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**THE
MODERN DEMOCRATIC STATE
VOLUME ONE**

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ANALYTICAL TABLE OF CONTENTS

CHAPTER I. POLITICAL THEORY AND OPERATIVE IDEALS

1. The fact that this volume is not about a general ideal called democracy but an historical type called the modern democratic state implies a certain conception of the nature of political theory which is expounded in this chapter.

2. It may be summarized by saying that it is not the business of political theory to examine an abstract universal called 'the state' or 'democracy' but to reflect on the operative ideals, belief in which sustains in existence an historical type of state. That is what was meant above by the phrase operative ideals. 'The modern democratic state' is a type of state which came into existence in the nineteenth century in Western Europe, America, and the British Dominions, largely as the effect of the French Revolution and the Industrial Revolution on the absolutist nation state of the sixteenth and seventeenth centuries.

3. We must also consider a prevailing assumption that the social sciences should follow the method of the natural sciences.

4. Empirically the various disciplines employed in the study of society are very different in their methods; for example, history, law, the study of institutions, political theory, ethics, and economics. Compare, for example, the obvious difference between law or history and economics. Consider the different assumptions implied in the economic man of economics, the reasonable man of law.

5. So there is obviously an empirical difference between the study of political institutions and political theory.

6. Historically, political theory, like ethics, has been closely connected with philosophy. Some of the most famous political theorists have been philosophers and this has not been an accident.

7. At the same time it would be generally agreed that political theory is historically conditioned in a way in which ethics is not.

8. There is an obvious difference between history and

2 THE MODERN DEMOCRATIC STATE

political theory. History is concerned with individual concrete happenings. Political theory begins when in some concrete historical situation men begin arguing that the nature of the state requires that such and such should or should not be done.

9. This suggests the ordinary distinction between the concrete of history and the abstract universal of science, but the state is not a universal of that kind. There is, for example, a history of mathematics but no history of the triangle; but there is not only a history of political theory but a history of the state.

10. But so there is of, for example, marriage or majority voting or the judiciary. The study of these by sociology or political science is a discipline where inductive generalization plays the chief part. Political theory has been a different kind of discipline.

(a) It has assumed that understanding of the state comes more from reflection than from inductive generalization.

(b) It has been partly concerned not just with what the state does but what it ought to do.

11. This distinction between the state as it ought to be and the state as it is is sometimes made the basis of the distinction between political theory and political science. But the supposedly 'ideal states' of political theorists from Plato onwards are found on examination to be historically conditioned.

12. There is not one ideal state and many approximations to it, but different types of state such as, for example, the Greek city state or the medieval state.

The political theorist seeks to understand a particular historical state; his concern with ideals arises from the peculiar nature of the facts which he is investigating. A state only continues to exist so long as men maintain certain purposes; these, like all purposes, are partly ideal, and thus cannot be understood until we ask what sort of existence a state has, and that is—for good or ill—a philosophical question.

13. But law in its turn finds itself forced to ask if all associations are of the same kind: if the facts demand in certain

cases the doctrine of corporate personality and not in others: if the different nature of men's purposes makes differences in the nature of associations, &c.

14. Yet, though an association can only be understood in the light of the purpose pursued by the members of the association, as idealist philosophers maintained, there are two things which such philosophers have neglected.

15. (a) That while an association can only be understood in the light of its purpose, no association is entirely inspired by its purpose; that is, is never entirely what it is supposed to be.

(b) The purpose of some associations, for example, of a church or of the state, is indeterminate; that is, it develops and changes as a consequence of changes in the life of the association. The state depends on its constitution but 'its purpose', in the sense of that the belief in which sustains it in existence, is more than the constitution.

16. The end of the state is, as Aristotle says, 'the good life', but in practice that means the ideas prevalent in the minds of members of the state as to what kind of common life should be encouraged; these ideas are the 'operative ideals' which sustain a state.

17. There have been lately deliberate attempts to change the operative ideals of a community in order to make a new kind of state possible; for example, in Kemal's Turkey; in China; and, of course, in Italy, Germany, and Russia.

18. Apart from such deliberate changes, the 'operative ideals' of states change gradually, partly by their own natural development, partly through the influence of other social factors, religious or economic, for example.

19. The operative ideals of the modern democratic state are derived from the main ideals of Western civilization, profoundly affected by the changes of the Reformation and the Renaissance which produced the national, absolutist, secularized state, and further affected by the ideals of the French Revolution and by the Industrial Revolution.

CHAPTER II. THE HERITAGE OF WESTERN CIVILIZATION

1. The chief political contribution made by Greece and Rome was Constitutionalism.

2. The Greeks insisted that all proper government was subject to fundamental law, though they had no conception of a judge declaring and developing law.

