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DOCUMENTS ON MAJOR EUROPEAN GOVERNMENTS

EDITED BY **RANDOLPH L. BRAHAM**
CITY COLLEGE OF THE CITY UNIVERSITY OF NEW YORK

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PREFACE

This collection of documents and essential electoral data pertaining to the four major powers of Europe—Great Britain, France, the Federal Republic of Germany, and the U.S.S.R.—aims to fill a gap in most standard textbooks on comparative government and politics. Primarily because of limitations of space and considerations of cost, these texts are confined almost exclusively to a descriptive and/or analytical presentation of the material, to the detriment of both the student and the instructor. The student is deprived of an opportunity to investigate the “raw materials” for himself, while the instructor is often handicapped by his inability to demonstrate a specific point by reference to a constitutional or other provision because of the absence of these documents and data.

The material is presented on a country-by-country basis under four headings: Constitutional Texts, Electoral Laws, Party Programs, and Election Results. An exception is made in the materials on the U.S.S.R.; the electoral law of January 9, 1950 is omitted, primarily because of the basically formal, non-competitive nature of elections in the Soviet Union and because of the inclusion of the essential features of the electoral system in the Constitution (Articles 134-142). However, excerpts from the rules of the Communist Party of the Soviet Union are included—they are particularly relevant in view of the party-state system of the U.S.S.R.

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DOCUMENTS ON
MAJOR EUROPEAN GOVERNMENTS

I

GREAT BRITAIN

MAJOR CONSTITUTIONAL DOCUMENTS (EXCERPTED)

1. Magna Carta of King John, 1215 *

John, by the grace of God, King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Count of Anjou: To the Archbishops, Bishops, Abbots, Earls, Barons, Justiciaries, Foresters, Sheriffs, Reeves, Ministers, and all Bailiffs and others, his faithful subjects, Greeting. Know ye that We, in the presence of God, and for the health of Our soul, and the souls of Our ancestors and heirs, to the honour of God, and the exaltation of Holy Church, and amendment of Our kingdom, by the advice of Our reverend Fathers, . . . have, in the first place, granted to God, and by this Our present Charter confirmed for Us and Our heirs for ever—That the English Church shall be free and enjoy her rights in their integrity and her liberties untouched. And . . . that We of Our mere and free will, before the outbreak of the dissensions between Us and Our Barons, granted, confirmed, and procured to be confirmed by Pope Innocent III, the freedom of elections, which is considered most important and necessary to the English Church, which Charter We will both keep Ourselves and will it to be kept with good faith by Our heirs for ever. We have also granted to all the free men of Our kingdom, for Us and Our heirs for ever, all the liberties underwritten, to have and to hold to them and their heirs

* *Translation of the Magna Carta of King John, A.D. 1215.* London: Her Majesty's Stationery Office, 1951 (S.O. Code No. 44-8006-0-51).

of Us and Our heirs. . . . Neither We nor Our bailiffs shall seize any land or rent for any debt so long as the debtor's chattels are sufficient to discharge the same; . . . No scutage or aid shall be imposed in Our kingdom unless by common counsel thereof, except to ransom Our person, make Our eldest son a knight, and once to marry Our eldest daughter, and for this a reasonable aid only shall be paid. So shall it be with regard to aids from the City of London, and the City of London . . . and . . . all other cities, boroughs, towns, and ports shall have all their liberties and free customs. And for obtaining the common counsel of the kingdom concerning the assessment of aids other than in the three cases aforesaid or of scutage, We will cause to be summoned, severally by Our letters, the Archbishops, Bishops, Abbots, Earls, and great Barons; and . . . all those who hold of Us in chief, to meet at a certain day, to wit, at the end of forty days at least, and at a certain place; and in all letters of such summons We will explain the cause thereof, and, the summons being thus made, the business shall proceed on the day appointed, according to the advice of those who shall be present, notwithstanding that the whole number of persons summoned shall not have come. . . . No man shall be distrained to perform more service for a knight's fee or other free tenement than is due therefrom. Common Pleas shall not follow Our Court, but be holden in some certain place. . . . We Ourself, or, if We be absent from the realm, Our Chief Justiciary, shall send two justiciaries through each county four times a year, who, together with four knights elected out of each shire by the people thereof, shall hold the said assizes on the day and in the place aforesaid. . . . A free man shall not be amerced for a small fault, but according to the measure thereof, and for a great crime according to its magnitude . . . and none of the said ameracements shall be imposed unless by the oath of honest men of the venue. Earls and Barons shall only be amerced by their peers in proportion to the measure of the offence. . . . No constable or other Our bailiff shall take corn or other chattels of any man without immediate payment for the same. . . . No sheriff or other Our bailiff, or any other man, shall take the horses or carts of any free man for carriage except with his consent. Neither shall We or Our bailiffs take another man's timber for Our castles or other uses, unless with the consent of the owner thereof. . . . No bailiff shall for the future put any man to trial upon his simple accusation without producing credible

