

# COMPARATIVE FREE GOVERNMENT

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## PREFACE

WITH the advent of a world movement toward democracy has come a comparative study of government. Already a large body of literature, based on such study, has appeared. The fact is gaining recognition that to understand clearly the problems of democracy, and to solve them adequately, world experience with free institutions must be drawn upon. Democracy is not the exclusive possession of any people; nor is it dependent upon any particular form or method. Every nation, whether it is far advanced on the path of freedom or is only beginning the slow journey toward liberty, has its lesson for the whole world. It is of high value to have the important contributions of the various states analyzed and compared for the purpose of throwing light upon the problems and processes of free government. No nation is so far advanced that it cannot learn from the experience of others.

The comparative study of government is particularly valuable for the student just beginning his work in Political Science. It not only brings knowledge of fundamental principles, but gives breadth of view and develops sympathetic appreciation of what peoples of other races and nationalities are doing to meet the demands of modern society. It is the most effective safeguard against the narrow, intolerant provincialism and the cheap chauvinism which characterize the attitude of so many persons and which are so great an obstacle in the path of genuine political progress. The authors of this book are firm in the belief that the basic course in Political Science should be comparative in nature. It is a profound pity that so many men and women enter upon the duties of citizenship in complete ignorance of what the nations of the world are doing to achieve self-government.

A word concerning the plan and purpose of the chapters that follow should be given. The purpose is not primarily a comparative study of existing governments, but a study of the various processes and institutions by which free government is being attained. In this is found one of the book's distinctive features. The aim is not to give a mass of detail concerning each of the

from those of England and America. Furthermore, it is through France that modern free governments are most notably linked to the ancient Roman Republic through the system of Roman law. French experience, therefore, is of peculiar interest and value in the comparative study of political institutions.

Germany and Switzerland are selected for study because the one government exhibits the early stages of transition from autocracy to democracy and the other an advanced stage of assured democracy. Switzerland is also of especial interest because it furnishes a type of free government which is neither Cabinet nor Presidential, yet is completely democratic. The comparison is still further extended by chapters on the small states of Europe and the leading states of South America, and a final chapter on the relation of federation to democracy.

In the treatment of the various governments special attention is given to the federal system as an agency of free government; to the development and position of the executive authority; to political parties as a universal phenomenon in the transition from despotism to democracy; and to the judiciary because of its close relation to partisan politics in America and to the conflict between autocracy and democracy in all the great states. The judiciary is of peculiar interest, also, because of the two competing systems of English and Roman law, involving distinctly different governmental organizations and different means of access to the people as the source of authority.

In the preparation of the book the authors have incurred many obligations. They are especially indebted to Professor Ely, Editor of the Series, who read the entire manuscript and made many helpful suggestions. They are also under obligation to Professors F. A. Ogg, of the University of Wisconsin, and P. F. Peck and C. E. Payne, of Grinnell College, who read parts of the manuscript and gave valuable assistance through both suggestions and corrections. A part of the manuscript on England was read by Sir Frederick Pollock. Numerous friends in the various states described have been most helpful in supplying material for the book. Of these special mention should be made of Professeur C. Cestre, of the University of Bordeaux, and Professeur Emile Saillens, of the University of Toulouse.

# INTRODUCTION

## THE NATURE OF FREE GOVERNMENT

ARISTOTLE and Plato in their descriptions of the ideal city-state elaborated principles which are being incarnated in modern free states. In such a state the citizen realized himself through his conscious participation in the life of the city. There could be no conflict between the man and the state because man was a political animal and he became a man by participation in the body politic. There could be no perfect man until the body politic was perfected. Perfection in the city implied perfection in the citizenship. Education and training were the chief means for making known to each member his place in the service of the city. Aristotle described two sorts of government, one of which was in harmony with the true interests of the state, while the other introduced an alien element which tended to destroy the state. The officers in the good government retained their place as conscious members of the body politic. They sought in all ways to serve the state; they were the willing agents for the self-expression of the city; they had no will of their own apart from the interests of the city. These were the characteristics of the true government. The bad government was one in which the rulers separated themselves from the normal life of the citizen. They made use of office for self-aggrandisement. They relied upon force in matters of government and thus introduced a state of war between the city and its rulers. The triumph of a bad government meant the destruction of the body politic and the substitution of a state composed of rulers and their subjects, in which the rulers command and the subjects are forced to obey.

