REPRESENTATIVE GOVERNMENT

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PREFACE

THIS work is based upon a great mass of material, collected in the course of an investigation of the history and characteristics of representative government which I carried on for several years in the Politics Seminary of Princeton University, with the assistance of graduate students working under my direction. I make to them my grateful acknowledgments of their zealous coöperation. My thanks are due also to my colleague, Professor Edward S. Corwin, who read the work in manuscript and made valuable suggestions.

H. J. F.

PRINCETON, N. J.

To

THE GRADUATE COLLEGE
OF PRINCETON UNIVERSITY

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CHAPTER I

THE SUBJECT STATED

In this treatise it is proposed to investigate the nature of representative government by inquiry into its origin and by examination of its characteristics. It is a species of government which exhibits itself in such different forms, that there is some difficulty in framing an exact and comprehensive definition that would be generally acceptable, but for the immediate purpose it is not necessary to make the attempt. Questions of institutional value, involving discrimination between what is genuine and what is spurious in claims of representative character, will come up for consideration later in the course of this treatise. For the present it is sufficient to remark that the essence of the term is plainly the fact of representation, however it may be arranged. The idea is that the people, while not in person present at the seat of government, are to be considered as present by proxy. The way in which the system

of representation is arranged, the conditions under which it acts, the scope of its authority, — all these are matters of great importance in determining the quality and effect of the system, and differences in these respects produce marked variety in representative government as displayed in actual practice; but the character mark of the type may be regarded as being simply the representative intention, however expressed in actual arrangements, whether well or ill.

As thus broadly viewed, it is beyond question that representative government is now the dominant political type. Representative institutions have been set up throughout the Americas, Europe, South Africa, and Australia, and they are now penetrating Asia. They have been adopted by Japan and they have been introduced into China, India, Persia, Turkey and Egypt. Whatever be the actual nature of the political arrangements that are taking shape in those countries, they at least attest the force of the tendency to assimilate political forms to the representative type. Among recent developments in world politics is some arrest of this tendency, but it has not gone far enough to impair the supremacy of the type.

This supremacy is of quite recent occurrence. Its beginnings go scarcely farther back than the middle of the nineteenth century. A peremptory

demand for representative institutions then broke out suddenly all over continental Europe. No great political movement ever made a more abrupt start. It was indeed a veritable explosion of popular feeling, and that explains why it came so suddenly. The way in which material for it had been prepared may be readily understood when the then state of the times is considered. The series of theoretic constitutions produced by the French revolution had left memories of horror and disgust. The various European constitutions framed during the Napoleonic era, although they had features whose value compelled eventual recognition, were essentially impositions of imperial authority and when that was broken they too collapsed. The group of constitutions that had appeared in the revolted American possessions of Spain, on the general lines of the constitution of the United States, had not produced results tending to make the type attractive. Everywhere the liberal experimentation of the age seemed to be a dismal failure, and after all the struggles and sufferings of the people, absolute government had been restored all over Europe. But its prestige was gone. The popular consent on which it rested when it was really powerful and efficient, had been withdrawn, and it now existed only on sufferance until the liberal tendencies of the age could find some new source

of inspiration, some new pattern of political structure. Such a source was found in the English constitutional system; such a pattern was supplied by English parliamentary institutions.

The first installation of a system modelled on that of England was made after Belgium broke away from Holland in 1830, and declared its national independence as "a constitutional, representative, hereditary monarchy."[1] The constitution adopted by Belgium dates from February 7, 1831. It provides for a cabinet system similar to that of England, with ministers appointed by the Crown but responsible to a national legislature composed of a chamber of deputies and a senate. This constitution has exerted a marked influence upon all European constitutional arrangements since then, but it can not be said that it initiated the general movement in favor of representative government. It was produced under circumstances that made it look like a result of diplomatic chaperonage. The annexation of Belgium to Holland had been an arbitrary arrangement made by the Congress of Vienna in 1815 in entire disregard of national sentiment and historical traditions. The cause of Belgian independence was upheld by England

[1] The constitution of Norway dates back to 1814 but in its original form it reflected the principles of the French constitution of 1791, and it did not acquire its present parliamentary character until 1884.

with the concurrence of France, and both powers forcibly intervened to compel Holland to submit. In the choice of a ruler and in making its governmental arrangements the new state acted under the advice of the protecting powers, especially England.

