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THE ORIGIN OF CIVIL AUTHORITY.

I.

*Die Grundsätze der Sittlichkeit und des Rechtes.* Beleuchtet von Th. Meyer, S. J. Freiburg, 1868.

*The American Republic.* By O. A. Brownson, LL.D. New edition. New York.

OUTRAGES committed on the holders of civil power have, in our age, become events of frequent occurrence. There have been, in this century, very few princes in Europe against whom a conspiracy was not formed, or on whose person a deadly attack was not made. Several of them have died by the hands of assassins. A short time ago all civilized nations were shocked by the dreadful assassination of the emperor Alexander II., and since several years, the entire world is amazed at the widely-extended plot and the incessant secret working of the nihilists against the head of the Russian monarchy. But also on this side of the ocean authority has not been inviolable. Was not twice the Union plunged into the deepest sorrow for seeing the life of a President treacherously destroyed?

If criminal acts of an atrocious nature are often repeated, with the co-operation particularly or the connivance of many, they are always symptoms of an inward disease of society, and remind the wise and thoughtful of the necessity of applying salutary remedies to the body politic, in order to prevent its speedy dissolution. So, indeed, the latest assassinations have been looked on by the sound public mind, so the press has, in general, commented on them.

Much more so have the supreme pastors of the universal Church, the Sovereign Pontiffs, viewed those sad events. They took occasion from them to give advices and admonitions to all Christian nations, and to point out the great dangers imminent if a return to better principles should not soon take place. His Holiness, Leo XIII., to this effect addressed an encyclical letter to all Christendom after the awful catastrophe in Russia. Having spoken in the same both of the atrocity of the crime committed and the evils everywhere threatening civil society, he deems it necessary again to inculcate the sacredness of authority; for this great principle he considered as fundamental to all social life; so that as the one is heeded or disregarded the other also must of necessity thrive or decay.

The warnings of the Sovereign Pontiff deserve our fullest consideration, because he not only touches the core of the evil that corrodes society, but also furnishes the remedy that may heal the corruption. It will therefore be proper to enter into his ideas and to develop them more fully for Catholic readers. For this purpose the present essay is written; it is intended to be a demonstration of the divine origin of authority. As to the division of the matter, we shall observe in the following order: First, the necessity of civil authority among men is to be set forth; then, the different opinions concerning its nature and its source will be expounded, and those of them that are obviously false rejected; afterwards, from its characteristic properties its true origin will be inferred, and hence the force and extent of its actions be defined; lastly, we have to explain how authority, thus far considered abstractly, obtains concrete existence by being vested in a proper subject; in conclusion, we shall point out the beneficial effects which, if derived from God, it must produce in the state.

The necessity of civil authority among men follows from the necessity of society. Society is so necessary to us that without it we could not at all exist and act in accordance with our rational nature. In domestic society man is born and brought up; in religious society he practices the worship of the Deity; in civil society he enjoys peace, security, and prosperity. What is the cause of this phenomenon always and everywhere observed upon earth? There are goods which man is absolutely in need of and still cannot procure but with the help of others. It is hence necessary for the different individuals to associate, in order to pursue such objects with common efforts. Nature herself has for this purpose endowed us with the faculty of speech and implanted in our hearts love for and sympathy with our fellow-creatures; it has, moreover, so constituted us that to the want in one the power of furnishing the means to satisfy it answers in another. Among the goods not

attainable by private efforts we must reckon also those which make up man's temporal or external well-being to such a degree as is requisite for the destination of human nature; for they cannot all be procured but by the co-operation of a vast multitude of individuals and families. For the attainment of them we are, therefore, bound and even impelled by nature to form a society spread over a whole country,—the state. Civil society is thus a necessity of our nature, a necessary consequence of our constitution itself. Hence it is that it will never fail to exist, that it cannot be rooted up, that, if destroyed to-day, it will rise again to-morrow under another shape, that it is found among all nations and in all ages.

Yet society implies authority as one of its constituent parts. Society, in general, is any union of rational beings for the purpose of pursuing the same end with common efforts. Since of rational beings each one is a complete whole, an entire principle of immanent and free activity, subsistent in itself; they cannot be united intrinsically or as to their entity so as to form by their combination new natures or substances. Between them a union is effected only by joining together their tendencies or operations towards the obtaining of the same object. This we call a moral union, because by it free wills are combined. So, indeed, men coalesce against a common enemy, or for the sake of a profitable commerce, or the promotion of science, or the establishment of useful institutions. However, the great difficulty is, how permanently to unite rational beings as to their free will. May they not, though they once desired the same object, later relax in its pursuit, or, though they agree as to the end in view, disagree as to the means to be employed in behalf of its attainment? With regard to union the free will is quite different from the physical force. The latter, because it acts and is determined with necessity, is of itself unchangeable in its agreement with the elements with which it is combined; yet the former, just on account of its freedom, can with those with whom it was once united be again at variance. In such a case it is evident that society is dissolved or becomes loose and inefficient. Therefore, to render the union of free beings permanent, strong, and energetical, still another element must enter it besides the sameness of the end that attracts all. There must be a bond which ties them together inseparably, a power which energizes and regulates their common tendency. This principle, as it directs rational beings, referring their actions to an end, must belong to the moral and intellectual order, and as it exercises a rule over others, necessarily implies superiority. We hence call it *authority*. Authority, therefore, is in any society the source of unity, the formal constituent, the life-giving principle; it is for members of a moral union what the head is for the body.

But from this we must infer that society cannot exist without authority, just as a whole cannot be without its constituent parts. Not even the family, the simplest form of society, consisting of but few members, can be without a head or has ever been without it. Much less can the state do without it, as it requires a harmonious co-operation of numerous partners, and as unity is maintained among many with much greater difficulty than among few. All states, on this account, have and had at any time their magistrates, among the savage tribes as well as the civilized nations. They differ as to the form of government, but a government they all have; they sometimes changed it, yet they only substituted one form for another and did not abolish it at all; had they done so, they would have destroyed themselves. Authority, then, is for society of absolute necessity, and is for mankind as necessary as society itself.