witnesses to the truth thereof. No freeman shall be taken, imprisoned, disseised, outlawed, banished, or in any way destroyed, nor will We proceed against or prosecute him except by lawful judgment of his peers or the law of the land. To no one will We sell, to none will We deny or defer, right or justice. All merchants shall have safe conduct to go and come out of and into England, and to stay in and travel through England . . . except in time of war, and if they belong to a country at war with Us. . . . It shall be lawful in future, unless in time of war, for any one to leave and return to Our kingdom safely and securely. . . . We will only appoint such men to be justiciaries, constables, sheriffs, or bailiffs as know the law of the land and will keep it well. . . . All fines unjustly and unlawfully made with Us, and all amercements levied unjustly and against the law of the land, shall be entirely condoned or the matter settled by judgment of . . . twenty-five barons. . . . And whereas We, for the honour of God and the amendment of Our realm, and in order the better to allay the discord arisen between Us and Our barons, have granted all these things aforesaid, We, willing that they be for ever enjoyed wholly and in lasting strength, do give and grant to Our subjects the following security, to wit, that the barons shall elect any twenty-five barons of the kingdom at will, who shall, with their utmost power, keep, hold, and cause to be holden the peace and liberties which We have granted unto them, and by this Our present Charter confirmed. . . . Wherefore We will, and firmly charge, that the English Church be free, and that all men in Our kingdom have and hold all the aforesaid liberties, rights, and concessions, well and peaceably, freely, quietly, fully, and wholly, to them and their heirs, of Us and Our heirs, in all things and places for ever, as is aforesaid. It is moreover sworn, as well on Our part as on the part of the Barons, that all these matters aforesaid shall be kept in good faith and without deceit. Witness the aforesaid and many others. Given by Our hand in the meadow which is called Runnymede between Windsor and Staines, on the Fifteenth day of June in the Seventeenth year of Our reign.

2. Act of Supremacy, 1534

Albeit the King's Majesty justly and rightfully is and ought to be the supreme Head of the Church of *England*, and so is recognised

by the Clergy of this Realm in their Convocations, yet nevertheless for Corroboration and Confirmation thereof, and for Increase of Virtue in Christ's Religion within this Realm of *England*, and to repress and extirp all Errors, Heresies, and other Enormities and Abuses heretofore used in the same: Be it enacted by Authority of this present Parliament, That the King our Sovereign Lord, his Heirs and Successors, Kings of this Realm, shall be taken, accepted and reputed the only supreme Head in Earth of the Church of *England*, called *Anglicana Ecclesia*; (2) and shall have and enjoy, annexed and united to the Imperial Crown of this Realm, as well the Title and Stile thereof, as all Honours, Dignities, Preheminences, Jurisdictions, Privileges, Authorities, Immunities, Profits and Commodities to the said Dignity of supreme Head of the same Church belonging and appertaining; (3) and that our said Sovereign Lord, his Heirs and Successors, Kings of this Realm, shall have full Power and Authority from Time to Time to visit, repress, redress, reform, order, correct, restrain and amend all such Errors, Heresies, Abuses, Offences, Contempts and Enormities, whatsoever they be, which by any manner spiritual Authority or Jurisdiction ought or may lawfully be reformed, repressed, ordered, redressed, corrected, restrained or amended, most to the Pleasure of Almighty God, the Increase of Virtue in Christ's Religion, and for the Conservation of the Peace, Unity and Tranquility of this Realm; any Usage, Custom, foreign Laws, foreign Authority, Prescription, or any other Thing or Things to the contrary hereof notwithstanding.

