

EUROPEAN GOVERNMENTS AND POLITICS

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Preface

MY aim in preparing this volume has been to bring to date, expand, and otherwise improve a book bearing the same title, published in 1934. Like its predecessor, the volume is designed for use as a text in courses on European or comparative government, and to that end it deals with five governmental systems of our time with which (in addition, of course, to the government of the United States) intelligent Americans may reasonably be expected to be familiar. To be sure, various other systems are both interesting and important. The five here selected for treatment, however, have undeniable claims because of functioning in countries of the first rank, and, even more, because of their inherent significance for students of political and social phenomena; and the rest are omitted in order that the five may be given the time and space that they deserve, within bounds feasible for either a book or a course.

Like the European world itself in these fateful days, the book is divided between governmental systems grounded on two sharply opposed principles or plans of political organization and action—parliamentary democracy and totalitarian dictatorship. England may no longer be “the greatest existing school of politics”; at all events, some of her former Continental pupils have repudiated most of what they learned from her institutions and experience. Historically, however, her rôle has been of the highest importance, and for none more than for Americans; and her scheme of government is still one of the world’s priceless political assets. Twenty chapters (largely adapted from my *English Government and Politics*) are, therefore, devoted to the government of the United Kingdom, with so much mention of the far-flung Empire as is essential to an understanding of government as operated from Westminster and Whitehall. As co-partner with Britain in holding the hotly beleaguered fortress of democracy in contemporary Europe, and as a theater of political thought and action comparing and contrasting most instructively with the British, France is next brought into view; and here a number of chapters have been almost completely rewritten.

The remainder of the book is devoted to dictatorships—two fascist and one communist. In the case of Germany, my decision to

retain (in revised and condensed form) three or four chapters devoted to government under the Weimar constitution may cause surprise. No one, of course, is so naïve as to suppose that if and when the Nazi régime shall give way to something different, the Weimar system will be restored *in toto*. The rise and triumph of Naziism cannot, however, be understood without full knowledge of what went before; and in any event, it ill becomes students of government to lose interest in a political order as significant as was that of 1919-33 in Germany, simply because another has arisen in its place. Those who think otherwise may, of course, ignore the chapters referred to; indeed, those who, in general, do not care for "historical background" may omit certain additional chapters designed as introductions. Sections of the book devoted to Italy and the Soviet Union have been expanded, with special attention to the emerging corporative state in the one instance and to the new régime under the U.S.S.R. constitution of 1936 in the other.

It may properly be added that the entire book was in type when Europe once more became the scene of a major war in September, 1939. Three of the countries whose governments are herein dealt with were involved from the outset; one or both of the others seemed not unlikely to be drawn in before any considerable lapse of time. It proved possible, as the pages were being closed, to make mention of a limited number of the earliest war-time developments affecting government in the belligerent countries. But such developments had not gone far; and the governments and politics which the book undertakes to portray are, of course, those with which Englishmen, Frenchmen, Germans, Italians, and Russians entered the new war period.

For assistance in drafting Chapters XXXVII-XXXIX, I am indebted to my colleague, Dr. William Ebenstein; for materials on the Italian corporative state, to Professor H. Arthur Steiner, of the University of California at Los Angeles; and for tireless and efficient stenographic service, to my secretary, Miss Phyllis Schwoegler.

FREDERIC A. OGG

MADISON, WISCONSIN
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Part I

Parliamentary Democracies

CHAPTER I

The Panorama of English Constitutional Development

THE starting points of English political institutions and procedures lie scattered along a high road of national history stretching thirteen or fourteen hundred years into the past. With the exception of a brief interval at the middle of the seventeenth century, when a flood tide of reform swept the country into civil war and into foredoomed experiment with a republican form of government, the constitution's peaceful and orderly development has never been seriously interrupted. Other lands, *e.g.*, France, Germany, and Russia, have broken sharply with the past and set up wholly new governments—in some instances, a number of times. In all Continental Europe, there is hardly a government today that antedates 1800; few go back of 1870; half or more have come into existence since 1914. The same situation exists in other parts of the world, where perfectly definite