From this development also the nature, the properties, and the functions of civil authority are apparent. It is the power, and lays on those in whom it is lodged the obligation, to lead all the members of civil society in harmonious unity to the attainment of their common end,—that is, to the obtaining of that degree of temporal well-being which is requisite for man's destination. Authority is hence essentially beneficent; for it is not meant to serve the personal interests of the magistrates by taxing the liberty of the subjects, but aims at the welfare and the prosperity of all alike. Yea, beneficence is the property not only of civil, but of all authority in general. For as happiness is necessarily aspired to by our rational will, men will never agree but on an advantageous end to be pursued by common efforts. The object of those societies in particular which God himself has founded either by creation or supernatural intervention must needs be good, because He always intends in His works the perfection of His creatures; and hence the authority that leads us towards embracing such an object is beneficent in a special manner.

As to the functions by which civil authority has to perform its task, we may easily understand that they chiefly consist in the establishment of proper laws and rights, and in the constant and prudent maintenance of the same. To direct all citizens of the state to the attainment of their common end, their temporal well-being, it must not only inspire them with energy in the pursuit of this object, but also put imperturbable order and harmony in their actions. Two things are comprised in this. First, authority must draw up a rule, which following, all co-operate for the common welfare, so as not to hinder, but rather to aid one another's activity; secondly, it must render such a rule binding for all, so as to lay their free wills under unavoidable necessity to comply with it.

Should authority fail in one of these two things, it would, no doubt, be far from fulfilling its task. But if all are bound harmoniously to employ their forces for the public well-being, each one is also, with full justice, entitled to the exterior capacity of performing whatever is implied in his social duties, to the corresponding co-operation of the other members of the state, and to a proportionate share in the fruits gained by common efforts. Now thus laws and rights are created. For the rule laying all citizens under a strict obligation to forbear or to perform certain actions we call law, and the just claim not to be impeded or to be helped by others, under given circumstances, we term right, law being, as S. Thomas<sup>1</sup> says, a rule dictated by reason in behalf of the common weal and promulgated by him who has care of society, and right being an irresistible moral power to possess, to do, or to exact something. Civil authority, therefore, must be conceived as a source of laws, of duties and rights, and it is by them that it unites and strengthens the commonwealth, and surely works out public welfare.

Being thus, to some degree, acquainted with the necessity, the nature, the properties, and the functions of authority, we may now begin to search into its origin. A question of paramount interest! Who is not desirous to know whence that power is which by putting order in our civil life may produce our highest earthly good, and by imposing inviolable laws on each one's free will may protect our liberty and our most precious rights? Who is not aware that its extension, its efficacy, and its wholesomeness are quite dependent on the source from which it is derived, and that the trust we may have in it must be different, as the principles vary from which it is thought to spring? The best course we can take in the discussion of this question will be, first to hear the opinions which, concerning the origin of authority, have prevailed in the several periods of history, and then to point out those which, by obvious reasons and experience, prove false.

No sooner had, after the overthrow of heathenism, Christianity begun to pervade the public life of the nations and to illumine human science with the light brought down from heaven by the Eternal Word, than all authority, whether in the Church, or in the state, or in the family, was conceived to be an issue of the power and sovereignty of God. Then the whole philosophy of law was a development of the truth proclaimed by the apostle: "There is no power but from God, and those that are, are ordained of God." Rom. xiii. 1. The several authorities, however, were understood to be in full harmony; for how could potencies disunited or hostile flow from the same divine source? It was just by their concord

<sup>1</sup> S. Theol., I., II., qu. 90, art. 4, "Lex est nihil aliud nisi quaedam rationis ordinatio ad bonum commune ab eo, qui curam habet communitatis, promulgata."

that they wonderfully upheld and strengthened one another. The state's power in particular, by its friendly alliance with the Church, had, in the eyes of the nations, got an irrefragable witness for its divine origin, and was clothed with a higher lustre as a token of its sacred character.

Yet this union between the Church and the state was broken up, first only in fact, when towards the end of the Middle Ages, emperors and kings attempted to render the spiritual power of the Church subservient to theirs, and when, by their policy, they trampled on all her sacred laws. Later, when the humanists had with their heathen views alienated many a mind from Christ, a proper theory was sought for the practice. The solution of this problem was reserved to Macchiavelli (1469-1527), and so thoroughly has he performed his task that he emancipated the state not only from the Church, but also from God. According to the ideas he laid down in his renowned work, *Il Principe*, civil power, vested in the monarch, is altogether an end in itself, absolutely sovereign and independent; it ought, consequently, to have in view no other object than its own interest, and to be directed by no other rule than that of expediency; it had to consider as good and allowed whatever promoted its growth, and judge evil and forbidden whatever hindered its success. Over a state of so absolute a character, of course, no other law could exist, not even that of morality. True, religion and virtue were not to be banished from the commonwealth, but should rather be recommended to subjects and feigned by the prince; yet they both were only humble servants of the state, to be favored and employed as far as the latter's interest would require. It is evident that thus the supreme civil power was declared independent of God; yea, placed on His throne; for it was represented as having its sway not from Him, but of its own sufficiency, and as having its last end not in Him, but in itself. Here we have the first attempt during the Christian era to derive authority from another than Divine source, by attributing to it absoluteness both in existence and in action. However, though Macchiavelli had but systematized the policy then common among most of the European princes, his theory met with general dissatisfaction. The nations were yet too deeply penetrated with religious feelings, too closely attached to the Church, not to abhor such godlessness.

Yet the Reformation came and achieved what just before was still impossible. The authority of the Church was run down as a human invention, and that which was left of it was incorporated with the state's power. The facts are too well known from history to need any further illustration. At first civil authority seemed to be strengthened by these proceedings, and to be surrounded by a

new splendor of sacredness, it being now considered as the only power on earth established by God Himself. We remind the reader of the views entertained by the English monarchs and their divines with regard to the royal supremacy. But soon the kings were shown in a quite different light. Civil power, made absolute, became extremely tyrannical, particularly in matters of conscience. Besides Catholicity, also many of the numerous sects which had taken rise in all Protestant countries were cruelly persecuted. A bitter hatred was on this account aroused against the existing governments. If the authority of the Church had been discredited and outraged, in spite of its majesty and its age, in spite of the proofs alleged for it from Holy Writ, in spite of the many benefits bestowed by it on all civilized nations, why should secular power, stained with cruelty and tyranny, be any further regarded by the discontented as sacred and divine? If in religious matters full liberty was proclaimed and law abolished, why should man not be equally free in temporal things of much less importance? So, in fact, the peasants in Germany understood the new gospel; they rose in a bloody insurrection against the princes. Nor did, some years later, the exalted theory of their supremacy spare the English kings revolution, banishment, and death by the executioner. The reformers themselves spoke with great disrespect of the governments not favorable to their cause. Temporal power, too, was thus bound to fall into contempt.

