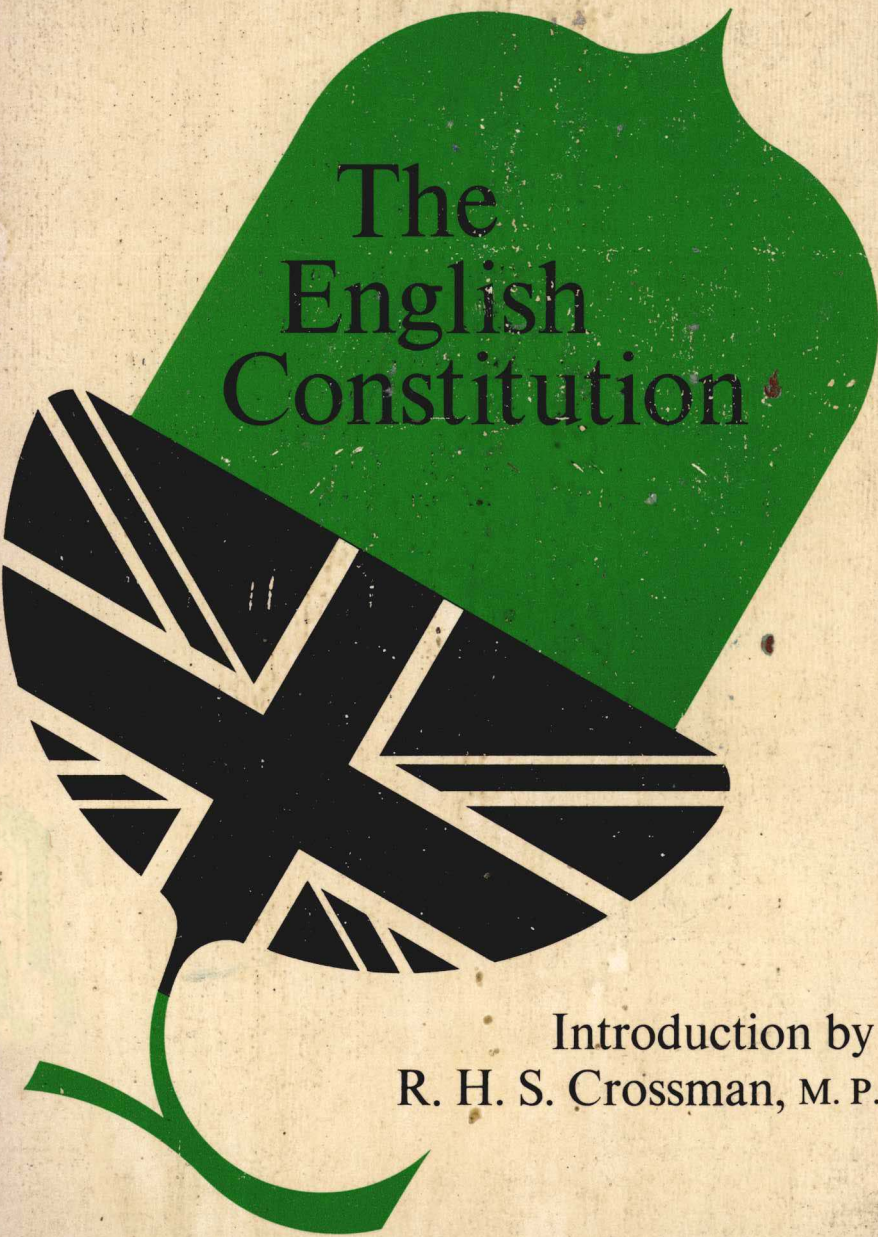


WALTER BAGEHOT



The English Constitution

Introduction by
R. H. S. Crossman, M. P.

THE ENGLISH CONSTITUTION

BY
WALTER BAGEHOT

With an Introduction by

R. H. S. CROSSMAN

Cornell Paperbacks

CORNELL UNIVERSITY PRESS

ITHACA, NEW YORK

Note on the Text

The English Constitution was first published in 1867. This edition follows the text in the collected works of Walter Bagehot, edited by his sister-in-law, Mrs. Russell Barrington, and published by Longmans in 1915.