CONTINUITY
THROUGH THE
CENTURIES

dates can often be assigned for the creation of new systems or the remodelling of old ones. England, however, has moved along an essentially continuous constitutional pathway, readjusting her institutions slowly and cautiously to changing conditions and needs. She has travelled a long distance, and her government today is a very different affair from that of the period of William the Conqueror, or of Elizabeth, or of George III, or even of Victoria. A Pitt or a Burke—even a Bagehot or a Gladstone—wandering about the Whitehall or Westminster of Neville Chamberlain would feel himself almost a stranger. What he would encounter would, nevertheless, remind him strongly of the past; much would be essentially as it was when he first walked the earth, and indeed long before. A main characteristic of English constitutional and political

experience has been its steady and cumulative sweep through the centuries.

THE ANGLO-SAXON PERIOD

The first scene disclosed in the panorama is the primitive Britain of the Celts, the Romans, and the Saxons. The spectator will not need to pay much attention to the warlike Celtic tribes which Caesar, at his famous crossing of the Channel in 54 B.C., found in sole possession of both the larger island and its smaller neighbor to the west. Their Welsh and Irish descendants contributed heavily to the cultural history of that section of the world, and the Irish now have a substantially independent government under the constitution of Eire (Ireland) adopted in 1937. But neither Welsh nor Irish of earlier times had much to do with making the English government what it is today. No more did the Romans. To be sure, a hundred years after Caesar, the wide-sweeping boundaries of their empire were extended to include a province newly formed out of southern and central Britain. But when mounting troubles compelled them to withdraw from the country in 407 A.D., they left behind them nothing of lasting political significance.

The case of the Saxons was far otherwise. Swarming across the North Sea after the middle of the fifth century A.D., they and their kinsmen, Angles and Danes, pushed the defenseless Celts westward, possessed themselves of most of the larger island, and became the founders of modern English civilization. Englishmen of today are by no means merely twentieth-century Saxons. Celtic, Norman, and other strains are woven deeply into the national stock, and English or British culture and institutions of our time are too often regarded as only "Anglo-Saxon." Nevertheless, the basic element in the England that we know is unquestionably Saxon; and the first period to which the growth of English political institutions can be traced is that of Saxon settlement and domination, extending from the fifth-century incursions to the Norman Conquest in 1066. The contributions of these centuries were not as extensive as was formerly supposed, because it has been shown that, contrary to the views of many English and American historians up to less than a generation ago, representative government did not originate in the German forests and come down through Saxon days into mediaeval and modern England.¹ The period, however, contributed one institution, *i.e.*, kingship, which, although never very strong in Saxon hands, became the core or kernel around which the English constitution developed

¹ See p. 10 below.

in later times; also, it left the country covered with a network of areas of local government—especially *burghs*, or boroughs, and shires (later counties)—which connect closely with those employed in our own day.¹

NORMAN-ANGEVIN DEVELOPMENTS

Saxon kings showed no marked genius for state-building, and in 1066 their feebly united realm was wrested from them by a conqueror from across the English Channel, *i.e.*, William of Normandy. This started a new era in the country's constitutional development.² Even on the smaller stage furnished by his Continental duchy, William had proved his claim to statesmanship; and in the new and larger field, his vigor, foresight, and resourcefulness achieved remarkable results. Confiscating the estates of the Saxon earls, he parcelled them out among his followers on a feudal basis so contrived that the tenant's foremost obligation was obedience to the king; without uprooting the local institutions that he found, he readjusted them so as not to interfere with strong central control; the church was brought under effective supervision; and altogether the situation was so maneuvered as to make the king master of the land in a measure never attained by any Saxon monarch. For half a century after the Conqueror's death (1087), the new order was maintained, even though the kings were of inferior caliber; and though a period of confusion under the unfortunate Stephen (1135-54) threatened to wreck the mechanism, the energetic and astute Henry II (1154-89) retrieved all that had been lost and gained new ground besides. In the course of a reign which covered a full generation, the adroit Angevin curbed rebellious nobles and churchmen, turned locally elected sheriffs into royally appointed agents of the central government charged with enforcing law and collecting taxes in the shires (thenceforth known as "counties"), developed a staff of royal judges who went up and down the country deciding cases according to principles that gradually hardened into the historic "common law," and in other ways toned up and consolidated the new political system created by his great-grandfather.

