

The Law

by Frederic Bastiat

Week 6 reading for discussion begins here

Law Is a Negative Concept

The harmlessness of the mission performed by law and lawful defense is self-evident; the usefulness is obvious; and the legitimacy cannot be disputed.

As a friend of mine once remarked, this negative concept of law is so true that the statement, the purpose of the law is to cause justice to reign, is not a rigorously accurate statement. **It ought to be stated that the purpose of the law is to prevent injustice from reigning.** In fact, it is injustice, instead of justice, that has an existence of its own. **Justice is achieved only when injustice is absent.**

But when the law, by means of its necessary agent, force, imposes upon men a regulation of labor, a method or a subject of education, a religious faith or creed -- then the law is no longer negative; it acts positively upon people. It substitutes the will of the legislator for their own wills; the initiative of the legislator for their own initiatives. When this happens, the people no longer need to discuss, to compare, to plan ahead; the law does all this for them. Intelligence becomes a useless prop for the people; they cease to be men; they lose their personality, their liberty, their property.

Try to imagine a regulation of labor imposed by force that is not a violation of liberty; a transfer of wealth imposed by force that is not a violation of property. If you cannot reconcile these contradictions, then you must conclude that the law cannot organize labor and industry without organizing injustice.

The Political Approach

When a politician views society from the seclusion of his office, he is struck by the spectacle of the inequality that he sees. He deplores the deprivations which are the lot of so many of our brothers, deprivations which appear to be even sadder when contrasted with luxury and wealth.

Perhaps the politician should ask himself whether this state of affairs has not been caused by old conquests and lootings, and by more recent legal plunder.

Perhaps he should consider this proposition: Since all persons seek well-being and perfection, would not a condition of justice be sufficient to cause the greatest efforts toward progress, and the greatest possible equality that is compatible with individual responsibility? Would not this be in accord with the concept of individual responsibility which God has willed in order that mankind may have the choice between vice and virtue, and the resulting punishment and reward?

But the politician never gives this a thought. His mind turns to organizations, combinations, and arrangements -- legal or apparently legal. He attempts to remedy the evil by increasing and perpetuating the very thing that caused the evil in the first place: legal plunder. We have seen that justice is a negative concept. Is there even one of these positive legal actions that does not contain the principle of plunder?

The Law and Charity

You say: "There are persons who have no money," and you turn to the law. But the law is not a breast that fills itself with milk. Nor are the lacteal veins of the law supplied with milk from a source outside the society. **Nothing can enter the public treasury for the benefit of one citizen or one class unless other citizens and other classes have been forced to send it in.** If every person draws from the treasury the amount that he has put in it, it is true that the law then plunders nobody. But this procedure does nothing for the persons who have no money. It does not promote equality of income. The law can be an instrument of equalization only as it takes from some persons and gives to other persons. When the law does this, it is an instrument of plunder.

With this in mind, examine the protective tariffs, subsidies, guaranteed profits, guaranteed jobs, relief and welfare schemes, public education, progressive taxation, free credit, and public works. You will find that they are always based on legal plunder, organized injustice.

The Law and Education

You say: "There are persons who lack education," and you turn to the law. **But the law is not, in itself, a torch of learning which shines its light abroad.** The law extends over a society where some persons have

knowledge and others do not; where some citizens need to learn, and others can teach. In this matter of education, the law has only two alternatives: It can permit this transaction of teaching - and - learning to operate freely and without the use of force, or it can force human wills in this matter by taking from some of them enough to pay the teachers who are appointed by government to instruct others, without charge. But in this second case, the law commits legal plunder by violating liberty and property.

The Law and Morals

You say: "Here are persons who are lacking in morality or religion," and you turn to the law. **But law is force.** And need I point out what a violent and futile effort it is to use force in the matters of morality and religion?

It would seem that socialists, however self-complacent, could not avoid seeing this monstrous legal plunder that results from such systems and such efforts. But what do the socialists do? They cleverly disguise this legal plunder from others -- and even from themselves -- under the seductive names of fraternity, unity, organization, and association. Because we ask so little from the law -- only justice -- the socialists thereby assume that we reject fraternity, unity, organization, and association. The socialists brand us with the name individualist.

But we assure the socialists that we repudiate only forced organization, not natural organization. We repudiate the forms of association that are forced upon us, not free association. We repudiate forced fraternity, not true fraternity. We repudiate the artificial unity that does nothing more than deprive persons of individual responsibility. We do not repudiate the natural unity of mankind under Providence.

A Confusion of Terms

Socialism, like the ancient ideas from which it springs, confuses the distinction between government and society. As a result of this, every time we object to a thing being done by government, the socialists conclude that we object to its being done at all.

We disapprove of state education. Then the socialists say that we are opposed to any education. We object to a state religion. Then the socialists say that we want no religion at all. We object to a state-enforced equality. Then they say that we are against equality. And so on, and so on. It is as if the socialists were to

accuse us of not wanting persons to eat because we do not want the state to raise grain.

The Influence of Socialist Writers

How did politicians ever come to believe this weird idea that the law could be made to produce what it does not contain -- the wealth, science, and religion that, in a positive sense, constitute prosperity? Is it due to the influence of our modern writers on public affairs?

Present-day writers -- especially those of the socialist school of thought -- base their various theories upon one common hypothesis: **They divide mankind into two parts.** *People in general* -- with the exception of the writer himself -- from the first group. *The writer, all alone, forms the second and most important group.* Surely this is the weirdest and most conceited notion that ever entered a human brain!

In fact, these writers on public affairs begin by supposing that people have within themselves no means of discernment; no motivation to action. The writers assume that people are inert matter, passive particles, motionless atoms, at best a kind of vegetation indifferent to its own manner of existence. They assume that people are susceptible to being shaped -- by the will and hand of another person -- into an infinite variety of forms, more or less symmetrical, artistic, and perfected.

Moreover, not one of these writers on governmental affairs hesitates to imagine that he himself -- under the title of organizer, discoverer, legislator, or founder -- is this will and hand, this universal motivating force, this creative power whose sublime mission is to mold these scattered materials -- persons -- into a society.

These socialist writers look upon people in the same manner that the gardener views his trees. Just as the gardener capriciously shapes the trees into pyramids, parasols, cubes, vases, fans, and other forms, just so does the socialist writer whimsically shape human beings into groups, series, centers, sub-centers, honeycombs, labor corps, and other variations. And just as the gardener needs axes, pruning hooks, saws, and shears to shape his trees, just so does the socialist writer need the force that he can find only in law to shape human beings. For this purpose, he devises tariff laws, tax laws, relief laws, and school laws.