ARTICLE VIII.

LAWLESSNESS AND LAW ENFORCEMENT.

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GOVERNMENT exists for the benefit of the governed. It has for its object order on the one hand, liberty on the other: protection to life, property, and reputation on the one side; freedom and the pursuit of happiness on the other. That form of government is best which gives the largest measure of liberty to the individual while at the same time it preserves order in society. Government is a growth. We have at first an absolute monarch: all authority centers in him; he does whatever he pleases. After a while his powers are limited, and then by a gradual process still further limited, until a republic is reached,—a form of government which derives its just powers only from the consent of the governed. Laws at first were few and rude: they dealt only with the most flagrant crimes; they met the needs of man as an animal. But he has a social nature; and, as that is developed, law must be inflicted to meet its needs. He has also an intellectual, a moral, and a religious nature; and, as these unfold and society becomes complex, law must be inflicted to meet its ever-changing requirements. Laws which were on the statute-books in colonial times now awaken a smile; laws containing a categorical list of things that may not be done on the Sabbath; laws against scolding and profanity, with heavy penalties attached. In that period we find in constant use the whipping-post and the stocks. A few centuries ago in England there were one hundred and

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twenty-three crimes for which a man could be hanged. Some people say the world is growing worse. They are not careful students of history. This is the brightest hour the world has known. There never was so much sympathy, fraternity, and humanity among men as there is today. Changes are constantly going on, and an ever-advancing civilization makes it necessary for our legislators every year or two to repeal old laws and enact new ones. Society is not yet ideal. The golden rule is not the universal law of life. Multitudes are not willing to recognize the fact that every man's liberty must end where the rights of his fellow-man begin. Hence the necessity of government.

Now government reaches its ends through the medium of law. But what is law? Law is a course of action such as is thought best by the sovereign for the public good, prescribed by properly constituted authority, and enforced by such sanctions and penalties as may be necessary. Again, law is such a course of action governing the people in their relations to one another as the sovereign believes will bring the greatest good to the greatest number. But in our republic the people are sovereign. There is a sense in which every citizen is a legislator, a judge, an executive of law. If he does not exercise these prerogatives directly, he does indirectly. He determines by his vote who shall make his laws, who shall interpret them and pronounce sentence of penalty, and who shall execute them. Our laws, therefore, present such courses of action to govern the people in their relations to one another as a majority of our citizens have said, through their representatives, are for the general good. The object of these laws is to compel every man to recognize that his liberty must end where the rights of his fellow-man begin. The purpose is to give the largest measure of liberty to the individual, consistent with the safety and good order of society.

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Now if one is permitted to break any of these laws, he is permitted to do that which a majority of his fellow-citizens have said is not for the public good.

Again, if one is allowed to violate any of these laws, either for selfish reasons or for evil intent, or because he does not like them, then another may be allowed to do the same thing; because, under a government of the people, by the people, and for the people, no partiality must be shown. But if every man is allowed to violate the law with impunity, there is an end of government; the result is confusion and anarchy, where neither life nor property is safe.

Law unenforced breeds among the people a contempt for law. They look upon it as a farce, and regard it as useless. The State of Indiana has recently been disgraced by a fearful exhibition of lynch law. Five men were taken from prison and hurried to an awful death. The authorities failed to protect them. Why did these terrible acts of mob violence occur? Because the people of Ripley County believed these men would never receive just punishment in the civil courts. They knew them to be desperate characters—hardened criminals of long standing. For years they had stolen, robbed, and murdered in that community until the people, terrorized and weary of waiting for justice by civil law, resorted to mob violence. Their conduct deserves only condemnation. It cannot on any grounds be justified. It is unwise either to palliate or excuse; but, at the same time, there are causes for such proceedings. How often does the big purse buy the eloquent pleader who defeats the ends of justice on the technicalities of the law! How often does it secure false witnesses or bribe jurors! What diverse sentences are given by civil courts! "A few years ago, in New Jersey, a man named Henry Lehr, convicted of killing a lad who trespassed on a melon-patch, was sentenced to four years in state prison. Another man who stole a bushel of apples

