

Government

INTRODUCTION

THE usual connotation of "government" is political. The word is often used interchangeably with "state." But there is government in a university, in an economic corporation, in the church, in any organization of men associated for a common purpose. The theologian speaks of the divine government of the universe, and the moralist speaks of reason as the ruling power in the soul which governs the appetites or passions.

In all these contexts, the notion of government involves the fundamental relations of ruling and being ruled, of command and obedience. Though the character of these relationships varies somewhat with the terms related, there is enough common meaning throughout to permit a general consideration of the nature of government. But that is not the way in which government is discussed in the great books. For the most part, government is considered in one or another of its special settings—as it functions in the family or the state, in the soul or the universe. The common thread of meaning is noted only indirectly, by the way in which comparisons are made or analogies are drawn between the various modes of government.

In view of this, we have found it convenient to restrict this chapter to government in the political sense, treating domestic and ecclesiastical government under FAMILY and RELIGION, economic government under WEALTH, divine government in the chapters on GOD and WORLD, and government in the soul in the several chapters which consider the relation of reason to the passions, such as DESIRE and EMOTION.

Government and *state* are often used as if they were interchangeable terms. Some writers

differentiate their meaning by using "state" to signify the political community itself, and "government" to refer to the way in which it is politically organized. Yet the two concepts tend to fuse in traditional political theory. The kinds of states, for example, are usually named according to their forms of government. The great books speak of monarchical and republican states, as we today speak of the fascist or the democratic state.

Nevertheless, we recognize the distinction between a state and its government when we observe that the state can maintain its historic identity while it undergoes fundamental changes in its form of government. The state is not dissolved by a revolution which replaces a monarchy by a republic, or conversely. There is a sense in which Rome is the same state under the Tarquins, under the Republic, and under the Caesars. In contrast, some rebellions, such as the War of Secession in American history, threaten to dissolve the state itself.

Despite the fact that government involves a relation between rulers and ruled, the word is often used to designate one term in that relationship, namely, the rulers. When the citizens of a republic speak of "the government," they usually refer to the officialdom—not the body of citizens as a whole, but only those who for a time hold public office. But government cannot consist of governors alone, any more than education can consist of teachers alone. The different forms of government can be distinguished as readily by looking to the condition of the ruled as to the powers of the rulers. Furthermore, the same individuals may both "rule and be ruled by turns," as Aristotle observes of constitutional government.

Though the notion of government includes

both rulers and ruled, the word usually appears in political literature with the more restricted meaning. When writers refer to the branches or departments of government, or when they speak of the sovereignty of a government, they direct attention to the ruling power, and to the division of that power into related parts.

THE GREAT BOOKS OF political theory ask a number of basic questions about government. What is the origin of government, its nature and necessity? What ends does government serve and how do these ends define its scope and limits? What is the distinction between good and bad government, between legitimate and illegitimate, or just and unjust, government? What are the forms of government, of good government, of bad government? What are the various departments or branches of government, and how should they function with respect to one another?

These questions are related. The origin, nature, and necessity of government have a bearing on its ends and limits. These same considerations enter into the discussion of the legitimacy and justice of governments. They also have a bearing on the classification of the forms of government, and on the evaluation of diverse forms. The way in which the several branches of government should be related is affected by the way in which the various forms of government differ.

These questions are not always approached in the same order. Some of the great political theorists—for example, Hobbes, Locke, and Rousseau—find their fundamental principles in the consideration of the origin of government. They start with such questions as, What makes it legitimate for one man to govern another? Is the exercise of political power both justified and limited by the end it serves? In answering these questions, they imply or make a distinction between good and bad government and indicate the abuses or corruptions to which government is subject. Though they enumerate the various forms of government in a manner which reflects the traditional classifications, they do not seem to regard that problem as of central importance.

Other eminent political thinkers make the

classification and comparison of diverse forms the central problem in the theory of government. Plato and Aristotle, Montesquieu and J. S. Mill, are primarily concerned with the criteria by which the justice or goodness of a government shall be judged. They compare various forms of government as more or less desirable, nearer to the ideal or nearer to the opposite extreme of corruption. In the course of these considerations they answer questions about the necessity, the legitimacy, and the ends of government in general.

