THE AMERICAN PRESIDENCY, AN INTERPRETATION

By

HAROLD J. LASKI

PROFESSOR OF POLITICAL SCIENCE IN
THE UNIVERSITY OF LONDON

* * * * * * * * * * *

HARPER & BROTHERS PUBLISHERS
New York and London

FIRST EDITION

F-P

MANUFACTURED BY THE HADDON CRAFTSMEN, INC., CAMDEN, N. J.

THE AMERICAN PRESIDENCY

AN INTERPRETATION

THE PATTEN FOUNDATION

Mr. Will Patten of Indianapolis (A.B., Indiana University, 1893) made in 1931 a gift for the establishment of the Patten Foundation at his Alma Mater. Under the terms of this gift, which became available upon the death of Mr. Patten (May 3, 1936), there is to be chosen each year a Visiting Professor who is to be in residence several weeks during the year. The purpose of this prescription is to provide an opportunity for members of the University, students and faculty to enjoy the privilege and advantage of personal acquaintance with the Visiting Professor. The Visiting Professor for the Patten Foundation in 1938-1939 was

PROFESSOR HAROLD J. LASKI

London School of Economics and Political Science
University of London

PREFACE

IN THE spring of 1939 Indiana University honored me with an invitation to lecture there on the Patten Foundation; this volume is, substantially, the course I delivered. I should like to thank President H. B Wells for an experience as stimulating as it was delightful. I should add that, in their printed form, these pages owe much to the discussions I had in Bloomington with many members of the faculty, and, in particular, to my friends Dean Bernard Gavit, and Professors Ford Hall and Fowler Harper. I shall long remember their kindness, and that of Mr. S. Yellen and Mr. Harry Engel.

This book is, as its subtitle seeks to indicate, less a treatise on the presidency of the United States than an attempt, made through English eyes, to interpret the way in which it actually works. I am, I hope, sufficiently aware of the dangers to which any student is exposed who seeks to explain a foreign institution. I can only plead that there is a sense in which I have been watching the presidency at work, sometimes from near at hand, ever since I began to teach at Harvard nearly twenty-five years ago; and there are few of the arguments I have ventured to put forward that have not had the benefit of criticism from many American friends, both academic and political, and

not least from the friend to whom I have been permitted to dedicate this book. Its errors are, of course, all my own. But I should indeed be ungrateful if I did not acknowledge the immense debt it owes for what merit it may possess to those friends. In particular, its obligation to Mr. Justice Frankfurter and to Dr. Alfred E. Cohn is quite beyond my power of repayment.

I owe much, too, to some of the standard works on the subject. In particular, I should like to mention how much I have been helped by the writings of Professors Lindsay Rogers, Charles Beard, and Thomas Reed Powell. I found also immense assistance in the elaborate investigation of Professor Dangerfield into the relation of the Senate to the treaty-making power. I should add that the biographies and autobiographies of leading American statesmen, above all the superb *Diary* of John Quincy Adams, as abridged by Allan Nevins from the *Memoirs*, are an indispensable source of understanding.

American scholars have done so much, especially in recent years, for the study of English institutions, that I hope this little book may stimulate British students to realize something of the interest and fascination of American history and politics. If it does this even in a small degree, it will not have been written wholly in vain.

H. J. L.

Little Bardfield,
Essex.

CONTENTS

I

INTRODUCTORY

1

INSTITUTIONS are living things, and they do not easily yield their secrets to the printed word. Predominantly, that is not because they are in themselves mysterious. It is rather because they change with changes in the environment within which they operate, and partly because they differ, from one moment to the other, in terms of the men who operate them. The premiership of Great Britain was one thing in the hands of Mr. Lloyd George in time of war; it was a different thing in the hands of Mr. Baldwin in time of peace; it is a different thing, again, in the hands of Mr. Neville Chamberlain. So, too, with the presidency of France. Though the books warn us that here is the one head of a state whose constant characteristic is that he neither reigns nor governs, in fact, the office has been very different in the hands of its various holders; notably it has hardly seemed the same thing in the hands of M. Poincaré as what it has been in the hands of M. Doumergue.

No important institution, moreover, is ever merely what the law makes it. It accumulates about itself traditions, conventions, ways of behavior, which,

without ever attaining the status of formal law, are not less formidable in their influence than law itself could require. The prerogatives of the Crown in Great Britain are perhaps the supreme example of this habit; many of them retain their formal status as law and yet could hardly be revived without what would amount to a constitutional revolution. The habits of one period, this is to say, can hardly hope to determine the conduct of its successor. The dynamics of life require a continuity of adaptation which almost always means that the formal appearance is different, at any given moment, from the actual reality. To penetrate that reality, therefore, is always a difficult matter. In part, it is obscured, as most institutional phenomena are obscured, by the complexity of the material itself. The processes of government are very like an iceberg; what appears on the surface may be but a small part of the reality beneath. How difficult it is to judge that reality is well known to every historian. Even those most closely concerned in the processes may totally misjudge their meaning. Both the king of France and the tsar of Russia wholly failed to grasp the events, respectively, of 1789 and 1917; and Mr. Asquith's resignation, in December, 1916, was intended to lead to the elimination, and not to the triumph, of Mr. Lloyd George.

