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CIVIL LIBERTY.

A SERMON,

PREACHED ON

THE NATIONAL THANKSGIVING DAY,

AUGUST 6th, 1863.

BY

JOSEPH T. DURYEA,

ONE OF THE PASTORS OF THE COLLEGIATE REFORMED DUTCH CHURCH, NEW-YORK.

New-York:

JOHN A. GRAY & GREEN, PRINTERS, STEREOTYPERS, AND BINDERS,
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SERMON.

“The perfect law of liberty.”—JAMES 1 : 25.

To the great mass of people this phrase is wholly unintelligible; to many its terms are incongruous, if not entirely contradictory. They can not perceive how liberty consists with law, how obedience to law conduces to freedom. They think, feel, act, as if every conformity of their conduct to law were a compromise of liberty, a sacrifice of free action to the demands of public opinion or civil power. Such desire as little legislation as possible—they submit to it only through fear of penalty. If they can secretly compass their selfish ends by transgressing law without danger of detection and punishment, they deliberately violate its provisions. Numerous examples of this class of persons, and innumerable exhibitions of the results of their false views, have been furnished in

the history of our own country. The European masses, trampled upon by despots, or crushed into servility by the no less tyrannical arrogance of a wealthy and powerful aristocracy, have heard inviting rumors of a land in which men are free and equal; where thought, speech, and action are unconstrained and unrestricted; where the will of the individual is the law of his conduct. They make haste to escape from bondage, and seek a home among us. Immediately they exhibit a spirit of personal independence of legal restraint; they despise public opinion, defy civil authority; give scope to their passions and preferences by lawless conduct, bold and unsecreted crime. If executive faithfulness bring down upon them the power that guards and vindicates the law, they are amazed. They supposed this land to be a land of liberty; but here is restraint, compulsion, coercion.

There are others, not emigrants from abroad, but reared in this country, who have been uncurbed in their youth by weak and wicked parents, and have consequently grown up to manhood selfish, headstrong, restive under authority. Such, unaccustomed to bear the yoke in their youth, are burden-

ed by its pressure when they take their place as citizens under civil law and its executives. They form a class of restless, complaining insubordinates. If by overt rebellion they are brought to the bar of justice and punished, they cry out against government as exceeding its powers, and tyrannically oppressing the people. They raise the insane cry: "Our liberties are in peril!" The time has come, and it has been fixed by the atrocious rebellion now stubbornly holding out against our government, for the settlement of the question of liberty in a republic. We are now to go to the bottom of the matter and learn at what point rigorously enforced law is compatible with the liberty of the subject—how far the individual may be left unrestrained, where he must be met by the barrier of law.

We will, at this time, take up the questions: What is true civil liberty, and how is it to be secured?

I. What is true civil liberty? It will be necessary first to get the notion of liberty in general, and then to see how the conception is to be modified in order that it may be applicable to our civil relations.

The word liberty is derived from another which signifies free, unconstrained, unrestrained. The air is free, it knows no barriers. All space is its sphere. It bloweth "where it listeth." Liberty is accordingly a state of being, in which the subject is unconstrained to do what he wills not to do, unrestrained from doing what he wills to do. So much for the radical idea of the word liberty. The popular idea of freedom is simply a literal interpretation of the word. It regards that being free who may, without permission or hindrance, do what it may please him to do. This may be a correct employment of the *word* liberty, according to its etymology, but the idea expressed is not the true idea of liberty. Liberty is not absolute freedom to do what one may will to do.

What, then, is true liberty? It is freedom of action limited by the law of the well-being of the agent. In a practical form, that individual is truly free who acts according to his pleasure, provided his action does not violate the laws which govern his welfare.