THERE SEEMS TO BE considerable agreement on one point, namely, that government is necessary for the life of the state. It is generally held by the authors of the great books that no community can dispense with government, for without government men cannot live together in peace. None is an anarchist, like Thoreau or Kropotkin, although Kropotkin claims that *War and Peace* and even Mill's essay *On Liberty* contain "anarchist ideas." Marx and Engels may be the other possible exception to the rule.

As Weber sees it, Trotsky was correct in saying that "every state is founded on force." In his view, without the use of force, "the concept of 'state' would be eliminated, and a condition would emerge that could be designated as 'anarchy,' in the specific sense of this word." But Weber fails to distinguish between violence and a legitimate use of coercive force by government. The error here is corrected by defining legitimate government as exercising a monopoly of authorized force. All unauthorized force is violence.

Marx and Engels appear to take the opposite view, a view that is expounded in Lenin's *The State and Revolution*. They do so on the ground that with the advent of a classless society after the communist revolution, the class war will come to an end and there will no longer be any need for government. The state can quietly wither away. But, according to Aquinas, even if society were free from all injustice and iniquity, even if men lived together in a state of innocence and with the moral perfection they would possess if Adam had not sinned, even then government would be neces-

sary. "A social life," he thinks, "cannot exist among a number of people unless government is set up to look after the common good."

The great books do not agree about the naturalness of the state. They do not agree about the way in which government originates historically or about the functions it should and should not perform. They do not all reflect in the same way on the good and evil in government. Nor do they all give the same reasons for the necessity of government. In consequence they set different limits to the scope of government and assign it different functions, which range from the merely negative function of preventing violence to the duty to provide positively for human welfare in a variety of ways.

On all these things they differ, but with the exceptions noted they do concur in thinking that anarchy—the total absence of government—is unsuitable to the nature of man. Man being what he is, "any form of government," in Darwin's opinion, "is better than none." Some, like Hobbes and Kant, identify anarchy with the state of nature which is for them a state of war. Some, like Locke, think that the state of nature is not a state of war, yet find great advantages to living in civil society precisely because government remedies the inconveniences and ills which anarchy breeds. But though they often write as if men could choose between living in a state of nature or in a civil society, they do not think man has any option with respect to government if he wishes the benefits of the civilized life. They cannot conceive civil society as existing for a moment without government.

THE GENERAL AGREEMENT about the necessity of government tends to include an agreement about the two basic elements of government—authority and power. No government at all is possible, not even the most attenuated, unless men obey its directions or regulations. But one man may obey another either *voluntarily* or *involuntarily*—either because he recognizes the right vested in that other to give him commands or because he fears the consequences which he may suffer if he disobeys.

These two modes of obedience correspond

to the authority and power of government. Authority elicits voluntary compliance. Power either actually coerces or, by threatening coercion, compels involuntarily obedience. Authority and power are the right and might of government. Either can exist and may operate apart from the other; but, as Rousseau points out, when right is lacking, government is illegitimate; and as Hamilton points out, when might is lacking, it is ineffective.

In a famous passage, the Federalists explain that rule by authority alone might work in a society of angels. But since men are men, not angels, their obedience must be assured by the threat of force. In any society in which some men are good, some bad, and all may be either at one time or another, force is the only expedient to get the unwilling to do what they should do for the common good. Even when the institutions of government have their authority from the consent of the governed, they cannot function effectively without the use of power or force. For this reason Hamilton dismisses "the idea of governing at all times by the simple force of law" as having "no place but in the reveries of those political doctors whose sagacity disdains the admonitions of experimental instruction."

If authority without force is ineffective for the purposes of government, might without right is tyrannical. "Wherever law ends, tyranny begins," Locke writes, "and whosoever in authority exceeds the power given him by the law, and makes use of the force he has under his command to compass that upon the subject which the law allows not, ceases in that to be a magistrate." The use of unauthorized force may take the form of either usurpation or tyranny. If it is "the exercise of power which another hath a right to," Locke declares it is usurpation; if it is "the exercise of power beyond right, which nobody can have a right to," it is tyranny.