Another important circumstance must in this matter be taken into account. Protestantism had, on the one hand, no connection with antiquity, but was, owing to its very origin, in a radical opposition to the Catholic science of the Middle Ages; it had, consequently, thrown itself into the necessity of devising quite new scientific systems, both in philosophy and in theology. Yet, on the other hand, it had exempted the human intellect from all subjection to authority, giving full freedom in all things to private judgment. The consequence was that the intellect, in achieving so great and difficult a work as that of laying a new foundation of culture and civilization, destitute as it was of all help, became liable to any kind of deception, a prey to all human passions. Ought we to be astonished if soon a motley crowd of errors shot forth, if opinions and ideas emerged again which once seemed to have been buried under the ruins of heathenism? The fact is that, not long after the Reformation, in Germany and England, empiricism, materialism, idealism, pantheism flourished in succession, that philosophy became the mother of unbelief, impiety, and absurdity. Now in the public mind unchristian political theories could fix roots; now the state's power could be severed from God, or rather could be allowed to supersede Him by assuming His

attributes. For the errors of speculative always have their bearing on practical philosophy, and it is chiefly there that their influence is felt.

The new era of political science, based on modern speculation, was inaugurated in England. Hobbes (1588-1679), as he first deduced sensationalism from Bacon's empiricism, so also started a new theory of society. Considering man as a beast of prey, devoid of moral conceptions and free will, impelled by animal instincts to seek his own satisfaction at whatever expense of others' happiness, he thought our primordial or natural state to have consisted in a warfare of all against all. However, when men had thus lived for a certain time, they got disgusted with a condition from which nothing but universal carnage could result; led by reason and reflection they resolved, for the sake of a truce, to enter into a union, all with each and each with all, by establishing a common power strong enough to coerce the opposite egotistic tendencies of the several individuals. Such power, he thought, would be monarchical absolutism, which, exercising unlimited sway over each one's entire being, over the understanding and will of all, could not err in anything, but was to constitute, by its decrees and actions, right and justice itself. Society as well as authority was thus, in his opinion, the creation of the individual human being, the issue of a contract made by them, in order to exchange their state of barbarity for permanent peace and tranquillity.<sup>1</sup>

In a somewhat different way was the theory of the social compact put forth by Locke (1632-1704), the philosophical founder of empiricism. He, too, lets civil society rise from a contract concluded by individuals for the purpose of mutually protecting their interests, particularly their property. The supreme authority, however, necessary for unity, and hence created by the will of the contractors, he lodges in the whole body politic, in the collection of all the citizens. Magistrates, says he, must be set up, yet they are to be intrusted only with the power of putting the laws into execution; legislative power itself abides with the people and is to be exercised through representatives. Not the government, consequently, is sovereign, but the nation; it is this that determines the constitution of the state, sanctions the laws, creates administrative power by transferring individual rights to a common centre, and delegates it to the king or other officers held answerable for the use they make of it, and liable to be deposed for malversation.

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<sup>1</sup> Hugo Grotius (1583-1645), a Dutch Protestant, had, in his work, *De Jure Pacis et Belli*, even before Hobbes, spoken of a contract that gives existence to civil society. But he does not admit barbarity as preceding the civilized state, nor is, in his opinion, the compact the last cause of society; he rather considers it only as the means by which human nature actualized in the concrete order its inborn socialness.



Locke has, by his system, first proclaimed the sovereignty of the people and advised popular representation as the best form of government.

In this stage the modern ideas concerning civil authority went over from England to France, to find there their further development. Montesquieu (1689-1755), in his work *L'esprit des Lois*, deduced from Locke's principle the constitutional monarchy. Public power, all emanating from the people and ultimately residing in them, is divided by him into executive, legislative, and judicial. The executive power is vested in the king by a written fundamental contract between him and the nation; the legislative in two houses of representatives, dependent, however, as to the validity of their enactments, on the royal sanction; the judicial in judges, independent in their position of the government, but bound to act in strict accordance with the laws enacted. The person of the king is inviolable, yet he cannot use his power but through his ministers, and these are answerable for their actions to the houses of the representatives. The design of this scheme was to maintain the sovereignty of the people by rendering the magistrates directly or indirectly responsible to them, to prevent the misuse of governmental power by dividing it and intrusting its parts to different bodies dependent one on another, and hence exercising a mutual control.

Two things must be well understood in the form of government drawn up by Montesquieu. First, all agents in the state are supposed to be actuated solely by selfish motives, chiefly by the love of honor, wherefore they, with intrinsic necessity, pursue their own interest alone, and employ the power with which they are clothed for the public welfare only inasmuch as they are spurred to do so by their own advantage or are precluded from misuse by extrinsic circumstances. Civil society is thus an artificial mechanism, in which one power is checked by the other and all are reduced to equilibrium. Secondly, the state itself is absolutely sovereign, since it was neither derived from God, having sprung into existence from the consent of the citizens, nor referred to Him at its end, the prevention of the abuse of power through equipoise being its real destination, and the happy effect thus by whatever means obtained being as the actualized will of the people, the supreme good to be longed for, and the highest object to be aimed at. That authority of so absolute a character was under no superior law, not even that of morality; that religion was regarded as a subordinate potency, was but a natural consequence from such premises. Montesquieu had evidently revived Macchiavelli's theory with that only difference, that sovereignty resided, according to the latter, in the monarch; according to the former, in the

people; and that in the opinion of the one everything was lawful that the king decreed; in the opinion of the other, the will of the nation was justice itself.

