

# AN INTRODUCTION TO THE PROBLEM OF GOVERNMENT

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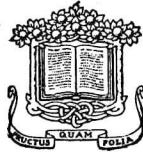
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## PREFACE

THE purpose of this volume is to introduce the reader to the problems of constitutional and popular government. Such a purpose cannot be achieved by simply furnishing an outline of the manner in which modern governments are organized. This knowledge the student must, of course, have; it is the material of political thought and is available in a number of excellent text books. But if the student is to derive any real value from the information which he has, he must have some appreciation of the place of politics in the social sciences; the right of the State to be; the sphere of state control; the practical problems with which all constitutional and popular governments are confronted; the manner in which States of the modern world have attempted to solve these problems; the relation of different political institutions and agencies to each other (for example, the analogy between the Congressional Caucus and the British Cabinet), and the reasons for their apparent success, or failure to achieve the ends for which they were instituted—in a word (although it may be a too ambitious way of stating our task), the principles behind the facts.

Such a theoretical insight is, we venture to think, of more value than a meticulous knowledge of one or more governments. It is of greater importance for the student to appreciate the nature of federal government than it is for him to know the intricacies of congressional procedure. Again, the control of foreign policy, a problem common to all modern governments and nowhere satisfactorily settled, is much more vital than the details of administrative reorganization in the United States. The comparisons may be

extreme ones, but they at least indicate our point of view, which may be re-stated somewhat differently:

Popular government, as Lord Morley has said, is not a delicately synchronized chronometer. It is, on the contrary, a rough piece of machinery which will work somehow, even though all of its parts are not perfectly adjusted. The nature and location of the minor parts are of less importance than the work which the machinery is expected to do, the forces which furnish its motive power, the broad plan on which it is constructed, and the general manner of its operation.

Our purpose has thus been to deal analytically and critically rather than descriptively with governmental structures. Descriptive material, however, has not been excluded. Care has been taken to illustrate concretely the abstract principles which have been discussed, but there is no pretence that the student is given a full description of the governments of any of the States whose constitutions are considered. We do venture to think, however, that the chapters which follow, with the illustrative material in the appendices, furnish an adequate outline for a course in Constitutional Government, and that any descriptive details which are deemed to be lacking can perhaps be better acquired from the constitutions themselves or from other texts, rather than that the student should get his descriptive knowledge without the synthesis and orientation which we have sought to provide.

So, also, the present volume may be useful in linking up existing political institutions with the subject matter of courses on the elements of Political Science or Political Theory. For, just as it is essential that the student of government see the problems common to all constitutional systems, and temporarily solved in different ways, so it is necessary that the student of political philosophy have his feet on the ground, and appreciate the connection between political thought and governmental adjustments.

## PREFACE

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The authors are fully aware that this book is only an *introduction* to the problem of government. For this they make no apology. The subject is so intricate and its ramifications are so numerous that phases of it (which may seem to some readers to be important) are given summary treatment, considered only in the footnotes, or even relegated to the "Topics for Further Investigation" which are appended to each chapter.

From the pedagogical standpoint this is an advantage. The student should not think that the beginning and end of a course or a subject are between two covers; it is better for him to have a syllabus rather than a text book; for him, in many cases, to work out his own salvation on topics that are sufficiently important to warrant independent study, yet sufficiently simple not to impose too great difficulties. It is thought that this purpose may be more easily and more advantageously accomplished, with the aid of the unusually copious references which have been included to current political literature of an interesting and authoritative, but non-technical character. On pedagogical grounds, also, there is no objection to the repetition of certain matters (from different points of view) which the plan of our book makes inevitable. In result, then, it is hoped that the student may be led to a knowledge of the true meaning of constitutional liberty, and to an adequate understanding of the problems involved in the harmonizing of popular government with an efficient administration of public affairs.

From the standpoint of descriptive Political Science, there is no further interest in the Government of Germany as it was prior to the Revolution. It is, however, such an excellent illustration of the monarchical type that we have referred to it incidentally and have given it a rather full analysis. Monarchical government is also illustrated by a discussion of Japanese political institutions (with the Japanese Constitution in the Appendix). This space we

feel is justified because the Japanese Government is likely to be of increasing interest to American students. The constitutions of the new states of Europe have only been referred to incidentally, and it will be an admirable exercise<sup>1</sup> for the student to take the texts which are now available and check their provisions against the principles which are here discussed. It is unusual for the student to have the opportunity of studying so many fundamental laws before they are subjected to minute analysis in monographs and to superficial paraphrase in descriptive textbooks.