This edition with R. H. S. Crossman's Introduction
first published in the Fontana Library by
Wm. Collins Sons & Co. Ltd., 1963

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First printing, Cornell Paperbacks, 1966
Fourth printing 1981

International Standard Book Number 0-8014-9023-5
Library of Congress Catalog Card Number 66-15425
Printed in the United States of America

Contents

INTRODUCTION BY R. H. S. CROSSMAN	<i>page</i> I
THE ENGLISH CONSTITUTION	
I. THE CABINET	59
II. THE MONARCHY	82
III. THE HOUSE OF LORDS	121
IV. THE HOUSE OF COMMONS	150
V. ON CHANGES OF MINISTRY	183
VI. ITS SUPPOSED CHECKS AND BALANCES	214
VII. THE PREREQUISITES OF CABINET GOVERNMENT, AND THE PECULIAR FORM WHICH THEY HAVE ASSUMED IN ENGLAND	239
VIII. ITS HISTORY AND THE EFFECTS OF THAT HISTORY — CONCLUSION	252
INTRODUCTION TO THE SECOND EDITION, 1872	267

Introduction by R. H. S. Crossman

There can be very few studies of our parliamentary system that were so rapidly overtaken by events as Walter Bagehot's *The English Constitution*. First composed as a series of essays for *The Fortnightly*, it was published in book form in 1867 – the very year of Disraeli's Reform Act which abruptly and finally ended the period of classical parliamentary government it describes. As an account of contemporary fact, the book was out of date almost before it could be reviewed. Since then we have had countless studies by political scientists and constitutional lawyers, interspersed occasionally with the reflections of a retired politician. Yet for anyone who wants to understand the workings of British politics – be he university student, foreign observer or merely a curious elector – *The English Constitution* still remains the best introduction available.

What is the secret of this remarkable longevity – this timeless quality in a book dashed off as a serial? Why has this boisterous account of Westminster at the turn of the last century become a classic, whereas the learned works of Lowell and Anson, of Berriedale Keith and Jennings began to date and require revision as soon as they were published¹? One reason why Bagehot's political writings are still so fresh and relevant is the very journalistic quality which prevented their importance being fully appreciated by his contemporaries. Lord Balfour was alluding to this when he remarked:²

his method can perhaps best be understood from a judgement which, in one of his essays, he passes on the

¹ Bagehot himself realised that his book would stand or fall as a description of an epoch that was over. When a new edition was required in 1872 he saw that he must either write a new book or leave the text unamended. He chose the latter course and added a lengthy introduction – which since it is best read as an appendix has been printed at the end of this edition.

² Introduction to World Classics Edition of *The English Constitution*, Oxford, 1928.

author of an unsuccessful political biography, namely that he 'did not look *closely and for himself* at real political life'. Bagehot was not infallible. But he *did* practise his own precepts; he *did* look *closely and for himself* at real political life. Hence his ceaseless endeavours to discover how public business was in fact transacted, as distinguished from the way in which its transaction was officially described; hence the contempt with which this master of political writing regarded what he called the 'literary' view of constitutional procedure.

Bagehot, in fact, was one of the greatest political journalists of his – or indeed of any age – equally skilled in the crafts of reporter, leader writer or editor; and it was by eschewing 'literary' pretensions and sticking to his trade that he achieved immortality. For it was in the course of describing the contemporary political scene, as he actually saw it, that he hit upon the secret of British politics – the difference between myth and reality, and also between the dignified and the efficient exercise of power.

THE MAKING OF A JOURNALIST

Bagehot's journalistic talents were first revealed when, just down from London University with a double First, he arrived in Paris in time to witness Louis Napoleon's *coup d'état*. The seven letters he then composed must have scarified with their mixture of juvenile cynicism and cool analysis those respectable Unitarians who supported *The Inquirer*. But they also displayed his extraordinary skill at seeing through the pretensions of politicians, and describing how their decisions were really taken. What made these letters so readable was the author's ability to enliven objective analysis with racy character sketches, and to startle his reader with conclusions nicely compounded of paradox and commonsense.

At first, however, Bagehot's ambitions were literary. In 1852 he resolved to follow his father's profession, and took charge of the London branch of the family bank, knowing that this would give him plenty of time to write. By the time

he was 30, he was financially secure and beginning to be recognised as a budding literary critic. Together with his friend Hutton he owned and edited *The National Review*, and it was here that most of his literary essays of this period were published. It was not until 1856 that a visit to the home of James Wilson, proprietor of *The Economist*, revealed to him where his real talents lay. Wilson, who had already decided that Hutton should be the new editor of his weekly, invited the young banker as well to write regularly for it. He also introduced him to his six daughters, and in 1858 Bagehot married the eldest of them, Eliza. Next year Wilson, who was a Liberal M.P. as well as a newspaper proprietor, was appointed Financial Member for India and named his son-in-law to act as director of *The Economist* in his absence overseas. Within a few months Wilson died in India; and in 1861, when his friend Hutton moved to *The Spectator*, Bagehot obtained the editorship of *The Economist*, a post he retained until his death in 1877.