Let us examine this point. God has put every being under law. Every being has a constitution of certain elements and powers in his nature. Certain conditions must be

fulfilled in order to the preservation of his existence, his integrity of nature, his well-being. If he observes these inevitable conditions, he will secure his welfare and happiness; if he violates them, he impairs his nature, destroys his happiness. For example, the body of man has its conditions of well-being. If it be given pure air, nutritious food, wholesome drink, sufficient exercise and repose, it will continue in health and experience comfort and enjoyment. These conditions, expressed in words, are the laws of health. If a man fails to afford his body these conditions, that is, if he violates the laws of health, he destroys his bodily welfare and enjoyment. All this is equally true of the mind. It has laws of its health. Those laws fulfilled secure its well-being; broken, they inflict injury and pain. It is equally true of man's social being. There are laws, arising out of the social necessities of man, which govern his welfare in social relations. These laws, if obeyed, will secure his well-being as a member of society. If he violates them, he must injure his social happiness.

Now, true liberty is not such freedom as will allow the agent to go to the extent of

action which transgresses the laws which govern his existence, the integrity of his nature, his happiness. He may have the power to exercise such a freedom, but it is the awful power of injuring his nature, and destroying his happiness. He may actually exercise the power, and wreck himself forever; but the willful exercise of the power and freedom to work his own ruin is not in accordance with true liberty. Not only, however, is it true that an undue exercise of freedom may cause self-ruin, but the abuse of liberty destroys the liberty itself. This is penalty for going beyond the law of our welfare. For illustration, suppose, as I am unconstrained in the use of my hand, I choose to thrust it in the fire. By disregarding the law of its preservation, I contract its cords and shrivel its muscles, and the result is, I can never use it again. I have lost its free employment.

Or suppose, as I have liberty to use my mind as I will, I give it up to the indolent delights of reverie and castle-building in the air, without checking its unguided wanderings. Very soon I find that I have lost the power of drawing my mind to the steady contemplation of realities. My imagination is the master of my will, and I am wholly

enslaved and doomed to a life of absent-mindedness. It is likewise true that the abuse of my spiritual liberty will make me a slave of sin. My evil appetites will govern me and destroy my liberty.

Let us go further in the matter. Where a being is composed of many members or faculties, the law not only of the well-being of one member must be observed, but the great law which governs the well-being of the whole as one organism must be regarded, in order to a proper limitation of freedom. For if I give undue exercise to one member, I may encroach upon another, and destroy its freedom. For illustration, observe the human body. It is composed of many parts, properly proportioned, intimately connected, working into each other, and through each other, in harmony and unity. As long as the harmony is preserved the whole body is free. The moment one part acts beyond its measure the body is enslaved. Let the heart double its action, and see how the nerves crawl, the limbs falter, the eyes swim, the brain reels. The body is in chains. Let a man stimulate his appetite for food, and yield himself to gluttony. How soon is his brain benumbed, his liver clogged, his nervous sys-

tem shattered! how pitifully he goes, supported by his crutches! From a free table, he goes limping forth a miserable slave, in shackles.

The mind is not complex like the body, but its powers bear a similar relation to each other, to that which obtains between the members of the body. They have a proportion to each other, and a law of harmony and unity. If one power of the mind be given absolute freedom, it will limit the action of the rest. The balance of the mind is destroyed, and with it its liberty. If the imagination be unrestrained, the judgment will be limited. If the practical faculty be allowed to develop itself unduly, the creative faculty will be restricted. If one of the affections be improperly exercised, the rest will be diminished and impeded.

The love of pleasure for its own sake, if allowed excessive gratification, will narrow the soul, dwarfing and drying up its generous and its spiritual affections. The desire for gain will return for its license, a paralysis of all the noble impulses of the heart, and leave it worshipping its inexorable master — gold. There is a limit, therefore, to be sacredly observed in the free exercise of the

powers of the soul, or it becomes in some part, or in its total nature, a slave, a bond-servant of sin, a serf of Satan.

We see, therefore, that the true liberty, that which consists with the well-being of the subject, and therefore the only liberty desirable, must be limited by law. The freedom of the body is to be limited by the laws of health, which are easily determined by experience. The freedom of the soul must be limited by the laws of its welfare, written by God in the enlightened conscience, and in his revealed word.

This, then, is true liberty—freedom of action within the limits of the law of our well-being.