3. The Greek conception of citizenship implies that if you belonged to a city you should have a concern in the shaping of the good life of the city.

4. The Romans insisted that that only was a law which was approved by the people of Rome and hence retained even through the Empire the idea of popular sovereignty.

5. Their most important contribution was the doctrine of the law of nature.

6. They elaborated by successive praetors' edicts a body of law, the law of nations, worked out on rational principles. This was fused with the Stoic idea of a law of nature, an ideal apprehensible by and applicable to all men, and taken over by Christianity.

7. From this is derived the medieval doctrine that the sovereign is above positive law and beneath the law of nature.

8. The Christian contributions to our common political heritage are firstly, a doctrine of human equality based on the fatherhood of God, an equality which overshadows but does not deny men's differences.

9. This equality found institutional expression in the Church, a society in which secular values were reversed.

10. The existence of two societies prevented a totalitarian government by insisting that men had two loyalties.

11. Christianity taught that the authority of power was derived only from service.

12. The most important contribution of Christianity was its teaching of the perfection of the moral ideal and the consequent imperfection of all social standards.

CHAPTER III. THE SECULARIZATION OF THE STATE

1. The break-up of the medieval unity produced first the absolutist nation state of the sixteenth and seventeenth centuries. The most important elements of that change are the assertion of the absolute independence of the nation state and the secularization of the state which accompanied that.

2. The medieval state thought of itself as part of Christendom. This involved the acceptance of a common moral authority—the Catholic Church—with the further consequence that the powers of the state were conceived of as limited by morality.

The government of the king is limited by law.

3. Law can only predominate over government in a society ruled by custom. The social changes of the later middle ages increased the administrative side of the state and exalted government over law.

4. The increasing tempo of technical change has lessened the sphere of custom and increased the need of administration ever since.

5. The immediate result of this in the sixteenth century, as now, was the rise of a powerful and efficient despotism. Compare the popularity of Henry VIII.

6. The absolutist nation state arose as a protest against various restraints which limited efficiency: the restraint of the Empire; of the Church; of the feudal system.

7. The theory of sovereignty is the expression of this protest.

8. At the beginning what we now call the *nation* state hardly relied on nationality.

9. What first happens is merely the transfer of all authority both of law and of the Church to the King. The theory of this is the divine right of kings. This national absolutist state was trying to be a complete totalitarian state. It failed partly because of administrative inefficiency but mainly because of the gradual effect of three movements: (a) the Reformation; (b) modern science; (c) the growth of Capitalism.

10. The commerce of the sixteenth and seventeenth cen-

turies, and industry till well on to the nineteenth, put a premium on adventurous enterprise. Regulations and government help were on the whole and in the long run a handicap.

11. The Reformation by its partial success in France and by its peculiar form in England destroyed the idea of a single national church which should be a moral authority for all the citizens, as had been implied in *Cujus regio ejus religio*, and made toleration a political necessity.

12. Both Protestantism and the applied sciences encouraged what came to be known as individualism, but in very different ways. But both are alike in repudiating acceptance of a common authority.

13. The contrast between the conception of individualism implied in Protestantism and that implied in the physical sciences is fundamental and of great importance for the development of democracy and democratic theory.

14. Protestant individualism was expressed in the doctrine of 'the priesthood of all believers'. It is based on the conception of the infinite worth of personality and the fundamental importance of God's calling of the individual soul. Election is a fact compared with which all other differences are neither here nor there.

15. The equality of the elect is an equality of a society in which all count; and in which all are recognized to have different gifts.

16. The Puritan fellowship is small—the congregation: hence a community in which democratic practice is easy. There are many of them—hence toleration. They are convinced of the doctrine of Christian perfection: hence the separation of the functions of Church and State.

17. Scientific individualism is seen in its subjective side in Descartes. Truth is confined to clear and distinct ideas.

18. The new sciences repudiated final causes. They repudiated, that is, the authority of ethics over science. Science becomes like Hobbes's politics morally indifferent.

19. More important is the effect of the analytic method of physics. Anything, to be known, must be capable of ultimate analysis into atoms with no qualitative differences.

20. This conception of analysis is applied to politics by Hobbes. His individuals are atoms; that is,

- (i) they are all alike in power;
- (ii) no one has authority which others acknowledge;
- (iii) each individual being connected with no real ties to anyone else only looks after his own interests.

21. There follows from this that political obligation can only be explained by showing that obedience to government is in the private interests of the individual. Government is to be obeyed because it gives men what they want.

22. It obviously does not. Hobbes therefore tries to separate one overbearing want—security—from all other desires and set up a strong government to make men acquiesce in being given what they want.