Whilst Montesquieu developed the ideas of the English philosophers to constitutionalism, Rousseau (1712–1778) drew from them the theory of revolution. The following is the drift of his thoughts, laid down in his *Contrat Social*. All men are naturally free and equal, since each one's nature and ultimate end consists in the exemption from restraint of whatever kind. Equality and liberty, therefore, are essentially inalienable prerogatives of man, the highest good and the pitch of his happiness, the diminution of which is wrong, the promotion of which is right. Such being our nature, civil society cannot be brought into being but by a free agreement of all individuals, nor can its object be anything else but common protection consistent with the equal freedom of all. The great problem to be solved by the state, says he, is "*to find a form of association which shall defend and protect with all the common strength the person and property of each associate, and by which each one, being united to all, shall nevertheless obey only himself, and remain as free as before.*" The solution is this: Each one transfers all his rights on the collection of all those with whom he enters into union; the community thus founded is the state, the sum of rights thus accumulated is authority, the common will of all is the sovereign. Provided, then, that the supreme authority rests in the whole nation, he thinks the equality of the citizens to remain intact in society, and their obedience to be reconciled with freedom; because all have an equal share in the public power and its beneficial effects, and each one as he obeys the common laws so also governs as a constituent part of the sovereign people. From this nature of civil power he at last deduces two conclusions, one respecting its holders, the other its actions. As to the first, he infers that the magistrates have no authority at all of their own, but are merely the ministers and organs of the people, chosen by the will of the same, and deposable at any moment. As to the second, he says the enactments of the sovereign nation are absolutely good and right, and, since before the formation of society there were no precepts, the only laws of man. Others, on their part, have further deduced that, as according to Rousseau's materialistic views man is but an animal led by passions and sensual appetites, authority is in his system the sum of material forces added, the actual prevalence of united brutal tendencies.

Having thus far considered how authority was based on empiricism and materialism, we have now to call our attention to idealism. This latter set in just when the principles of the social compact began to be acted upon in France. It is interesting to follow

the idealistic development, for in all its stages we meet with some new ideas enthusiastically taken up and imbedded in the latest theories of law. Idealism was started by Kant (1724-1804), and it was he who, in laying its foundation, furnished the political philosophers with reasons for dividing morality and right into widely different spheres. As, in his views, theoretical or pure reason is the source of all the forms of our cognition independently of any exterior object, so practical reason is the ultimate origin of the moral order of our actions. Man, says he, in virtue of his rational nature, is a law unto himself, supreme and absolute, bearing in itself both the motive that inclines us and the authority that binds us, to obey itself. From their conformity with this absolute law of rational nature the morality of our doings is to be judged. Whatever action we forbear or perform by command of, and out of respect for autonomical reason is good and moral; whatever we do out of regard for a lawgiver extrinsic to us, even if he be God, or out of hope for some advantage is, because repugnant to our dignity, imperfect and immoral. Thus the primary product of the practical reason is the moral order, placed by Kant in inward freedom or independence; from this he deduces the existence of God, religion, and outward freedom, that is, exemption from compulsion, as necessary a presupposition to the realization of the moral order, and hence he at last infers the necessity of the state. Wherever, he reasons, men of equal nature live together, there their actions and relations must so be regulated by a common law that each one's freedom is rendered consistent with that of all the others. Yet this cannot be effected but by coercion; and so he arrives at the ingenious conclusion that the freedom from compulsion required by autonomical reason cannot exist among men but by compulsion according to a fixed common rule. The equal and universal coercion by law in behalf of the freedom of all he calls right; the power which works it, authority; the sphere in which it is exercised, state. The distinction between right and morality in this scheme is apparent. Morality regards only our interior, and consists in intrinsic self-determination, in respect for our autonomical reason as the motive of all our actions; right is merely in the exterior order, is but outward compulsion for the sake of universal freedom.

In a similar way had Fichte conceived the state. As he thinks, morality is the destruction of the non-ego, from which, were it once completed, the infinity of the ego would result. This implies that the ego is destined to extend in this visible world its causality as much as possible. However, as there are many egos, the practical reason dictates them to agree on a proper restriction, in con-

sequence of which they do not hinder one another's liberty of action. The means to obtain this is civil society.

In Kant's as well as Fichte's theory authority is, together with the state, a postulate of the autonomous reason, an issue of our own absolute and sovereign dignity. Its origin lies ultimately and essentially in our rational nature and cannot be traced back to another source.

That at the end the two great geniuses disagree as to the subject in which the supreme civil power is to be vested, that Kant's practical reason postulates the monarchical, Fichte's, on the contrary, the republican form of government, is quite immaterial for us.

Yet idealism was so far still in its infancy and not free from many inconveniences. The existence of many absolute beings, may they be termed autonomous reason, or absolute egos, seemed to be a metaphysical absurdity. To unite several absolute and sovereign beings under one government, and to give them the freedom congenial to their nature by universal compulsion, might come near impossibility. Such difficulties were thought to have been overcome by the pantheism of Schelling (1775-1854) and Hegel (1770-1831). Only one absolute being was then conceived to be, which was, according to Schelling, the identity of the subject and object, according to Hegel, impersonal thought. This one being, they say, comprises all; by differencing itself it puts forth the whole world, by again reducing the differences to identity, it unites the objects produced and withdraws them to itself. We give here only Hegel's system in a few words, as this was for a long time in particular favor with certain statesmen of a despotic tendency. The universe is, as he says, the development of thought in three different periods. Thought is in the first period by itself, in the second out of itself, in the third in itself, hence in the first pure thought, in the second nature, in the third spirit, which is the withdrawing of nature into thought. Now in this third period thought brings forth right, honesty, and morality, which latter is the realization of good. Good is the union of the particular and universal, or rather the subjection of the former unto the latter, whereas evil is the prevailing of the finite over the infinite, or the opposition of the particular to the universal. Such union is real in social life, where the individual is, indeed, subject to the whole. Society, therefore, being the realization of good, is morality itself, and the more it is extended, and the closer it is united, the higher a degree of morality it is. Again, social life is most perfectly developed in the state, which is not distinguished from, or subject to, the Church, but rather contains it as one of its parts. To live, therefore, in the state according to its laws is consummate virtue. Nay, the state, being the supreme evolution of the spirit in the objective

order, is God himself present and actual in the world, or the divine will putting itself into act and organization. Above the state there is only one more development, that by which the spirit is conscious of the absolute identity of the subjective and objective order. This is effected, first by art, then by religion, and at last by philosophy,—of course by Hegel's. Hence, as the state is above the Church, so pantheistic philosophy is above religion, and must be regarded as man's highest perfection and brightest intellectual enlightenment.