Thus if Bagehot's natural talents as a journalist were great, his family connections gave him an almost unrivalled opportunity to display them. Thanks to his father he was enabled to portray Lombard Street from inside; thanks to his father-in-law he was given the entrée to the highest circles of Westminster and Whitehall.

For anyone who aspires to a thorough understanding of the City of London and of Westminster, there is no better training than a regular job on a 'weekly'. In addition to his special economic contributions, Bagehot usually wrote two topical articles a week for *The Economist*, and he soon achieved the only kind of power that interested him. His journalism was designed, not merely to inform his readers but to influence politics; and since it clearly did so the politicians could not afford to leave him ill-informed.

From time to time he was tempted to enter politics. But fortune smiled on him by frustrating his political ambitions. In 1860 he was very nearly selected as a candidate for London University. In 1865 he was invited to contest Manchester, but after one frustrating public meeting he withdrew. Finally in

1866 he did fight a by-election at Bridgwater. There he suffered the pangs of a candidate who is convinced that he has won and then sees the votes suddenly stacking up against him.

No one likes to be a 'failed M.P.' and Bagehot was no exception. But in all likelihood he was lucky to be rejected since he could hardly have combined a political career with the kind of writing that gave him such influence as an editor outside. Bagehot realised this, and apparently convinced himself that if he managed to find a seat he would be content to remain a distinguished back-bencher. But, once elected, no personality as vivid as his would have remained content to pontificate from below the gangway or in a corner of the smoking-room. Very soon at Westminster ambition corrodes detachment, and the will to power pushes aside the will to understand and to describe. Though Bagehot prided himself on the scepticism with which he watched the game of politics, he had a contempt for remote and indecisive intellectuals. At home in Somerset he was a vigorous sportsman, and in London he displayed an uninhibited enjoyment of society. In the Commons, where ambition is the normal motive of all except a small minority of individualists and non-conformists, he would soon have felt a conflict growing between the deferential reticence required of the rising party politician and the witty revelations that had won him journalistic renown. Life as an M.P. might have given added depth to his analysis of political behaviour, but only at the risk of blunting his powers of analysis and upsetting that balance between inside knowledge and detached judgment which, in the case of *The English Constitution*, transformed his occasional journalism into a classic.

Towards the end of his life, Bagehot devoted one of his *Economist* articles to an attempt to strike a balance between the advantages and disadvantages of becoming an M.P. He listed the gains as three: social standing, a certain amount of power and the acquisition of 'much valuable knowledge . . . which can in no other way be learned so easily and perfectly. . . . Members of the House see the Parliamentary machine itself; literary people only judge of it, as it were, by plates and

description.' He then turns to the disadvantages, mentioning the heavy financial burden involved, and the cost in terms of time and fatigue, and concludes as follows:

An influential Member of Parliament has not only to pay much money to become such, and to give time and labour, he has also to sacrifice his mind too – at least all the characteristic part of it, that which is original and most his own. . . . A man who tries to enter Parliament must be content to utter common thoughts . . . And to some minds there is no necessity more vexing or more intolerable.¹

BAGEHOT AND MILL

Bagehot was never content to utter common thoughts. Even in his regular stint of weekly journalism he continued to dazzle his readers, and at the same time to reveal to them new and unexpected insights into British politics. Here his political essays have something in common with Trollope's political novels. Trollope described British politics exclusively in terms of individual and social behaviour, Bagehot in terms of the management of men and the exercise of power. In both cases, however, run of the mill work turned out to order is still read with profit because, while reflecting the surface glitter of Victorian politics, it also exposes the realities behind the façade, forcing us a hundred years later to face the problems we ourselves are seeking to evade, and providing a sharp and sometimes merciless critique of the compromises by which we still try – and fail – to resolve them.