3. Petition of Right, 1628

To the King's most excellent Majesty.

Humbly shew unto our Sovereign Lord, the Lords Spiritual and Temporal, and Commons, in Parliament assembled, That . . . by . . . the good Laws and Statutes of this Realm, your Subjects have inherited this Freedom, That they should not be compelled to contribute to any Tax, Tallage, Aid or other like Charge not set by common Consent in Parliament.

II. Yet nevertheless, of late . . . your People have been in divers Places assembled, and required to lend certain Sums of Money unto your Majesty, and many of them, upon their Refusal so to do . . . have

been . . . imprisoned, confined, and sundry other Ways molested and disquieted. . .

III. And where also by the Statute called *The Great Charter of the Liberties of England*, it is declared and enacted, That no Freeman may be taken or imprisoned, or be disseised of his Freehold or Liberties, or his Free Customs, or be outlawed or exiled, or in any manner destroyed, but by the lawful Judgment of his Peers, or by the Law of the Land.

IV. And in the eight and twentieth Year of the Reign of King *Edward* the Third, it was declared and enacted by Authority of Parliament, That no Man of what Estate or Condition that he be, should be put out of his Land or Tenements, nor taken nor imprisoned, nor disherited, nor put to Death, without being brought to answer by due Process of Law:

V. Nevertheless . . . divers of your Subjects have of late been imprisoned without any Cause shewed. . .

VI. And whereas of late great Companies of Soldiers and Mariners have been dispersed into divers Counties of the Realm, and the Inhabitants against their Wills have been compelled to receive them into their Houses. . .

VII. And whereas also by Authority of Parliament . . . it is declared and enacted, That no Man should be forejudged of Life or Limb against the Form of the *Great Charter* and the Law of the Land. . . Nevertheless of late Time . . . certain Persons have been assigned and appointed Commissioners, with Power and Authority to proceed within the Land, according to the Justice of Martial Law . . . as is used in Armies in Time of War, to proceed to the Trial and Condemnation of . . . Offenders, and them to cause to be executed and put to Death according to the Law Martial:

VIII. By Pretext whereof some of your Majesty's Subjects have been by some of the said Commissioners put to Death. . .

IX. And also sundry grievous Offenders, by Colour thereof claiming an Exemption, have escaped the Punishments due to them by the Laws and Statutes of this your Realm, by reason that divers of your Officers and Ministers of Justice have unjustly refused or forborn to proceed against such Offenders according to the same Laws and Statutes. . .

X. They do therefore humbly pray your Most Excellent Majesty, That no Man hereafter be compelled to make or yield any Gift, Loan, Benevolence, Tax, or such-like Charge, without common Consent by Act of Parliament; (2) And that none be called to make Answer, or take such Oath, or to give Attendance, or be confined, or otherwise molested or disquieted concerning the same, or for Refusal thereof; (3) And that no Freeman, in any such Manner as is before-mentioned, be imprisoned or detained; (4) And that your Majesty would be pleased to remove the said Soldiers and Mariners, and that your People may not be so burthened in Time to come; (5) And that the aforesaid Commissions, for proceeding by Martial Law, may be revoked and annulled; and that hereafter no Commissions of like Nature may issue forth to any Person or Persons whatsoever to be executed as aforesaid, lest by Colour of them any of your Majesty's Subjects be destroyed, or put to death contrary to the Laws and Franchise of the Land. . .

4. Habeas Corpus Act, 1640

Whereas by the Great Charter many Times confirmed in Parliament, it is enacted, That no Freeman shall be taken or imprisoned, or disseised of his Freehold or Liberties, or Free Customs, or be outlawed or exiled or otherwise destroyed, and that the King will not pass upon him, or condemn him; but by lawful Judgment of his Peers, or by the Law of the Land . . . but the said Judges have not kept themselves to the Points limited by the said Statute, but have undertaken to punish where no Law doth warrant, and to make Decrees for Things having no such Authority, and to inflict heavier Punishments than by any Law is warranted.