The problems involved in the government of cities are not discussed in this volume. They are of such a special character that it has been thought best not to attempt their treatment even in outline.

Finally, it is a pleasure for the authors to acknowledge the assistance which they have received from their former student, Mr. James Hart, now of Harvard University. He has read the proofs and has made many helpful suggestions.

W. W. W.  
L. R.

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<sup>1</sup>*The New Constitutions of Europe*, by Howard Lee McBain and Lindsay Rogers (Doubleday, Page & Co., 1922).

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## CHAPTER I

### INTRODUCTION: THE NATURE OF GOVERNMENT

IN ITS broadest meaning the term "sociology" embraces the systematic treatment of all the interests that arise from the life of men in social aggregates.<sup>1</sup> So considered, it includes within its general scope such particular branches of inquiry as Economics, Law, and Politics. In these special departments of knowledge, the facts dealt with are largely the same, the differences consisting in the stand-points from which they are viewed.

The Social  
Sciences

Thus, for example, the subject of crime is of concern to the economist. He is interested in its cost to society, the extent to which it is due to economic conditions, and the manner in which it enters as a disturbing element into economic life by rendering insecure the possession of property. To the lawyer, the subject is of importance as a violation of law, and as necessitating legal action for its punishment or prevention. To the student of Political Science it is of interest as being a revolt against the constituted authorities of the land, as an anarchistic element in the body politic, and, if widespread and continued, as endangering the very existence of the State itself. Or, as the difference has been stated by a distinguished English economist:

Economics is not a complete philosophy of society; it does not give a complete account even of that part of human conduct which it studies. The social relations to which business gives rise are the subject matter not only of Economics but also of the

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<sup>1</sup>See W. W. Willoughby, *The Nature of the State*, p. 1 ff.



## 2 PROBLEM OF GOVERNMENT

Ethics,  
Politics, and  
Economics

science of Politics, the study of social action in general, and of Ethics, the study of conduct in general. And Economics is the subordinate study of the three, because the problems of social practice to which its study is directed are seldom purely economic, and when it comes to action the ethical aspect is always, and the political aspect is usually, more important than the economic aspect. The study of the economic element in social and political problems is essential if they are to be solved, but few of them can be decided by purely economic considerations alone.<sup>1</sup>

The domain  
of Politics

To distinguish then, the domain of Political Science from the larger field of sociology and from the other special departments of knowledge embraced therein, we may say that Political Science deals with society solely from its organized standpoint—that is, as effectively organized under a supreme authority for the maintenance of an orderly and progressive existence. We thus distinguish between the conception of an aggregate of men as politically organized—as constituting a body politic—and the same community of men as forming merely a group of individuals with mutual economic and social interests. The body politic is the social body plus the political organization.

An aggregate of men living together and united by common interests and relationships may be termed a society. A human "society" is distinguished from the types of communal life exhibited by the lower beings, such as bees, wasps, and ants, in that there is in the minds of its members a common consciousness of mutual interests and aims. Giddings says:

<sup>1</sup>H. Clay, *Economics for the General Reader*, p. 15.

"Regarding man in his capacity as a self-directing individual, there are three fundamental aspects of civilization that have continuing and permanent significance. . . . These fundamental aspects are Ethics, the doctrine of conduct and service; Economics, the doctrine of gainful occupation; and Politics, the doctrine of reconciliation between the two and of living together in harmony and helpfulness.

"These are the three subjects which must lie at the heart of an effective education which has learned the lessons of war. To these all other forms of instruction are either introductory and ancillary, or complementary and interpretative." N. M. Butler, "Education after the War," *Educational Review*, January, 1919, p. 69.

Human society truly begins when social consciousness and tradition are so far developed that all social relations exist not only objectively as physical facts of association, but subjectively also, in the thought, feeling, and purpose of the associated individuals. It is this subjective fact that differentiates human from animal communities.