23. There is a strain in democratic theory later which maintains that what is in the interests of 'the people'—therefore of all—cannot be against the interests of anyone. It is the business of Bentham's legislator to make an artificial harmony in society.

So finally Marxism maintains that this harmony can be produced only by making the means of production communal.

24. Both these forms of individualism, however different, combined to break up the medieval unity and bring about the separation between politics, ethics, and economics which is characteristic of the modern democratic state.

CHAPTER IV. ETHICS, POLITICS, AND ECONOMICS

1. The loss of a common moral authority raised the problem of the relation of politics to ethics in an acute form. If we are to obey law because it is morally right, and there is no agreement as to what is morally right, the agreement necessary for law is absent. Hobbes is acutely conscious of this problem. It is especially acute when the right of private moral judgement is claimed. Hobbes attempts to solve it by reducing both

8 THE MODERN DEMOCRATIC STATE

ethics and politics to economics—they are only arrangements for getting efficiently what you happen to want. In this he has had many followers, including Marx.

2. The Puritans suggested a quite different solution. The Christian doctrine of perfection emphasizes the distinction between the conduct demanded of Christians and the conduct necessary for social intercourse. Once you conceive of the church as a select fellowship of men called to special duties and a specially high standard of conduct, you must distinguish between the conduct incumbent on everyone and the conduct demanded of the saints. You must distinguish therefore between law and grace, and change your conception of the function of law. Law exists to make the works of grace possible. Its purpose is to protect liberties; to form a hedge or fence within which the living grace which really matters may work.

3. The result of this is the view that it is the concern of law not to lay down what is right but to maintain rights. Rights are protected liberties. They give assurance to men that their freedom of action along certain defined lines will be protected from arbitrary interference.

4. Because rights are liberties, the end of the law is not the observance of law but the free choice which law makes possible. The law cannot therefore possibly prescribe the whole duty of man. There must be a distinction between what is legally obligatory and what is morally obligatory. If the purpose of a right is to safeguard free choice, and that choice is a real one and has moral significance, it follows that legal rights are rights to do what is morally wrong as well as what is morally right.

5. As the Law of Nature had been conceived of as a standard for positive law, so now natural rights are thought of as a standard to which positive rights maintained by law should conform.

6. It is the state's business on this view to enforce a certain minimum standard of conduct—to hinder hindrances to the good life. The state is instrumental, the ends of life are expressed in individual conduct.

7. It was at first supposed that a complete list of rights could be deduced from the principle of reciprocity alone. Claim only that liberty which you are prepared to allow to others. Rights do rest on this general moral principle that we must treat others as we demand that they should treat us; but this does not itself give a ground for rights.

8. They depend further upon a general agreement among the members of any given society as to what kinds of activity should be encouraged and what suppressed—the understandings of the common life.

9. Nevertheless there is an advantage in declarations of rights which remind us for what end the state and its power exist.

10. The relation of politics to morality in international relations involves greater difficulties because the international world is a society without any power to assure that rules will be kept.

11. The Iceland of the Sagas considered as an illustration of such a society shows how elementary and precarious its morality can be.

12. A modern statesman in his conduct of foreign and of home affairs has to act in two different moral worlds, one elementary and one advanced.

13. History showed that Hobbes's view of human nature, while failing to explain the facts of politics or of ethics, was much more successful in its application to economics. His scientific man is the economic man. This suggests something special in the nature of economic activity.

14. The sphere of economics has been often taken to be the satisfaction of what are called material wants, but this attempt so to limit the sphere of economics breaks down.

15. There is in a wide sense of the term an economic aspect to all action, which concerns how an end or purpose which is taken for granted, can most efficiently or economically be achieved.

16. Economics in the narrower sense may be defined as the study of human relations in so far as they are concerned with efficiency in the satisfaction of wants. Men enter into economic

relations in order to use their different capacities for the more effective realization of their different wants. An economic relation is one in which men serve the purposes of others in return for power to get others to serve theirs.

17. Exchange is a potent instrument of efficiency in the satisfaction of wants. It is a peculiar relation because it needs no common purpose between those who participate in it. A furthers B's purposes and B furthers A's, and it is not A's business what B's purposes are and vice versa.

18. It is easy to see how an economic world so conceived may be thought not to be the concern of either morals or politics. It is already the concern of the law in maintaining a system of rights to consider such restraints on liberty of purpose as are dictated by the good of the community as a whole. It is already the concern of individuals to act as their conscience dictates. All that the system of economic relations is supposed to do is to increase the efficiency with which purposes, if allowed by the state and approved by conscience, are achieved.

19. This view ignores the existence of economic power and the extent to which the Industrial Revolution falsified its assumptions.

