

THE  
CONSTITUTION OF ENGLAND  
FROM QUEEN VICTORIA  
TO GEORGE VI

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THE CONSTITUTION OF ENGLAND  
FROM QUEEN VICTORIA TO GEORGE VI

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## CHAPTER XII

### PUBLIC OPINION AND GOVERNMENT

#### 1. *The Pressure of Public Opinion on the Government and Parliament*

THE growth of the influence of public opinion on Government was strongly promoted by the removal of the repressive measures imposed on the press under the influence of the conservative reaction evoked by the French revolution. Of the six Acts of 1819 one struck at the pamphlets and papers which were freely in circulation and encouraging resistance to the autocratic attitude of the ministry, and it was not until 1836 that the stamp duty on newspapers was reduced from fourpence to a penny and not until 1855 was it abolished. There remained as an obstacle to the wide circulation of newspapers the paper duty, and Mr. Gladstone removed that incubus in 1861. Free libraries, the cheapening of newspapers, the multiplication of books, have all tended to increase largely, in conjunction with the spread of higher education, the number of persons who are capable of forming intelligent opinions on political issues, and more recently the adoption of the policy of educating the public by broadcast lectures and debates has presented the public with amazing facilities for mastering the essentials of important problems.

Further, the knowledge of Parliamentary proceedings has been extended widely since the advent of the Queen to the throne. The labours of Cobbett resulted in the

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establishment of reports of Parliament, which even the House of Commons formally recognised in 1845, and since then a long series of improvements has resulted in the existence of full reports of proceedings both in the house and in its Committees, while the supply of Parliamentary papers has steadily grown. The use of royal commissions and all kinds of departmental committees has rendered available great masses of material which render intelligent study of the questions brought before Parliament and of issues which should be considered by Parliament far more simple.

In like manner, even as early as 1852 we find Mr. Disraeli insisting on the benefits to be derived from permitting the public to study important Bills after their introduction before they proceeded to second reading, and it is now an established practice for departments such as the Ministry of Labour, that of Health, the Mining Department, the Board of Education, the Ministry of Agriculture and Fisheries, to discuss issues to be dealt with in communication with representative bodies of all sorts. Merchant shipping legislation is discussed with representatives of the great shipowners, the organisation of officers of the mercantile marine, and the spokesmen of the sailors. Copyright is discussed with the societies concerned therein, and publishers and printers. All issues that concern local government are discussed with local government associations and with the organisations which represent the interests of officers employed in local government. Health is dealt with in consultation with medical societies, sanitary experts, surveyors, architects, and so forth. The efforts of the Government since 1931 to aid agriculture have necessitated constant co-operation with farmers, with middlemen and users of farm products, in order to achieve some measure of satisfaction as in the

creation of marketing boards and allied institutions. The press and public as well as associations were invited to criticise the Highway Code. Chapter  
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The principle of publicity in the case of regulations was fully recognised by the Rules Publication Act, 1893, which enjoined prior or subsequent publication for those classes of rules of most general importance, and the system has been extended since. The presentation of draft rules, even if immediately operative, allows of detailed criticism. In some cases the power to make rules is expressly conferred subject to consultation with specified bodies expert in the subject matter to be dealt with.

The effect of public opinion on the actions of ministries is in part direct, in part through its operation on the minds of individual members of Parliament or on groups of members such as those which spontaneously form themselves in Parliament to take up study of a special subject, and invite experts to give them instruction thereon. Thus the Government of India Bill resulted in intense study of the situation by members of the Conservative party who were doubtful of the wisdom of the changes suggested. The day is long past when ministers refused to look beyond the members of the Commons for evidence of the wishes of the people. Sir R. Peel<sup>1</sup> might exalt the authority of members, but, when Mr. Asquith voiced similar sentiments<sup>2</sup> on the Parliament Bill, his views must be read as meant especially with regard to that special position, which was a constitutional issue, and not as a general proposition regarding questions in general. On many of the social and economic or financial issues of the day ministries look readily elsewhere than the Commons.

Methods of bringing public opinion to bear on ministers and members have remained constant, though with varying

<sup>1</sup> 58 *Hansard*, 3 s. 817 (1841).

<sup>2</sup> 21 *H.C. Deb.* 5 s. 1748.