When  
human so-  
ciety begins

In its social consciousness a community has a living bond of union. The mutual aid and protection of individuals, operating in an unconscious way, are no longer the only means that preserve social cohesion: the community feels and perceives its unity. The feeling must be destroyed before rupture can occur.<sup>1</sup>

When this society becomes organized for the effectuation of certain general, or, as they are called, political interests, and with a magistracy into whose hands is entrusted the exercise of its controlling authority, it assumes a political form, and a State is said to exist. The rules defining the contents of this authority and the manner of its exercise may be termed the Constitution. As a preliminary definition of the State, we may say, therefore, that wherever there can be discovered in any community of men a supreme authority exercising control over the social actions of individuals and groups of individuals, and itself subject to no such regulation, there we have a State. The definition given by Holland is as follows:

A State is a numerous assemblage of human beings generally occupying a certain territory amongst whom the will of the majority, or of an ascertainable class of persons, is, by the strength of such a majority or class, made to prevail against any of their number who oppose it.<sup>2</sup>

Ihering defines the State as "the form of a regulated and assured exercise of the compulsory force of society,"<sup>3</sup> while Burgess describes it less specifically as "a particular portion of mankind viewed as an organized unit."<sup>4</sup>

Nature of  
the State

<sup>1</sup>"The Theory of Society," *Supplement to the Annals of the American Academy of Political and Social Science*, July, 1894, pp. 57, 60.

<sup>2</sup>*Elements of Jurisprudence*, 6th ed., p. 40.

<sup>3</sup>*Der Zweck im Recht*, Vol. I, p. 307.

<sup>4</sup>*Political Science and Constitutional Law*, Vol. I, p. 51.

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Elements of  
a State

Without, however, further multiplying these definitions, or more particularly explaining them, we may, at this preliminary stage, declare the essential elements of a State to be three in number. They are:

- (1) A community of people socially united.
- (2) A political machinery, termed a government, and administered by a corps of officials termed a magistracy.
- (3) A body of rules or maxims, written or unwritten, determining the scope of this public authority and the manner of its exercise.

Divisions of  
Political  
Science

Just as the sciences of Economics and Jurisprudence may be further separated into distinct departments of inquiry, so does the domain of Political Science admit of further subdivision. Thus we may have: First, Descriptive Political Science, dealing with a description of the various forms of political organization; secondly, Historical Political Science, dealing with the inquiry as to the manner and order in which political forms or governments have appeared and developed; thirdly, Political Theory or Philosophy, concerned with the philosophical examination of the various concepts upon which the whole science of politics rests; and, finally, the Art of Government, or "Politics" properly so-called, dealing with the principles which should properly control the administration of public affairs.

Art of  
Government

It is within the confines of the last named field that the present discussion falls, although the analysis of the nature of government will involve an examination of some of the fundamental concepts and postulates of Politics and a brief description of different forms of political organization. These illustrations will be of existing, or very recent types, and no attempt will be made to trace the development of the problem of government. Political institutions have been with us so long that we rather take them for granted and find it difficult to conceive of a régime in which men could live without some form of govern-

mental control. The relation of history and politics, however, is one of great importance to the student of government,<sup>1</sup> and a pressing need in the literature of political science is for a study of the origin of governmental institutions and for a careful account of their development.<sup>2</sup>

History and  
Politics

Here it may be said, briefly, that, with the advance of civilization, come augmented social needs and activities. The governmental organization of the State becomes a more complex structure, and is endowed with wider, and, at the same time, more definite power. Furthermore, the exercise of these powers becomes more intelligently controlled, and in a sense self directed—that is, dictated rather by the interests of a State itself, than by the personal interests of the individuals to whom the exercise of the State's powers happens to be entrusted. Likewise, from substantial similarity of governmental organization, in the early stages, States, in the course of their development,

Origin of  
political  
institutions

<sup>1</sup>There is a valuable discussion of this relation in Seeley, *Introduction to Political Science*, Lecture I: "it is the first aphorism in the system of political science which I am about to expound to you, that this science is not a thing distinct from history, but inseparable from it. To call it a part of history might do some violence to the usage of language, but I may venture to say that history without political science is a study incomplete, truncated, as on the other hand political science without history is hollow and baseless—or in one word:

History without political science has no fruit;  
Political science without history has no root."