The observation of institutions is difficult for another reason. No student can fail, consciously or unconsciously, to bring his own scheme of values to them. He may be detached; he cannot hope to be impartial. For he brings to the task of observation not

merely the experience in which he is involved—an experience which is bound to color his power to see what is before him. He brings to it, also, his own hopes and fears, his judgment of good and bad, significant and insignificant. And this is more certain to be the case when he seeks to explain an institution which he sees from without. There, he is almost bound to be impressed by what in it is alien from the routine to which he is accustomed. He sees more emphatically the unwonted side than the side which resembles the experience with which he is familiar. More than this. In seeking to understand its operation, he is bound to rely upon the judgment of men who have themselves seen it from within. But they, in their turn, as they describe its working to him, bring to that description a body of assumptions the meaning of which he can grasp only as he is conscious that they are being made. Everyone knows that Gibbon's great history derives a considerable part of its unique character from the fact that its author was a philosophic rationalist of the eighteenth century. Everyone knows, also, how much Sir Henry Maine's judgment of popular government was colored by his years as Legal Member of the Viceroy's Council in India. Even a work like Stubbs's *Constitutional History* was profoundly influenced, as Vinogradoff has pointed out,[1] by the rising tide of Victorian liberalism; and that, be it added, even though its author regarded himself as an orthodox Conservative.

I am to speak, being an Englishman, of the supreme political office in the United States. I am aware of my

[1] *Villainage in England* (1892), Preface.

temerity. But to emphasize my sense that the adventure is a delicate one, I should like to give one more example of what I mean by the influence of one's environment upon the judgment. Save perhaps the *Democracy in America* of de Tocqueville, no more famous book on that theme has been written than Bryce's *American Commonwealth*; from the moment of its appearance, just over fifty years ago, it at once took its place as a work of classic quality. Its author was already an eminent historian and a jurist of exceptional distinction. He had traveled widely all over the United States. He was intimately acquainted with many of the leading figures in its political and intellectual eye. He had taken more pains to examine the United States, and with greater energy, than any previous observer. Certainly he knew more of the American political scene, when he wrote, than any European, not even excluding de Tocqueville, had previously known.

Yet Bryce was also a Gladstonian Liberal, immersed in the special philosophy represented by that experience. When he came, therefore, to look at the American industrial scene, he viewed its substance, both as to the mind of the labor movement, on the one hand, and as to the relation of labor to the governmental process, on the other, very much with the mental outlook of a Victorian Liberal, who mainly noted the better economic condition of the workingman in America, his ampler margins of opportunity, compared to those enjoyed by the workingman in England. He did not examine American trade unions at

first hand. He took his view of the problems of law and order created by industrial unrest either from the political figures whom he met at Washington, or from political journals, like the *Nation* then edited by his friend Godkin, which accepted a social philosophy akin to his own. The result was that he hardly knew how profound was the American labor problem in his day; and nearly every judgment he made about its influence on governmental policy has subsequently been called into question by later historical investigation. He was wholly wide of the mark in his judgment of the Haymarket riot;[2] he knew nothing of the inner and dubious details which went to the making of Cleveland's decision to aid the railroads;[3] even the revised edition of 1910 takes no account of the existence of the American Federation of Labor.[4] His revised edition was made two years before the great upheaval of 1912 and the famous Pujo Committee of 1913.[5] Yet he has no knowledge of the Populist movement except as an incident in the Democratic party's acceptance of a free silver policy in 1896. He is not aware of the degree to which Populism looks backward in its implications to the first political struggles of the republic, or forward to that Roosevelt epoch in which so many of the outlines of contemporary controversies began to emerge. Of the great strikes led by the Knights of

[2] *American Commonwealth* (ed. of 1911), II, 646. Cf. Henry David, *The History of the Haymarket Affair* (1936), and Samuel Yellen, *American Labor Struggles* (1936), Chap. II.

[3] *Ibid.*, II, 599. Cf. Yellen, *op. cit.*, Chap. IV.

[4] Trade unions do not even appear in the index to his book.

[5] On the Pujo Committee see L. D. (Mr. Justice) Brandeis, *Other People's Money* (1915).

Labor on the railroads, he can write that "when recently a gigantic organization of workingmen, purporting to unite the whole of American labor, attempted to enforce its sentences against particular firms or corporations by a boycott in which all laborers were urged to join, there was displeasure, but no panic, no call for violent remedies. The prevailing faith in liberty and in the good sense of the mass was unshaken; and the result soon justified this tranquil faith."[6]

There is hardly a phrase in these sentences that would stand examination today;[7] and they are not less revealing for their underlying assumptions than they are for their factual inaccuracies. Bryce accepted the simple faith in liberty of contract as between individual employer and individual worker that was characteristic of his time; and he had no conception that its implications were largely obsolete even when he wrote the first edition of his book. He brought with him to America, in a word, a social philosophy, a way of life, that set the criteria not only of what he was to look for, but also of what he found. He mingled in America almost wholly with the same type of men he was accustomed to meet in England—college presidents, statesmen, editors, bankers, and eminent industrialists; men, that is to say, who shared, overwhelmingly, his own point of view. It is not, therefore, surprising that his judgment of what he ought to look for in America was confirmed by them; or

[6] *Op. cit.*, II, 646.
[7] Cf. *op. cit.* Yellen.

that, very largely, his judgment of what he found was their judgment. Bryce was a disinterested and detached observer, if ever there was one. Yet his account of what he saw is, in this particular context, a striking example of how the subconscious personal equation is vital in the conclusions at which even a disinterested and detached observer will arrive.