The distinction between legitimate rule and all dominations by force rests not on the use of power, but on whether the power which must be employed is or is not legally authorized.

THE NOTION OF SOVEREIGNTY involves considerations of authority and power. The word itself

is medieval and feudal in origin. It signifies the supremacy of an overlord who owes allegiance to no one and to whom fealty is due from all who hold fiefdoms under him. Since the supremacy of the sovereign lord is clothed with legal rights, according to the customs of feudal tenure, sovereignty seems to imply the union of power with authority, not the use of naked force.

The political philosophers of antiquity do not use the term *sovereignty*. But their discussion of the distribution of political power is certainly concerned with the possession of authority as well as the control of force. Aristotle's question, for example, about "what is to be the supreme power in the state—the multitude? or the wealthy? or the good? or the one best man?" deals with the same problem which modern writers express by asking where sovereignty resides. As Aristotle sees the conflict between the oligarchic and the democratic constitutions, the issue concerns the legal definition of the ruling class: whether the constitution puts all the political power in the hands of the rich or in the hands of the freeborn, rich and poor alike. It does not seem to be too violent an interpretation for modern translators to use the word "sovereignty" here, for sovereignty can be said to belong to whatever person or class holds the supreme power by law.

Within this meaning of sovereignty the basic difference between absolute and limited government, or between the despotic and the constitutional regime, leads to a distinction between the sovereign man and the sovereign office.

The ruler who holds sovereignty in his person is an absolute sovereign if his power and authority are in no way limited by positive law. According to some political philosophers, sovereignty must be absolute. In the opinion of Hobbes, for example, the notion of a limited sovereignty seems to be as self-contradictory as that of a supremacy which is not supreme.

After discussing the absolute rights which constitute sovereignty, Hobbes goes on to say that "this great authority being indivisible . . . there is little ground for the opinion

of them that say of sovereign kings, though they be *singulis majores*, of greater power than every one of their subjects, yet they be *universis minores*, of less power than them all together. For if by *all together* they mean not the collective body as one person, then *all together* and *every one* signify the same, and the speech is absurd. But if by *all together* they understand them as one person (which person the sovereign bears), then the power of all together is the same as the sovereign's power, and so again the speech is absurd."

It makes no difference, Hobbes argues, whether the sovereignty is held by one man or by an assembly. In either case "the sovereign of a commonwealth . . . is not subject to the civil laws. For having the power to make and repeal laws, he may when he pleases, free himself from that subjection by repealing those laws that trouble him." The sovereign therefore has absolute power, which consists in the absolute right or liberty to do as he pleases, for "he that is bound to himself only is not bound" at all.

Aquinas seems to be taking the same view when he admits that "the sovereign is . . . *exempt from the law* as to its coercive power, since, properly speaking, no man is coerced by himself, and law has no coercive power save from the authority of the sovereign." But Aquinas differs from Hobbes in thinking that the authority, if not the power, of the prince is limited by the constitutional character of the kingly office. In the medieval conception of monarchy, the king is bound not to himself alone, as Hobbes insists, but to his subjects. Their oath of allegiance to him is reciprocated by his coronation oath, in which he assumes the obligation to uphold the customs of the realm.

WHERE AQUINAS CONCEIVES the sovereign prince as one element—the other being established law—in a government which is therefore both absolute and constitutional, Hobbes conceives the sovereign as identical with a government which is wholly absolute. The distinction here implied—between a mixed regime and one that is purely absolute—is more fully discussed in the chapters on CONSTITUTION and MONARCHY. In contrast to both, a repub-

lic, or purely constitutional government, substitutes the sovereign office for the sovereign man. It denies the possession of sovereignty to men *except* in their capacity as officeholders.

According to the republican notions of Rousseau, not even government itself has sovereignty except as representing the political community as a whole, which is the sovereign. Sovereignty, he writes, is vested in the government "simply and solely as a commission, an employment in which the rulers, mere officials of the Sovereign, exercise in their own name the power of which it makes them depositaries." Since this power is not theirs except by delegation, it can be limited, modified, or recovered at pleasure, "for the alienation of such a right is incompatible with the nature of the social body, and contrary to the end of association."