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was sent to the same prison for five years. John Iserman, who drew a knife in a crowded stage-coach, severely injuring a constable and another passenger, was let off with a fine of five dollars. John Brown, a colored man, stole at night into the room of a colored woman with whom he had formerly lived, but who had left him because of his brutality, and while she lay asleep made a savage attack upon her with a razor, injuring her so severely that for weeks her recovery was very doubtful. Brown was known to the police as a desperate character, who had been in state prison before and in jail several times, and they expected to get rid of him for at least five years. He himself expected three years at hard labor, and was dumbfounded when informed that his sentence was three months in the county jail. The court said he had considerable provocation, as it appeared that his mistress had been unfaithful to him." These forms of justice are not peculiar to Jersey. Similar cases can be found in every State in the union. Out of seven thousand murders reported by the newspapers in a recent year only two thousand of the perpetrators were punished by regular processes of law. More murderers were lynched last year than received punishment by the civil courts. Respect for law among the people is secured only by enforcing the law. All the laws ought to be enforced. The only way to determine the value of a law is to execute it. A law may appear one thing on the statute-book and quite another in practice. Execute the law. If it is defective, amend it. If it is a bad law, repeal it. But execute the law.

Who shall enforce the law? Until comparatively recent times there was but one answer to that question. It was this. It is the duty of the officer elected for the purpose to execute the law. There is now, however, a difference of opinion. A mayor not long ago said: "It is not our business to take cognizance of the violation of law: if any

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citizens know of such violation, let them institute proceedings. I should make myself ridiculous, were I to undertake to enforce the law against selling liquor on Sunday." This was said not in the privacy of his office, but before a committee of seventy citizens who urged him to execute the law, and promised him all the support they could give. Mayors in cities from ten thousand upward all over the country frequently make such replies.

Our government is divided into three parts: the Legislative, the Judicial, and the Executive. It is the duty of the Legislative to enact law; of the Judicial, to interpret law; and of the Executive, to enforce it. The President of the United States, by virtue of his office, is the chief executive. As such, he has command of the army and navy, and of State militia when in the employ of the government. He can appoint special marshals, and in case of necessity draft every able-bodied citizen to aid in quelling rebellion and keeping order. The relation which the President holds to the nation the Governor holds to the State. He is sworn, as the President is, to defend the constitution and execute the laws. He can create a State militia and command it, and draft every able-bodied citizen in the State to aid him in enforcing the laws; and, if still unable, he can call on the President of the United States to assist him. The relation which the Governor holds to the State the sheriff holds to the county, and the mayor to the city. There is a strong chain—link joined to link—all the way from the president of the nation down to the lowest officer. The whole power of the country is at the disposal of the executive. There is no weakness anywhere unless it be in the will of the executive officer.

The duty of the executive is made plain and explicit. Joseph Story, one of the most eminent judges of the Supreme Court, says: "The duty imposed on the executive to take care that the law be faithfully executed, follows out

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the strong injunctions of his oath of office, that he preserve, protect, and defend the constitution. The great object of the executive department is to accomplish this very purpose; without this is accomplished, it is utterly worthless for the happiness, good order, or safety of society."

James Kent, the great American chancellor, in his commentaries on American law says: "When laws are duly made and promulgated, they remain only to be executed. No discretion is given to the executive officer. It is not for him to decide upon the wisdom or expediency of the law. What has once been declared to be law, under all the cautious forms of deliberation prescribed by the constitution, ought to receive prompt obedience."

Hon. C. C. Bonney of Chicago, President of the International Law and Order League, in an address on the Executive Power says: "The constitution and laws do not say that sheriff, marshal, mayor, governor, and president shall enforce the laws and protect the people, provided that some other department of the government shall request or some particularly aggrieved citizens shall petition therefor; but the command is imperative that he shall take care that the laws are faithfully executed."