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importance. The formal *petition* has an honourable and ancient origin ; in 1680 <sup>1</sup> the Commons resolved that it has ever been the undoubted right of the subjects of England to petition the King for the calling and sitting of Parliaments and the redressing of grievances, and the Bill of Rights gave statutory authority. The petitions against slavery presented in 1814 and 1833 were signed by about a million and a million and a half people respectively, and petitions were poured in on all hands, when reform was at stake. The use of monster petitions, however, declined after the failure of 1848 of the great Chartist petition, and, though petitions became more and more numerous up to the 'seventies, thereafter they declined, though they are still presented in no small numbers and on occasion are very numerous signed. The decline in importance is now accompanied by the reduction in the number of petitions which the Select Committee on Petitions reports as suitable to be printed, and by the rule that, save in case of urgency, no debate is allowed on petitions when presented. Moreover, by long-standing usage petitions for grants of money are not received.<sup>2</sup> There are more easy methods of stirring public opinion than mere petitions, and, where petitions are still in use, they may be directed to ministers rather than to Parliament, taking the form of representations promoted by deputations which ministers must receive unless they are willing to cause annoyance to their constituents. The deputation, headed by the Duke of Cambridge and the Archbishops, which in 1863 waited on Mr. Gladstone to persuade him not to remove the exemption of charitable corporations from payment of income tax, succeeded in attaining their aim, despite the Chancellor's personal dislike of the proposal, and deputations have the great advantage under modern

<sup>1</sup> *Parl. Hist.* iv. 1174. On their value see Disraeli : 101 *Hansard*, 3 s. 673.

<sup>2</sup> Standing Order No. 63.

conditions that they are allowed to argue their case, and are often asked questions and aided in making clear the issues which they press. Nor is there any doubt that a well-managed deputation is much more likely to achieve results than a mere petition which no authority is specially concerned to deal with. That is not to say that petitions<sup>1</sup> serve no purpose. The collection of signatures helps to focus public attention on the issues involved, and is a useful mode of propaganda, while the announcement that a petition with an imposing number of signatures has been presented has some propaganda value.

The use of *public meetings* to insist on reforms is of early date, but their intensive development was first seen in 1779 and 1780. It was defended by Fox but disliked by the ministry and legislation was passed in 1795, 1817, and 1819 to discourage meetings for political purposes. But they served a useful purpose in furthering the passage of the Reform Bill, and in 1832 and 1833 like technique was employed in Lancashire and Yorkshire in order to promote the chances of passage of the Ten Hours Bill promoted by Lord Ashley. In 1866 a monster public meeting in Hyde Park in the case of reform aroused anxiety, but Mr. Disraeli was sensible enough to admit that they were the recognised and indispensable organs of a free constitution and useful as safety-valves.<sup>2</sup> Another monster meeting was arranged for May 6, 1867. The Home Secretary under Cabinet pressure agreed to issue warnings that it was not legal thus to use the park, but the Reform League and the Liberals contested the claim, and in fact the meeting was held. Mr. Walpole resigned office despite Lord Derby's advice to the contrary, and the issue was settled only in 1872 when the

<sup>1</sup> Letters to members from constituents are often organised, and have some effect.

<sup>2</sup> Walpole, *Hist.* ii. 173, 197; 35 & 36 Vict. c. 15.

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Office of Works was authorised by statute to regulate meetings by rules subject to control by Parliament. The question was again raised in 1888 in respect of a great meeting in Trafalgar Square<sup>1</sup> which led to a judicial ruling that no right of meeting existed in a public thoroughfare, but on the other hand it has been laid down that the fact that public meetings are held on a highway does not *ipso facto* make them illegal.<sup>2</sup>

*Political associations* became prominent in 1779–80 also. But they were disliked by the Government and accused of revolutionary tendencies, and the London Corresponding Society, which was created in 1792 to promote Parliamentary reform and adult suffrage, was suppressed by an Act of 1799. In 1817<sup>3</sup> repression was carried to the extent of declaring any society electing delegates to meet with other societies or delegates to be unlawful. In 1825 the right to create an association assuming to represent the people, and in that capacity to bring about a reform in Church and State, was declared by Mr. Plunket to be denied by the constitution in the debate on the Bill for the suppression of unlawful societies in Ireland, which was aimed at the Catholic Association founded by Mr. O'Connell to secure Catholic emancipation.<sup>4</sup> It is characteristic that it was the Anti-Slavery Association, which had no party affiliations, which first was welcomed by ministers when a convention of delegates met in London in 1833. Its success was due to the steps taken to spread its literature and to canvass support widely. The Anti-Corn Law League's activities between 1838 and 1846 were regarded by protectionists with hostility and its suppression was urged in Parliament.

<sup>1</sup> *R. v. Graham and Burns* (1888), 16 Cox C.C. 420.

<sup>2</sup> *Burden v. Rigler*, [1911] 1 K.B. 335.

<sup>3</sup> 57 Geo. III. c. 19, s. 25. Cf. *Luby v. Warwickshire Miners Assocn.*, [1912] 2 Ch. 371.

<sup>4</sup> 12 *Hansard*, 2 s., 315 f., 471.