Apparently had in this system authority regained its former splendor and divine character, since it was the all-uniting power of the absolute, and had the difficulty to unite men to one perfect society vanished away, since the individuals were finite and dependent and the absolute alone their common source and nature, infinite and independent. But, alas! the absolute was in reality identical with human reason, being but its highest evolution; and so again authority remained merely human. Moreover, as in pantheism the particular is to be swallowed up by the universal, the individuals are in it, not joined to society, but rather destroyed, and by the combination of opposite moments reduced to nothingness.

One great advantage, however, was admitted to have been reached by Hegel's system, notwithstanding its unintelligible abstruseness. He had started the idea of an intrinsic and natural union of the nation prior to its political constitution and productive of the same. By blood, already, by nature, by their common soil and tongue were men thought to be united to one perfect whole, to which all individuals were subordinate as the members are to the body; and this compact whole, it was further deemed, would by its will, according to a natural law, bring forth society with all its constituent parts, its organization, and its government, just as the trunk of a tree evolves branches and foliage. Pantheistic exaggerations might be dropped, and still the theory seemed fully to account for the origin of the state, and to grant it independently of God, all power that was desired, if only human reason was considered as autonomous. The authority thus obtained was unlimited and absolute; for of God and His law it was independent; and over the individuals whom it was to rule it had as unrestricted dominion as the whole has over its parts. As to the subject in which it naturally rested, it was primarily clothed in the whole nation, and could for the sake of easier administration be delegated, not to one alone, as Hegel inferred, in favor of absolute monarchy, but also to many, just as it pleased the community.

This view of society is fundamental to nearly all political theories of the day. Socialism, which denies the right of possession to the individual and confers it on the state, evidently involves it.

It also lies at the bottom of positivism. The positivists, denying all that is beyond the sphere of experience, consider society simply as a necessary development of human nature without any reference to a supramundane cause. Yet, if nature universally unites men to society, if by an intrinsic law it forms the family, the tribe, the state; the principle of unity must pre-exist in it antecedent to all actual association, and pre-containing all men as in a germ, evolve them to a well-organized whole.

All modern political systems may hence be summed up in two classes. One builds up society on the consent of yet unconnected, independent individuals, and derives government and civil constitution from their free will; the other, on the contrary, supposes men naturally united to a sovereign nation, and lets from the will of this, as from the last source, spring the organized society, the power of the rulers, and the rights of the subjects.

Are now perhaps all these theories barren or dead speculations buried with their authors? Whoever is but little acquainted with the history of our age must confess that they all are acted on in the public life of nations. Not only are they read in the textbooks of law, and in the scientific works of the jurists according to which also judgments are passed, but they are also taken as foundations of most of the modern states. Empires with unlimited monarchical power now commonly rest on the principle of the absolute unity of men according to pantheistic views; constitutionalism borrows its maxims and its organization from Locke and Montesquieu; the French Revolution, and the great political movement, in general, which, at the end of the last and the beginning of this century, overturned so many thrones, divided kingdoms, and founded republics on their ruins, appeals as to the charter of its rights to the social contract; the present disturbance in many countries, the swelling power of socialism, the several bloody wars by which dynasties were exterminated, states stripped of flourishing provinces or even their independence, result from the pretended unity of the sovereign nations entitled to their natural territory or to constitutions that are thought to agree with the will of the masses.

What opinions were predominant in the Union from the time of the Revolution we may learn from the late Dr. Brownson. He is, no doubt, a competent authority. Having expounded Rousseau's social compact, and remarked that Mr. Jefferson resorts to it in the Declaration of Independence, he says in his renowned work, *The American Republic*, "This theory, as so set forth, or as modified by asserting that the individual delegates instead of surrendering his rights to civil society, was generally adopted by the American people in the last century, and is still the more prevalent theory with those among them who happen to have any theory or opinion on

the subject. It is the political tradition of the country. The state, as defined by the elder Adams, is held to be a voluntary association of individuals. Individuals create civil society, and may uncreate it whenever they judge it advisable. Prior to the Southern Rebellion, nearly every American asserted, with Lafayette, 'the sacred right of insurrection,' or revolution, and sympathized with insurrectionists, and revolutionists, wherever they made their appearance. Loyalty was held to be the correlative to royalty, treason was regarded as a virtue, and traitors were honored, feasted, and eulogized as patriots, ardent lovers of liberty, and champions of the people. The fearful struggle of the nation against a rebellion which threatened its very existence may have changed this."<sup>1</sup> Later he remarks: "The tendency of the last century was to individualism; that of the present is socialism. The theory of Hobbes, Locke, Rousseau, and Jefferson, though not formally abandoned, and still held by many, has latterly been much modified, if not wholly transformed. Sovereignty, it is now maintained, is inherent in the people; not individually, indeed, but collectively, or the people as society. The constitution is held not to be simply a compact or agreement entered into by the people as individuals creating civil society and government, but a law ordained by the sovereign people, prescribing the constitution of the state and defining its rights and powers."<sup>2</sup>

Contrasting now with one another the theories of the several periods of the Christian era, we are at once struck with the observation, that the essential difference between ancient and modern systems consists in the derivation of authority. In the Middle Ages civil power was conceived to spring from God, in our days it is looked on as a creation of man himself; in former times it had as a divine origin, so also a divine lustre and inviolableness about itself, now, being of but earthly extraction, it has a merely human character, and is liable to the fickleness of all human institutions. This, then, is the real subject of our discussion, whether authority originates in God, as the ancients maintained, or in feeble man, as modern thought holds. And this alone is the point at issue; for in what relation the temporal stands to spiritual power, does not enter at all into our present question.

Even obviously considered, the modern systems can hold forth but very weak claims to truth. We at once discover in them absurdity and falsehood, if we search into the foundations on which they rest, and deficiency, if we examine into the final consequences in which they result. From what we have said above it is evident that they are but deductions from empiricism, materialism, idealism,

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<sup>1</sup> The American Republic, chapter iv.

<sup>2</sup> The American Republic, chapter v.

and pantheism. Hobbes and Rousseau were gross materialists; Kant and Fichte were the founders of idealism; Hegel and Schelling were pantheists of the worst kind; and they all inferred their ethical and political principles from the speculative tenets which they followed. Can from so poisonous a root grow forth a sound doctrine? Can theories based on error, absurdity, and impiety be true and wholesome? This remark alone might be sufficient to convince a thinking mind of their falsity.