These authorities make very plain and clear the duty of the executive. There are no conditions. There is no alternative. *The law must be obeyed.* These authorities also rob our mayors and other executive officers of their three strong points. They forbid the executive officer to act as judge on the merits of a law; to use his discretion as to whether he will enforce the laws, or to declare that he cannot enforce the law if he would, because of opposition to it. Enforce the laws. If they are defective, amend them. If they are oppressive, repeal them. But enforce the law. This only is rational government.

Why are not the laws enforced? The reason is clear. Because the officers elected and put under oath for this pur-

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pose do not do their duty. It has been said that they are not elected to execute the laws against all offenders, although they are sworn to do it. Herein lies the weakness of a popular form of government when masses of the people are out of sympathy with the enforcement of good laws. The executive officer, instead of giving attention to duty, is constantly consulting the temper of his constituency. His continuance in office depends upon pleasing the people who elected him. Many of them voted for him with the expectation that certain laws were not to be enforced, and, as a consequence, they are ignored. Statesmen on the other side of the sea saw this weakness in our form of government and predicted failure. De Tocqueville declared that the growth of great cities would ruin the American republic, unless they are kept in order by a standing army. Lord Beaconsfield affirmed that not one American city of commanding size is well governed under universal suffrage, or ever will be. Sir Robert Peel predicted that American forms of government will fail to protect life and property in crowded populations. And Lord Macaulay said, "As for America, I appeal to the twentieth century. Either some Cæsar or Napoleon will seize the reins of government with a strong hand, or your republic will be as fearfully plundered and laid waste in the twentieth century as Rome was in the fifth, with this difference, that the Huns and Vandals who ravaged Rome came from without her borders, while your Huns and Vandals will be engendered by your own institutions and within your own country." These predictions take on significance in the light of what has happened in our large cities within the last twenty-five years. Lawlessness, bribery, corruption, and misrule are fearfully prevalent in our large municipalities.

We are patriots, however, and believe in our form of government. We must remedy the evils of universal suf-

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frage by universal suffrage. This can be done, for a majority of our people believe in law and order. Let our best citizens attend the primaries and nominate good men for office, and then stand by them when elected, giving them every encouragement possible in their work. Our so-called best citizens are often the worst; not intentionally, but because of their indifference. The demagogues, ward-heelers, and baser elements of society are ceaselessly active. Some of them declare that all government is oppressive, and all law tyranny; that the holding of property is legalized theft. They say that every man should be a law unto himself; that he should be allowed to do what he pleases, and take what he wants. Such doctrine is pernicious. As society is constituted, government is a necessity. The universe is under the reign of law. Every star that shines, every planet that moves, every form of life in the animal and vegetable world,—all things, from the throne of God to the dust of earth to which man's body crumbles, are under the control of law. The highest happiness of all God's intelligent creatures comes in obedience to his laws. To break them is to suffer. Jesus recognizes the right of civil government, and was never guilty of violating civil law. He said, "Render unto Cæsar the things that are Cæsar's, and unto God the things that are God's." He performed a miracle to pay his taxes, and taught his disciples obedience to law. Paul said, "Rulers are not a terror to good works, but to the evil."

Government ought to mean something. A nation that will not defend its defenders, a government that will not protect its protectors, is a disgrace among the nations of the earth. Our government has the power, as was demonstrated during the late war, to come into your home when you are sitting by your fireside, with your little ones on your lap, and by the power of the draft compel you to go into the face of bristling steel and belching cannon in the

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interest of your country. A government which does that ought to hear the feeblest wail of the weakest and most remote citizen, and defend him in all his rights and privileges. The poor emancipated black man ought to have the same protection and advantages under the law as a citizen as though he were white and a millionaire. This is true now of our government in theory. It ought to be in practice. It will be when our laws without fear or favor are everywhere enforced.

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