The unity of sovereignty is not impaired by the fact that a number of men may share in the exercise of sovereign power, any more than the unity of government is destroyed by its division into separate departments or branches, such as the legislative, executive, and judicial. Since in a republic the government (in all its branches or offices) derives its power and authority from the constitution (or what Rousseau calls "the fundamental law"), and since it is the people as a whole, not the officials of government, who have the constitutive power, the people are in a sense supreme or sovereign.

Popular sovereignty may mean that the people as a whole govern themselves without the services of magistrates of any sort; but this would be possible only in a very small community. It is questionable whether a people has ever exercised sovereignty in this way in any state of historic importance. Popular sovereignty more usually means what is implied by Aquinas when he conceives the magistrate or ruler as merely the viceregent of the people. "To order anything to the common good," he writes, "belongs either to the whole people, or to someone who is the viceregent of the whole people. Hence the making of a law belongs either to the whole people or to a public personage who has the care of the whole people." Similarly, the exercise of coer-

cive force "is vested in the whole people or in some public personage, to whom it belongs to inflict penalties."

The notion of a *public personage*, as Aquinas uses it in these passages, is clearly that of a surrogate for or representative of the whole people. The people as a whole have, in the first instance, the authority and power to perform all the functions of government. Only if for convenience or some other reason they constitute one or more public personages to act in their stead, do individual men exercise sovereignty, and then only as representatives.

Locke's fundamental principle—that "men being . . . by nature all free, equal, and independent, no one can be put out of this estate and subjected to the political power of another without his own consent"—is another expression of the idea of popular sovereignty. It reappears in the Declaration of Independence in the statement that since governments are instituted by men to secure their fundamental rights, they must derive "their just powers from the consent of the governed."

Hegel objects to the sense "in which men have recently begun to speak of the 'sovereignty of the people'" as "something opposed to the sovereignty existent in the monarch. So opposed to the sovereignty of the monarch," he writes, "the sovereignty of the people is one of the confused notions based on the wild idea of the 'people.'" If the sovereignty of the people means nothing more than the sovereignty of the whole state, then, he says, the sovereignty which "is there as the personality of the whole . . . is there, in the real existence adequate to its concept, as the person of the monarch."

But republican writers would reply that the sense in which they speak of the sovereignty of the people cannot be opposed to the sovereignty of government, so long as that government is constitutional, not absolute. When the sovereignty of the people is conceived as the source or basis, not as the actual exercise, of the legitimate powers of government, there is no conflict between these two locations of sovereignty in the state. Yet the supremacy of the government always remains limited by the fact that all its powers are delegated and

can be withdrawn or changed at the people's will.

THE QUESTION OF absolute or limited sovereignty and the connected question of unified or divided sovereignty have a different meaning in the case of the relation of governments to one another.

The theory of federal government, discussed in *The Federalist* and in Mill's *Representative Government*, contemplates a division of sovereignty, not as between the people and their government, but as between two distinct governments, to each of which the people grant certain powers. Distinguishing between the government of a national state and the government of a federal union, Madison writes: "Among a people consolidated into **one nation** . . . supremacy is completely vested in the national legislature. Among communities united for particular purposes, it is vested partly in the general and partly in the municipal legislatures. In the former case, all local authorities are subordinate to the supreme; and may be controlled, directed, or abolished by it at pleasure. In the latter, the local or municipal authorities form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority than the general authority is subject to them within its own sphere." The federal or general and the state or local governments draw on the same reservoir of popular sovereignty, but the sovereignty which each derives from that source is limited by the definition of matters reserved to the jurisdiction of the other.

The fundamental difference between the condition of states in a federation and the condition of colonial dependencies or subject peoples is that imperial government, unlike federal government, claims an unlimited sovereignty. The issues of imperialism which arise from the exercise of such power are discussed in the chapters on TYRANNY AND DESPOTISM and SLAVERY.