But, it is answered, Macchiavelli, Locke, and Montesquieu, and a great many of their admirers, were by no means atheists and unbelievers. We willingly grant this; indeed, they believed not only in God, but also in the truth of Christian revelation; yet that, in spite of their personal convictions, their scientific tenets did not rest on an atheistical ground we cannot see. It is an essential point in their system that civil society is an end for itself, independent of God, and free from his moral law. Now let us ask them, is the state, or is human nature, from which it in whatever manner springs, created or not? If human nature is increate, we must, undoubtedly, embrace pantheism or atheism. Was, on the contrary, man created, how can he be independent of his Creator, and how can the state, which is either a work of his free will or an evolution of his nature, be an end in itself, absolutely supreme and sovereign? Whatever is created is dependent on God, not only because it derives from Him being and existence, but also because it is of necessity subject to His will and referred to Him as its last end. This is both a metaphysical and a revealed truth. Moreover, the state, being the union of men in their pursuit of a common object, acts as a rational being with understanding and free-will. But every being endowed with reason must have a supreme good in view as its last end, to the attainment of which it adapts all its free operations. What now is the supreme good of all rational will? Undoubtedly, God Himself, who alone is infinite in perfection. Him, consequently, also the state must have in view, and to His embrace its actions must not be hindrances, but means. Again, God, being infinitely wise and holy, cannot but maintain order in the universe by imposing inviolable laws both on the material and the free or rational creatures. Hence also the state is under His will and power. Yet those laws of His, which concern the rational creation, and those relations which free actions must have to Him as the supreme good, constitute the moral order. Civil society, therefore, is not exempt from the law of morality, and is, in general, not absolutely independent and sovereign, but essentially dependent on God as its Creator and Lord, and subject to Him as its supreme lawgiver. To admit it to be created by God, and yet to claim for it absolutely independent sovereignty is an



evident self-contradiction, because thus the attributes of the infinite are given to the finite, and those of the increate to the created. Far more consistent were the atheists and pantheists, who denied creation and the existence of a personal Deity. They have, indeed, but unfolded what was latent in Macchiavelli's and Locke's system, and have laid down a well-connected theory of the absolutism and revolution, long before admired by unchristian philosophers and put into practice by politicians.

To speak now of the working of these systems, we have to denounce their utter deficiency. They were invented to establish such supreme authority as would effect the unity of the state, protect freedom, and promote peace and tranquillity. But in all these respects they prove quite a failure.

Unity is never produced by authority of a merely human origin. It is not difficult to show this in whatever supposition of the politicians, whether they derive power from men taken individually, or taken collectively. It is derived from the consent of men taken individually in the theory of the social compact. But the consent of the individuals governed never creates a governmental power sufficient to maintain unity in the whole civil society in a permanent and efficient manner. First, in this way no universal authority can be formed. There are always many in the state who have never consented to be ruled by the existing government. Such are the children, the women; such are all those who have no right of suffrage; such is the minority which did not vote for the magistrates actually put in power, or for the laws enacted. It cannot be said that all those have given a tacit consent to the decrees issued by the majority. For in many instances they even forcibly protest against them. Nor is it true that their continued remaining in the state implies such consent. There is no law which could oblige them to give it or could presuppose it in their actings, since the theory in question acknowledges no law to exist before the formation of society, or to be valid without the free agreement of those bound by it. Their not leaving the country of which they are citizens, frequently does not depend at all on their free will, but is simply a matter of necessity. If, therefore, their continued residence in the state should be construed as a consent to all that is done and enacted by the majority, also the victim of a robber gives consent to his being stripped of his property, because he chooses rather to deliver up his money than to endanger his life; and also the prisoner agrees to his ill-treatment, because he prefers rather to suffer in the dungeon than to be shot down at an attempt of escaping. A queer freedom, indeed, is that, which consists of necessity of choosing between two evils!

Secondly, could even for the establishment of a government

the consent of all without exception be obtained, the power thus set up would have no permanence. Each one would be as free to withdraw his consent, as he was free to give it. There again no law, no power could bind him, as none exists but by his will. When, therefore, a criminal is to be punished, he may retract his consent, and the state has no more authority over him. When the citizens ought to cooperate with great sacrifices for the public welfare, when the soldiers ought to go to battle for their country, they may renounce their allegiance to the state, and they are freed from all civil duties. Whenever it pleases the subjects, the government may be dissolved, and revolution may rise. The adherents themselves of the theory of the social compact declared this to be right and lawful. Moreover, as the individuals of one generation cannot bind those of another, the consent by which civil society itself was formed, ought to be renewed at certain times, and it is quite plain that everybody is free to give or refuse it, to acknowledge or to shake off the obligation contracted by their forefathers. Thus authority got by the free consent of the individuals has no firm and permanent subsistence, but is bound to collapse just then, when it ought to act with full energy for the well-being and unity of the whole state.

The social contract, then, is of no avail. Its working is as insufficient as its very existence is fictitious. For history never discloses to us a time when men passed by a compact from a solitary to a social and civilized state; it, on the contrary, shows us from the beginning all nations of which it speaks in a more or less cultivated society; and it knows none that by its own exertions rose from barbarism to civilization, but many that, in spite of their high degree of culture, by vice and corruption, little by little decayed and perished.

Are perhaps such difficulties avoided, if governments are thought to have been created by the will of man, not taken individually, but collectively, that is, by the people already united through a natural bond? The whole, indeed, may effect what the parts cannot severally. Yet here the question presents itself, whence such union of the people could take rise, before authority was established? From a pantheistic point of view we may understand the complete unity of man by nature itself. But pantheism is a monstrous absurdity. A society or a state the people cannot yet be; for no compound can exist before its constituents, and authority is the formal constituent of society. There remains nothing but to say that the bond of the alleged union consists in the sameness of blood, language, and country. So some have in reality explained their theory. The explanation is, however, insufficient. Neither is it a fact that these causes have produced the unity of

states and governments, nor is it possible that from them results that power which binds together to a permanent alliance the wills of the individual citizens. At all times have empires been composed of elements different in blood and language; of the modern states nearly all have been formed by a mixture of nations.