Perhaps the best way of seeing why Bagehot's occasional journalism has outlasted works of far greater philosophic and literary pretensions is to compare *The English Constitution* with Mill's *Representative Government* – a treatise which covered much the same ground and was regarded with much more

¹ *Walter Bagehot* by St. John Stevas, pp. 460, 461. This invaluable book contains not only an anthology culled from Bagehot's political writings but a perceptive biographical note.

deference by his contemporaries. Published in 1861, *Representative Government* was at once accepted as an authoritative exposition of Liberal doctrine. Though he publicly always paid his respects to Mill, Bagehot's practical and sceptical mind could not but resent the ascendancy which this high-minded intellectual exerted over his whole generation.¹ To the author of *Lombard Street*, the influence on economic thinking of Mill's *Political Economy* seemed pernicious; taught to think in terms of its smooth abstractions, the student would find it more difficult to observe how the businessmen and bankers, who are the proper study of the political economist, really behave.

His attitude to *Representative Government* was very similar. He was irked by the uncritical acceptance which its analysis had received. This dislike is revealed in the very first sentence of *The English Constitution*:

'On all great subjects,' says Mr. Mill, 'much remains to be said', and of none is this more true than of the English Constitution... an observer who looks at the living reality will wonder at the contrast to the paper description.

These opening words had always seemed to me obscure and pointless until I re-read *Representative Government* and realised that Bagehot was replying directly to Mill and challenging his uncritical acceptance of the traditional 'paper description' of the Constitution.

The suppressed vehemence of Bagehot's attack is all the more striking when we realise that the two men were very largely agreed about the aims and objects of representative government. Both were Liberals who welcomed unreservedly the transfer of power to the middle classes which had occurred since 1832. And they were in full agreement that the greatest threat to British freedom lay in an extension of the suffrage that would concede to the working class that 'despotic power' which was still securely in the hands of 'the bald-headed man at the back of the omnibus'.

¹ See J. M. Keynes' *Review of The Works and Life of Walter Bagehot, Economic Review*, Vol. 25, p. 369 ff.

In the preface to the second edition, Bagehot expressed the fear that both men felt, with brutal frankness:

It must be remembered that a political combination of the lower classes, as such and for their own objects, is an evil of the first magnitude; that a permanent combination of them would make them (now that so many of them have the suffrage) supreme in the country; and that their supremacy, in the state they now are, means the supremacy of ignorance over instruction and of numbers over knowledge. So long as they are not taught to act together, there is a chance of this being averted (p. 277).

Although Mill called himself a democrat he was just as inflexibly opposed to what he described as 'the tyranny of the majority'. Indeed, as they both saw it, the one great issue of British politics in the 1860's was how to prevent the party politicians, for purely opportunist reasons, making concessions to democracy which would substitute government by ignorance and brute numbers for government by discussion.

Moreover their agreement went one stage further. Mill held as strongly as Bagehot that one special threat to freedom was constituted by the radical demand for the transfer of executive authority to the House of Commons. In *Representative Government* he concedes that although Crown, Lords and Commons are nominally invested with equal power, in fact the Commons – which represents the people's will – exerts 'a substantial supremacy . . . and the powers which it leaves in hands not directly accountable to the people can only be considered as precautions which the ruling power is willing should be taken against its own errors'. But characteristically Mill at once nullifies this bold declaration of democratic principle. 'No body of men,' he hastens to add, 'unless organized and under command, is fit for action, in the proper sense.' Popular assemblies should only control and criticise. Freedom will only be secured 'by disjoining the office of control and criticism from the actual conduct of affairs, and devolving the former on the representatives of the Many, while securing for the latter, under strict responsibility to the nation, the acquired

knowledge and practised intelligence of a specially trained and experienced Few'.¹

In defining the powers of the House of Commons, Mill is chiefly concerned to emphasise what it cannot do well and what it should not try to do at all. It should *not* seek to administer or even to interfere in the selection of the administrators. It should *not* initiate legislation, least of all financial measures. But in addition to exerting control and criticism, and providing the nation's committee of grievances, the Commons does have one very important function:

It has never been thought desirable that Parliament should itself nominate even the members of a Cabinet. It is enough that it virtually decides who shall be Prime Minister. . . . In reality, the only thing which Parliament decides is, which of two, or at most three, parties or bodies of men, shall furnish the executive government; the opinion of the party itself decides which of its members is fittest to be placed at the head.

When we turn to Bagehot's pages on the same topic, we are struck by a superficial similarity. The functions, for example, listed in the chapter on the House of Commons coincide almost exactly with those listed by Mill; and this similarity extends to the treatment of the House of Lords. Both men realised that since the peers now represented merely the landed interest, they were no longer a true second chamber and should never be permitted to use their constitutional veto when the nation had clearly declared its will. In order to strengthen the House of Lords and restore its national character, Bagehot accepted Mill's proposal for the creation of life peers drawn from men of outstanding ability and independence.