II. And forasmuch as all Matters examinable or determinable before the said Judges, or in the Court commonly called the Star-Chamber, may have their proper Remedy and Redress, and their due Punishment and Correction, by the Common Law of the Land, and in the ordinary Course of Justice elsewhere; (2) and forasmuch as the Reasons and Motives inducing the Erection and Continuance of that Court do now cease: (3) and the Proceedings, Censures and Decrees of that Court, have by Experience been found to be an intolerable Burthen to the Subjects, and the Means to introduce an arbitrary Power and Government; (4) and forasmuch as the Council-Table hath of late

Times assumed unto itself a Power to intermeddle in Civil Causes and Matters only of private Interest between Party and Party, and have adventured to determine of the Estates and Liberties of the Subject, contrary to the Law of the Land and the Rights and Privileges of the Subject, by which great and manifold Mischiefs and Inconveniences have arisen and happened, and much Uncertainty by means of such Proceedings hath been conceived concerning Men's Rights and Estates; for settling whereof, and preventing the like in Time to come.

III. Be it ordained and enacted by the Authority of this present Parliament, That the said Court commonly called the Star-Chamber, and all Jurisdiction, Power and Authority belonging unto, or exercised in the same Court, or by any the Judges, Officers or Ministers thereof, be from the first Day of *August* in the Year of our Lord God one thousand six hundred forty and one, clearly and absolutely dissolved, taken away. . .

IV. And that from henceforth no Court, Council or Place of Judicature, shall be erected, ordained, constituted or appointed within this Realm of *England*, or Dominion of *Wales*, which shall have, use or exercise the same or the like Jurisdiction as is or hath been used, practiced or exercised in the said Court of Star-Chamber.

V. Be it likewise declared and enacted by Authority of this present Parliament, That neither his Majesty, nor his Privy Council, have or ought to have any Jurisdiction, Power or Authority, by *English* Bill, Petition, Articles, Libel, or any other arbitrary Way whatsoever, to examine or draw into question, determine or dispose of the Lands, Tenements, Hereditaments, Goods or Chattels of any the Subjects of this Kingdom; but that the same ought to be tried and determined in the ordinary Courts of Justice, and by the ordinary Course of the Law. . .

5. Bill of Rights, 1689

Whereas the Lords Spiritual and Temporal, and Commons, assembled at Westminster, lawfully, fully, and freely representing all the Estates of the People of this Realm did upon the thirteenth Day of *February* in the Year of our Lord one thousand six hundred eighty-eight, present unto their Majesties, then called and known by the Names and Stile of *William* and *Mary*, Prince and Princess of *Orange*,

being present in their proper Persons, a certain Declaration in Writing, made by the said Lords and Commons, in the Words following; *viz.*

Whereas the late King *James* the Second, by the Assistance of divers evil Counsellors, Judges, and Ministers employed by him, did endeavour to subvert and extirpate the Protestant Religion, and the Laws and Liberties of this Kingdom.

1. By assuming and exercising a Power of dispensing with and suspending of Laws, and the Execution of Laws, without Consent of Parliament.

2. By committing and prosecuting divers worthy Prelates, for humbly petitioning to be excused from concurring to the said assumed Power.

3. By issuing and causing to be executed a Commission under the Great Seal for erecting a Court called, *The Court of Commissioners for Ecclesiastical Causes.*

4. By levying Money for and to the Use of the Crown, by Pretence of Prerogative, for other Time, and in other Manner, than the same was granted by Parliament.

5. By raising and keeping a Standing Army within the Kingdom in Time of Peace, without Consent of Parliament, and quartering Soldiers contrary to Law.

6. By causing several good Subjects, being Protestants, to be disarmed, at the same Time when Papists were both armed and employed, contrary to Law.

7. By violating the Freedom of Election of Members to serve in Parliament.

8. By Prosecutions in the Court of King's Bench, for Matters and causes cognizable only in Parliament; and by divers other arbitrary and illegal Courses.

9. And whereas of late Years, partial, corrupt, and unqualified Persons, have been returned and served on Juries in Trials, and particularly divers Jurors in Trials for High Treason, which were not Freeholders.

10. And excessive Bail hath been required of Persons committed in criminal Cases, to elude the Benefit of the Laws made for the Liberty of the Subjects.

11. And excessive Fines have been imposed; and illegal and cruel Punishments inflicted.