I use the illustration of Bryce's book because it shows how careful one must be in seeking to estimate, especially as an Englishman, an institution so intricate and, I add, psychologically unfamiliar, as the American presidency. Part of its functions are like those of the British Crown; part of them can be made to appear like those of the British prime minister; and the temptation is great to think of them in these terms. Yet it is fundamental to remember that, in each part, the resemblances are far less striking than the differences, and that the functioning of the institution as a whole results in the unique consequences which cannot be predicted when those parts are separately surveyed. It is not, I think, merely a platitude to say that the essence of the presidency is the fact that it is an *American* institution, that it functions in an American environment, that it has been shaped by the forces of American history, that it must be judged by American criteria of its response to American needs. To us in England, for example, it appears wholly wasteful that, after the immense experience the tenure of such an office confers, only one American president should have been able to utilize it in political life after his term had expired. (The brief senatorial service of Andrew

Johnson hardly counts.) Yet the whole ethos of the American political system would be different if that were not the case; and to argue, for example, that Americans ought to have a House of Lords in which ex-presidents can function usefully is to miss the vital fact that the very nature of American politics prevents either house of Congress from functioning in any way like the House of Lords.

Englishmen, again, are tempted to remark on the fact that many of the presidents of the United States have been very ordinary men, not to be distinguished from several millions of their fellows; Lord Bryce has a chapter in his book entitled "Why Great Men Do Not Become Presidents." But the judgment, I suggest, is a facile one. On any showing, eleven American presidents have been extraordinary men, whatever may be our view of the handling of their office. That is a proportion not less high than the proportion of remarkable men who have become prime minister in the same period; and, among those who could not be judged extraordinary, two at least, Tyler and Polk, seem on the evidence that has now accumulated to have been at least as fit for the office they held as were, say, Sir Henry Campbell-Bannerman or Mr. Bonar Law for the office of prime minister. A foreigner may distrust the methods by which the president is chosen; certainly there is a good deal of truth in Bagehot's famous aphorism, apropos of Lincoln, that "success in a lottery is no argument for lotteries." But, of course, the assumption of his remark is that the choice of Lincoln in 1860 was an accident. That is not the case. Few choices have ever been more carefully or-

ganized in a presidential convention. It is true that Lincoln was nationally known only a short time before his nomination. But it is worth remembering that Mr. Baldwin was hardly known at all when he became prime minister, and that, so far, each Labour leader in England, with only one exception, has been chosen as a result of a series of fortuitous circumstances none of which was foreseen. And it is far from rare in our party history to find that the prime minister is less the obvious man than the most available man. We train our leaders differently, and we keep them longer. But we must not transfer the criteria of our own system to that of the United States without a care greater than we usually exercise.

A good deal, in fact, of the literature upon American institutions applies to the standards derived from European experience. That is true, it is worth while to add, even of much that has been written by Americans themselves. The classic work of Woodrow Wilson, for example, would hardly have come to some of its conclusions—that on the procedure of the Senate, for instance—if its author had not been steeped in Burke and Bagehot and had not seen a good deal of American government through their eyes. We compare the long political career of an English prime minister with the brevity of that of an American president; but the true comparison is surely between the periods in which each held the highest office in the state, and, if we make that comparison, more American presidents have held office for eight years than have British prime ministers since the younger Pitt.

We speak of the long apprenticeship to politics that an English prime minister serves before he reaches 10 Downing Street; we forget, I think, not only that American conditions altogether rule out (I do not think wisely) that kind of apprenticeship, but also that, in the postwar years in England, the apprenticeship we have come to regard as habitual has been notably abridged in time.

Older commentators, again, and, especially Bagehot, complained of the poor quality of political writing in the American newspapers as compared with that in the English press; and they attributed this to the influence of the fixed presidential term in the United States as compared with the dramatic elasticity of the English system. Later history has made it possible to doubt this conclusion. For the increasing rigidity of the English party structure, on the one hand, and the decline of importance, especially in the postwar years, of the editorial page, on the other, have combined with the reduction of the press to a department of big business to give it, except in moments of gravest emergency, far less importance in its influence on political decisions than was true in Bagehot's day. In America, however, while the influence of the editorial page has continued to decline, there has been the rise of the independent political commentator whose articles probably have a more far-reaching influence than the work of any English editors, and whose status in American public life is comparable with that of Delane in the most important days of the London *Times*. The reasons for these developments are complicated; but