Of the United States this must be said in a particular manner. As to the country common to all the members of civil society, it is evident that its unity itself is not natural, but arbitrary. There are hence no geographical limits by which nature so separates tribe from tribe, or nation from nation as to prevent their union into the same state. Were there such, they, no doubt, would be seas and ranges of high mountains. But not even they have been respected as insurmountable barriers. The division of states has always depended on quite other reasons,—on treaties, conquests, discoveries, inheritance. Yet has even in some instances the sameness of descent, language, and country contributed towards the establishment of one government, it has not, therefore, to create the same given unity to the will of the people, connecting all individual wills into one common will. Bonds of that kind found at most the same interests, kindred sympathies and customs, but they do not link together the individuals to one common action in political matters. They let each one be just as free and independent as if they did not exist at all; they lay no restraint on their wishes, preclude no party struggles, no dissensions, no warlike oppositions, as we may learn from Grecian history. Hence it is not true that on account of them the nation in establishing the government acts as a whole or as a body politic, but it is rather plain, that notwithstanding them the citizens, each one retaining his full liberty, act in this regard quite individually. Nor is it possible that the powers uniting our wills can rest on such principles. Blood, tongue, and soil belong to the material liberty and consent of free wills to the rational, moral order. Yet the rational is not subject, but infinitely superior to the material, and by its spiritual power masters it with freedom. No earthly thing can for this reason firmly allay the free wills of men. We, then, find for a union of the nation prior to the existence of civil authority and productive of the same, no natural bond that binds together the individuals and forces them to be of one will in setting up a government. We must censure the whole theory as a begging of the question, because, in order to account for the origin of the principle of social unity, it presupposes the unity of the nation already existing without any sufficient reason.

But though authority created by the will of the people cannot maintain unity, it might seem nevertheless to protect liberty. In discussing this point of our inquiry, we have to swim against the strongest current of the public opinion of the day. What is more

praised than the freedom upheld by our present political institutions, and what is more severely blamed than the governments of the Middle Ages, on account of their absolutism and tyranny? Still we cannot but lay the very same charges to our modern systems of policy.

Tyranny, it must be well kept in mind, is not identical with monarchy, as many seem to think. To give its definition, tyranny is the use of public power made by its holder, not in behalf of the common welfare, but for private interest. May now authority not be misused just as well when it is vested in many, as when it is vested in one person? How does this atrocious crime come into practice? and how are men tempted to it? By the fact that magistrates are, on the one hand, prompted by human passions, and, on the other hand, think themselves in the exercise of their power free from all responsibility to a higher authority. It is for this reason that unlimited monarchical sway is deemed to be tyrannical, and that, to preclude tyranny, in our modern constitutions kings are made indirectly answerable to the people. Yet thereby unanswerable sovereignty has not been abolished, but simply transferred from one subject to the other, from the monarch to the nation. Nay, so little responsible has this latter become, that, intrusted with full liberty to act as it likes, it has for the use it makes of its power not to give an account even to God. Formerly, when the state was not yet atheistic, a monarch, however absolute, was at least thought to be answerable for his government to the omniscient Lord and Creator of all, but now we have a godless ruler, who, though frequently instigated by the worst passions, is restrained by no fear of the Eternal Judge, but deems himself absolutely free and independent. This tyranny becomes all the more intolerable, because he that threatens us with it wields absolute and unbounded power. For the state, just because it is conceived as absolute, supreme, and independent of any other being, is bound by no rule, not even by the law of morality; its will, its enactments, its actions, whatever they may concern, are right and justice itself; not only may it in everything do what it pleases, but also what it does must be considered as essentially good. Has a greater despotism, reaching the innermost recess of our conscience, existed in any period of history?

However, it is objected that, though a single or few persons may abuse civil authority, the whole people will not, because it cannot act against its own interest. If, in reality, the public power would be exercised by the whole of the citizens with good order and full deliberation, we grant that tyrannical oppression would be scarcely possible. But this is not the fact. The populace is instigated and excited by agitators, deceived by demagogues, bribed by the rich

and ambitious, whence there is in many places never more disorder and fraud than at the time of popular elections. Many a fatal measure has in this manner been adopted by the will of the multitude, which would have been rejected, had it depended on the vote of few. Besides, public power is in fact not exercised by the whole population, but by the majority, the stronger, quicker, craftier party. Who now will say that this cannot and does not abuse authority for its own interest against that of the minority, and against that of the commonwealth? Where has not the majority oppressed the weaker and injured them in vital points? Have we not, on this account, seen civil wars, religious persecutions, partiality in the administration of justice and the protection of right and property, in democratic republics, as well as in monarchies? How did the French Republic, at the time of the Revolution, deal with multitudes of its citizens, whom it slaughtered on the scaffold, though liberty and equality had been solemnly proclaimed for all? Not even this we admit as a solution of the difficulty, that the different political parties render by their counterpoise the abuse of power impossible—or at least avenge it most severely. Some advantage, we grant, is derived therefrom, and in certain junctures a very great one. Still the evil is in this way rather temporarily checked than thoroughly remedied. As a rule, there is among the several parties one predominant; were it not so, the action of the government would in most cases be stopped, as it happens when in a legislative body the opponents are equal in number. Now just then when the party in power meets with a strong opposition, it will try by all means, right and wrong, to break down the same, and to perpetuate its own predominance. Should it be beaten in the contest, it will have to suffer the same wrongs which it inflicted on others. As a proof we allege the bloody struggles existing in the Roman Republic about a century before the establishment of the Empire. We hence conclude that popular sovereignty, if not derived from God and subject to His law, is no impregnable bulwark of liberty, but rather, in many circumstances, the hardest tyranny.