Each of these two kinds of government might have any one of three forms, — monarchy, aristocracy, or polity for the good; tyranny, oligarchy, or democracy for the bad. The form, ac-

according to Aristotle, was of minor importance as compared with the fundamental question whether the government was in harmony with the life of the city or was imposed upon the city by force.<sup>1</sup>

In his view, the body politic included only a small fraction of the people, while some nine tenths of them were consigned to perpetual slavery, and were entirely subject to the will of their masters. Where slavery prevailed in the household it was natural that the relation of master to slave should be carried into that of rulers to subjects in the state, rulers commanding and subjects obeying. Whether the rulers were one, few, or many, the tendency was to force their will upon the city, and in practice every form of government became bad. The citizens became divided into rulers and subjects and the true ideal of the city vanished. That which the Greeks described as a degenerate government became the accepted definition of all government.<sup>2</sup> Not until the abolition of slavery in very recent times has it been possible to revert to the Greek conception of a good government. A citizenship composed of those who believe in slavery will naturally have a government which is imposed by force upon the masses of the people. The disappearance of slavery clears the field for a real body politic composed of the entire people. It becomes possible for the first time in human history to fulfill the Greek ideal of a state whose rulers are at the same time subjects of the people.

The new order requires a new literature, the use of new words and phrases, or, what is more difficult, the use of old words with different and often contradictory meanings. For instance, the term "government" in the modern state is coming to involve a flat contradiction of its former usage. In the literature of the past, the term, in its various uses, carries with it the idea of compulsion, the forcing of men to do things which they do not wish to do.<sup>3</sup> It implies a separation of the people into two classes, rulers and subjects, self-government being a contradiction in terms. The new order in a free state reverses the former relation of officers and people. The officers, as the servants of the people, have no authority not conferred upon them by the

<sup>1</sup> Aristotle's "Politics," Book III.

<sup>2</sup> *Ibid.*, Book I.

<sup>3</sup> Austin, "Lectures on Jurisprudence, the Philosophy of Positive Law," Part I, § 1, Lecture VI, p. 111.



people. In an ideal democracy neither officers nor people would be under command, but the good government described by Aristotle would be realized. Officers, in common with all citizens, would be servants of the state, all working to a common end, government being the chief agency for the self-realization of the citizens.

The word "Democracy" has had a most remarkable history. Aristotle's three terms to designate the forms of good government were "Monarchy," "Aristocracy," and "Polity"; Democracy does not appear in the list. The Monarch became a tyrant when he ceased to rule as a servant of the body politic. The Aristocracy became an oligarchy or a plutocracy when public officers ceased to be servants of the city and entered into a conspiracy for its destruction. The Polity is in itself an ideal government in which the entire citizenship has become so trained that each man finds his place in the service of the city by mutual agreement. The degenerate Polity becomes a "democracy," a government by violence and brute force directed by demagogues, — in all respects a bad government. Yet this same word, used by Aristotle to designate a vitiated government, which never had any support or approval, is now taken up and applied to every movement in modern society which tends to fulfill the Greek ideal of a polity, or a form of government suited to the perfect state. Democracy now includes all that Aristotle describes in his three forms of good government. In place of the autocrat it would substitute the democratic monarch, a willing servant of the people, as has been done in Norway. Oligarchs and plutocrats who have been in conspiracy against the people give place to families who have won reputation for superior service, as is the case in some of the Swiss communes and cantons. The ideal democracy, as the term is now used, is a state in which all are equally bound to render service and all freely observe the rules of the service, the necessity for the use of force being a mark of failure in government. This ideal is not confined to institutions of the state; it is carried into the industrial world where it would abolish industrial wars and establish agreement among all industrial classes. It pervades schools and churches, where it is working a revolution no less significant. Every form of association is being democratized.