But its efforts were successful ; in 1842-3 it distributed five million tracts to voters and four million to non-electors, while it successfully fought selected constituencies. The Political Unions of 1831-2 by their meetings helped to secure reform, though they were declared illegal and unconstitutional by a proclamation in November 1831, which was not seriously enforced. The obstacles to effective central organisations, enacted especially in 1799,<sup>1</sup> hampered any combined movement, and it was not until 1840 that it was found possible for the Chartists, who took up the agitation when the Reform Act proved to have done nothing for the workers, to form a National Charter Association to aid in the centralisation of the movement, which hitherto had had nothing more effective than a convention of delegates, which met in 1832, but excited suspicion by its apparent hostility to Parliament. The Chartist movement's failure in 1848 was largely due to its inability to secure any real support by representatives in Parliament, to its confinement to one political class, to the division of opinion among its leaders, and their indiscretion, and to the legal restrictions on combined action, which drove members to form secret leagues, which rendered them liable to prosecution for high treason.

Reform was still agitated for by the National Reform League, a body representing the working classes, but its action was supported by the National Reform Union, which was a middle-class organisation headed by Radicals who had representation in the Commons and could enforce their views by votes. After the Reform Act of 1832 the way was open for political agitation of all kinds, and many different interests have thus been promoted. Among these of special importance was the struggle for female suffrage by the Women's Social and Political

<sup>1</sup> 39 Geo. III. c. 79, s. 2.

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Union ; steady but so far very fruitless effort has marked the work of the Proportional Representation Society, whereas the Free Trade Union long served as a powerful safeguard against the efforts of supporters of protection in the Tariff Reform League and other bodies. The taxation of land values evoked enthusiastic efforts, now represented by the United Committee for the Taxation of Land Values. The National Union of Teachers has brought strong pressure on many occasions to bear on ministers, the National Federation of Property Owners has endeavoured to assert the sacred rights of property against Socialistic schemes, and the Protestant Alliance and the Protestant Truth Society represent influences in favour of the maintenance unimpaired of the Protestant character of the Church of England against the dangers of Anglo-Catholic views, which in their turn are effectively organised.

The most important, however, of all political forces is the Trades Union Congress, whose connection with the Labour party has been elsewhere noted. The first Congress, resting on the activities of local trades councils, dates from 1868, and the unions performed important functions in promoting individual candidatures of Labour representatives until the Labour party was created in 1900. There is necessarily now some duplication of authority between the Congress, which meets annually, and its General Council and the Labour party proper, but the possibility of friction is lessened by their co-operation in the National Council of Labour, which is made up of representatives of the Congress, the party executive, and the Labour party in Parliament. It was from this body in December 1938 that there was issued a declaration refusing Labour consent to any form of compulsory service, but affirming willingness to co-operate in a voluntary and democratically controlled scheme for national civilian



defence. The Congress, despite much pressure during 1938, refused to take up the line that industrial action in the form of refusing co-operation in production of munitions,<sup>1</sup> unless certain assurances as to the foreign policy of ministers in regard especially to Spain were given, would be justified. It insisted that political action of this kind lay outside the scope of its functions, and would constitute a challenge to the principles of democratic government.

This attitude is an important development, as compared with the position adopted in 1920<sup>2</sup> when the Congress and the Labour party threatened to resort to any and every form of withdrawal of labour which circumstances might require in the event of any form of military and naval intervention against the Soviet Government. It does not appear that such intervention was really under contemplation, and so the threat had not to be made good. But in 1926 the threat of a general strike materialised, and was only defeated by the effective measures taken by the ministry to maintain communications and the food supply, and the resolute determination of the people to refuse to allow their freedom to be destroyed by any sectional influences.<sup>3</sup> Since then it has been made clear that the strike was not approved by a very considerable section of Labour opinion, and that its more violent aspects, such as the efforts to wreck trains, had no authorisation whatever from any responsible quarters. The legislation evoked by the strike is discussed elsewhere.

<sup>1</sup> The Amalgamated Engineering Union on Apr. 4, 1938, refused to speed-up production unless assured as to use of armaments.

<sup>2</sup> Cf. Clynes, *Memoirs*, i. 322 f., with Spender, *Great Britain*, pp. 606 f.

<sup>3</sup> Cf. Spender, *op. cit.* pp. 672-6, who exaggerates the good temper of the strikers; Clynes, *Memoirs*, ii. 80 ff. There is no reason to doubt the illegality of the strike; it would be a grave blot on English law were it otherwise; *National Seamen's and Firemen's Union v. Reed*, [1926] Ch. 536; Keith, *Letters on Imperial Relations, 1916-35*, pp. 264 f.