What is it then that made Bagehot accuse Mill of mistaking 'a paper description' for the living reality? The answer of course is to be found in Bagehot's distinction between the dignified and the efficient parts of the Constitution, and in the central rôle he allots to the Cabinet.

¹ These quotations are all from Chapter 5 of *Representative Government*.

Of this there had not been a word in *Representative Government*. Mill relied on the old-fashioned notion of a division of power between the executive and the legislature, re-defining it as a division between an elected Parliament and a bureaucracy selected by competitive examination and headed by Ministers responsible to Parliament. What he completely failed to see was that these Ministers banded together as the Cabinet formed the linch pin of the Constitution, a new central authority which could manage the state. In the whole of *Representative Government* I can find only the one mention of the Cabinet which I have quoted. In Bagehot's eyes, this was Hamlet without the Prince.

Mill's failure to see 'the efficient secret of the Constitution' led him quite logically to rely on electoral reform as the main bulwark against the tyranny of the majority. Bagehot devotes nearly a third of his chapter on the House of Commons to a withering attack on what he describes as 'a ruinous innovation' which would strengthen the party machine outside Parliament, and so destroy both the independence of the individual Member and the moderation of the House of Commons – the two conditions he regarded as 'essential to the bare possibility of parliamentary government'. Electoral devices for excluding the working class from political power were, in his view, either futile or positively dangerous to the rule of the middle class. This could only be maintained by ensuring that all effective power and all important decisions were reserved to the efficient part of the Constitution, and simultaneously providing the working class with a standard of life which would make them content to remain loyal subjects of the Crown, effectively excluded from the secret of power. 'I fear you will laugh' he had written, describing Napoleon's *coup d'état*, 'when I tell you what I conceive to be about the most essential mental quality for a free people, whose liberty is to be progressive, permanent and on a large scale: it is much stupidity.' In *The English Constitution* (p. 171) he explains the nature of this stupidity: 'Certain persons are by common consent agreed to be wiser than others, and their opinion is, by consent, to rank for much more than its

numerical value. We may in these happy nations weigh votes as well as count them, though in less favoured countries we can count only. But in free nations, the votes so weighed or so counted must decide.'

Bagehot was as afraid as Mill of the effects of universal suffrage. But he saw – as Mill did not see – that the danger could not be averted by literacy tests, plural voting, proportional representation, and all the other devices recommended in *Representative Government*. The wise man, he held, will resist large extensions of the suffrage. But if this delaying action fails, he will realise that 'the only effective security against the rule of an ignorant, miserable and vicious democracy, is to take care that the democracy shall be educated, and comfortable and moral'.¹

Bagehot's refutation of Mill, the liberal reformer, has stood the test of time. Wherever proportional representation has been tried, it has fulfilled his prediction that it would undermine the independence of the M.P. and increase the powers of the party managers who control the electoral list. Nevertheless, one must add in fairness to Mill that on the central issue – whether it would be possible to combine government by discussion with universal suffrage, and to preserve British liberties in the 'face of a political combination of the lower class' – Bagehot's predictions of disaster were even shriller than Mill's; and on two particular issues – female suffrage and the reform of the civil service by entry through competitive examination – Mill showed more foresight than his sceptical young critic.

NEW MODEL UTILITARIAN

It is now time to examine Bagehot's great discovery – 'the efficient secret of the British Constitution'. Like so many notable advances in human knowledge, this revelation seemed quite obvious once it had been stated and accepted as true. What was, when it was first published, a deeply shocking

¹ *Principles of Political Economy*, 1848; quoted in *Walter Bagehot* by St. John Stevas, p. 57.

approach has long since become a standard technique of political science, and the secret which Bagehot dramatically revealed is now a commonplace of political discussion.

One way of making ourselves realise the originality of Bagehot's thought is to remind ourselves of what *was* the authorised theory of the Constitution, in order to observe how he shattered it. Another is to apply Bagehot's technique of analysis to the English Constitution of the 1960's. We can certainly learn a lot by projecting Bagehot forward into our own time, but only if we first – however briefly – make an attempt to see his discovery in terms of his own epoch.