20. Economic determinism is a consequence of economic freedom. It is the determination of chance.

21. The freedom of ethical relations can serve as an end to the state. To make the freedom of economic relations an end is to treat an instrument as an end and as mistaken as it is to regard power as the end of the state.

22. The modern democratic state is an attempt to find room in *Leviathan* for the consciences of ordinary people.

CHAPTER V. EARLY DEMOCRATIC THEORIES

1. *The Puritans*

1. The beginnings of modern democratic theory are found in the declarations and pamphlets of the Puritans—particularly of the Puritans of the Left, the Independents and the Anabaptists.

2. Being Calvinists and emphasizing the distinction between grace and law, they held that room must be found within the community for perpetual new enlightenment. This is a new conception of an institution looking forward to perpetual change.

3. This implied a separation between the society of grace and inspiration, the church, on the one hand, and the state on the other. The first must be voluntary; the second was in its essence compulsory.

4. Hence followed the new conception of the function of the state to protect with its compulsory powers the free voluntary life inspired by the churches. The state is an instrument for the maintenance of rights.

5. This implied the principle of toleration. The state is a compulsory universal instrument to allow the diversity of the voluntary bodies.

6. As the sect is to the community, so is the individual to the sect.

7. The Puritans were convinced upholders of the spiritual priesthood of all believers. They believed in the right of private moral judgement, necessitating a distinction between law which must apply to everyone and goodness which depended on that 'whereunto a man was called'.

They believed that the will of God could speak through everyone, whatever his natural position or abilities and that wisdom and guidance did not follow recognized channels.

8. This produced a notion of democratic equality where everyone was equal because his 'calling' was more important than his other gifts and capacities and where differences and variations were welcomed and used.

9. 'The poorest he that is in England has a life to live as the richest he.' Freedom and equality go together.

10. Because the Puritans of the Left made the congregation a self-governing unit, they had experience of a simple small democratic society. Their democratic political theories are largely an attempt to apply that experience to the government of the state.

11. Though their full principles only applied to 'the elect',

they applied them by analogy to the state. The state could not have the full democratic nature of the congregation but it should follow it as closely as possible.

12. They advocated government by consent, and therefore manhood suffrage. They were concerned for fundamental rights and therefore they wanted to limit the powers of Parliament by a constitution—the Agreement of the People.

13. It is clear how much of the operative ideals of English and American democracy follows this pattern: the belief in the all importance of the free associations: in tolerance and diversity: in the instrumental and secondary function of the state: in the depreciation of force and the exaltation of the voluntary principle.

14. This democracy is an aristocratic democracy; it is based
(a) on the distinction between the elect and other people;

(b) it believes in differences and superior people, only insists that they are to be discerned, and not recognized by any standardized means.

15. The object of democratic deliberation according to this view is not to express will but to discover something—the will of God. This point will be seen to be of great importance when we come to discuss the theory of the general will.

2. *Locke, the American Revolution, and the principles of '89*

1. Locke has dropped the Puritans' contrast between the church and the rest of society; but he retains the notion of a society independent of the state, based on the recognition of moral law and mutual moral rights. Government is only necessary to protect this naturally stable society against criminals and aggressors.

2. He retains therefore the view of the secondary and instrumental character of the state. His problem is how to organize force against aggressors and keep that force within limits.

3. Locke's contract to set up a government has to be unanimous as he starts with the right of the individual to be

free, but it is a unanimous consent to a government which is to act by a majority.

4. The end of government is the maintenance of the security of society and therefore of its economic stability—hence security of life and property. ‘The first and fundamental natural law is the preservation of society.’

5. This view of government implies social conditions which are naturally democratic, where very little government is needed—a situation actually found in America.

6. Hence the Virginian Declaration of Rights and the Declaration of Independence.

7. Both documents assume an active self-reliant society where little government help is needed.

8. The same position is found in Tom Paine and Godwin.

9. The first statement of the principles of the French Revolution follows on the same lines, but with more emphasis on the will of the community.

10. But the French declaration strikes a new note in the emphasis on national sovereignty.

11. The similarity in the American and French views is in their democratic conceptions of society. Both declarations agree as to what *should prevail*. But when the question comes how this desirable state of affairs is to be brought about except by proclamation, differences appear.

12. The American system, dealing with what is largely a society affected by a frontier, considers that very little government is needed. The French Revolution had an Augean stable to clean and a foreign war to conduct. Hence it needed a government with plenty of power of decisive action.

13. Throughout democratic theory we shall find different conceptions of government according as men think the business of government is to *preserve* an already democratic society from attack, or by forcible and decisive government action *make democratic* an undemocratic society.

14. French theory takes from Rousseau the doctrine of the sovereignty of the people but takes it in a simplified and perverted form. Revolutionary theory proclaims the sovereignty