In another place Seeley says: "There is a vulgar view of politics which sinks them into a mere struggle of interests and parties, and there is a foppish kind of history which aims only at literary display, which produces delightful books hovering between poetry and prose. These perversions, according to me, come from an unnatural divorce between two subjects which belong to each other. Politics are vulgar when they are not liberalized by history and history fades into mere literature when it loses sight of its relation to practical politics." *The Expansion of England*, p. 193. Cf. also J. W. Garner, *Introduction to Political Science*, p. 33.

<sup>2</sup>The task has been attempted, brilliantly, but in brief compass, by Edward Jenks, *A Short History of Politics*, reprinted (1919) as *The State and the Nation*. Mr. Jenks points out that ignorance of early social conditions results in several practical evils: (1) "we fail utterly to understand the general outlook on life of those vast numbers of the human race who are still living in the pre-political age, and thus, in our dealings with them, are apt, with the very best intentions, to make the most disastrous blunders, which may involve bloodshed and waste"; (2) "an almost necessarily prejudicial view of the true functions of the State," for, "unless the attitude of the student of political institutions be one merely

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assume diverging forms. Geographic, ethnic, economic, and moral conditions have their influence in determining the direction in which the development of political forms shall proceed. Distinctions arise as to the number of interests to be regulated by the State, as to the extent to which the people generally shall participate, either actively or by way of popular control, in the administration of their public affairs, and as to the manner in which the powers of the State shall be distributed among its several departments. There are thus developed all those varieties of governments running from the despotism of the Oriental State to the democracy of the Swiss commune. Later come such forms as the feudal State, the constitutionally limited monarchy, the so-called national State, and the federal State. Within each of these classes are also to be found governmental types distinguished from each other by the greatest variety of internal organizations.

It is a remarkable fact, however, that the study of these phenomena has not resulted in any principles which are of general validity.<sup>1</sup> This is not the place to discuss the controversy—which is really logomachy—as to whether there

Varieties of  
political  
forms

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of detached curiosity, he will be enormously helped in his estimate of the value and limitations of them by a knowledge of what preceded them"; and (3) an inability "to understand the great variations which have taken place in the development of political institutions issuing from the same source." "If we ask ourselves why institutions issuing from the same source assume such infinite variety of form, we shall probably find that the secret lies in the extent to which, and the manner in which, they are related to, and connected with, the pre-political institutions which they have followed." *The State and the Nation*, pp. 18-15. Seeley insists (*Introduction to Political Science*, Lectures II and III) on the importance of considering the rude, primitive community together with the civilized State, in the study of Political Science. See also R. H. Lowie, *Primitive Society*.

<sup>1</sup>As is well known prediction in politics is always very hazardous, but in spite of its dangers, it is very common. Lord Palmerston, for example, thought that the Suez Canal would mean the loss of India; Lord Morley believed that Australia would never fight in behalf of Belgium; Palmerston, Disraeli, and Delane expected the French to beat the Germans in the Franco-Prussian War; Lord Salisbury (contributing to the *Quarterly Review*) believed that Germany could not be united; the framers of the American Constitution thought they could guard against the evils of political parties. See H. A. L. Fisher, *Political Prophecies*, and the same writer's *The Republican Tradition in Europe* for his own anticipations concerning the future of democracy.

is an art or science of politics,<sup>1</sup> but it may be pointed out that, while scientific discoveries have "been so applied as to well-nigh revolutionize human affairs, . . . the knowledge of man, of the springs of his conduct, of his relation to his fellow-men singly or in groups, and the felicitous regulation of human intercourse in the interest of harmony and fairness have made no such advance."

Professor Robinson continues:

Aristotle's treatises on astronomy and physics and his notions of "generation and decay" and of chemical processes have long gone by the board, but his politics and ethics are still revered. Does this mean that his penetration in the sciences of man exceeded so greatly his grasp of natural science, or does it mean that the progress of mankind in the scientific knowledge and regulation of human affairs has remained almost stationary for over two thousand years? I think that we may safely conclude that the latter is the case. It has required three centuries of scientific thought and of subtle inventions for its promotion to enable a modern chemist or physicist to center his attention on electrons and their relation to the mysterious nucleus of the atom, or to permit an embryologist to study the early stirrings of the fertilized egg. As yet relatively little of the same kind of thought has been brought to bear on human affairs.<sup>2</sup>

Is Politics a  
Science  
or an Art?