In the 1860's, the standard accounts of the English Constitution were still the work of lawyers and historians who accepted the traditional division of powers – Queen, Lords and Commons – at its face value. And it was still believed that political philosophy should be concerned with 'first principles'. Conservative political theorists demonstrated how the Constitution derived from first principles; Liberal reformers showed what changes must be made in order to bring it into accord with first principles.

The first break in this traditional approach to the Constitution had been made long before, by Jeremy Bentham in his famous attack on Blackstone in 1776. When it was published, his *Fragment on Government* was as shocking a document as Bagehot's *The English Constitution* 90 years later. By assuming that human beings are moved only by self-love, and that the main rôle of moral and political principles is to cover up 'sinister interests', Bentham provided himself with an excellent instrument for smashing constitutional façades, and revealing the forces at work behind them. But this aggressive, critical phase of utilitarianism did not last very long. By the time that Bagehot came to London the utilitarian analysis that Bentham had first developed, as a technique for demolishing the religious and legal defences of aristocratic wealth and privilege, had been transformed by John Stuart Mill into a thoroughly respectable philosophy – complete with a fine new set of first principles.

No one can blame J. S. Mill for coming to the conclusion

that utilitarianism – particularly as reformulated with perverse pedantry by his own father in his *Essay on Government* – had degenerated into dogma; or for realising, with ever-growing discomfort, that his father's case for representative government and universal suffrage was based on a blatantly false generalisation about human nature. In real life, no one has ever operated the Felicific Calculus or succeeded in behaving for very long in the way that James Mill had claimed that every human being is always bound to behave. Conceivably, we ought to be guided by rational self-interest alone, but how seldom we succeed in behaving so sensibly!

If the Utilitarians' account of individual psychology was wrong, their argument for democracy needed just as drastic amendment. Its basic assumption was that there exists a 'natural identity of interest' which ensures that if each citizen and each group in a community is systematically and consistently self-interested, the net result of their collective selfishness will be the greatest good of the greatest number. As a postulate for economic theory, this may possibly have been defensible, but as the operating principle of representative government it was plainly absurd.

It is to the credit of John Stuart Mill that he rebelled against parental inhumanity – in theory as well as in practice – and spent his life working out a revised Utilitarianism that took account of all that variety of passions, emotions and ideals which his father had fed into that monstrous, mental machine – the Felicific Calculus – so that they could be reduced to their lowest common denominator. Unfortunately, however, in the course of humanising Utilitarianism, he had introduced a whole string of contradictions and – even more serious – had blunted the cutting edge of its radical, social analysis. Under his hand it had become a defence of the new middle class establishment, nearly as hypocritical and unconvincing as the system that Bentham had assailed 90 years before. What was needed therefore was a new critique of the Constitution based on an analysis as fearless as Bentham's, but more sophisticated.

Walter Bagehot was ideally equipped for this task. He had none of J. S. Mill's philosophic pretensions, and he was a

much more thorough-going sceptic than Bentham who could never rid himself of his belief that man would be perfectible once kings and aristocracies had disappeared. With an amused contempt for reformers, and a positive dislike for intellectuals and theorists, Bagehot set out to succeed where the Utilitarians had so conspicuously failed – to describe the English Constitution in terms, not of first principles but of the real behaviour of those who operate it.

In his New Model, Bagehot retained two basic assumptions of the old Utilitarians. Like them he held that there is nothing mysterious about government; it is simply a special kind of management – the management of those institutions which we call the State – and he also accepted the view that by and large the group which controls the State at any time will manage it in its own interests. But at this point his refinement of Bentham's analysis began. Unlike his predecessors he realised that, in all human activity, tradition and habit are at least as important motives as self-interest.

The most intellectual of men are moved quite as much by the circumstances which they are used to as by their own will. The active voluntary part of a man is very small, and if it were not economised by a sleepy kind of habit its results would be null. We could not do every day out of our own heads all we have to do. We should accomplish nothing, for all our energies would be frittered away in minor attempts at petty improvement . . . so that when a crisis came requiring massed combination, no two men would be near enough to act together. It is the dull, traditional habit of mankind that guides most men's actions, and is the steady frame in which each new artist must set the picture that he paints (p. 64).

In this passage Bagehot disposed not only of utilitarian psychology but of a fallacy which still survives in a great deal of so-called progressive thought – the idea that in a democracy the educated citizen will be able to free himself from habitual attitudes and traditional loyalties, so that he can think things out for himself, and, in each decision he takes, make up his own