What, however, we consider as the greatest fault of the systems in question and the worst hindrances to freedom, is that by them the moral power is exterminated from the government, and material force placed in its stead. Not tyranny alone, but also compulsion and blind necessity, are thus made the rule of mankind. If a higher power above creation is eliminated, which delegates authority to the governors, for what reason ought man obey man? Subjection always supposes a higher power in him that is obeyed. Whence, now, is that superiority of one over the other, if all are equal by nature, and if above nature there is nothing to be feared

or respected? Does it, perhaps, consist in the eminent qualities, the extraordinary wisdom and bounty of those that command? But we find high endowments also in the governed, and frequently theirs are as great as those of the rulers. And are they not of so high a degree? Self-love and repugnance to subjection affects that they are at least imagined to be such. On that basis obedience cannot rise. But if one single man of himself cannot govern us, may not the whole people have superiority over the individuals sufficient to command their subjection? Physical superiority, we grant, it may have, but not moral. The opinion of the people, that is, of the majority, does not always change our judgment, nor does their will overturn our resolutions, or lay an intrinsic restraint on our wishes, or take from us the innate capacity of following our own views and propensities, or deprive us of that truth and that good which satisfies our intellect and will and constitutes our highest happiness. Yea, if our reason be autonomous, it would be immoral to obey any law or power extrinsic to us. What, now, if a strong party or a great number of individuals insist on the use of their natural freedom? How will the whole nation, for the sake of unity and public welfare, determine them to a certain course of action? Some politicians think that such differences may be prevented by uniform public instruction. Yet, leaving aside the question whether or not the state can justly claim such forced education, we deny that even common instruction under public authority can produce unity of opinions, and much more that it can effect an agreement of our wills in public life, on account both of the freedom which is innate to us and the different inclinations under the influence of which we constantly are. Others say that politicians must find means and ways to interest for the submission to the public will our self-love, our sense of honor, our natural propensities. But again, self-love, biased as it is by pride and other passions, is not convergent, but divergent among men, tending disorderly to each one's self; it is just from thence that opposite aspirations and clashing interests arise. How, then, is it possible to reach harmony in action by fostering the cause of discord or by appealing to combating enemies? No way can, therefore, be imagined in which the power even of the nation could firmly tie together free wills. If, nevertheless, unity and observance of the common laws is to be obtained, there remains nothing but either to deny the existence of freedom and to commit all to intrinsic or mechanical necessity, or to enforce certain acts, or their omission, by violence exercised on the bodies. This conclusion is by no means exaggerated. Many advocates of the social compact avouch in plain terms that authority is the sum of material forces; Kant places the whole sphere of right and all

activity of the state in outward compulsion ; Montesquieu derives all public welfare and justice from a mechanical equilibrium ; the pantheists recur to a blind intrinsic necessity, by which, as by an organic law, the absolute being develops the objective world and unites and withdraws it to itself.

Does the order established in society according to such theories agree with the dignity of our free rational nature ? Nations are thus governed like herds of beasts, with the iron hand ; physical force and compulsion are identical with law and right ; our trust and security depend entirely on the weapons of soldiers and policemen ; honesty, charity, sincerity are no more realities that can be relied on in our social circles ; instead of devotedness to the well-being of others there is now an instinct or compelling impulse to all absorbing centralization ; in the place of the love of the good, the free and noble tendency to virtue, we see at present a cold, enforced necessity that overcomes our egotism. Is it not a bitter irony to say that with the introduction of such social relations the day of true freedom, right, and order has dawned for us upon earth ?

It remains to discuss in a few words the fitness of the modern systems to secure peace and tranquillity in civil society. The first consequence of the principles they laid down is, that the change of government may be rightly effected at any time, whenever the sovereign people long for it. Not only may governmental power be at pleasure transferred from this to that individual, but also one constitution may at any moment be converted into another. Evidently is this the right of perpetual revolution. Rousseau and his adherents proclaimed it aloud and praised it as a sacred prerogative of men, reconquered in our age. Others shrank from this conclusion, and considered certain forms of government as essentially connected with the idea of the state, or would, at least, allow a constitutional change only in cases of extreme necessity. But who does not see the inconsistency of such restrictions ? By the very fact that the people is thought to be absolutely sovereign and free from any higher law, the popular will can, at pleasure and in whatever manner it likes, overthrow constitutions as it has set them up, dethrone kings and pull down monarchies as it has instituted them, break down the frames of republics as it has raised the same. The first effect of this is, undoubtedly, the instability of government ; and were it the only one, it would be bad enough ; for by the lack of steadfastness all authority is undermined and rendered unfit for broader enterprises and effective influence on the people. A much worse consequence is the universal rush to the acquisition of power. For, on the one hand, most men are desirous of having at least a share in the government, and just those who are actuated by ambition and other unrestrained passions strive

most to seize public power for their own interest. But of the sovereign nation all elements are equally entitled to offices and magistracies; and anyone's endeavors that may succeed in gaining the consent of the majority are just and lawful. Hence a vehement struggle arise of necessity between the different eminent men or the mightier parties of the state; animosities must be roused, fraud and oppression will be resorted to; and when at last a government is established, its opponents will be ever at work to thwart its activity and to overthrow it at the next opportunity. For examples we have not to go back to Athens and Rome; our own time furnishes us with ample experience. How many revolutions have been stirred up, how many party-persecutions have raged, how much blood has been shed by civil contests in England, France, Germany, Italy, Spain, America since the modern ideas began to have their bearing on the public life? Nearly all nations have, since that time, been possessed by a feverish excitement, which banished peace and tranquillity from their midst.

To see at once all the working of the new political systems with regard to the common weal, let us take a glance at the present condition of society. State's authority has taken into its hands all affairs, religious and cultural, as well as political and commercial, and proves insufficient to manage them. One constitution after the other is set to work, one farrago of laws after the other is put forth, and shows itself ineffective; one party after the other gains hold of the supreme power or the seats of the ministers, and is unsuccessful, yea, is found, when put out of office, guilty of atrocious injustice and gross malversation. Heavy burdens are imposed on the people, and effect no advance of public prosperity. Crime and immorality increase, not only in the lower, but also in higher classes, where, in general, they remain unavenged. Licentiousness and covetousness are aroused, while there are no means at hand either to satisfy or to repress them. The mightier know how to profit by the power given to the people, but the weaker are oppressed and treated like slaves. Hence dissatisfaction is felt everywhere; one political party is engaged in war with the other, the poor are set in array against the rich.

It is, then, to be confessed that the new theories, which have emancipated the state from God, have very little promoted unity, freedom, peace, and prosperity. The world has returned to old atheistical views, but with them it has inherited also the oppression and the corruption of heathenism. The evils at least that threaten us ought to convince us of the necessity again to base on God, as on the eternal foundation, the structure of civil society, and to derive from Him who is the source of all good our public as well as private well-being.