Such being the true conception of liberty in general, what is that liberty which we may exercise in our social relations? What is true civil liberty?

Man is dependent, in some respects, upon his fellow-men in all stages of his life, from infancy to age. His instincts are social. God has therefore instituted society. The foundation is in the family—families grow up into communities, communities into States. We use Paul's mixed metaphor, because it alone can express the idea. A state is a living

building, growing up, by a law of structure, into the perfect unity of parts in proper proportions and relations. In this organization, what is the liberty of the individual? It consists in freedom of action within the limits of the law of common well-being. The family, community, or state, is a wise arrangement for common protection, prosperity, and happiness. The individual is to be so governed that his action shall not interfere with the common welfare. When it is ascertained how far the individual may proceed in speech and action without encroaching upon the interests of his neighbor, that discovery determines the law of the common good and the limit of individual freedom. Any act which trespasses upon the common welfare is as much an act of tyranny as any infamous and arbitrary procedure of a despot. Nero was not more a tyrant than the individual, who, under plea of personal liberty, trespasses upon his neighbor's enjoyment of his reputation, or property, or happiness. When once the law is ascertained which secures the greatest possible good to the members of a community, in the necessary social relations, the individual who transgresses it limits the liberty of his fellow-citizens. A people organized into a state, con-

stitute a body. The illustration of the human body furnishes an analogy to the state. Each person is a member. While each member acts in his place, according to his proper measure, harmony is preserved, the good of the whole body is secured. When one member is out of his place, and acts beyond his proper measure, the rest are impeded and deprived of their liberty. For example, the sacredness of property in the ownership of an individual, is one of the necessary conditions of social welfare. Let one man disclaim regard for the tenure of property and become a thief, he at once deprives those from whom he purloins of the right to have and to hold the fruits of their toil. Let others follow his example unchecked, and the tenure of property will become uncertain. This will destroy enterprise and industry. For who will plan, and labor, and make sacrifices to procure what he may not be permitted to enjoy? With the decline of industry and activity, will come poverty, decay of resources and men, ignorance and brutishness.

Let an individual become a false witness, immediately others are deprived of reputation. If his example be followed, the public confidence becomes unsettled. The faithless

ness and want of faith among men will instantly destroy the freedom of business, and society will resolve into its elements.

Let a man practice fraud in his operations, at once every other man of business is hampered by the careful scrutiny and suspicion of those who deal with him. An insurmountable obstacle is cast up before the easy progress of commerce.

Let one man be guilty of counterfeiting, and immediately the notes of all the banks are scanned and tested before they become current. Barriers are thrown across the channels of free circulation.

These are miscellaneous and representative examples of the general fact, that the individual who transgresses certain limits in his action curtails the liberties of society. He who commits a sin against the regulations of society, no matter how loudly he may claim a democratic spirit, has the disposition and will, and acts upon the principle of the despot.

But we have not yet traced all the results of his license. There is an indirect issue. There is a rebound of his lawlessness. The arrogant individual at last destroys his own liberties. He sets the exam-

ple of theft, slander, adultery, murder, and the example is followed. The spirit of license sweeps over all barriers, and among them those which guard him. He comes from his theft, to find that his own property has vanished. While he puts the torch to his neighbor's house, lo! as he turns back, the heavens are glaring with the conflagration of his own dwelling. He comes from the blasted fields of others, to see his own withered and trampled. He departs from the violated fireside of another, to learn that his own is desolate and dishonored. He leaves the murdered body of his fellow-man, to meet his own assassin on the highway. His license of conduct recoils on his own head: he has taught the lawless to become his masters, by his own tyranny.

The point is sufficiently illustrated, and we may accept the doctrine, that civil liberty is freedom of action within the limits of the law of the common good.

II. How is true civil liberty to be obtained?

1. By the discovery of a perfect law of social well-being. From the definition, it will be perceived that there must be law

in order to liberty. The law must be perfect in order to the highest possible liberty. When the action of the individual goes beyond certain limits, it destroys the rights of others. The law, therefore, which will secure the greatest liberty consistent with the public good, must put the exact limits upon individual action, which keep it from infringing upon the well-being of the subject.