Between the extreme and contradictory definitions of the term

political literature furnishes illustration of numerous intermediate uses.<sup>1</sup> Democracy is often described as government by majorities. As thus used the word denotes a mere form of government without any implication as to whether it is good or bad. Such a definition is natural to those who define all government in terms of force. Majorities compel minorities to obey. The modern democrat, while maintaining the ideal of government by common agreement, admits that majorities are of immense use in the transition from despotism to true democracy. It is better to have free and fair discussion of the few issues in which common consent cannot be otherwise reached and then to accept for the time a majority vote, than to adopt the old method of force. As one has said: "It is better to count heads than to break heads." But the ideal democracy is not a government by majorities, it is a government by common consent in which majorities serve as one of the means for reaching agreement.

The transition from government imposed by the strong upon the weak to government achieved by the willing coöperation of citizens involves a great revolution. That revolution is yet in its early beginnings. Democracy will not have had a fair trial until its principles have become generally understood and accepted. It calls for a new type of statesman, a new standard for the superior man. The old order called for the man who could break the wills of the multitude and render them submissive. The new order calls for the man of insight, of sympathy and discernment, who perceives most clearly the needs and aspirations of the people. It will require many generations fairly to test the merits of the new order.

The new era involves a new interpretation of history. So long as the relation of master and slave served as a model for the organization of the state it was impossible to gain a hearing for the teachings of the Greek philosophers on the real nature of the true state. That teaching lay dormant for two thousand years. The contradictory interpretations of Hebrew history are likewise significant. The divine right of kings and every other form of despotism have been upheld by appeals to Jewish and

<sup>1</sup> Aristotle and other Greek writers gave a variety of meanings to the term. "What Aristotle calls *πολιτεία* (polity) Polybios calls *δημοκρατία* (democracy); what Aristotle calls *δημοκρατία* Polybios calls *ὄχλοκρατία*." — Freeman, "Growth of the English Constitution," p. 167, London, 1884.

early Christian literature. Effective use is now made of the same literature in support of the modern free state. The free state calls for no new principles; all needful principles are clearly stated in Greek and Hebrew and other ancient literature; the application alone is new. As the upholders of the former order have sought to monopolize the interpretation of history, advocates of free government are now disposed to be equally monopolistic. No past human experience is foreign to their needs; the entire course of evolution is interpreted as contributory to the one end of producing the free man in a congenial environment. Slavery and despotism have themselves been cardinal agencies in making men free. They have compelled their victims to combine for self-protection and thus to gain experience for the future democracy. The revolution now in progress arises from the conviction that all human beings may become free without the use of the brutal agencies of the past.

Western civilization has always meant a freer civilization. Innumerable communities have been organized during the migrations of races westward, each of them a new experiment in government. The movement falls into two divisions. For many centuries after the nations had crossed the Eastern continents the Atlantic Ocean served as a barrier to their further progress. Then free communities were organized on its western shore and the migration went on across another great continent.

Modern democracy is thus rooted and grounded in the past. Its teachers have been states rather than individuals. All states contribute, but some much more than others. In the Old World the great contributors have been Palestine, Greece, Rome, France, and England; in the New the United States. Free states assume innumerable forms and modifications, but a few leading types serve as a basis for classification. It is customary to classify nearly all free governments as of Cabinet form after the English model or of Presidential form after the model of the United States. Cabinet governments appear in the states in which free governments have been derived from monarchy, and are mainly confined to the Old World, while the United States is accepted as a model for the organization of American Republics. The Old World form is the result of evolution; the New World form is characterized by artificial construction.

Another classification is based upon principles even more

fundamental. Except in the United States and in the British Empire free governments are founded upon the principles of law and government developed by the Roman Republic and perfected by the Roman Empire. The Roman system involves radical differences in the allotment of powers to the legislature and to the executive, and a still greater distinction in the place assigned to the judiciary. France holds a leading place in the adaptation of the Roman system to the needs of modern democracy.

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PART I  
THE UNITED STATES