Political  
progress

It must be recognized, however, that the problem of political control—or government—presents an especial difficulty. Professor Robinson suggests it when he says that the senatorial debate on the League of Nations compares very unfavorably with the consideration which a broken down motor car receives in a roadside garage. The senator "appears too often to have little idea of the nature and

<sup>1</sup>On this question, see Pollock, *History of the Science of Politics*, p. 2; and Amos, *The Science of Politics*, p. 2. Cf. the following quotation from Sir George Cornewall Lewis:

"The art of politics consists of precepts, founded on a scientific investigation, or at least arranged in a systematic form. These precepts are general in their expression; they refer to no definite actual case, but they profess to admonish; they lay down a rule or guide for action under certain supposed circumstances." *On the Methods of Observation and Reasoning in Politics*, Vol. II, p. 155.

<sup>2</sup>"The Mind in the Making," *Harper's Monthly Magazine*, September, 1920, p. 485. There is a suggestive distinction between "scientific" and "spiritual" progress in Gilbert Murray, *Religio Grammatici*.

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workings of nations, and he relies on rhetoric and appeals to vague fears or hopes or mere partisan animosity."

Political progress is limited by the ignorance and prejudices of the people and those whom they select to govern them; the art of politics is conditioned by the shifting constituents of human nature. Habits, prejudices, passions, and loyalties must always be taken into account and what is ideally best may be impracticable.

Ideals and  
realities

Whether the peace of Europe, or the settlement of Ireland, or, to take the greatest of all, the establishment of a League of Nations be the matter in hand, the real difficulty is, as a rule, not nearly so much the discovery of what is best to be done as of what is the nearest approximation to it which, men and things being what they are, has any chance, first, of getting accepted, and secondly, of proving workable and lasting.<sup>1</sup>

In this sense politics is the science of the second best.

Psychological  
factors

Since Walter Bagehot wrote his little book, *Physics and Politics* (1873), discussions of the problem of government have taken psychological factors into account; the political theorist has turned social psychologist, or perhaps more frequently, the psychologist has transferred his attention to the behavior of men in political groups.<sup>2</sup> French philosophers and sociologists—among others Tarde,<sup>3</sup> Durkheim,<sup>4</sup> and Le Bon—have been prolific writers, and in England, very important work has been done by Graham Wallas<sup>5</sup>

<sup>1</sup>"Optimism after the War," *London Times Literary Supplement*, April 29, 1920.

<sup>2</sup>There is a good summary of the tendency in E. Barker, *Political Thought from Spencer to To-day*, p. 149 ff.

<sup>3</sup>*L'Opinion et la Foule* and *Les Lois de l'Imitation*.

<sup>4</sup>Gehlke, *Emile Durkheim's Contributions to Sociological Theory* (Columbia University Studies, Vol. LXVIII) and Barnes, "Durkheim's Political Theory," *Political Science Quarterly*, Vol. XXXV, p. 236 (June, 1920).

<sup>5</sup>*Human Nature and Politics* (1908) and *The Great Society* (1914). At the present day, writes Mr. Graham Wallas, "political experience is recorded and examined with a thoroughness hitherto unknown. The history of political action in the past, instead of being left to isolated scholars, has become the subject of organized and minutely subdivided labour. The new political developments of the present, Australian Federation, the Referendum in Switzerland, German

and McDougall.<sup>1</sup> But the "science," if it be that, is as yet only in its beginnings, and beyond indicating that there are problems connected with man's actions in a group, the social psychologist has not produced any body of principles which must be used by the student of government.<sup>2</sup>

It must be realized, furthermore, that political forms are haphazard; that in their development there is oftentimes the play of chance rather than conscious purpose. In England, for example, the foreign birth of the first two Georges and Queen Victoria's widowhood contributed to the decline of the royal power.<sup>3</sup> Indeed, the first Hanoverian's meager knowledge of the English language was responsible for the constitutional convention that the sovereign does not attend cabinet councils. France's republican form of government is a sheer accident, and by reason of their undeliberate promulgation, her constitutional laws exhibit many gaps.<sup>4</sup> There is nothing about judicial power, civil

Political  
accidents

Public Finance, the Party system in England and America, and innumerable others, are constantly recorded, discussed, and compared. . . .