A system of laws which does not cover the highest interests of the community will not, of course, secure such limits upon individuals as the common welfare demands. Obedience, if ever so perfect, will not secure high welfare and true liberty. This is illustrated in many ways. The extreme theorist on the laws of bodily health will give an erroneous system of regulations for the care of the members of the body. Obedience will only result in injury. The system does not comprehend the true conditions of the health of the several members, or the harmony and co-operation of them in the body.

In like manner, an incorrect system of rules for moral action, which does not represent truthfully the nature of the soul, will not preserve the tone, vigor, and liberty of

the soul. Nor will the welfare, rights, liberties of the members of society be preserved without a correct system of civil law, founded in man's social nature, and in a proper estimation of all the conditions of his physical, intellectual, moral, and social well-being.

We have before us the most sacred office of a citizen of a state—the office of discovering and describing a correct code of laws for the government of society. Next to the offices of religion, no office is so high as that of the legislator. He is to be cherished with gratitude who fights the battles of a people to gain their independence; but he is worthy of an inexpressible honor and reverence who has knowledge and wisdom, far-seeing and comprehensive, sufficient to form for them a constitution and laws, by which to construct them into a new and happy nationality. The warrior may overthrow a wicked and hated despotism, only to enslave his compatriots in a worse, unless the statesman preserve the liberty he has bought by a beneficent and exhaustive constitution. What searching analysis of human nature, of man's individual rights and needs, of the social relations; what vast research in the history of past nations, in their successes, for guidance;

in their failures, for cautions; what shrewd forecasting of coming emergencies, must be compassed and exercised in order to the production of a perfect constitution!

It is a cause of gratitude to God that he has not left this task to the wisdom of men. In the moral law he has given the foundation principles of all good government; in his dealings with the theocratic nation of Israel, he has furnished examples of all wise administration. In his providence, he has qualified men, from time to time, as wise and vigorous legislators to found and develop beneficent laws and institutions for society. Such were many of our early statesmen, men fearing God, loving righteousness, seeking with large benevolence the good of the people; and our Constitution, well tried for years, and coming just now out of the furnace like gold seven times refined, proves to us how blessed is that nation whose founders fear the Lord, and take counsel of his word.

2. When wise statesmen have determined the perfect law, then, in order to true liberty, the people must render prompt and exact obedience. This follows most evidently

from the doctrines already stated and illustrated. The practical question is this: How can obedience be secured? Where lies the responsibility of securing it? It is certain that in their corrupt moral state, men will not be disposed to keep within the limits of just law. Every community will be composed of the self-willed and unscrupulous. By whom, then, and how shall the common welfare and liberties be protected? The response is direct and self-evident. There must be in the state a body of intelligent, conscientious, patriotic people, who will pledge themselves to one another and the state, to guard the common good.

This may be in a measure accomplished by example. If they shall be exact and careful in all the most trivial, as well as the most important matters of law, to render prompt and steadfast obedience, the influence of their example will be more extensive and powerful than can well be estimated.

It should be their next endeavor to instruct and elevate the mass of the people through the institutions of education and religion, so that they may be able to understand and appreciate the necessity and be-

neficence of the laws, the value of a law-abiding spirit to the state, to themselves, and their children. The people should be led, by a correct understanding of the terms and bearings of the laws, to admire, respect, and love them; then spontaneous and cheerful obedience will result as a necessary effect.

