selected from their own ranks, take part directly in the exercise of the judicial power. In this respect, combinations may be very different, and the best are always those which free the judges most from external dependence; but whatever be their spirit or character, there still remains a task which the central authority alone is fitted to accomplish with the requisite success, that of assuring the execution of the laws in accordance with the will of the legislator. If the accomplishment of this task is imperfect, laws abandoned to various interpretations would at length cease to be understood alike at all points of the national territory, and society would suffer from the uncertainty of the rules on the strict observance of which the security of person and property depend.

—Of social wants there are some the satisfaction of which demand, imperatively, the co-operation and action of the state. These are provided for by services and labors of public utility, and consequently at the common expense of all portions of the territory. There are many ways of executing these labors, and many ways also of meeting the expenses which they necessitate, and of obtaining repayment; but the care of declaring the utility of these works and of seeing that they accomplish their purpose, is incumbent on the state. Thus, in the organization of postal communication, the digging of canals, making of long roads, its intervention is necessary, and the government intervenes because it is the organ of what is most general in the interests to be conciliated and satisfied. There is no state of any extent without communities endowed with life peculiar to themselves and having special wants and interests. Communes, parishes, districts, departments, counties, provinces, under whatever denomination they may be known, these fractions of the political association have to bear the local expenses, and manage the property which belongs to them, perform all the acts required by an existence distinct from the general existence, and all have mandatories and administrations, which deliberate and act in their name; everything differs, nevertheless, according to the country in the measure of the liberty which they enjoy, in all things concerning the conduct of their affairs. While certain governments make it a point to keep them in leading strings, and allow them to move only with the permission and under the control of government functionaries whom they themselves have chosen, others do not interfere at all in their decisions, and let them act in all questions at their own risk and peril.

—If we examine the question on one side only, it seems that in their relations either with communes, or territorial fractions, having an existence of their own, governments should confine

themselves to enforcing obedience to the laws of the state, and to preserving from all injurious attacks the interests placed under their care, but, on a closer inspection, we discover that affairs are not everywhere and always arranged in the same fashion. Populations are not equally advanced in all countries, or equally fitted to administer the affairs within their jurisdiction. The reason is, that the past has not been the same for all. Even in Europe there are still some nations whose escape from serfdom is too recent, and who, bent under the weight of ignorance, unless government acted, would make none of the sacrifices which the improvement of their intellectual and economic position most imperatively demands. Still, even with these populations, compulsion should be reduced to minimum proportions. The power of producing the qualities required in civil life is found only in the practice of that life. In order to know what are the collective interests, and what intimate ties exist between them and private interests, it is necessary to be occupied with them. Men who take no part in the decisions made with reference to the public good, never discover to what point this good is connected with their own, and remain indifferent to everything which passes outside of the sphere in which their domestic activity is concentrated. If you take away local liberty, political liberty will have but ill-secured foundations, and, not finding among the masses feelings and ideas to render it dear to them, will be exposed to the hazards of revolutionary crises—After having indicated what governments have to do, either alone and unaided, or in concert with one or another subdivision of the political community, it remains to show within what limits their action should be confined, and what the domain is which they can not enter without becoming more injurious than useful.

—There are liberties in every society which it is important to leave in all their natural extent. It is an indefeasible right of individuals to use their faculties and powers as they see fit, to improve their condition, to amass wealth and rise to the possession of all the advantages attached to the social state. This right has for each one no other limit than the respect due to the same right of other men, and in everything which concerns this right, the task of public power consists solely in preserving its exercise from any offensive or restrictive attack.

—Unfortunately governments have not judged in this way. Instead of contenting themselves with securing to each person the highest possible degree of safety in the employment of his means of wellbeing and in the enjoyment of the goods which have come to his share, they have considered it as their office to direct the activity of individuals according to their own pleasure, and to interfere in the distribution of wealth. Ranks and conditions, ownership and distribution of lands, application of capital and labor, production and exchange of products, labor, manufactures and commercial transactions—there is not one of these which has not been subjected to distinct repressive rules, and their acts have only succeeded in creating obstacles to the beneficent energy of arts and civilization.