The one remaining situation is that of independent governments, the governments of separate states associated with one another only by treaties or alliances, or at most in the kind of loose hegemony or league represented

by the Greek confederacies or the American *Articles of Confederation*. In this situation, the word "sovereignty" applied to independent governments signifies supremacy, not in the sense of their having the authority and power to command, but in the opposite sense of *not being subject to any political superior*.

This radical difference in meaning is explicitly formulated in Hegel's distinction between internal and external sovereignty.

After stating the conditions of the sovereignty of the state in relation to its own people, Hegel says, "This is the sovereignty of the state at home. Sovereignty has another side, *i.e.*, sovereignty *vis-à-vis* foreign states." The state's individuality resides in its awareness of its own existence "as a unit in sharp distinction from others"; and in this individuality Hegel finds the state's autonomy, which he thinks is "the most fundamental freedom which a people possesses as well as its highest dignity."

But from the fact that "every state is sovereign and autonomous against its neighbors," it also follows, according to Hegel, that such sovereigns "are in a state of nature in relation to each other." It is this state of nature which Hobbes had earlier described as a state of war. Precisely because independent states have absolute sovereignty in relation to one another, "they live in the condition of perpetual war, and upon the confines of battle, with their frontiers armed, and cannons planted against their neighbors round about."

In their relation to one another they are, writes Kant, like "lawless savages." Following Rousseau, he thinks it is fitting that the state "viewed in relation to other peoples" should be called "a power." Unlike sovereign governments which unite authority with power in their domestic jurisdiction, sovereign states in their external relations can exert force alone upon each other. When their interests conflict, each yields only to superior force or to the threat of it. A fuller discussion of these matters will be found in the chapters on LAW, STATE, and WAR AND PEACE.

AS ALREADY INDICATED in several places, the materials covered in this chapter necessarily

demand a study of many related chapters dealing with political topics. This is peculiarly true of the problems concerning the forms of government. Separate chapters are devoted to each of the traditionally recognized forms, *viz.*, ARISTOCRACY, DEMOCRACY, MONARCHY, OLIGARCHY, TYRANNY AND DESPOTISM. Each of these chapters defines a particular form, distinguishes it from others, and compares their merits. In addition, the chapter on CONSTITUTION deals with what is perhaps the most fundamental of all distinctions in forms of government, that between a republic and a despotism, or between government by laws and government by men.

Here, then, it is necessary only to treat generally of the issues raised by the classification and comparison of diverse forms of government. They can be summarized in the following questions.

What are the criteria or marks of good government? Is the goodness of government determined by the end it serves, by the way in which it is instituted, by its efficiency in promoting whatever end it serves? Are such criteria of good government as justice, legitimacy, and efficiency, independent or interchangeable?

What is the nature of bad government? Can a distinction be made between the abuses or weakness to which good government is subject in actual operation, and government which is essentially bad because perverse or corrupt in principle as well as practice?

Are there several forms of good government? Of bad government? How are they differentiated from one another? Are all good forms equally good, all bad forms equally bad? If not, what is the principle in terms of which some order of desirability or undesirability is established? For example, is one good form of government better than another, one bad form worse than another, in terms of degrees of justice and injustice, or in terms of efficiency and inefficiency? To put this question in another way, is one form of good government better than another because it achieves a better result or merely because it achieves the same result more completely?

If there are several distinct forms of good government, are there one or more ways in

which these can be combined to effect a composite or mixed form? If a mixed form is comparable with the pure forms it unites, is it superior to all, to some, to none of them? On what grounds? In what circumstances?

While proposing what they consider to be the ideal form of government, some political philosophers admit that the ideal may not be realizable under existing circumstances or with men as they are. Plato, for example, recognizes that the state he outlines in *The Republic* may not be practicable; and in the *Laws* he proposes institutions of government which represent for him something less than the ideal but which may be more achievable. The Athenian Stranger says of the state described in *The Republic* that, "whether it is possible or not, no man, acting upon any other principle, will ever constitute a state which will be truer or better or more exalted in virtue." The state which he is discussing in the *Laws* "takes the second place." He refers to "a third best" which, far from being even the practicable ideal, may be merely the best form of government which now actually exists.