GREAT COUNCIL AND "CURIA REGIS"

No king, however able and industrious, could manage so vast a piece of machinery single-handed. To aid in running the government and

¹ Descriptions of Anglo-Saxon institutions will be found in G. B. Adams, *Constitutional History of England* (rev. ed., New York, 1934), 5-49, and A. B. White, *The Making of the English Constitution* (rev. ed., New York, 1925), 3-71.

² Some writers, *e.g.*, G. B. Adams (*The Origin of the English Constitution*, 16), consider that the constitution really originated in the Norman-Angevin period.

to help the monarch formulate his policies, two main agencies arose. One was the *Magnum Concilium*, or Great Council; the other was the *Curia Regis*, literally, the King's Court. The Council was a gathering of principal men of the kingdom—bishops, officers of the royal household, tenants-in-chief, and others—meeting three or four times a year at the call of the king, and looked to by him to help decide policies of state, to review the work of administration, to sit as a high court of justice, and to bear a share in making and amending laws on the rather rare occasions when such action was needed. Originally, the *Curia Regis* was not strictly a separate body, though in time it in effect became such. The Council, as has been observed, did not meet often; moreover, it usually sat only a few days at a time. But there was business to be attended to pretty much all the while, and the very natural plan was hit upon of associating together for the purpose those members of the Council who as officers of the royal household—chamberlain, chancellor, constable, etc.,—were already following the king wherever he went and giving their time continuously to the business of state. This smaller, more or less professionalized, group—a sort of inner circle of the Council—constituted the Curia. No hard and fast rules governed the composition of either body. Still less was there any definite separation of jurisdictions. The king could refer matters to the large council or the “little council,” or to neither, precisely as he chose; and he was in no wise bound to be governed by the advice received. The fact is significant, however, that through all the ups and downs of the Norman-Angevin period, strong and weak monarchs alike followed the practice of calling together the leading men of the realm, and of relying upon them not only for assistance in lawmaking and administration, but for information, opinions, and support.

FUNCTIONAL DIFFERENTIATION

One will not be surprised to learn that with the lapse of time Council and Curia grew farther apart, and that each made its own great contribution to the country's governmental system of later centuries. Take first the Curia. In the days of the Conqueror, that body is seen performing work of many different kinds, with apparently no thought of functional specialization. But this situation could not last. As the volume of business mounted, trained lawyers, expert financiers, and other men of special aptitudes were drawn in, and before long—even in the reign of Henry II—we see evidences of a tendency to split up the Curia's multifarious duties into segments and to develop a distinct branch or section to take charge of each. Nobody planned the

thing out, as a modern efficiency and economy commission might do it. But by slow and hazardous stages, judicial work was separated from the tasks of general administration; and while one portion of the Curia (known as the "permanent council," and later as the "privy council") went on as a council for general purposes, another became the parent of four great judicial organs, namely, the courts of (1) exchequer, (2) king's bench, (3) common pleas, and (4) chancery. Meanwhile, the superior aptitude of this expanding mechanism for handling administrative and judicial business left the Great Council with less and less to do in that domain. The Council did not, indeed, die out, or even lose its importance. Its development was merely turned in a different direction; and, recalling the nature of its membership, one will hardly be unprepared to find it functioning later in the guise of the upper branch of Parliament, *i.e.*, the House of Lords.