The general movement in favor of representative government dates from the French revolution of February 24, 1848, which turned on parliamentary issues. It had the effect of a call to the peoples of Europe, "now then, all heave together!" So general was the heave that every throne in Europe was shaken by it, and in most cases rulers could save themselves only by granting representative government. The first to capitulate was the king of Sardinia, who conceded parliamentary institutions to his subjects on March 4, 1848. As the kingdom of Italy was eventually formed by the union of other Italian states with Sardinia, the statute of 1848 became the national constitution of Italy. Some sort of constitution of representative government was adopted by most of the states of Europe as a result of the agitations begun in that year. What is known in European history as "the Year of Revolutions" — 1848, — marks the beginning of the movement towards representative government which has gone all over the world.

Antiquarian research animated by patriotic

zeal has in various times and places discovered grounds for claims of the existence of older forms of representative government than those noted in the foregoing. According to some writers representative government existed in Switzerland in ancient times, but such forms as are discernible in the available records seem more akin to the feudal system than to representative government of the existing type. Also in Holland, a quasi-representative character has been claimed for some ancient institutions, and the same claim has been made in behalf of Hungary. The feudal system was based on the idea of separate classes or estates each of which had its own political functions, and action by an estate through its deputies on sufficient occasion was familiar to the political thought of Europe, but this was something quite distinct from the idea of a national control over authority which is the characteristic principle of representative government. It is doubtless the case that ancient institutions have influenced the development of representative government in Europe, but it is historically manifest that the distinct type was first formed in England and that the English example was the master influence in propagating the type. It has been said of the English parliament that it is "the mother of parliaments." That claim appears to be well founded.

It is a remarkable circumstance that while representative government was making its rapid rise in the world, little was definitely known of its history, although there was much speculation on the subject. It was pretty generally agreed that England was the place in which it first showed itself in such a way as to attract general notice, but whence it came and how England got it were matters about which there was much dispute. The various theories which have been advanced seem to fall into one or the other of these two classes:

1. That representative government is a development which took place in the Middle Ages, through modification of royal administration by the events of English history.

2. That representative government is a modern restoration of ancient right, whose institutional embodiment was the Teutonic assembly of freemen. This institution was carried into England by the Anglo-Saxons, where it became the germ from which representative government was eventually developed.

The first of these views was that generally held by historians up to the middle of the nineteenth century, when the second one came into such extensive vogue as to take practically complete possession of historical literature. It still pervades popular history and its characteristic ex-

pressions have become proverbial, as in such phrases as "Anglo-Saxon principles," "Anglo-Saxon freedom," but exact scholarship is now returning to the older view.

Questions of this character are ordinarily supposed to have only an antiquarian interest without much practical importance, but this is a mistake. The question which of these two views is correct has really a very important bearing upon practical politics, although it might be rather difficult to explain it. But however that may be, the plan of this treatise requires a thorough examination of the merits of the case, and it so happens that the details form a very curious chapter of literary history possessing an interest of its own. Probably there can be no stronger instance than it affords of the ability of people to believe what they want to believe and make the facts appear what they wish them to be.

CHAPTER II

THE SEVENTEENTH CENTURY INQUEST

THE violent political controversies in England during the seventeenth century are particularly significant as evidence bearing on the subject now under consideration. The great intellectual occupation of the age was examination of the source and nature of authority, and if there had been extant any tradition of the primitive Teutonic community, as the original sovereign, it would have been brought into notice, but such a thing was never mentioned.

When the breach with the king had reached such a pass that public opinion turned to the idea of a commonwealth, the position was taken that monarchy was "neither good in itself nor for us." Argument in support of the first part of this proposition was drawn from the Book of Samuel; in support of the second part, from history and reason, but the history was a recital of the grievances of the people at the hands of the king and the appeal to reason invoked the law of nature.[1] There is nothing by way of an

[1] G. P. Gooch, *English Democratic Ideas in the Seventeenth Century*, p. 167.