Aristotle also sets down the various ways in which forms of government can be judged and compared. We may consider, he writes, "of what sort a government must be to be most in accordance with our aspirations, if there were no external impediment," but we must also consider "what kind of government is adapted to particular states." In addition, Aristotle thinks it is necessary "to know the form of government which is best suited to states in general" as well as "to say how a state may be constituted under any given conditions."

Most important of all, it is necessary to know "not only what form of government is best, but also what is possible." Though "political writers have excellent ideas," Aristotle thinks they "are often impractical." Since "the best is often unattainable," the true legislator "ought to be acquainted not only with what is best in the abstract, but also with what is best relative to circumstances."

Both Montesquieu and Mill later apply this basic distinction between the best form of government considered absolutely or in the abstract, and the best form relative to par-

particular historic circumstances. Among these are a people's economic condition, level of culture, political experience, geography, climate, and racial characteristics. Montesquieu, for example, thinks that government by law, absolutely considered, is better than despotic government, yet he also holds that despotic government is better for certain peoples. Mill thinks that the institutions of a representative democracy represent the ideal form of government, but he acknowledges that absolute monarchy may be better for a rude or uncivilized people who have not yet advanced far from barbarism.

The great question here is whether the circumstances themselves can be improved so that a people may become fit or ready for a better form of government, and ultimately for the best that is attainable, that is, the form relative to the best possible conditions. Since Montesquieu emphasizes what he considers to be fixed racial characteristics, such as the servility of the Asiatics, whereas Mill stresses conditions which are remediable by education, economic progress, and social reforms, these two writers tend to give opposite answers. The issue is more fully discussed in the chapters on DEMOCRACY, MONARCHY, and PROGRESS.

Still other questions remain and should be mentioned here. Are the ideal state and the ideal form of government inseparable, or can one be conceived apart from the other? How shall the ideal government be conceived—in terms of the best that is practicably attainable, given man as he is or can be; or in terms of a perfection which exceeds human attainment and which men can imitate only remotely or imperfectly, if at all? Does divine government, for example, set a model which human government should aim to approximate? Is that human government ideal which is most like the divine; or, on the contrary, is the perfection of human government measured by standards drawn from the nature of man and the difficulties involved in the rule of men over men?

THE TRADITIONAL enumeration of the functions of government is threefold: the legislative, the judicial, and the executive. Locke

adds what he calls "the federative power," the power of making treaties or alliances, and in general of conducting foreign affairs. It may be questioned whether this function is strictly coordinate with the other three, since foreign, like domestic, affairs may fall within the province of the executive or the legislature, or both, as in the case of the Constitution of the United States.

In our own day, the multiplication of administrative agencies and the development of planning boards have been thought to add a new dimension to the activities of government, but again it may be questioned whether these are not merely supplemental to the functions of making law, applying law to particular cases, and regulating by administrative decree those matters which fall outside the domain of enforceable law. The executive branch of government seems the most difficult to define, because it involves both law enforcement and the administration of matters not covered by legislative enactment or judicial decision.

If the threefold division of the functions of government is exhaustive, the question remains how these distinct activities shall be related to one another, and by whom they shall be performed. In an absolute monarchy, in which the king is the government, all powers are in the hands of one man. Though he may delegate his powers to others, they act only as his deputies or agents, not as independent officials. This does not obliterate the theoretical distinction between legislation, adjudication, and execution, but in this situation there can be no practical separation of the three powers, certainly no legal system of checks and balances.

It is the separation of powers, according to Montesquieu, that is the basis of political liberty. "Power should be a check to power," he writes. In a system of separated powers, "the legislative body being composed of two parts, they check one another by the mutual privilege of rejecting. They are both restrained by the executive power, as the executive is by the legislative."

Whether or not Montesquieu is right in attributing this aspect of constitutionalism to the limited monarchy of England in his own

day, his argument can be examined apart from history, for it raises the general question whether government by law can be preserved from degenerating into despotic government except by the separation of powers.

For the American Federalists, the system of checks and balances, written into the Constitution, so contrives "the interior structure

of the government that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places." This they consider the prime advantage to be gained from Montesquieu's principle of the separation of powers. The principle itself they hold to be "the sacred maxim of free government."