"The only form of study which a political thinker of one or two hundred years ago would now note as missing is any attempt to deal with politics in its relation to the nature of man. The thinkers of the past, from Plato to Bentham and Mill, had each his own view of human nature, and they made those views the basis of their speculations on government. But no modern treatise on political science, whether dealing with institutions or finance, now begins with anything corresponding to the opening words of Bentham's *Principles of Morals and Legislation*—'Nature has placed mankind under the governance of two sovereign masters, pain and pleasure'; or to the 'first general proposition' of Nassau Senior's *Political Economy*, 'Every man desires to obtain additional wealth with as little sacrifice as possible!'" *Human Nature in Politics*, pp. 11-12.

<sup>1</sup> *An Introduction to Social Psychology* (1908) and *The Group Mind. A Sketch of the Principles of Collective Psychology with some Attempt to Apply them to the Interpretation of National Life and Character* (1920).

Of interest also are Lippmann, *A Preface to Politics* (1913); Conway, *The Crowd in Peace and War* (1915), and Trotter, *Instincts of the Herd in Peace and War* (1917).

<sup>2</sup> See the searching reviews of McDougall, *The Group Mind*, *Political Science Quarterly*, Vol. XXXVI, p. 122 (March, 1921) and *The New Republic*, December 15, 1920. Under the title, "Human Nature and some Social Institutions," H. M. Kallen examines Mr. Wallas' most recent book, *Our Social Heritage*, in the *New Republic*, May 18, 1921.

<sup>3</sup> For an interesting discussion of this point see J. A. Farrer, *The Monarchy in Politics* and Lytton Strachey's recent biography, *Queen Victoria*.

<sup>4</sup> Henry Lefret, *Le Gouvernement et le Parlement*, p. 25.



liberty, and the private rights of individuals—surprising *lacunæ* in view of France's contributions to political theory.<sup>1</sup> In the United States, the growth of political parties was unanticipated by the "founding fathers"; no provision is made to fill the presidential office if the President-elect dies after election but prior to inauguration; Mr. Wilson's illness demonstrated the very incomplete and ambiguous constitutional preparation for presidential inability;<sup>2</sup> and, as Mr. Wilson and Mr. Roosevelt clearly showed, presidential theories can interpret and modify the formal relationship between the executive and the legislature. But the forms are far less important than the forces behind them.<sup>3</sup>

There is, finally, another factor which may be mentioned. In the ancient City States or in an absolute monarchy, there is little difficulty in determining who are the governors; but now the vast size and the extreme complexity of existing political systems make the real rulers of a society undiscoverable.<sup>4</sup> The task is not simply to

<sup>1</sup>E. M. Sait, *Government and Politics of France*, p. 15. Aside from the provision that the Chamber of Deputies must be based on universal suffrage, the Constitution is silent with regard to elections.

<sup>2</sup>See Rogers, "Presidential Inability," *The Review*, Vol. II. p. 481 (May 8, 1920).

<sup>3</sup>"Over three hundred different constitutions were promulgated in Europe between the years 1800 and 1880. So slow have men been in discovering that the forms of government are much less important than the forces behind them. Forms are only important as they leave liberty and law to awaken and control the energies of the individual man, while at the same time giving its best chance to the common good." Morley, "Democracy and Reaction," *Miscellanies* (Fourth Series), p. 300.

<sup>4</sup>The phrase is attributed to John Chipman Gray. Commenting on it Laski says (*Authority in the Modern State*, p. 29):

"The new Chancellor of the Exchequer may be dependent upon a permanent official whose very name is unknown to the vast majority whose destinies he may so largely shape; and, indeed, the position of the English Civil-servant has been defined as that of a man who has exchanged dignity for power." Compare the following from Burke (*The Present Discontents*): "Nations are not primarily ruled by laws; less by violence. Whatever original energy may be supposed either in force or regulation; the operation of both is, in truth, merely instrumental. Nations are governed by the same methods and on the same principles by which an individual without authority is often able to govern those who are his equals or his superiors; by a knowledge of their temper and a judicious management of it."