If, then, there shall remain a class of persons helplessly or voluntarily ignorant, or led astray by demagogues and revolutionists, who persist in setting law at defiance, the law-abiding must compel them to submit to law, or place them where they can not, by violating it, imperil the welfare and liberties of the state. But what becomes of the democratic idea, the theory of individual freedom, if the citizens of a free republic use compulsion, enforce their will by coercion? Whatever democratic ideas this course of coercion to secure obedience to law may violate, are the figments of visionaries, sheer impossibilities in the present moral condition of men. None but atheists and infidels can consistently maintain them; none but the ignorant and shallow should be deluded by them. By the same right and on the same principles by which a people throw off the yoke of a tyrant to become free, must they crush

out the disobedient and lawless, to remain free! A state of license in the populace of a republic is as much a state of despotism as can be found under the sway of the most thorough absolutism. The mob destroy the liberties of a people more effectually than a tyrant. The sovereign, unless as hopelessly stupid and insane as Philip of Spain, and the blood-thirsty, blood-besotted Alva, his deputy in the Netherlands, will know that some regard must be entertained for the welfare of a people, some few rights must be left them, or they will not be valuable slaves, nor an inviting prey. The mob has neither forecast nor wisdom to consider and provide for the future. If, therefore, a republic has a right to exist, to prosper, and be free, it has a divine right to compel the insubordinate to obey, or to banish them from its borders. When there is no conscience to be aroused, no public spirit to be evoked, the discipline of fear must be firmly administered, until the lesson of intelligent, cheerful obedience is taught and learned.

Man, as a fallen moral agent, has, in all departments of action, to pass through the discipline of fear, before he attains the spirit and purpose of cheerful obedience.

The government of the body, by laws of self-denial and careful regimen, is not cheerfully accepted, until the pangs of disease inspire the fear of decay and death. Then temperance and purity become delightful and spontaneous.

The raw recruit was recently sent to camp. Military discipline was new. Every position, motion, duty, was irksome, painful. His whole manner of life was restraining to his bent and habits. He was under restraint, pacing his beat, standing at his post, moving in the drill. There was a law over him, and a power behind it. Blindly, through fear, he submitted. He went into action. He saw the practical meaning of every position and motion, the necessity of every precaution. He learned that the safety of himself, and of his comrades, and of the cause, depended on his faithfulness; that one act of disobedience might ruin the interests of the nation for generations, or even destroy its life and being. He no longer thinks of authority; he has forgotten that there ever was a death-penalty. He is a soldier, and a soldier's nature is a law unto itself. It needs no other. He would die rather than disobey or neglect a rule.

This is God's method of discipline. The sinner can not appreciate the divine commands

as the law of his soul's welfare. In mercy God lifts the rod and arouses fear. The sinner trembles, and endeavors to obey. He fails. He goes to Christ. The law is his schoolmaster to bring him to the Saviour. Jesus pardons the past. He gives him the Holy Spirit. His mind is enlightened to see the excellence of the law, its complete adaptedness to secure his welfare. He appreciates and loves it. He now obeys, not from fear, not from motives from without, but from a principle within. With a renewed nature, that in its spontaneous exercises conforms to the law, he acts out the law. The law is in his heart, his disposition, his will. He therefore feels no pressure, no restraint—he is free. Ah! this is liberty, when law becomes a second nature, and we unconsciously act it out. "If the Son make you free, ye shall be free indeed." "Where the spirit of the Lord is, there is liberty."

All this is analogous to the true discipline of a republic. A nation, formed upon the basis of a republican constitution, receiving vast numbers of unintelligent and lawless people from foreign sources, or from the depraving influence of corrupt sectional institutions, must pass through these two stages of discipline, if it would be truly free. Law must be enforced

by power, until the people are trained to obey from principle. The prison, the gallows, and the sword must rule by fear, until the people learn by experience to exercise their freedom of action within the limits of the law which the state has prescribed as the law of the common good. When obedience is secured, by individual self-control, by voluntary subjection to the "perfect law of liberty," then, and not until then, may the sword be beaten into the plow-share, and the spear into the pruning-hook. God speed the day!

1. We learn from this discussion, that it is not a matter of surprise that we are engaged in a war against rebellion. We have allowed those very perils which, by the light of this subject, we see must threaten a republic, to gather formidable strength among us. The great, sole cause of our calamity has been disregard of law and authority.