—It is impossible to invade the common right without spreading in the midst of societies injustice and serfdom, the weight of which will inevitably arrest or retard their progress. Such has been and such always will be the effect of laws intended to create a civil and economic order different from that which should be produced by the free development of individual forces and faculties. These laws operate only on condition of taking from some to give to others, and their results are continually in opposition to the general welfare. If they tie up the land in whole or in part for the benefit of one portion of the community, they reduce among the remainder the possibility of obtaining the advantages of ownership in real property, narrow the field of their action, and weaken the mainspring of their efforts. Nothing acts so efficaciously on the energy of men as the desire to acquire land; above all, nothing inclines them so much to be careful, industrious, to accumulate savings, the use of which is required on land; but where this desire, for want of meeting all the facilities for satisfying itself, to which it has the right, remains feeble and languishing, populations lack the qualities most essential to their prosperity. Among the

causes which prevent the nations of Europe from advancing with firmer and quicker step toward civilization, one of the first places must be assigned to the institutions which give to privileged classes the exclusive possession of vast portions of the soil; and if the Slavonic nations have remained behind others, it is principally because among them landed property was reserved entirely to those families of which the nobility was composed.

—In industrial affairs the interference of authority is no less injurious. At every epoch the kinds of production which are stimulated by the circumstances of the moment obtain the most ample remuneration, and on this account attract more labor and capital than others. This is the natural course of things which governments oppose, whenever, by distinguishing between the different branches of commerce and industry, they provoke the special development of some. In this case, by calling productive forces into less fruitful fields than those which they leave or would choose, they diminish their general fruitfulness, and nations do not gain from their labor all the results which they desire. To this drawback are added others of no less gravity. First, it is only by imposing on the community more or less onerous burdens, that industries are sustained which are wanting in some of the conditions of success, which they would need in order to dispense with assistance, and such combinations are changed into obstacles to the increase of wealth. In the second place, the action of power enfeebles among producers the qualities most necessary to the proper employment of their resources. Instead of counting only on profits due to the energy and dexterity of their own efforts, they leave to the state the care of securing for their work sufficient recompense, and generally they care little for profiting by innovations which demand advances of money and sacrifice.

—Let an examination be made of the results produced in practice by legislative arrangements, intended either to modify the distribution of property and wealth or to assign artificial and forced directions to the application of labor, and we shall find not one which is not an attack on liberty, whose productive activity needs to be developed in all its power, and which does not deprive members of the social body of some of the means and elements of prosperity, the use of which they have the right to retain. At present, owing to the advance of enlightenment, governments, better informed than in former periods, have commenced to see that there is a large number of facts of the economic and civil order which must be left to themselves. In the most advanced states of Europe laws which formerly reserved to particular classes the possession of the soil, or treated unequally the different methods of labor and production, have already given way to less restrictive enactments; and it is very clear that the time is approaching when the laws of justice will at last receive the respect due them.

—It is to be desired, nevertheless, that governments should no longer extend their action beyond the circle in which the interests of society require them to be confined. In everything relating to the distribution of wealth, to the application of industrial forces, and the conquests of individual activity, their task consists solely in superintending the execution of engagements, to secure for persons as well as property of every kind of which they are in legitimate possession the highest measure of safety possible. This task accomplished, they have only to follow the course taken by events. To regulate this course there are natural laws which require no assistance from man; laws, whose work is always the better and completer the more it is accomplished in freedom. To endeavor to substitute a different order for the order which is the object of these laws, is nothing less than to try to substitute for the results of supreme wisdom the results of human wisdom, which are necessarily imperfect; and such fool-hardiness meets inevitable punishment in the sufferings which it inflicts, or in those whose abolition it prevents.