THE GREAT CHARTER

The masterful manner in which Henry II handled affairs, combined with the essential justice of his rule, won for him a very strong position; and if his successors had been men of like capacity, there might be a different story of English constitutional development to tell. Autocratic power, however, in the hands of weak or otherwise unworthy kings—notably Henry's sons, Richard I and John—provoked rebellion; and after John, by a series of high-handed acts and humiliating surrenders, alienated most of his supporters, the strong men of the country took advantage of his predicament to place in his hands a lengthy list of demands for reform, with the alternative of civil war if he refused them. Evasion proved possible for a brief time only; and on June 15, 1215, in the plain of Runnymede, between London and Windsor, *Magna Carta*, the "Great Charter," was agreed to on both sides. The document was not literally "signed"; John could not write his name, and few if any of his opponents were more proficient. But the same purpose was served by affixing the great seal of the realm and the individual seals of the 25 barons who were delegated to see that the king's promises were carried out.

Bishop Stubbs once said of the Charter that the whole of English constitutional history is merely one long commentary upon it, and writers and orators often refer to it as the most important political document in all English history, if not in the history of the world. To be sure, a good deal has been read into the instrument in later times that was not really there; it did not, for example, guarantee trial by jury, nor did it provide for anything in the nature of representative government. Wrested from the king, not by the "people" in any

proper sense, but only by a group of disgruntled barons, it had little to say—at all events directly—about the rights and privileges of humbler folk. And, being intended primarily as an enumeration of rules and principles presumed to be already in operation, it contained little that was new. Nevertheless, its importance, if construed understandingly, can hardly be exaggerated. England was at a point where somebody had to decide whether she was to be a nation ruled according to law or only according to royal caprice—whether if the king proved unwilling to be guided by established principles, he could be compelled to do so or to give way to another of more tractable temper. The barons who pressed John to a surrender at Runnymede cast the die on these momentous matters. They were, of course, not thinking of modern forms of constitutional limitations; and anything resembling modern democracy was quite beyond their ken. But by getting the sovereign's solemn agreement to do certain things and not to do others, and by setting over him a sort of baronial guard to see that he lived up to his engagements, they turned the country's steps once more away from absolutism and in the direction of constitutional government. Better means of holding the king in check were later found than a mere committee of 25 nobles; but for the time being the principle was more important than the machinery.

One will not be surprised to learn that as time went on the rights and liberties guaranteed to barons, clergy, and merchants were, in so far as pertinent, gradually extended to other classes of people; or that the Charter became a sort of touchstone and palladium of the nation's liberties to which Englishmen habitually harked back whenever they considered that the king was breaking over the bounds that agreement or custom had established for him. More than one monarch in later times found it good policy to issue specific "confirmations" of the historic contract; Parliament likewise "confirmed" it on sundry occasions; and such portions of the instrument as have any modern bearing—relatively few though they are—belong to the accepted law of the British constitution today.¹

Meanwhile a line of development was started which in the end not only gave the nation more effectual means of keeping kings under control, but supplied it with an instrumentality through which to

¹See p. 25 below. An English translation of the Charter will be found in G. B. Adams and H. M. Stephens, *Select Documents of English Constitutional History* (New York, 1906), 42-52. The principal work on the subject is W. S. McKechnie, *Magna Carta* (Glasgow, 1905). For fuller treatment of the Norman-Angevin period, see G. B. Adams, *Constitutional History* (rev. ed.), 50-143; A. B. White, *op. cit.*, 72-452.

govern itself. Hard pressed by both foreign and domestic difficulties, King John, in 1213, called upon every county to send to a meeting of the Great Council four "discreet knights" who should act for the landholding and other substantial elements in assenting to a royal levy upon their possessions. The expedient did not save the situation for John, but it had obvious utility, and later monarchs did not hesitate to avail themselves of it. When such a meeting was con-

THE RISE OF PARLIAMENT:

1. THE FIRST "PARLIAMENTS"

voked by Henry III in 1254, king and barons fell to quarrelling, and eventually to fighting, with the result that in 1264 the barons were victorious at Lewes and their leader, the foreign-born Simon de Montfort, emerged as regent of the country. No less in need of funds than the king himself, Montfort thereupon convened a "parliament"¹ in 1265 which was attended not only by the barons, clergy, and two knights from each shire, but also by two burgesses from each of 21 boroughs, or towns, known to be friendly to the barons' cause. The gathering was only a partisan conclave, and to speak of its sponsor as the Father of the House of Commons is to give him rather more than his due. The inclusion of spokesmen from even a limited number of "hand-picked" towns was, however, a highly significant departure. Various other parliaments were held in the next 30 years, usually with no townsmen in attendance. But a meeting convoked by Edward I in 1295 brought together all elements considered capable of giving help, and proved so similar to the broadly national gatherings of later centuries that it has ever since held a place in history as the "Model Parliament." Two archbishops, 18 bishops, 66 abbots, 3 heads of religious orders, 9 earls, 41 barons, 61 knights of the shire, and 172 citizens and burgesses from the cities and boroughs—upwards of 400 persons in all—were present.

Thereafter "Parliament" rapidly became a regular feature of the governmental system. It was, of course, at no time definitely "established"; it merely grew up—by nobody's planning in advance—because the kings found occasional meetings of the kind useful for their purposes. Certainly the plan of calling in representatives of the counties and boroughs to participate in the public business along with the councillors flowed from no popular movement or demand. On the contrary, knights and burgesses took their places along with the magnates grudgingly, under the impact of royal command, know-

¹ The term (from the French *parler*, "to speak") was for some time thenceforth applied indiscriminately to meetings of the Council whether or not attended by knights and burgesses.

ing full well that all that was expected of them was that they obediently saddle themselves and their fellows with new tax burdens. The day came when representation in Parliament was looked upon as a privilege, a benefit, and a source of power. But nobody so regarded it in the times of which we are speaking.

2. THE REPRESENTATIVE PRINCIPLE

From the first, the knights and burgesses who attended the meetings were, in one way or another, "elected"; and to some extent this gave Parliament, even in its earliest days, the character of a representative body. The idea of representation was not peculiar to England; nor did it first appear in that country in connection with Parliament. The old notion, however, that the elements of representative government came out of the forests of Germany, found lodgment and growth in Anglo-Saxon England, and carried over into the parliamentary institutions of the thirteenth and fourteenth centuries, has been exploded, and it is now understood that, whatever momentary importance may be attached to such earlier practices as the occasional appearance of deputies or delegates in the *motus* of Anglo-Saxon hundreds and shires, the system of representation in Parliament was of mediaeval origin, and is to be accounted for principally, if not entirely, by the desire of needy kings for revenue.¹ Representative government, in any full and proper sense, existed neither in England nor anywhere else until well down in modern times. The foundation for it was, however, laid in England by the joining of elected county and borough members to the magnates of the Council. And this arose from no mysterious "Teutonic genius" for representative institutions, no inherent and irrepressible love of liberty and self-government, but solely because, at a relatively early date, the kings of England were strong enough to reach down to increasingly numerous and prosperous classes of the people and draw them into the orbit of royal taxation.

3. DEVELOPMENT OF THE BICAMERAL SYSTEM

In 1295, and for some time thereafter, the three orders, or estates—barons, clergy, and commons—met first as a single body to hear the king's requests and afterwards sat separately to deliberate

¹ The evidence is presented in C. A. Beard, "The Teutonic Origins of Representative Government," *Amer. Polit. Sci. Rev.*, Feb., 1932. Cf. C. Stephenson, "The Beginnings of Representative Government in England," in C. Read (ed.), *The Constitution Reconsidered* (New York, 1938), 25-36, and especially H. J. Ford, *Representative Government* (New York, 1924), Chaps. i-ix. Useful critical comment will be found in E. M. Sait, *Political Institutions; A Preface* (New York, 1938), Chap. xx.