Atheistic and infidel men have poisoned the popular mind with theories of human equality, individual rights, and liberty. The emigrants from despotic countries have been received more rapidly than they could be assimilated to us, and admitted to citizenship before they have understood the system of government,

or learned the laws. An ignorant and brutish mass have attempted to guide public affairs, while in their personal sphere they have carried out their false ideas of liberty.

Our own citizens have failed to study our own system, and to comprehend the important questions of public concern. Thousands of otherwise intelligent men have never read the Constitution of the United States; and after a half century of constitutional existence, citizens were found so ignorant of the first principles of our polity as to argue for the right of secession.

To perform the most vital service for a government, making the laws which secure the common good, or should secure it, we have allowed men to be appointed who were not capable of understanding the importance of their position, much less of filling it wisely and well. The pot-house has nominated, the dram-shop elected men to the most important trusts in the land. Lying, fraud, bribery, favoritism have been systematized among our legislators, using their office for their own ends, instead of for the good of the people. Executive officers have been found in complicity with criminals, evading the penalties of the law. Party spirit has deprived men of intelligent, conscientious

purpose in their civil action. Men, not seeming to be fools in other respects, have voted with a party, simply because their grandfathers had been called by the same partisan title.

Then the partisan has basely used the ignorant masses for his ends, filling their minds with false views, and their hearts with wrong motives. This same party spirit has led to the toleration of an institution in our land antagonistic at every point of contact with our institutions of society and government. Citizens have been legally installed despots over their laborers, and from the tyranny of the plantation have learned to tyrannize over the community. Speech has been denied conscientious friends of the wronged and oppressed. Death by assassination was the penalty of being and acting a true man. This tyranny entered Congress, and demanded privileges. They were given, limited by compromise. The compromises were ruthlessly annulled. New demands were made. And when at last public sentiment could allow us to crouch no lower, they were denied. Then came the foul purpose to rule or ruin in this land. This is the meaning of this war.

If this resistance to law be not destroyed, our liberties are perished. This rebellion is

the test of the ability and purpose of this nation to live a happy and free people, or to resolve into the elements of society, and exist no more as a people.

The duties of the hour are, therefore, momentous. It becomes every true man to disabuse himself of the miserable servitude of party, and stand forth the advocate, supporter, adviser of the Government. If this separation of men from the affiliations formed by selfish leaders for their own aims, and a new gathering upon the basis of a broad patriotism, could be procured, not for the purpose of becoming the stultified agents of another set of demagogues, of another name, but simply to strengthen the constituted authorities and guard the laws, then might we have faith in our destiny once more. Let the Church of God at least come forth to its duty. Let its members act in the state, according to the precepts of the Master, and then bend their energies to the work of spreading the light and diffusing the spirit of the Gospel. In no other way will the masses be led to regard or unselfishly seek the common good; in no other way can they be governed, until, by the grace of God, they shall govern themselves. By his Church, if it is pledged to the work, will God

save us from our perils, and preserve to us our existence and our liberties.

Finally, we may regard this war as the preparatory discipline of this nation, graciously ordered to fit us for a high career in the earth. This experience is our schoolmaster, to lead us to that teaching which will make us free indeed. Men are now learning that government is ordained of God, sanctioned and intrusted with power by him. The war is bringing information to the ignorant, wholesome experience to the insubordinate and those who have encouraged and tolerated them, preparing them voluntarily to submit to government, and become its best friends. Those who now feel the firm grasp of the government, and try its strength, will know best its value, and ultimately prize most highly its protection. They will read God's Word with experience for a commentator. "For rulers are not a terror to good works, but to the evil. Wilt thou not then be afraid of the power? Do that which is good, and thou shalt have the praise of the same; for he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain." Herein, lies the mercy as well as the justice of the war. The Government is teaching, by

power, a salutary lesson, which, when it is learned, will be gratefully remembered and cheerfully improved. The Christian thanks God for the discipline of fear that brought him to the liberty of the sons of God. The erring citizens of this republic will yet bless the power which brought them to know and love the "perfect law of liberty."

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